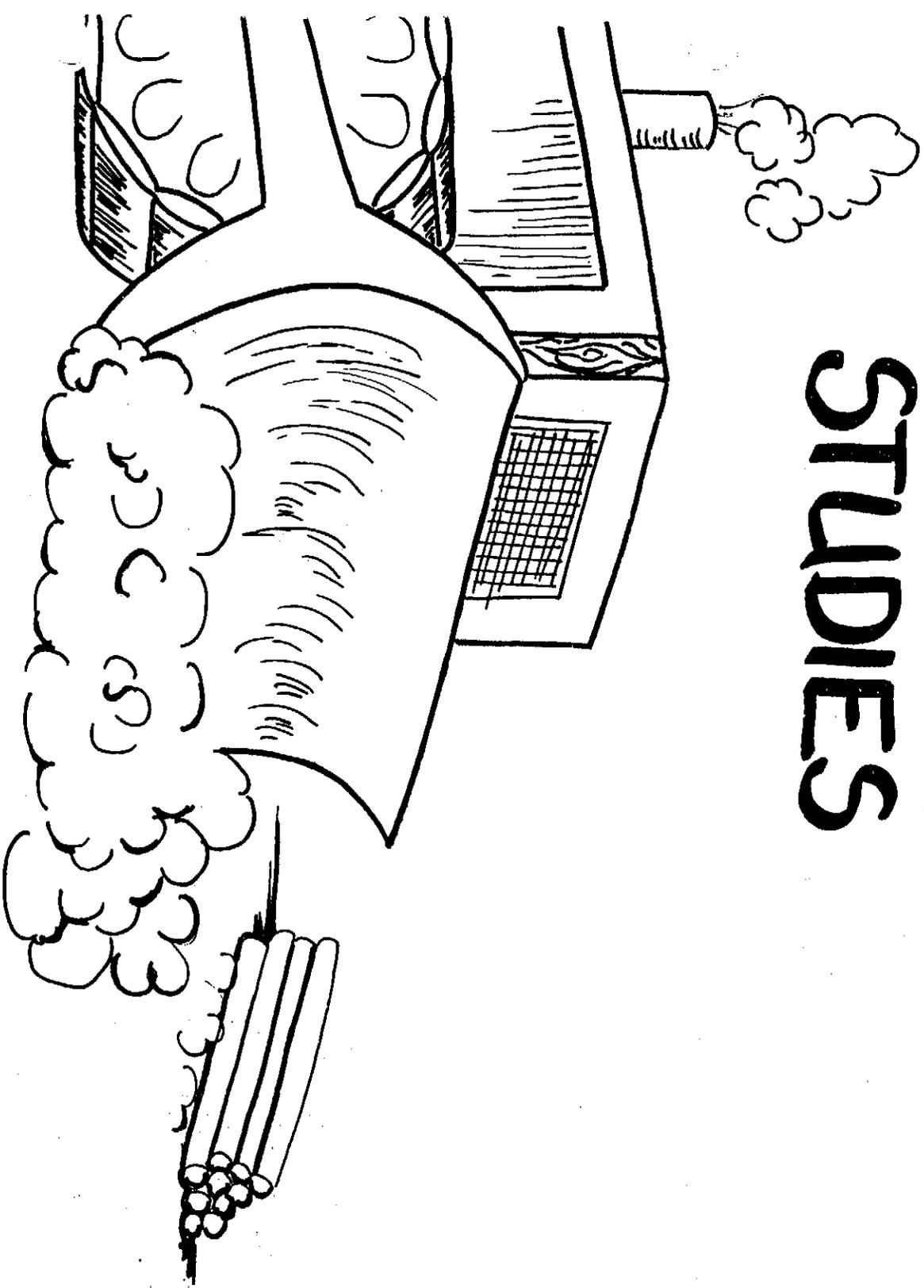


URBANIZATION BACKGROUND STUDIES



URBANIZATION

Urbanization means the total growth of the community. It is not only the consideration of where new housing or industry should be encouraged, but also the full and complete provision of services.

Goal #14 of the Statewide Planning Goals requires that there be an orderly and efficient transition from rural to urban land use and that Urban Growth Boundaries be established to identify and separate urbanizable land from rural land.

Goal #14 also requires that the above determination be based on the following seven points:

- 1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;
- 2) Need for housing, employment opportunities, and livability;
- 3) Orderly and economic provision for public facilities and services;
- 4) Maximum efficiency of land uses within and on the fringe of the existing urban area;
- 5) Environmental, energy, economic, and social consequences;
- 6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,
- 7) Compatibility of the proposed urban uses with nearby agricultural activities.

Brownsville contains a large amount of vacant land within the present city limits. 33.19% of all land in Brownsville is vacant.

Vacant land can be contributed to three factors:

- 1) The present city limits incorporates three historic cities: Brownsville, Amelia and North Brownsville;

2) Shifting land uses, i.e., at one time a large industrial area was located east of Old Town north of Kirk Avenue;

3) Annexation of vacant land.

The result of having large tracts of vacant land within the city has led to difficulty in the provision and maintenance of services and facilities. From an economic standpoint, it will pay to encourage infilling of vacant land prior to expanding into undeveloped areas removed from existing development.

After considerable debate, the community of Brownsville has arrived at an urban growth boundary which is felt will meet the needs of the community through the year 2000.

There are four areas outside the city limits which are identified for inclusion in the urban growth boundary. In all other areas the city limits are also the urban growth boundary.

Review of the seven points of Goal #14 related to the Brownsville Urban Growth Boundary:

Point One: Based on population projections developed by Oregon District #4 Council of Governments and the land needed to accommodate future population, contained within the section on Housing, Population, and Economics in the Background Studies. It has been determined that there is ample buildable vacant land within the existing city limits to accommodate all land uses.

However, the community is concerned that the population projection may be low. They are willing to accept the projections for planning purposes, understanding that time alone will determine the degree of accuracy. Reason for concern over the population projections stems from the fact that industrial development and expansion will modify population projections upward. The reopening of Linn Plyboard, the siting of a small electronic firm in Brownsville, the potential created by Woodex's Development of bio-mass

fuel pellets, proposed expansion of American Can in Halsey and the proposed development of Tektronix in Lebanon will all impact growth in Brownsville.

Upon completion of current improvements to the city's sewer and water systems, ample provision to accommodate the population projections will be available.

Point Two:

Careful consideration was given to the need to accommodate future housing and employment opportunities. The details of these considerations can be found in the section on Housing, Population, and Economics contained in the Background Studies. The question of livability is very dear to the community of Brownsville. While every effort has been made to maintain the character of the community throughout the plan, no attempt was made to include specific areas in the Urban Growth Boundary solely for that reason. The cumulative effect of the five areas will contribute to livability.

