Exhibit D: City of Toledo

# INTERLOCAL AGREEMENT FOR CO-MANAGEMENT WITHIN THE UNINCORPORATED URBAN GROWTH AREAS

This agreement is made by and between Lewis County (herein after referred to as the "County"), political subdivisions of the State of Washington, and the City of Toledo (herein after referred to as the "City"), pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW.

## Section 1. Purpose

The purpose of this agreement is to provide for co-management of the urban growth area as it relates to zoning designations, land use and development pursuant to Lewis County Code 17.15. Nothing within this agreement supersedes state or federal laws and requirements.

## Section 2. Definitions

(A) "BOCC" means the Lewis County Board of County Commissioners.

(B) "Building" means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, as defined in LCC 17.10.020.

(C) "Capital investment" means any roadway or roadway feature exceeding $100,000 in construction cost which is approved by the County on or after the date of this agreement, and which is fifty percent (50%) or more completed during the effective dates of this agreement.

(D) "TMC" means Toledo Municipal Code.

(E) "Kennel" means any property at which 10 or more dogs over the age of six months with intact sex organs, or 20 or more dogs total, are kept for any purpose. However, the following locations are not kennels: (a) an animal hospital; (b) a grooming facility; and (c) a building used by a veterinarian to provide veterinary care but not boarding unrelated to veterinary care, as defined in LCC 6.15.010.

(F) "LCC" means Lewis County Code.

(G) "Planned Growth Committee" means an advisory board that provides advice to the Lewis County Board of County Commissioners ("BOCC") relating to the distribution of future population growth, designation of urban growth areas and amendments to the Countywide Planning Policies pursuant to Ch. 36.70A RCW; the Planned Growth Committee is comprised of one elected official, or their designee, from each incorporated city in Lewis County and the Chair of the BOCC.

(H) “Private road” means the private vehicular access provided for by an access tract, easement, or other legal means to serve three or more parcels that are privately owned and maintained, as defined in LCC 12.60.030.

(I) "Project permit application" means any land use or environmental permit or license required from the City or the County for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site- specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations. [RCW 36.70B.020(4)]

(J) “Rezone” means an amendment to zoning designations, including a site-specific rezone.

(K) "Roadway feature" means any improvement within, or adjacent to the right- of-way that materially supports roadway function, such as traffic signals, traffic control devices, roadway signage, bridges, drainage structures, and storm water facilities.

(L) "Urban Growth Area (UGA)" means the urban growth area adopted pursuant to RCW 36.70A.110 (Comprehensive plans - urban growth areas) as illustrated in Chapter 17.200 Maps of the Lewis County Code, and in conjunction the City’s adopted comprehensive plan. In the event of a conflict or ambiguity between the County’s Official Zoning Map and the City adopted comprehensive plan, the County Official Zoning Map shall control.

**Section 3. County and City authority within the unincorporated UGA.**

(A) County Authority. The County shall retain all administration and permitting authority for the following:

(1) Health and Safety. The County Board of Health shall retain all permitting, regulatory and enforcement authority, for its adopted codes and policies (RCW 70.05.060).

(2) Animals. County shall enforce Title 6 Lewis County Code within the unincorporated areas.

(2) Public Rights-of-Way. Pursuant to RCW 36.80, the County Engineer shall approve all construction within the public right-of-way.

(3) Shoreline Master Program. The County shall administer the county’s Shoreline

Master Program, Title 17.25, LCC, that is applicable to shoreline environments within the UGA.

(4) Frequently Flooded Areas. The County shall administer permits within an area of the Special Flood Hazard Area

(5) Critical Areas. The County shall administer the County's Critical Areas Ordinance, Title 17.38, LCC, within the unincorporated UGA.

(6) Land Use and Development. Pursuant to Chapter 17.15, LCC, the County adopts by reference the City zoning designations, as shown in Attachment A, and development regulations, as described in Attachment B of this agreement, or as amended by the City.

(7) Open burning and fireworks. Consistent with the County's legislative and policy power authority, the County shall administer all regulation of open burning, recreational fires, burn restrictions and burn bans, and fireworks.

(B) City Authority. The City shall be granted administration and permitting authority for the following:

(1) Title 8, Health and Safety, TMC, except 8.04, Nuisances, and as retained by the County under RCW 70.05.060.

