



REVISED JOINT MANAGEMENT AGREEMENT REGARDING THE AREA WITHIN
THE BEND URBAN GROWTH BOUNDARY

This Revised Joint Management Agreement Regarding the Bend Urbanizable Area (Agreement) is Between the City of Bend, an Oregon municipal corporation (City) and Deschutes County, a political subdivision of the State of Oregon (County).

RECITALS

- A. City and County entered into an "Agreement between the City of Bend, Oregon, and Deschutes County, Oregon, for the Joint Management of the Bend Urban Area" on February 18, 1998 (1998 Agreement). The 1998 Agreement assigned responsibility between the City and the County as to areas within the urban growth boundary (UGB) of the City as it existed at that time. The Original Agreement also contained provisions relating to the Urban Area Reserve outside the UGB.
- B. Since adoption of the 1998 Agreement, the City annexed virtually all of the area within the UGB. In 2016, the City and County expanded the UGB to include 2,380 additional acres. During the UGB expansion process, the State determined that the Urban Area Reserve (UAR) designation has no effect under state law other than the effect that arose from the exceptions to Statewide Planning Goals 3 and 4 adopted for those areas. Therefore, the UAR designation and various references were removed from the City's Comprehensive Plan but remain in Deschutes County's Comprehensive Plan as a plan designation specific to lands located around the Bend UGB.
- C. This Agreement replaces the 1998 Agreement, including Exhibits A and B. The City and County agree that it is appropriate to replace the 1998 Agreement to establish clear responsibilities within the UGB and to remove any reference to the "Urban Area Reserve."
- D. ORS Chapters 190.003 to 190.030 and ORS 215.170 authorize the City and County to enter into this intergovernmental cooperation agreement. It is not considered a regulatory document or a land use decision, but an agreement for the performance of functions by the City that the County has the authority to perform, consistent with the statewide planning goals. Goal 14 requires that establishment and change of an urban growth boundary be a cooperative process between the city and county.
- E. Goal 14 and Oregon land use laws related to UGB expansions, needed housing and adoption of comprehensive plans and the implementing regulations further require that urbanizable land within UGB boundaries be considered available for urban development consistent with plans for provision of urban facilities and services, and that when land is added to the UGB, the government assign appropriate land designations consistent with its need determination. The City and County recognize

that it is necessary to cooperate through this JMA to implement the urbanization policies of the UGB expansion and their updated comprehensive plans.

NOW, THEREFORE, the parties agree as follows:

TERMS OF AGREEMENT

SECTION 1. Purpose

This Agreement allocates responsibility in the UA between City and County. Areas within the city limits are within the jurisdiction of the City as to all subject matters over which the City exercises jurisdiction. It repeals and replaces the 1998 Agreement in its entirety.

SECTION 2. Definitions

Development Application: All ministerial, permit, limited land use, quasi-judicial and/or legislative actions initiated by the City or other parties.

Urban Growth Boundary (UGB): The urban growth boundary as adopted by the City and County and acknowledged by the State, as set forth in the Bend Comprehensive Plan and as shown on the Bend Comprehensive Plan map.

Urbanizable Area (UA): The unincorporated area inside the UGB but outside the city limits, including the land withdrawn from the City of Bend by the County by City Resolution 2459.

SECTION 3. Planning and Land Use Regulatory Authority

3.1 The Bend Comprehensive Plan, Bend Development Code (BDC) and all associated Public Facility Plans are the controlling Comprehensive Plan, Transportation System Plan, Goal 11 Public Facility Plans, and implementing regulations for the UA, including any adopted and acknowledged amendments to those documents.

3.2 As of the effective date of this Agreement, the County will:

a) Delegate and grant to the City any and all authority necessary or appropriate to the exercise of land use jurisdiction within the UA, including all quasi-judicial development applications and plan and map amendments, as well as the authority to apply county zoning regulations and to review and process Development Applications, in accordance with Deschutes County Code (DCC) Title 19A. If not superseded by Title 19A, the standards, criteria and procedures of the BDC will apply to the Development Applications.

b) Delegate to the City authority to initiate and process legislative actions in the UA, as set forth in Section 3.3(b) below.

