

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER No. 96-7-2-2

) IN THE MATTER OF APPROVING AN INTER-  
) GOVERNMENTAL AGREEMENT WITH THE CITY OF  
) COTTAGE GROVE REGARDING DELEGATION OF PLANNING  
) AND BUILDING REGULATION FUNCTIONS IN  
) CONJUNCTION WITH A CONTRACT ZONING REQUEST  
) (Patrick/Dugan))

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 regulation; and,

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

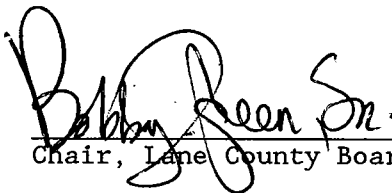
WHEREAS, ORS 190.010 provides that municipal governments may enter into agreements for performance of any and all functions and activities that the parties to the agreement, their officers, or agents have authority to perform; and,

WHEREAS, the City of Cottage Grove 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 Cottage Grove 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.

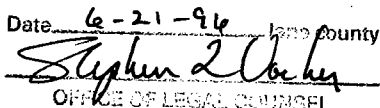
  
Chair, Lane County Board of Commissioners

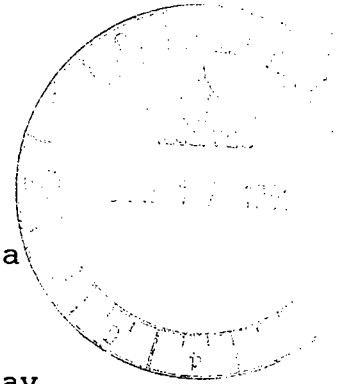
**FILED**

JUL 09 1996

**COUNTY CLERK**  
*by Pam DeWille*

APPROVED AS TO FORM

Date 6-21-96 Lane County  
  
OFFICE OF LEGAL COUNSEL



THIS AGREEMENT entered into by and between Lane County, a political subdivision of the State of Oregon, hereinafter referred to as the COUNTY, and the City of Cottage Grove, 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 agreement 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 GEORGE V. DUGAN, MARJORIE H. DUGAN and ANNA M. DUGAN, hereinafter referred to as OWNERS, have entered into an agreement dated the 21st day of November, 1995 (copy attached) regarding the terms and conditions necessary for the annexation of certain land owned by the OWNERS to the CITY, hereinafter referred to as the Contract Annexation Agreement; and,

WHEREAS, the land subject to the Contract Annexation Agreement is presently within the 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 State-wide Planning Goals No. 2 and No. 14 require cooperative planning by cities and counties within Urban Growth Boundaries; and,

WHEREAS, the property subject to the Contract Annexation Agreement 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 a property outside the corporate limits of the CITY and within 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 se seq.; and,

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

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

## COUNTY SHALL:

1. Accept and process before the Lane County Hearings Official a zone change application from the DEVELOPER for a Contract Zoning District, pursuant to L.C. 10.710 et seq. The application shall be processed by COUNTY from submission, until final decision by The Hearings Official or by the Board of County Commissioners if appealed to the Board. 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 the OWNERS regular fees for the processing of the zone change application, and retain said fees; and,
3. If the Contract Zoning District has been approved by the COUNTY, delegate to the CITY the responsibility to review, approve, implement and enforce, pursuant to CITY ordinances and other applicable laws, any and all subdivisions, planned unit developments, site plan reviews, building plan reviews, issuance of building permits, building inspections, issuance of certificates of occupancy, zoning regulations and any other applicable CITY land development laws, regulations, and policies not specified herein. Such 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 subdivisions, permits, building inspections, issuance of certificates of occupancy, zoning regulations, and any other applicable CITY land development laws, regulations and policies not specified herein;
2. CITY shall assure maintenance of any newly created public roads at the time of right-of-way dedication or improvement by the assumption of CITY maintenance responsibility. Any private road maintenance shall be required to be provided through a legally established homeowners association or some other legally binding commitment of the OWNERS, which may include some or all heirs, successors or assigns, or other property owners. For purposes of this section, road maintenance shall include, but not necessarily be limited to; surface maintenance, drainage maintenance, and installation and replacement of street name, warning and regulatory signs. Such signs shall be provided according to the Manual on Uniform Traffic Control Devices or adopted CITY sign standards;

- 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 the Lane County Commissioners concerning the zone change application and any and all claims which may arise from the performance of duties delegated to the CITY pursuant to this agreement. This specifically includes the defense of any land use appeal legally filed as a result of the COUNTY Contract Zoning District decision.