Point Three:

The voters of Brownsville have let it be known that they want fiscal accountability. The city cannot therefore afford to finance or allow the costly extension of services. All areas which are included within the Urban Growth Boundary are capable of being served by city services. Several areas were included in the Urban Growth Boundary for the purpose of improving existing services. It is felt that when development occurs in these areas, services can be either looped into existing dead end lines in the case of the water system or provide service to areas currently within the city which, although undeveloped, could then be served. In addition to sewer and water considerations, transportation was also a factor in including some areas which will benefit citywide traffic circulation.

Point Four:

The land use patterns, within areas included in the Urban Growth Boundary, are

committed to urban uses or in some cases the property is split by the City limits. Details for development in the Urban Growth Boundary areas are addressed in the Urban Growth Management Agreement between the City of Brownsville and Linn County.

Existing activities on some lands included in the five Urban Growth Boundary areas are Bohemia, Inc., city shops, a gravel operation, and small-parcel vacant unused land.

Point Five:

Although the intent of point five would seem to encourage the protection of unique qualities of land which can provide a benefit to the community while allowing for the use of those qualities, the five areas included in the Urban Growth Boundary do not possess qualities definable by point five to be of eminent environmental, energy, or economic consequences. However, as stated in points three and four, these areas do provide an ability to improve the existing social atmosphere through facility improvements. Since the areas have also been identified as committed to urban uses it would appear that a social need is also provided by their inclusion.

Point Six:

Although historically Brownsville has been developed over agricultural soils, every effort was made to avoid the inclusion of productive farm and forest land in the Urban Growth Boundary. All areas with the exception of the Bohemia Mill site have soils with capability classes less than Class II; three areas have some Class II soils.

As was stated previously, all areas are committed to urban uses as determined by proximity to services and development and lot size.

Point Seven:

Agricultural activities adjacent to the city limits are of low intensity, although some associated practices such as spraying

and field burning may be objectionable to city residents. Also proximity of the city to these agricultural practices may be harmful with respect to sheep and city dwellers' dogs.

For the most part, Brownsville has strong economic ties to agriculture and can be viewed as an agricultural community. As such, development of the areas included in the Urban Growth Boundary should not have an adverse effect on surrounding agricultural practices.

Table 20
Land in the U.G.B., Out of City Limits

Type	Comprehensive Plan	
	Existing Land Use Acres	Designation Acres
Industrial	49.5	64.0%
Residential	.5	36.0
Vacant	92.0	N/A
Total	142.0	100.0%**
In Floodway	4.0*	3.0
Sub-total	138.0	97.0%**

See: The U.G.B. Agreement,
Exhibit "I" (p. 145)

* Industrially designated.

** May not add due to rounding.

**BROWNSVILLE'S URBAN GROWTH BOUNDARY
AND AREAS OF COMMUNITY CONCERN**

The City of Brownsville has identified four areas outside but adjacent to the city limits for inclusion in the Urban Growth Boundary (U.G.B.). Within these four areas are a total of 125.83 acres. Although each of the four areas will be addressed separately, their inclusion in the Urban Growth Boundary was based on the following:

1. The need for adequate land for industry;
2. The logical extension of public facilities (sewer, water and streets);
3. The retention of prime agricultural land;
4. Known development proposals;
5. The presence of city services;
6. Areas not subject to flood hazard; and
7. Areas with existing drainage proposals.

Exhibit "I" of the U.G.B. Agreement (p. 145) shows the location of the four areas in relation to the existing city limits of Brownsville.

Areas one and three are being considered for industrial development. Areas two and four are being considered for residential development.

ANALYSIS OF THE FOUR U.G.B. AREAS

Area One

- A) Location: Southwest of city limits, north and south of Highway 228 on east side of railroad.
- B) Total Number of Parcels: Three (3), (one ownership).
- C) Total Acres: 50.35 Acres.
- D) Total Developed Land: 47.0 Acres.
- E) Type of Development: Bohemia, Inc., (industry).
- F) Undeveloped Land: 3.35 Acres.

G) Soil Types: Chehalis silty clay loam Class II, 30A.
Malabon silty clay loam Class I 260A.
Coburg silty clay loam Class II 270A.

H) Reasons for inclusion in U.G.B.:

1. Existing industry.
 2. The land would require little improvement other than drainage to develop.
 3. Access to the Southern Pacific Railroad and Highway 228.
 4. Compatibility with surrounding land uses.
 5. The need for economic development in an area compatible with the city.
 6. Industrial traffic would not be channeled through residential and commercial areas of the city.
- I) Comprehensive Plan Designation: Industrial.

Area Two

- A) Location: South of city limits east of Gap Road.
- B) Total Number of Parcels: Three (3).
- C) Total Acres: 14.53 Acres.
- D) Total Developed Land: 0 Acres.
- E) Type of Development: Vacant.
- F) Undeveloped Land: 14.53 Acres.
- G) Soil Types: Coburg silty clay loam Class II.
- H) Reason for inclusion:

1. Two land owners asked to have the remainder of their parcels not in city limits included in U.G.B. The third parcel would become an island when the other two were included. It is the smallest parcel and is also split by the city limits.

2. One land owner has a development proposal for the parcel to the west and has shown how sewer, water, and streets can be extended to the area.
3. Inclusion would make possible water and streets improvement in the area.

I) Comprehensive Plan Designation: Residential.

Area Three

- A) Location: East of city limits, north of Highway 228, south of Calapoola River.
 - B) Total Number of Parcels: Nine (9).
 - C) Total Acres: 40.37 Acres.
 - D) Total Developed Land: 2.77 Acres.
 - E) Type of Development: Light industrial (toy factory), city shops, and a gravel operation.
 - F) Undeveloped Land: 37.60 Acres.
 - G) Soil Types: Camas gravelly sandy loam Class IV, 1A.
Chehalis silty clay loam overflow Class II, 30A.
Malabon silty clay loam Class I, 260A.
Fluvents and Fluvaquents (Alluvial land) Class VII, 76A.
- NOTE: Approximately 4.09 acres are within the identified floodway.
- H) Reasons for inclusion in U.G.B.:
 1. Existing industry.
 2. Small parcel sizes.
 3. City could supply services.
 4. Industrial traffic could be channeled onto Highway 228 to avoid residential areas.
 5. Ownership patterns.
- I) Comprehensive Plan Designation: Industrial.