- c) Delegate to the City any and all authority necessary or appropriate to review applications and issue permits for signs in the UA, using the City's sign regulations in Bend Code (BC) Chapter 9.50, Signs.
- d) Delegate the following to the City as authorized by ORS 190.010:
 - i. Code enforcement authority to enforce violations of the Building Code and DCC Title 19A , and violations of BC 9.50, Signs for permanent signs that are not located in the right-of-way, that occur after the effective date of the JMA and until the property is annexed to the City.
 - ii. Authority to act as the hearing officer for the County in matters arising from subsection i. The City may use the Municipal Court Judge as the hearings officer.
- e) Delegate to the City the authority to assign addresses to properties within the UA using BC Chapter 3.90, Street Names and Address Numbers.

3.3 As of the effective date of this Agreement, the City will:

- a) Accept and process all Development Applications in the UA in accordance with BDC Title 4 Applications and Review Procedures, except for the applications referenced in (b) below which will be processed as specified in that section.
- b) Accept and process all legislative applications in the UA, including County initiated legislative applications, for amendments to the County's comprehensive plan, plan map, zoning map and zoning regulations, according to the following:
 - i. City will give County at least 20 days' notice before the first hearing on any non-county proposed amendments to the County's Comprehensive Plan, Plan map, zoning map or zoning regulations.
 - ii. City will incorporate County comments in the staff report or attach the County comments to the report and present them to the hearings body.
 - iii. City staff will assist the county in writing and formatting all ordinances for adoption by the Board of County Commissioners (BOCC).
 - iv. City staff will provide the primary staff support to the BOCC on all proposed amendments to the County Comprehensive Plan, plan map, zoning map and zoning regulations.
 - v. The City will follow the standards, criteria and procedures provided for in the BDC for legislative amendments.
 - vi. No applications may be adopted without a public hearing by the Bend Planning Commission, a public hearing by the Bend City Council, and a

public hearing by the BOCC. The City Council must make a recommendation to the BOCC. Wherever feasible the City Council and BOCC may conduct joint hearings. Final action on a legislative change in the UA remains vested with the BOCC.

- vii. City and County will notify each other within five working days of receiving any written appeal.
- c) Administer and enforce County land use approvals including any associated agreements, conditions of approval, bonds and other similar arrangements encumbering or associated with property located within the UA.
- d) Prepare, adopt, and amend Goal 11 public facility plans, as required by ORS 197.712(2)(e). City will coordinate the preparation and the amendment of public facility plans with the County, special districts, state agencies, federal agencies, and private providers of public facilities as required by OAR 660-011-015(2).

SECTION 4. Building Permits and Inspections

The City remains responsible for all application intake, plan review and issuance of building permits and related inspections within the UA initiated after December 6, 2016. The County will remain responsible for building permits and inspections if the permit application was filed with the County before the date the property was included in the UGB.

SECTION 5. Sewer

5.1 The City has the authority but not the obligation to provide extraterritorial sewer service within the UA under state law. The County will not approve the formation of a sanitary sewer district under ORS 450 or private sewer system within the UA without the concurrence of the City, as contemplated by Bend Comprehensive Plan Policy 1-5.

5.2 The County will remain responsible for septic permits (On-site Permits) and inspections for sewage treatment and dispersal systems for properties in the UA.

SECTION 6. Water

6.1 The City has the authority but not the obligation to provide extraterritorial water service within the UA in those areas not already within either the existing Avion Water Company or Roats Water Company service areas. The County will not approve the formation of any domestic water supply district that attempts to form as a special district under ORS 264 within the UA without the concurrence of the City, as contemplated by Bend Comprehensive Plan Policy 1-5.

6.2 The City may choose to provide extraterritorial water service outside the UGB in compliance with applicable state statutes, planning goals and subject to any applicable County land use decision.

SECTION 7. Roads

7.1 "County roads" (as defined in ORS 368.001) existing within the UA as of the effective date of this agreement, will remain County roads, with the County responsible for maintenance and repair until such time annexation and/or jurisdictional transfer occur.

a) The County shall consult with the City prior to construction or reconstruction of public improvements within the UA for improvements initiated by the County and not affiliated with a development application.

7.2 Any new roads, upgrades not related to maintenance or repair, or improvements to roads in the UA associated with a development application will be built to City standards or require an in-lieu payment in conformance with BDC Chapter 4.7 made to the City.