ALL PARTIES AGREE THAT, 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 any appeal therefrom.

Furthermore, the terms of this agreement shall commence upon the date of final execution and continue for a period of five (5) years. In the event that 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 advance written notification provided to the other party. When the subject property is annexed, this agreement shall terminate. In any event, Item No. 2 under CITY duties shall continue in perpetuity and may only be revised or eliminated by mutual consent of the parties.

APPROVED this 10 day of June, 1976

Jean M. Sinclair-Edwards

Jean M. Sinclair, Mayor  
City of Cottage Grove

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

\_\_\_\_\_  
Chair, Lane County Board of Commissioners

## AGREEMENT

DATED: Nov. 21, 1995  
BETWEEN: GEORGE V. DUGAN, MARJORIE H. DUGAN and ANNA M. DUGAN ("Owner")  
AND: CITY OF COTTAGE GROVE, a municipal corporation of the State of Oregon ("City")

WHEREAS, Owner owns the real property described on Exhibit "A" (the "Property"). The Property is located outside of, but adjacent to, the corporate boundaries of the City. The Property is located within the City Urban Growth Boundary.

WHEREAS, Owner desires to develop the Property as a residential subdivision. Owner desires to develop the Property pursuant to the Comprehensive Plan, Zoning and Subdivision Ordinances, Building Code, and other applicable land use and development laws, regulations and policies of the City. Owner intends to build the streets, sanitary sewer, storm drainage, and water systems, and other infrastructure facilities and improvements in conformance with City standards.

WHEREAS, Owner desires to receive City services and the City agrees to provide City services to the Property in accordance with City standards and policies. Owner agrees to annex the Property to the City and the City is willing to accept such an annexation.

NOW, THEREFORE, in consideration of the mutual promises of the parties set forth in this Agreement, Owner and City agree as follows:

### Section 1 - Term

The term of this agreement shall commence on the date first set forth above and continue until the earlier of: the annexation of the Property to the City, and the expiration of any period for an appeal of any decision necessary for such annexation with no appeal having been filed or if an appeal is filed then the final, unappealable resolution of that appeal in favor of annexation; or, an Event of Default as defined in Section 5.1.

### Section 2 - Jurisdiction

2.1 The City agrees to promptly petition Lane County for an Intergovernmental Agreement transferring to City the jurisdiction and responsibility for all planning, zoning, site plan review, building plan checking, issuance of building permits, inspection of construction and issuance of Certificates of Occupancy related to the property described in Exhibit "A". Such jurisdiction and responsibility transferred to City shall apply to all public and private improvements which shall in any event be constructed in accordance with applicable City

specifications and requirements. In such case, City shall be entitled to charge and receive from Owners all usual and customary 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.

- 2.2 Owner agrees to not object to and to cooperate with the transfer or jurisdiction referred to in Section 2.1 above.
- 2.3 Owner agrees to obtain from Lane County any approvals which may be required by L.C. 10.710 et seq., the Contract Zoning District, including payment of appropriate zoning fees.

### Section 3 - Annexation

- 3.1 Owner agrees to promptly petition the City for the annexation of the Property to the City, upon the City's written request.
- 3.2 Owner agrees to initiate the annexation of the Property in whole or in part at such time as the City may elect and to petition the Lane County Local Government Boundary Commission for its approval of the annexation of the Property. Owner agrees to pay all fees associated with such petition and annexation process.
- 3.3 In the event the City elects to annex the Property to the City using a method which requires Owner's consent to the annexation, then Owner hereby consents to such annexation. To the extent Owner's consent may as a matter of law have a time duration then Owner hereby gives a continuing consent to annexation following execution of this Agreement and waives the right to assert that Owner's consent has expired. Owner agrees to promptly sign any further documentation submitted by the City for purposes of granting or continuing such consent or granting or continuing such waiver.
- 3.4 In the event the City elects to annex the Property or portions thereof using a method which gives Owner the right to remonstrate against the annexation, then Owner hereby waives this right to remonstrate and agrees to support such annexation.
- 3.5 In the event the City elects to annex the Property or portions thereof using a method which gives Owner the right to vote on the annexation, then Owner hereby agrees to vote in favor of the annexation.
- 3.6 In the event the City annexes the Property or portions thereof and an appeal of this decision or the decision of the Lane County Local Government Boundary Commission is filed, then the Owner agrees to oppose such an appeal and to defend such a decision during the appeal.
- 3.7 Prior to the sale or transfer of any portion of the Property, owner agrees to make of record, by appropriate covenant or deed restrictions,

its consent to annex, which shall be adequate to give notice to any purchaser or purchasers of the Property or any lot, part of parcel thereof, or the whole thereof, and to provide to the City written proof of said recording.