Area Four

- A) Location: Northeast of city limits, west of Brownsville-Lebanon Road.
- B) Total Number of Parcels: Three (3).
- C) Total Acres: 36.27 Acres.
- D) Total Developed Land: One house on single large lot.
- E) Type of Development: Single family residential.
- F) Undeveloped Land: All except one or two houses.
- G) Soil Types: Pengra silty loam Class III, 120A.
Hazelaire silty clay loam Class IV,
521C.
Ritner cobbly silty clay loam, Class IV,
469C.
Ambrig silty clay loam, Class IV, 280A.
Conser silty clay loam, Class III, 55A.
- H) Reasons for inclusion in U.G.B.:
 - 1. Development will improve services by creating better traffic circulation, and looping water system.
 - 2. Soils are Class III and IV.
 - 3. Proposed east-west collector will pass through this area tying Linn Way with Brownsville-Lebanon Road.
 - 4. Residential development in this area will provide good access to Lebanon.
 - 5. No natural hazard.
 - 6. Drainage plan for the area.
 - 7. Encouraging development on poorer soils should preserve good soils.
- I) Comprehensive Plan Designation: Residential.

Exhibit "B"

AGREEMENT BETWEEN THE CITY OF BROWNSVILLE
OREGON AND LINN COUNTY, OREGON FOR THE MANAGEMENT
OF THE BROWNSVILLE COMPREHENSIVE PLAN AND
LINN COUNTY COMPREHENSIVE PLAN AS IT PERTAINS
TO THE URBAN GROWTH BOUNDARY, THE URBANIZABLE
AREA AND AREAS OF COMMUNITY CONCERN

1. The City of Brownsville, Oregon and Linn County, Oregon hereby agree to establish a joint management procedure for the implementation of the Brownsville Urban Growth Boundary and plan for the Brownsville Urbanizable Area, both of which form an integral part of the Brownsville Comprehensive Plan. The Brownsville Area Urban Growth Boundary is attached to this agreement as Exhibit "I". The area situated inside the Brownsville Urban Growth Boundary and outside the Brownsville City limits shall be referred to as the Urbanizable Area.
2. The City and the County further agree to utilize the provisions of this Agreement, the Brownsville Comprehensive Plan and the Linn County Comprehensive Plan and implementing ordinances as amended as the basis for review and action on Comprehensive Plan Amendments, development proposals and implementing regulations which pertain to the urbanizable area.
3. The City and County recognize a common interest in the amendment of the Comprehensive Plan text and map, the zoning ordinance text and map, and the land division ordinance as they pertain to the Urbanizable Area. The County will refer to the City, upon receipt thereof, all requests for such amendment in order to allow for a concurrent City review. City review of Linn County amendments pertaining to the Urbanizable Area shall occur as a Type III review as outlined in the Linn County Urban Growth Boundary (UGB) Procedural Ordinance. Additional time for review may be provided upon request by the City.
4. The City and County further agree to the following process for formal review of certain land use activities which pertain to the Urbanizable Area:

- A. The City shall have the opportunity to review and comment on the following activities taking place within the Urbanizable Area:
 1. Conditional use permits.
 2. Variance to lot area standards.
 3. Major partitions, and lots platted for subdivision or planned unit development at County standards.
 4. Fill permits, drainage or road projects.
 5. Recommendations for the designation of a health hazard area.
 6. Requests for amendment or establishment of special districts.
- B. The County shall have the opportunity to review and comment on the following City related activities:
 1. Transportation facility improvements or extensions.
 2. Public water supply, sanitary sewer, or drainage system improvement or extensions.
 3. Public facility or utility improvements or extensions.
 4. Requests for annexations.
 5. Amendments to the City's implementing ordinances to the comprehensive plan as they apply to the Urbanizable Area.
- C. Whichever jurisdiction, City or County, has authority for making a decision with regard to a specific development proposal, implementing ordinance or program, shall formally request the other affected jurisdiction to review and comment. The Linn County UGB Procedural Ordinance, Type II review process, shall be used for land use activities in Linn County as described under 4B above. If the position of the two jurisdictions differ, every effort will be made to arrive at an agreement.

5. Annexation proposals to the City for areas outside the Urban Growth Boundary shall be considered as a request for an amendment to the Urban Growth Boundary and shall be subject to the approval of the City and County as an amendment to the Brownsville Comprehensive Plan.
6. The City and County further agree to utilize the provisions of this agreement, the Brownsville Comprehensive Plan and the Linn County Comprehensive Plan as amended as the basis for review and action on comprehensive plan amendments, development proposals and implementing regulations which pertain to areas of Community Concern shown on Exhibit "II".
7. The City and County recognize the desirability of "Area One" as identified on Exhibit "II" for future industrial use. The County shall preserve lands in this area for agricultural use with the exception of the area owned by Woodex, which shall be zoned Industrial. The County shall use its regulatory authority to prohibit divisions of land in Area One unless concurrence is reached between the City and County. If concurrence cannot be reached within a minimum of 30 days from the time that the City is notified, then the City and County shall jointly petition the Land Conservation and Development pursuant to ORS 197. The County shall approve industrial uses for this land only when there is a contractual agreement for annexation between the landowner and the City, which is satisfactory to the City.
8. The City and County recognize the provisions of an agreement between the owner of all land located in Area Four, as identified on Exhibit "II" and the City of Brownsville. The County shall plan and zone land in Area Four consistent with the provisions of the agreement attached as Exhibit "III".
9. The County agrees to formally request City review and comment on proposals for amendment of the comprehensive plan text and map and the zoning ordinance text and map as it pertains to all areas identified as Areas of Community Concern, shown on Exhibit "II". The County shall give the City a minimum of thirty (30) days to complete its review.

10. This agreement may be amended in writing at any time by mutual consent of both parties, after public hearing and referral to the City and County Planning Commission for a recommendation. Any modifications in this Agreement shall be consistent with the Comprehensive Plans of the City of Brownsville and Linn County.

11. This agreement may be terminated by either party provided that the following procedure is used:

- a. A public hearing shall be called by the party considering termination. That party shall give the other party notice of hearing at least 40 days prior to the scheduled hearing date. This 40-day period shall be used by both parties to seek resolution of any differences.
- b. Public notice of the hearing shall be in accordance with applicable state and local statutes and goals.
- c. An established date for termination of the agreement shall be at least 180 days after the public hearing in order to provide ample time for resolution of differences, reconsideration of the decision and the adoption of a replacement Urban Growth Management Agreement which complies with Statewide goals, statutes and administrative rules.

Dated this 8th day of September, 1981.

