

MEMORANDUM OF UNDERSTANDING

Between

The Confederated Tribes of the Warm Springs Reservation of Oregon

and

City of Bend

This Memorandum of Understanding (“MOU”) is entered into, as of March _____, 2024, by and between The Confederated Tribes of the Warm Springs Reservation of Oregon, a federally-recognized Indian tribe, (“Tribe”) and the City of Bend, an Oregon municipality, (“City”). The Tribe and the City may be referred to individually as “Party” or collectively as “Parties” in this MOU.

1. Recitals.

A. The Tribe is a sovereign Indian tribe and is the legal successor in interest to the Indian signatories of the Treaty with the Tribes of Middle Oregon, dated June 25, 1855, 12 Stat. 963 (“1855 Treaty”). Pursuant to the 1855 Treaty, the Tribe’s predecessors ceded certain aboriginal rights to approximately ten million acres of land to the United States, while reserving the Warm Springs Reservation for the exclusive use and occupation of the Tribe and its members. Those lands are commonly referred to as the Tribe’s “ceded lands” and comprise a significant portion of the Deschutes Basin, including the location of the City.

B. The 1855 Treaty reserved certain rights to fish, hunt, and gather roots and berries within its ceded lands and on certain other aboriginal lands that are located outside of the Tribe’s ceded lands. The Tribe’s treaty-reserved sovereign rights are acknowledged by the United States and State of Oregon, both of whom recognize the Tribe as a governmental co-manager of the water, fish, and wildlife resources of the Deschutes Basin among other areas. The Tribe discharges its co-manager duties as part of its sovereign right to provide for the health, safety, and welfare of its members.

C. The City is a municipal corporation of the State of Oregon. The City has a vital interest in, and responsibility for, the planning and protection of the public health, safety, economic welfare and resource management needs and interests of its residents.

2. Purpose.

The purpose of this MOU is to provide a coordinating framework for strengthening the government-to-government relationship between the Parties, particularly with respect to matters of common interest, in a manner that promotes an improved awareness of (and respect for) each Party’s interests, values, and culture. Matters of common interest, include, but are not limited to, the prudent and equitable use of the water resources of the Deschutes Basin, responsible land use, cultural resource protection, and sustainable regional economic development.

3. MOU Implementation.

(a) Staff Consultation. The Parties will hold at least one staff level government-to-government consultation each year. The Tribe's Secretary-Treasurer/CEO and the City Manager, or their designees, will be responsible for scheduling the consultation and developing the agenda. The Parties will endeavor to hold the consultation by March 30 each year. To the extent reasonably possible, the location of the consultation should alternate between Bend and Warm Springs.

(b) City Council/Tribal Council Meeting. The Parties will hold at least one joint meeting City Council/Tribal Council meeting each year. The Tribe's Secretary-Treasurer/CEO and the City Manager, or their designees, will be responsible for scheduling the meeting and developing the agenda. The City will be responsible for providing public notice, minutes and otherwise ensuring compliance with the requirements of the Oregon Public Meetings law for special meeting(s) attended by the City Council. To the extent allowed by applicable law, the location of the meeting will alternate between Bend and Warm Springs. (*See* ORS 192.630(4)(c) for the ability of the City Council to jointly meet with the Tribal Council within its jurisdictional boundaries).

4. Non-Fund Obligating Document.

This MOU is neither a fiscal nor a funds obligation document. Any endeavor to transfer anything of value involving reimbursement or contribution of funds between the Parties executing this instrument will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the Parties and shall be independently authorized by appropriate statutory authority.

5. No Waiver of Tribal Sovereign Immunity; No Third-Party Beneficiaries.

The City acknowledges that nothing in this MOU may be construed as a waiver, express or implied, of the Tribe's sovereign immunity. There are no third-party beneficiaries to this MOU.

6. Duration.

This MOU is at-will and may be modified by mutual, written consent of the Parties. This MOU will remain in effect until modified or terminated by the Parties.

{Signatures on next page}

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Agreement as of the date first above written.

THE CONFEDERATED TRIBES OF THE
WARM SPRINGS RESERVATION OF
OREGON

CITY OF BEND

By: _____
Name: Jonathan W. Smith, Sr.
Title: Chairman, Tribal Council

By: _____
Name: Melanie Kebler
Title: Mayor

Approved as to form:

Approved as to form:

Josh Newton, Attorney for Tribe

Mary Winters, City Attorney