



200501270214
Skagit County Auditor

1/27/2005 Page 1 of 6 3:00PM

Document Title: Agreement to Annex
Grantor: City of Mount Vernon
Grantee: Schenk Packing Co. INC.
Tax Parcel No: P29360
Abbreviated Legal: BEG 1776 FT N of SW C SE 1/4 SW 1/4
Legal Description on Page: 6

AGREEMENT TO ANNEX

THIS AGREEMENT is made and executed this 20th day of October, 2004, by and between the City of Mount Vernon, a municipal corporation, hereinafter referred to as "Mount Vernon" and SCHENK PACKING CO, INC., hereinafter referred to as the "Property Owner."

WHEREAS, the Property Owner is the recorded owner of the property located within Skagit County, Washington that is fully described in the attached Exhibit "A," and BEG 1776 FT N of SW C SE 1/4 SW 1/4

WHEREAS, Skagit County has adopted a comprehensive plan which designated an Urban Growth Area adjacent to the southern boundary of the City of Mount Vernon, and

WHEREAS, the Property is situated in the Mount Vernon Urban Growth Area, and

WHEREAS pursuant to Washington's Growth Management Act, and as recognized by the Urban Growth Area Element of the Skagit County Comprehensive Plan, an Urban Growth Area defines where developments will be directed and supported with historical and typical urban public facilities and services, such as storm and sanitary sewer systems, domestic water systems,

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street cleaning services, fire and police protection services, and public transit services, and

WHEREAS, it is the intent of the Growth Management Act that a development situated in an Urban Growth Area will have public facilities and public services provided by cities, and

WHEREAS, it is the desire of the Property Owner that the Property be served with municipal services by Mount Vernon, and

WHEREAS, Section 13.08.060 of the Mount Vernon City Code requires that an Agreement be executed whereby the owner of the above described property covenants that they would annex said property to Mount Vernon at such time as the property is eligible for annexation to Mount Vernon, and

WHEREAS, the Property is approximately 4⁺ acres,

WHEREAS, the Property Owner has expended substantial sums of money and have materially altered and will materially alter its positions in reliance upon the execution of this Agreement and the performance of its terms and provisions by the Mount Vernon, and

WHEREAS, Mount Vernon has expended considerable resources in planning for the orderly annexation of property situated in the Urban Growth Area to the City, and has materially altered and will materially alter its positions in reliance upon the execution of this Agreement and the performance of its terms and provisions by the Property Owner, and

WHEREAS the parties understand and agree that as a result of the Washington Supreme Court's decision in *Grant County Fire Protection District No. 5 et. al. v. City of Moses Lake*, annexations may not be based upon petitions signed by property owners in the area proposed for annexation pursuant to Chapter 35A.14 RCW. The parties further understand and agree that the law in this area is unsettled and is subject to revision by the legislature or by the courts. The parties agree that by executing this Agreement, it is their intent to take such actions as may be presently available, or become available at a later date upon further action by the Washington State Legislature, to accommodate the annexation of the Property to the City of Mount Vernon. Such action shall include, but shall not be limited to, the execution of a petition in favor of annexation pursuant to RCW § 35A.14.020 et. seq., or pursuant to any legislative enactment of the State of Washington.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the parties hereto agree as follows:



200501270214

Skagit County Auditor

1. **RECITALS:** The foregoing recitals are incorporated herein as if fully set forth herein.

2. **UTILITIES:** Mount Vernon agrees to permit the Property Owner to connect to the City operated sanitary and storm sewer lines in the right-of-way adjacent to the Subject Property if such connections are necessary, all in accordance with Title 13 of the Mount Vernon City Code.

3. **MUNICIPAL SERVICES.** Mount Vernon agrees to provide the Property Owner with municipal services on the same basis as other developments situated within the Urban Growth Area. The City will provide urban police and fire services at the time of annexation. However, until annexation occurs, the Skagit County Sheriff's Department will provide police services and fire protection will be provided by the local Fire District for the area.