City of Brownsville

Mayor

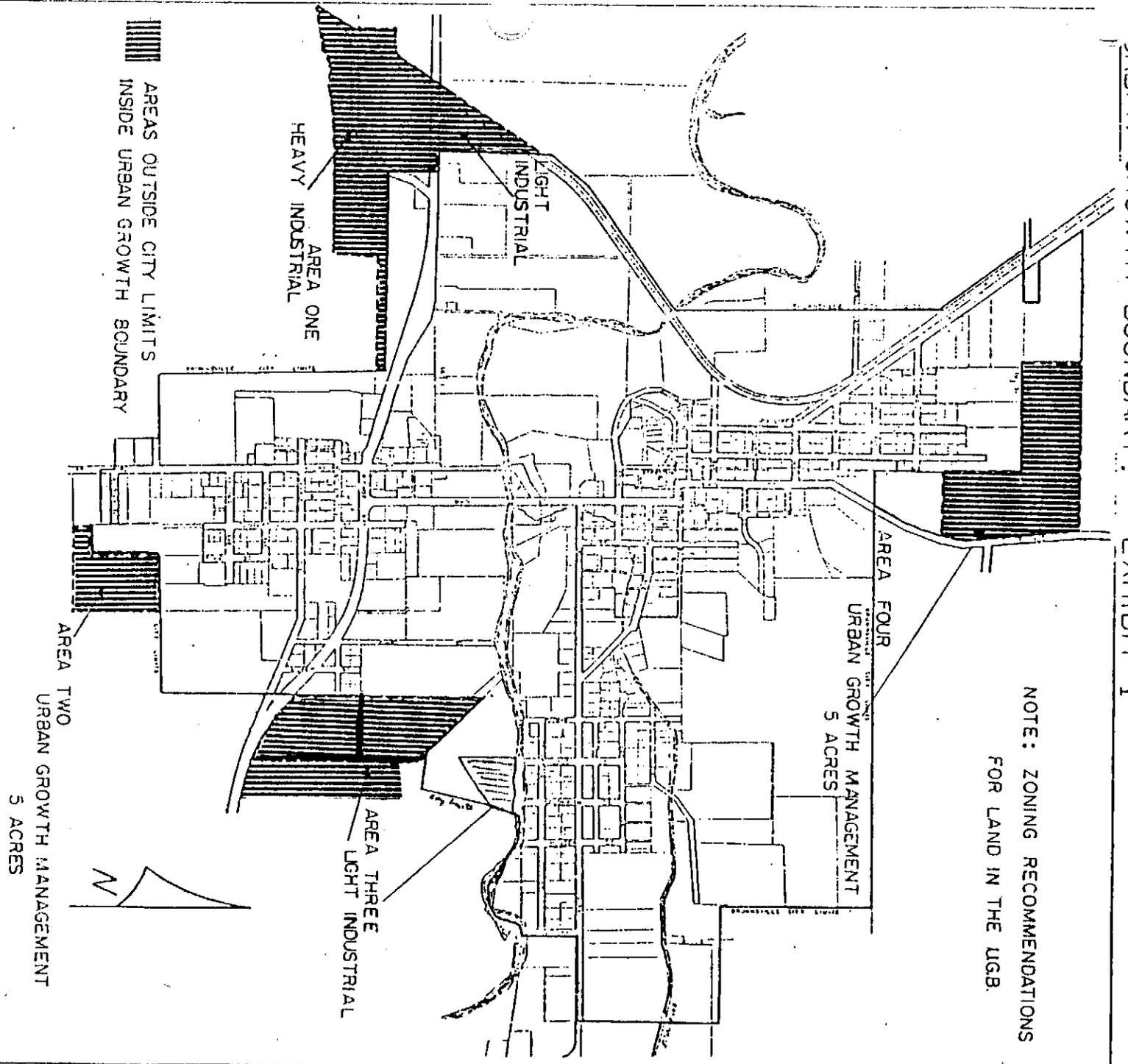
LINN COUNTY

Chairman, Board of Commissioners

["Exhibit B" amended by Ord. No. 524, \$14, passed September 8, 1981.]

URBAN GROWTH BOUNDARY: EXHIBIT "I"

NOTE: ZONING RECOMMENDATIONS
FOR LAND IN THE UGB.



[Exhibit "I" amended by Ord. No. 524, sec. 14, passed Sept. 8, 1981.]

BROWNSVILLE

SCALE:

Exhibit "I1"

AREAS OF COMMUNITY CONCERN

The Brownsville Planning Commission has identified the following areas as being of concern to the city of Brownsville.

Area 1:
Industrial Lands Southwest of the City

A) Location: West of Brownsville bordered on the north by State Highway 228, on the west by County Road 505, on the south by County Road 508, and on the east by the Southern Pacific Railroad and the eastern property lines of Tax Lots 900 and 1100, Twp. 14 South, Range 3 West, Section 2.

B) Type of Development: Residential and Industrial.

C) Concern: Additional industry will seek this area for its desirable qualities and the community would like to see additional industry. The impact to the community would be heavy, while the financial impact in terms of tax base would be non-existing. The partitioning of the large lots into small lots would lessen the attractiveness of the area for industry.

Also, county roads west of Brownsville are being used by an increasing number of industrial haulers. Hazards associated with a high speed state highway and several access points are not being addressed.

The city would like to see controlled access along Highway 228 and a review of existing county roads which access onto 228 with the feeling that certain roads could be improved and others closed.

Because traffic is usually more intensive around cities, the county should give

special maintenance consideration to all county roads in the Brownsville planning area.

Area 2:
Oakview Heights

- A) Location: North of the city and adjacent to the northern city limits.
- B) Type of Development: Rural residential subdivision.
- C) Concern: Presently there are 64 lots which range in size from 7.50 to .90 acres. Well log studies indicate problems in domestic water supply and some septic system denials have been issued. A steep access road (over 15%) is the only access into the subdivision.

The city feels that further division of existing lots could present problems only a health hazard annexation could solve.

The city would like to see the county review all building and partition requests for proven septic system approval and adequate drinking water prior to issuance of permits or partitioning.

