

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER No. 96-7-2-1

- ) IN THE MATTER OF APPROVING AN
- ) INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF
- ) FLORENCE REGARDING DELEGATION OF PLANNING AND
- ) BUILDING REGULATION FUNCTIONS IN CONJUNCTION
- ) WITH A CONTRACT ZONING REQUEST (Morales)

WHEREAS, the Lane Code (Chapter 10) provides a process for the designation of Contract Zoning districts and application of city zoning provisions within urban growth boundaries; and,

WHEREAS, the aforementioned zoning process includes a requirement for an intergovernmental agreement dealing with the administration of applicable land use planning and building regulations; and,

WHEREAS, the process also requires that the applicant property owner submit and receive County approval of the Contract Zoning district designation; and

WHEREAS, ORS 190.010 provides that municipal governments may enter into agreements for performance of any and all functions and activities that the parties to the agreement, their officers, or agents have authority to perform; and,

WHEREAS, the City of Florence has tendered such an intergovernmental agreement to Lane County for consideration, attached hereto as Exhibit "A"; and,

WHEREAS, the Board of County Commissioners received the request and considered the matter at a public meeting on this date;

NOW THEREFORE, BE IT ORDERED that the agreement between Lane County and the City of Florence be approved with the understanding that the owner of the subject property must still apply for and receive approval of rezoning to the CZD designation.

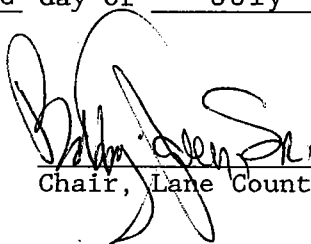
DATED this 2nd day of July, 1996.

**FILED**

JUL 25 1996

COUNTY CLERK

BY Liam Dewille



Chair, Lane County Board of Commissioners

APPROVED AND FORWARDED

Date 6-21-94 county

Stephen J. Under  
OFFICE OF LEGAL COUNSEL

## AGREEMENT

THIS AGREEMENT, entered into by and between Lane County, a political subdivision in the State of Oregon, hereinafter referred to as the COUNTY, and the City of Florence, a Municipal Corporation of the State of Oregon, hereinafter referred to as the CITY.

WHEREAS, ORS 190.010 provides that municipal governments may enter into agreements for performance of any and all functions and activities that the parties to the agreement, its officers or agents have authority to perform, and

WHEREAS, the CITY, and HECTOR MORALES, hereinafter referred to as OWNER, have entered into an agreement dated 9-21-93 (copy attached), regarding the terms and conditions necessary for the annexation of certain land owned by the OWNER to the CITY, hereinafter referred to as the Contract Annexation Agreement, and

WHEREAS, the land subject to the annexation is presently within COUNTY, and

WHEREAS, Oregon law generally provides that counties are responsible for planning activities in unincorporated portions of the county and cities are responsible for those activities within their corporate limits, and

WHEREAS, it is also Oregon law that the Land Conservation and Development Goals #2 and #14 require cooperative planning by cities and counties within the urban growth boundaries, and

WHEREAS, the property subject to the annexation is within the Urban Growth Boundary of the CITY, and

WHEREAS, the COUNTY has adopted a Contract Zoning District which will permit the application of a CITY zone to property outside the corporate limits of the CITY in the unincorporated portions of the COUNTY, if the property is within the Urban Growth Boundary and is subject to a Contract Annexation Agreement, L.C. 10.710 et. seq., and

WHEREAS, in view of the above, the CITY and COUNTY desire to delegate and assume various planning responsibilities as set forth herein,

NOW, THEREFORE, in consideration of the terms and conditions hereinafter stated, it is agreed as follows:

COUNTY SHALL:

(1) Accept and process a zone change application from OWNER for a Contract Zoning District pursuant to L.C. 10.710 et. seq. The application shall be processed by COUNTY from submission, until final action by the Board of County Commissioners. Nothing in this agreement binds the COUNTY to any specific decision on the zone change application. CITY shall be permitted the opportunity to comment upon said application.

(2) Charge OWNER regular fees for the processing of the zone change application, and retain said fees.

(3) If the Contract Zoning District has been approved by the County, delegate to the CITY the responsibility of reviewing, approving, implementing and enforcing, pursuant to CITY Ordinances and other applicable laws, any and all subdivisions, PUD, site plan review, building plan review, issuance of building permits, building inspection, issuance of certificates of occupancy, zoning regulations and any other applicable CITY development regulations not specified herein, provided, however that this delegation shall not include transfer of jurisdiction over public roads not inside the City limits.

