

EXTRA TERRITORIAL UTILITY EXTENSION AGREEMENT,
COVENANT RUNNING WITH THE LAND,
POWER OF ATTORNEY, AND EASEMENT

This document supercedes and replaces a similar document dated December 23, 1996.

1. **Parties:** The parties to this Agreement are: The City of Othello, Washington (herein City), a municipal corporation of the State of Washington, located entirely within Adams County, Washington, and Reza Firouzi and Deborah Firouzi, husband and wife (herein Developer).
2. **Recitals:**
 - 2.1 The City is the owner of a municipal water and sewer system which operates adjacent to the proposed plat of Kameron Estates, real property near Othello, Washington.
 - 2.2 Developer desires to receive water and/or sewer utility service from the City for use upon its real property located more than one half (1/2) mile from the corporate limits of the City.
 - 2.3 The City, pursuant to its Resolution No. 96-06 requires that all non-contiguous real property which receives water and/or sewer utility services from the City be subject to an agreement which affects the use of the real property served by the City utilities, restricts expansion of City utility services beyond those contracted for, and creates a covenant running with the land.
 - 2.4 Developer is fully aware of the restrictions imposed upon itself and its successors heirs, and assigns by City Resolution No. 96-06 and enters into this Agreement freely and voluntarily.
3. **Agreement:** It is agreed by and between the parties as follows:
 - 3.1 The City will provide the water and sewer utility services listed below to Developer at the Premises stated pursuant to the terms of this Agreement.

3.2 The real property to be serviced is described as:

A portion of Farm Unit 7, Irrigation Block 49, Columbia Basin Project, located in the East half Section 5, Township 15 North, Range 29 East, W.M., Adams County, Washington. Known as the Kameron Estates Division 1 and 2 which does not include those portions of the Southeast quarter of the Northeast quarter of Section 5, Township 15 North, Range 29 E., W.M., previously conveyed by seller to Camel and now owned by Hoyer consisting of approximately 10 acres, and does not include that portion of approximately 235 feet wide running East and West along the North boundary of seller's property and 215 feet wide across the South portion approximately 1,417 feet in length running North and South. which the property seller, Walt Sielaff is reserving.

3.3 This Agreement shall be filed for record in the Office of the Adams County Auditor and shall be in the nature of a covenant running with the Premises. It is the intent of Developer to have this Agreement, so long as it is in force, to be considered, interpreted, and regarded as a covenant running with the land as to the Premises.

3.4 The water utility service of the City agrees to provide the Premises is up to ⁴⁶~~43~~ single family residences, the number represents one dwelling unit per platted lot as that plat existed on the date of this agreement, which shall be subject to adjustment from time to time by the Othello Council and shall be subject to the capacity of the city's water system.

3.5 The sewer utility service the City is to provide the Premises is a total allowable discharge of up to ⁴⁶~~43~~ single family residences, the number represents one dwelling unit per platted lot as that plat existed on the date of this agreement, per day at a rate to be established from time to time by the Othello City Council and subject to the capacity of the city's sewer system.

3.6 Developer agrees and covenants that all sewer and/or water utility system components to be built and attached to the City's utility system shall be built to City standards. This includes all dedications of streets and alleys to City width requirements and easements to be adequately located and sized.

3.7 Developer agrees all fire flows and hydrant installations will meet City standards.

3.8 Developer agrees all utilities will be placed underground, including the conduit for future street lighting, per approved construction drawings. All utilities will be located as required by City standards to insure proper spacing, separation and location. Those utilities will be inspected by the City and accepted before being permitted to connect to the City system. The Developer will post a

being permitted to connect to the City system. The Developer will post a Maintenance bond equal to 100% of the cost of the water and sewer utilities for one year in favor of the City on a form acceptable to the City Attorney.

- 3.9 Developer agrees that all street, sidewalk, lighting and storm water control improvements made on the Premises will be to city standards existing on the date permits for this work are issued or the date of this Agreement if no other date is specified.

Developer is specifically granted a delay in the installation of certain portions of the improvements to the Premises as set forth in this paragraph. All improvements to be installed will be at the expense of the Developer or the Developer's successor in interest. Streets shall be built initially to Adams County standards at 24' all weather surface to permit the construction of full width streets without the removal of the initially installed streets. Approved construction plans shall be submitted by the Developer showing the elevations and locations of all full width streets and the streets shall be installed to those grades. The remainder of the street improvements, including street lighting, shall be installed immediately upon annexation.