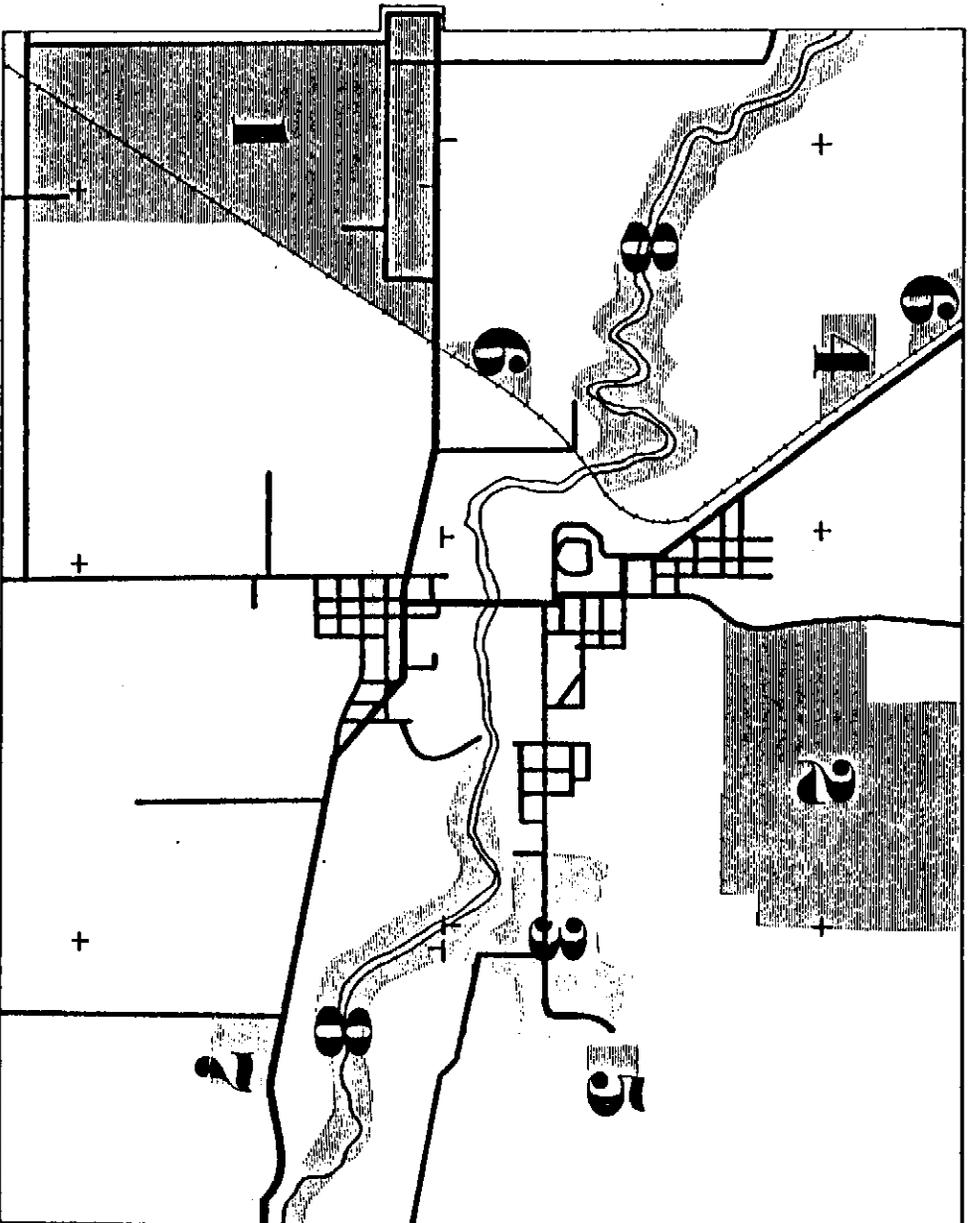
Area 3:
Rural Residential Development East of the City North of the Calapooia River

- A) Location: The hills east of Brownsville.
- B) Type of Development: Rural residential.
- C) Concern: Most traffic generated by rural residential development in this area utilizes Kirk Avenue. An increase in development will mean an increase in traffic on Kirk Avenue.

Kirk Avenue is not up to city standards, and in part is owned by the county.

The city would like to see low development east of Brownsville and Kirk Avenue im-

AREAS OF COMMUNITY CONCERN



NOTE: FOR SPECIFICS OF EACH AREA,
REFER TO URBANIZATION BACKGROUND STUDIES AND
THE URBAN GROWTH MANAGEMENT AGREEMENT

BROWNSVILLE PLANNING AREA

SCALE: 1" = 1/2 MI.



proved to handle existing development in the area. The city will cooperate with the county in improving Kirk Avenue.

The area cannot be served with sanitary sewer without expensive lift or pump stations. Natural water supply is limited and most residents in the area have connected to the city's system. The water that is supplied to the area is delivered in small diameter copper pipe.

If more development is permitted in this area, the uses will require city water. The city does not want to supply services outside the U.G.B. and the economics of supplying services to this area would not permit sound fiscal management at this time. The area should be maintained in large agricultural lots.

Area 4:
James' Properties

A) Location: Northwest and adjacent to the city limits.

B) Type of Development: Agriculture and Residential land.

C) Concern: The city entered into an agreement with the current land owners (The James) to purchase at reduced cost land needed by the city to expand the northern sewage lagoon. As part of the agreement, the city has agreed to allow connection to the city's sanitary sewer system for five residential units.

The concern is that the James be permitted to develop the area identified as Area Four, and that all conditions of the agreement between the City and the James be met and adhered to.

Area 5:
Pioneer Cemetery

- A) Location: One mile east of the city.
- B) Type of Development: Public.
- C) Concern: That development be kept from eroding the tranquil setting and view of this historic site.

Area 6:
Brownsville Sewage Lagoons

- A) Location: The north lagoon is northwest of the city, the south lagoon is west of the city.
- B) Type of Development: Public.
- C) Concern: That the area around the lagoons be maintained in agricultural use for possible expansion and land application of waste.

Area 7:
Atavista Farm

- A) Location: East of Brownsville, south of Highway 228.
- B) Type of Development: Historic house farm.
- C) Concern: The city would like to see Atavista Farm protected from encroachment by higher intensity development.

Area 8:
Calapooia Floodway

- A) Location: The floodway of the Calapooia River upstream and downstream of Brownsville as identified by the Federal Insurance Administration.
- B) Type of Development: Agriculture, Vacant.
- C) Concern: Development within the floodway outside the City will have an effect on flooding within the city limits of Brownsville.

Exhibit "III"

OF THE

U.G.B. AGREEMENT

Parcel A

Beginning at a point which is 1000.00 feet South $36^{\circ}39'$ East of the intersection point of the westerly right-of-way line of the Southern Pacific Railroad and the South line of that certain one rod strip described in Right-of-way deed from Phillip Stortz and wife to John Bland recorded January 2, 1912 in Book 95, Page 323, Deed Records, Linn County said intersection point being 44.35 chains (2927.10 feet) North and 283.80 feet west of the Southeast corner of Nathaniel D. Jack Donation Land Claim #40 in Township 13 South, Range 3 West of the Willamette Meridian, Linn County, Oregon; running thence South $36^{\circ}39'$ East 299.14 feet along said West railroad right-of-way line; thence West 925.00 feet; thence North 40.00 feet; thence North 45° West 28.28 feet; thence West 204.09 feet; thence on a non-tangent 580 foot curve to the left (the long chord of which bears North $3^{\circ}38'02''$ East 750.03 feet) 315.56 feet; thence South $36^{\circ}39'$ East 708.61 feet; thence East 800.00 feet to the point of beginning, containing 6.886 acres more or less.

Parcel B

Beginning at a point which is 500.00 feet West of the intersection point of the westerly right-of-way line of the Southern Pacific Railroad and the South line of that certain one rod strip described in Right-of-way deed from Phillip Stortz and wife to John Bland recorded January 2, 1912 in Book 98, Page 323, Deed Records, Linn County, said intersection point being 44.36 chains (2927.10 feet) North and 283.80 feet West of the Southeast corner of Nathaniel D. Jack Donation Land Claim #40 in Township 13 South, Range 3 West of the Willamette Meridian, Linn County, Oregon; running thence West 291.39 feet; thence on a 500 foot radius curve to the left (the long chord of which bears South $63^{\circ}19'27''$ East 520 76 feet) 3104.19 feet; thence North $36^{\circ}39'$ West 291.30 feet to the point of beginning, containing 24.546 acres more or less.

