

**CITY OF BROOKINGS AND CURRY COUNTY
URBAN GROWTH AREA
JOINT MANAGEMENT AGREEMENT**

DRAFT April 27, 2010

County Planning Commissions revisions highlighted in yellow.

City Planning Commission revisions highlighted in blue.

I. PURPOSE AND AUTHORITY

The parties to this agreement shall be the City of Brookings, a municipal corporation of the State of Oregon, hereinafter known as the "City" and Curry County, a political subdivision of the State of Oregon, hereinafter known as the "County". This agreement supersedes and replaces all previous Urban Growth Area Management Agreements established between the City and County.

The purpose of this Agreement is to assign jurisdictional responsibilities to achieve the orderly transition from rural to urban land uses within the Urban Growth Area (UGA). As development occurs, an adequate and efficient extension of public facilities will be ensured through adherence to the provisions of the adopted *Public Facilities Plan (PFP) for Urban Growth Expansion: Brookings and Harbor Study Areas* and the City and County Transportation System Plans (TSP). This Agreement is undertaken pursuant to the provisions of ORS Chapters 190, 195 and 197 and the Oregon Statewide Planning Goals.

II. DEFINITIONS

The following definitions shall apply for the purposes of this agreement. Unless otherwise specified, words and phrases used in this Agreement shall be construed in accordance with ORS Chapters 92, 197, 215, and 227, OAR Chapter 660 and the applicable Oregon Statewide Planning goals.

- A. **DEVELOPMENT** - Any activity that requires a land use decision or limited land use decision, as defined by the Oregon Revised Statutes, or a building permit under the County or City zoning or subdivision ordinance.
- B. **LAND USE DECISION** – A legislative or quasi-judicial action that involves a public hearing or administrative action and concerns the adoption, amendment, or application of:
- The Statewide Goals and/or
 - A Comprehensive Plan provision and/or
 - A land use regulation and/or
 - A new land use regulation.

- C. MASTER PLAN – The document that describes how property within a County’s Master Plan Zone or the City’s Master Plan Development (MPD) District will be developed.
- D. NOTICE – The announcement that an official action is about to occur. Where notice is required, it may be accomplished in person or by first-class mail. Service by United States Postal Service mail is completed upon deposit at a U. S. Post Office receptacle.
- E. PUBLIC FACILITIES PLAN – As defined by OAR 660-011-0005(1), a document that is a part of the City and County's Comprehensive Plans. The PFP describes the location of existing public facilities, such as water, sewer, transportation facilities, and storm drainage systems and their future extension to areas of new growth.
- F. ROAD – “ROAD” means the entire right of way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. “Road” includes, but is not limited to:
- a. Ways described as streets, highways, or throughways;
 - b. Road related structures that are in the right-of-way such as tunnels, culverts or similar structures; and
 - c. Structures that provide for continuity of the right-of-way such as bridges.
- G. ROAD MAINTENANCE – Any work necessary to keep an existing road, including curb, gutter and sidewalks, in its current state of usability, including but not limited to: grading, graveling, paving, or other surfacing of any road or road shoulder area; clearing or redirecting drainage ditches, culverts or storm drains and the repair or replacement of any signs, traffic control devices, or street lighting fixtures.
- H. TRANSPORTATION SYSTEM PLAN – As defined by OAR 660-012-0005 (38), a document that is a part of the City’s and County’s Comprehensive Plans and that describes the transportation system, describes future extension to areas of new growth, and provides a methodology to mitigate projected impacts.
- I. URBAN COORDINATION AGREEMENT – An agreement conforming to the provisions of ORS 195.020 that has been signed by the City, the County, and special districts providing service within the UGA. This document describes the process and roles for reviewing land use matters and development.