(2) Title 15 Buildings and Construction, TMC.

(3) Title 18, Miscellaneous Land Use Regulation, TMC, except 18.04, Riparian Protection.

(C) Joint Authority. The County and City shall jointly share authority and administration for the following, as further described in Attachment C of this agreement; Attachment C may be revised by written agreement of the designated officials:

(1) Title 10, Vehicles and Traffic, TMC.

(2) Title 12, Streets, Sidewalks and Public Places, TMC.

(3) Title 13, Public Services, TMC.

(4) SEPA. The County shall retain Lead Agency status under the State Environmental Policy Act for any County-sponsored projects or private projects for which the County has retained administration and permitting authority, pursuant to (A) and (B) of this section of this agreement (e.g., subdivisions, special use

permits). The City shall be the Lead Agency for all other projects (e.g., fill and grade, building permits).

(5) Code Enforcement, Nuisance and Abatement. The County shall administer code enforcement for violations under their authority pursuant to (A) of this section. The City shall administer code enforcement for violations under their authority pursuant to (B) of this section. For all other, the County and City shall determine who is lead based on joint authority pursuant to (C) of this section and per Section 6.

**Section 4. Permitting Process.**

(A) Purpose. To ensure that all City and County applicable requirements are met.

(B) Procedure. See Attachment D for example flow charts; Attachment D may be revised by written agreement of the designated officials. The County shall review and approve all proposed development including land divisions, clearing and grading, site development and change of use, according to the following procedure:

(1) Single family residential, including accessory dwelling units, duplexes and triplexes, shall not require a pre-submission conference. Pre-submission (aka preapplication) conference shall only be required for multifamily residential, consisting of more than three (3) attached dwelling units, commercial, industrial or institutional development, or other complex development proposals that warrant a pre-submission conference. When a pre-submission conference is required, the County shall schedule the conference and shall invite the City departments of Community Development/Planning, Public Works and Utility as appropriate. The County shall provide meeting notes to all attendees.

(2) The applicant shall submit a Master Site Review (MSR) or Land Development Review (LDR) application to the County. If an applicant submits a building or construction permit to the City for any new structure, addition to an existing structure, clearing, fill or grading, without an approved MSR by the County, the City will direct the applicant to the County, except interior alterations or exterior alterations that do not increase nonconformity.

(3) The County shall determine if the proposal meets the applicable codes and polices, as described in Section 3 and Attachment(s), and shall submit to the City a Memo of Concurrence (see Attachment E; Attachment E may be revised by written agreement of the designated officials).

(4) Within 14 calendar days of receiving the Memo of Concurrence, the City shall complete and return the memo to the County. See Section 11, Dispute Resolution if the City does not concur with the County determination.

(5) The County will finalize the MSR or LDR and will include as conditions of approval all permits required prior to submitting a building or construction permit with the City. This may include permits from both the County and City, depending on authority granted until Section 3. The County shall provide a copy of the approved MSR or LDR to the City.

(6) The applicant shall submit a building or construction permit to the City and shall demonstrate that all conditions of MSR or LDR approval are met, including copies of any required County or City permits.

**Section 5. Utilities.**

The City agrees to make electric, sewer, water, stormwater and utility service available in the unincorporated UGA consistent with City regulations and provided there is adequate capacity and infrastructure in place to accommodate the service increase. Extension of utility services shall be at the cost of the developer and meet the requirements pursuant to Section 3 of this agreement.

**Section 6. Code enforcement.**

(A) Code enforcement in the unincorporated UGA shall be a cooperative effort between the City and the County and shall be coordinated through the designated official for each jurisdiction.

(B) Whenever the City or the County receives a code violation complaint within the unincorporated UGA, the designated official will notify their designated counterpart in writing within two (2) business days of receiving the complaint.

(C) The County shall conduct all investigations for violations of any code authority retained in Section 3(A) and in accordance with County code enforcement processes and procedures.

(D) The City shall conduct all investigations for violations of any code authority granted to the City in Section 3(B) and in accordance with City code enforcement processes and procedures.

(E) The City and County shall determine which jurisdiction shall conduct investigations for violation of any code under joint authority pursuant to Section 3(C) and in accordance with City or County code enforcement processes and procedures.

