BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

10:00 AM, MONDAY, NOVEMBER 16, 2026
DeArmond Room & Virtual - Deschutes Services Building - 1300 NW Wall St - Bend
(541) 388-6570 | www.deschutes.org

REVISED AGENDA

MEETING FORMAT: In accordance with Oregon state law, this meeting is open to the public and can be accessed and attended in person or remotely, with the exception of any executive session.

Members of the public may view the meeting in real time via YouTube using this link: http://bit.ly/3mmlnzy. ***To attend the meeting virtually via Zoom, see below.***

Citizen Input: The Board of Commissioners provides time during its public meetings for Citizen Input. Alternatively, comments may be submitted on any topic at any time by emailing or leaving a voice message at 541-385-1734.

When in-person comment from the public is allowed at the meeting, public comment will also be allowed via computer, phone or other virtual means.

Zoom Meeting Information: This meeting may be accessed via Zoom using a phone or computer.

- To join the meeting via Zoom from a computer, use this link: https://bit.ly/4bXfL6g.
- To join by phone, call 253-215-8782 and enter webinar ID # 160 497 4576.
- If joining by a browser, use the raise hand icon to indicate you would like to provide public comment, if and when allowed. If using a phone, press *9 to indicate you would like to speak and *6 to unmute yourself when you are called on.
- When it is your turn to provide testimony, you will be promoted from an attendee to a panelist. You may experience a brief pause as your meeting status changes. Once you have joined as a panelist, you will be able to turn on your camera, if you would like to.

***Time estimates**: The times listed on agenda items are estimates only. Generally, items will be heard in sequential order and items, including public hearings, may be heard before or after their listed times.*

CALL TO ORDER

APPROVAL OF AGENDA

CITIZEN INPUT

The Board of Commissioners provides time during its public meetings for Citizen Input. This is an opportunity for citizens to communicate to the Commissioners. Citizen Input is not available for matters that have closed records, are presently scheduled for a quasi-judicial public hearing, or are anticipated or likely to come before the Commissioners as a future quasi-judicial public hearing. Time is limited to 3 minutes.

The Citizen Input platform is not available for and may not be utilized to communicate obscene or defamatory material.

Note: *In addition to the option of providing in-person comments at the meeting, citizen input comments may be emailed to citizeninput@deschutes.org or you may leave a brief voicemail at 541.385.1734.*

COMMISSIONER ANNOUNCEMENTS

CONSENT AGENDA

1. Authorization to purchase a 2026 Caterpillar 950 loader
2. Adoption of Resolution No. 2026-045 approving updates to the Deschutes County Multi-Jurisdictional Natural Hazard Mitigation Plan
3. Approval of the minutes of the BOCC meetings of August 26 and 31, 2026

ACTION ITEMS

4. **10:10 AM** Public Hearing: Remand of McKenzie Meadow Village, LLC Plan Amendment and Zone Change Application – File No. 247-26-000606-A (original File Nos. 247-24-000839-PA, 840-ZC)

LUNCH RECESS

Continued ACTION ITEMS

5. **1:00 PM** Public Hearing: Application to change the Comprehensive Plan designation of 79 acres located at 22295 Rickard Road and rezone the property from Exclusive Farm Use to Rural Residential (Madison Mtn Development)
6. **2:00 PM** Finance Report for October 2026

7. **2:20 PM** Applications for Oregon Department of Transportation's Local Bridge Program

8. **2:35 PM** Fagen Rural Industrial Plan Amendment and Zone Change for four properties located on Tumalo Road

9. **2:50 PM** Work Session for upcoming Board consideration of Duplex Definition Text Amendments

10. **3:05 PM** Treasury Report for November 2026

11. **3:20 PM** Consideration to extend the written open record period for the Appeal of a Thornburgh Destination Resort Site Plan Review Application and the Appeal of a Thornburgh Destination Resort Modification

OTHER ITEMS

These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.

EXECUTIVE SESSION

At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories.

Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.

ADJOURN

Deschutes County encourages persons with disabilities to participate in all programs and activities. This meeting/event is accessible. Accommodations including sign and other language interpreter services, assistive listening devices, materials in alternate formats such as Braille, large print, electronic formats, or language translations are available upon advance request at no cost. Please make a request at least 24 hours in advance of the meeting/event by calling Brenda Fritsvold at (541) 388-6572 or send an email to brenda.fritsvold@deschutes.org.



El condado de Deschutes anima a las personas con discapacidad a participar en todos los programas y actividades. Esta reunión/evento es accesible. Hay disponibles servicios de intérprete de lengua de señas y de otros idiomas, dispositivos de escucha asistida, materiales en formatos alternativos como braille, letra grande, formatos electrónicos, traducciones o cualquier otra adaptación, con solicitud previa y sin ningún costo. Haga su solicitud al menos 24 horas antes de la reunión/el evento llamando a Brenda Fritsvold al (541) 388-6572 o envíe un correo electrónico a brenda.fritsvold@deschutes.org.

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Authorization to purchase a 2026 Caterpillar 950 loader

RECOMMENDED MOTION:
Move approval of Chair signature of Document No. 2026-0902, a Sales Agreement with Peterson Cat for the purchase of a 2026 Caterpillar 950 loader in the amount of $410,708.09.

BACKGROUND AND POLICY IMPLICATIONS:
The Department of Solid Waste has budgeted funds for a Caterpillar 950 loader for the Knott Transfer Station. This piece of equipment is needed for site operations.

Deschutes County is a member of Sourcewell, a national government agency cooperative purchasing program. The County often purchases fleet vehicles and heavy equipment through this program, which affords savings and preferred pricing as Sourcewell vendors are secured through competitively bid purchasing contracts. This loader will be purchased from Petersen Cat / Caterpillar Inc. through the Sourcewell procurement process.

BUDGET IMPACTS:
Funds are budgeted in the FY26-27 Equipment Reserve Fund 614 Solid Waste Department budget to purchase this equipment.

ATTENDANCE:
Jeff Merwin, Director of Solid Waste

SALES AGREEMENT

DATE

Document #2026-0902

PETERSON MACHINERY CO. 5450 NE Five Oaks Dr. Hillsboro, Oregon 97124 Tel: (503) 288-6411 Fax: (510) 352-4570

SOLD TO			SHIP TO
PURCHASER	DESCHUTES COUNTY ROAD DEPT		<SAME>
STREET ADDRESS	61150 27TH ST		
CITY/STATE	BEND, OR	COUNTY DESCHUTES	
POSTAL CODE	97702-9631	PHONE NO. 541 322 7101	
CUSTOMER CONTACT:	EQUIPMENT	- PHONE NO.	
	PRODUCT SUPPORT	- PHONE NO.	
INDUSTRY CODE:	GOVERNMENT COUNTY GOVERNMENT(843)	PRINCIPAL WORK CODE	F.O.B. AT: Redmond

CUSTOMER NUMBER	Sales Tax Exemption # (if applicable)	CUSTOMER PO NUMBER
1756150	N/A	

PAYMENT TERMS: (All terms and payments are subject to Finance Company - OAC approval)

NET PAYMENT ON RECEIPT OF INVOICE ☐		NET ON CAT CARD ☐		FINANCIAL SERVICES		☐ Cat Fi ISC ☐ LEASE	
CASH WITH ORDER	$0.00	BALANCE TO FINANCE	$0.00	INTEREST RATE	0		
PAYMENT PERIOD		PAYMENT AMOUNT	0.00	NUMBER OF PAYMENTS	0	OPTIONAL BUY-OUT	$0.00

DESCRIPTION OF EQUIPMENT ORDERED / PURCHASED

MAKE: CATERPILLAR MODEL: 950 YEAR: 2026

STOCK NUMBER: PM05725 SERIAL NUMBER: TN220406

950 WHEEL LOADER	590-6108	WINDOWS, STANDARD	651-8754	3V IMPLEMENT LINES (QC)	378-8421
LANE 3 ORDER	0P-9003	JOYSTICK 3V, STEERING JOYSTICK	632-7161	LUBRICATION, MANUAL, IND	590-6412
REGIONAL PKG 14C, AM-N, JSTK	658-0263	STEERING SYST, STD, JSTK	590-6264	SERIALIZED TECHNICAL MEDIA KIT	421-8926
INDUSTRIAL PACKAGE	656-7321	PRODUCT LINK, CELLULAR PLE643	641-7597	LIGHT, SEAT BELT LAMP	460-7450
LINKAGE, STANDARD LIFT	590-6206	CAMERA, REAR VISION	656-7352	LIGHT, WARNING BEACON	491-7467
COUNTERWEIGHT, AUXILIARY	632-7600	TECHNOLOGY, PAYLOAD, ASSIST	655-7162	LIGHTS, REVERSING STROBE	569-4049
AXLES, AUTO/OPEN, SGR, JSTK	654-1065	COOLING CORES, 6 FPI	567-4726	LIGHTS, SERVICE/ACCESS	590-6405
NO AXLE OIL COOLER	590-6312	FAN, REVERSING, VPF, ANSI	590-6144	CAMERA, DEDICATED REAR VISION	633-1827
HYDRAULICS, 3V RC STD/LOG	590-6152	ANTIFREEZE, -34C (-29F)	626-1926	GUARD, TILT CYLINDER	590-6354
QUICK COUPLER READY, STD	631-1548	OMISSION, RIMS ONLY	631-0642	GUARD, HINGED, POWERTRAIN	569-8171
HYDRAULIC OIL, STANDARD	654-1084	AIR INLET PRECLEANER, TRASH	365-0121	OIL CHANGE SYSTEM, HIGH SPEED	563-3741
STARTING, COLD (120V)	590-6273	FENDERS, NARROW	550-3413	FUEL ANTIFREEZE, -25C (-13F)	0P-3978
LIGHTS, LED, INDUSTRIAL	654-1080	SOUND SUPPRESSION, STANDARD	590-6240	TOOL BOX	558-0974
CAB, DELUXE, STRG JOYSTICK	655-7027	QUICK COUPLER, FUSION	617-6372	FILM, WASTE	468-0171
FILTRATION, STANDARD	658-0295	BKTA GP ST 115" 4.75YD3 FUS	661-1474	950 CPM	646-7625

TRADE-IN EQUIPMENT

MODEL: YEAR: SN.:

PAYOUT TO: AMOUNT: PAID BY:

MODEL: YEAR: SN.:

PAYOUT TO: AMOUNT: PAID BY:

MODEL: YEAR: SN.:

PAYOUT TO: AMOUNT: PAID BY:

MODEL: YEAR: SN.:

PAYOUT TO: AMOUNT: PAID BY:

ALL TRADES-INS ARE SUBJECT TO EQUIPMENT BEING IN "AS INSPECTED CONDITION" BY VENDOR AT TIME OF DELIVERY OF REPLACEMENT MACHINE PURCHASE ABOVE.

PURCHASER HEREBY SELLS THE TRADE-IN EQUIPMENT DESCRIBED ABOVE TO THE VENDOR AND WARRANTS IT TO BE FREE AND CLEAR OF ALL CLAIMS, LIENS, MORTGAGES AND SECURITY INTEREST EXCEPT AS SHOWN ABOVE.

SELL PRICE	$496,973.78
PDI, INSTALL WHEELS/TIRES, 60/5000 PHT EPP	$9,000.00
SOURCEWELL COOP CONTRACT DISCOUNT 18% OFF LIST	($89,455.28)
NET BALANCE DUE	**$408,380.32**
PETERSON ADDED DISCOUNT	($8,138.18)
SALES TAX (0.57%)	$2,327.77
AFTER TAX BALANCE	**$410,708.09**

☑ CATERPILLAR EQUIPMENT WARRANTY INITIAL

CATERPILLAR EQUIPMENT WARRANTY It is understood that no other warranties of any kind, whether expressed or implied, including any warranty of merchantability or fitness for a particular purpose, are or have been made or authorized by PETERSON with respect to any machinery, EQUIPMENT or other products described herein unless endorsed herein and signed by the parties hereto. No adjustments, repairs or replacements of any items sold hereunder, or assistance given by seller to buyer in connection with same, shall be deemed to be a waiver of any of the provisions of the aforesaid warranty. Below lists Warranty applicable for Sold EQUIPMENT including expiration date.

Warranty applicable including expiration date where necessary:

12 Month, Unlimited Hours

60 Month or 5000 Hour Powertrain, Hydraulic and Tech

☐ USED EQUIPMENT WARRANTY INITIAL

All used equipment is sold as is where is and no warranty is offered or implied except as specified here:

Warranty applicable:

CSA:

NOTES:

ADDITIONAL TERMS: THE UNDERSIGNED PURCHASER (IF MORE THAN ONE, JOINTLY AND SEVERALLY) HAVING BEEN QUOTED BOTH A TIME AND A CASH PRICE, HEREBY PURCHASES AND UNDERSIGNED SELLER HEREBY SELLS, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH ON BOTH SIDES HEREOF, THE ABOVE DESCRIBED EQUIPMENT, HEREIN FURTHER CALLED THE COLLATERAL. THE TERMS AND CONDITIONS HEREIN SET FORTH INCLUDING ALL TERMS AND CONDITIONS SET FORTH ON THE BACK HEREOF WHICH ARE HEREBY INCORPORATED HEREIN, ARE AGREED TO BY PURCHASER AND SELLER AND PURCHASER ACKNOWLEDGES THAT HE HAS FULLY READ THIS AGREEMENT, BOTH FRONT AND BACK PAGES, AND ASSENTS TO ALL OF ITS TERMS AND CONDITIONS

Peterson

ORDER RECEIVED BY Meyer, Shane

REPRESENTATIVE

PURCHASER

APPROVED AND ACCEPTED ON

DESCHUTES COUNTY ROAD DEPT

PURCHASER

BY

SIGNATURE

TITLE

CATERPILLAR®

DIGITAL AUTHORIZATION

CATERPILLAR TELEMATICS DATA AND CAT REMOTE SERVICES-SOFTWARE UPDATES PROCESS FOR SELECT PRODUCT LINK TELEMATICS AND CAT EQUIPMENT CONTROL MODULE SOFTWARE.

Customer equipment has installed devices that transmit data to Caterpillar Inc. ("Caterpillar").

Data transmitted to Caterpillar is used in accordance with Caterpillar's Data Governance Statement (**"DGS"**), which describes Caterpillar's practices for collecting, sharing and using data and information related to customer's machines, products, Devices or other Assets and their associated worksites. The DGS can be reviewed at https://www.caterpillar.com/en/legal-notices/data-governance-statement.html

Caterpillar's process for performing remote diagnostics and making available remote software and firmware updates and upgrades, such as configuration, patches, bug fixes, new or enhanced features, etc., for Assets and Devices is described in the Cat® Remote Services – Software Update Process for select Product Link™ Telematics and Cat Equipment Control Module Software document (the **"RSP Document"**) The RSP Document can be reviewed at https://www.cat.com/remoteservicesprocess?_ga=2.245276421.1412167159.1561985855-475983137.1559312215.

Company acknowledges and agrees to data transmission to Caterpillar via devices installed on Company equipment or by other means as outlined and described in the DGS, and grants to Caterpillar the right to collect, use, and share such information, including to its Distribution Networks or other affiliates, in accordance with the Caterpillar Data Governance Statement . Company's authorization also applies to any data and information previously collected by Caterpillar.

AGREE ☐

DECLINE ☐

Company acknowledges and agrees to participate in Remote Services (including, remote diagnostics and remote updates and upgrades) and authorizes Caterpillar to remotely access, program, and install updates and upgrades for Company's Assets and Devices in accordance with the Remote Services Process Document.

AGREE ☐

DECLINE ☐

The rights granted in this authorization survive the termination or expiration of the Company's subscriptions to any Digital Offerings. Except as set out in a written agreement between Company and Caterpillar expressly referencing the Data Governance Statement, this authorization supercedes and replaces any other authorizations with regard to the subject matter hereof.