- J. URBAN GROWTH AREA (UGA) – The unincorporated area between the Brookings City Limits and the Urban Growth Boundary in which urban services and facilities can be extended, and development can occur at urban intensity and density.
- K. URBAN GROWTH BOUNDARY (UGB) – A mutually agreed upon line, identified in both the City and County’s comprehensive plans, which delineates the outer extent of the UGA and the limits of urban growth.
- L. URBAN LAND – Lands located inside an urban growth boundary.
- M. URBAN SERVICE – Includes, but is not limited to, the following services: sanitary sewer, water, fire protection, parks, open space, recreation; roads, and mass transit.
- N. URBAN SERVICE AGREEMENT – An agreement conforming to the provisions of ORS 195.060 to ORS 195.085 and that has been signed by the City, the County, and special districts providing service within the UGA. This document describes who will provide service in specific areas.
- O. URBAN SERVICE PROVIDER – a unit of local government or a special district that provides an urban service to an area within an urban growth boundary that has a population greater than 2,500 persons and that is identified as an appropriate party by cooperative agreement under ORS 195.020.
- P. URBANIZABLE LAND – Urban land that, due to the present unavailability of urban facilities and services, or for other reasons, either: **(1)** Retains the zone designations assigned prior to inclusion in the boundary; or **(2)** Is subject to interim zone designations intended to maintain the land’s potential for planned urban development until appropriate public facilities and services are available or planned.

III. GENERAL COMPREHENSIVE PLAN PROVISIONS

- A. For lands located within the UGA, the County shall retain responsibility for land use decisions and actions affecting the UGA until any such land is annexed to the City.
- B. In order to promote consistency between the City's planning effort and County land use decisions and actions affecting the UGA, the County and City have mutually developed urban growth management policies for the UGA that address urbanization policies of both County and City Comprehensive Plans.
- C. It is the policy of the City and County to maintain an efficient and complete exchange of information relating to their respective land use decisions that affect the UGA.

IV. ZONING AND SUBDIVISION ORDINANCES

The County's Zoning and Subdivision Ordinances apply to all areas within the UGA. The City's Zoning and Subdivision Ordinances apply to all areas within the city limits.

V. COORDINATION ON QUASI-JUDICIAL LAND USE DECISIONS

- A. The County planning staff shall refer requests for land use decisions under the Zoning and Subdivision Ordinance within the UGA to the City to allow the City to review and comment prior to final action by the County. Materials as stated in **V-(B)** below shall be sent to the City at least twenty-one (21) days prior to the quasi-judicial/ administrative decision date. City staff will provide written recommendations to the County at least seven (7) days prior to the decision date.
- B. The County planning staff shall provide the City with the following information regarding the requested land use action:
 - 1. A copy of the hearing notice, or notice of impending administrative decision.
 - 2. A citation of the County ordinance standards and criteria that are relevant to the proposed action.
 - 3. A copy of all materials submitted by the applicant.
 - 4. A copy of the relevant Assessor's map or other map to identify the location of the land area affected by the proposed land use action.
 - 5. A copy of all comments from county agencies, special districts and the public and other interested parties received by the County.
- C. The County shall retain final decision-making authority for all quasi-judicial land use actions affecting the urban growth area under applicable county ordinances.
- D. Written comment by the City shall be entered into the record of the proceedings and shall serve to provide standing during any appeal of the decision. The City will respond to all referrals presented by the County, either with specific recommendations or with a comment indicating that it has "no concern" with approval of the application as proposed. Failure of the City to either respond as set forth above or to participate in person at the proceeding shall serve as notice that the City has no interest in the matter and is surrendering its appeal rights to the decision as provided in county ordinance and ORS 197.620.
- E. The County shall provide the City with notice of its final decision in the same manner as all affected parties to the decision.
- F. The City shall notify the County of any actions it proposes that may affect public facilities, transportation systems, or have significant impact on land use within or adjacent to the UGA in the same manner as the County notifies the City.

VI. COORDINATION OF LEGISLATIVE LAND USE DECISIONS

- A. The County and City shall coordinate legislative changes to the comprehensive plans and ordinances affecting the UGA.
- B. Either the County or City may initiate legislative changes to their respective comprehensive **plans**, and ordinances affecting land within the UGB. The City may initiate legislative changes to the comprehensive plan and ordinances affecting land within the Brookings city limits.
- C. The initiating party shall notify the other, in writing, of the intent to consider a legislative land use change within the UGA.
- D. The initiating party shall notify the other party of public hearings on the proposed changes at least 45 days prior to the first evidentiary hearing and provide the following:
 - The text of the proposed change
 - Any applicable studies/ reports
 - Any accompanying maps
 - Other pertinent documents
 - The date and location of the public hearing
- E. The City shall provide written comments and have the right to participate in the hearings process. The County shall have the final decision on all legislative changes to the comprehensive plan and ordinances affecting the UGA. The City shall have the same rights as any other party to an appeal of a County decision. The County shall have the right to participate in the hearing process and right of appeal if the City initiates the proposed legislative change.

