INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CENTRAL OREGON CITIES AND COUNTIES, AND CENTRAL OREGON INTERGOVERNMENTAL COUNCIL FOR THE LARGE LOT INDUSTRIAL LANDS PROGRAM IN CENTRAL OREGON

WHEREAS, under ORS 190.010 to 190.020, *et seq.* Central Oregon Intergovernmental Council (COIC) is authorized to enter into a written agreement with any other unit or units of local government and specify the functions or activities to be performed and by what means; and

WHEREAS, under ORS 190.003 to 190.030, and 197.175, *et seq.,* cities and counties are authorized to enter into intergovernmental agreements and are required to prepare and adopt comprehensive plans consistent with Statewide Planning Goals; and

WHEREAS, a Central Oregon Large Lot Industrial Land Need Analysis dated November 20, 2012 documents an unmet short-term need for large-lot industrial sites, 50-acres or larger, in the Central Oregon area (Deschutes, Crook and Jefferson counties); and

WHEREAS, Deschutes, Crook, and Jefferson counties, through their governing bodies, are exercising their statutory coordinating authority (ORS 195.025) to address an unmet short-term regional need for large-lot industrial sites; and

WHEREAS, under OAR 660-024-0040 and 660-024-045, the local governments of Crook, Deschutes and Jefferson Counties may implement provisions of a regional large-lot industrial land need analysis adopted by all counties pursuant to ORS 195.025; and

WHEREAS, ORS 190.003, *et seq.* requires that an intergovernmental agreement relating to the performance of functions or activities by one unit of local government on behalf of another unit of local government specify the responsibilities between the parties; and

WHEREAS, the parties seek to develop a coordinated program that will identify suitable and available large-lot industrial sites for economic development purposes in the best interests of the Central Oregon region pursuant to the governing state and local legal requirements.

CENTRAL OREGON CITIES, COUNTIES, and CENTRAL OREGON INTERGOVERNMENTAL COUNCIL AGREE AS FOLLOWS:

1. **Definitions.**

   BOCC: Deschutes County and/or Jefferson County Board of County Commissioners

   Central Oregon City or Cities. Cities located in Crook, Deschutes, and Jefferson counties.

   Central Oregon County or Counties: Crook, Deschutes, and Jefferson counties.

   COIC. Central Oregon Intergovernmental Council.

   COIC Board. Central Oregon Intergovernmental Council Board of Directors.

   Council. Central Oregon City Councils.

County Court. Crook County Court.

IGA. This Intergovernmental Agreement.

Jurisdictions. City and county governments located within Deschutes, Crook and Jefferson counties.

LLA. Central Oregon Large Lot Industrial Land Need Analysis dated November 20, 2012, and associated Comprehensive plan provisions adopted pursuant to ORS 195.025 and OAR 660-024-0045(2a).

Participating City. A city within Crook, Deschutes or Jefferson County that has adopted the LLA and entered into this IGA.

Regional Large Lot Industrial Program. The program to develop a Central Oregon regional supply of large lot industrial sites as defined within OAR 660-024-0045.

Urban Unincorporated Area (UUA). Territory within the Urban Growth Boundary but outside the boundaries of City.

Urban Growth Boundary (UGB). The boundary line shown in a City and County Comprehensive Plan that separates urban and urbanizable lands in and adjacent to the City from rural territory within the County

2. Intent and Purpose of IGA.

The intent and purpose of this IGA is for Central Oregon Cities, Counties, and COIC to:

A. Establish procedures to identify suitable and available large lot industrial sites to be processed for inclusion within a UUA under governing land use regulations.

B. Establish review procedures for COIC as the regional coordinating authority to receive candidate site selections submitted by participating cities and to provide a recommendation of suitable sites for inclusion within the Regional Large Lot Industrial Program.

C. Continue and improve coordination and communication between the Central Oregon Cities and Counties for specific plan amendments and zone changes addressing the short-term need for additional large-lot industrial sites.

D. It is not the intent or purpose of this IGA for COIC to make or render land use decisions. The parties agree that COIC's roles and responsibilities under this IGA do not constitute land use decisions, and may not be regarded as such. Following a recommendation by COIC, the governing local jurisdictions (both City and County) shall follow all applicable land use regulations and requirements in connection with any plan amendment or zone change associated with the designation of large-lot industrial sites.

3. **Process for Exercising Responsibilities in the Large Lot Analysis (LLA).**

Central Oregon Counties

A. Central Oregon Counties shall implement a program to create a regional short-term large-lot industrial land supply that enables Central Oregon to compete for industrial recruitment. Counties, through their governing bodies, shall exercise their statutory coordinating authority (ORS 195.025) to address an unmet regional need for large-lot industrial sites by adopting the LLA and regional large-lot industrial land policies into their comprehensive plans.

