



**Damien Hall**  
Partner  
dhall@dunn-carney.com  
**Direct** 503.306.5305

February 14, 2023

VIA E-MAIL

Jordan Rooklyn, City Manager  
City of Talent  
PO Box 445  
110 East Main Street  
Talent, OR 97540  
JRooklyn@cityoftalent.org

**Re: Jackson County Fire District No. 5 – Response to TURA Urban Renewal Plan**

Dear Ms. Rooklyn:

On behalf of Jackson County Fire District No. 5 ("JCFD5"), we submit the enclosed response to the second version of the Talent Urban Renewal Agency's urban renewal plan, a copy of which is enclosed here. JCFD5 has reviewed the plan and encloses an analysis summarizing its conclusions. Specifically, the Plan: (1) will have a significant negative impact on taxing jurisdictions, including reducing the amount of funding for JCFD5 fire protections services, and (2) does not comply with the statutory requirements for Urban Renewal under Oregon Revised Statutes chapter 457. Accordingly, JCFD5 opposes adoption of the Plan.

We ask that this submission be included, in full, in the City of Talent's agenda packet for the upcoming February 15, 2023, city council meeting.

Please do not hesitate to reach out if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Hall", written over a white background.

Damien R. Hall

**Jackson County Fire District No. 5's Response to  
Talent Urban Renewal Agency's Urban Renewal Plan  
(Second version of the plan)**

**I. EXECUTIVE SUMMARY**

Jackson County Fire District No. 5's ("JCFD5") responsibilities include the City of Talent ("City") but extend well beyond City limits. JCFD5 is proud to serve over 200 square miles in the Rogue Valley, including Talent, Phoenix, stretches of Interstate 5, and areas of unincorporated Jackson County. It helps to preserve and keep safe countless individuals and families and over \$3 billion in real market values. Because regional firefighting depends on the ability of each fire district to show up to provide mutual aid when needed, JCFD5 also works hard to support its neighboring districts and community partners.

Unfortunately, the second version of Talent Urban Renewal Agency's proposed urban renewal plan ("Plan") will still directly impact JCFD5's ability to serve its *whole* community by diverting substantial funds that the voters of Jackson County have allocated to JCFD5 for fire services. JCFD5 district residents in Phoenix and unincorporated Jackson County and its community partners do not have a voice in Talent's governing decisions, yet they are nevertheless impacted by Talent's choices.

Throughout this process, JCFD5's voice has not been heard. Contrary to Talent Urban Renewal Agency ("TURA") representations that it values opportunities for meaningful dialogue and considerations of how to limit reductions to fire service funding, JCFD5 only received formal notice of the new Plan without any advanced discussions or collaboration. JCFD5 would appreciate substantive discussions regarding its concerns about the Plan's impacts and regarding the need to slow the City's accelerated Plan review timeframe to allow JCFD5 and the community a meaningful opportunity to respond and collaborate.

JCFD5 does not support the Plan due to the negative impacts to fire services funding, and requests that the City, before taking any action, undertake the following:

1. Consider the serious adverse effects that the adoption of the Plan will have on funding for regional fire services and the below-identified areas in which the Plan is inconsistent with legal requirements.
2. If the City feels compelled to act on the current version of the Plan on the currently proposed timeline, JCFD5 requests a vote declining to adopt.
3. If the City wants to meaningfully explore options for modification of the plan to reduce the impact on regional fire services, engage JCFD5 regarding way to achieve that objective, including but not limited to ensuring that JCFD5's fiscal budget be made whole through TURA or other City funds, and capping TURA annual tax increment receipts to those projected in the plan.

Finally, and in any event, JCFD5 requests that adoption of the Plan be referred to the voters and that any extension of the duration or maximum indebtedness of the Plan also require approval by the voters.

