

ANNEXATION AND WATER AGREEMENT FOR
THE LAGUNA INVESTMENT, A LIMITED PARTNERSHIP, PROPERTY
OF JACK T. AND PATRICIA H. LASHLEY

This agreement is made and entered into by and between Heber City, a political subdivision of the State of Utah, hereinafter referred to as Heber City or City, and Laguna Investment, hereinafter referred to as the Land Owner or Owner, this 18TH day of March, 1993.

I. PURPOSE OF AGREEMENT: The purpose of this agreement is to provide for the annexation of certain real property into Heber City, to designate the zoning that will attach to that property upon its annexation, and to provide for the development and limitation of development of the property described in Exhibit A within the boundaries of Heber City.

II. ANNEXATION: The City, pursuant to a petition filed by the Land Owner within the area proposed for annexation, and in accordance with the authority granted by statute, agrees to adopt a resolution/ordinance of annexation and thereby to annex the area described in Exhibit A which is attached hereto and incorporated herein by this reference into Heber City. The area to be annexed and the annexation shall be subject to the terms and conditions of this agreement as well as the annexation ordinance of Heber City. The area to be annexed is part of the unincorporated area of Wasatch County, State of Utah. It is further agreed that this proposed annexation meets all requirements of State law.

III. GENERAL CHARACTER OF THE LAND TO BE ANNEXED:

A. Description of Land: The property to be annexed consists of approximately 19 acres of land located on the west boundary of

ENTRY NO. _____ DATE 12/17/93 TIME 13:55 FEE 0
RECORDED FOR 170072 HEBER CITY BOOK 270 PAGE 300-309
RECORDER JOE DEAN HUBER BY SHIRLEY B. BLEAZARD

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the City. The parcel has been irrigated and cultivated and is in an area where the development activity will occur.

B. Development Density: The development density and improvements anticipated are:

The property is presently being used for agricultural purposes and no specific development plans exist as of this date.

The Owner shall record (prior to the sale of any of the Exhibit A property) this agreement which will preclude the subdivision and further density development of this property without conveying to Heber City the equivalent of three acre feet of water in Wasatch Irrigation Company capital stock for each acre of ground transferred to any third party.

C. Municipal Services Required: The property will require municipal services from Heber City, with the exception of irrigation water, snow removal and road maintenance; however, the City will be maintaining the existing 600 West. Inside culinary water will be provided from the City's culinary water distribution system as provided for herein for the anticipated not applicable because there is no culinary demand at this time. Outside irrigation will be provided through a secondary irrigation system to be constructed or implemented by the Owner. The City in future might, but is not obligated to install a secondary system to serve the area. Sewage collection and treatment will be available at 600 West. All expenses of connecting to said line shall be at the expense of the Land Owner and successors in interest. Both the culinary water and sewer systems will require on-site and off-site extensions which shall be constructed by the Land Owner. All

internal improvements for culinary and irrigation water and sewer will be retained in private ownership and maintained by the Land Owner. The roads with the area will be private unless dedicated to and accepted by the City. All maintenance, repair and snow removal will be provided by the Land Owner, except the existing 600 West Street, unless and until specifically accepted by the City.

IV. CONDITIONS OF ANNEXATION: Upon annexation, the Land Owner shall perform the following:

A. Donation of Water Rights: The Land Owner shall transfer to City Zero (0) shares of stock in the Wasatch Irrigation Company, a mutual water company. City has determined that Zero (0) shares of stock in Wasatch Irrigation Company satisfies the requirements of the donation of water rights for the inside culinary water needs of the above proposed development. The parties have agreed that City shall only be required to furnish culinary water for inside use only to said described proposed development and not to any enlargements of the same without the written consent of the City. Water for outside and irrigation uses shall be furnished through a secondary irrigation system as provided by the Land Owner.

B. Water System Connection Fees: The Land Owner shall pay all water system connection fees required to be connected to the city system. Payment of the connection fees shall be made at such time as the Owner connects to the water distribution system and seeks water service. Upon payment of these fees, the Owner will receive culinary water service only from the City's culinary water distribution system on the same basis as all other customers of City's water distribution system, except that no culinary water

internal improvements for culinary and irrigation water and sewer will be retained in private ownership and maintained by the Land Owner. The roads with the area will be private unless dedicated to and accepted by the City. All maintenance, repair and snow removal will be provided by the Land Owner, except the existing 600 West Street, unless and until specifically accepted by the City.

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B. Water System Connection Fees: The Land Owner shall pay all water system connection fees required to be connected to the city system. Payment of the connection fees shall be made at such time as the Owner connects to the water distribution system and seeks water service. Upon payment of these fees, the Owner will receive culinary water service only from the City's culinary water distribution system on the same basis as all other customers of City's water distribution system, except that no culinary water

shall be delivered to and used by the Land Owner or its successors in interest for outside or irrigation purposes within the annexed area without the written permission of the City approved by the City Council.

C. Water System Improvements and Extensions: Land Owner shall install all culinary water system improvements in accordance with the rules, regulations and ordinances of Heber City. All on-site water system improvements shall be installed at Land Owner's sole expense and no reimbursement shall be paid by City for the costs of these water system improvements. The on-site water system improvements are to be retained in ownership by Land Owner and shall be operated and maintained by the Land Owner unless otherwise agreed to by the City.