B. Central Oregon Counties shall adopt and implement policies that conform to the LLA and specify, among other things, the number and site characteristics of vacant industrial sites to be included inside the UGB of the individual Cities located within their respective County.

C. Central Oregon Counties, by exercising their statutory coordination authority and adopting and implementing policies that conform to the LLA, shall enable the Central Oregon Cities within their respective jurisdiction to implement measures to insure the availability of a short-term supply of large-lot industrial sites.

D. Central Oregon Counties shall collaborate with Central Oregon Cities to identify and formalize candidate large-lot industrial sites for inclusion within the Regional Large-Lot Industrial Program.

Central Oregon Intergovernmental Council

E. The parties agree that the COIC Board, by adopting COIC Resolution 243, is the regional coordinating authority for the LLA.

F. The individual Central Oregon Cities shall submit candidate large-lot industrial sites and associated "Replenishment Sites" to COIC for potential inclusion within the Regional Large Lot Industrial Program consistent with the requirements of the LLA and governing regulations. The six individual sites included in this program shall be located in at least three different Jurisdictions. COIC shall provide the Central Oregon Cities and Counties with its recommendation as to the individual sites that should be included within the Regional Large-Lot Industrial Program. The governing City shall be responsible to complete and implement the land use process required for inclusion of such site within its UGB under the requirements of OAR 660 Division 24. COIC shall not make and does not have the authority to make land use decisions under this IGA.

G. COIC will accept site submissions from participating cities on a quarterly basis until the full allotment of 6 short-term sites has been filled.

Site Submission Quarterly Due Date	COIC Board Review Date
March 31	First Thursday in May
June 30	First Thursday in August
September 30	First Thursday in November
December 31	First Thursday in February

H. The COIC Board will review a participating city's site submission materials, as defined within Section 3 (N) of this IGA, to verify that the proposed site is qualified for the Regional Large Lot Industrial program based upon criteria defined within OAR 660-024-0045:

1. The proposed site is located in Crook, Deschutes or Jefferson counties.
2. The proposed site is 50 acres or larger in size. The site will be determined to be 50 acres or larger if it is:
    a. A single lot or parcel that is at least 50 acres
    b. An aggregation of existing lots or parcels under the same ownership that comprises at least 50 acres, or
    c. An aggregation of existing lots or parcels not in the same ownership created and maintained as a unit of land comprising at least 50 acres through a binding agreement among the owners.
3. The proposed site is determined to be "available," as that term is defined in OAR 660-009-0025(7).
4. The proposed site provides the site characteristics necessary for traded sector uses as set forth in the LLA.
5. The city demonstrates that the site was identified through conducting an analysis consistent with requirements contained within OAR 660-024-0045 (8) (a) and (b).

Additionally, the COIC Board will review proposed sites to verify that collectively the six regional sites:

1. Are located within at least three separate jurisdictions
2. Include two sites of at least 100 acres and not more than 200 acres, and one site more than 200 acres.

In the event that applicable administrative rules are amended so that they conflict with the requirements of this IGA, the administrative rules as amended will control.

I. In the event that multiple qualified sites are proposed for a single available opening, the COIC Board shall consider recommendations provided by Business Oregon and Economic Development for Central Oregon, and recommend the site that best achieves the LLA criteria and site characteristics.

J. The COIC Board recommendation is a prerequisite for the Central Oregon Cities and Counties to initiate a plan amendment/zone change under the Regional Large-Lot Industrial Program. COIC's recommendations shall be based on the information and documents submitted by the Central Oregon Cities and Counties. COIC need not take or consider information provided by any other person or entity in its recommendation process. The parties agree that the recommendations provided by COIC under this program are final and binding, and are not subject to any appeal, challenge or protest and each of the parties hereto hereby waive and relinquish any and all such rights.

Central Oregon Cities

K. Provided that the LLA has been adopted by Crook, Deschutes and Jefferson Counties, participating cities shall adopt the LLA to implement the Regional Large Lot Industrial program.

L. Upon the adoption of the LLA, each participating city may choose to implement the short-term land supply for large-lot industrial sites, subject to conformance with state law and the LLA, including the mutually agreed upon proportionate allocation that governs the location of individual sites designated under the Regional Large-Lot Industrial Program.

M. Participating cities shall collaborate with their respective County jurisdiction to identify and formalize candidate large lot industrial sites for land use entitlements.