#### Section 4 - Development Activities

- 4.1 Subject to the transfer of jurisdiction referred to in Section 2.1 having occurred, Owner agrees to prepare its subdivision, development, and building plans in accordance with the applicable requirements of the City's Comprehensive Plan, Zoning Code, and City Standard Construction Specification requirements. Owner acknowledges that Owner may be required to obtain various approvals from the City with respect to the development of the Property and that such approvals may or may not be granted based upon whether Owner demonstrates compliance with the applicable City regulations.
- 4.2 Subject to the transfer of jurisdiction referred to in Section 2.1, the City agrees to review and decide upon all development and building applications or requests submitted by Owner for the development of the Property subject to all of the City's current applicable standards, requirements, and regulations.
- 4.3 Owner agrees not to perform any physical construction upon the Property without first obtaining all legally required permits and approvals from the City and other regulatory agencies having jurisdiction.
- 4.4 Owner agrees to connect the Property to City utilities and infrastructure as the City may require. Owner agrees to construct all such utilities and infrastructure in accordance with all applicable City ordinances, requirements and regulations. Owner agrees to construct all such utilities/infrastructure at Owner's cost and expense.
- 4.5 Owner shall be subject to City application and customary development fees and charges, hook-up charges, user fees and system development charges, even if Owner applied for development approvals prior to the effective date of annexation of the Property or portions thereof.
- 4.6 If Owner requests City services prior to the effective date of annexation of the Property or portions thereof to the City, the City will provide such requested services, subject to the following conditions: Owner shall bear the costs to build the utility systems and all other required infrastructure in accordance with City standards and requirements; Owner shall dedicate any rights-of-way and easements required by the City for streets or utilities to be maintained by the City and; payment by Owner of all normal associated fees and charges. The services to be provided by the City are: municipal water; sanitary sewer service; storm drainage; streets; and street lighting. Upon Owner's performance of its obligations set forth in this Agreement, the City will accept maintenance responsibility for the following to be built in public rights-of-way and easements on the Property: Public

water, sanitary sewer, and storm drainage systems; streets; and street lights.

- 4.7 Nothing in Section 4 shall be construed as allowing or permitting the City to impose charges in excess of the usual and customary charges required by City ordinances or policies.

Section 5 - General Provisions

- 5.1 An Event of Default shall exist when: a party fails to perform an obligation of such party under the terms of this Agreement, following written notice of such failure provided the failure is not remedied within 30 days of the effective date of such notice. If an Event of Default occurs, then the non-defaulting party shall be entitled to terminate this agreement by written notice to the other party.
- 5.2 This Agreement shall be binding upon the Owner and all heirs, successors and assigns of the Owner with respect to this Property. Owner agrees to place a covenant or restriction upon the deed records of Lane County setting forth the consent to annex related to this property herein described prior to the sale or transfer of any portion of the Property and thereby place any future owner of any portion of said Property on notice that all consents for annexation have been given and that no remonstrance rights as to annexation remain. Owner shall provide the City with written proof of compliance with this section.
- 5.3 All notices to be given under the terms of this Agreement must be in writing. Notices shall be effective upon hand delivery, facsimile, or three days after being mailed as certified mail, return receipt requested.
- 5.4 In order for a claimed waiver of default to be binding, the waiver must be in writing and signed by the party against whom the waiver is being asserted.
- 5.5 All exhibits to this Agreement are an integral part of this Agreement and are hereby incorporated by reference.
- 5.6 This Agreement constitutes the complete agreement between the parties and supersedes and replaces all prior written or oral agreements.
- 5.7 If any portion of the Agreement is held to be unenforceable or void by a court of competent jurisdiction, then such provision shall be deleted and the balance of the Agreement shall survive and be reasonably interpreted without such provision so as to carry out the intent of the parties.
- 5.8 The parties do not intent to create any benefits or rights for any third parties.

