

THIS AGREEMENT is made as of November 29, 1976, and is by and between KENNETH W. MILLER and DORIS M. MILLER, husband and wife, referred to herein as "MILLER" and LARRY R. TUCKER and GLORIA C. TUCKER, husband and wife, referred to herein as "TUCKER":

W I T N E S S E T H:

WHEREAS, MILLER owns that certain real property situate in Klamath County, Oregon more particularly described as follows:

Lots 1, 2, 3, 4, and 5, Block 1, MIDLAND HEIGHTS:
All of Block 2, MIDLAND HEIGHTS:

Beginning at the Southwest corner of the NW1/4 SW1/4 of Section 31, Township 39 South, Range 9 East of the Willamette Meridian, running thence East parallel to the South line of said Section 31, a distance of 240 feet, more or less, to the Southwest line of County Road; thence Northwesterly along the Southwesterly line of said County Road a distance of 320 feet, more or less, to its intersection with the West line of said Section 31; thence South along the West line of the said NW1/4 SW1/4 a distance of 215 feet, more or less, to the point of beginning; being all that portion of the NW1/4 SW1/4 of said Section 31 lying Southwest of the County Road.

Also, that portion of the vacated County Road lying between Blocks 1 and 2, MIDLAND HEIGHTS.

WHEREAS, TUCKER owns the following described property situate in Klamath County, Oregon more particularly described as follows:

Lots 1, 2, 3, 4, 5 and the West 1/2 of Lot 6 in Block 3 of MIDLAND HEIGHTS ADDITION; Lots 2, 3, 4, 5 and the West 1/2 of Lot 6, the West 1/2 of Lot 11 and all of Lot 12, in Block 6 of MIDLAND HEIGHTS ADDITION, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

WHEREAS, the properties are adjacent to each other; and, situate on MILLER'S property is a well; and,

WHEREAS, the parties are in agreement that MILLER shall furnish water to TUCKER; and,

WHEREAS, the parties wish to provide for the cost of maintenance, repair, or replacement and operation thereof;

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NOW, THEREFORE, it is hereby agreed as follows:

1. MILLER shall furnish such water to TUCKER as is the well on his property capable of furnishing upon the terms and conditions herein contained.
2. For such portions of said well system which are common to MILLER and TUCKER the parties shall equally bear the cost of all maintenance, repair, and replacement thereof. MILLER shall have the sole and absolute discretion as to when maintenance, repair, or replacement is necessary and as to what items, components, and materials shall be used for such maintenance, repair or replacement and the manner in which such maintenance, repair, or replacement shall be performed.
3. Each party shall be responsible, themselves, for the maintenance, repair, or replacement of that portion of the system that serves only their respective properties.
4. TUCKER hereby agrees to pay to MILLER the sum of 5 percent of the monthly electrical bill of MILLER as consideration for the operating costs of said well.
5. MILLER hereby grants unto TUCKER an easement over, upon and under the following described real property for the maintenance, repair, or replacement of TUCKER'S portion of said system and for the existence of said system:

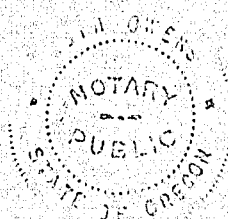
A strip of land six feet in width, the centerline of which is congruent to the water pipe running from MILLER'S well to TUCKER'S property.
6. This agreement shall inure to the benefit of and bind the heirs, successors, and assigns of each of the parties hereto.
7. In the event any suit or action is brought to enforce, interpret or construe the terms of this agreement, the prevailing party shall be entitled to the payment of his attorney's fees, whether incurred at trial or upon appeal, and his costs, by the unsuccessful party.

Dated this 31st day of FEBRUARY, 1976.

Kenneth W. Miller
Louis M. Miller
Larry R. Tucker
Gloria C. Tucker

State of Oregon)
 County of Klamath) ss.

Personally appeared the above named Kenneth W. Miller and Doris M. Miller, husband and wife, and Larry R. Tucker and Gloria C. Tucker, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:



Louis M. Miller
 Notary Public for State of Oregon
 My commission expires: 5-14-80

After Recording
 Return To:

FFS+L
 Main Br.

STATE OF OREGON; COUNTY OF KLAMATH; ss.
 Klamath Co Title

Ind for record at request of _____
 this 22 day of Feb A. D. 19 77 at 2:44 o'clock PM, on
 duly recorded in Vol. M 77, of _____ deeds on Page 3096.

Wm D. MILNE, County Clerk

By [Signature]
 9.00