## II. LEGAL SHORTCOMINGS OF THE PLAN

Oregon's urban renewal statute (Oregon Revised Statutes chapter 457) requires an urban renewal agency to produce a plan and a report that meet rigorous documentary standards. This ensures that the agency is not merely diverting funds from other affected taxing districts with no clear idea of how to use them effectively. Rather, the agency must demonstrate how it plans to ensure a return on the community's investment. These specific statutory requirements are not mere formalities, they are an opportunity for the agency to demonstrate its work in compliance with legal requirements.

Here, the Plan includes various shortcomings by failing to comply with applicable legal requirements as follows.

### **A. The Plan does not contain sufficient descriptions of each urban renewal project to be undertaken under ORS 457.085(2)(a) and as a result, the Plan is not based upon good faith estimates of the scope and costs of projects pursuant to ORS 457.190(3)(c)(B).**

ORS 457.085(2)(a) requires the Plan to include "[a] description of each urban renewal project to be undertaken." See also, ORS 457.010(20) (" 'Urban renewal project' or 'project' means any work or undertaking carried out ORS 457.170 in an urban renewal area"). ORS 457.190(3)(c)(B) further requires that the maximum amount of indebtedness that may be issued or incurred under the plan be based upon good faith estimates of the scope and costs of projects.

Here, while the Plan includes descriptions of projects and activities, several activities listed as projects are too generalized and overboard. See Plan, p. 9-11. For example, the Plan states the following "projects" under the Plan, among others:

"Affordable Housing Incentive Program. The Agency *may* establish incentive programs to encourage affordable housing development within the Urban Renewal Area. The affordable housing incentive programs *may* be in the form of grants or loans. Prior to the establishment of any incentive program, the Agency shall prepare and adopt an incentive program....

Economic Development Incentive Program. The Agency *may* establish incentive programs to encourage the development of commercial structures and support business development within the Urban Renewal Area. The economic incentive programs *may* be in the form of grants or loans. Prior to the establishment of any incentive program, the Agency shall prepare and adopt an incentive program....

Tree Planting Program. The Agency *may* establish tree planting programs to encourage the recovery of lost canopy from the Almeda Fire. These programs *could* include tree planting projects within the urban renewal area *or* grant programs for tree planting on private property.

Wagner Creek and Bear Creek Greenway Walking Paths. Install walking paths along

Wagner Creek and in the hazardous fuel removal area of Bear Creek to help increase access for maintenance and community use.

Seismic Pipe Upgrades. When backbone water pipes within the urban renewal area are placed or replaced, the pipes will be upgraded to restrained-joint ductal iron piping for increased seismic resilience.”

See Plan, p. 10-11 (emphasis added). These projects are not specific. They are not concrete. Rather, these projects are the beginning of a goal or idea. For instance, when describing the tree planting program, as noted above, the Plan cursorily states that “[t]hese programs *could* include tree planning projects within the urban renewal area *or* grant programs for tree planting on private property.” Furthermore, the loan and grant programs associated with various program activities are under explained and vague. See Report, at 26-28. The lack of real projects has significant practical implications. Without detailed project descriptions, TURA cannot plausibly establish an appropriate maximum indebtedness because the maximum indebtedness flows from the expected costs of the particular projects selected. See ORS 457.190(3)(c)(B) (“The maximum amount of indebtedness that may be issued or incurred under the plan . . . shall be based upon good faith estimates of the scope and costs of projects[.]”).

Additionally, while the Plan identifies “seismic pipe upgrades” as a project, that project is subject to congressionally directed spending. Funding from the Plan via tax increment financing cannot be directed towards a project that has already been funded or for which funding is already available. In fact, the Report shows that the project costs are \$418,500 in total and tax incremental financing under the Plan will fund the entirety of the project. See Plan, at 28. However, the Plan cannot be based upon a good faith estimate of that particular project if it is subject to congressionally directed funding. See ORS 457.190(3)(c)(B). All in all, as reflected in the generalized projects above, without detailed project plans and descriptions, TURA cannot reasonably demonstrate that the Plan is based upon good faith estimates.

