

# City of Brookings

## ***SPECIAL MEETING AGENDA***

### **CITY COUNCIL**

**Monday, March 1, 2010 – to immediately follow the Council Workshop**

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

**A. Call to Order**

**B. Pledge of Allegiance**

**C. Roll Call**

**D. Oral Requests and Communications from the audience - Public Comments**

5 minute limit per person. Obtain forms at City Hall or at [www.brookings.or.us](http://www.brookings.or.us).

Turn-in completed forms to City Recorder before start of meeting or during regular business hours.

**E. Staff Reports**

1. Amended Border Coast Regional Airport Authority Agreement.

**F. Remarks from Mayor and Councilors**

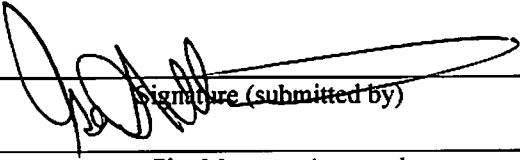
**G. Adjournment**

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with advance notification. Please contact 469-1102 if you have any questions regarding this notice.

**CITY OF BROOKINGS**  
**COUNCIL AGENDA REPORT**

Meeting Date: March 1, 2010

Originating Dept: City Manager

  
\_\_\_\_\_  
Signature (submitted by)  
\_\_\_\_\_  
City Manager Approval

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**Subject:** Border Coast Regional Airport Authority Agreement

**Recommended Motion:** Motion to authorize the Mayor to execute Border Coast Regional airport Authority Second Amended Joint Powers Agreement.

**Financial Impact:** None

**Background/Discussion:**

The City of Brookings is a member of the Border Coast Regional Airport Authority. The Curry County Board of Commissioners recently voted to join the Authority. Expanding the membership to additional agencies requires that all parties agree by adopting an amended Agreement.

In addition to providing for Curry County membership, the Agreement has been amended to further strengthen the tort liability protection of the member agencies and allows a member agency to immediately withdraw its membership if that agency objects to the Authority entering into an indebtedness (no indebtedness is proposed at this time).

**Attachment(s):** Second Amended JPA

**BORDER COAST REGIONAL AIRPORT AUTHORITY  
SECOND AMENDED  
JOINT POWERS AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_\_, 2010, by and between the County of Del Norte, a legal subdivision of the State of California, hereinafter referred to as "County", the City of Crescent City, a municipal corporation existing under the laws of the State of California, the Elk Valley Rancheria, a federally recognized Tribe, the City of Brookings, a municipal corporation existing under the laws of the State of Oregon, the County of Curry, a political subdivision of the State of Oregon, collectively referred to as "Participants", who agree as follows:

**RECITALS**

This Second Amended Joint Powers Agreement amends and restates that certain Joint Powers Agreement of the Border Coast Regional Airport Authority dated October 4, 2007, and the First Amended Joint Powers Agreement dated August 7, 2008, under which the Participants other than the County of Curry have operated the Authority to date.

Del Norte County owns Del Norte County Regional Airport, Jack McNamara Field, a commercial airport located in Del Norte County which serves passengers from both California and Oregon (the "airport"). Recognizing the bi-state regional significance of the airport, the Del Norte County Board of Supervisors has decided to enter into this Border Coast Regional Airport Authority (the "Authority") in order to permit other governments to share in operational decision making for the airport. In addition to the City of Crescent City, the Elk Valley Rancheria, the City of Brookings, and the County of Curry, these governments may include other local government agencies in the State of Oregon as well as sovereign tribal governments. The parties to this agreement believe that by working together in the framework of this Authority, the role of the airport in accommodating current and future air travelers, facilitating the economic development of the border coast region, and maintaining and

operating the airport as an essential component of the region's emergency response network, will be protected and enhanced.

By entering into this agreement, Del Norte County does not intend to transfer ownership of the land and facilities that make up the airport. Nor does entry into this agreement by entities other than Del Norte County imply a commitment on their part to provide funding for the capital improvement or operation of the airport. However, these and other issues may become the subjects of ongoing conversation among the Authority's Participants.

This agreement is entered into pursuant to the provisions of California Government Code, Sections 6500 and following, hereinafter referred to as the "California JPA Law," and Oregon Revised Statutes, Section 190.420, hereinafter referred to as the "Oregon JPA Law," for the purpose of creating an agency to provide for the planning, operation, marketing, and maintenance, directly or indirectly, of the commercial airport located in Del Norte County and known as Del Norte County Regional Airport, Jack McNamara Field.