4. **COVENANT NOT TO PROTEST.** If Mount Vernon resolves to annex the above-described property, the Property Owner or its Successor in Interest covenant not to challenge same by referendum or other methods. This Agreement and Power of Attorney touches and concerns the real property described above and so long as the said property is served by sewer service from the City of Mount Vernon through the Mount Vernon sewer system, shall bind the land and shall run with the land, binding the Property Owner's assigns, heirs, transferees, Successors in Interest and all who derive an interest therein.

5. **DEVELOPMENT STANDARDS.** The Sewer Connection shall be constructed in accordance with City Standards, with the site plan as shown on Exhibit B and the conditions of approval of the Skagit County, if applicable.

6. **RECORDATION.** This Agreement shall be recorded in the Skagit County Auditor's Office and shall be referenced upon any deed or other instruments conveying an interest in said property.

7. **ENFORCEMENT.**

A. Either party may enforce this Agreement through any means available at law or equity, including by an action seeking specific performance.

B. Skagit County shall be the venue of any lawsuit arising out of this Agreement. Washington law shall govern the interpretation of this Agreement. This agreement shall not be subject to the provisions of Title 62A RCW, it being the intent of the parties that the common law of Washington shall be utilized to interpret this Agreement.



200501270214
Skagit County Auditor

C. If one or more of the clauses of this Agreement is found to be unenforceable, illegal, or contrary to public policy, the Agreement will remain in full force and effect except for the clauses that are unenforceable, illegal, or contrary to public policy.

D. This Agreement constitutes the complete and final agreement of the parties and replaces and supersedes all oral and/or written proposals and agreements heretofore made on the subject matter and may be modified only by a writing signed by both parties.

By: Steven G. Lenz PRESIDENT
Property Owner ~~SCREEN~~ PACKING CO, INC.

By: _____
Property Owner

Dated in Mount Vernon, Washington this day of _____.

STATE OF WASHINGTON)
)ss
COUNTY OF SKAGIT)

I, the undersigned, a Notary Public, do hereby certify that on this 20th day of OCTOBER, 2004, personally appeared before me, STEVEN G. LENZ, PRES., to me known to be the individual described in and who executed the within instrument, and acknowledged that HE signed the same as HIS free and voluntary act and deed for the purposes and uses therein mentioned, and on oath stated that he was duly authorized to execute said document. ON BEHALF OF SCREEN PACKING CO.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

[Signature]
Notary Public in and for the State of Washington,
residing in STANWOOD
My commission expires 12-19-05



200501270214
Skagit County Auditor

CITY OF MOUNT VERNON

A Municipal Corporation

By: [Signature]
Authorized Agent for the City of Mount Vernon

STATE OF WASHINGTON)
)ss
COUNTY OF SKAGIT)

I, the undersigned, a Notary Public, do hereby certify that on this 20th day of October, 2004, personally appeared before me, Jana Hanson, Acting as an Authorized Agent for the City of Mount Vernon, a Municipal Corporation, to me known to be the individual described in and who executed the within instrument, and acknowledged that he signed the same as the free and voluntary act and deed of the Department, for the purposes and uses therein mentioned, and on oath stated that he was duly authorized to execute said document.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

Krista A Jewett
Notary Public in and for the State of Washington,
residing in Skagit County
My commission expires 9.24.2007

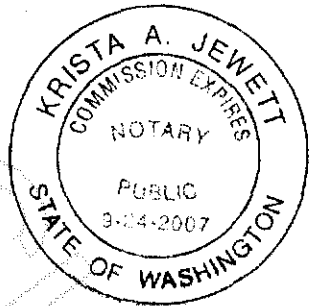


Exhibit "A"

BEG 1776FT N OF SW C SE1/4 SW1/4 TH N DK 3 DT 17 396FT TH E TO CTR OF
SLO TH SLY ALG SD SLO TAP E OF POB TH W TPB EXC W 16FT & TR TO ST
LESS TAX 8B 8AB



200501270214
Skagit County Auditor

1/27/2005 Page

6 of

6 3:00PM