Company

Company (Print)

Company Representative (Print)

Signature

Date

FOR DEALER USE ONLY
Company UCID
Company Representative CWS ID
Main Store Dealer Code
Dealer Representative Name
Dealer Representative CWS ID

TERMS AND CONDITIONS

1. The seller reserves the right to accept or reject this order and shall not be required to give any reason for non-acceptance.

2. This order when accepted by seller shall become a binding contract but shall be subject to strikes, lockouts, accidents, fire, delays in manufacture or transportation, acts of God, embargoes, epidemic, pandemic or other natural disasters, government action or any other causes beyond the control of the seller or otherwise affecting the supply chain, whether the same as or different from the matters and things hereinbefore specifically enumerated; and any of said causes shall absolutely absolve the seller from any liability to the purchaser under the terms hereof.

This order when accepted by seller shall be further subject to such changes in price, terms, delivery date, delivery priorities, and other conditions varying from the terms hereof as may be current when the within ordered machinery, equipment, attachments, and parts are ready for delivery. Purchaser shall be responsible for payment of all applicable fees, taxes and charges arising from or related to the purchase and sale of the equipment and goods described on the reverse side hereof, including, without limitation, any and all sales tax, use tax, surcharges, pass through charges (including state corporate activity taxes), environmental fees and service fees, along with any interest, finance charges or administrative fees that may accrue if and as a result of purchaser's failure to timely and/or properly pay amounts owing from purchaser when due.

3. It is understood and agreed that title to and right of possession of said equipment shall remain vested in seller until obligations of purchaser hereunder and payment of all other sums which may be due or are to become due from purchase to seller, whether evidenced by notes, book account, judgment, or otherwise, shall have been fully paid at which time ownership shall pass to the purchaser.

4. The seller's responsibility for shipments ceases upon delivery to a transportation company; and any claims for shortages, delays, or damages occurring thereafter shall be made by the purchaser directly to the transportation company. Any claims against the seller for shortages in shipments shall be made within fifteen days after receipt of shipment.

5. The purchaser agrees that this order shall not be countermanded by purchaser, that when it is accepted (and until the execution and delivery of the contract or contracts and note or notes required to consummate the sale as above specified), it will cover all agreements between the parties relative to this transaction, and that the seller is not bound by any representations or terms made by any agent relative to this transaction which are not embodied herein.

6. When the machines necessary to fill this order are available, the purchaser agrees on demand to execute and deliver to the seller such notes and contracts as may be required by the seller to evidence the transaction. In the event that the purchaser fails to execute and deliver said notes and contracts to the seller, the entire balance of the purchase price shall at the seller's option become immediately due and payable.

7. EQUIPMENT MANAGEMENT ELECTRONIC DATA / PRIVACY NOTICE. For EQUIPMENT equipped with Product LinkTM and Vision LinkTM, CUSTOMER understands that data concerning this machine, its condition, and its operation is being transmitted by Product Link to Caterpillar Inc., its affiliates ("Caterpillar"), and or its dealers to better serve CUSTOMER and to improve upon Caterpillar products and services. The information transmitted may include: machine serial number, machine location, and operational data, including but not limited to: fault codes, emissions data, fuel usage, service meter hours, software and hardware version numbers, and installed attachments. Caterpillar will not sell or rent collected information to any other third party and will exercise reasonable efforts to keep the information secure as Caterpillar recognizes and respects CUSTOMER's privacy. Information regarding Caterpillar's data governance and the remote services that may be a part of the EQUIPMENT, can be found at https://www.caterpillar.com/en/legal-notices/data-governance-statement.html and https://www.cat.com/en_US/support/technologysolutionsnew/remoteservicesprocess.html as applicable, or by contacting Caterpillar at CatConnectSupport@cat.com. CUSTOMER acknowledges, understands and agrees that any questions or requests for information regarding ongoing collection of data and information by Caterpillar or its participation in Caterpillar Remote Services, including any questions or requests to opt out of such processes or programs should be directed to Caterpillar at the email listed above. By executing this Agreement, CUSTOMER understands these disclosures and agrees to allow this data to be accessed by Caterpillar and/or its dealers.

8. The seller shall not be held liable or responsible for any costs or expenses or for any damages on account of personal injuries or injuries to property or otherwise, suffered or sustained in the operation of any machinery or equipment, the subject of this order, nor for any damages alleged to result to purchaser by reason of any delays or alleged failure of said machinery or equipment to operate.

9. The purchaser agrees that damages arising from failure to consummate the sale contemplated by this agreement may be difficult to measure and that a reasonable measure of damages will be the difference between the price set forth herein and the amount for which the equipment can be sold to another party, plus any costs, charges, and related expenses that may be incurred by the seller to hold, store, and maintain the equipment until a sale can be made.

10. Purchaser and seller agree that in the event it becomes necessary to undertake legal action to enforce any of the terms of this agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs. "It is agreed by and between the customer and Peterson that all disputes and matters whatsoever arising under, in connection, or incident to this agreement shall be litigated, if at all, in or before a Court located in the State of incorporation of the seller to the exclusion of the Courts of any other state or country."

11. Should this order pertain to any used machinery or equipment, the following additional terms shall apply:
(a) Seller makes no representation as to the quality or functionality of such used machinery and equipment which is being sold "AS-IS".
(b) Seller makes no recommendations as to the use of equipment by Buyer.
(c) Buyer agrees that all equipment is purchased solely at risk of Buyer.
(d) Buyer hereby releases, discharges, and covenants not to sue Seller and will hold Seller free and harmless from all liability, claims, demands, losses, damages and costs ("claims") caused or alleged to be caused in whole or in part by the equipment purchased. Buyer further agrees that if any claim is made against Seller, Buyer will defend, indemnify, save, and hold harmless Seller from any and all loss, liability, damages, or costs which may be incurred as the result of such claim(s).

12. Purchaser will promptly pay to seller any taxes that seller is required to collect with respect to the equipment and machinery, any tariff(s) the seller is required to pay for the equipment and machinery, and any amounts payable by purchaser under the first page hereto, including, but not limited to, value added, personal property, sales, use, excise and similar taxes, import tariffs, duties and charges of any kind imposed by any federal, state or local governmental entity, and any changes to such taxes or tariffs that occur after this agreement is executed (collectively, "Taxes"). For any Taxes from which purchaser claims exemption, purchaser shall provide seller with properly completed exemption certificates and any documentation needed to validate the exemption. If purchaser fails to provide an appropriate exemption certificate and supporting documentation, as determined by seller, purchaser will remain liable for all such Taxes and will indemnify seller for any liability related to the same.

13. Please read the Cat® Embedded Software License Agreement ("Agreement") carefully, available at: Caterpillar | Cat® Embedded Software License Agreem
The agreement governs your access to and use of software installed, embedded or otherwise resident on Cat® products, and all related documentation and pr
data (see the agreement for comprehensive definitions).

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Sourcewell

Solicitation Number: RFP # 011723

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and **Caterpillar Inc.**, 100 NE Adams Street, Peoria, IL 61629 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for **Heavy Construction Equipment with Related Attachments and Technology** from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

A. EFFECTIVE DATE. This Contract is effective upon the date of the final signature below.

B. EXPIRATION DATE AND EXTENSION. This Contract expires April 14, 2027, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.

C. SURVIVAL OF TERMS. Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

A. EQUIPMENT, PRODUCTS, OR SERVICES. Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

Caterpillar: Confidential Green

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Pursuant to Section 10(b), Supplier will subcontract certain obligations under this Contract to its dealers. Only those dealers that sign a Participation Agreement with Supplier obligating them to comply with the terms of this Contract will be eligible to provide Equipment, Products, or Services as a subcontractor under this Contract. In the event there is no dealer who has entered into a Participation Agreement available to provide Equipment, Products, or Services to a Participating Entity, Supplier will be under no obligation to provide Equipment, Products, or Services to such Participating Entity under this Contract. Supplier will provide a copy of this Contract to its dealers that would normally service Participating Entities and invite such dealers to enter into a Participation Agreement as a subcontractor of Supplier under the terms of this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY. Supplier warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the percentage list discount stated in the supplier's proposal.

Upon request made to a participating CAT dealer, from a Participating Entity identifying themselves as a Sourcewell member by providing their Sourcewell member number and contract number; formal quotes will list all costs, including all delivery expenses, such as freight and permits (when required).

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Alternatively, Participating Entities may choose to make their own transportation arrangements. In such case, there would be no delivery charges from the local participating Cat dealer.
Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. SALES TAX. Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

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4. PRODUCT AND PRICING CHANGE REQUESTS

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Supplier Development Administrator. This approved form is available from the assigned Sourcewell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and will be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities. Supplier may not enter into a contract with a U.S. Federal Government entity prior to obtaining necessary internal approvals and shall not be obligated to provide Equipment, Products or Services to any U.S. Federal Government entity under this Contract unless separately agreed in writing. Caterpillar may work with such parties and may agree to provide equipment or services under the Contract on a case-by-case basis.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities

to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Participating Dealers with payments made to the Participating Dealers. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier's Participating Dealer, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum, the terms of which will be negotiated directly between the Participating Entity and Supplier's Participating Dealer or its authorized dealers, distributors, or resellers, as applicable. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. SPECIALIZED SERVICE REQUIREMENTS. In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

E. GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. Supplier will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, performance issues, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcewell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;

- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Supplier will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

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10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. AUDIT. Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. ASSIGNMENT. Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid. Provided, however, that Supplier is permitted to subcontract certain of its rights and obligations to Supplier Participating Dealers for performance without Sourcewell's prior written consent.

C. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. WAIVER. Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. CONTRACT COMPLETE. This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. INDEMNITY AND HOLD HARMLESS

Intentionally omitted.

12. GOVERNMENT DATA PRACTICES

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell

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under this Contract and as it applies to all data created, collected, received, maintained, or disseminated by the Supplier under this Contract.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. Intentionally Deleted.

B. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. MARKETING. Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. ENDORSEMENT. The Supplier must not claim that Sourcewell endorses its Equipment, Products, or Services.

14. GOVERNING LAW, JURISDICTION, AND VENUE

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending*. Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:
$500,000 each accident for bodily injury by accident
$500,000 policy limit for bodily injury by disease
$500,000 each employee for bodily injury by disease

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2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:
$1,000,000 each occurrence Bodily Injury and Property Damage
$1,000,000 Personal and Advertising Injury
$2,000,000 aggregate for products liability-completed operations
$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:
$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:
$2,000,000

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds. A Participating Dealer may name a Participating Entity as an additional insured on a case-by-case basis.

WAIVER OF SUBROGATION. Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors.

D. UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Supplier's Participating Dealers must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Participating Dealer conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

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Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Intentionally omitted.

22. CANCELLATION

Sourcewell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz
Title: Chief Procurement Officer

Date: 5/5/2023 | 9:41 AM CDT

Approved:

DocuSigned by:
By: Chad Coauette
7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO

Date: 5/24/2023 | 12:16 PM CDT

Caterpillar Inc.

DocuSigned by:
By: Patrick Kearns
68A87926721B4E0...
Patrick Kearns
Title: Vice President Sales & Marketing, Construction Industries

Date: 5/24/2023 | 9:13 AM PDT

DocuSign Envelope ID: 9AA872AA-9802-4A6D-8065-BECD9EB74C88

RFP 011723 - Heavy Construction Equipment with Related Attachments and Technology

Vendor Details

Company Name:	Caterpillar Inc
Address:	100 NE Adams St Peoria, IL 61629
Contact:	Sean Egel
Email:	egel_sean_j@cat.com
Phone:	309-675-1399
HST#:	

Submission Details

Created On:	Tuesday November 15, 2022 14:22:18
Submitted On:	Tuesday January 17, 2023 16:10:22
Submitted By:	Sean Egel
Email:	egel_sean_j@cat.com
Transaction #:	aeaa61ae-0c73-4610-8208-b80e2e0b4448
Submitter's IP Address:	192.189.129.23

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond “N/A” if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *	
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	Caterpillar Inc.	*
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	N/A	*
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	N/A	*
4	Provide your CAGE code or Unique Entity Identifier (SAM):	11083	*
5	Proposer Physical Address:	5212 N O'Connor Blvd Ste. 1100, Irving, TX 75039	*
6	Proposer website address (or addresses):	https://www.caterpillar.com/, https://www.cat.com/en_US.html	*
7	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the “Proposer’s Assurance of Compliance” on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Primary Contact: Patrick Kearns Title: Vice President Sales & Marketing Address: 100 NE Adams St, Peoria, IL 61629 Email: Kearns_Patrick@Cat.Com Phone: (309) 675-5181	*
8	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Primary Contact: Sean Egel Title: Governmental Sales Consultant Address: 100 NE Adams St, Peoria, IL 61629 Email: Egel_Sean_J@Cat.Com Phone: (309) 675-1399	*
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Primary Contact: Marta Sevilla Title: Governmental Marketing Manager Address: 100 NE Adams St, Peoria, IL 61629 Email: Sevilla_Marta_E@Cat.com Phone: (309) 578-1150	

Table 2: Company Information and Financial Strength

Line Item	Question	Response *	

10	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	The history of Caterpillar is all about doing: creating, building, problem s innovating, testing, servicing and improving. We're proud of the ingenious machines that are part of our rich heritage. More importantly, we are proud of the people who founded and built the company one breakthrough at a time. Beginning with Benjamin Holt and C. L. Best, the people of Caterpillar have always been - and continue to be - extraordinary. In 1925, when Holt and Best merged to form their new tractor company, they used the name so familiar to people around the world: Caterpillar. The Caterpillar Tractor Company is today known as Caterpillar Inc. With 2021 sales and revenues of $51.0 billion, Caterpillar Inc. is the world's leading manufacturer of construction and mining equipment, off-highway diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives. For nearly 100 years, we've been helping customers build a better, more sustainable world and are committed and contributing to a reduced-carbon future. Our innovative products and services, backed by our global dealer network, provide exceptional value that helps customers succeed. Caterpillar does business on every continent, principally operating through three primary segments – Construction Industries, Resource Industries and Energy & Transportation – and providing financing and related services through our Financial Products segment. Our Worldwide Code of Conduct, first published in 1974, defines what we stand for and believe in, documenting the uncompromisingly high ethical standards our company has upheld since its founding in 1925. The Code helps Caterpillar employees put our values and principles into action every day by providing detailed guidance on the behaviors and actions that support our values of Integrity, Excellence, Teamwork, Commitment and Sustainability. Caterpillar's Code of Conduct that can be found at https://www.caterpillar.com/en/company/code-of-conduct.html	*
11	What are your company's expectations in the event of an award?	Caterpillar is honored to have served Sourcewell and its members who have purchased Cat® construction equipment, attachments (work tools), and electrical power generation products through Sourcewell since 2008. Furthermore, we are proud to have earned the Sourcewell Legacy Award in 2019, and have recently been awarded contracts 060122-CAT and 092222-CAT. Caterpillar's expectations in the event of an award would be to focus on customer needs and continued growth across all governmental segments. Sourcewell has built a strong reputation within the industry that has shown the importance of how this cooperative contract delivers upon customer needs. This contract will be a top factor in our go to market strategy within our strong Cat dealer network. If awarded, we will send out an email to our entire sales force, applicable to governmental, introducing the contract along with ways to train our salesforce, market, and grow the contract. We look forward to the opportunity to further grow business and serve member needs together in this new Heavy Construction Equipment RFP opportunity.	*
12	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	Caterpillar Inc. is a publicly traded company, and as such, its financial information is updated quarterly and available at: https://investors.caterpillar.com/overview/default.aspx Caterpillar's 2021 Annual Report provides details about our financial position. Our SEC filing documents can be found at: https://investors.caterpillar.com/financials/sec-filings/default.aspx. Both documents are included as attachments in our Financial Strength and Stability Documents. As 2022 results are yet to be released, below you can find a summary of our full year 2021 financials. In 2021 full year sales and revenues were $51B of which, North American sales were $22B. Operating profit was $6.9B with a profit per share of USD $11.83. Dividends paid per share of USD $4.28.	*
13	What is your US market share for the solutions that you are proposing?	Caterpillar is a significant contributor to the overall Heavy Equipment sector within the US and Canada. Market share information beyond what is made publicly available through our annual reports is considered confidential.	*
14	What is your Canadian market share for the solutions that you are proposing?	Caterpillar is a significant contributor to the overall Heavy Equipment sector within the US and Canada. Market share information beyond what is made publicly available through our annual reports is considered confidential.	*
15	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No.	*