Accordingly, because generalized project or program activities do not provide sufficient descriptions of “projects” under the statute, the Plan does not satisfy Oregon’s statutory requirements under ORS 457.085(2)(a) and ORS 457.190(3)(c)(B) as drafted.

**B. The Plan fails to satisfy the certification requirement under ORS 457.160 and thereby fails to adopt required “determinations and findings” directed at specified considerations that the urban renewal plan conforms to the comprehensive plan as a whole per ORS 457.095(2)(c).**

Instead of demonstrating compliance with the comprehensive plan, the Plan merely states conformance with the city’s comprehensive plan is not required pursuant to ORS 457.160. See Plan, at 5. In relevant part, ORS 457.160 allows a city to approve an urban renewal plan without conformance to its comprehensive plan if the City *certifies* an area in

need of re-development due to a flood, fire, hurricane, earthquake, storm, or other natural disaster for which the city has sought assistance under federal law. See ORS 457.160<sup>1</sup>. The City has not satisfied the certification requirement in ORS 457.160. The Plan simply references that “urban renewal has been identified as a tool to support...recovery areas (City of Talent Resolution 2022-045-R)”. That Resolution states an “intent to consider” urban renewal. That resolution does not certify a specific area in need of redevelopment due to the Alameda fire. The City has skipped the required step of certifying the affected area in need of redevelopment or rehabilitation pursuant to ORS 457.160. This oversight has led to an overly broad plan that exceeds the City’s authority under ORS 457.160, as discussed in further detail below.

**C. The Plan fails to demonstrate how the selected urban renewal area meets the requirements and conditions of “blighted areas” under ORS 457.010(1).**

ORS 457.160 allows a city to approve an urban renewal plan without demonstrating that the urban renewal area is a blighted area if the City *certifies* an area in need of re-development due to a flood, fire, hurricane, earthquake, storm, or other natural disaster for which the city has sought assistance under federal law. See ORS 457.160.

Under the circumstances, the Plan cursorily states that blight requirements for the urban renewal area are not subject to the proposed Plan pursuant to ORS 457.160. See Plan, at 5. However, for the same reasons identified above in Section II.B of this memorandum and hereby incorporated, the City has not formally certified the area in need of redevelopment or rehabilitation in accordance with ORS 457.160. Therefore, because the Plan fails to address and demonstrate compliance with the certification requirement under ORS 457.160, the Plan is subject to the requirements under ORS 457.010(1)<sup>2</sup>. As such, the Plan categorically fails to consider and adopt findings to satisfy requirements and conditions of “blighted areas” under ORS 457.010(1).

Accordingly, for the reasons above, the Plan fails to adopt required findings to support why the urban renewal area, as a whole, is blighted in one of the ways described in ORS 457.010(1).

---

<sup>1</sup> “Notwithstanding any other provisions of ORS chapter 455 or 456 or this chapter, where the governing body of a municipality certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm or other catastrophe respecting which the Governor has certified the need for disaster assistance under federal law, the governing body may declare a need for an urban renewal agency, if necessary, and may approve an urban renewal plan and an urban renewal project for such area without regard to the provisions requiring:

“(1) That the urban renewal plan conform to the comprehensive plan and economic development plan, if any, for the municipality as a whole.

“(2) That the urban renewal area be a blighted area.”

<sup>2</sup> (1) “Blighted areas” means areas that, by reason of deterioration, faulty planning, inadequate or improper facilities, deleterious land use or the existence of unsafe structures, or any combination of these factors, are detrimental to the safety, health or welfare of the community. A blighted area is characterized by the existence of one or more of” several specific conditions.

**D. Even if the City sufficiently certified the area in need of redevelopment as a result of the Almeda Fire per ORS 457.160, the Plan is overly broad and beyond the scope of the affected Almeda Fire area.**

Even if the City sufficiently certified the affected Almeda Fire area in need of redevelopment or rehabilitation in accordance with ORS 457.160, as explained below, the Plan is overly broad and beyond the scope of the affected Almeda Fire area.