7.3 Work in the right-of-way in the UA is subject to the City Public Right-of-Way Work Permit or Public Facility Improvement Agreement.

a) The County delegates to the City any and all authority necessary to review, approve and inspect all infrastructure constructed subject to the City Public Right-of-Way Work Permit or Public Facility Improvement Agreement.

b) Any indemnification requirement within the Agreement shall indemnify both the County and the City and must apply to any and all claims related to infrastructure installation and operation constructed under this Section.

7.4 Upon annexation, roads and rights-of-way will be accepted by the City under the City's annexation regulations.

a) Annexation of roads and rights-of-way will include the full width of existing and new rights-of-way along the frontage of annexing properties.

b) To avoid creating segments of alternating jurisdictional authority, annexation of right-of-way will be contiguous and will extend to the City's point of jurisdictional authority.

c) All annexed rights-of-way shall require a transfer of jurisdictional authority from the County to the City per ORS 373.270.

SECTION 8. SDCs

The City has the authority to charge sewer, water and transportation System Development Charges (SDCs) in the UA. Prior to the City updating the Transportation SDC methodology to include properties in the UA, the City will collect Transportation SDCs as established in the County's System Development Charge Resolution and remit the proceeds to the County. After the City adopts a new Transportation SDC

methodology list, the City will collect City Transportation SDCs as established in the City's Fee Resolution and retain all charges. Upon adopting the City's Transportation SDC methodology and SDC for the UA, the City will be responsible for the collection, processing, challenges and appeals of these SDCs. City water and sewer SDC's will be collected at the time of any connection to the City systems based on the current City SDC Fee Resolution.

SECTION 9. Fees

The City's Fee Resolution sets the fees applicable to Development Applications within the UA.

SECTION 10. Indemnification

10.1 To the extent legally possible the City indemnifies, holds harmless, and will defend the County, its officials, agents, and employees from and against any and all claims, damages, losses, and expenses including attorney fees, arising in or from its performance or failure to perform the responsibilities delegated to the City by the County under this Agreement. This indemnity provision shall survive the termination of this Agreement.

10.2 To the extent legally possible the County indemnifies, holds harmless, and will defend the City, its officials, agents, and employees from and against any and all claims, damages, losses, and expenses including attorney fees, arising in or from its performance or failure to perform the responsibilities of the County under this Agreement. This indemnity provision shall survive the termination of this Agreement.

SECTION 11. Charges

11.1 City will not charge or invoice County for any work, activity, fee or charge associated with this Agreement.

11.2 County will not charge or invoice City for any work, activity, fee or charge associated with this Agreement.

SECTION 12. Amendment and Termination

12.1 This Agreement may be amended or terminated only by mutual written agreement of the parties with 90 days written notice to the other party.

12.2 This Agreement remains in effect until terminated or amended under this section.

SECTION 13. Dispute Resolution

City and County shall follow the following procedure in the event of a dispute under this Agreement prior to initiating litigation:

Step 1 – In person meeting among responsible department heads.

Step 2 – In person meeting between City Manager and County Administrator.

Step 3 – Joint meeting of City Council and County Board of Commissioners.

Step 4 – Mediation by a mutually acceptable Mediator.

SECTION 14. Agreement Interpretation.

The Recitals are incorporated into this Agreement. The Agreement represents the entire agreement between the parties as to the subject matter covered by this JMA. Each party relies was represented by an attorney, and mutually negotiated the Agreement in good faith.

SECTION 15. Effective Date

This Agreement shall be effective when it is duly executed by both City and County.

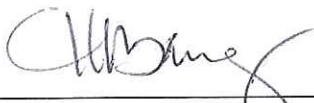
CITY OF BEND



Casey Roats, Mayor

Authorized by Council Motion on June 7, 2017.

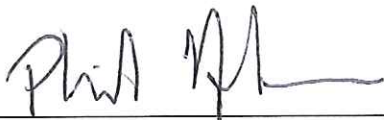
BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON



TAMMY BANEY, Chair



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PHIL HENDERSON, Commissioner

APPROVED AS TO FORM:


Mary A. Winters, City Attorney
David Doyle, County Counsel