16	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	Caterpillar is a world class manufacturer which distributes products throu and capable independent dealer network. Our dealers are strong independently owned companies and in North America alone our 47 dealers have a combined net worth of billions of dollars. Their large valuation is a competitive advantage because it allows them to have the infrastructure to support customers regardless of location, industry, fleet size, or application. Another advantage of independently owned dealers is that they know their customers and market well. They tailor their services specifically to their customers' needs. Although we will sign this contract as a manufacturer, our Cat dealers will be given the opportunity to avail themselves of the opportunity presented by the contract and will execute all the transactions with governmental customers as they do today. This includes but is not limited to consultation, quoting, accepting payment, delivery, warranty support, parts sales, and service. Caterpillar dealers heartily embrace the other Sourcewell contracts currently available to them (032119-CAT, 092222-CAT, 062320-CAT, 060122-CAT). They have all been trained on contract usage. In fact, the current Heavy Equipment contract is leveraged by 95% of our dealers in North America. Caterpillar offers specific discounts to Sourcewell members. By using any Sourcewell Contract, our dealers agree to honor those discounts.	*
17	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	Caterpillar and its subsidiaries operate across the globe in a variety of markets that require Caterpillar to adhere to all locally mandated laws and regulations in order to do business. With regards to the territories covered by this RFP, Caterpillar will comply with applicable laws in order to do business in the territories described herein. As an equipment manufacturer focused on quality, Caterpillar created the Caterpillar Quality Management System, which is a process-based, ISO 9001:2015 compliant quality management system used throughout Caterpillar to continually improve the quality of our products and services to meet customer, statutory, and regulatory requirements. It is registered with IRCA (International Register of Certificated Auditors) as Caterpillar Quality Management System CAT791A.	*
18	Provide all “Suspension or Debarment” information that has applied to your organization during the past ten years.	N/A	*

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *	

19	Describe any relevant industry awards or recognition that your company has received in the past five years	Please note: To list all the awards received in the past 5 years would u lengthen our response. For brevity, we are highlighting some recognition received in 2020, 2021 and 2022. Also note there are many global awards. Fortune Magazine #78 on the Fortune 500 2021 Fortune Magazine World's Most Admired Companies World & North America Dow Jones Sustainability Index Forbes Best Employers for diversity 2020 and 2021 #82 Best Global Brands- Interbrand 2021 The Wall Street Journal Best Managed Companies in 2020 and 2021 The Wall Street Journal World's Most Sustainably Managed Companies Human Rights Campaign Foundation Corporate Equality Index Dow Jones Sustainability Index (World and North America) 21 years World's Most Sustainably Managed Companies – The Wall Street Journal United Way World Wide's Global Corporate Leadership Program U.S. President's Volunteer Service Award from Junior Achievement Corporate Equality Index – Human Rights Campaign Foundation CSR China Top 100 – the 4th CSR China Education Award (China) China CSR Excellence Award – China Philanthropy Times (China) Corporate Social Responsibility Research Center of Southern Weekly (China) Outstanding Contribution to Poverty Alleviation – China Foundation for Poverty Alleviation (China) 2020 Global 500 – Fortune Magazine America's Most Responsible Companies 2020, 2021 & 2022 – Newsweek Best-Managed Companies of 2020 & 2021 – The Wall Street Journal Top Companies for Customer Satisfaction – The Wall Street Journal The CEO Leaderboard: COVID-19 Reputation Rankings – SJR All-America Executive Team – Institutional Investor Top 150 Global Licensors – Global License Best Global Brands Top 100 – Interbrand World's Most Valuable Brands 2020 – Forbes 2020 Best Places to Work for Disability Inclusion – Disability Equality Index World's Best Employers 2020 – Forbes Best Employers for Women 2020 – Forbes America's Best Employers by State 2020 – Forbes America's Best Employers for Diversity 2020 – Forbes Best Employers for New Grads 2020 – Forbes Global 2000 – Forbes 2020, 2021 & 2022 Best Employers for Veterans 2020 and 2021– Forbes Top Veteran-Friendly Company – U.S. Veterans Magazine #1 Great Place to Work – Great Place to Work Institute (Brazil) #1 Great Place to Work in the Ag Business - Great Place to Work Institute (Brazil) Chile's 20 Best Places in 2020 to Work for LGBTQ Equality, pwc Human Rights Campaign Top of Mind Company "Industry category" (Piracicaba, Brazil) Certification on Promoting Work-Life Balance in Hyogo Prefecture – Hyogo Work and Life Center (Japan) Hyogo's Women's Success in Business Promotion Company – Hyogo Women Empowerment & Promotion Center (Japan) Hanada Award for WIN Akashi – Hyogo Women and Future Association (Japan) Hyogo Childcare Supporting Company Award (Japan) Science & Technology Industry Summit: Outstanding Contribution – The Economic Observer (China)	*
20	What percentage of your sales are to the governmental sector in the past three years	The governmental and educational sector is extremely important to Caterpillar. We have a dedicated team to support governmental customers and their specific needs. However, percentage of sales to governmental is considered confidential.	*
21	What percentage of your sales are to the education sector in the past three years	The governmental and educational sector is extremely important to Caterpillar. We have a dedicated team to support governmental customers, including the education sector, and their specific needs. However, percentage of sales to education is considered confidential.	*
22	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	While Cat dealers would typically hold contracts with states and provinces, as an exception Caterpillar holds the state contract with Ohio and NY. Additionally, we are contract holders with OMNIA and NASPO ValuePoint. Just as we would never share Sourcewell sales information with other cooperatives, we also keep the sales volumes from other cooperatives confidential.	*

23	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	Listed below are the current GSA contracts that Caterpillar holds: SIN 333924 Utility Trucks and Tractors: 2020=$6,857,211 2021=$14,071,364 SIN 333120 Street Repair and Cleaning Equipment and Attachments: 2020=$0 / 2021=$143,837 SIN 335999 Power Distribution Equipment: 2020=$151,267.70 / 2021=$9,473.07 These contracts are used by Caterpillar, but we do not allow our dealers to use GSA contracts. Final sales for the year 2022 have yet to be fully reported.	*

Table 4: References/Testimonials

Line Item 24. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *	
Baltimore County, MD	Jamie Donahue	410-952-6981	*
Washington DC Fleet	Greg Harrelson	202-437-3799	*
Town of Scituate Mass.	Kevin Cafferty	781-545-8732	*

Table 5: Top Five Government or Education Customers

Line Item 25. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
Virginia Department of Transportation - Central	Government	Virginia - VA	State Department of Transportation for Virginia. Caterpillar requests that Sourcewell treat the information in this table as confidential.	Purchased 41 units.	$12,321,972	*
State of Idaho	Government	Idaho - ID	State of Idaho. Caterpillar requests that Sourcewell treat the information in this table as confidential.	Purchased 39 units.	$10,304,218	*
Alaska Department of Transportation	Government	Alaska - AK	State Department of Transportation for Alaska. Caterpillar requests that Sourcewell treat the information in this table as confidential.	Purchased 37 units.	$12,176,875	*
Arkansas State	Government	Arkansas - AR	State of Arkansas. Caterpillar requests that Sourcewell treat the information in this table as confidential.	Purchased 28 units.	$10,053,000	*
Suwannee County	Government	Florida - FL	A county local to Florida. Caterpillar requests that Sourcewell treat the information in this table as confidential.	Purchased 26 units.	$6,567,420	*

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *	

26	Sales force.	The Cat dealer salesforce is highly capable and trained in the constructio The Cat dealer salespeople are consultants to their customers and advise their customers on the best solutions for their application and job. As a manufacturer we request our dealers to follow strict training protocols to ensure our sales force remains current on all product updates. Specifically, as it relates to governmental sales, each dealer has one or more people named to be a key liaison between us as manufacturer and their dealer sales team. They're offered additional in depth training on Sourcewell and ensures that all contract terms are followed. Caterpillar has Operational Excellence Programs that recognize dealers' excellence in marketing and sales processes and operations, among other areas of the business. In North America, our dealers employ more than 53,000 people across the machine, energy, parts and service divisions. The dealer sales teams are supported by a network of Caterpillar professionals. Each dealer has in territory support of 5 to 8 Caterpillar sales/marketing employees. It is the responsibility of these people to ensure that the dealer and Caterpillar are working well together to constantly improve and to adapt to marketplace changes. Beyond the territory experts, the sales and marketing department at Caterpillar is staffed by more than 600 people whose mission is to focus on customer satisfaction. Even more are employed "behind-the scenes" to ensure industry leading product design, up to date product information, and maintaining the ease of doing business in an increasingly connected marketplace.	*
27	Dealer network or other distribution methods.	The Cat dealer network is key to the success of our company. Boasting over 160 dealers throughout 193 countries worldwide, the Cat dealer network is widely considered to be the best in industry. Within Canada and the United States, we have 47 dealers and more than 800 dealer owned locations that sell and rent equipment. Please refer to our directory listing of Cat dealer locations and our easy to view locations map in the attached "Additional Documents" zip file. Cat dealers are independently-owned. Each dealer has multiple branches and a mobile service fleet than can serve customers regardless of location. These are full physical locations our governmental customers can use. Because of the size of Cat dealers, they are exceptionally capable to serve governmental customers. Dealers have trained specialists that cover many industries including heavy equipment. Collectively, Cat dealers' large net worth permits them to stock a high volume of replacement parts - allowing governmental customers the fastest turnaround on parts availability and repair time. Cat dealers recognize the importance of governmental business to their overall success and they each have one or more governmental specialists whose job it is to serve governmental agencies well. Please refer to the Cat dealer locations map included in "Additional Documents". Additionally, you can leverage https://www.cat.com/en_US/support/dealer-locator.html to locate dealers by location.	*

28	Service force.	At Caterpillar we are very proud of the saying "The sales department sel machine; the service department sells every one after that." The Cat dealer network in North America collectively employs more than 20,000 factory trained technicians, parts experts, product support managers and other service-oriented staff. These subject matter experts are supported by the best repair shop equipment and materials. As machines and engines are constantly updated, so too are our service experts. We conduct product-specific training every week of the year. Technician shortage is an industry-wide concern, but because Cat dealers are large, long established companies, they can offer strong compensation and benefit packages that encourage the best people to seek employment and to retain them once hired. Caterpillar works very closely with dealers and through a program called "ThinkBIG", we are able to keep the pipeline of high quality employees full. ThinkBIG is a Caterpillar-specific instructional program that pays the student while they train to become a technician. It is a 2-year program with lab and classroom work, and a paid internship at a sponsoring Cat Dealer. As a result, the student will graduate with an accredited degree backed with over 2,000 hours of work experience. In addition to the technicians and mechanics that work on the machines directly, each dealer has a service support staff that includes customer-facing consultants who are responsible for working with customers to set up maintenance and repair schedules to ensure the best possible up-time. Collectively, service support staff makes up the bulk of each dealers' staff. Roughly half of their personnel investment goes to ensuring customer success via product support. The dealer service teams are supported by a network of Caterpillar professionals. Each dealer has in territory support of 5 to 8 Caterpillar parts/service employees. It is the responsibility of these specialists to ensure that the dealer and Caterpillar are working well together to constantly improve and to adapt to marketplace changes. Beyond the territory experts, the service and support groups at Caterpillar are staffed by thousands of people whose mission is to focus on post-sale customer satisfaction. Even more are employed "behind-the-scenes" to ensure technical literature is up to date, service standards are adhere to and repair questions are answered quickly. We exceed our 95% 2-hour response rate target in responding to dealer service inquiries.	*
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	Our simple order process has been and will continue to be well appreciated by Sourcewell and Sourcewell members: 1) When a member decides to purchase a new Cat machine, they simply include their Sourcewell member number on the Purchase Order they issue to the Cat dealer. 2) The Cat dealer then accepts the PO, issues the invoice, accepts payment and delivers the machine. 3) After the machine has been delivered, the dealer, as part of their normal process, includes the member number when filing their sales claims with Caterpillar. 4) At month's end, Caterpillar aggregates these reports and sends the sales information quarterly to Sourcewell along with the administrative fee. IMPORTANT NOTE: Should a member wish to include additional terms and conditions to this contract, or to otherwise request a Participating Addendum, that agreement / PA should be executed between the member and Cat dealer directly.	*

30	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	We are proud that our reputation stands on having the best customer su industry. In fact, our capabilities are industry leading. In the event a customer ever has a problem or issue with a machine, their Cat dealer is empowered to resolve that issue locally. If the problem is a result of a defect in material or workmanship, within the standard warranty period, the local Cat dealer will work with Caterpillar to apply the appropriate warranty, and keep the customer informed. Every Cat dealer has a common detailed service process in place. Caterpillar supports and verifies that all the dealer service technicians are supplied with the tools and equipment needed to repair all Cat products. Technicians have access to an electronic library of technical information including Service Letters, Technical Information Bulletins, System Operations, Troubleshooting and Disassembly and Assembly manuals. These manuals are provided for every Cat product. Each dealer also has one or more "Technical Communicators" who are dedicated to supporting the service technicians by acting as a liaison between the shop personnel and Caterpillar. The service technicians also have a dealer support network (DSN) system with direct access to Caterpillar's Service Engineers. Caterpillar responds to more than 95% of all high priority tickets within one hour. Caterpillar is got everything customers need to keep their Cat machines in top shape. Whether they want Genuine Cat parts, manuals and resources to do maintenance and repairs themselves, or prefer to have one of our expert dealer technicians do the work. We make it easy to keep their Cat equipment running. Some of our service solutions include: -Cat Fleet Management (Condition Monitoring) - Lowers the total cost of ownership of machine. By connecting your fleet, you will be able to: track the location of your assets, monitor & manage the fuel consumption, identify the operators who would need extra training, and plan & schedule your maintenance. All of which will maximize your uptime. -Customer Value Agreements (CVA) - Customizable plans for your equipment new or used - to do more work with lower, more predictable costs. It's a convenient plan to get the most from your equipment throughout its life. Examples of CVAs may include but are not limited to: Maintenance CVAs, Component CVAs, and Machine CVAs. -S•O•S SM Services - A fluid analysis program that provides results that you can trust including trend analysis that provides benefit to your machine and fleet. -Cat Inspect - A digital way to perform checklists, pre-work inspections, annual inspections and PM checklists. All of which can be captured in the easy to use app.	*
31	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	We are proud to serve all geographic areas and all Sourcewell member sectors within the United States to offer our complete products and services. Caterpillar has successfully and proudly utilized Sourcewell to sell machines in all 50 states. Caterpillar's global reach and presence is unmatched in the industry, and we serve customers around the globe. Our manufacturing, marketing, logistics, services, research and development and related facilities, along with our dealer locations, total more than 500 locations worldwide. North America specifically is home to 47 factories and 10 parts distribution centers, which make up 40% of our global footprint! The Caterpillar parts network delivers 98% of the parts orders within 24 hours. In addition to our facilities listed above, Cat Parts are available through the Cat dealer network in at different price points, including: Cat New, Cat General Duty and Cat Reman. The Cat dealer network also have the capability to provide dealer exchange components, dealer rebuilt components and used parts when available. Each dealer can match the appropriate parts offering to match the customers application and productivity. For example, Cat dealers offer Cat factory remanufactured parts (Cat reman) to follow the same quality, performance, and reliability as Cat new parts. This product line provides the same as new parts warranty, includes critical engineering changes, reduces waste, and protects the environment and saves critical repair time on machines. Cat reman also uses 100% Cat parts in the remanufacture process. Our 1.4 million parts are available to order 24/7 on Parts.Cat.Com.	*