For starters, the purpose of the Plan is stated as follows:

“The goals, projects, and activities presented in the Program are designed to aid the Talent community in recovering from the September 2020 Almeda Fire, a wildfire that destroyed a third of Talent’s housing and two-thirds of Talent’s brick-and-mortar businesses. The underlying objective of the Program is to identify projects and provide a significant, consistent source of funding (tax increment financing) sufficient to address the wildfire’s impacts that are not being addressed by other sources of funding or recovering on their own.”

See Plan, at 4 (emphasis added). As reflected above, the purpose of the Plan is intended to be limited to redevelopment and rehabilitation of the affected by the Almeda Fire. However, the Plan fails to adopt any findings to demonstrate why certain properties that did not have fire damage, are not proposed to be utilized for disaster response, and are not proposed for rehabilitation or restoration, are included in the Plan area. The Plan also makes no findings as to why certain projects in the Plan are needed for, or even related to, redevelopment and rehabilitation from the Almeda fire. The list of identified projects under the Plan demonstrates that certain projects are not related or connected to the recovery from the Almeda Fire. See Plan, 9-11. For example, a project under the Plan titled, “Wagner Creek and Bear Creek Greenway Walking Paths” is simply identified as a project that serves the following purpose:

“[i]nstall[ing] walking paths along Wagner Creek and in the hazardous fuel removal area of Bear Creek to help increase access for maintenance and community use.”

See Plan (emphasis added), at 11. It is unclear how such a project is related to or connected to the recovery of the affected Almeda Fire area. Therefore, contrary to the purpose of the Plan itself (to provide recovery to the certified disaster area), the Plan is overly broad and exceeds the City’s authority under ORS 457.160. The disaster exception is intended to be applied narrowly, not to allow local government to adopt sprawling plans with a wish list of projects.<sup>3</sup> (e.g. note that only a single “project” is intended to be authorized under ORS 457.160). Here If otherwise allowed, urban renewal plans in Oregon would be utilized as a tool to collect money from affected taxing districts like JC5D for the

---

<sup>3</sup> Only a single “project” is intended to be authorized under ORS 457.160. Here, the Plan seeks to adopt multiple projects without specifying that the projects are for the limited purpose of ORS 457.160 or that the projects will occur on land certified as the affected area of the Almeda fire.

purpose of funding projects unrelated to the disaster and include redevelopment in areas beyond the scope of the disaster at issue.

For the reasons above, the Plan should be denied because the Plan is overly broad and beyond the scope of the affected Alameda Fire area.

**E. The Plan includes insufficient detail to meet the requirements under ORS 457.085(2)(g).**

Under ORS 457.085(2)(g), the Plan must include “[a]n indication of which real property may be acquired and the anticipated disposition of such real property, whether by retention, resale, lease or other legal use, together with an estimated time scheduled for such acquisition and disposition”.

Here, while the Plan expressly acknowledges and provides an indication that property may be acquired in the future, the Plan fails to provide sufficient detail as required by statute. See Plan, at 11. For example, the Plan fails to identify which real property may be acquired in the future in accordance with ORS 457.085(2)(g). Accordingly, the Plan includes insufficient detail to meet the requirements under ORS 457.085(2)(g).

