



Deschutes County Board of Commissioners  
1300 NW Wall St., Suite 200, Bend, OR 97701-1960  
(541) 388-6570 - Fax (541) 385-3202 - www.deschutes.org

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**AGENDA REQUEST & STAFF REPORT**

**For Board Business Meeting of August 10, 2016  
[CONSENT]**

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*Please see directions for completing this document on the next page.*

**DATE:** 7/28/16

**FROM:** Dave Doyle                      Legal                      Phone # 6625

**TITLE OF AGENDA ITEM:**

Consideration and Approval of Order 2016-034, accepting the petition and setting date for public hearing for annexation into Bend Park & Recreation District.

**PUBLIC HEARING ON THIS DATE?** NO.

**BACKGROUND AND POLICY IMPLICATIONS:**

On June 1, 2016, The Tree Farm LLC submitted a petition to annex petitioner's property located at 19100 Skyliners Road., Bend, Oregon. On July 28, 2016, the County Clerk verified the signature and the petition is deemed filed. Pursuant to ORS 198.857(3), the Board must set a date for a public hearing no earlier than 20 days and no later than 50 days from the date of filing. Order No. 2016-034 attached for Board signature, sets that hearing date for September 14, 2016.

**FISCAL IMPLICATIONS:**

The County provides all the staff costs for all special district formations and boundaries changes. For district formations and other boundary changes that are approved, the County bills the district for the publication costs. For those that are not approved, the County bills the chief petitioners.

**RECOMMENDATION & ACTION REQUESTED:**

Motion: Approval of Order No. 2016-034 as described above.

**ATTENDANCE:** Dave Doyle, Legal Counsel

**DISTRIBUTION OF DOCUMENTS:**

Legal Department. Because these are time-sensitive and Legal needs certified copies, please provide the documents to the Legal Department as soon as they are signed and prior to recording them in the Commissioners Journals. Legal will make sure they are recorded.



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

Order Accepting Petition and Setting Date \*
For Public Hearing for Petition filed for The \* ORDER NO. 2016-034
Tree Farm, LLC, Annexation into the Bend \*
Park & Recreation District

WHEREAS, a petition requesting annexation of territory into Bend Park & Recreation was duly filed with the Deschutes County Board of County Commissioners ("Board") on or about June 1, 2016, a copy of which is attached hereto as Exhibit "1" and by this reference incorporated herein; and,

WHEREAS, ORS 198.857(3) requires the county board to set a date for a public hearing on the petition no earlier than 20 days and no later than 50 days from the date of filing with notice to the petitioners and to the board of the affected district; and,

WHEREAS, the next available hearing date within that time frame is September 14, 2016; and,

WHEREAS, the Board chooses to also require publication notice for special district annexations; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDAINS as follows:

Section 1. The petition for annexation to the Bend Park & Recreation District, a copy of which is attached hereto as Exhibit "1," is hereby accepted for filing.

Section 2. A hearing regarding annexation to the district shall be held on September 14, 2016, at 10 a.m. at 1300 NW Wall Street, First Floor Hearing Room, Bend, Deschutes County, Oregon.

Section 3. Notice of Hearing shall be given in substantially the form set forth in Exhibit "2," attached hereto and by this reference incorporated herein. The Legal Department shall cause the notice to be published in The Bulletin on August 30 and September 9, 2016, and posted on or before August 30, 2016, in three public locations within the county as follows: One on or near the doors of the meeting room of the Board of County Commissioners; one upon any official bulletin board customarily used for the purpose of posting public notices within the county; and one upon any official public bulletin board customarily used for the purpose of posting public notices within the district. Notices posted shall be for not less than five (5) consecutive days.

Section 4. The Director of the Deschutes County Community Development Department shall cause to be filed with this Board prior to September 14, 2016, a land use compatibility statement regarding this proposed special district annexation as contemplated in ORS 197.175 and 199.462, and any other applicable statutory authority.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2016

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ALAN UNGER, CHAIR

\_\_\_\_\_  
TAMMY BANEY, VICE CHAIR

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
ANTHONY DEBONE, COMMISSIONER

**NOTICE OF PUBLIC HEARING  
BY THE BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON**

On September 14, 2016, at 10:00 a.m., the Deschutes County Board of Commissioners will hold a public hearing to consider a petition for annexation of certain property owned by The Tree Farm LLC into the Bend Park & Recreation District. This hearing will be held in the Board of County Commissioners' Hearing Room, First Floor, 1300 NW Wall Street, Bend, Oregon. All interested persons may appear and be heard.