VII. PUBLIC FACILITY PLANNING AND COORDINATION WITH SPECIAL DISTRICTS

- A. Public Facility Plan
 1. The City and County have joint responsibility for preparing and co-adopting amendments to the Public Facility Plan for the UGA. The initiating party shall provide materials and follow the procedure as described in **VI(D)** above. The plan shall be coordinated with other service providers within the UGA that have responsibility for providing specific services identified in OAR 660-11-0015.
 2. The City and County have joint responsibility for coordination of all special districts and other service providers located fully or partially within the UGB.

3. The County, in cooperation with the City, shall continue the process of establishing urban service agreements with each service provider that provides or declares an interest in providing an urban service within the UGB in accordance with ORS 195.065.
4. The City and County shall continue the process of reviewing and/or modifying existing cooperative agreements for the purpose of complying with the provisions of ORS 195.020.
5. In compliance with the *Curry County Comprehensive Plan* Section 11.11 (12), the County shall encourage each water provider to strive to correct deficiencies in their system to bring the unaccounted water loss for the system to less than 10%.

B. Transportation System Plan

1. The City and County have joint responsibility for maintaining and co-adopting amendments to the Transportation System Plans for the UGA as set forth in OAR 660-012-0015. The initiating party shall provide materials and follow the procedure as described in VI.(D) above. The County and City shall develop standards and implementation policies regarding roads within the UGA that are consistent with standards for urban development.
2. Policies and standards regarding development of roads in the UGA shall be set forth in the Transportation System Plans.
3. The City shall assume jurisdiction, ownership, and maintenance responsibility for all County and public roads built to the standards set forth in the City of Brookings and Curry County Transportation System Plans upon annexation to the City.
4. The County is responsible for maintaining accepted County roads within the UGA to its standards.

VIII. MODIFICATION OF THE URBAN GROWTH BOUNDARY

- A. The modification of the UGB shall be a coordinated land use decision between the County and the City and may be initiated by either entity or a private party.
- B. Any modification of the UGB location shall be considered as a comprehensive plan amendment to both the County and City comprehensive plans.
- C. The County and City shall follow their ordinance procedures for comprehensive plan amendments and shall hold joint or independent public hearings on the request.

- D. The County and City shall follow the requirements for notice of their UGB modification hearings according to the Oregon Administrative Rules governing comprehensive plan amendments. The County and City shall send a joint notice to property owners and districts within their respective jurisdictions.
- E. The proposed modification to the UGB shall be supported by findings that address statewide Goal 14 and Goal 2 requirements and other policies of the City and County comprehensive plans and state law.
- F. Approval of a modification to the UGB shall require concurrence of both the City and County by amendment to their respective comprehensive plans. If concurrence cannot be achieved, the boundary cannot be altered.
- G. The burden of proof for a proposed modification to the UGB shall lie with the person or governmental entity advocating the change.

IX. ANNEXATIONS AND PROVISION OF CITY SERVICES

- A. City annexation of land within the UGA shall only occur as allowed by state law. The City retains all decision making authority once property is annexed.
- B. Specific annexation proposals shall be initiated through or by the City. The City will provide notice of annexation proposals to the County and special districts and provide them an opportunity to respond.
- C. Annexation of lands shall comply with all provisions of the Public Facilities Plan and Transportation System Plans for the UGA.
- D. The City may extend sanitary sewer, municipal water, police and fire protection extraterritorially on its terms within the UGA as allowed by Oregon Revised Statutes and the plans, policies, and standards set forth in the Public Facilities Plan and the Urban Service Agreements ~~that have been~~ to be mutually adopted by urban service providers, the County, and City for the UGA.

X. POLICIES RELATED TO CONVERSION OF URBANIZABLE LAND TO URBAN LAND WITHIN THE UGA

The City and County agree that the conversion of land from urbanizable to urban within the UGA must occur in an orderly and well planned manner that considers the economic and environmental issues identified as part of the UGB amendment. With that interest in mind, the following policies are agreed to and shall be incorporated in the comprehensive plans within one hundred eighty (180) days of adoption of this agreement:

- A. Uses shall be permitted to develop under current County plan and zoning designations in the same manner that they were permitted prior to being included within the UGB. ~~The City and County will coordinate policy to preserve the~~

~~UGB's potential for future urbanization.~~ The City and County may agree to and adopt ordinance provisions to preserve the UGB's potential for future urbanization.