**Section 7. Fees and Charges.**

(A) Each jurisdiction shall charge appropriate fees based on the respective adopted fee schedules.

(B) The County shall retain any fees and charges for any project permit applications for authorities retained by the County under this agreement.

(C) The City shall retain any fees and charges for any project permit applications for authorities granted to the City under this agreement.

(D) Each party shall retain all code enforcement fees and penalties, court fines and other charges for code enforcementactions it takes within the unincorporated UGA.

**Section 8. Maintenance.**

The County shall be responsible for maintenance of public rights-of-way from curb to curb and stormwater facilities constructed to County standards. The City shall be responsible for maintenance of improvements in public rights-of-way from and including curbs to outer edge of the right-of-way, including but not limited to curb, gutter, sidewalk, lighting and illumination, and stormwater facilities constructed to City standards.

**Section 9. Development Agreements**

(A) The City and the County may execute development agreements within the unincorporated UGA as provided by WAC 365-196-845(17).

(B) All draft development agreements, including attachments, must be provided to the other jurisdiction for review and comment prior to approval of a final draft.

(C) Final draft development agreements shall be approved following the procedure below:

(1) The Lewis County Community Development Director shall provide the development agreement and a County recommendation to the BOCC. The BOCC may take such action on the development agreement as it deems appropriate.

(2) If the BOCC approves the development agreement, the agreement and City recommendation shall be provided to the City Council.

(3) If the BOCC rejects the development agreement, the agreement shall be renegotiated with involvement of both the County and City, and a revised agreement shall be provided to the BOCC.

(4) Any amendments to the development agreement shall be renegotiated by all parties and approved by both the BOCC and City Council.

(D) Upon annexation, the City shall assume all administrative duties for developer agreements executed within the affected area. In addition, developer obligations to the County under the developer agreement shall transfer to the City.

**Section 10. Annexations.**

(A) Annexation of Unincorporated Areas. Annexation of unincorporated areas shall conform to Chapter 35.13 and Chapter 35A.14 RCW. The City shall not create through annexation an unincorporated island, or a peninsula substantially surrounded by property within the city limits.

(1) Pursuant to RCWs 35A.14.296 and 35A.14.472, the City and the County may enter into separate interlocal agreements regarding annexation of specific unincorporated UGA into the city limits.

(2) When the City annexes a portion of the unincorporated UGA, the following procedures and requirements related to public rights-of-way shall be applied:

(a) Unless the County agrees to retain a specific road in County jurisdiction, the City shall annex the entire right-of-way of County roads adjacent to an annexation boundary and will assume full maintenance responsibility for those roads upon the effective date of annexation.

(b) Unless the County agrees to retain a specific section of road in County jurisdiction, the City shall annex the entirety of dead end and no outlet roads.

(c) As part of the interlocal agreement for annexation or as part of a separate agreement, the City and the County shall negotiate for reimbursement the depreciated value of capital road and/or stormwater construction projects completed during the 7-year period before annexation. Depreciation shall be based on a 7-year,

straight line depreciation.

(i) Prior to submitting a Notice of Intent to the Boundary Review Board, the City will contact the County and provide all information necessary for the County to produce a draft bill of expenses and the County will provide the draft bill of expenses to the City to begin negotiations.

(ii) The maximum amount of reimbursement shall be the value of the County's share of funds spent for the design and construction of the capital road and/or stormwater construction project, excluding grant funding or other outside funding sources.

(iii) Reimbursement shall not include costs incurred for routine maintenance expenditures.

(iv) The timing of payments shall be negotiated between the City and County before annexation occurs.

**Section 11. Agreement Oversight and Dispute Resolution.**

(A) Except for routine review, permitting, or code-enforcement cooperation (which may occur through any reasonable means), communications regarding this Agreement shall be in writing and hand delivered, sent by registered mail or email to the designated official of the jurisdiction for which it is intended:

(1) Designated Administrator for Lewis County: Community Development Director, or designee.

(2) Designated Administrator for City: City Manager, or designee.

(B) The City and the County mutually agree to use informal negotiation and/or mediation to resolve disputes for a minimum of 90 days if agreement cannot be reached on any provision of this agreement. After the 90-day period, any party may elect to utilize binding arbitration. Arbitration shall be conducted by a three-member panel, one member of which shall be selected by the City, one member shall be selected by the County, and the third member shall be selected by the other two members. The decision of the arbitration panel on the issue shall be final.