The property Petitioner proposes to annex is identified as 19100 Skyliners Road, Deschutes County, Oregon. To view a map and legal description of the boundaries of the proposed annexation, contact the Deschutes County Counsel's Office at 388-6622.

Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please call (541) 388-6572, or send an e-mail to [bonnie.baker@deschutes.org](mailto:bonnie.baker@deschutes.org).

PETITION TO ANNEX PROPERTY TO  
Bend Park + Recreation District  
(Name of District)

To: The Board of County Commissioners, Deschutes County, Oregon

The undersigned, in support of this Petition, state as follows:

1. This Petition for Annexation is filed pursuant to ORS 198.705 to 198.955.
2. This annexation Petition affects only Deschutes County and Bend Park + Recreation District  
(Name of District)
3. The principal act for Bend Park + Recreation Dist. is  
(Name of District)  
ORS 266.010  
(Proper statutory reference, see the list in ORS 198.010 and write in one of the sets of statutes in that list)
4. The territory that is subject to this Petition for Annexation is primarily inhabited uninhabited  
(circle one). The attached petitions in support of this annexation are signed by land owners and registered voters in the area proposed to be annexed as indicated opposite their respective signature, and that all signatures were obtained on or after [DATE]  
June 1, 2016
5. It is requested that the proceedings be taken for the annexation of said territory to Bend Park + Recreation District, Deschutes County, Oregon.  
(Name of District)  
A description of the boundaries of the territory to be annexed is attached hereto as Exhibit "A" and depicted on the map attached as Exhibit "B".
6. That said Petition has been signed by at least 15 percent of the electors, or 100 electors whichever number is lesser, or at least 15 owners or owners of 10 percent of the land, (whichever is greater) within the area proposed to be annexed.

DATED this 1st day of June, 2016.

CHIEF PETITIONERS:

Name: The Tree Farm, LLC

Name: \_\_\_\_\_

Mailing Address: 409 NW Franklin Ave.  
Bend, OR 97703

Mailing Address: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: 541-749-2934

Phone: \_\_\_\_\_

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_

Approved by the Board of Commissioners of

\_\_\_\_\_  
Name of District

Don Horton  
District Signature

By: Don Horton  
(Print Name)

Title: Executive Director

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_

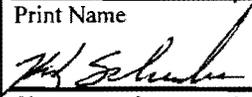
Approved by City of \_\_\_\_\_

\_\_\_\_\_  
City Signature

By: \_\_\_\_\_  
(Print Name)

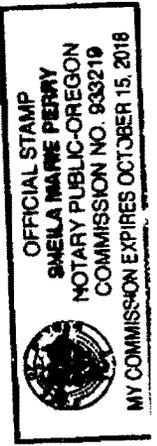
Title: \_\_\_\_\_

NAME OF DISTRICT: Bend Parks + Recreation District

PRINT NAME	DATE SIGNED	PROPERTY ADDRESS/ RESIDENCE ADDRESS (If Different)	LANDOWNER IN THE PROPOSED TERRITORY/ REGISTERED VOTER IN THE PROPOSED TERRITORY
1 <u>The Tree Farm, LLC</u> Print Name  Signature <i>President, Brooks Ranches, Managing Member</i>	<u>5/3/16</u> Date	<u>19100 Skyliners Road, Bend</u> PROPERTY ADDRESS <u>469 NW Franklin Ave, Bend</u> RESIDENCE ADDRESS (If Different)	Landowner Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Acreage <u>382.6</u> Registered Voter Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pre <input type="checkbox"/>
2 _____ Print Name _____ Signature	_____ Date	_____ PROPERTY ADDRESS _____ RESIDENCE ADDRESS (If Different)	Landowner Yes _____ No _____ Acreage _____ Registered Voter Yes _____ No _____ Pre _____
3 _____ Print Name _____ Signature	_____ Date	_____ PROPERTY ADDRESS _____ RESIDENCE ADDRESS (If Different)	Landowner Yes _____ No _____ Acreage _____ Registered Voter Yes _____ No _____ Pre _____
4 _____ Print Name _____ Signature	_____ Date	_____ PROPERTY ADDRESS _____ RESIDENCE ADDRESS (If Different)	Landowner Yes _____ No _____ Acreage _____ Registered Voter Yes _____ No _____ Pre _____
5 _____ Print Name _____ Signature	_____ Date	_____ PROPERTY ADDRESS _____ RESIDENCE ADDRESS (If Different)	Landowner Yes _____ No _____ Acreage _____ Registered Voter Yes _____ No _____ Pre _____