CITY SHALL:

(1) If the contract zoning district has been approved by COUNTY, accept and assume the responsibility to review, approve, implement and enforce, pursuant to CITY Ordinances and other applicable laws, all CITY subdivisions, PUD, site plan review, building plan review, issuance of building permits, building inspection, issuance of certificates of occupancy, zoning regulations and any other applicable CITY development regulations not specified herein;

(2) Charge OWNER its regular fees occurring from these assumed responsibilities and retain said fees;

(3) Defend, indemnify and hold COUNTY harmless from any and all claims and lawsuits arising from the decision of the Lane County Planning Commission, Lane County Hearings Official, or other Lane County Commissioners concerning the Zone change application and any and all claims arising out of CITY performance of the duties delegated pursuant to this Agreement. This specifically includes defending any land use appeal arising as a result of the COUNTY'S contract zoning district decision.

ALL PARTIES agree in the event that any action, suit or proceeding to enforce the terms of this agreement is commenced, the prevailing party shall be entitled to reasonable attorney's fees as determined by the court, including in any appeal therefrom.

Furthermore, the term of this agreement shall commence upon the date of final execution and continue for a period of five years. In the event approved development has occurred on the subject property during that five year period, the agreement shall continue in perpetuity unless terminated by either party upon twelve (12) month advanced written notification provided to the other party. When the subject property is annexed, this agreement shall terminate. In any event, Item No. 3 under CITY'S duties shall continue in perpetuity and may only be revised or eliminated by mutual consent of the parties.

CITY OF FLORENCE, a Municipal Corporation

LANE COUNTY, a Political Subdivision

  
\_\_\_\_\_  
Ken Hobson, CITY MANAGER

\_\_\_\_\_  
CHAIRMAN

APPROVED, this 20<sup>th</sup> day of  
MAY, 1996

APPROVED, this \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_

9362504

ANNEXATION AGREEMENT

9363596

THIS AGREEMENT, made this 21<sup>st</sup> day of SEPTEMBER 1993 by and between the City of Florence, a Municipal Corporation of the State of Oregon, hereinafter referred to as CITY, and Hector Morales, said party hereinafter for convenience being referred to as OWNER.

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WITNESSETH:

THIS DOCUMENT IS BEING RERECORDED TO ATTACH 2334OCT.01'93#08REC 25.00

RECITALS: EXHIBIT "B" MAP. THIS DOCUMENT IS BEING RERECORDED TO ATTACH EXHIBIT "A" DESCRIPTION.

(A) HECTOR MORALES is the OWNER of certain land situated in Lane County, Oregon, described in Exhibit "A" attached hereto and incorporated herein by this reference (Property). The Property may be partitioned or developed in phases. When all or part of the Property is to be developed, served and annexed, as used in this Agreement that area is called the Served Property in this Agreement.

2722OCT.06'93#03REC 35.00

2722OCT.06'93#03PFUND 10.00

(B) OWNER ultimately desires to obtain from CITY sanitary sewer service and other municipal services to the Property and CITY desires to furnish the same, all upon the terms and subject to the conditions of this Agreement.

(C) OWNER has petitioned for annexation and CITY does agree to initiate the annexation and petition the Lane County Boundary Commission, all upon the terms and subject to the conditions of this Agreement.

AGREEMENTS:

2334OCT.01'93#08PFUND 10.00

3091OCT.11'93#06REC 40.00

NOW, THEREFORE, for a valuable consideration furnished by each party to the other, the receipt and sufficiency of which is hereby acknowledged by the respective recipient thereof, and in further consideration of the mutual promises, covenants and agreements herein set forth, it is mutually agreed as follows:

3091OCT.11'93#06PFUND 10.00

1. Sewer installation shall be allowed when CITY determines that its present sewer capacity is capable of additional hookups or if agreement is reached concerning alternate methods of providing sewer capacity. It is also acknowledged that water service will be made available when the CITY determines present water capacity is capable of additional connections or upon terms and conditions which will be negotiated in the future between CITY and OWNER.

CITY agrees to permit OWNER, at its sole cost and expense, to connect with CITY'S sewer line at the point nearest the Property that said connection can conveniently and practicably be made. Said point of connection shall be established by CITY'S engineers and their decision as to such point of connection shall be final.

Construction of OWNER'S connection to the sewer line shall in any event be performed by OWNER at its own cost and expense, and in accordance with CITY Codes and specifications. All sewers and other public improvements within the Property shall be installed by OWNER at its own cost and expense.