5.9 In the event legal action is instituted to enforce the terms of this agreement the prevailing party shall be entitled to recover, in addition to costs, reasonable attorney fees to be determined by the court, including an appellate court.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date first set forth above.

OWNERS:

CITY OF COTTAGE GROVE, an Oregon municipal corporation:

George V. Dugan  
George V. Dugan

Jean Sinclair-Edwards  
Jean Sinclair-Edwards - Mayor

state of Or  
county of \_\_\_\_\_

STATE OF OREGON,  
county of Lane

Personally appeared the following \_\_\_\_\_  
and acknowledged the foregoing instrument to be his voluntary act and deed.

Personally appeared the following Jean Sinclair-Edwards  
and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me:

Before me:

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Jean Hahn  
\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: 9-26-96

OFFICIAL SEAL

OFFICIAL SEAL

Marjorie H. Dugan  
Marjorie H. Dugan



state of \_\_\_\_\_  
county of \_\_\_\_\_

Personally appeared the following \_\_\_\_\_

and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me:

\_\_\_\_\_  
Notary Public for \_\_\_\_\_

My commission expires: \_\_\_\_\_

OFFICIAL SEAL

*Anna M. Dugan*  
\_\_\_\_\_  
Anna M. Dugan

state of OREGON  
county of LANE

Personally appeared the following  
ANNA M. DUGAN  
and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me:

*Joan Hoehn*  
\_\_\_\_\_  
Notary Public for OREGON

My commission expires: 9-26-96

OFFICIAL SEAL



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of CALIFORNIA

BOOK 157 PAGE 2379

County of RIVERSIDE

On Nov. 21st, 1995 before me, SHEILA FRIED, NOTARY PUBLIC

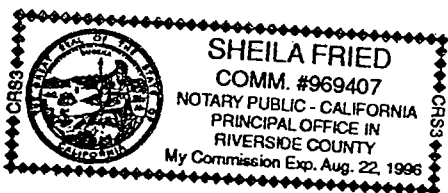
DATE

NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared George V. Dugan and Marjoire H. Dugan

NAME(S) OF SIGNER(S)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Signature of Sheila Fried, SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
CORPORATE OFFICER

- PARTNER(S) LIMITED GENERAL
ATTORNEY-IN-FACT
TRUSTEE(S)
GUARDIAN/CONSERVATOR
OTHER:

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

City of Cottage Grove property

TITLE OR TYPE OF DOCUMENT

6-pages

NUMBER OF PAGES

Nov. 21st, 1995

DATE OF DOCUMENT

Other signers on page 5

SIGNER(S) OTHER THAN NAMED ABOVE

A tract of land in Section 33, Township 20 South, Range 3 West of the Willamette Meridian described as follows:

Parcel A: Beginning at the Southwest corner of the William B. Small Donation Land Claim #45, then East 19.93 chains; thence North 11.63 chains; thence West 20.11 chains; thence Southerly 11.63 chains more or less to the point of beginning; plus the vacated portion of the Hayes Avenue adjacent to the North, vacated by Vacation Instrument R 138/75035; EXCEPTING, therefrom the East 272.25 feet of the South 160 feet thereof, EXCEPTING, also therefrom, Parcel 1, as described in Deed from Arthur D. Dugan to Walter A. Woodard, recorded January 3, 1958, Recorders Reception Number 29109, Deed Records of Lane County, Oregon, including any vacated portion of Hayes Avenue adjacent to the north of said Parcel 1 of the Dugan-Woodard deed.

Parcel B: One (1) acre off the South side of the following described lot: Beginning at a point 469 feet south of a point 472 feet East of the Southwest corner of the Henry Small and Wife Donation Land Claim No. 57, running thence South 209.5 feet; thence West 624.0 feet; thence North 209.5 feet; thence East 624.0 feet to the point of beginning; EXCEPTING, therefrom Parcel 2 as described in Deed from Arthur D. Dugan to Walter A. Woodard, recorded January 3, 1958, Recorders Reception Number 29109, Deed Records of Lane County, Oregon. Reserving from Parcel A to Norma Dugan an interest for her lifetime in the portion containing the residence and bounded on the East by South 6th Street and on the South, West and North by a graveled roadway; with said roadway being included in the portion reserved for the lifetime of said Norma Dugan.