County of Deschutes ss. 31st day of May, 2016  
 State of Oregon

I, Dale Van Valkenburgh, certify that I circulated this petition, and every person who signed this petition did so in my presence.  
 Notary Public for Oregon  
  
 My Commission Expires 10-15-18



**DevTech Engineering Inc.**  
Site Planning · Civil Engineering  
Land Surveying

**EXHIBIT 'A'**  
**LEGAL DESCRIPTION**

**A TRACT OF LAND INCLUDING PORTIONS OF SECTIONS 27 AND 34, TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, DESCRIBED AS FOLLOWS:**

**SECTION 27, TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN:**  
THAT PORTION OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4), OF SAID SECTION 27, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY BOUNDARY LINE FOR THAT TRACT OF LAND KNOWN AS "SHEVLIN PARK", AS DESCRIBED IN THAT DEED TO THE CITY OF BEND, FILED JANUARY 14, 1921 IN BOOK 30, PAGE 331, RECORDS OF DESCHUTES COUNTY, OREGON;

**SECTION 34, TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN:**  
THAT PORTION OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 34, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY BOUNDARY LINE FOR THAT TRACT OF LAND KNOWN AS "SHEVLIN PARK", AS DESCRIBED IN THAT DEED TO THE CITY OF BEND, FILED JANUARY 14, 1921 IN BOOK 30, PAGE 331, RECORDS OF DESCHUTES COUNTY, OREGON;

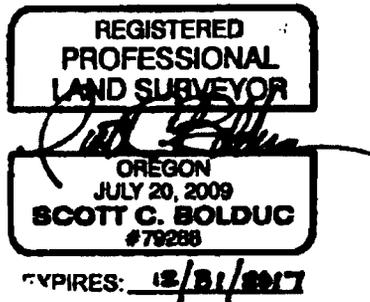
THE SOUTHEAST QUARTER (SE1/4) OF SAID SECTION 34, **EXCEPTING THEREFROM**, THAT TRACT OF LAND DESCRIBED IN THAT DEED TO THE CITY OF BEND, FILED SEPTEMBER 26, 1991 AS INSTRUMENT NO. 91-28510, RECORDS OF DESCHUTES COUNTY, OREGON;

THE SOUTHWEST QUARTER (SW1/4) OF SAID SECTION 34, **EXCEPTING THEREFROM**, THAT TRACT OF LAND KNOWN AS "SHEVLIN PARK", AS DESCRIBED IN THAT DEED TO THE CITY OF BEND, FILED JANUARY 14, 1921 IN BOOK 30, PAGE 331, RECORDS OF DESCHUTES COUNTY, OREGON, **ALSO EXCEPTING THEREFROM**, THAT TRACT OF LAND DESCRIBED IN THAT DEED TO THE CITY OF BEND, FILED SEPTEMBER 26, 1991 AS INSTRUMENT NO. 91-28510, RECORDS OF DESCHUTES COUNTY, OREGON.

