

05-10-94A10:01 RCVD

**AGREEMENT FOR EXCLUSION FROM KLAMATH IRRIGATION  
DISTRICT AND RELEASE OF  
WATER AND DRAINAGE RIGHTS**

This Agreement is made by and between the City of Klamath Falls, an Oregon municipal corporation herein called Landowners, whether one or more, and the Klamath Irrigation District, herein called KID.

**RECITALS**

A. Landowners own land in Klamath County, Oregon, which contains 20.24 acres of irrigable land, is Klamath County Tax Assessor Account No.(s): 3909-1500-00701; and is more particularly described as follows:

See Exhibit "A" attached and made a part hereof

B. Landowners' predecessors in interest agreed to be included within the Klamath Irrigation District for the purpose of receiving irrigation water and drainage services from KID and the United States of America, by and through the Bureau of Reclamation, Klamath Project.

C. Landowners no longer desire to be included in Klamath Irrigation District and receive said services and pay the costs thereof.

**AGREEMENT**

NOW, THEREFORE, in consideration of the exclusion by KID of Landowners' Land from the Klamath Irrigation District and the release from KID's assessments, lien, collection and foreclosure rights under Oregon Revised Statutes Chapter 545, Landowners and Landowners' heirs, devisees, personal representatives, grantees, vendees, successors and assigns, jointly and severally represent, warrant, guarantee, covenant and agree with KID and its successors and assigns as follows:

(1) Landowners are the sole owners and holders of the fee simple title to the above described lands and have good right to execute this Agreement and to bind said lands as herein agreed.

If said lands are subject to any trust deed, mortgage, contract of sale or other lien upon the land, landowners agree to furnish to KID, a recordable agreement from the owners and holders of such instrument or lien acknowledging the terms of this Agreement and consenting to landowner's execution of this Agreement. Provided, however, that the failure of landowners to so secure such Agreement shall not relieve landowners or said lands from any of the terms and conditions of this Agreement.

(2) Said lands do not have reasonable access to the system of irrigation works of the district, or have been permanently devoted to uses other than agriculture, horticulture, viticulture or grazing, or are subject to being irrigated from another source or, it is in the best interest of KID to exclude said land from assessment and from the benefits of the District.

(3) Landowners understand and agree that by executing this Agreement, they are releasing and waiving all rights of membership in KID, including the right to receive irrigation water, the right to use the drainage system, and the right to vote in any District election.

(4) Landowners understand that by the execution of this Agreement, said lands may lose any right to receive surface water and water flowing into and out of surface drainage ditches and canals (collectively "surface water") under State law because they acknowledge that the abandonment by nonuse of any prior right to receive surface water and by continued nonuse of surface water under this Agreement, the lands may fail to receive any future\*water rights. Landowners does hereby assign, quitclaim and transfer unto KID the surface water right, if any, appurtenant to their land and do hereby irrevocably appoint the chairperson of the Directors of the Klamath Irrigation District as their attorney in fact to execute any and all documents which may be necessary to transfer said surface water right, and to exclude landowners' land from the District.

(5) Landowners do hereby recognize, ratify, grant and confirm the existence of all existing rights of KID or the United States affecting Landowners' said property, including, without limitation by this recital, all rights of way, easements and servitudes for all irrigation and drainage facilities of the United States or KID as now constructed and located upon or affecting Landowners' said property and do hereby grant unto KID and the United States right, right of way, easement and servitude for all surface water, including for percolation, seepage, leakage, overflow, flooding and any other failure or lack of drainage which now exists or which at any time may hereafter occur or result from any irrigation or drainage facility on or near any part of the Landowners' said land.

(6) Landowners do hereby absolve, waive and release both KID and the United States from any and all claims of liability

\*surface

for any damages or injuries to person or property which may have heretofore occurred or which may now be occurring in connection with the ownership, operation or maintenance of the Klamath Project.

(7) Landowners understand and agree that should they desire to be included in KID in the future, if such inclusion is possible, that before such request will be granted, Landowners will be required as a condition thereof to pay all assessments that have been exempted by this Agreement, plus the amount of all interest which would have been chargeable for nonpayment of such assessments if they had not been exempted by this Agreement.

(8) Landowners' representations, warranties, covenants, and agreements herein set forth are covenants running with Landowners' said land and each and every part and parcel thereof in perpetuity, forever binding the same for the use and benefit of KID and the United States of America, and their respective successors, grantees, transferees and assigns.

(9) Landowners do hereby acknowledge that they have read all of the foregoing instrument and consent and agree to each of the representations, warranties, covenants, and agreements contained herein.