**Section 12. Hold Harmless.**

The City shall protect, hold harmless, and indemnify at its own expense, the County, its elected and appointed officials, officers, employees, and agents, from any loss or claim

for damages of any nature whatsoever arising out of the City's performance of this agreement. The County shall protect, save harmless, and indemnify at its own expense, the City, its elected and appointed officials, officers, employees, and agents, from any loss or claim for damages of any nature whatsoever arising out of the County's performance of this agreement. The City and County agree to provide a joint defense to claims of third parties alleging concurrent negligence of the City and County, and reserve claims against each other until such third-party claims are resolved.

**Section 13. Entire Agreement, Duration, and Termination**

(A) This instrument and any documents incorporated herein by reference constitute the entire agreement of the parties, and any representations or promises not contained herein shall not be binding.

(B) This agreement shall be binding upon and inure to the benefit of the parties hereto and all of their respective heirs, successors, and assigns. The terms, conditions, and warranties contained in this agreement that by their sense and context are intended to survive the completion of the performance, cancellation, or termination of this agreement shall so survive.

(C) This agreement shall remain in effect until June 30, 2035, which is the next periodic update cycle under the Growth Management Act, unless modified or terminated by written agreement of both parties.

(D) Either party may terminate this agreement at will after giving the other party at least 30 days' notice.

(E) If the agreement is terminated, all regulatory authority within the unincorporated UGA will revert to the County and the zoning designations shall be amended to be consistent with the Lewis County Comprehensive Plan. Legal nonconforming uses and development shall be allowed to persist but shall not be permitted to come further out of compliance.

**Section 14. Miscellaneous**

This agreement creates no new or separate entity, nor does it create any joint funding or property arrangements. No standards for division of jointly accrued property are necessary.

Time is of the essence for all terms, conditions, obligations, and duties set forth or referred to in this agreement.

**Section 15. Severability**

If any provision of this agreement or its application to any person or circumstance is held invalid,

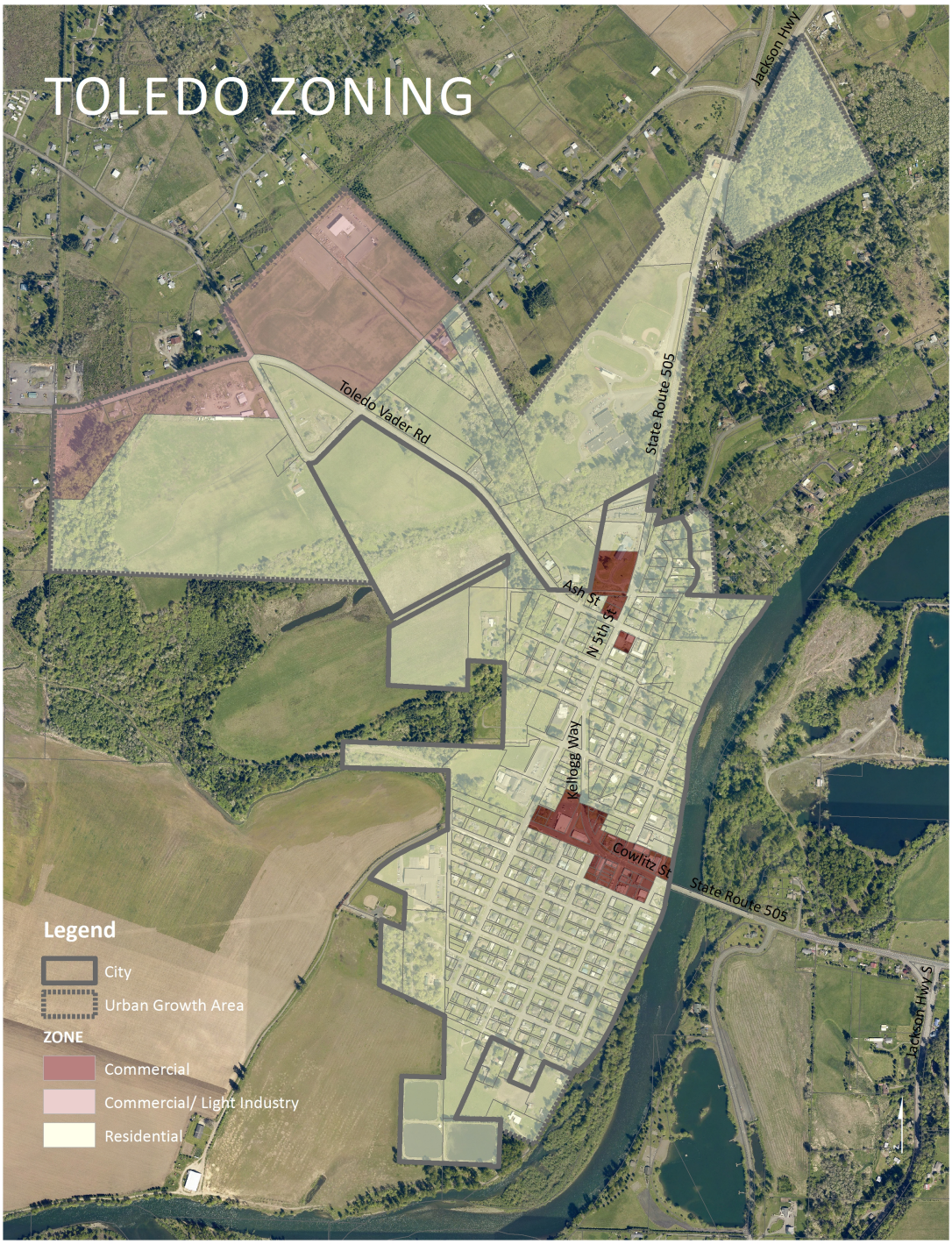
the remainder of the provisions and/or application of the provisions to other persons or circumstances shall not be affected.