RETURN TO FLORENCE TITLE & ESCROW INC.

2. In addition, OWNER agrees to pay any and all costs which may be necessarily incurred in order to provide water, electricity, telephone and cable television to the Served Property, except that telephone need not be provided if the Served Property is developed with a recreational vehicle park.

BOOK 157 PAGE 2363

3. Upon completion of construction of sewer, water and electric service, OWNER may connect to such services upon compliance with the regulations of the agency providing the service. For services controlled by CITY, upon connection, OWNER shall be charged only for the customary charges as referred to in Paragraph (8) of this Agreement and thereafter for the monthly service charges as provided in the Florence City Code.

4. OWNER understands that future development may not be permitted to access directly to Highway 101, and that project will be required to be in compliance with the Oregon Department of Transportation access rules and policies in effect at the time of development; and

- a) It is understood and agreed that a planned north-south local street connected to Munsel Lake Road and traversing along the west side of OWNER'S property is required for adequate traffic circulation in the region; and
- b) As a condition of Property development, it is understood and agreed that it is the OWNER'S responsibility to provide street dedication and improvements as the CITY deems necessary to properly serve the Property and protect the public health, safety and welfare.

5. CITY and OWNER agree that accompanying this Agreement OWNER has executed a petition for annexation of a strip of land ten feet wide abutting the boundary of the Property and within the Property. Upon annexation of this strip of land around the Property, CITY may thereafter initiate an annexation of all or part of the Property at its discretion as an "island" or "enclave" annexation as provided in ORS 222.750 and ORS 199.487. Except if CITY request s another petition for annexation for all or part of the Property, OWNER shall not submit a petition for annexation directly to the Boundary Commission. At CITY'S discretion, the appropriate action required to annex land within such boundaries shall not be forwarded or taken by CITY until development in the form of construction has taken place on the property to be annexed and has been placed upon the tax rolls of Lane County, Oregon, by the Lane County Assessor in its improved condition.

6. In the event that the Boundary Commission does not approve an annexation, either upon petition or by action of CITY and the Served Property is not annexed, then the payments in lieu of taxes for the Served Property shall cease as of the date of the Boundary Commission's order, and CITY shall stop providing normal services to the Served Property. OWNER, however, subject to complying with CITY'S regulations and to paying the monthly charges, OWNER may continue the use of CITY sewer and water service and may continue to receive electric service at the Served Property.

Notwithstanding an earlier decision by the Boundary Commission not to approve an annexation of Served Property, upon CITY'S request, OWNER shall provide CITY with another petition for annexation for the Served Property and if the OWNER refuses to provide such a petition, CITY may then terminate all service to the Served Property including sewer and water service. BOOK 157 PAGE 2364

7. Upon the agreement of and with the consent of Lane County, Oregon, CITY shall assume jurisdiction and responsibility for all planning, zoning, site plan review, building plan construction and issuance of certificates of occupancy for development of the Property. Such jurisdiction and responsibility shall apply to all public improvements which shall in any event be constructed in accordance with CITY specifications and requirements. In such case, CITY shall be entitled to charge and receive from OWNERS all fees and charges required by CITY ordinance or law for such services in lieu of County charges required by law. This agreement is contingent upon Lane County's agreement to CITY's assumption of jurisdiction and responsibility as provided in this paragraph. It is the responsibility of OWNER to obtain approval from Lane County for the transfer of responsibility and jurisdiction

8. In addition to all other fees and charges provided herein, it is understood and agreed that OWNER will pay any and all applicable development fees and charges, assessments, in lieu assessments and any and all other applicable fees and charges at the time and in the manner required by CITY ordinance the same as if the Served Property were within CITY and if annexation had previously taken place.

9. When a parcel of Served Property is connected to either CITY'S water or sewer facilities, OWNER shall thereafter annually pay upon being billed by CITY an "in lieu of tax" charge. The "in lieu of tax payments" shall be determined on the basis of the assessed value of the Served Property as determined by the Lane County Assessor for that fiscal year, after allowance for all exemptions and exclusions provided by law, multiplied by the rate per thousand established for CITY, for the year or years in which payments are to be made and prorated for the number of months during which CITY services are provided to the Served Property. "In lieu of tax" payments shall continue until the Served Property is annexed and the CITY'S general ad valorem taxes are imposed upon the Service Property at its developed value. The Payment shall be made for an entire CITY fiscal year if petition (or commencement) occurs after July 1 and before December 31 of any year and the charge shall be for one-half year's in lieu tax payment if after January 1 and before June 30 of any CITY fiscal year. At CITY'S discretion an annexation petition or commencement of annexation proceedings for any phase or segment shall not have to be forwarded by CITY to the Lane County Boundary Commission until the improvements on the property shall have been placed on the tax rolls by the Lane County Assessor, and when that event has occurred, then CITY shall immediately forward any petition to the Boundary Commission and take all other steps necessary to make the Served Property part of the corporate limits of the City of Florence.