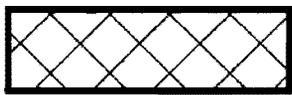
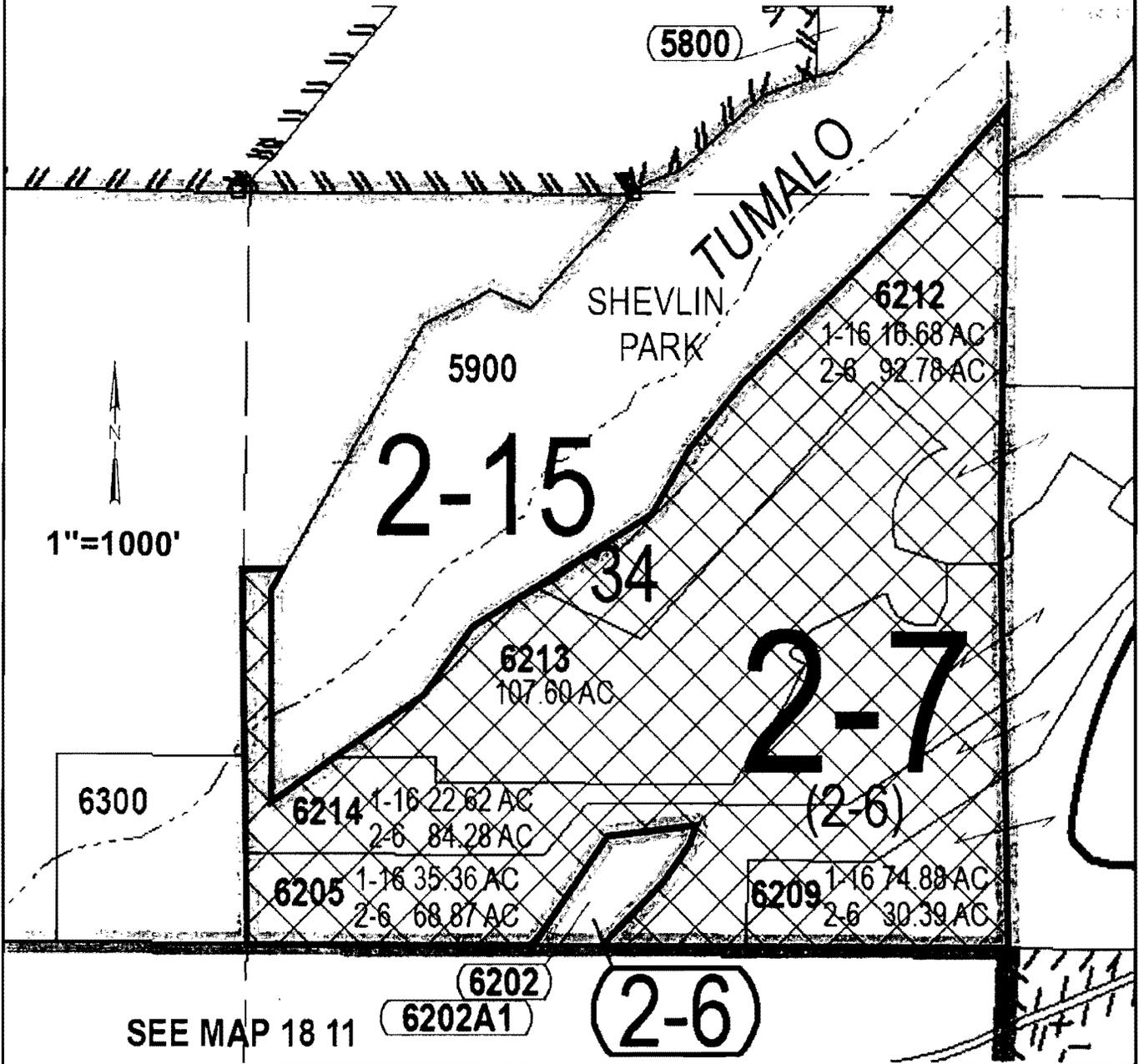
THAT PORTION OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 34, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY BOUNDARY LINE FOR THAT TRACT OF LAND KNOWN AS "SHEVLIN PARK", AS DESCRIBED IN THAT DEED TO THE CITY OF BEND, FILED JANUARY 14, 1921 IN BOOK 30, PAGE 331, RECORDS OF DESCHUTES COUNTY, OREGON;

HEREIN DESCRIBED LANDS CONTAINS 382.6 ACRES, MORE OR LESS.

SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.