It is the intent of the Participants in the Border Coast Regional Airport Authority that the membership in the Authority will be open to all those public agencies in the States of California and Oregon that elect to join the Authority, and meet the following criteria: (a) the territory of the public agency is substantially located in Del Norte County, California, or Curry County, Oregon; (b) the public agency has the power under the California JPA Law or Oregon JPA Law, to join the Authority; and (c) the public agency has the power to operate an airport. Participation in the Authority will remain open to those entities that may decide to join after the Authority is formed and operational.

**ARTICLE I**  
**CREATION AND OPERATION OF THE AUTHORITY**

SECTION 1.1 CREATION OF AUTHORITY: Pursuant to the California and Oregon JPA Laws, there is hereby created a public entity to be known as the "BORDER COAST REGIONAL AIRPORT AUTHORITY", referred to herein as the "Authority". The Authority is a public entity separate and apart from the parties hereto.

SECTION 1.2 PARTICIPANTS: The Participants in the Authority are Del Norte County, the City of Crescent City, the Elk Valley Rancheria, the City of Brookings, and Curry County.

SECTION 1.3 GOVERNING BOARD; INITIAL BOARD; APPOINTMENTS: The Authority is administered by a governing board, which is called the "Board of Commissioners of the Border Coast Regional Airport Authority," and which is referred to herein as the "Board." The Board of the Authority initially consisted of five members appointed as follows: The Del Norte County Board of Supervisors appointed three members, two of whom were Supervisors of that County, and two of whom were designated to serve four-year terms and one of whom was designated to serve a two-year term; the first two additional Participants were Crescent City and the Elk Valley Rancheria, which appointed one member each, with each of those members serving a term congruent with the term of the two-year appointee of the Del Norte County Board of Supervisors. Upon approval of the First Amended Joint Powers Agreement and becoming a Participant, the City of Brookings appointed one member to the governing board, with that member serving a term congruent with the four-year appointees of the Del Norte County Board of Supervisors.

SECTION 1.4 GOVERNING BOARD; PERMANENT CONSTITUTION: The number of members of the permanent Board shall be between seven and eleven. Appointments shall be made by resolution of the governing body of the Participant. Following the terms of the initial Board, the terms of all Board members shall be four years. However, each Board member shall serve at the pleasure of the appointing authority for that position and may be removed and replaced according to the rules of the governing body of that Participant. If a Board member's term expires before that member's reappointment or the appointment of a successor, the incumbent may continue to serve until he or she is reappointed or a successor is appointed.

SECTION 1.4.1 GOVERNING BOARD; ADDITION OF CURRY COUNTY: Upon approval of this Second Amended Joint Powers Agreement, as amended to include Curry County, Curry County becomes a Participant and may appoint one member to the Governing Board, who will serve a term congruent with the terms of the four-year appointees of the Del Norte County Board of Supervisors.

SECTION 1.5 ALTERNATE MEMBERS: The governing body of each Participant may by resolution appoint an alternate to serve in the absence of any member of the Governing Board appointed by that Participant.

SECTION 1.6 COMPENSATION: Members of the Board of Commissioners will receive no compensation. However, they may be reimbursed for the actual expenses incurred while performing the duties and activities of the Board.

SECTION 1.7 REGULAR MEETINGS: The Board of Commissioners will provide for its regular and special meetings; provided, at least one regular meeting must be held each calendar quarter.

SECTION 1.8 RALPH M. BROWN ACT: All meetings of the Board of Commissioners of the Authority, without limitation, regular, adjourned, regular, and special meetings, must be called, noticed, held and conducted

in accordance with the provisions of the Ralph M. Brown Act, California Government Code, Sections 54950 and following.

SECTION 1.9 OREGON PUBLIC MEETINGS LAW: All meetings of the Board of Commissioners of the Authority, without limitation, regular, adjourned regular, and special meetings, must be called, noticed, held and conducted in accordance with the provisions of the Oregon Public Meetings Law, Oregon Revised Statutes, Sections 192.610 through 192.690.

SECTION 1.10 PUBLIC MEETINGS; BROAD INTERPERTATION: In any instances of conflict between the Ralph M. Brown Act and the Oregon Public Meetings Law, the Authority must comply with those notice and meeting conduct provisions of law which will provide the highest level of public participation, observation, and knowledge of the Authority's affairs.

SECTION 1.11 MINUTES: The Board must provide for taking, approving, and preserving minutes of the meetings of the Board.

SECTION 1.12 QUORUM: The attendance of a majority of the Board is required for the transaction of business at meetings of the Board.

SECTION 1.13 RULES: The Board of the Authority may adopt and amend rules and regulations for the conduct of its meetings and affairs.

SECTION 1.14 MANNER OF EXERCISING POWERS: The manner of exercising the powers of the Authority is subject to the same restrictions on the exercise of like powers that apply to the County of Del Norte. In all respects, including Public Contracting procedure, employment practices and ethics/conflicts of interest, the Authority will be mindful of the cross-border nature of the Authority and must conduct its affairs to comply with applicable State Laws.