32	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	We are serve all geographic areas and all Canoe member sectors within with our complete product and service offerings. In fact, we see the Canadian market as a significant growth opportunity for Canoe through Sourcewell contract usage. We have gained momentum with our current contract 032119-CAT in Canada. Caterpillar's global reach and presence is unmatched in the industry, and we serve customers around the globe. Our manufacturing, marketing, logistics, services, research and development and related facilities, along with our dealer locations, total more than 500 locations worldwide. North America specifically is home to 47 factories and 10 parts distribution centers, which make up 40% of our global footprint! The Caterpillar parts network delivers 98% of the parts orders within 24 hours. In addition to our facilities listed above, Cat Parts are available through the Cat dealer network in at different price points, including: Cat New, Cat General Duty and Cat Reman. The Cat dealer network also have the capability to provide dealer exchange components, dealer rebuilt components and used parts when available. Each dealer can match the appropriate parts offering to match the customers application and productivity. For example, Cat® dealers offer Cat® factory remanufactured parts (Cat reman) to follow the same quality, performance, and reliability as Cat new parts. This product line provides the same as new parts warranty, includes critical engineering changes, reduces waste, and protects the environment and saves critical repair time on machines. Cat reman also uses 100% Cat parts in the remanufacture process. Our 1.4 million parts are available to order 24/7 on Parts.Cat.Com.	*
33	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	We are proud to serve all geographic areas of the United States and Canada.	*
34	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	We are proud to serve all Sourcewell Member sectors within the United States and Canada with our complete product and service offering through Sourcewell. Caterpillar's cooperative purchasing contracts are non-exclusive; i.e. none of them restrict Caterpillar from promoting our Sourcewell contracts.	*
35	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	There are no restrictions or limitations for sales to members in Hawaii, Alaska or U.S. Territories.	*

Table 7: Marketing Plan

Line Item	Question	Response *	
36	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	Our current marketing strategy with Sourcewell contract 032119-CAT proves to be effective with year over year sales growth. Our primary strategy to promote this contract with participating entities is through our Cat dealers' sales force. We provide group and individual training to our dealer sales reps, focusing on benefits from selling through cooperative contracts vs bids. We proudly announce the award publicly through our multiple customer facing touchpoints which may include: 1) Press Release 2) Government Solutions Magazine (Caterpillar produced magazine distributed to governmental customers in the US and Canada) 3) Government Training & Safety Days (Government customer training events at Caterpillar facilities) 4) Announcement in our governmental customer e-newsletter 5) Feature on our governmental focused website: www.cat.com/governmental 6) Announcement on our social media channels (FB, Instagram, LinkedIn) 7) Display mentions at all governmental tradeshows we attend. (NACE Annual Conference, APWA Snow Show, Waste EXPO, GFX, NIGP Annual Forum & Products Expo, and APWA PWX & Annual Roadeo) 8) Update literature with the new contact information. (An updated version can be found within our attached marketing plan attachment.)	*
37	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Caterpillar and the Cat dealer network are leaders in using technologies to reach our customers. - Focus on organic search and Search Engine Optimization (SEO) to help our customers digitally find our products and the information they need. - Leverage Caterpillar's social media platforms (YouTube, Facebook, LinkedIn, Instagram, etc) and ability to target governmental segments. - Leverage predictive data analytics (past purchase history and financing information) to recognize in advance when customers may be considering replacing machines they currently own. - Leverage Deltek's GovWIN data in the US and Canada for governmental lead generation. Caterpillar has a Customer Interaction Center available 24/7 who handles digital leads received from cat.com, social media, etc. Our team qualifies those leads and passes them on to our Cat Dealer network using the Salesforce platform (Customer Relationship Management system). We have processes that allows us to confirm our Cat dealers have reached out to those customers.	*
38	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	Sourcewell is a well-respected contracting agency within the public procurement industry. It is important, in the event of an award, that our products and logos be included in Sourcewell marketing and website. We believe that the most important role that Sourcewell can play in marketing our contract and products, is to market themselves and promote contract purchasing across the industry. In the event of an award, Caterpillar will put high priority in building awareness and enthusiasm within our dealer network and customer base to leverage the Sourcewell contract as our go to market strategy.	*
39	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	We do offer a e-procurement ordering process for parts via parts.cat.com. We can also integrate into a variety of procurement systems for high volume customers. Our wide machine portfolio and multiple configurations per machine model allows us to provide the best machine for the customer need. Our Cat dealers are trained to configure our equipment and advise the customer on the best machine and configuration for their application. Therefore, a consultative salesperson is integral in this process, and we do not use an e-procurement machine ordering process.	*

Table 8: Value-Added Attributes

Line Item	Question	Response *	

40	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	All dealers offer basic operation, safety, and maintenance training with every sale. If a customer desire more advanced training, such as productivity improvement or advanced repairs, each of our dealers can supply that training. Often there is a cost associated with that specific training and it would be negotiated between the dealer and the customer. Caterpillar also offers training programs directly to customers in three areas: operation, safety and service. Members may access courses online, via CD's, or through instructor-led classes leading to operator certifications. The fees for these services vary depending on the depth of training desired. These high-level instruct-led courses can be conducted at one of our dedicated training facilities in the US or on a customer's local site using their own equipment. Caterpillar also has a licensed supplier that offers Cat Simulators to teach operational techniques from real job sites. For more information visit: https://catsimulators.com/	*

41	Describe any technological advances that your proposed products or services offer.	Cat technology gives you the power to track, monitor, automate and manage all assets- from a single machine, engine, to an entire fleet. We even offer technologies that protect your people. Listed below are a few technology offerings (standard and optional) that are used throughout the world in our Cat equipment. Next Generation Excavators: Cat Vision Link - Delivering valuable data with connected machine. Cat Payload - Precisely load targets every time for faster cycle times. Cat Skid Steer and Compact Track Loaders: Electronic Torque Management System - Helps maximize performance, minimize fuel consumption. Sealed and Pressurized Cabs - Provides a cleaner, quieter work environment. Cat Backhoe Loaders: Selectable Power Management Modes - Saves fuel while maintaining machine performance. Load-Sensing Hydraulic System - Provides excellent response for improved hoe and loader productivity and greater bucket breakout force. Cat Tractors: Stable Blade - Produces a smoother surface finish. Autocarry - Automatic raising and lowering of blade to maximize pushing capacity and prevent excessive track slippage. Cat Wheel Loaders: Operator Assist - Helps the operator reduce tire slippage, automatic rimpull management and provides up to 10% better cycle time resulting in higher productivity. Autodig - consistent high bucket fill factors delivers up to 10% more productivity. Cat Off Highway Trucks: Adaptive Economy Mode - Automatically optimizes fuel consumption without affecting productivity just pressing a button. Truck Production Management System (TPMS) - Weighting system with side indicator lights showing the operator when they are on last pass and when the truck is fully loaded. Cat Articulated Trucks: Advanced Automatic Traction Control (AATC) - Technology that proactively applies inter- and cross-axle differential locks ‘on-the-go’ when needed without assistance from operator's interaction. Cat Detect with Stability Assist - Warns the operator if machine is approaching a pre-set angle during operation, when driving and tipping. Machine/Operator Safety Technology: Machine Security System - Gives you control over who can operate your machines and when. Prevents theft. Seat Belt Reminder - Cost effective safety upgrade that significantly improves operator safety. Cat Detect for Personnel - Alert ground crews in close proximity to mobile equipment. Cat® Detect for Personnel sounds an immediate, unique alert that cuts through the white noise of engines, generators, cell phones and job site chatter to protect ground workers from equipment backing incidents. Cat Command - Remote control in operations where an operator could be at safety risk. Whether you're looking to add technology to your current machine, or want new ways to get more value out of the technology on your equipment, we have options for you.	*

42	Describe any “green” initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	Caterpillar shares the concerns of governments and the public about the risks of change and supports global efforts to mitigate its impact. We are committed to contributing to a reduced-carbon future. We demonstrate this in many ways including through our significant progress in reducing greenhouse gas (GHG) emissions from our operations and our continued investment in new products, technologies and services. Caterpillar is engineering a brighter future through: - Product innovations - Advanced technologies leveraging know-how and R&D - Usage of renewable fuels and fluids - Solutions to improve jobsite efficiency - Maintenance solutions - Manufacturing operations’ carbon efficiency Caterpillar's long-standing commitment to sustainability inspires us to set and achieve meaningful environmental, social and governance (ESG) goals and develop innovative products, technologies and services to support our customers on their sustainability journey. Caterpillar is fully committed to our customers’ success by not only the design and manufacture of durable, reliable, innovative and rebuildable construction equipment, but also through our extensive and unmatched dealer network that provides you the best service and support to keep your equipment running, regardless of the environment or challenges. We consider this as we work toward a vision of a world in which people's basic needs - such as shelter, clean water, education, and reliable energy - are fulfilled. We provide work environments, products, services, and solutions that make productive and efficient use of resources as we strive to achieve our vision. We believe this commitment supports the enduring success of our customers, stockholders, dealers, and our people. Caterpillar is a proud 20-year member of the Dow Jones Sustainability Indices, including both the World and North America Indices. The annuals DJSI process follows a best-in-class approach, evaluating numerous corporate economic, environmental, and social performance factors. For more on sustainability please visit our full report attached in the Financial and Stability attachment section.	*
43	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	Plants certified with IDO 14001:2004 Environmental Management System include: 1) Anchor Coupling - Goldsboro NC, ISO 14001:2004- Sept 2018 2) Anchor Coupling - Menominee - ISO 14001: 2015 - Jan. 2021 3) Gen Sets - Newberry 0 ISO 14001:2004 - Nov. 2017 4) Mapleton - 14001:2004 self-certification issued Jan 2013 5) Reman Services - Corinth MS - ISO 14001-2015- Sept. 2021 6) Reman Services - Franklin - ISO 14001:2004-May 2017	*

44	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	Caterpillar has long drawn on the diversity of its people as a source of innovation competitive advantage. We are proud that our people come from across the globe, with diverse backgrounds, experiences and perspectives. Despite our differences – in geography, culture, language and business – we are one Caterpillar, one company united by these common principles with a shared commitment to the highest standards of conduct. For example: Foley Equipment, a Cat® dealer, with territory primarily in Kansas and Missouri, is woman owned. In addition to Foley equipment, there are 31 other women in our North American dealer network who hold the titles of President, Vice President or Director. One of the more recognized initiatives within Caterpillar's Global Supply Network Division is the Caterpillar Inc. Proprietary Information Supplier Diversity Program which spurs economic growth by increasing business opportunities to minority-owned, women-owned, veteran and service disabled veteran-owned, small disadvantaged businesses and those certified in HUBZones, all while ensuring expectations are met with regards to quality, velocity, capacity, and cost. Currently more than 37% of our direct and indirect purchasing is conducted with suppliers in these categories. Caterpillar is a proud member of the National Minority Supplier Development Council (NMSDC). We also use the System for Aware Management (SAM), SBA, and NMSDC databases to locate SDB, VOSB, SDVOSB and HUBZone suppliers. Supplier Diversity is discussed with Global Supply Network Division leadership during the Monthly Operating Results Review meetings. This in turn forces accountability for supplier inclusion by measuring drivers, such as the number of sourcing projects, which include Divers Suppliers and the values of the projects in which they participate. The goal is to create greater transparency to determine which teams are creating inclusive environments and which are not. For more detail, please see our attached 2021 Global Diversity & Inclusion Report in the Additional Documents folder.	*

45	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	BEST OVERALL VALUE / LOWEST LIFE CYCLE COST: Cat products deliver the best value for the money. While we rarely have the lowest initial purchase price, we are happy to demonstrate to customers that our machines offer the lowest overall owning and operating costs when factors such as fuel efficiency, repair frequency, productivity, and resale value are factored in. We believe that government agencies are tasked to be the best stewards of taxpayer funds and our products can prove that they are the best solution. Sourcewell members are in the best position to allow these discussions to take place in contrast to a local bid situation where the focus is often only on initial price. CAT SAFETY SERVICES / SAFETY FEATURES: In addition to the tangible, measurable aspects of the life cycle cost equation, we also bring our focus on safety to every product that we manufacture. Quantifying a human life or debilitating injury is impossible, but each machine has industry-leading features that strive to minimize the possibility for accidents. In addition to built-in safety features, we also offer products and services that are unique in the industry. Cat Safety Services include, but are not limited to, the following: Safety Perception Survey - Used to establish a baseline safety-culture assessment by measuring employee perceptions and gaps in beliefs between management and employees on the front line across 20 Safety Culture Indicators. Safety Leadership Assessment - Used to measure individual safety leadership capability around four domains of safety leadership. Worksite Assessment - Compares onsite observations of safety practices and employee interview data to the documented processes and procedures. Continuous Improvement Process - Involving all levels of the organization to generate engagement, involvement, and ownership in the safety improvement process. Training - can be conducted with e-learning courses on http://safelyhome.cat.com, instructor-led training products or as Supplier-facilitated workshops. Topics available include, but are not limited to, safety culture, effective communication, supervisor safety training, recognition, etc. Fleet Management & Services through Caterpillar Job Site Solutions: We leverage the power of Caterpillar and our dealers by designing innovative solutions that solve customer problems and that have a positive impact on their bottom line. We approach each site differently, striving to deliver exactly what's needed — no more, no less. Every solution includes a unique mix of Caterpillar and dealer capabilities using industry best products, technology, services and expertise necessary to meet the customer's definition of success. The goal is to leave customers better off tomorrow than they are today. Details on products and services are available at www.cat.com/safety. More information can be found in the additional document section. Pricing can be found in the pricing document section.	*

Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
46	Do your warranties cover all products, parts, and labor?	Caterpillar has extensive warranty coverage. Please see our warranty statements attached in the warranty information documents.	*
47	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	Please see applicable warranty statements in the attached documents.	*
48	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Caterpillar does not cover travel time and mileage. Dealer territories vary considerably from state to state as do their policies about travel time and mileage during the warranty period.	*
49	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	One of our key differentiating strengths is our ability to service equipment regardless of where it is located. Please see applicable warranty statements in the attached documents.	*
50	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	Warranty service for machines ordered from a Caterpillar facility are generally provided by Caterpillar and performed by Cat dealers. Some items, such as tires, are covered under their manufacturers' warranties.	*
51	What are your proposed exchange and return programs and policies?	Please see applicable warranty statements in the attached documents.	*
52	Describe any service contract options for the items included in your proposal.	We have a large variety of service contract options which can all be customized according to customer needs. Below are just two examples. More solutions are available and we encourage members and dealers to explore all options. 1) Equipment Protection Plans (EPP): After the initial warranty period ends, members may choose to purchase additional protection plans to reduce their exposure to unplanned costs. These policies are written based on months and hours of operation. There are four standard levels of coverage: 1) Powertrain 2) Powertrain + Hydraulics 3) Powertrain + Hydraulics + Technology 4) Premier A description of all these options is included in the attached Equipment Protection Plans document. EPP can be purchased at the same time as the machine purchase, or anytime before the standard warranty expires. 2) Customer Value Agreements (CVA's): A member may choose to enter into an agreement with their Cat dealer to perform routine maintenance and/or repairs. These contracts are customizable based on member needs. The selling Cat dealer can take responsibility for some or all the required service and maintenance needs to allow the agency to gain efficiency by focusing on the performance demands more than maintenance. CVA's are a useful tool to manage expenses. CVAs can be purchased at the same time as the machine purchase, or anytime after. Cat Financial also offers CVAs, which can be performed by Cat dealers in the United States, and are particularly helpful for customers who move their machine fleet to multiple locations which may have different servicing Cat dealers.	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
53	Describe your payment terms and accepted payment methods.	Cat dealers are independently owned businesses. As such their payment terms and accepted payment methods vary, but all will be stated on individual invoices. The most common terms are net 30.	*
54	Describe any leasing or financing options available for use by educational or governmental entities.	We offer both leasing and financing options to governmental members of Sourcewell at rates lower than available to the general public. Caterpillar has its own financing arm, Cat Financial. Cat Financial was founded in 1981 and serves Cat customers and dealers. With over 1,900 employees, Cat Financial is active in more than 40 countries covering more than 148,000 customers worldwide. Cat Financial offers you a complete solution for your acquisition needs: - Equipment & Attachments - Parts - Service - Rebuilds Financial products are aligned and customized with the project and work site requirements such as operating lease, loan or finance lease. Find more information from Cat Financial here: https://www.cat.com/en_US/support/financing-protection.html	*
55	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	Cat dealers are independently owned businesses. As such their standard transaction documents will vary.	*
56	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Because Cat dealers will be receiving payments directly from members, accepting P-card procurement will be at their discretion. Many dealers do accept this method without additional fees. Some have limitations on the amount that can be processed.	*