**IN WITNESS WHEREOF,** the parties acknowledge they have read and understand this Agreement, they agree to its provisions, and that it will be effective on the date when both parties have signed.

| | |
|---|---|
| _____ date | _____ |
| City Manager | Ryan Barrett date<br>County Manager |
| APPROVED AS TO FORM: | APPROVED AS TO FORM:<br>Jonathan L. Meyer, Prosecuting Attorney |
| _____ | _____ |
| By: City Attorney date | By: Civil Deputy date |

**INTERLOCAL AGREEMENT**
**FOR CO-MANAGEMENT WITHIN THE UNINCORPORATED**
**URBAN GROWTH AREAS**
**ATTACHMENT A: City of Toledo Zoning Designations**

The zoning shown in this map is effective as of the date of this Interlocal Agreement. The zoning may be amended, and the official zoning map is on record with the City of Toledo.



**INTERLOCAL AGREEMENT**
**FOR CO-MANAGEMENT WITHIN THE UNINCORPORATED**
**URBAN GROWTH AREAS**
**ATTACHMENT B: Toledo Municipal Code**

The following Toledo Municipal Codes (TMC) titles, chapters, sections and subsection, now or as amended by the City of Toledo, are adopted by reference, except as clarified below. When the TMC does not apply, the Lewis County Code (LCC) shall prevail. For the purposes of this agreement, Site Plan Review and Master Site Review are the same; and Condition Use Permit and Special Use Permit are the same.

Title 10, Vehicles and Traffic

| | |
|---|---|
| 10.12 | Parking |

Title 12, Streets, Sidewalks and Public Places

| | |
|---|---|
| 12.04 | Street naming system |
| 12.08 | Sidewalk Repairs |
| 12.10 | Sidewalk regulation |
| 12.12 | Work permit for public rights-of-way |
| 12.20 | Parks and recreational areas |

Title 16, Subdivisions

| | |
|---|---|
| 16.04 | General Provisions, except 16.04.030, Application date, 16.04.070, Notice for public hearings, 16.04.080, Appeals |
| 16.06 | Transportation Facility Standards |
| 16.08 | Minor and Major Land Partitions |
| 16.12 | Subdivisions |
| 16.16 | Planned Development Procedures |
| 16.20 | Expedited Land Divisions, except 16.20.030 through 16.20.050 |
| 16.24 | Replating within subdivisions and partitions |
| 16.28 | Lot line adjustments |