N. Participating cities shall submit to COIC documentation that the proposed large lot site complies with the LLA and OAR 660-024-0045. The site submission materials must include at a minimum:

1. Vicinity map and site map;
2. Site acreage;
3. Description of the site's current development status and zoning;
4. Description of site dimensions including slope and description of any unique geographic features;
5. A statement on the site's infrastructure and utility serviceability.
6. Description of site location in relation to the UGB;
7. If outside of the UGB, the proposal must include an analysis documenting that other lands located within the UGB are not available and/or suitable for the Large Lot Industrial program;
8. Evidence that the property owner is a willing Large Lot Industrial program participant and will accept site restrictions;
9. Letters of support from Economic Development for Central Oregon and Business Oregon; and
10. Evidence of coordination with County.

O. Participating cities, upon receiving a preliminary recommendation from the COIC Board, shall prepare findings consistent with OAR 660 Division 24 and ORS 197.298.

P. Participating cities initiating a plan amendment/zone change for a large-lot industrial site under the Regional Large-Lot Industrial Program shall collaborate with their respective County.

Q. Participating cities shall adopt the relevant portions of the LLA concerning short term industrial land needs, and their respective County's regional industrial lands policies, into their comprehensive plan.

R. Participating cities shall apply an urban industrial holding zone designation to large-lot industrial properties included within a UUA under the Regional Large Lot

Industrial Program pending annexation of the property into the applicable City limits. The industrial holding zone designation applied by the City shall establish and maintain the large lot status of the property consistent with the LLA, OAR 660-024-0045(9) and (10), and the associated regional industrial lands policies.

S. In connection with any plan amendment or zone change for a large-lot industrial property designated under the Regional Large-Lot Industrial Program, the participating cities shall designate the specific industrial zoning code regulations that will govern the site upon annexation into the governing City limits. The zoning regulations to be applied by the City shall be consistent with the LLA, OAR 660-024-0045(9), and associated regional lands policy.

T. Participating cities shall, based on OAR 660-024-0045(9a), establish a developer agreement with a willing property owner that specifies, at a minimum, that a large-lot industrial site shall stay in the regional large-lot industrial supply for ten years. After ten years, if agreed upon by both a Central Oregon City and a property owner, the site can be:

1. Removed from the regional supply by the Central Oregon City by exercising OAR 660-024-0070; or,

2. Re-designated and rezoned to another urbanized use pursuant to findings that comply with OAR 660 Division 24.

4. Indemnification.

A. Participating Cities and Counties agree to jointly and severally defend, indemnify and hold COIC, and each of its officials, directors, officers, employees and agents, completely harmless from and against any and all claims, damages, losses, and expenses (including but not limited to attorney fees, at trial and on appeal) alleged or asserted concerning or relating to: (a) COIC's refusal to consider or denial of any non-participating person or entity's application or assertion of rights under this Agreement; and/or (b) COIC's proper exercise of its responsibilities and recommendations made under this Agreement. COIC shall have no obligation to defend or otherwise incur any fees or expenses to defend any recommendation, performance or failure to perform under this Agreement.

B. To the maximum extent permitted by law, participating Cities and Counties hereby agree to jointly and severally defend, indemnify and hold each other, and each of its officials, directors, officers, employees and agents, completely harmless from and against any and all claims, damages, losses, and expenses (including but not limited to attorney fees, at trial and on appeal) relating to actions, recommendations, performance or failure to perform by the indemnifying party under this IGA.

C. This indemnity provision survives the termination of this IGA. Nothing in this provision shall extend or increase any party's liability beyond the limitations of the Oregon Tort Claims Act or Article XI, section 10 of the Oregon Constitution.

5. Review, Amendment and Termination.

A. No Third-Party Beneficiaries. The parties do not intend to confer and do not confer any right or remedy on any third party.

B. This IGA may be reviewed and amended at any time by mutual consent of all the parties, confirmed in writing.

C. Any modifications to this IGA will be consistent with Central Oregon City and County comprehensive plans and state law.

D. This IGA will automatically be reviewed every two (2) years upon the biennial anniversary of the original effective date. COIC reserves the right in the future to request compensation for program costs.

E. A Central Oregon City may elect to withdraw from this IGA, with ninety (90) days advance written notice to all of the parties. Upon withdrawal, all recommendations, rights and obligations of the withdrawing Central Oregon City under the IGA and the Regional Large-Lot Industrial Program automatically terminate.