**EXHIBIT 'B'**  
**PORTION OF ASSESSOR'S**  
**MAP 17 11 00**



**ANNEXED TERRITORY**



**TREE FARM**  
**BPRD ANNEXATION**  
**EXHIBIT**

*DevTech Engineering Inc.*

Site Planning · Civil Engineering

Land Surveying

3052 NW MERCHANT WAY, STE 107

Bend, OR 97703

Phone: (541) 317-8429

5/24/2016

101101

68-  
73

91-28510

BARGAIN AND SALE DEED

245 - 2780

WILLIAM E. MILLER, Grantor, conveys to the CITY OF BEND, an Oregon municipal corporation, Grantee, the following real property:

A parcel of land situated in the South one-half of Section 34, Township 17 South, Range 11 East, Willamette Meridian being further described as follows:

Beginning at a point on the south line of said Section 34, Township 17 South, Range 11 East, Willamette Meridian, said point bears South 89°57'23" West, 163.61 feet from a 3 inch by 30 inch iron pipe with 3 inch brass cap marking the South one-quarter corner of said Section 34; thence North 42°58'14" East, 615.78 feet; thence North 34°49'03" East, 357.11 feet; thence North 10°43'50" East, 113.59 feet; thence South 81°08'56" West, 622.64 feet; thence South 34°26'56" West, 921.52 feet to a point on the south line of said Section 34; thence along said south line North 89°57'23" East, 491.73 feet to the point of beginning. Said parcel containing 10.59 acres more or less.

Said parcel being subject to all prior easements of record.

Grantor also conveys a temporary access easement as outlined by attached letter and map marked Exhibit "A." For the term of the temporary easement, Grantee agrees to hold Grantor harmless from any liability arising out of use of said temporary easement by Grantee, its employees and contractors and to indemnify Grantor for any loss incurred by Grantor as a result of Grantee's use of said temporary easement.

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify approved uses.

The true consideration for this conveyance is the execution of the attached agreement, marked Exhibit "B."

This property shall revert to Grantor if the property is not used, within 10 years of the date of this deed for the intended purpose specified in Section 3 of Exhibit "B" or in the event that use of the property for its intended purpose is permanently abandoned by Grantee. Grantee shall be given an opportunity and a reasonable

Bend Title Company

Page 1 of 2  
William E. Miller  
9/29/91

time to remove any of the facilities it has constructed on the deeded property.

DATED this 23<sup>rd</sup> day of September, 1991.

GRANTOR

William E. Miller  
WILLIAM E. MILLER

STATE OF OREGON )  
                          )ss  
County of Deschutes )

Personally appeared the above named William E. Miller  
and acknowledged the foregoing instrument to be his  
voluntary act before me this 23rd day of September 1991.

K. Dianne Buckland  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 6/5/92

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Page 2 of 2  
William E. Miller  
6/29/91

## EXHIBIT "B"

## A G R E E M E N T

THIS AGREEMENT, made and entered into by and between WILLIAM E. MILLER, hereinafter referred to as FIRST PARTY, and CITY OF BEND, a municipal corporation, hereinafter referred to as SECOND PARTY.

## WITNESSETH:

FIRST PARTY is deeding approximately twelve (12) acres of real property located in Section 34, T17S, R11E, Deschutes County, Oregon, together with required access and underground utility easements, as referred to in paragraphs 5 and 6, below. The intent of said donation is to provide a site for the initial phases of a major upgrade and installation of EPA required water facilities of SECOND PARTY.

The parties herein further agree to the following provisions:

1. FIRST PARTY will retain the right to merchantable timber on said property for a period of twenty (20) years. The intent of this provision is to allow FIRST PARTY to conduct an ongoing commercial thinning and fire protection program, as long as said program does not interfere with SECOND PARTY's operation of its water system facilities.