D. Sewage Collection and Treatment: The parties acknowledge that the Land Owner for building purposes might receive sewer service from the City's sewer collection and treatment facilities and if received will be subject to the restrictions and regulations of the Heber Valley Special Service District. Land Owner agrees with City to construct the sewer improvements and extensions, both on-site and off-site, without expense to City, as these improvements and extensions are needed by the Land Owner and consistent with the City's and Heber Valley Special Sewer District's existing ordinances, rules and regulations. Connection fees will be required.

E. Roads: All roads within the development shall be constructed in accordance with City's requirements and at Land Owner's sole expense. The roads shall be located in accordance

with an approved development plan. All roads within the development are to be retained as Land Owner's roads and will be maintained and repaired by the Land Owner unless dedicated to and accepted by the City. Snow removal shall also be at the sole cost and responsibility of the Land Owner except for the existing 600 West Street.

F. Secondary Irrigation System for Development: Land Owner shall provide the irrigation water rights, water sources and a distribution system to irrigate outside areas through a secondary irrigation system, which may in part or whole merely be open ditches and/or flood irrigation. This secondary irrigation system is to be provided for and/or constructed on the property at Land Owner's expense, and shall utilize (1) water rights other than those donated to City under paragraph IV.A. and said water rights shall be retained by the Land Owner and (2) water sources other than the City's culinary system to provide this irrigation quality water. The agreements contained herein once recorded shall give notice that no outside irrigation is to occur through use of the City's culinary water distribution system and this covenant shall be a covenant running with the land described in Exhibit A and may be enforceable by City, at its option. Land Owner shall utilize twenty (20) shares of its Wasatch Irrigation Company shares to provide for the outside irrigation and these shares shall be pledged and reserved for that purpose

V. ZONING CLASSIFICATION: City hereby agrees that this property shall be zoned RA-2 upon its annexation.

VI. RIGHT OF FIRST REFUSAL TO ACQUIRE SURPLUS WATER RIGHTS: The parties agree that City shall have a right of first refusal to acquire the remaining portion of the twenty shares of Land Owner's Wasatch Irrigation Company stock that have been used on the property annexed during the past ten years immediately preceding this agreement to the extent the twenty shares are not conveyed or pledged pursuant to paragraphs III B and IV A. The water subject to this agreement is the following twenty shares of Wasatch Irrigation Company as represented by certificate number 3517.

A. 120 Day Notice: If Land Owner determines it has surplus water rights, and decides to sell the same, the City shall have a right of first refusal to acquire these surplus water rights as provided herein. The right is to be exercised, if at all, by the City within 120 days of receipt of written notice by Land Owner of a bona fide third party offer to purchase any such surplus water rights. City shall have 120 days to either purchase the offered water rights in accordance with the same terms and conditions as the third party offer or to reject the offer. City's failure to respond to the offer within 120 days shall be deemed a rejection of the offer.

B. Right to Exercise: If the City fails to purchase the surplus water rights on the offered terms within the 120 day notice period, Land Owner shall be free to sell the offered water rights to the third party purchaser.

C. Termination of First Right: This right of first refusal shall expire 50 years after the date of this agreement, or upon City's failure to exercise the right of first refusal when notified

of a bona fide third party offer to purchase any water rights determined to be surplus to the needs of the secondary system, within the time frame provided for here, whichever occurs first. If the offer is to purchase only a portion of the surplus water rights rather than all of them, the right of first refusal shall continue as to the remaining water rights for the period stated herein.

VII. INTEGRATION: The foregoing constitutes the full and complete agreement by and between these parties and shall supersede all prior oral or written agreements, representations or discussion. This agreement shall be binding on the successors and assigns of the parties hereto.

VIII. AMENDMENT OF AGREEMENT: This agreement may be amended only in writing signed by the parties hereto or their successors and assigns.

IX. ASSIGNMENT: This agreement is covenant running with the land and water stock may be assigned by Land Owner.

X. SEVERABILITY: If any portion, part or paragraph of this agreement shall be held or deemed to be illegal, unconstitutional, inoperative or otherwise unenforceable, the same shall not affect any other section, paragraph, provision or provisions contained herein, nor shall it render the same invalid, inoperative or unenforceable to any extent whatsoever.

This annexation agreement has been authorized by a resolution, duly adopted by the Mayor and City Council of Heber City, at a regularly scheduled meeting of that body, pursuant to public notice

thereof, held on the 18th day of March, 1993 and a true and correct copy of the resolution is attached hereto and incorporated herein by this reference.

HEBER CITY

Scott W. Wright
MAYOR

ATTEST:
Mack K. Anderson
CITY RECORDER
CORPORATE
Seal
WASATCH COUNTY, UTAH

LAND OWNERS

Laguna Investment, a limited partnership.

Patricia H. Lashley
By: Patricia H. Lashley,
General Partner

Laguna Investment Co.

That portion of Section 6, Township 4 South, Range 5 East, Salt Lake Base and Meridian, in the county of Wasatch State of Utah described as follows:

Beginning at a point which is South 2005.24 feet and East 175.94 feet from the Northwest Corner of the Southeast Quarter of said Section 6; THENCE East 645.28 feet;
THENCE South 01 degree 23 minutes West 665.00 feet;
THENCE West 1316.67 feet;
THENCE North 00 degrees 48 minutes East 672.70 feet;
THENCE South 89 degrees 12 minutes East 678.09 feet;
THENCE North 00 degrees 48 minutes East 1.64 feet to the point of beginning of this description, containing 20.20 acres, more or less.