- B. All new development shall be required to obtain sanitary sewer service from either the City of Brookings or Harbor Sanitary District depending on agreed service areas. If waste water treatment service is not available, at the time of development, an interim on-site sewage disposal system may be approved. Written confirmation must be provided by the appropriate agency stating that the system meets all state and local requirements prior to final approval of the development. Use of an interim on-site sewage disposal system is limited to a rural level of development or as specifically allowed by the Public Facilities Plan. ~~This interim development approval shall be conditioned to connect to a public system when service is within 300 ft. of the subject property and the existing septic system fails, in the judgment of the County Sanitarian; or it is identified as a public health hazard.~~ **After January 22, 2001, This interim development approval shall be conditioned to connect to a public system when service is within 300 ft. of the subject property and the existing septic system fails; or it is identified as a public health hazard contiguous to the property line.**
- C. All new development shall be required to obtain public water service from either the City of Brookings or Harbor Water Public Utility District, depending on agreed service areas. If water service is not available, at the time of development, an interim on-site water system may be approved. Written confirmation must be provided by the appropriate agency stating that the system meets all state and local requirements prior to final approval of the development. Use of an interim on-site water system is limited to rural level of development or is specifically allowed by the Public Facilities Plan. ~~This interim development approval shall be conditioned to connect to a public water system when water service is contiguous to the subject property and the existing well fails; or is identified as a public health hazard.~~ **After January 22, 2001, This interim development approval shall be conditioned to connect to a public water system when water service is contiguous to the subject property and the existing well fails; or it is identified as a public health hazard property line.**
- D. The owners of properties which are designated as "Master Planned Areas" on the map attached to this agreement shall be required to prepare a master plan prior to development (other than that allowed by the present zoning designation) that sets forth the land use, road circulation system, and plans for municipal water, sanitary sewer, and management of surface water runoff. Master plans shall be developed in coordination with and be approved by the service providers of these services. Master Plans for the Urban Growth Area shall be adopted as post acknowledgement plan amendments pursuant to ORS 197.610 by the City or County before any development permits are issued for construction within the Master Planned Areas. The County shall have the final decision on all Master Plans within the UGA. If the area has been annexed to the City, only the City must adopt the Master Plan as a Comprehensive Plan amendment. Compliance

with the master plan shall be a condition of development approval by the City or County.

1. The County and City shall each adopt a Master Plan Zone defining standards and criteria to be used within the designated Master Plan Areas as shown on the Brookings Urban Growth Boundary Area Map (Harbor Hills Master Plan Area and Jacks Creek Master Plan Area). These Master Plan Zones must be adopted by the County and the City respectively prior to submission of a proposed specific master plan for the Harbor Hills or Jacks Creek Master Plan areas. The City and County will review the proposed Master Plan Zones as described in Section VI. “Coordination of Legislative Land Use Decisions”, of this document.

2. The Harbor Hills Special Plan Area is established as an area of environmental concern and shall be so designated on the comprehensive **plans**. Special Plans shall be adopted as post acknowledgement plan amendments pursuant to ORS 197.610 by the City and County before any development permits are issued by the County or City for construction within the Special Planned Areas.
 - a. The County shall commission or require a comprehensive surface water management plan for the Harbor Hills Special Plan Area prior to land use approvals for new development (other than that allowed by the present zoning designation) to address surface water run-off, stream channel erosion, and potential impacts on the groundwater balance of the Harbor Bench aquifer. All future nonresource development, including roads and infrastructure, shall comply with this plan. The plan shall include appropriate measures to ~~assure~~ **ensure** that impacts from future development on water resources will be prevented or remedied. The plan shall include, but not be limited to:
 - i. Baseline data on stream discharges and velocities, Harbor Bench groundwater levels and water quality;
 - ii. Standards to ~~assure~~ **ensure** that stream channels, groundwater levels and water quality will not be adversely affected by future development;
 - iii. Provisions for on-going monitoring of stream discharges and velocities, groundwater levels and water quality; and
 - iv. Provisions for remedial actions if adverse impacts on stream channels, groundwater levels or water quality result from development.