**F. The Report’s financial analysis of the Plan includes insufficient detail about its assumptions to determine the feasibility of the Plan pursuant to ORS 457.087(7).**

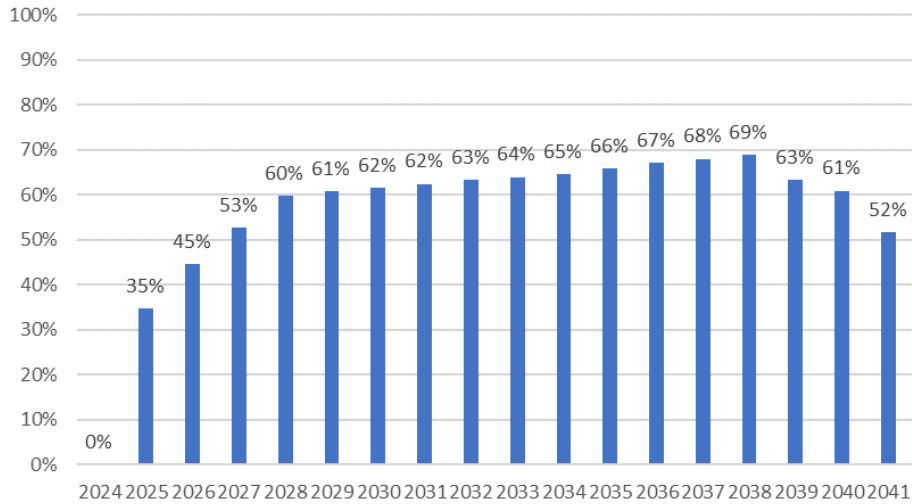
Pursuant to ORS 457.087(7), the Report must include a financial analysis of the Plan “with sufficient information to determine the feasibility of the plan.” As explained further below, the financial analysis of the Plan includes insufficient detail about its assumptions to determine the Plan’s feasibility. The following sections incorporate the expert financial analysis of Paul Runge of Cascadia Partners.

At the outset, there is one issue that cannot be overlooked, and which permeates the financial analysis: The analysis should be guided at every step by the projects, which set the maximum indebtedness. Without specific, articulable projects as noted in Section II.A of this memorandum, a solid financial analysis cannot be done.

In addition, the Report relies on unclear and unsupported assumptions associated with the Plan’s financial projects. In fact, as expressly stated in the Report, the Plan’s financial projections were based on undescribed staff conversations, which poses an issue regarding whether such conversations were even reliable. See Report, at 21 (“These projections of growth are the basis for the tax increment projections in the area. They were informed by conversations with Agency and city staff[.]”); see also Financial Assumptions Analysis attached herein. As such, the Report does not explain how any assumptions were reached.

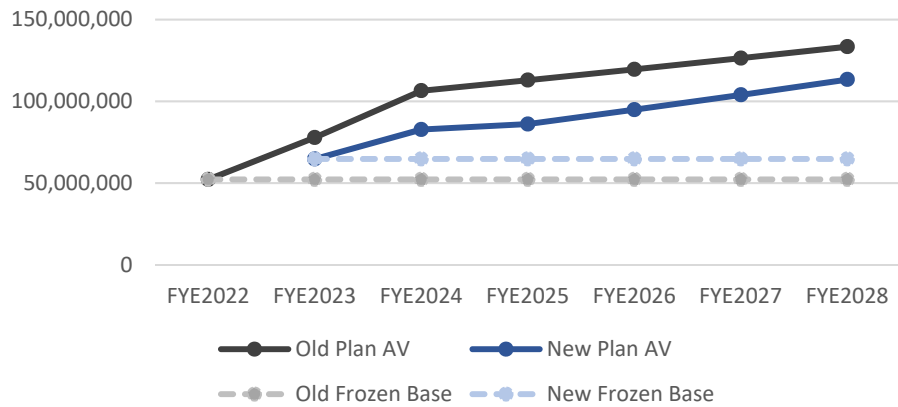
Furthermore, the Report lacks a meaningful analysis of the base assumptions regarding tax increment revenues. See Financial Assumptions Analysis for reference. Assuming that the financial analysis in the Plan is correct, the yearly impacts to JCFD5 are reduced. While maximum indebtedness may be 25% of the original plan, the timeframe under the new Plan is significantly shorter and the per-year impact on JCFD5 is about 60%. The following graph illustrates the Plan’s revenue impact on JCFD5 as a percentage of the original plan’s impact.