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *	
57	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	We offer a deep list discount off the current Caterpillar machine and work tool list prices to all Sourcewell members. We have provided base machine list pricing in the document pricing section. Base machines must be properly configured with other mandatory and optional items from the price list before they are considered operational. For the execution of the agreement we will ask our Cat dealer and Sourcewell member to use the Caterpillar price list that is current at the time of the quote. Dealers, in consultation with the member, will configure the machine to the desired specifications and apply the stated list discount to that configured list price amount. Dealer and members should remember to factor in any expected price increases if a machine will be built to order. The pricing document, in the applicable pricing document attachment section, shows the list discount offered for each new machine. Additionally, we are pleased to offer a list discount of 15% off all products and consulting services under Cat Safety Services.	*
58	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	Pricing in this proposal is a percentage discount from list on current machine and work tools list prices. Our discount range varies between 3 - 34% off of the list price depending on the product family or model.	*
59	Describe any quantity or volume discounts or rebate programs that you offer.	Our dealers are empowered to consider purchase order volume, repeat purchases, etc. They may offer members additional discounts and /or services at their discretion.	*
60	Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.	Sourced goods / Open Market Items are available to members from Cat dealers. The prices for these good or services will represent fair marketing value and will be determined between the member and the selling dealer. We encourage our dealers and members to use these options as it facilitates complimentary products and streamlines the procurement process. Customers and dealers are responsible for including their Sourcewell member numbers on all documentation related to these purchases. Caterpillar Inc. is not a party to these sales and is exempted from including them in quarterly reports. For audits, inclusion of a customer's Sourcewell member number on the PO and /or invoice shall be deemed sufficient.	*
61	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	Machines are unique in their requirements for preparation prior to use. Some may require local final assembly due to their large size others may have locally installed options (fire suppression, beacons, auto lube systems for example). When a dealer issues a quote for a machine, any dealer costs (like pre-delivery inspection, installation, set up, training, etc.) will be itemized separately and are not subject to the Caterpillar list discount for Sourcewell members.	*
62	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	There is no additional cost to members who choose to pick up their machines from the Cat dealer. Dealers may charge fees for delivery to the Sourcewell member's location.	*
63	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Just as for members in the 48 contiguous states, there is no additional cost to members who choose to pick up their machine from their Cat dealer. Dealers may charge fees for delivery to the Sourcewell members' location.	*
64	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Machines are large purchases and if there are unique Sourcewell member requirements our dealers will be happy to discuss on a case by case basis.	*

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
65	b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	Caterpillar wants to provide the governmental customer the best list discount possible to allow them to be good stewards of tax-payers funds. We want our governmental customers to have the ability to choose which cooperative contract better fits their needs.

Table 13: Audit and Administrative Fee

Line Item	Question	Response *	
66	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell. Provide sufficient detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template.	We plan to continue our very robust process to ensure reporting speed, accuracy, and contract compliance. Caterpillar and our Cat dealers have very close and trusting relationships. Our dealers are long-established, and the current process (under contract #032119-CAT) is working well. 1) To ensure pricing accuracy, we maintain our current Sourcewell customer discount sheet on our dealer facing pricing pages. Dealers integrate these numbers automatically in their quoting software. 2) To ensure new machines and work tool sales are recorded properly, we use our post-sale credit system. In a nutshell, this means that we corporately support the pricing offered in this contract at a level below what's available to other customers. To receive this additional monetary support after the machine is delivered, dealers must supply the member's name, address, and member number. There is no additional burden or cost to our dealers to use the Sourcewell contract and this is part of the reason for their high engagement and our high reporting accuracy. 3) At month end, we gather the new machine and work tool sales data attributed to Sourcewell and aggregate it for our reporting. 4) After quarter end, we will send the quarterly sales report and administration fee payment to Sourcewell for all items that are subject to the administrative fee.	*
67	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	We regularly track the % of sales that are sold using a cooperative contract. We will continue this practice if we are awarded a contract for RFP 011723.	*
68	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	Per amendment #1 to Contract #032119-CAT, we will be pleased to offer an administrative fee of 0.33% of Caterpillar's list price for each piece of new equipment and serialized work tools purchased by Sourcewell's Participating Entities. Caterpillar will pay this fee and will not ask dealers or members to pay the fee.	*

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *	
69	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	The Cat equipment product line, consisting of more than 300 machines, sets the standard for our industry. We plan to help you meet your needs with our equipment, with our distribution and product support system, and the continual introduction and updating of products. Caterpillar is pleased to offer a wide variety of products for Sourcewell members. Excluding paving products, equipment and services awarded on 060122-CAT these include: - Cat Backhoe Loaders (9 models offered) - Cat Compact Track Loader/Skid Steer Loader (14 models offered) - Cat Track/Wheel Hydraulic Excavators (41 models offered) - Cat Motor Graders (7 models offered) - Cat Telehandlers (8 models offered) - Cat Track Loaders (3 models offered) - Cat Track/Wheel Dozers (15 models offered) - Cat Wheel Loaders (19 models offered) - Cat Wheel Tractor Scrapers (7 models offered) - Cat Articulated Trucks (5 models offered) - Cat Rigid Frame Trucks (2 models offered) - Cat Material Handlers (3 models offered) - Cat Landfill Compactors (3 models offered) - Product offerings by model and discount can be found in the pricing attachment within the applicable proposal pricing section. Services and support include: - Cat Attachments (Worktools) - Cat Technology - Cat Safety Services - Cat Job Site Solutions - Product offerings by model and discount can be found in the pricing attachment within the applicable proposal pricing section. - Services and support brochures can be found in the additional documents section by name of offering. For more detailed information on each of these products/offerings see the following website: https://www.cat.com/en_US.html	*
70	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	N/A	*

Table 148: Depth and 8readth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Categor\ or T\pe	Offered	Comments
71	Wheeled, tracked, and backhoe loaders	(•) Yes ( ) No	Manufactured by Caterpillar. Offerings listed in applicable pricing attachment section.
7	Motor Graders	(•) Yes ( ) No	Manufactured by Caterpillar. Offerings listed in applicable pricing attachment section.
73	Wheeled and tracked excavators	(•) Yes ( ) No	Manufactured by Caterpillar. Offerings listed in applicable pricing attachment section.
74	Bulldozers, compactors, scapers, articulated and rigid haulers	(•) Yes ( ) No	Manufactured by Caterpillar. Offerings listed in applicable pricing attachment section.
75	Cranes	( ) Yes (•) No	NIA
76	Accessories or attachments for the offering in #71-75 above	(•) Yes ( ) No	Manufactured by Caterpillar. Offerings listed in applicable pricing attachment section.
77	Technology or services for the offering in #71-75 above	(•) Yes ( ) No	Manufactured or offered by Caterpillar. Offerings listed in applicable pricing attachment section.

Table 14C: Required Offering of Equipment

Indicate below if the proposer's proposal includes at least one (1) of the following listed types or classes of equipment. Provide additional comments in the text box provided, as necessary.

Line Item	Categor\ or T\pe	Offered	Comments
78	Wheel loader with published net horsepower (HP) of at least 300 HP	(•) Yes ( ) No	Manufactured by Caterpillar. Offerings listed in applicable pricing attachment section.
79	Wheeled or tracked excavator with a published net horsepower (HP) of at least 150 HP	(•) Yes ( ) No	Manufactured by Caterpillar. Offerings listed in applicable pricing attachment section.
80	Motor Grader with a published maximum operating weight of at least 30,000 lbs.	(•) Yes ( ) No	Manufactured by Caterpillar. Offerings listed in applicable pricing attachment section.
81	Rough terrain, all terrain, crawler, floating, lattice, or telescopic crane with a published maximum lifting capacity of at least 300 tons and a published maximum boom length of at least 150 feet	( ) Yes (•) No	NIA

Exceptions to Terms, Conditions, or Specifications Form

Only those Proposer Exceptions to Terms, Conditions, or Specifications that have been accepted by Sourcewell have been incorporated into the contract text.

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.

2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.

3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.

4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."

- Pricing - Machine Pricing.zip - Tuesday January 17, 2023 15:29:45
- Financial Strength and Stability - Fin Strength and Stability.zip - Tuesday January 17, 2023 10:31:16
- Marketing PlanISamples - Marketing Plan.pdf - Tuesday January 17, 2023 14:53:49
- WMBEIMBEISBE or Related Certificates (optional)
- Warranty Information - Warranty Combined.pdf - Monday January 16, 2023 10:36:31
- Standard Transaction Document Samples (optional)
- Upload Additional Document - Additional Documents.zip - Tuesday January 17, 2023 16:05:29

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.

2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.

3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.

4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.

5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.

6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.

7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.

8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.

9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

11. Proposer its employees, agents, and subcontractors are not:
    1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: https://www.treasury.gov/ofac/downloads/sdnlist.pdf;

    2. Included on the government-wide exclusions lists in the United States System for Award Management found at: https://sam.gov/SAM/; or

    3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☑ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Sean Egel, Sales Support Consultant, Caterpillar Inc.

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

○ **Yes** ◉ **No**

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "**I have reviewed this addendum"** below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_5_Heavy_Construction_Equipment_RFP_011723 Tue January 10 2023 08:47 AM	☑	1
Addendum_4_Heavy_Construction_Equipment_RFP_011723 Fri January 6 2023 09:51 AM	☑	2
Addendum_3_Heavy_Construction_Equipment_RFP_011723 Thu December 29 2022 12:33 PM	☑	2
Addendum_2_Heavy_Construction_Equipment_RFP_011723 Wed December 21 2022 01:49 PM	☑	1
Addendum_1_Heavy_Construction_Equipment_RFP 011723 Thu December 15 2022 09:27 AM	☑	1

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SOURCEWELL TRADEMARK LICENSE ADDENDUM

This Addendum is by and between **SOURCEWELL**, 202 – 12th Street NE, PO Box 219, Staples, Minnesota 56479 ("Sourcewell") and **Caterpillar Inc.**, having its principal place of business at 5212 N. O'Connor Blvd., Suite 1100, Irving, TX 75039, and offices at 100 NE Adams Street, Peoria, Illinois, 61629 ("Caterpillar" or "Vendor"). Sourcewell and Caterpillar may be referred to in this Agreement as a "Party" and collectively as the "Parties."

The Parties maintain a contractual relationship for Vendor to provide equipment, products, or services to Sourcewell's cooperative purchasing contracts as follows:

Sourcewell Contract 011723 – CAT (Solicitation Number: 011723)

Sourcewell and Vendor each own all right, title, and interest in their respective names, trademarks, service marks, related logos, and all other rights in the names, designs, likenesses and visual representations thereof ("Licensed Trademarks"), and desire to grant each other a royalty-free license to use certain Licensed Trademarks owned by the other Party under the terms and conditions set forth herein.

ARTICLE I: GRANT OF LICENSE

A. GRANT OF LICENSE. During the term of the Contract:

1. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use Sourcewell's Licensed Trademarks provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.

2. Vendor grants to Sourcewell a royalty-free, worldwide (except for those jurisdictions that are prohibited by applicable Anti-Corruption and International Trade Laws), non-exclusive right and license to use Vendor's Licensed Trademarks provided to Sourcewell by Vendor in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.

"Anti-Corruption and International Trade Laws" means all statutes, regulations, rules, executive orders, supervisory requirements, directives, ordinances, circulars, opinions, interpretive letters, and official releases of or by any government, or any authority, department or agency thereof or self-regulatory organization related to bribery, fraud, corruption, or international trade.

3. The Parties agree that each is the owner of all rights, including without limitation common law rights and goodwill, in relation to their respective Licensed Trademarks, and that any goodwill derived from the use of Licensed Trademarks by the other Party shall inure to the owner of the respective Licensed Trademarks.

B. LIMITED RIGHT OF SUBLICENSE. The rights and licenses granted herein includes a limited right of each Party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Contract. Any sublicense granted will be subject to the terms and conditions of this Addendum. Each Party will be responsible for any breach of this Article by any of their respective sublicensees.

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C. USE; QUALITY CONTROL.

1. Neither Party may alter the other Party's Licensed Trademarks from the form provided by the other Party and must comply with the other Party's removal requests as to specific uses of its Licensed Trademarks.

2. Each Party agrees to use, and to cause its Permitted Sublicensees to use, the other Party's Licensed Trademarks only in good faith and in a dignified manner consistent with such Party's use of the Licensed Trademarks. Upon written notice to the breaching Party, the breaching Party or their Permitted Sublicensees have thirty (30) days of the date of the written notice to cure the breach or the license will be terminated.

3. Beyond what is permitted in this Addendum, neither Party will:

a. attempt to register, or register any trademark, service mark, symbol, logo, get-up or device which is confusingly similar to any of the other Party's Licensed Trademarks in any jurisdiction;

b. represent that it has any rights of any nature in the Licensed Trademarks other than those enjoyed under the terms of this Agreement;

c. use the other Party's trademarks, service marks or copyrights, translations thereof or marks similar thereto, as part of its corporate name, trade name or a d/b/a name, favicons, social media names/handles, email addresses, email extensions, or domain names without prior written approval from the other Party; or

d. use the other Party's trade names, trademarks, or service marks on any collateral business materials (e.g., business cards, letterhead, invoices, pens, notepads, fax cover sheets, etc.), unless otherwise approved in writing by the other Party.

ARTICLE II: TERM, TERMINATION, AND MISCELLANEOUS.

A. EFFECTIVE DATE. This Addendum is effective upon the date of the final signature below.

B. TERMINATION. Unless earlier terminated in accordance with this Article, this Addendum expires immediately upon the expiration or termination of the Contract.

1. *Termination for Convenience*. This Addendum may be terminated by either Party at any time upon ninety (90) days' prior written notice to the other Party.

2. *Termination for Breach*. This Addendum may be terminated by either Party upon a breach of the terms of this Addendum by the other Party, upon written notice of breach to the breaching Party, and only if such breach is not cured within thirty (30) days of the date of the written notice.

3. *Effect of Termination*. Upon the termination of this Addendum for any reason, each Party will have thirty (30) days to, and require its Permitted Sublicensees to, remove all Licensed Trademarks from signage, websites, and the like bearing the other Party's name or logo

(excepting Sourcewell's pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

4. Miscellaneous. The terms and conditions of this Addendum shall have no effect on the terms and conditions of any other trademark licenses signed by the Parties.

All other terms of the Contract remain in full force and effect, unless otherwise terminated.

SOURCEWELL

DocuSigned by:
Jeremy Schwartz
C0FD2A139D06489...

By: Jeremy Schwartz
Name: Jeremy Schwartz
Title: Director of Operations and Procurement/CPO
Date: 5/24/2023 | 2:45 PM CDT

Caterpillar Inc.

DocuSigned by:
Patrick Kearns
68A87926721B4E0...

By: Patrick Kearns
Name: Patrick Kearns
Title: Vice President Sales & Marketing - North America
Date: 5/24/2023 | 12:48 PM PDT

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Adoption of Resolution No. 2026-045 approving updates to the Deschutes County Multi-Jurisdictional Natural Hazard Mitigation Plan

RECOMMENDED MOTION:
Move to adopt Resolution No. 2026-045 approving updates to the Deschutes County Multi-Jurisdictional Natural Hazard Mitigation Plan.