Title 17, Zoning

| | |
|---|---|
| 17.04 | General Provisions |
| 17.08 | Single-family residential zones (R-S) |
| 17.12 | General residential zone (R-G) |
| 17.16 | Commercial zone (C) |
| 17.20 | Light Industrial zone (L-I) |
| 17.24 | Industrial zone (I) |
| 17.28 | Natural resource zone (N-R) |
| 17.32 | Water dependent zone (W-D) |

| | |
|---|---|
| 17.36 | Public lands zone (P-L) |
| 17.40 | Main street district overlay |
| 17.44 | Off-street parking and loading |
| 17.46 | Home occupation permits |
| 17.48 | Access and clear vision requirements |
| 17.52 | Landscape requirements for commercial, light industrial, industrial and water-dependent zones |
| 17.56 | Nonconforming uses and structures |
| 17.60 | Development review permits (called Master Site Reviews in Lewis County) |
| 17.64 | Condition use permits (called Special Use Permits in Lewis County) |
| 17.68 | Variances, except variances may be approved by the Lewis County Department of Community Development Director |
| 17.72 | Restrictive lot line covenants |

**INTERLOCAL AGREEMENT**
**FOR CO-MANAGEMENT WITHIN THE UNINCORPORATED**
**URBAN GROWTH AREAS**
**ATTACHMENT B: Joint Authority**

Lewis County and the City of Toledo shall shore joint authority regarding the following Toledo Municipal Code (TMC) titles, chapters, sections and subsections as described below. Within the public right-of-way (ROW), Lewis County Code (LCC) shall prevail.

Streets and Sidewalks. The public rights-of-way are the jurisdiction of Lewis County; however, Lewis County has adopted by reference the city's street standards.

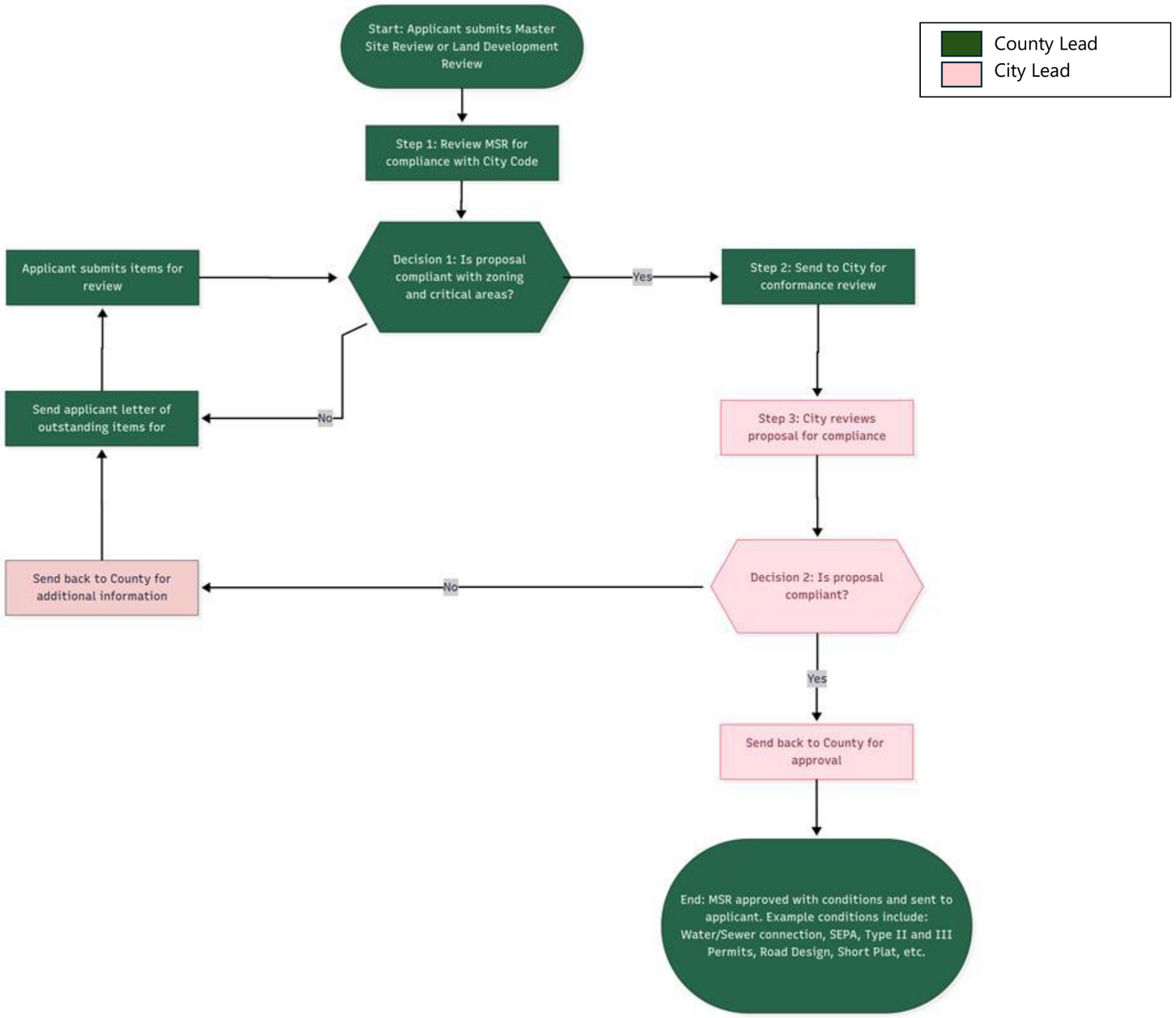
1. Road Approach Permits: owner/legal authority applies for the road approach permit Lewis County.
2. Road Construction Permits:
    a. Project is identified by County as needing a new road (public or private) during MSR and LDR processes.
    b. Applicant applies for Road Review with the City.
    c. City reviews road for conformance.
    d. City provides plans to applicant.
    e. Applicant submits to County Public Works.
    f. County Engineer signs plans and returns plans to applicant.
    g. Applicant provides singed plans to City.
    h. City issues Road Construction Permit.
    i. City inspects and finals road.