- 3.10 Developer agrees and covenants that the Premises will not be used in any manner or for any purpose inconsistent with or contrary to the city's comprehensive land use plan as that plan now exists or as it may be from time to time altered, amended, or readopted. The Premises are currently designated for residential use.
- 3.11 This Agreement is personal to Developer and Developer may not assign, transfer, convey, give or devise its rights and duties under this Agreement to any successor except as provided herein. Developer or the successor holder of the fee title to the Premises shall be the entity or individual personally bound by this Agreement and responsible to perform under this Agreement. No subsequent leasehold, joint venture, or other tenancy or use agreement shall be deemed to relieve Developer from performing under this Agreement. The city shall only be required to deal with the designated representative of Developer in the administration of this Agreement.

The City shall not approve any assignment, conveyance, gift or devise of this Agreement to any successor owner of the Premises except upon condition that the successor in interest shall execute an acknowledgment, waiver, easement, and power of attorney in substantially the same form as this Agreement, easement and power of attorney executed by Developer and then the city shall determine, in its sole discretion, whether or not this Agreement shall be amended to allow such assignment, conveyance, gift or devise.

Provided, so long as this document constitutes a covenant running with the land and its existence and the obligations imposed under it are disclosed to purchasers of lots within the Premises, sales of residential lots may be made by the Developer without further approval of the City.

- 3.12 Developer shall execute contemporaneously with this Agreement the subjoined power of attorney and subjoined covenant respecting the annexation of the Premises by the city. This power of attorney is executed, as is this Agreement, by Developer with a full understanding that Developer may be waiving and transferring to the city a valuable right as a land owner as respects annexation by the city. Developer waives any objection to annexation by the city. Developer acknowledges it has relied solely upon its own legal counsel and fully understands the legal rights it is or may be surrendering to the city by the execution of this Agreement and the subjoined easement and power of attorney.
- 3.13 Developer understands the delivery of utility services to these Premises so long as they remain outside the corporate limits of the city, is a discretionary act of the city and the execution of this Agreement and performance hereunder are not intended and shall not be considered as an indication by the city of the intention to become a general provider of utility service beyond the terms of this contract, to these Premises or any other lands located outside the corporate limits of Othello.
- 3.14 Developer acknowledges its understanding that any or all utility service provided under this Agreement by the city are or may become subject to surcharges and/or increased charges in addition to those charged to similar customers located within the corporate limits and waives any objection to such practice by the city as it now or may exist.
- 3.15 Developer agrees that payment of service charges, surcharge assessments, and/or additional charges required by city ordinances to be paid for the utility services mentioned above will in no way relieve the Premises from its share of any future Local Improvement District or Utility Local Improvement District payments which may be assessed to pay all or a portion of the expenses of installing any improvement permitted to be installed pursuant to the Local Improvement District laws which may be installed to serve a district which includes the Premises.
- 3.16 Developer agrees that in the event of a sale, gift, transfer, segregation, assignment, or devise of its fee interest in the Premises it will disclose the existence of this Agreement and will further in no way warrant to any successor in interest or potential successor in interest the city's intention, understanding, or willingness to extend, renew, or abrogate this Agreement or to continue to deliver utilities pursuant hereto except as stated herein.

4. Term:

- 4.1 This Agreement shall be in effect so long as the Developer abides, observes, and performs this Agreement and the Premises remains outside the corporate limits of the City of Othello. This Agreement may be terminated by either party giving at least eighteen (18) months written notice of termination to the other, unless a shorter notice is agreed to in writing; or by annexation of these entire Premises into the City of Othello.
- 4.2 This Agreement shall terminate twenty-four (24) months from the date of the City Council's approval of the utility extension unless Developer has tapped into and extended utilities and completed substantial progress toward the development of the Premises as authorized by the City Council of the City of Othello.
- 4.3 This Agreement and the subjoined documents may only be modified by a writing signed by both parties. This Agreement may be executed in duplicate, of which either duplicate copy shall be deemed as an original.

This agreement supercedes and replaces the Agreement dated December 23, 1996.

DATED: 6/4/97

Reza Firouzi and Deborah Firouzi

City of Othello

By: Reza Firouzi

By: D. [Signature]

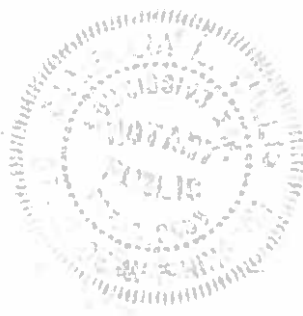
Mayor

Deborah Firouzi

STATE OF WASHINGTON
COUNTY OF ADAMS

I certify that I know or have satisfactory evidence that Reza Firouzi and Deborah Firouzi signed this instrument, on oath stated it to be their free and voluntary act for the uses and purposes mentioned in this instrument.

DATED: June 4, 1997.