BACKGROUND AND POLICY IMPLICATIONS:
Deschutes County is updating its FEMA-required Natural Hazard Mitigation Plan to identify risks and guide long-term risk-reduction efforts. The plan has passed Oregon Emergency Management review and has been approved by FEMA, and the Board is being asked to consider adoption by resolution.

Adoption of the updates will maintain the County's eligibility for applicable FEMA mitigation funding but not appropriate funds or commit the County to specific projects.

BUDGET IMPACTS:
There is no direct budget impact associated with this informational update. Future mitigation actions will be considered through normal County budgeting, project-development, and grant-application processes as funding opportunities and resources allow.

ATTENDANCE:
Ben Duda – Deschutes County Sheriff's Office Emergency Manager
Ashley Volz – Deschutes County Sheriff's Office Emergency Services Coordinator

REVIEWED

_____
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

A Resolution Adopting Updates to the Deschutes County Multi-Jurisdictional Natural Hazards Mitigation Plan	* * *	RESOLUTION NO. 2026-045

Deschutes County recognizes the threat that natural hazards pose to people, property and infrastructure within our community; and

WHEREAS, undertaking hazard mitigation actions will reduce the potential for harm to people, property and infrastructure from future hazard occurrences; and

WHEREAS, an adopted Natural Hazards Mitigation Plan is required as a condition of future funding for mitigation projects under multiple Federal Emergency Management Agency ("FEMA") pre-and post-disaster mitigation grant programs; and

WHEREAS, Deschutes County fully participated in the FEMA prescribed mitigation planning process to prepare this Deschutes County Multi-Jurisdictional Natural Hazards Mitigation Plan ("Plan"); and

WHEREAS, the Oregon Office of Emergency Management ("OEM") submitted to FEMA Region X its approval of the Plan, and

WHEREAS, the FEMA Region X officials have reviewed the Plan and pre-approved it contingent upon this official adoption of the participating governments and entities, see Exhibit A, attached and incorporated by reference herein; now, therefore,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, as follows:

Section l. Deschutes County adopts the Deschutes County Multi-Jurisdictional Natural Hazards Mitigation Plan, attached as Exhibit A and incorporated by reference herein, as an official plan of Deschutes County.

Section 2. Deschutes County will submit this resolution to the OEM and FEMA Region X officials to enable final state and federal approval of the *Deschutes County Multi-Jurisdictional Natural Hazards Mitigation Plan.*

Dated this _____ of _____, 20__

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

_____

PHIL CHANG, Chair

_____

ANTHONY DeBONE, Vice Chair

ATTEST:

_____

Recording Secretary

_____

PATTI ADAIR, Commissioner

U.S. Department of Homeland Security
Federal Emergency Management Agency
Region 10

130 228th St SW
Bothell, WA 98021

FEMA

October 30, 2026

Stephen Richardson
State Hazard Mitigation Officer
Oregon Department of Emergency Management
3930 Fairview Industrial Dr SE
Salem, Oregon 97302

Reference: Adoption Needed to Finish the Deschutes County Hazard Mitigation Plan Process

Dear Officer Richardson:

The Risk Analysis Branch of FEMA Region 10 Mitigation Division has determined this hazard mitigation plan meets all applicable FEMA mitigation planning requirements[1]. An adoption resolution is needed for FEMA plan approval.

Mitigation plans may include additional content to meet Element H: Additional State Requirements or content the local government included beyond applicable FEMA mitigation planning requirements. Determination that the plan is Approvable Pending Adoption (APA) does not include the review or approval of content that exceeds these applicable FEMA mitigation planning requirements.

Local governments, including special districts, with a plan status of APA are not eligible for FEMA mitigation grant programs with a mitigation plan requirement. The next step in the approval process is to formally adopt the mitigation plan and send a resolution to the state for submission to FEMA. Sample adoption resolutions can be found in Appendix A of the Local Mitigation Planning Policy Guide.

An approved local mitigation plan, including adoption by the local government, is one of the conditions for applying for and/or receiving FEMA mitigation grants.

[1] Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended; the National Flood Insurance Act of 1968, as amended; and National Dam Safety Program Act, as amended; C.F.R. 44 § 201, Mitigation Planning; and Local Mitigation Planning Policy Guide (FP-206-21-0002).

Adoption of the plan more than one year after APA status has been issued must either:

- Validate that their information in the plan remains current with respect to both the risk assessment (no recent hazard events, no changes in development) and their mitigation strategy (no changes necessary); or
- Make the necessary updates before submitting the adoption resolution to FEMA.

We look forward to receiving an adoption resolution and discussing options for implementing this hazard mitigation plan. If we can help in any way, please contact the FEMA Region 10 Hazard Mitigation Planning Team at FEMA-R10-MIT-Planning@fema.dhs.gov.

Sincerely,

ROBERT M BURTON

Digitally signed by ROBERT M BURTON
Date: 2026.11.05 10:40:05 -08'00'

Robert Burton
Risk Analysis Branch Chief
Mitigation Division

JG:AB

Local Mitigation Plan Review Tool

Cover Page

The Local Mitigation Plan Review Tool (PRT) demonstrates how the local mitigation plan meets the regulation in 44 CFR § 201.6 and offers states and FEMA Mitigation Planners an opportunity to provide feedback to the local governments, including special districts.

1. The Multi-Jurisdictional Summary Sheet is a worksheet that is used to document how each jurisdiction met the requirements of the plan elements (Planning Process; Risk Assessment; Mitigation Strategy; Plan Maintenance; Plan Update; and Plan Adoption).
2. The Plan Review Checklist summarizes FEMA's evaluation of whether the plan has addressed all requirements.

For greater clarification of the elements in the Plan Review Checklist, please see Section 4 of this guide. Definitions of the terms and phrases used in the PRT can be found in Appendix E of this guide.

Plan Information	
Jurisdiction(s)	Deschutes County, City of Bend, City of La Pine, City of Sisters
Title of Plan	Deschutes County Multi-Jurisdictional Natural Hazards Mitigation Plan
New Plan or Update	Update
Single- or Multi-Jurisdiction	Multi-jurisdiction
Date of Plan	Click or tap to enter a date.
Local Point of Contact	
Title	Ashley Volz
Agency	Deschutes County Sheriff's Office of Emergency Management
Address	
Phone Number	
Email	Ashley.volz@deschutes.org

Additional Point of Contact	
Title	Amy Nelson
Agency	Central Oregon Intergovernmental Council
Address	334 NE Hawthorne Ave, Bend, OR 97701
Phone Number	541-297-6005
Email	anelson@coic.org

Review Information	
State Review	
State Reviewer(s) and Title	Click or tap here to enter text.
State Review Date	Click or tap to enter a date.
FEMA Review	
FEMA Reviewer(s) and Title	Joseph Green, FEMA Community Planner
Date Received in FEMA Region	10/14/2026
Plan Not Approved	10/26/2026
Plan Approvable Pending Adoption	10/30/2026
Plan Approved	Click or tap to enter a date.

Multi-Jurisdictional Summary Sheet

In the boxes for each element, mark if the element is met (Y) or not met (N).

#	Jurisdiction Name	A. Planning Process	B. Risk Assessment	C. Mitigation Strategy	D. Plan Maintenance	E. Plan Update	F. Plan Adoption	G. HHPD Requirements	H. State Requirements
1	Deschutes County	Y	Y	Y	Y	Y	N		
2	City of Bend	Y	Y	Y	Y	Y	N		
3	City of La Pine	Y	Y	Y	Y	Y	N		
4	City of Sisters	Y	Y	Y	Y	Y	N		
5									
6									
7									
8									
9									
10									

Plan Review Checklist

The Plan Review Checklist is completed by FEMA. States and local governments are encouraged, but not required, to use the PRT as a checklist to ensure all requirements have been met prior to submitting the plan for review and approval. The purpose of the checklist is to identify the location of relevant or applicable content in the plan by element/sub-element and to determine if each requirement has been "met" or "not met." FEMA completes the "required revisions" summary at the bottom of each element to clearly explain the revisions that are required for plan approval. Required revisions must be explained for each plan sub-element that is "not met." Sub-elements in each summary should be referenced using the appropriate numbers (A1, B3, etc.), where applicable. Requirements for each element and sub-element are described in detail in Section 4: Local Plan Requirements of this guide.

Plan updates must include information from the current planning process.

If some elements of the plan do not require an update, due to minimal or no changes between updates, the plan must document the reasons for that.

Multi-jurisdictional elements must cover information unique to all participating jurisdictions.

Element A: Planning Process

Element A Requirements	Location in Plan (section and/or page number)	Met / Not Met
A1. Does the plan document the planning process, including how it was prepared and who was involved in the process for each jurisdiction? (Requirement 44 CFR § 201.6(c)(1))		
A1-a. Does the plan document how the plan was prepared, including the schedule or time frame and activities that made up the plan's development, as well as who was involved?	**Special Thanks and Acknowledgements** **Executive Summary** • i-ii **Section 1 Introduction:** • 1-3 - 1-4 **City of Bend Addendum** • COB-165-COB-167 **City of La Pine Addendum:** • COLP-210 - COLP 212 **City of Sisters Addendum:** • COS- 242-COS-244 **Appendix B: Planning and Public Process** • B-318 – B-322	Met

Element A Requirements	Location in Plan (section and/or page number)	Met / Not Met
A1-b. Does the plan list the jurisdiction(s) participating in the plan that seek approval, and describe how they participated in the planning process?	**Executive Summary** • i-ii **Section 1: Introduction** • 1-3 - 1-4 **Section 5: Plan Maintenance & Updating:** • 5-154 – 5-157 **City of Bend Addendum:** • COB-165 – COB-167 **City of La Pine Addendum:** • COLP-210 - COLP 212 **City of Sisters Addendum:** • COS-242- COS-244 **Appendix B: Planning & Public Process** • B-318 – B-332	Met
A2. Does the plan document an opportunity for neighboring communities, local and regional agencies involved in hazard mitigation activities, and agencies that have the authority to regulate development as well as businesses, academia, and other private and non-profit interests to be involved in the planning process? (Requirement 44 CFR § 201.6(b)(2))		
A2-a. Does the plan identify all stakeholders involved or given an opportunity to be involved in the planning process, and how each stakeholder was presented with this opportunity?	**Section 1: Introduction** • 1-3 - 1-4 **Appendix B: Public and Planning Process** • B-318 - B-332	Met
A3. Does the plan document how the public was involved in the planning process during the drafting stage and prior to plan approval? (Requirement 44 CFR § 201.6(b)(1))		
A3-a. Does the plan document how the public was given the opportunity to be involved in the planning process and how their feedback was included in the plan?	**Appendix B: Public and Planning Process** • B-318- B-332	Met

Element A Requirements	Location in Plan (section and/or page number)	Met / Not Met
A4. Does the plan describe the review and incorporation of existing plans, studies, reports, and technical information? (Requirement 44 CFR § 201.6(b)(3))		
A4-a. Does the plan document what existing plans, studies, reports and technical information were reviewed for the development of the plan, as well as how they were incorporated into the document?	**Section 2: Deschutes County Community Profile** • 2-62 – 2-63 **City of Bend Addendum:** • COB-187 – COB-188 **City of La Pine Addendum:** • COLP-230 – COLP-231 **City of Sisters Addendum:** • COS-261 – COS 262	Met

ELEMENT A REQUIRED REVISIONS
Required Revision**:** Click or tap here to enter text.

Element B: Risk Assessment

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
B1. Does the plan include a description of the type, location, and extent of all natural hazards that can affect the jurisdiction? Does the plan also include information on previous occurrences of hazard events and on the probability of future hazard events? (Requirement 44 CFR § 201.6(c)(2)(i))		
B1-a. Does the plan describe all natural hazards that can affect the jurisdiction(s) in the planning area, and does it provide the rationale if omitting any natural hazards that are commonly recognized to affect the jurisdiction(s) in the planning area?	**Section 3: Natural Hazard Identification and Risk Assessment** • 3-66- 3-134 • **Deschutes County HVA:** 3-69 **City of Bend : HVA** • COB-167- COB-168 **City of La Pine: HVA** • COLP-213 – COLP-214 **City of Sisters: HVA** • COS-245- COS-246	Met

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
B1-b. Does the plan include information on the location of each identified hazard?	**Section 3: Natural Hazard Identification and Risk Assessment:** • **Drought** 3-70 – 3-71 • **Earthquake** 3-77- 3- 81 • **Extreme Weather Hazards:** **Extreme Heat:** 3-86- 3-87 **Windstorm:** 3-89 **Winter Storm:** 3-94 - 3-97 • **Flood:** 3-102 • **Landslides:** 3-111 – 3-113 • **Volcanoes:** 3-115- 3-117 • **Wildfire:** 3-122 **City of Bend Addendum:** COB-176 - COB - 179 **City of La Pine Addendum:** COLP-215 -COLP-222 **City of Sisters Addendum:** COS-248- COS-244	Met

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
B1-c. Does the plan describe the extent for each identified hazard?	**Section 3: Natural Hazard Identification and Risk Assessment:** • **Drought** 3-70- 3-71 • **Earthquake** 3-77 - 3-81 • **Extreme Weather Hazards:** **Extreme Heat:** 3-86 – 3-87 **Windstorm:** 3-89 – 3-90 **Winter Storm:** 3-94 - 3-97 • **Flood:** 3-102 • **Landslides:** 3-111- 3-113 • **Volcanoes:** 3-115 – 3-117 • **Wildfire:** 3-122 **City of Bend Addendum:** COB-176- COB-179 **City of La Pine Addendum:** COLP-215 - COLP-222 **City of Sisters Addendum:** COS-248– COS-253	Met

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
B1-d. Does the plan include the history of previous hazard events for each identified hazard?	**Section 3: Natural Hazard Identification and Risk Assessment:** • **Drought:** 3-71- 3-73 • **Earthquake:** 3-81 • **Extreme Weather events:** **Extreme Heat Hazard:** 3-87 **Windstorm:** 3-90 - 3-92 **Winter Storm:** 3-98 – 3-100 • **Flood** 3-103- 3-104 • **Landslide:** 3-113 • **Volcano:** 3-118 – 3-120 • **Wildfire** 3-123 – 3-127 **City of Bend Addendum:** COB-176- COB-179 **City of La Pine Addendum:** COLP-215 - COLP-222 **City of Sisters Addendum:** • COS-248– COS-253	Met

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
B1-e. Does the plan include the probability of future events for each identified hazard, including the type, location and range of anticipated intensities?	**Section 3: Natural Hazard Identification and Risk Assessment:** (Includes Future Conditions, Vulnerability Assessment, and Risk Assessment) • **Drought:** 3-75 – 3-77 • **Earthquake:** 3-82 – 3-86 • **Extreme Weather Events** **Extreme Heat:** -3-88 - 3-89 **Windstorm:** -3-93 **Winter Storm:** 3-101 - 3-102 • **Flood:** 3-104- 3-105 • **Landslide:** 3-114 - 3-115 • **Volcanoes:** 3-121 - 3-122 • **Wildfire:** 3-128 - 3-132 **City of Bend Addendum:** COB-176- COB-179 **City of La Pine Addendum:** COLP-215 - COLP-222 **City of Sisters Addendum:** • COS-248– COS-253	Met

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
B1-f. For participating jurisdictions in a multi-jurisdictional plan, does the plan describe any hazards that are unique to and/or vary from those affecting the overall planning area?	**City of Bend: HVA** • COB-167- COB-168 (Table COB-2 City of Bend Hazard Analysis Matrix) **City of La Pine: HVA** • COLP-212- COLP-213 (Table COLP-2 La Pine Hazard Analysis Matrix) **City of Sisters: HVA** • COS-244- COS-245 (Table COS-2 Sisters Hazard Analysis Matrix)	Met

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
B2. Does the plan include a summary of the jurisdiction's vulnerability and the impacts on the community from the identified hazards? Does this summary also address NFIP-insured structures that have been repetitively damaged by floods? (Requirement 44 CFR § 201.6(c)(2)(ii))		