SECTION 1.15 FISCAL YEAR: The fiscal year of the Authority is from July

1 through June 30.

SECTION 1.16 TERM OF AGREEMENT: This agreement will continue indefinitely, except that this agreement may be terminated sooner if withdrawal is elected pursuant to Section 1.17 of this agreement by either the County of Del Norte or by all Participants other than the County of Del Norte.

SECTION 1.17 WITHDRAWAL: Any Participant may withdraw from this agreement by giving sixty (60) days written notice to the Authority and to all other Participants. The withdrawing entity will not be entitled to the return of any assets or contributions that the Participant made to the Authority.

## **ARTICLE II OFFICERS**

SECTION 2.1 CHAIR, VICE-CHAIR, AND AIRPORT DIRECTOR: The Board of Commissioners must elect a Chair and a Vice Chair from among its members. It may appoint an Executive Director or an Airport Director, who must not be a member of the Board of Commissioners.

SECTION 2.2 TREASURER: The Treasurer of Del Norte County is hereby designated as the Treasurer of the Authority and as the depository to have custody of all the money of the Authority from any source. The Treasurer, and the officer performing the functions of Auditor or Controller, who must be the Auditor-Controller of Del Norte County, will have the duties and obligations set forth in Section 6505 and 6505.5 of the California JPA Law and will assure that there will be a strict accounting of all funds and accurate reports of all receipts and disbursements of the Authority. The Treasurer and the Auditor-Controller must provide any Oregon entities participating in the Authority those financial reports as are necessary and convenient to those entities.

**SECTION 2.3 BONDING OF PERSONS HAVING ACCESS TO PROPERTY:**

From time to time, the Board of Commissioners may designate public officers or persons, in addition to the Treasurer and the Auditor-Controller, having charge of handling or having access to any property of the Authority, and the Board must determine the amount of their official bond, pursuant to Section 6505.1 of the California JPA Law.

**ARTICLE III  
POWERS AND DUTIES**

**SECTION 3.1 POWERS:** Border Coast Regional Airport Authority has each of the following powers:

- a. To make and enter into contracts and to receive and expend funds, providing for aviation and airport-related services to the public;
- b. To supervise and oversee the performance of aviation and airport-related service contracts;
- c. To provide all services necessary to operate the Airport;
- d. To acquire, construct, manage, maintain or operate any facilities or improvements;
- e. To acquire, hold and dispose of property;
- f. To incur debts, liabilities or obligations, which do not constitute a debt, liability or obligation of the member entities;
- g. To employ personnel;
- h. To sue and be sued in its own name;
- i. To invest in accordance with the provisions of Section 6509.5 of the California JPA Law, money in the treasury of the Authority that is not required for immediate necessities of the Authority;

- j. To apply for, accept, and utilize funds from any source for public Airport purposes, including funds available through the Federal Aviation Administration;
- k. To raise revenues, including the establishment of lease rates, parking fees, passenger facility fees, and other revenue and tax rates as authorized by law, to support aviation and airport-related services;
  - 1. To incur short-term indebtedness;
- m. To petition the federal and state governments;
- n. To receive contributions from Participants and to provide for their repayment on those terms as the Authority finds advisable;
- o. All other powers that are necessary and proper for the Authority to have in order to provide aviation and airport-related services.

SECTION 3.2 DUTIES: Border Coast Regional Airport Authority has the following specific duties:

- a. On or before May 1st of each year, it must prepare and submit to the Board and each of the Participants a proposed budget for the upcoming fiscal year. The proposed budget will be subject to approval and ratification as set forth in Section 4.3.
- b. The Authority will oversee and maintain an ongoing Airport Capital Improvement Plan (ACIP) to address the future needs of the airport, including the maintenance and periodic updating of the Airport Master Plan and an Airport Layout Plan, anticipating the needs of the public for commercial air service.
- c. The Authority will actively pursue funding, and the development of sources of funding, for the implementation of its plans for aviation improvement and airport development.

SECTION 3.3 OBLIGATIONS OF AUTHORITY: (a) To the extent permitted by the laws of the home state of each Participant, the debts, liabilities, and obligations of the Authority will not be the debts, liabilities and obligations of any of the member entities.

(b) To further ensure that the debts, liabilities, and obligations of the Authority will not be the debts, liabilities, and obligation of any of the member entities, the Authority will negotiate for the inclusion of a clause having the same force and effect as the following in each contract entered into by the Authority:

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No Recourse Against Authority Participants. Notwithstanding any provision in the laws of California or the State of Oregon, [Contractor] agrees that any debts, liabilities or obligations of the Authority as set forth in this [contractual agreement] will not be the debts, liabilities or obligations of the members of or participants in the Authority.