2. SECOND PARTY agrees to provide and complete a development plan which includes reasonable vegetation screening of all proposed facilities. The color of facilities constructed must blend in with the natural vegetation and surroundings. SECOND PARTY agrees to provide complete plans for proposed construction to FIRST PARTY and FIRST PARTY will have the right of plan approval of the following items:

- (a) Any structure with a top elevation in excess of 4025'; and
- (b) Any structure with a top elevation less than 4025' that exceeds 40' above natural ground level and that is located at the rim of the property or that otherwise significantly impacts sight lines from other areas of SECOND PARTY'S property; and
- (c) Removal of any tree within 50 feet of SECOND PARTY'S property line; and
- (d) Cyclone fence specifications and fence location; and

- (e) Noise levels, if any proposed facilities generate noise levels that may impact adjacent FIRST PARTY'S development, excepting required emergency or safety devices; and
- (f) The reasonable method of buffering or screening for constructed facilities; and
- (g) Any permanent outside storage of supplies or equipment.

FIRST PARTY'S plan review of said items must take place within a reasonable time after receipt of SECOND PARTY'S plans. FIRST PARTY agrees to cooperate with SECOND PARTY and agrees not to withhold approval for reasonable site components.

3. The intended purpose of acquisition of said real property by SECOND PARTY is to construct all or some of the following water facilities:

Chlorine contact chambers; chlorine injection facilities, including storage, wells, reservoirs, water lines, security fencing and any other facilities directly related to the operations these stated facilities.

4. SECOND PARTY agrees to assist FIRST PARTY within the framework of CITY policies and requirements, and prior agreements between FIRST and SECOND PARTY, to the greatest extent possible, in providing domestic water supplies for lands owned by FIRST PARTY. Such assistance shall include, but not be limited to, over-sizing of reservoirs and proposed water lines to accommodate proposed development on property of FIRST PARTY, with appropriate compensation from FIRST PARTY for over-sizing.

5. Both FIRST and SECOND PARTIES may require access or utility easements which cannot be identified at this time, it is agreed both parties will negotiate in good faith all easement needs, locations, and conditions. If agreement between the parties cannot be reached, an impartial third party arbitrator, such as a civil engineering consultant, will be retained by both parties to review easement needs and issue a decision. The arbitrator's decision will prevail.

6. All access and utility easements shall be located to be compatible with future developments plans by both FIRST and SECOND PARTY. Upon the request of FIRST PARTY, the SECOND PARTY will restrict its access to SECOND PARTY facilities to SECOND PARTY right-of-way easements or public streets, provided access is available by such ways.

7. SECOND PARTY will pursue additional land acquisitions from others, if necessary, to accommodate future reservoirs serving Pressure Level 3, additional wells, and other necessary major facilities. SECOND PARTY anticipates a storage reservoir

Page 2. Agreement - Miller/City of Bend

will be constructed on the 12-acre tract of FIRST PARTY to serve pressure Level 3.

DATED this 23<sup>rd</sup> day of September, 1991.

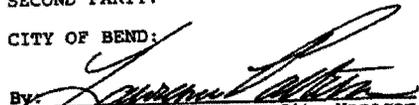
FIRST PARTY:

  
William E. Miller

DATED this 24<sup>th</sup> day of Sept., 1991.

SECOND PARTY:

CITY OF BEND:

By:   
Lawrence Patterson, City Manager

g:\legal\agrees\miller.agr  
revised 9/19/91

August 20, 1991

Mr. William Miller  
Miller Lumber  
1. N.E. Greenwood  
Bend, OR 97701

Re: City of Bend  
Chlorination Facility Site  
567-0303

Dear Bill:

Because of the steep grades along the existing waterline and access easement, the City of Bend respectfully requests a temporary construction access easement to provide contractors with an alternative access to the chlorination facility.

The proposed alternate construction access follows the existing cinder, pumice, and dirt haul roads. (See attached figure.) The alternate construction access would be in use through February of 1992, when construction is anticipated to be completed. Unless this temporary easement is extended by mutual agreement, it shall automatically terminate on March 1, 1992.

Specifications within the City of Bend contract documents, require the contractor to maintain existing roads, and apply water to control dust. The specifications also require the contractor to restore the construction access to its original condition.

With your approval, the City of Bend will utilize the construction access to provide contractors with an alternate access to insure competitive bids. If these conditions are acceptable, please designate your approval by signing on the line provided below.

Thank you again for your assistance with the completion of this City of Bend project.