RESERVING AND EXCEPTING therefrom, however, all of the mineral rights in the property for Grantors, Grantors' heirs, representatives and assigns.

SUBJECT TO:

- (1) Easements, restrictions and reservations of record, if any.
- (2) The rights of the public in and to that portion of the above property lying within the limits of public roads and highways.

PROMISSORY NOTE

\$46,035.30 Brownsville, Oregon _____ 1979

The City of Brownsville, a municipal corporation, promises to pay to the order of THOMAS R. JAMES and COZITTA L. JAMES, and the survivor of them, at 27930 Seven Mile Lane (P.O. Box 123) Brownsville, Oregon, with interest thereon at a rate equal to the highest rate of interest that the City of Brownsville can obtain on the investment of funds used to pay the purchase price (in no event shall the City of Brownsville pay interest at less than a rate of 8%) per annum from date until paid, payable as follows:

- (1) \$46,035.30, plus interest from date, shall be paid on or before October 15, 1979.

If any of said sum is not so paid, all principal and interest to become immediately due and collectible at the option of the holder of this note. If this note is placed in the hands of an attorney for collection, we promise and agree to pay holder's reasonable attorney's fees and collection cost, even though no suit or action is filed herein; however, if a suit or action is filed, the amount of such reasonable attorney's fees shall be fixed by the court or courts in which the suit or action, including any appeal therein, is tried, heard or decided.

THE CITY OF BROWNSVILLE
a municipal corporation

By _____

By _____

Exhibit "A"

Parcel A

Beginning at a point which is 1000.00 feet South 36°39' East of the intersection point of the Westerly right-of-way line of the Southern Pacific Railroad and the South line of that certain one rod strip described in Right-of-way deed from Phillip Stortz and wife to John Bland recorded January 2, 1912 in Book 95, Page 323, Deed Records, Linn County said intersection point being 44.35 chains (2927.10 feet) North and 283.80 feet West of the Southeast corner of Nathaniel D. Jack Donation Land Claim #40 in Township 13 South, Range 3 West of the Willamette Meridian, Linn County, Oregon; running thence South 36°39' East 299.14 feet along said west railroad right-of-way line; thence West 925.00 feet; thence North 40.00 feet; thence North 45° West 28.28 feet; thence West 204.09 feet; thence on a non-tangent 580 foot curve to the left (the long chord of which bears North 3°38'02" East 750.03 feet) 315.56 feet; thence South 36°39' East 708.61 feet; thence East 800.00 feet to the point of beginning, containing 6.886 acres more or less.

Parcel B

Beginning at a point which is 500.00 feet West of the intersection point of the Westerly right-of-way line of the Southern Pacific Railroad and the South line of that certain one rod strip described in Right-of-way deed from Phillip Stortz and wife to John Bland recorded January 2, 1912 in Book 98, Page 323, Deed Records, Linn County, said intersection point being 44.36 chains (2927.10 feet) North and 283.80 feet West of the Southeast corner of Nathaniel D. Jack Donation Land Claim #40 in Township 13 South, Range 3 West of the Willamette Meridian, Linn County, Oregon; running thence West 291.39 feet; thence on a 500 foot radius curve to the left (the long chord of which bears South 63°19'27" East 520 76 feet) 3104.19 feet; thence North 36°39' West 291.30 feet to the point of beginning, containing 24.546 acres more or less.

RESERVING AND EXCEPTING therefrom, however, all of the mineral rights in the property for Grantors, Grantors' heirs, representatives and assigns.

SUBJECT TO:

- (1) Easements, restrictions and reservations of record, if any.
- (2) The rights of the public in and to that portion of the above property lying within the limits of public roads and highways.

KNOW ALL MEN BY THESE PRESENTS, That THOMAS R. JAMES and COZETTA L. JAMES, husband and wife ^{hereinafter called Grantors} CITY OF BROWNSVILLE

for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto ^{hereinafter called Grantee} a municipal corporation ^{State of Oregon, described as follows, to-wit:} hereinafter called Grantee, and unto Grantee's heirs, successors and assigns all of that certain real property with the improvements, betterments and appurtenances thereunto by being or in anywise appurtenant, situated in the County of Linn

Said property being more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof as though fully set forth.

To Have and to Hold the same unto the said Grantee and Grantee's heirs, successors and assigns forever. The true and actual consideration paid for this transfer, in full amount of dollar \$.

However, the actual consideration consists of no moneys, but property of a like given or granted which is part of the consideration (under which). (The same between the saids, shall appear on the sheet attached hereto of the same.) In witnessing this deed and where the context requires, the singular includes the plural and all governmental changes shall be implied to make the provisions hereof apply equally to corporations and individuals.

In Witness Whereof, the grantor has executed this instrument in this State of Oregon, this 19th day of _____ 1979, at a corporate meeting, it has been duly signed and affixed by it, before duly authorized clerks of its board of directors.

ACCEPTED BY THE CITY OF BROWNSVILLE, LINN COUNTY, OREGON this 22nd day of JUNE, 1979.

STATE OF OREGON)
County of Linn)
I, JESSIE J. WOOD,)
County Clerk, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in my office.

STATE OF OREGON, County of)
Linn)
Perpetua appeared)
and

Personally appeared the above named
THOMAS R. JAMES and
COZETTA L. JAMES

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

and that the same affixed to the foregoing instrument as the original was of said corporation and that said instrument was signed and sealed in the full of said corporation by authority of its board of directors, and each to them acknowledged and instrument to be its voluntary act and deed.

OFFICIAL SEAL

Notary Public for Oregon
My commission expires _____ 19__

Notary Public for Oregon
My commission expires _____ 19__

(OFFICIAL SEAL)

STATE OF OREGON

THOMAS R. & COZETTA L. JAMES
P.O. Box 123
Brownsville OR 97327
CITY OF BROWNSVILLE, A MUNICIPAL CORPORATION
Linn
Brownsville OR 97327

County of _____
I certify that the within instrument was received for record on the _____ day of _____ 19__ at _____ O.R. and records on page _____ in book _____ of the said county.
Witness my hand and seal of said County this _____ day of _____ 19__

DONALD P. RILLING
138 Seventh Ave., S.W.
Albany OR 97321

County of _____
Witness my hand and seal of said County this _____ day of _____ 19__

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this day of _____, 1979, by and between THOMAS R. JAMES and COZETTA L. JAMES, hereinafter called "Sellers," and CITY OF BROWNSVILLE, a municipal corporation, hereinafter called "Buyer,"

W I T N E S S E T H:

WHEREAS, Buyer has threatened to condemn for public use by Buyer two (2) parcels of real property owned by Sellers located in Linn County, Oregon said two parcels of real property being more particularly described in Exhibit "A", attached hereto and by this reference incorporated herein as though fully set forth.