Water and Sewers. City of Toledo retains authority to implement regulations related to water and sewer services within the urban growth area, except placement of water and sewer within the ROW shall meet the regulations of both LCC and CMC. Maintenance of water and sewer infrastructure and service shall be the responsibility of the City of Toledo.

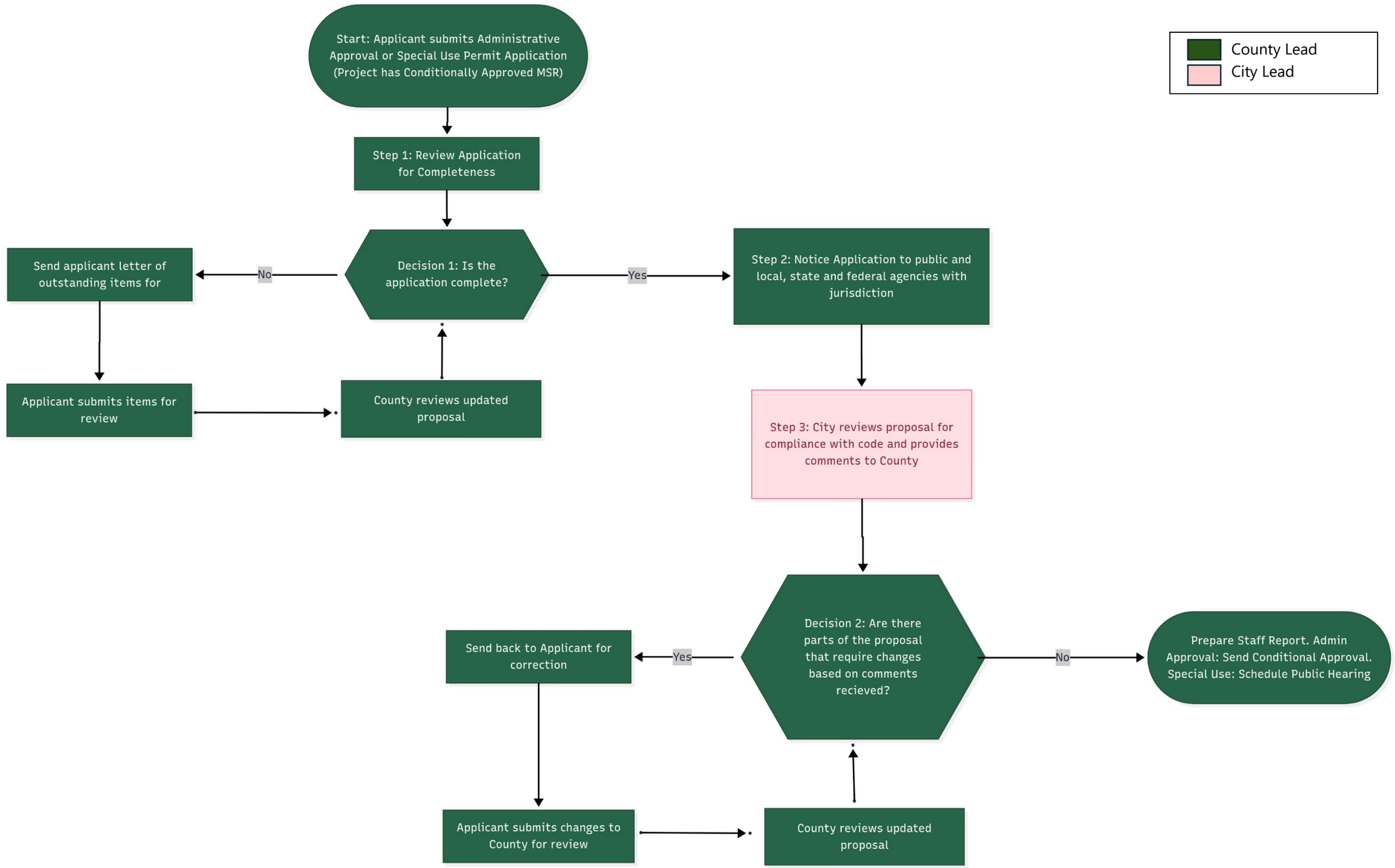
Public Utilities. Public utilities are provided by the City of Toledo, or other municipalities, within the urban growth area. City of Toledo retains authority to implement regulations related to public utilities within the urban growth area, except the placement of utilities within the ROW shall meet the regulations of both LCC and CMC. Maintenance of public utilities infrastructure and service shall be the responsibility of the City of Toledo.

**INTERLOCAL AGREEMENT**
**FOR CO-MANAGEMENT WITHIN THE UNINCORPORATED**
**URBAN GROWTH AREAS**
**ATTACHMENT D: Permit Process Flow Charts**

**Master Site Review & Land Development Review Process**



**Administrative Approval or Special Use Permit (aka Conditional Use Permit)**



**INTERLOCAL AGREEMENT**
**FOR CO-MANAGEMENT WITHIN THE UNINCORPORATED**
**URBAN GROWTH AREAS**
**ATTACHMENT E: Memo of Concurrence**

Pursuant to Section 4 of this agreement, the County shall provide a Memo of Concurrence to the City and the City shall return the signed form within 14 calendar days of receipt. See Section 10 of this agreement for dispute resolution. This is an example and is not the final Memo of Concurrence.

**Lewis County Community Development**
**Memo of Concurrence**

City of Jurisdiction:
Tax Parcel Number(s):
Site Address:
Owner Name:
Owner Address:
Owner Phone:
Applicant Name:
Applicant Mailing Address:
Applicant Phone:
Zoning Designation:
Project Description:

- ☐ Site Plan and documents attached

<u>County Analysis</u>
Does this project meet city zoning designations and development regulations? Y/N
Does this project meet setback requirements? Y/N
Was SEPA completed? Y/N

- ☐ Determination attached

Are there critical areas on the property? Y/N

- ☐ Reports attached

Is there shoreline justification on the property? Y/N

<u>Water Service</u>
Is there preexisting municipal water service?
Is new municipal water service required?

<u>Sewer Service</u>
Is there preexisting municipal sewer service?

Is new municipal sewer service required?
Other comments:

County recommendation:

- ☐ Approve
- ☐ Approve with conditions:
  - 
- ☐ Deny

☐ I certify that I, authorized city staff, have reviewed this form and attachments and concur with the County's recommendation.

| | |
|---|---|
| _____ | _____ |
| Signature Authorized City Staff | Printed Full Name |
| _____ | _____ |
| Title | Date |