

1 Opinion by Gustafson.

2 Petitioner appeals a "preannexation agreement" between
3 the city and intervenor-respondent (intervenor). The city
4 and intervenor each move to dismiss this appeal for lack of
5 jurisdiction.

6 According to petitioner, the challenged contractual
7 agreement "obligat[es] respondent to extend essential
8 services (water, sanitary sewer, and storm sewer) and to
9 bring intervenors' planned unit development into the City of
10 Beaverton without first having complied with Beaverton
11 Development Code procedural or planned unit development land
12 use regulations." Petition for Review 2.

13 The challenged contractual agreement recites its
14 purpose, in part:

15 * * * * *

16 "C. City is willing to supply the Murray Ridge
17 Planned Unit Development with City water, sanitary
18 sewer, and storm sewer service upon approval of
19 the proposed development application by Washington
20 County, provided the planned unit development is
21 annexed to City at a later time and there is
22 payment of connection and system development
23 charges." Record 1.

24 The substance of the contractual agreement between
25 intervenor and the city is consistent with the above-quoted
26 recital.

27 Contrary to petitioner's statement as to its effect,
28 the effect of the challenged preannexation agreement is
29 that, upon approval by Washington County of the proposed

1 planned unit development application and annexation of
2 intervenor's property into the city, the city agrees to
3 provide specified utility services to a subdivision. As the
4 agreement states, the Portland Metropolitan Area Local
5 Government Boundary Commission has exclusive jurisdiction
6 over the annexation of the property into the city. See ORS
7 197.460. Thus, as the city and intervenor acknowledge, the
8 city has no authority over either the development
9 application or the annexation of the property. Nor does the
10 challenged contractual agreement purport to exert any such
11 authority.

12 The challenged preannexation agreement does not purport
13 to and does not effect approval of either the proposed
14 development or annexation of the property into the city. It
15 is not a final land use decision over which this Board has
16 jurisdiction. See Bear Creek Valley Sanitary Authority v.
17 City of Medford, 130 Or App 24, 880 P2d 486 (1994);
18 Interlachen, Inc. v. City of Fairview, 25 Or LUBA 618, 622
19 (1993); Vancouver Federal and Savings v. City of Oregon
20 City, 17 Or LUBA 348 (1989).

21 The motions to dismiss are granted.

22 This appeal is dismissed.