This Agreement shall take effect upon the approval of same by the Board of Directors of KID, and the adoption of the Resolution exempting said land from the assessments of said District.

WITNESS their hands this 10th day of February, 19 94.

LANDOWNER, City of Klamath Falls, Oregon

By: James R. Keller

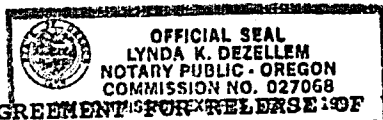
Attest: Traci R. Brace

STATE OF OREGON  
COUNTY OF KLAMATH  
CITY OF KLAMATH FALLS } ss

On the 10th day of February, 1994, personally appeared James R. Keller and Traci R. Brace, who, each being first duly sworn, did say that the former is the City Manager and the latter is the Deputy City Recorder of the City of Klamath Falls, an Oregon municipal corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that the instrument was signed and sealed on behalf of said municipal corporation; and each of them acknowledged said instrument to be its voluntary act and deed.

BEFORE ME:

Lynda K. Dezelle  
Notary Public for Oregon



The foregoing Instrument having been read and considered by the Board of Directors of KID at a meeting of said Board of Directors and said Board of Directors in consideration of all of the representations, warranties, covenants and agreements made by the landowners therein duly moved, seconded and voted that Klamath Irrigation District approve and agree to the same and did order that the above described lands be exempted from the payment of the assessments of the District and accept the release to the District of the water and drainage rights which were appurtenant to said land.

NOW, THEREFORE, Klamath Irrigation District does hereby duly execute this Agreement this 26<sup>th</sup> day of April, 1994.

## KLAMATH IRRIGATION DISTRICT

By

Its President

By

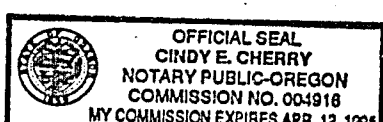
Its Secretary

STATE OF OREGON )

) ss

County of Klamath )

On this 26<sup>th</sup> day of April, 1994, personally appeared Steve Kancha and David Salem, who, being duly sworn did each say that Kancha is the President and Salem is the Secretary of Klamath Irrigation District and that the seal affixed to this instrument is the official seal of said Klamath Irrigation District by authority of its Board of Directors and each of them acknowledged said instrument to be the voluntary act and deed of Klamath Irrigation District.



Cindy E. Cherry  
Notary Public for Oregon  
My commission expires: 4/12/95

After recording return to: Klamath Irrigation District 6640 KID Lane, Klamath Falls, Oregon 97601.

EXHIBIT "A"  
LEGAL DESCRIPTION

## PARCEL 2

## AQUA GLASS LEASE AREA 08/28/92

A tract of land situated in the Southwest quarter of Section 15, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Commencing at a point on the proposed South right of way line of the South Side By-Pass, said point being at right angles to and Southerly 110 feet from the existing right of way centerline of the South Side By-Pass at O.S.H.D. Engineers Station 245+00; thence Easterly, along a straight line to the true point of beginning, said true point being Westerly 1 foot from the intersection of said straight line and the West right of way line of the U.S.B.R. 1-G-1 Drain Canal (formerly known as the R-D-2 Drain) as described in Volume 26, Page 321 of Klamath County Deed Records, the end point of said straight line being at right angles to and Southerly 90 feet from said existing right of way centerline at O.S.H.D. Engineers Station 255+00; thence Southeasterly, along a line that is parallel and concentric with and 1 foot Southwesterly of the Southwest right of way line of said 1-G-1 Drain, to the Southerly prolongation of the West line of property described in Volume M77, Pages 11674 and 11675 of the Klamath County Microfilm Records; thence Northerly, along said Southerly prolongation and the West line of said property to said straight line between said O.S.H.D. Engineers Station 245+00 and 255+00, said straight line being the proposed South right of way line of the South Side By-Pass; thence Westerly, along said straight line to the true point of beginning.

EXCEPTING THEREFROM the U.S.B.R. 1-G-1 Drain Canal (formerly known as the R-D-2 Drain) as described in Volume 26, at page 321, Deed Records of Klamath County, Oregon.

TOGETHER WITH a right-of-way easement for ingress and ingress across Grantors adjoining land as shown on Land Partition Map #52-92 on file in the Klamath County Clerk's Office.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of KID the 10th day  
of May A.D., 19 94 at 10:01 o'clock A.M., and duly recorded in Vol. M94,  
of Deeds on Page 14648.

Evelyn Biehn - County Clerk

By *[Signature]*

FEE \$30.00