(c) If the Authority must, in the judgment of the Board, enter into a contract that does not include the clause set forth in (b), above, no debt, liability or obligation that is not budgeted in the then-current-year's budget of the Authority may be undertaken or entered into by the Authority unless and until the governing body of each Participant has been provided the opportunity to approve or reject the proposed debt, liability or obligation. Notwithstanding any other provision of this agreement, the rejection of a proposed debt, liability or obligation of the Authority by the governing body of a Participant will effect the immediate withdrawal of the Participant from the Authority and this withdrawal will be deemed to be effective prior to the incurring of the debt, liability or obligation by the Authority.

SECTION 3.4 TORT LIABILITIES AND INSURANCE: The Authority must procure and maintain aviation-operations (including premises liability) insurance with policy limits of not less than \$45 million. This insurance must name each Participant as an additional named insured. Additional policies of liability and property insurance with commercially reasonable policy limits

must be maintained by the Authority consistent with the best practices of airport management, as well as Worker's Compensation Insurance that complies with the laws of the State of California.

**SECTION 3.5 AUTHORITY MUST INDEMNIFY AND DEFEND PARTICIPANTS:** The Authority must defend, indemnify, and hold harmless the Participants, and their officers, employees, and agents from and against any and all causes of action, claims, liabilities, obligations, judgments or damages, including reasonable attorneys' fees and costs of litigation ("claims"), arising out of the Authority's performance of its obligations or the exercise of Authority's powers under this Agreement or out of the operations conducted by the Authority, including any Participants' active or passive negligence, except for the loss or damage arising from the sole negligence or willful misconduct of the Participant. In the event a Participant indemnitee is made a party to any action, lawsuit, or other adversarial proceeding arising from Authority's performance of this Agreement or its operations hereunder, the Authority must provide a defense to the Participant(s) or at Authority's option reimburse the Participant(s) their costs of defense, including reasonable attorney's fees, incurred in the defense of these claims. Each Participant entitled to indemnity hereunder agrees to cooperate reasonably in the conduct of its defense and the defense of the Authority.

## **ARTICLE IV FUNDING**

**SECTION 4.1 CONTRIBUTIONS NOT REQUIRED:** Except as provided in section 4.2, no Participant is or will be required to make contributions to the Authority, except as that Participant may in its sole discretion agree. No Participant is subject to assessment.

**SECTION 4.2 ADMINISTRATIVE AND OPERATING COSTS:** For the duration of this Agreement, the County of Del Norte is required to provide

annual funding to the Authority at the level of the County's budgeted commitment to support the airport for the fiscal year 2006-2007, subject to reduction only by the consent of the Authority.

SECTION 4.3 APPROVAL OF BUDGET: The Board may tentatively adopt the annual budget of the Authority; however, the budget will have no force and effect until it is approved or ratified by each Participant that is contributing funds to the Authority pursuant to or in support of that budget.

**ARTICLE V**  
**DISPOSITION OF ASSETS UPON TERMINATION**

SECTION 5.1 NO SUCCESSOR ENTITY: Upon termination of the Border Coast Regional Airport Authority, without a successor entity, pursuant to paragraph 1.17 or otherwise, and subject to the terms of any repayment agreements entered into pursuant to paragraph 3.1, subparagraph n, the Board must convey or quitclaim all assets and property of the Authority to the County of Del Norte.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed and attested by their proper officers, who are duly authorized, as of the day and year first above written.

ATTEST:

\_\_\_\_\_  
Larry Anderson, Mayor  
City of Brookings  
\_\_\_\_\_

\_\_\_\_\_  
Kelly Schellong, Mayor  
City of Crescent City  
\_\_\_\_\_

\_\_\_\_\_  
Gerry Hemmingsen, Chair  
Board of Supervisors  
\_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Rod Butler, Clerk  
City of Crescent City

\_\_\_\_\_  
Jeremi Ruiz, Clerk  
Board of Supervisors

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Black, City Attorney  
City of Crescent City

\_\_\_\_\_  
Dohn Henion, County Counsel  
County of Del Norte

\_\_\_\_\_  
Dale A. Miller, Tribal Chairman  
Elk Valley Rancheria

\_\_\_\_\_  
Kim Krokodilos, Tribal Secretary  
Elk Valley Rancheria

CURRY COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Bill Waddle, Chair

APPROVED AS TO FORM:

\_\_\_\_\_  
Georgia Yee Nowlin, Vice Chair

\_\_\_\_\_  
M. Gerard Herbage  
Curry County Counsel

\_\_\_\_\_  
George Rhodes, Commissioner  
DATE:\_\_\_\_\_