### New Plan's Revenue Impact as % of Old Plan's Impact

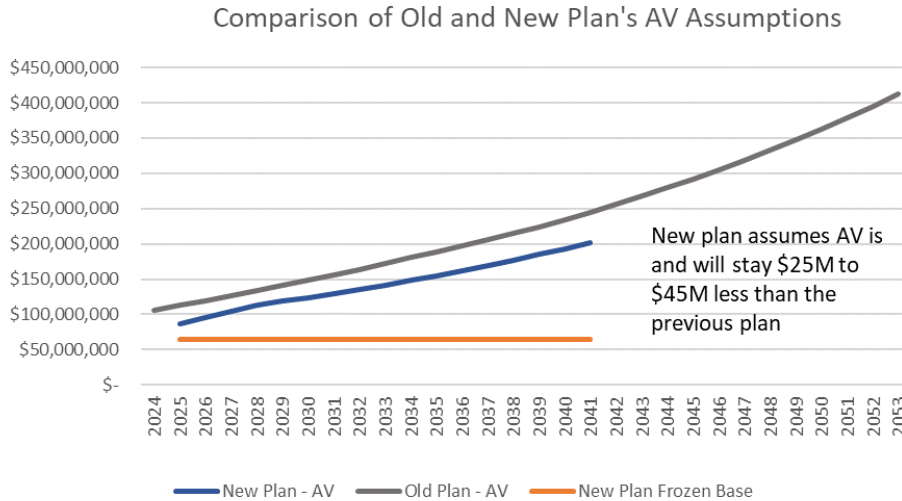


As shown above, the per-year impacts under the Plan on JCFD5 are about 60% of what they would have been under the original plan. The Report, however, lacks a meaningful analysis of the base assumptions regarding these tax increment revenues. The Report does not explain how assessed value assumptions were reached when determining tax increment revenues. For example, if assessed values increase faster than expected due to basic time value of money considerations, the financial impacts to JCFD5 will be greater in the near term until the tax increment hits the threshold where the state requires some of the lost revenues to be returned to JCFD5. Specifically, the graphs below illustrate undescribed and unsubstantiated assumptions regarding tax increment revenues based on expectations of assessed values.

### Assessed Value Projections







See Financial Assumptions Analysis, at 2. Without any sufficient explanation, the current Plan assumes assessed values will remain approximately \$25 million to \$45 million less than the original plan. These assumptions have not been addressed by TURA and have serious adverse financial impacts on JCFD5 as noted above. In contrast, the prior version of the Plan specifically accounted for the significant amount of redevelopment anticipated to occur in the early years of the Plan. Such development is comprised of rebuilding fire damaged properties and would occur irrespective of Plan adoption or the availability of tax increment funding. The current version of the Plan ignores the likelihood of increased near-term redevelopment and provides no explanation as to why such assumptions are omitted.

In summary, the financial analysis in the Report raises a lot of questions. If the data behind the projections is not included in the Report, a reader cannot determine what was shared during “conversations” with TURA and city staff. As a result, no one other than the author of the Report can determine whether the Plan is accurate and, as a result, feasible. Accordingly, the financial analysis of the Plan includes insufficient detail about its assumptions to determine the feasibility of the Plan as required in ORS 457.087(7).

### III. CONCLUSION

In conclusion, the Plan significantly reduces funds available for fire services and contains the above-described legal shortcomings. For these reasons, JCFD5 opposes the plan and asks the City to decline to adopt it. If the City adopts the Plan, JCFD5 respectfully requests that: (1) JCFD5’s fiscal budget be made whole through other TURA and City funding; (2) TURA’s annual tax increment receipts be capped at the projected amounts; (3) Plan adoption be referred to the voters; and (4) any future extension of the duration or maximum indebtedness of the Plan also require approval by the voters.