B2-a. Does the plan provide an overall summary of each jurisdiction's vulnerability to the identified hazards?	**Section 3: Natural Hazard Identification and Risk Assessment:** (Vulnerability Assessment) • **Drought:** 3-76 • **Earthquake:** 3-84-86 • **Extreme Weather Events:** **Extreme Heat Hazard** 3-88- 3-89 **Windstorm:** 3-93 **Winter Storm:** 3-101 • **Flood:** 3-111 • **Landslide:** 3-114 – 3-115 • **Volcano** 3-121 • **Wildfires** 3-129- 3-132 **City of Bend Addendum:** • **Drought** COB-176 • **Earthquake:** COB-176 • **Extreme Heat:** COB-177 • **Flood** COB-177 • **Landslide** COB-177 • **Volcanoes:** COB-178 • **Wildfire:** COB-178 • **Windstorm:** COB-178 • **Winter Storm:** COB-179 **City of La Pine Addendum:** • **Drought** COLP-215 – COLP 216	Met

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
	• **Earthquake:** COLP-216- COLP-217 • **Extreme Heat** COLP-217 - COLP-218 • **Flood** COLP-218 – COLP 219 • **Landslide:** COP-220 • **Volcano:** COLP-220 • **Wildfire:** COLP-221 – COLP 222 • **Windstorm:** COLP-222 • **Winter storm** COLP-222 **City of Sisters Addendum** • **Drought** COS-248 • **Earthquake:** COS-248 – COS 249 • **Extreme Heat** COS-249 • **Flood** COS- 250 – COS 251 • **Landslide:** COS- 251 • **Volcano:** COS-251 – COS 252 • **Wildfire:** COS-252 • **Windstorm:** COS- 252 • **Winter storm** COS-252 – COS-253	

B2-b. For each participating jurisdiction, does the plan describe the potential impacts of each of the identified hazards on each participating jurisdiction?	**Section 3: Natural Hazard Identification and Risk Assessment:** (Risk Assessment) • **Drought:** 3-76 • **Earthquake:** 3-84 - 3-86 • **Extreme Weather Events:** **Extreme Heat Hazard** 3-88 - 3-89 **Windstorm:** 3-93 **Winter Storm:** 3-101- 3-102 • **Flood:** 3-111 • **Landslide:** 3-114 – 3-115 • **Volcano** 3-121- 3-122 • **Wildfires** 3-129- 3-132 **City of Bend Addendum:** • **Drought** COB-176 • **Earthquake:** COB-176 • **Extreme Heat:** COB-177 • **Flood** COB-177 • **Landslide** COB-177 • **Volcanoes:** COB-178 • **Wildfire:** COB-178 • **Windstorm:** COB-178 • **Winter Storm:** COB-179 **Section 3: Natural Hazard Identification and Risk Assessment:** (Vulnerability Assessment)	Met

	• **Drought:** 3-76 • **Earthquake:** 3-84-86 • **Extreme Weather Events: Extreme Heat Hazard** 3-88- 3-89 **Windstorm:** 3-93 **Winter Storm:** 3-101 • **Flood:** 3-111 • **Landslide:** 3-114 – 3-115 • **Volcano** 3-121 • **Wildfires** 3-129- 3-132 **City of Bend Addendum:** • **Drought** COB-176 • **Earthquake:** COB-176 • **Extreme Heat:** COB-177 • **Flood** COB-177 • **Landslide** COB-177 • **Volcanoes:** COB-178 • **Wildfire:** COB-178 • **Windstorm:** COB-178 • **Winter Storm:** COB-179 **City of La Pine Addendum:** • **Drought** COLP-215 – COLP 216 • **Earthquake:** COLP-216- COLP-217 • **Extreme Heat**	

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
	COLP-217 - COLP-218 • **Flood** COLP-218 – COLP 219 • **Landslide:** COP-220 • **Volcano:** COLP-220 • **Wildfire:** COLP-221 – COLP 222 • **Windstorm:** COLP-222 • **Winter storm** COLP-222 **City of Sisters Addendum** • **Drought** COS-248 • **Earthquake:** COS-248 – COS 249 • **Extreme Heat** COS-249 • **Flood** COS- 250 – COS 251 • **Landslide:** COS- 251 • **Volcano:** COS-251 – COS 252 • **Wildfire:** COS-252 • **Windstorm:** COS- 252 • **Winter storm** COS-252 – COS-253	

Element B Requirements	Location in Plan (section and/or page number)	Met / Not Met
B2-c. Does the plan address NFIP-insured structures within each jurisdiction that have been repetitively damaged by floods? **Note:** The Community Repetitive Loss record for Deschutes County, Bend, La Pine, Redmond, and Sisters identify zero repetitive loss buildings, zero severe repetitive loss buildings, and zero total repetitive loss claims.	**Section 3: Natural Hazard Identification and Risk Assessment** • 3-108– 3-110 **City of Bend Addendum:** • 3-108– 3-110 **City of La Pine Addendum:** • 3-108– 3-110 **City of Sisters Addendum:** • 3-108 – 3-110	Met
ELEMENT B REQUIRED REVISIONS		
Required Revision: Click or tap here to enter text.		

Element C: Mitigation Strategy

Element C Requirements	Location in Plan (section and/or page number)	Met / Not Met
C1. Does the plan document each participant's existing authorities, policies, programs and resources and its ability to expand on and improve these existing policies and programs? (Requirement 44 CFR § 201.6(c)(3))		
C1-a. Does the plan describe how the existing capabilities of each participant are available to support the mitigation strategy? Does this include a discussion of the existing building codes and land use and development ordinances or regulations?	**Section 4: Mitigation** (Capabilities Assessment) • 4-138 – 4-140 **City of Bend Addendum:** • COB-181 **City of La Pine Addendum:** • COLP-224- COLP-225 **City of Sisters Addendum:** • COS- 255- COS-256	Met

Element C Requirements	Location in Plan (section and/or page number)	Met / Not Met
C1-b. Does the plan describe each participant's ability to expand and improve the identified capabilities to achieve mitigation?	**Section 4: Mitigation Strategy** (Capabilities Assessment) • 4-138–4-140 **Capabilities Assessment & Action Item Worksheets:** **City of Bend Addendum:** • COB-181-COB-184 **City of La Pine Addendum:** • COLP-224-COLP-227 **City of Sisters Addendum:** • COS-254 – COS 258 **Appendix A: Action Item Worksheets** • A-271 – A-317	Met
C2. Does the plan address each jurisdiction's participation in the NFIP and continued compliance with NFIP requirements, as appropriate? (Requirement 44 CFR § 201.6(c)(3)(ii))		
C2-a. Does the plan contain a narrative description or a table/list of their participation activities?	**Section 3: Natural Hazard Identification and Risk Assessment** • 3-108 – 3-110 **City of Bend Addendum:** • COB-182 **City of La Pine Addendum:** • COLP-219 • COLP-224 **City of Sisters Addendum:** • COS-255	Met

Element C Requirements	Location in Plan (section and/or page number)	Met / Not Met
C3. Does the plan include goals to reduce/avoid long-term vulnerabilities to the identified hazards? (Requirement 44 CFR § 201.6(c)(3)(i))		
C3-a. Does the plan include goals to reduce the risk from the hazards identified in the plan?	**Section 4 Mitigation Strategy** • 4-137 **City of Bend Addendum** • COB-180 **City of La Pine Addendum** • COLP-223 **City of Sisters Addendum** • COS-254	Met
C4. Does the plan identify and analyze a comprehensive range of specific mitigation actions and projects for each jurisdiction being considered to reduce the effects of hazards, with emphasis on new and existing buildings and infrastructure? (Requirement 44 CFR § 201.6(c)(3)(ii))		
C4-a. Does the plan include an analysis of a comprehensive range of actions/projects that each jurisdiction considered to reduce the impacts of hazards identified in the risk assessment?	**Section 4: Mitigation Strategy** • 4-136 – 4-153 Note: All action items support improved capacity in some way for participating agencies **Appendix A: Action Item Worksheets** • A-271 – A-317	Met

Element C Requirements	Location in Plan (section and/or page number)	Met / Not Met
C4-b. Does the plan include one or more action(s) per jurisdiction for each of the hazards as identified within the plan's risk assessment?	**Section 4: Mitigation Strategy: Mitigation Action Item Matrix** • 4-149 – 4-153 **Appendix A: Action Item Worksheets** • A-271 – A-317 **City of Bend Addendum** • COB-183 – COB-184 **City of La Pine Addendum:** • COLP-226 – COLP- 227 **City of Sisters Addendum:** • COS-257 – COS-258	Met
C5. Does the plan contain an action plan that describes how the actions identified will be prioritized (including a cost-benefit review), implemented, and administered by each jurisdiction? (Requirement 44 CFR § 201.6(c)(3)(iv)); (Requirement §201.6(c)(3)(iii))		
C5-a. Does the plan describe the criteria used for prioritizing actions?	**Section 4: Mitigation Strategy** • 4-144 - 4-147 **City of Bend Addendum** • COB-182 **City of La Pine Addendum** • COLP-225 **City of Sisters Addendum** • COS-256	Met

Element C Requirements	Location in Plan (section and/or page number)	Met / Not Met
C5-b. Does the plan provide the position, office, department or agency responsible for implementing/administrating the identified mitigation actions, as well as potential funding sources and expected time frame?	**Section 4: Mitigation Strategy** • 4-140 – 4- 143 • 4-149 – 4-153 (Action Item Matrix) **Appendix A: Action Item Worksheets** • A-271 – A-317 **City of Bend Addendum** • COB-189- COB-209 **City of La Pine Addendum** • COLP- 232- COLP-241 **City of Sisters Addendum** • COS-263 – COS-270	Met

ELEMENT C REQUIRED REVISIONS
Required Revision: Click or tap here to enter text.

Element D: Plan Maintenance

Element D Requirements	Location in Plan (section and/or page number)	Met / Not Met
D1. Is there discussion of how each community will continue public participation in the plan maintenance process? (Requirement 44 CFR § 201.6(c)(4)(iii))		
D1-a. Does the plan describe how communities will continue to seek future public participation after the plan has been approved?	**Section 5: Plan Implementation and updates:** • 5-162 **City of Bend Addendum** • COB-187- COB-188 **City of La Pine Addendum** • COLP-230 – COLP 231 **City of Sisters Addendum** • COS-261 – COS 262	Met
D2. Is there a description of the method and schedule for keeping the plan current (monitoring, evaluating and updating the mitigation plan within a five-year cycle)? (Requirement 44 CFR § 201.6(c)(4)(i))		
D2-a. Does the plan describe the process that will be followed to track the progress/status of the mitigation actions identified within the Mitigation Strategy, along with when this process will occur and who will be responsible for the process?	**Section 5: Plan Implementation and updates:** • 5-157- 5-164 **City of Bend Addendum** • COB-185- COB-188 **City of La Pine Addendum** • COLP-228- COLP-231 **City of Sisters Addendum** • COS- 259 – COS-262	Met

Element D Requirements	Location in Plan (section and/or page number)	Met / Not Met
D2-b. Does the plan describe the process that will be followed to evaluate the plan for effectiveness? This process must identify the criteria that will be used to evaluate the information in the plan, along with when this process will occur and who will be responsible.	**Section 5: Plan Implementation and updates:** • 5-154 – 5-164 **City of Bend Addendum** • COB-185-COB188 **City of La Pine Addendum** • COLP-228-COLP- 231 **City of Sisters Addendum** • COS- 259-COS- 262	Met
D2-c. Does the plan describe the process that will be followed to update the plan, along with when this process will occur and who will be responsible for the process?	**Section 5: Plan Implementation and updates:** • 5-154- 5-164 **City of Bend Addendum** • COB-185-COB-188 **City of La Pine Addendum** • COLP-228 - COLP-231 **City of Sisters Addendum** • COS- 259 - COS- 262	Met

Element D Requirements	Location in Plan (section and/or page number)	Met / Not Met
D3. Does the plan describe a process by which each community will integrate the requirements of the mitigation plan into other planning mechanisms, such as comprehensive or capital improvement plans, when appropriate? (Requirement 44 CFR § 201.6(c)(4)(ii))		
D3-a. Does the plan describe the process the community will follow to integrate the ideas, information and strategy of the mitigation plan into other planning mechanisms?	**Section 5: Plan Implementation and updates:** • 5-154 – 5-162 **City of Bend Addendum** • COB-181-182 • COB-185-188 **City of La Pine Addendum** • COLP-224 – COLP-225 • COLP- 228- COLP- 231 **City of Sisters Addendum** • COS-255 • COS-259 - COS-262	Met
D3-b. Does the plan identify the planning mechanisms for each plan participant into which the ideas, information and strategy from the mitigation plan may be integrated?	**Section 5: Plan Implementation and updates:** • 5-156 – 5-157 **City of Bend Addendum** • COB-187 – COB- 188 **City of La Pine Addendum** • COLP- 230 – COLP- 231 **City of Sisters Addendum** • COS-261 – COS-262	Met

Element D Requirements	Location in Plan (section and/or page number)	Met / Not Met
D3-c. For multi-jurisdictional plans, does the plan describe each participant's individual process for integrating information from the mitigation strategy into their identified planning mechanisms?	City of Bend Addendum • COB-187 – COB- 188 City of La Pine Addendum • COLP- 230 – COLP- 231 City of Sisters Addendum • COS-261 – COS-262	Met

ELEMENT D REQUIRED REVISIONS
Required Revision: Click or tap here to enter text.

Element E: Plan Update

Element E Requirements	Location in Plan (section and/or page number)	Met / Not Met
E1. Was the plan revised to reflect changes in development? (Requirement 44 CFR § 201.6(d)(3))		

E1-a. Does the plan describe the changes in development that have occurred in hazard-prone areas that have increased or decreased each community's vulnerability since the previous plan was approved?	**Section 2: Deschutes County Community Profile** • 2-37 - 2-44 • 2-62 - 2-65 • 2-212 - 2-214 • 2-216 - 2-217 **Section 3: Natural Hazard Identification and Risk Assessment** • 3-109 (Flood) • 3-113 (Landslide) • 3-129 (Wildfire) **Section 4: Mitigation Strategy** • 4-137 (Mitigation Goals) • 4-149 (MH#1, WF#2, WF#5) **City of Bend Addendum:** • COB-171 (Additional Local Considerations) • COB-178 (Wildfire) • COB-187 – COB 188 (Implementation) • COB-183 – COB-184 (MH#1, MH#4, FL#2, WF#2, WF#6) **City of La Pine Addendum:** • COLP-218 (Flood) • COLP-226 – COLP 227 (WF#1, DR#1, EH#1) **City of Sisters Addendum:** • COS-250 -COS-251 (Flood) • COS-252 (Windstorm) • COS-252 (WF#1) • COS-257 – COS-258	Met

Element E Requirements	Location in Plan (section and/or page number)	Met / Not Met
E2. Was the plan revised to reflect changes in priorities and progress in local mitigation efforts? (Requirement 44 CFR § 201.6(d)(3))		
E2-a. Does the plan describe how it was revised due to changes in community priorities?	**Section 4: Mitigation Strategy** • 4-148 - 4-153 **Appendix B: Public Planning Input Process:** • B-318– B-332 **Appendix E: 2025 Deschutes Survey** • E-352 – E-393	Met
E2-b. Does the plan include a status update for all mitigation actions identified in the previous mitigation plan? -Updated in both the matrix in Section 4 and each action item in Appendix and each addendum	**Section 4: Mitigation Strategy** • 4- 148 – 4 -153 **Appendix A: Action Item Worksheets** • A-271– A-317 **City of Bend Addendum:** • COB-183- COB-184 • COB-189 – COB-209 **City of La Pine Addendum:** • COLP-226 – COLP 227 • COLP-232 – COLP-241 **City of Sisters Addendum:** • COS-257 – COS 258 • COS-263 – COS-270	Met

Element E Requirements	Location in Plan (section and/or page number)	Met / Not Met
E2-c. Does the plan describe how jurisdictions integrated the mitigation plan, when appropriate, into other planning mechanisms? -Action item worksheets (says how it aligns)	**Appendix A: Action Item Worksheets** • A-271– A-317 **City of Bend Addendum:** • COB-183- COB-184 • COB-189 – COB-209 **City of La Pine Addendum:** • COLP-226 – COLP 227 • COLP-232 – COLP-241 **City of Sisters Addendum:** • COS-257 – COS 258 • COS-263– COS-270	Met

ELEMENT E REQUIRED REVISIONS
Required Revision: Click or tap here to enter text.