10. OWNER agrees that CITY may initiate annexation proceedings and this Agreement shall constitute OWNER'S assent thereto.

11. OWNER acknowledges that the recording of this Agreement as authorized by ORS 199.487(2) and 222.11'5 shall make the Agreement binding on all successors with an interest in the Property or part thereof. Upon CITY's request OWNER shall require any successor in interest to affirm in writing this Agreement and to deposit with CITY such documents as CITY deems reasonably necessary to carry out the intent of this Agreement including new petitions for annexation.

BOOK 157 PAGE 2365

OWNER shall not request an election on any proposed annexation of all or part of the Property and if OWNER testifies before any public body concerning the annexation of all or part of the Property, OWNER shall acknowledge its petition to annex and its receipt of services from CITY.

12. Except as provided in Paragraph 13, nothing contained in this Agreement shall be deemed to create any rights in favor of any person, firm, corporation or governmental body not a party hereto.

13. This Agreement inures to the benefit of and binds the parties hereto, their successor in interest, heirs, personal representatives or assigns.

14. In the event of a failure or refusal to perform any part of this Agreement, on the part of OWNER herein, CITY may withhold service from all of the property within the boundaries described in Exhibit "A" including but not limited to the cessation of sewer, and water service.

15. The parties recognize the impact future annexation or contract annexation agreements may have upon the availability of sewer and water services. For this reason, OWNER has been assured by the CITY that at the time of decision and determination of future annexation, CITY will evaluate not only on the basis of capacity but also the impact upon this Agreement to provide services to OWNER. OWNER agrees to proceed with development with reasonable speed and acknowledges the possibility that the capacity of CITY's water and sewer system may be reduced by other connections made thereto by property both within and without the corporate limits of the CITY.

Nothing in this Agreement shall be construed to require CITY to extend or provide service to the Served Property unless funds are available therefore as to any such service which may require participation or financing. It is understood and agreed and the OWNER acknowledges that the CITY'S ability to provide services may, in some case, be dependent upon the budget process as required by Oregon law, and in other cases by voter approval, and that neither service nor extensions requiring CITY financing may be forthcoming, unless approved as required by law.



The East 10 feet, the West 10 feet, the North 10 feet and the South 10 feet of the following described property;

The Southeast quarter of the Southwest quarter of Section 11, Township 18 South, Range 12 West, Willamette Meridian, Lane County, Oregon, more particularly described as follows:

Beginning at the South quarter corner of Section 11, Township 18 South, Range 12 West, Willamette Meridian, said point being marked by a Lane County, brass cap; thence North  $00^{\circ} 22' 22''$  West along the North-South centerline of said Section 11, a distance of 1292.49 feet to the Northeast corner of the Southeast quarter of the Southwest quarter of said Section 11, said point being marked by a 5/8 inch iron rod; thence North  $88^{\circ} 10' 16''$  West along the North line of said Southeast quarter of the Southwest quarter, a distance of 1320.49 feet to the Northwest corner of said Southeast quarter of the Southwest quarter; thence South  $00^{\circ} 14' 29''$  East along the West line of said Southeast quarter of the Southwest quarter, a distance of 1307.67 feet to the Southwest corner of said Southeast quarter of the Southwest quarter, said point being marked by a 5/8 inch iron rod; thence South  $88^{\circ} 49' 58''$  East along the South line of said Southeast quarter of the Southwest quarter, a distance of 1322.99 feet to the point of beginning, in Lane County, Oregon.

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State of Oregon,  
County of Lane--ss.

I, the County Clerk, in and for the said County, do hereby certify that the within instrument was received for record at

11 OCT 93 11: 42

Reel **1886R**

Lane County OFFICIAL Records.  
Lane County Clerk

By:   
County Clerk

9363596

9364813

State of Oregon,  
County of Lane--ss.

I, the County Clerk, in and for the said  
County, do hereby certify that the within  
instrument was received for record at

6 OCT 93 11: 45

BOOK 157 PAGE 2368

Reel **1884R**

EXHIBIT "B"

Lane County OFFICIAL Records.  
Lane County Clerk

By: *A. Russell*  
County Clerk

9363596