F. This IGA may be terminated by mutual agreement of the parties, confirmed in writing.

G. Alternatively, this IGA may be terminated by COIC and/or a Central Oregon County by the following procedure:

1. A public hearing will be held by the party considering termination. The party must give the other parties notice of the hearing at least 45 days prior to the scheduled hearing date. All parties shall seek to resolve any differences during the 45-day period.

2. Termination of the agreement will be effective 90 days after the public hearing to provide time for resolution of differences.

6. IGA Effective Date.

A. This IGA shall be effective when signed by COIC, all three counties, and at least one city.

B. This IGA may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

Dated this 22nd th of, 2013

THE CITY OF BEND

By: _____
Jim Clinton, Mayor

By: _____
Eric King, City Manager

APPROVED AS TO FORM:

_____
Mary Winters, City Attorney

Dated this _____th of, 2013

THE CITY OF CULVER

By: _____
x, Mayor

By: _____
x, City Manager

APPROVED AS TO FORM:

_____
x, City Attorney

Dated this _____th of, 2013

THE CITY OF LA PINE

By: _____
x, Mayor

By: _____
x, City Manager

APPROVED AS TO FORM:

_____
x, City Attorney

Dated this 9th day of April, 2013

THE CITY OF MADRAS

By: _____
x, Mayor

By: _____
x, City Manager

APPROVED AS TO FORM:

_____
x, City Attorney

ATTEST:

_____ 4-9-2013
Karen J. Coleman, City Recorder

Dated this _____th of, 2013

THE CITY OF METOLIUS

By: _____
x, Mayor

By: _____
x, City Manager

APPROVED AS TO FORM:

_____
x, City Attorney

Dated this _____th of, 2013

THE CITY OF PRINEVILLE

By: _____
x, Mayor

By: _____
x, City Manager

APPROVED AS TO FORM:

_____
x, City Attorney

Dated this _____th of, 2013

Dated this _____th of, 2013

THE CITY OF MADRAS

By: _____
x, Mayor

By: _____
x, City Manager

APPROVED AS TO FORM:

_____
x, City Attorney

Dated this _____th of, 2013

THE CITY OF METOLIUS

By: _____
x, Mayor

By: _____
x, City Manager

APPROVED AS TO FORM:

_____
x, City Attorney

Dated this _____th of, 2013

THE CITY OF PRINEVILLE

By: Betty J Roppe
x, Mayor

By:
x, City Manager

APPROVED AS TO FORM:

Carl McCuth
x, City Attorney

Dated this _____th of, 2013

Dated this 9 day of April, 2013

THE CITY OF REDMOND

By: _____
George Endicott, Mayor

By: _____
Sharon Harris, Interim City Manager

APPROVED AS TO FORM:

_____
Steve Bryant, City Attorney

Dated this _____th of, 2013

THE CITY OF SISTERS

By: _____
x, Mayor

By: _____
x, City Manager

APPROVED AS TO FORM:

_____
x, City Attorney

COUNTY SIGNATURES ON THE FOLLOWING PAGE

CROOK COUNTY

Dated this 15th of MAY, 2013

CROOK COUNTY COURT

Judge Mike McCabe

Commissioner KEN FAHLGREEN

ATTEST:

Recording Secretary Colleen M. Ferguson

Commissioner SETH CRAWFORD

DESCHUTES COUNTY

Dated this _____ of _____, 2013

BOARD OF COUNTY COMMISSIONERS

Commissioner

Commissioner

ATTEST:

Recording Secretary

Commissioner

CROOK COUNTY

Dated this _____ of _____, 2013

CROOK COUNTY COURT

_____
Judge

_____
Commissioner

ATTEST:

_____
Recording Secretary

_____
Commissioner

DESCHUTES COUNTY

Dated this 15 of April, 2013

BOARD OF COUNTY COMMISSIONERS

Alan Unger
ALAN UNGER, CHAIR

TAMMY BANEY, VICE-CHAIR

ATTEST:

Connie Thomas
Recording Secretary

ANTHONY DEBONE, COMMISSIONER

JEFFERSON COUNTY

Dated this 10th of April, 2013

BOARD OF COUNTY COMMISSIONERS

Wayne Fording
, CHAIR

, COMMISSIONER

ATTEST:

Barbara Andresen
Recording Secretary

John Hatfield
, COMMISSIONER

CENTRAL OREGON INTERGOVERNMENTAL COUNCIL SIGNATURES ON THE FOLLOWING PAGE

CENTRAL OREGON INTERGOVERNMENTAL COUNCIL

Dated this 4th of April, 2013

Signed:

John Hatfield, Chairman
Central Oregon Intergovernmental Council

ATTEST:

Andrew Spreadborough, Interim Executive Director
Central Oregon Intergovernmental Council