

*Public Works*

THIS AGREEMENT, made and entered into this 15 day of March, 2004, by and between Umatilla County, hereinafter referred to as county, and the following persons, owner(s) of the property described below and hereinafter jointly or individually referred to as Owner:

**OWNERS:** Stuart Bonney

**Property Description:**

Parcel 3 of Umatilla County Partition Plat # 2004-05.

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MAR 15 2004  
UMATILLA COUNTY  
RECORDS

WHEREAS, Owner has applied to County for the following land use approval: Type II Land Partition, #LD-5N-675-03; and

WHEREAS, Granting of said permit will contribute to a significant and/or cumulative increase in traffic on easements that serve the property; and

WHEREAS, The cost of road improvements generated as a result of such increased traffic should not be born solely by the Owner, as the road provides service to the public at large and/or other properties in the immediate vicinity; and

WHEREAS, The County requires a guarantee that Owner will participate in the financing of any improvement project for said road at such time as traffic has increased to such a degree as to make the existing public or private roadway unsafe or inconvenient; and

WHEREAS, The Umatilla County Planning Department has agreed to grant the land use request per the standards of the Umatilla County Development Ordinance, on the condition that the Owner irrevocably consent to future financial participation in the following improvements to serve the public at large as well as the public on and in the immediate vicinity of the property;

- A. Future improvement to Lind Road, County Road Number 1281, including but not limited to resurfacing, widening, storm water control, and the provision of sidewalks, and/or bike paths.

NOW THEREFORE, it is mutually agreed by the parties hereto that:

1. The Umatilla County Planning Department did grant land use request number LD-5N-675-03.
2. Owner hereby irrevocably consents to pay to County a fair share of the reasonable and necessary expense of the improvements listed in Condition A, noted above, if made by County without the use of a Local Improvement District, the amount to be determined by the County Public Works Director.

*Return to Planning*

3. Owner hereby irrevocably consents to pay a fair share of any reasonable and necessary assessments levied as a result of a petition or resolution filed to improve the county road, Lind Road, pursuant to ORS 371.615 (ie. the formation of a Local Improvement District). Owner further waives such improvements and the assessment recommended by the County Engineer pursuant to ORS 371.625.\*\* Owner reserves the right to freely participate in discussions with regard to submitting and processing of a petition or resolution per ORS 371.615, and to debate the type and degree of improvements recommended by the County Engineer. Owner also recognizes the rights provided via ORS 371.645 to challenge the amount of the recommended assessment in a public hearing, and have it adjudicated by the County Commissioners.

**\*\* EXPLANATORY NOTE:** An objection under ORS 371.630 counts as a "no" vote with respect to the percentage participation requirement from landowners to enable a propose improvement project to proceed. It is a major purpose of this Agreement to guarantee a "yes" vote under ORS 371.630, in lieu of requiring that the stated road improvements be made prior to issuance of the land use approval.

4. Owner hereby irrevocably consents to dedicate additional right-of-way required for improvements to Lind Road, County Road Number 1281, at no cost to the county, except for the costs of preparing and recording the dedication documents, in consideration of the benefits proved to the property by the improvement of said road.

5. In the event that the owner fails to comply with the above condition, the County may initiate enforcement action via the County Enforcement Ordinance. If authorized by such action, the County shall cause the necessary improvements to be made and shall attach the costs of such improvements as liens against the subject property until paid. Further, any penalties assessed via the County Enforcement Ordinance with respect to the owner failing to comply with above conditions shall also be liens against the subject property until paid.

6. Owner further agrees the County shall have the right to enter and inspect the subject property to determine whether conditions of approval have been met.

7. This agreement is intended to run with the property and shall be binding on the heirs, assigns and all other successors in interest to the owners of the subject property identified herein, according to the interest of the property. It is not intended to and shall not operate as a personal contract of Owner.

8. Without Amendment to this Agreement, upon the annexation of all or a portion of this property to a city, this agreement shall automatically transfer to said city for such portion of the property as is annexed, and all references to Oregon Revised Statutes and to County roads, the County Public Works Director, and County Engineer, shall automatically be replaced by those terms and citations appropriate to cities. An exception hereto is that this Agreement shall remain binding with regard to the County Roads and to the County if said roads are not taken over by the city upon annexation, but remain in the County jurisdiction.

9. The Agreement herein may be amended, terminated or otherwise modified only upon joint written agreement of Umatilla County and Owner hereto, or their successors in interest, with the amendment incorporated by reference into this present Agreement.



IN WITNESS WHEREOF, the parties have hereunto set their hands and seals in execution of this Agreement as of the date first written.

OWNER(S): Stuart Bonney  
Stuart Bonney

STATE OF OREGON )  
County of Umatilla )

ON the 16 day of JANUARY, 20 04, personally appeared STUART BONNEY, known to me to be the above-named owners of the property described above, acknowledge this instrument to be their voluntary act and deed.



Before me Shannon K. Benefit  
Notary Public for Oregon

My Commission Expires: June 16, 2007



ATTEST:

*Jean Humphill*

UMATILLA COUNTY BOARD OF COMMISSIONERS



*Dennis D. Doherty*  
Dennis D Doherty, Commissioner

*Emile M. Holeman*  
Emile M Holeman, Commissioner

*William S. Hansell*  
William S Hansell, Commissioner



STATE OF OREGON ) ss.  
County of Umatilla )

On 15<sup>th</sup> day of March, 2004, personally appeared Dennis D. Doherty, Emile M. Holeman, William S. Hansell, known to me to be the above-named County Commissioners, acknowledge this instrument to be their voluntary act and deed.



Before me *Marcia Wells*  
Notary Public for Oregon

My Commission Expires: June 6, 2005

State of Oregon )  
County of Umatilla )

This instrument was received  
and recorded on  
03-15-04 at 2:00  
in the record of instrument  
code type DE-IRC

Instrument Number 2004-4580451  
Fee 41.00

Office of County Records

*Jean Humphill*  
Records Officer