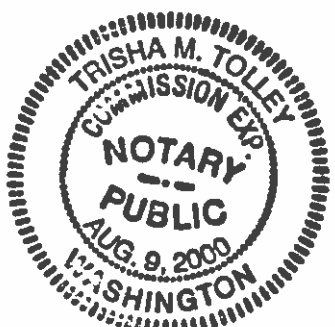
Camellia L. Willis
Camellia L. Willis
(Type or Print Name)

Notary Public for Washington State
My Commission Expires: 10/7/2000

STATE OF WASHINGTON
COUNTY OF ADAMS

I certify that I know or have satisfactory evidence that D. Milo Hirschi signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of Othello to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: July 15, 1997.



Trisha M. Tolley
Trisha M. Tolley
(Type or Print Name)

Notary Public for Washington State
My Commission Expires: Aug 9, 2000

COVENANT RUNNING WITH THE LAND

- 1. **Basis:** The foregoing Extra Territorial Utility Extension Agreement shall be deemed to be a covenant running with the land affecting the entire Premises described above. Such covenant shall be recorded with the Adams County Auditor and become a covenant of record. Such covenant shall remain in full force and effect for the life of the Extra Territorial Utility Extension Agreement. An attempt to cancel, restrict, or modify this covenant independent of the Extra Territorial Utility Extension Agreement shall terminate said agreement immediately unless such cancellation, modification, or restriction is agreed to by the Othello City Council.
- 2. **Creation:** Reza Firouzi and Deborah Firouzi, husband and wife, as the owners in fee simple of the above described Premises hereby creates a covenant running with the land to affect and include the entire described Premises. That covenant shall include all the terms, conditions, limitations, and obligations of the Extra Territorial Utility Extension Agreement above.

Deborah Firouzi
 By: Reza Firouzi
 Developer

STATE OF WASHINGTON
COUNTY OF ADAMS

I certify that I know or have satisfactory evidence that Reza Firouzi and Deborah Firouzi signed this instrument, on oath stated and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in this instrument.

DATED: June 4, 1997



Camella L. Willis
Camella L. Willis
 (Type or Print Name)

Notary Public for Washington State
My Commission Expires: 10/1/2000

POWER OF ATTORNEY

1. **Appointment:** Reza Firouzi and Deborah Firouzi, husband and wife, (Developer) each and every one of them, hereby makes, constitutes, and appoints the City of Othello, Washington, its true and lawful attorney for it and in its name, place and stead for the purposes stated herein.
2. **Independent Advice:** Developer has executed this Power of Attorney for the purposes stated after having a full understanding of the implications of the execution of this instrument. This Power of Attorney is also executed after being fully advised by its own counsel as to the power being conveyed to the City of Othello and with a full appreciation and waiver of any rights being abrogated.
3. **Purpose:** Developer appoints the City of Othello as its attorney for the purpose of executing any and all documents, petitions, requests, letters or the like necessary or desirable in the process of the annexation of the Premises described in the foregoing Extra Territorial Utility Extension Agreement into the corporate limits of the City of Othello.
4. **Termination:** This Power of Attorney may be revoked by Developer only upon the termination of the foregoing Extra Territorial Utility Extension Agreement, or upon the consent of the City of Othello's City Council. The continued validity, viability, and existence of this Power of Attorney is a prerequisite of continued utility service delivery to the Premises under the terms of the Extra Territorial Utility Extension Agreement by the City of Othello. Termination of this Power of Attorney by Developer shall automatically terminate the Extra Territorial Utility Extension Agreement between Developer and the City of Othello.

DATED: 6/4/97

Deborah Firouzi

By: REZA FIROUZI
Developer

STATE OF WASHINGTON
COUNTY OF ADAMS

I certify that I know or have satisfactory evidence that Reza Firouzi and Deborah Firouzi signed this instrument, on oath stated that and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in this instrument.

DATED: June 4, 1997.



Camellia L. Willis
Camellia L. Willis
(Type or Print Name)

Notary Public for Washington State
My Commission Expires: 10/1/2000

EASEMENT IN GROSS

- Recital:** Recognizing the need for Reza Firouzi and Deborah Firouzi to receive City of Othello's utility services described above, Reza Firouzi and Deborah Firouzi are prepared to grant to the City of Othello this easement in gross which shall be personal to the City of Othello and not transferable.
- Easement:** Reza Firouzi and Deborah Firouzi, husband and wife, do hereby grant, convey, devise, and give to the City of Othello, a municipal corporation, an easement in gross for the purpose of exercising any and all rights the owner of the above described Premises may have or acquire in connection with any annexation proceedings to annex the above described Premises into the City of Othello commenced by the petition method of annexation, as such method now or may hereafter exist.

Reza Firouzi
By: Deborah Firouzi
Developer

STATE OF WASHINGTON
COUNTY OF ADAMS

I certify that I know or have satisfactory evidence that Reza Firouzi and Deborah Firouzi signed this instrument, on oath stated and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in this instrument.

DATED: June 4, 1997.

Camellia L Willis
Camellia L Willis
(Type or Print Name)

Notary Public for Washington State
My Commission Expires: 10/1/2000