- b. Proposed development within the Harbor Hills Special Plan Area shall be required to address hazards, erosion and surface water runoff and groundwater impacts by providing detailed geologic and hydrologic studies prior to any land use approvals. The studies shall meet the requirements set forth in the comprehensive surface water management plan described in subsection X(D)(2)(a) and clearly demonstrate how impacts to stream channels, water supplies and water quality will be prevented. The County shall require remedial measures and other conditions necessary to address significant impacts from development on these factors.
- c. The effects of existing and planned public roads on surface water runoff, stream channel erosion and Harbor Bench groundwater **Rresources** shall be addressed in the development of the comprehensive surface water management plan described in subsection X(D)(2)(a). Future construction or alteration of public roads shall meet the standards described in subsection X(D)(2)(a)(ii) and provide for remedial actions as described in subsection X(D)(2)(a)(iv). The County shall work with the Oregon Department of Transportation to prevent further impacts on Harbor Bench water resources from runoff through Highway 101 **Cculverts**.
- d. The Water Resources Department shall be consulted prior to the following local actions affecting the Harbor Hills Special Plan Area:
 - i. Adoption or amendment of the comprehensive surface water management plan described in subsection X(D)(2)(a);
 - ii. Approval of geologic and hydrologic studies and land use proposals described in subsection X(D)(2)(b).

XI. ENFORCEMENT

- A. The County shall be responsible for enforcement of all land use ordinances within the UGA in accordance with its enforcement provisions.
- B. The City shall be responsible for enforcement of all land use ordinances within the city limits in accordance with its enforcement provisions.

XII. REVIEW

- A. All City and County documents used in governing the UGA shall be reviewed under the periodic review requirements of OAR 660-025 or plan amendment (ORS 197.610) processes, as applicable.

XIII. APPEALS

- A. Appeals of land use actions within the UGA shall be in accordance with the appeals process specified in the County Zoning, subdivision and/or other relevant ordinances, and applicable state statutes or administrative rules.
- B. The City shall have standing to appeal any County land use decision in which it participated in accordance with Section V of this agreement.
- C. In the case of a modification of the UGB, appeals shall be in accordance with the appeals process specified in the County and City zoning ordinances. An appeal of the local government decision shall be to the Land Use Board of Appeals or the Land Conservation and Development Commission under applicable Oregon statute and administrative rules.

XIV. SEVERABILITY

- A. The provisions of this Joint Management Agreement are severable. If an article, sentence, clause, or phrase shall be adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this agreement.

XV. AMENDMENT

- A. This agreement may be amended at any time to address matters not anticipated at the time the agreement was entered into, to address new requirements of state law, to address changed circumstances and conditions or to address other needs of one or both parties in managing the UGB.
- B. Either the City or County may initiate an amendment to the agreement. The process to be followed shall be the same as that required for coordination of legislative land use decisions under Section VI of this agreement.

XVI. TERMINATION

- A. This agreement may be terminated by either party under the following procedure:
 - 1. A public hearing shall be called by the party considering termination. The party shall give the other party notice of hearing at least 30 days prior to the scheduled hearing date. The 30 day period shall be used by both parties to seek resolution of differences.
 - 2. Public notice of the hearing shall be in accordance with applicable Oregon statutes and administrative rules but not less than 20 days prior to the hearing.

3. The party moving for termination shall state the reasons for termination at the hearing and the affect of the action on the UGA. Public comment shall be received regarding the action and considered by the party in its decision.
4. The established date of termination shall be at least 30 days after the public hearing in order to provide an additional time period for resolution of differences.
5. Prior to a final decision to terminate the agreement, the City and County shall agree to enter into a conflict resolution process which will be established by the Department of Land Conservation and Development. If resolution cannot be reached, a replacement agreement shall be developed as required by Oregon statute and administrative rule.
6. The governing body of the terminating party shall vote to decide on termination on the established date for termination and if the vote is to end the agreement, written notice of the decision shall be provided to all affected parties including the Director of the Oregon Department of Land Conservation and Development.

This Urban Growth Management Agreement will become effective when signed by all the parties.