NOW, THEREFORE, for and in consideration of the terms and covenants herein contained the Sellers hereby agree to sell to Buyer and Buyer hereby agrees to purchase from Sellers that certain real property described in Exhibit "A".

1. PURCHASE PRICE:

The full purchase price of the property, as above described, which Buyer agrees to pay to Sellers, shall be \$46,535.30, which is the total of the following:

(a) The sum of \$12,050.50, computed at a rate of One Thousand Seven Hundred Fifty (\$1,750.00) Dollars per acre for that property described in Exhibit "A" as Parcel A, Said Parcel A consisting of 6.886 acres.

(b) The sum of \$31,909.80, computed at a rate of One Thousand Three Hundred (\$1,300.00) Dollars per acre for that property described in Exhibit "A" as Parcel B, said Parcel B consisting of 24.546 acres.

(c) The sum of \$2,575.00, which sum shall be equivalent to the cost to Sellers for five (5) single family residence sewer connection permits for property owned by Sellers, said property being known as Kay's Addition to North Brownsville and being located along the West side of Linn Way.

*

2. PAYMENT OF PURCHASE PRICE, DEED and PROMISSORY NOTE:

Sellers shall, on even date herewith, deliver to Buyer a Bargain & Sale Deed conveying said property to Buyer, except for all oil, gas, mineral, and geothermal rights to and in said property, which Sellers shall reserve unto themselves; said property shall be conveyed subject to all liens, encumbrances, easements, conditions, and restrictions of record, and subject to all rights of the public in and to those portions of the property lying within public highways and roads, and subject to unrecorded leases.

Buyer shall, on the date said deed is delivered, as above provided, pay to Sellers a sum of Five Hundred (\$500.00) Dollars as part of the total purchase price, and shall execute and deliver to Sellers a promissory note for the remaining balance of the total purchase price, to-wit: \$46,035.30. Said promissory note shall be made payable to Sellers, as joint tenants with right of survivorship, upon the following terms:

(a) The sum of \$46,035.30, plus interest from the date of delivery of said deed, shall be paid on or before October 15, 1979.

(b) Buyer shall pay interest at a rate equal to the highest rate of interest that Buyer can obtain on the investment of the funds used to pay the purchase price. In no event shall Buyer pay interest at less than a rate of 8% per annum on all unpaid balances. Said interest to accrue from the date upon which Sellers deliver to Buyer said deed as above provided.

3. LEASE OF PARCEL B:

(a) Buyer agrees to lease to Sellers, for an amount of \$10.00 per acre per year, that portion of said property described as Parcel B. Said lease shall be for a term of five (5) years with Sellers, or the survivor of them, having the option to renew said lease for three additional periods of five years each, upon the same price of \$10.00 per acre per year. During the period of said lease, or during the period of any renewal of said lease, Sellers shall have the right to sell or assign their interest in said lease or to sublet said Parcel B. Sellers shall also have the right to sell or assign their right to renew said lease.

(b) Said lease shall begin upon the date that Sellers deliver to Buyer said deed, as above provided. Buyer agrees that the lease payment for the first year of said lease, as set forth in Paragraph (a) above, shall be reduced and adjusted so that Sellers will not be charged under said lease for such period of time that said Parcel B is under construction by Buyer or its agents and cannot be utilized for farming purposes by Sellers.

(c) During the period of said lease or of any renewal of said lease, Buyer shall make every effort to not discharge effluent onto Parcel B or irrigate Parcel B during the time required by Sellers, or their lessees, to harvest or remove any crops on Parcel B. Buyer agrees to make every effort to manage the lagoon facility, including the discharge of effluent from the lagoon, in a manner that will aid farming on Parcel B as much as possible. Buyer agrees to consult with Sellers, and their lessees, regarding the times and the manner of discharging effluent onto Parcel B. Sellers acknowledge that the primary purpose of Buyer purchasing Parcel B is to permit Buyer to discharge effluent onto Parcel B and Sellers acknowledge that the time and manner of discharging effluent onto Parcel B shall be in the absolute discretion of Buyer.

(d) Buyer agrees that should Buyer discharge effluent onto Parcel B at such times or in such manner so as to damage or destroy any crops on Parcel B during the period of said lease or of any renewal of said lease, Buyer shall pay Sellers, and their lessees, if any, according to their proportionate interest for any such damage, loss or destruction.

(e) Buyer agrees to prepare, at Buyer's expense, Parcel B for use as permanent pasture as soon as reasonably possible after Buyer has completed its construction of the lagoon and has finished placing soil on Parcel B and has completed the leveling of said soil and the fencing of Parcel B. Buyer agrees that such permanent pasture shall be clover with a mixture of grasses and shall be adequate to be used as permanent pasture. Said pasture shall meet requirements of the Oregon Department of Environmental Quality for nitrogen use.

4. FENCING AND DRAINAGE:

Buyer agrees to install, and to pay the costs of, security fencing around Parcel A of said property and

Parcel B of said property. Such fencing shall be adequate to meet the agricultural needs of Sellers, and shall be placed in such a manner and in such configuration as to permit Sellers to reasonably utilize the property on both sides of such fencing for farming purposes. Such fencing shall be placed in such a manner and in such configuration as to permit the movement of farm machinery for farming purposes. Buyer agrees to install 3 gates in the fencing around Parcel B of said property which meet the approval of Sellers and allow Sellers ingress and egress to said Parcel B with Sellers' farm machinery. One of such gates shall be located so as to permit Sellers access to Parcel B from Sellers' field adjoining parcel B on the west; another of said gates shall be located so as to permit Sellers access to Parcel B from Sellers' field adjoining Parcel B on the south; another of such gates shall be located so as to permit Sellers access to Parcel B from Sellers' existing pond. Buyer agrees to consult with Sellers regarding the location and width of such three gates.

Buyer agrees that any existing ditches that traverse the property will be channeled along dikes so as to ensure adequate drainage of the property. Buyer warrants that such drainage system will be constructed and maintained so as to lead natural drainage around Parcel B of said property. Buyer warrants that such drainage system to be constructed by Buyer shall be adequate to ensure that the drainage from Parcel B will be no worse after construction of said system than it was before the construction of said system.

Buyer warrants that the design, construction and maintenance of Buyer's lagoon or holding pond shall be adequate to prevent seepage of lagoon or holding pond water from entering into Seller's existing pond or from entering onto Seller's adjoining property or from entering onto Parcel B.

Buyer warrants that the design, construction, maintenance and operation of Buyer's lagoon or holding pond, including the discharge of effluent from the lagoon or holding pond, shall be such so as to comply with all standards, limits and requirements of the Oregon Department of Environmental Quality.