Sincerely yours,

W & H Pacific

*B.F. Williams*

Ben F Williams  
Project Designer

Added by Bill Miller:

Please caution city vehicles and equipment along with contractor vehicles and equipment to proceed with utmost caution. We frequently have slow moving vehicles, trucks, and equipment moving on these roads and sometimes parked in roadway. We are alerting our personnel.

P. S. Please keep working on securing access from USFS.

*Bill*  
William E. Miller

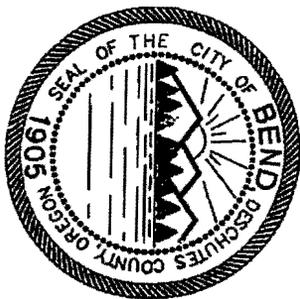
APPROVAL  
BY: *[Signature]*  
8/21/91



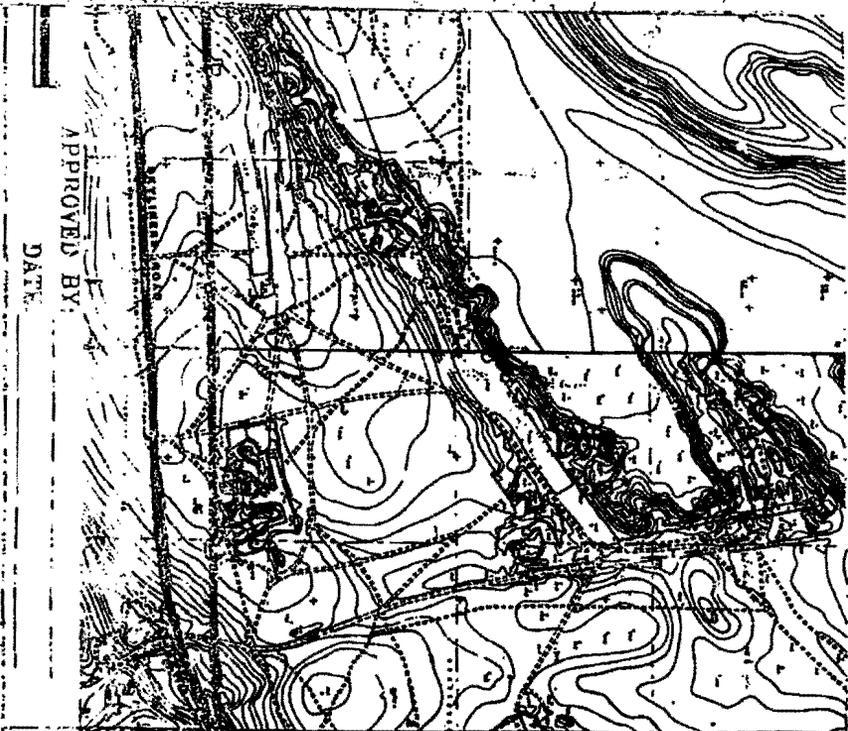
CITY OF BEND

245 • 2787

CONSISTENT



1.5 MG BAFFLED STEEL RESERVOIR



APPROVED BY:  
DATE:

**W&H PACIFIC**  
 155 N.E. RIVERS  
 BEND, OREGON 97701  
 (503) 366-6256  
ENGINEERING • PLANNING • DESIGN • LANDSCAPE ARCHITECTURE

CITY OF BEND  
1.5 MG BAFFLED STEEL RESERVOIR  
CONSTRUCTION PLANS  
TITLE PAGE

DESCHUTES COUNTY

BEND, OREGON

SHEET NO. <b>C-0</b> OF TOTAL SHEETS	PROJECT NO. 2016-034	DATE 11/15/16	DRAWN BY J. HARRIS	CHECKED BY J. HARRIS	APPROVED BY J. HARRIS
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245 • 2788

STATE OF OREGON )  
COUNTY OF DESCHUTES ) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND  
RECORDER OF CONVEYANCES, IN AND FOR SAID  
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN  
INSTRUMENT WAS RECORDED THIS DAY:

91 SEP 26 AM 11:46

MARY SUE PENHOLLOW,  
COUNTY CLERK

BY:  DEPUTY  
NO. 91-28510 REC-73  
DESCHUTES COUNTY OFFICIAL RECORDS