CITY OF BROOKINGS

CURRY COUNTY BOARD OF COMMISSIONERS

Date _____
Mayor

Date _____
Bill Waddle, Chair

Date _____
George Rhodes, Vice Chair

Date _____
Georgia Yee Nowlin, Commissioner

Attest:

City Recorder

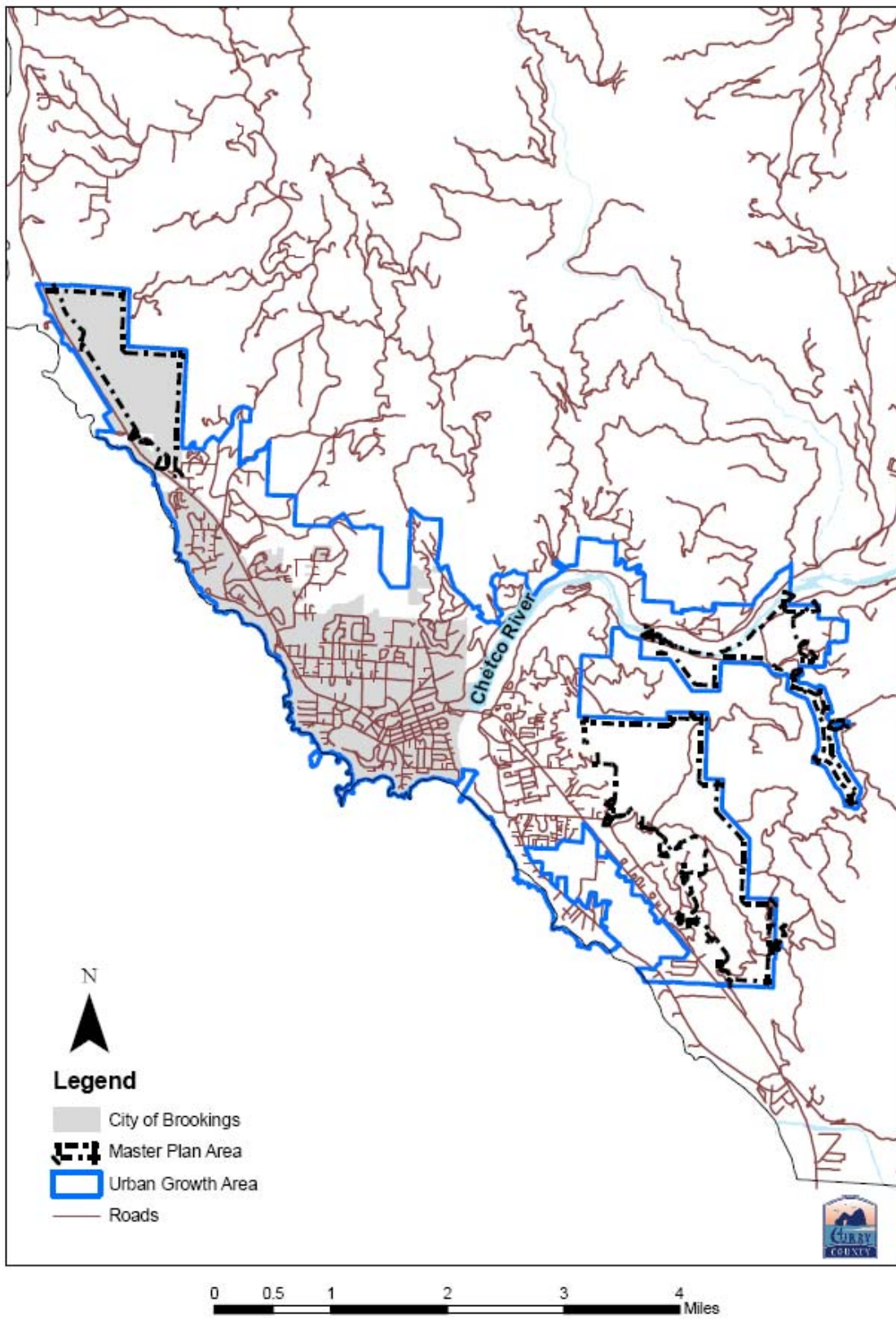
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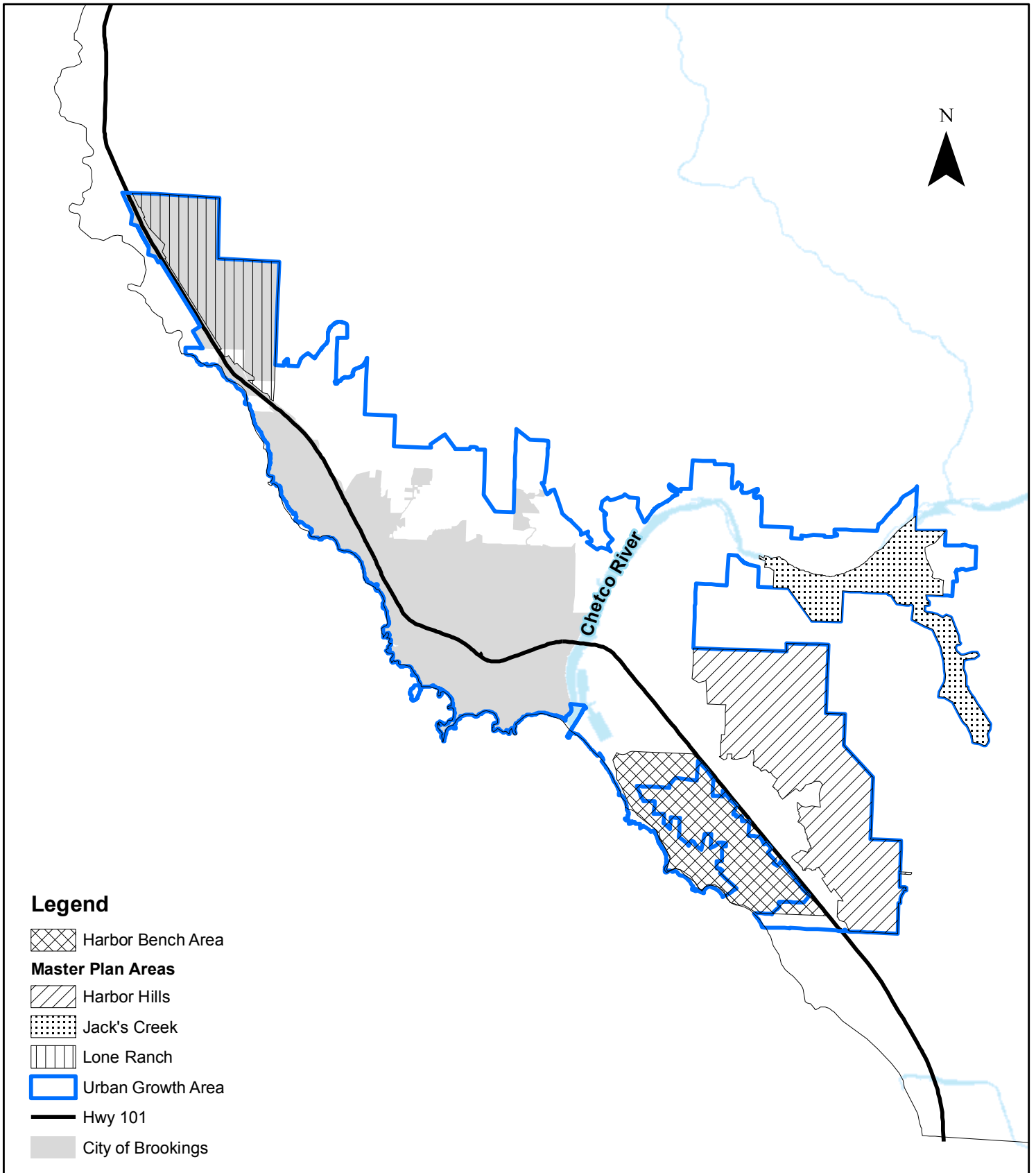
ATTACHMENT TO THIS DOCUMENT WILL INCLUDE:

1. MAP OF URBAN GROWTH AREA







URBAN GROWTH AREA

DRAFT





Legend

-  Harbor Bench Area
- Master Plan Areas**
-  Harbor Hills
-  Jack's Creek
-  Lone Ranch
-  Urban Growth Area
-  Hwy 101
-  City of Brookings