Buyer agrees to maintain Buyer's lagoon or holding pond in an attractive manner so as not to detract from or reduce the value of Seller's property known as Kay's Addition to North Brownsville.

5. SELLERS' EXISTING POND:

Buyer acknowledges that Sellers presently maintain a pond near said property to be purchased by Buyer and Buyer agrees that said pond shall not be included in said property purchased by Buyer, and that said pond shall not be damaged or altered during Buyer's construction or operation of Buyer's lagoon or holding ponds or by the movement of earth from the lagoon site to said parcel B, and Buyer further agrees that such fencing erected by Buyer shall separate Sellers' pond from said property being purchased by Buyer.

6. ZONING AND SEWER CONNECTIONS:

Buyer acknowledges that Sellers are the owners of property located along the westside of Linn Way known as Kay's Addition to North Brownsville and that such property is adjacent to Buyer's existing north sewage lagoon and that such property has been included within Buyer's preliminary urban growth boundary. Buyer agrees to cooperate with Sellers to ensure that such property remains within Buyer's urban growth boundary, and Buyer agrees not to initiate any action to vacate the subdivision known as Kay's Addition to North Brownsville. Buyer agrees not to initiate any action to change the zoning of such property from its present single family residential zoning. Buyer further agrees to allow five single family residence sewer connection permits to Sellers for Sellers' property known as Kay's Addition to North Brownsville located along the west side of Linn way.

Buyer shall issue such permits, or any of them, to Sellers, or the survivor of them, at any time within a period of 20 years beginning with the date of the execution of this agreement, upon receiving Sellers' application and each of such five permits shall be issued to Sellers at a cost equal to one-fifth (1/5) of the amount included as part of the total purchase price of the property in Part (c) of Section 1 of this agreement. Buyer agrees to give Sellers an easement across its north sewer lagoon property to allow Sellers to connect to the City sewer trunk line, approximately 350 feet from the Sellers' property located in Kay's Addition to North Brownsville. The connection of the sewer trunk line to the residences located on Sellers' property shall not be the responsibility of Buyer and costs of such connection shall be borne by Sellers.

*

7. SURVEYING, TITLE INSURANCE AND LEGAL FEES:

Buyer agrees to pay all surveying costs necessary to accurately describe the property being purchased from Sellers by Buyer, to pay the cost of title insurance, and to pay Five Hundred (\$500.00) Dollars attorney's fees to Seller's attorney for the preparation of this agreement.

8. TAXES:

Buyer agrees to prorate the 1978-1979 Linn County real property taxes on said above-described property being purchased by Buyer; such taxes shall be prorated as of the date that Sellers deliver to Buyer said deed conveying said property to Buyer, as herein provided.

9. EXISTING LEASE:

Buyer acknowledges that said property described in Exhibit "A" is currently being leased by Sellers to ROGER RUCKERT and that said property is currently planted in rye grass and such crop is expected to be harvested sometime between July 1, 1979, and September 30, 1979. Buyer agrees to pay ROGER RUCKERT and Sellers, according to their proportionate interest, for any damage, loss, or destruction of said rye grass crop caused by Buyer's construction of the lagoon facility, or Buyer's construction of any drainage ditches, dikes, or channels, or Buyer's removal or placement of earth from the lagoon facility. The amount of such payment to ROGER RUCKERT and Sellers for the loss, damage, or destruction of such rye grass crop shall be the fair market value of the crop lost, damaged, or destroyed. Sellers agree that once the current rye grass crop is harvested, no further crop will be planted on said property described in Exhibit "A" until such time as Buyer has completed construction and development, as set forth herein, on said property described in Exhibit "A".

10. DEFAULT, NOTICE AND REMEDIES:

If Buyer shall fail to make any payment as herein provided, time being of the essence, Buyer shall be deemed in default and Sellers shall not be obligated to give notice to Buyer of a declaration of said default.

Buyer shall not be deemed in default for failure to perform any covenant or condition of this agreement, other than the failure to make payments as provided for herein, until notice of said default has been given by Sellers to Buyer and Buyer shall fail to remedy said default within thirty (30) days after the giving of said notice. Notice for this purpose shall be deemed to have been given by the deposit in the mails of a certified letter containing said notice and addressed to Buyer at Buyer's last known address.

In the event that Buyer shall fail to perform any of the terms of this agreement, including payments of purchase price as evidenced by the promissory note as provided for herein, time of payment and performance being of the essence, Sellers shall, at their option, subject to the requirements of notices herein provided, have all rights and remedies provided by law or in equity.

11. ARBITRATION:

In the event of a dispute by the parties to this agreement over any terms of this agreement, including, but not limited to, those specifically subject to arbitration, such dispute shall be referred to a Board of Arbitrators chosen as follows:

Each of the parties to the dispute shall designate an arbitrator of his choice, the arbitrators so designated shall designate one other arbitrator so that there will be an uneven number of arbitrators on the Board of Arbitrators, and said Board of Arbitrators shall determine the dispute, which determination shall be final and binding upon the parties. In the event of a party to the dispute failing to designate an arbitrator within fifteen (15) days after demand by any party to do so, the decision of the arbitrator chosen by the other party shall be final. If the arbitrators chosen by the parties shall not be able to agree upon an additional arbitrator or arbitrators then either may apply to the then Senior Judge of the Circuit Court for Linn County, Oregon and his choice shall be final. Each party shall be liable for payment of a proportionate part of the fees and expenses of such arbitration as determined by the arbitrators.

12. WAIVER:

Failure by Sellers at any time to require performance by Buyer of any of the provisions herein shall in no way affect Sellers' right hereunder to enforce the same, nor shall any waiver by the Sellers of any breach hereof be held to be a waiver of any succeeding breach or a waiver of this non-waiver clause.

13. SUCCESSOR INTERESTS AND INTERPRETATION:

The covenants, conditions and terms of this agreement shall extend to and be binding upon and inure to the benefit of the heirs, administrators, successors and assigns of the parties hereto.

14. MAINTENANCE OF PARCEL B:

Sellers agree that they and Sellers' lessees, if any, shall maintain, at all times, a crop or other ground covering on Parcel B during such period of time that Sellers or Sellers' lessees are leasing said Parcel B from Buyer. Such crop or ground covering shall meet all requirements of the Oregon Department of Environmental Quality for nitrogen use.

15. RIGHT OF FIRST REFUSAL:

Should Buyer at any time prior to the full payment of the purchase price, as herein provided, wish to sell said property as described in Exhibit "A", or any part thereof, Buyer shall first offer said property to Sellers and Sellers shall have the right to purchase said property from Buyer for an amount equal to the per acre price as set forth in Section 1 of this agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on the day and year first hereinabove written.

SELLERS:

THOMAS R. JAMES

COZETTA L. JAMES

CITY OF BROWNSVILLE

BUYERS:

BY