Element F: Plan Adoption

Element F Requirements	Location in Plan (section and/or page number)	Met / Not Met
F1. For single-jurisdictional plans, has the governing body of the jurisdiction formally adopted the plan to be eligible for certain FEMA assistance? (Requirement 44 CFR § 201.6(c)(5))		
F1-a. Does the participant include documentation of adoption?	Click or tap here to enter text.	Choose an item.
F2. For multi-jurisdictional plans, has the governing body of each jurisdiction officially adopted the plan to be eligible for certain FEMA assistance? (Requirement 44 CFR § 201.6(c)(5))		
F2-a. Did each participant adopt the plan and provide documentation of that adoption?	Click or tap here to enter text.	Not Met

ELEMENT F REQUIRED REVISIONS		
Required Revision: F2-a: Will be met once all participating jurisdictions have formally adopted the plan.		

Element G: High Hazard Potential Dams

HHPD Requirements	Location in Plan (section and/or page number)	Met / Not Met
HHPD1. Did the plan describe the incorporation of existing plans, studies, reports and technical information for HHPDs?		
HHPD1-a. Does the plan describe how the local government worked with local dam owners and/or the state dam safety agency?		Choose an item.
HHPD1-b. Does the plan incorporate information shared by the state and/or local dam owners?		Choose an item.
HHPD2. Did the plan address HHPDs in the risk assessment?		
HHPD2-a. Does the plan describe the risks and vulnerabilities to and from HHPDs?		Choose an item.
HHPD2-b. Does the plan document the limitations and describe how to address deficiencies?		Choose an item.
HHPD3. Did the plan include mitigation goals to reduce long-term vulnerabilities from HHPDs?		
HHPD3-a. Does the plan address how to reduce vulnerabilities to and from HHPDs as part of its own goals or with other long-term strategies?		Choose an item.
HHPD3-b. Does the plan link proposed actions to reducing long-term vulnerabilities that are consistent with its goals?		Choose an item.
HHPD4-a. Did the plan include actions that address HHPDs and prioritize mitigation actions to reduce vulnerabilities from HHPDs?		
HHPD4-a. Does the plan describe specific actions to address HHPDs?		Choose an item.
HHPD4-b. Does the plan describe the criteria used to prioritize actions related to HHPDs?		Choose an item.

HHPD Requirements	Location in Plan (section and/or page number)	Met / Not Met
HHPD4-c. Does the plan identify the position, office, department or agency responsible for implementing and administering the action to mitigate hazards to or from HHPDs?		Choose an item.
HHPD Required Revisions		
Required Revision: Click or tap here to enter text.		

Element H: Additional State Requirements (Optional)

Element H Requirements	Location in Plan (section and/or page number)	Met / Not Met
This space is for the State to include additional requirements.		
Click or tap here to enter text.	Click or tap here to enter text.	Choose an item.

Plan Assessment

These comments can be used to help guide your annual/regularly scheduled updates and the next plan update.

Element A. Planning Process

Strengths

- [insert comments]

Opportunities for Improvement

- [insert comments]

Element B. Risk Assessment

Strengths

- [insert comments]

Opportunities for Improvement

- [insert comments]

Element C. Mitigation Strategy

Strengths

- [insert comments]

Opportunities for Improvement

- Question regarding some of the mitigation actions marked as “New” like MH #10, FL#8, or LS#1 – There is not a jurisdiction with an “x” on any of the boxes. Is this an oversight? Or are none of the jurisdictions adopting that action as a part of their mitigation strategy? If not, why is it present here? Just a bit of confusion on how this info is presented here.

Element D. Plan Maintenance

Strengths

- [insert comments]

Opportunities for Improvement

- [insert comments]

Element E. Plan Update

Strengths

- [insert comments]

Opportunities for Improvement

- [insert comments]

Element G. HHPD Requirements (Optional)

Strengths

- [insert comments]

Opportunities for Improvement

- [insert comments]

Element H. Additional State Requirements (Optional)

Strengths

- [insert comments]

Opportunities for Improvement

- [insert comments]

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Public Hearing: Remand of McKenzie Meadow Village, LLC Plan Amendment and Zone Change Application – File No. 247-26-000606-A (original File Nos. 247-24-000839-PA, 840-ZC)

RECOMMENDED MOTION:

Following the hearing, the Board may choose to:

- Continue the hearing to a date certain;
- Close the oral portion of the hearing and leave the written record open to a date and time certain;
- Close the hearing and commence deliberations; or
- Close the hearing and schedule deliberations for a date and time to be determined.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of Commissioners (Board) will hold a public hearing on November 16, 2026 to consider a remand decision of the Oregon Land Use Board of Appeals (LUBA) regarding a Plan Amendment and Zone Change application submitted by McKenzie Meadow Village, LLC, which was originally approved by the Board pursuant to File Nos. 247-24-000839-PA, 840-ZC. The attached staff memo provides additional details.

The record is provided on the application website:
www.deschutes.org/MMVRemand

BUDGET IMPACTS:

None.

ATTENDANCE:

Haleigh King, Senior Planner
Anthony Raguine, Principal Planner
Will Groves, Planning Manager

COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Board of County Commissioners

FROM: Haleigh King, Senior Planner

DATE: November 10, 2026

SUBJECT: November 16th Public Hearing for the *McKenzie Meadow Village, LLC ("MMV")* LUBA Remand

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The Board of County Commissioners ("Board") will conduct a public hearing regarding a Land Use Board of Appeals ("LUBA") remand. This remand is regarding a Comprehensive Plan Amendment and Zone Change for approximately 58 acres of land located adjacent to the City of Sisters Urban Growth Boundary and city limits (file nos. 247-24-000839-PA, 247-24-000840-ZC). The application includes a Goal 4 (Forest Lands) exception request.

I. BACKGROUND

The applicant, MMV, received approval for a Comprehensive Plan Amendment to re-designate the subject properties from Agriculture to Rural Residential Exception Area and a Zoning Map Amendment to rezone the properties from Forest Use 2 ("F2") to Multiple Use Agricultural – 10 Acre Minimum ("MUA10"). The subject property consists of four tax lots and contains an extension of the McKinney Ranch Road private road right-of-way. The subject properties are located southwest of Highway 20, and their southern boundary abuts the Sisters Urban Growth Boundary.

An initial public hearing was held before the Hearings Officer on April 7, 2025, and on June 25, 2025, the Hearings Officer issued their recommendation of approval. A public hearing was held before the Board on August 6, 2025, and the Board voted unanimously to approve the subject applications. Ordinance No. 2025-014 was signed by the Board on October 6, 2025, formally approving the applications.

II. REMAND PROCEEDINGS

The County's decision was appealed to LUBA. LUBA's final opinion and order (LUBA No. 2025-070) was issued on August 19, 2026, remanding the decision back to Deschutes County for additional analysis. The applicant initiated the remand proceedings on October 9, 2026, and this remand application is file no. 247-26-000606-A.

The record for this remand application is presented at the following Deschutes County Community Development Department website: www.deschutescounty.gov/MMVRemand

Per Deschutes County Code ("DCC") 22.34.030(A), only those persons who participated in the County's original review of the subject Comprehensive Plan Amendment and Zone Change request are entitled to participate in this remand hearing.

III. BOARD CONSIDERATION

Pursuant to Board Order 2026-040, parties to this proceeding can only present new evidence and testimony related to the following remanded issues:

1. **Procedural errors:** LUBA held that the notice to the DLCD did not include all the particulars required under OAR 660-018-0020(3). LUBA also agreed that the public notices did not describe the proposal consistent with the actual decision. LUBA held that remand was necessary for the County to address its notices.
2. **Incorrect exception standard**. LUBA concluded that the County erred in applying the "catchall" provision in OAR 660-004-0022(1) to justify the reasons exception. LUBA agreed with LandWatch that the actual decision approved more than a transition zone and allowed all uses authorized in the MUA10 zone, including rural residential uses. LUBA determined the County was required to satisfy OAR 660-004-0022(2).
3. **Additional analysis and findings under ORS 197.732(2) and (4) (Goal 4 Exception Request)**. LUBA agreed that the decision included the required findings under the statutory provision above. However, LUBA found the substance of the County's findings was insufficient. LUBA sustained LandWatch's second sub assignment concluding that the decision did not just approve a transition zone for inclusion in the UGB to provide needed housing but created an MUA10 Zone which allows a multitude of uses with no conditions of approval or any other limiting factor that would restrict the use of the property to a stated purpose.
4. **Additional analysis under Goal 14 and DCCP Policy 3.3.1**. LUBA found that because the application and decision did not include conditions or limitations on uses, the decision misconstrued how Goal 14 applies and conflicts with Policy 3.3.1.

Applicant's Request to Modify – Application of Limited Use Combining Zone:

The Applicant has also included a modification with the remand request to address issues involved in the remand to the extent that such modifications would not substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors.

The Applicant's proposed modification is to introduce a Limited Use ("LU") Combining Zone, pursuant to DCC 18.112, and apply it to the subject property in addition to the proposed zone designation of MUA10. The LU Combining Zone is an overlay zone which may be applied, where appropriate, to plan amendments/zone changes effected by a "reasons" exception under ORS

197.732(1)(c). In the case of the subject application, the applicant has requested a "reasons" exception pursuant to ORS 197.732(1)(c) and therefore may be eligible for the application of an LU Combining Zone.

The LU Combining Zone shall carry out the provisions of OAR 660-04-018, which requires that plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception. When the LU Zone is applied, the uses permitted in the underlying zone shall be limited to the uses specifically set forth in the adopting ordinance for the plan amendment and zone change. As such, the applicants are proposing that development of the property be limited to those uses justified in the exception through the imposition of a LU Combining Zone. It is Staff's understanding that the imposition of an LU Combining Zone cannot add new uses to the base zone.

Approval Criteria

Staff notes DCC 18.112.040 includes required approval criteria for the Hearings Body in making a decision on the application of an LU Combining Zone:

1. The uses and general activities subject to the rezoning are required to be limited to those uses and general activities justified in the goal exception taken.
2. A review of all zones in DCC Title 18 demonstrates that no existing zone adequately limits the uses and general activities.
3. The LU Zone, when applied to the underlying zone, is consistent with the Comprehensive Plan and other applicable policies of the County.

Additionally, staff believes the Board must find that the modification request does not substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors.

The applicant provided a response to each of these in their remand application package.

Draft LU Combining Zone

The Applicant provided a draft Exhibit[1] detailing the specific uses and development standards allowed under the proposed MUA10 Zone, with the application of an LU Combining Zone. As seen in their draft document, many of the uses allowed either outright or conditionally in the MUA10 Zone have been omitted from the proposed LU Combining Zone and the applicant proposes to prohibit further division of land.

The Applicant's proposed LU Combining Zone language is provided in full as Attachment C.

Economic, Social, Environmental, and Energy ("ESEE") Analysis

The subject property contains portions within the Landscape Management Combining Zone associated with State Highway 20 to the northeast. The Applicant's original ESEE analysis evaluated all new potentially conflicting uses permitted outright or conditionally in the MUA10 Zone that would not have otherwise been allowed under the present F2 Zone. The analysis found that the retention

[1] Dated 11/10/2026

of the LM Combining Zone would continue to protect the scenic resources and no additional prohibition or limitation on future uses was warranted. The remand application does not propose any changes to the existing LM Combining Zone.

It is not clear to staff if the ESEE analysis should be revised to limit it's analysis to the proposed uses or if the ESEE in the record is sufficient.

IV. 120-DAY REVIEW CLOCK

In consultation with County Legal Counsel, it has been determined the 120-day review clock under ORS 215.435(2) and DCC 22.34.030 does not apply to the subject remand application because the request includes a Comprehensive Plan Amendment. Nevertheless, staff will be processing the subject remand application in an efficient and timely manner.

V. NEXT STEPS

At the conclusion of the public hearing, the Board can choose one of the following options:

- Continue the hearing to a date and time certain;
- Close the oral portion of the hearing and leave the written record open to a date and time certain;
- Close the hearing and commence deliberations; or
- Close the hearing and schedule deliberations for a date and time to be determined.

ATTACHMENT(S):

A. Location Map
B. Remand Application
C. 2026-11-10 Applicant's Proposed LU Combining Zone
D. Order No. 2026-040
E. LUBA Final Order 2025-070

File Number: 247-26-000606-A, 247-24-000839-PA, 840-ZC



Date: 12/31/2024

N

0 625 1,250 2,500 ft

1 inch = 1,505 feet

File No. 247-26-000606-A
(To be Completed by Staff)

DESCHUTES COUNTY

COMMUNITY DEVELOPMENT

GENERAL LAND USE APPLICATION

Application Instructions: **Fee(s):** $5,000

1. Please complete the applicable fields on the form below and prepare all supplemental materials.
2. The completed form and supplemental materials must be emailed to planning@deschutes.org, submitted in-person during our office hours at 117 NW Lafayette Ave, Bend, or mailed to the Planning Division, PO Box 6005, Bend, OR 97708.
3. For electronic submittals, payment instructions will be provided shortly after receipt of the application and for all other submittal methods payment is due at the time of application.

Section 1: Contact Information

Applicant Name (print): McKenzie Meadow Village LLC Phone: 541-388-1107

Mailing Address: 601 N Reed Street, Sisters, OR 97759

Applicant Email Address: chris@buchananschmid.com

Property Owner Name (if different)*: same as above Phone: _____

Mailing Address: _____

Property Owner Email Address: _____

Section 2: Proposal Information *(Check all that apply)*

☐ **Accessory Dwelling Unit**	☐ **Admin. Determination**	☐ **Comp Plan Amendment**
☐ **Conditional Use**	☐ **Declaratory Ruling**	☐ **Exception**
☐ **Final Plat**	☐ **Improvement Agreement**	☐ **Information Packet**
☐ **LM Review**	☐ **Lot of Record Verification**	☐ **Modification**
☐ **Nonconforming Structure**	☐ **Nonconforming Use**	☐ **Partition**
☐ **Sign Permit**	☐ **Site Plan**	☐ **SMIA Review**
☐ **Subdivision**	☐ **Text Amendment**	☐ **Variance**
☐ **Zone Change**	☑ **Other:** _____	

1. Description of Request: Remand Hearing

2. Property Address: _____

3. County Assessor Tax Map(s)/Tax Lot(s): 1510050001200, 1202, 1203, 1205
4. Property Zone(s): F-2 5. Lot of Record: _____
6. The following supplemental materials are commonly required for requests included on this application form.

   Please select which of the following are included as part of this request:

   ☐ Site plan drawing

   ☐ Construction plans (i.e. floor plan(s), elevations, grading information, etc.)

   ☐ All applicable standards and criteria addressed in writing (i.e. a burden of proof)

   ☐ Detailed descriptions, maps, and/or other relevant information.
7. Does this request involve the development of housing that is eligible to be reviewed pursuant to ORS 197A.400 and DCC 22.08.040? ☐ Yes / ☐ No

   If yes, which standards/criteria are you requesting approval under?

   ☐ Clear and Objective Standards (review pursuant to ORS 197A.400 and DCC 22.08.040)

   ☑ General/Discretionary Standards (review not pursuant to ORS 197A.400 and DCC 22.08.040)
8. To the best of my knowledge, the information submitted with this application is true and complete, and the proposal complies with all prior land use conditions of approval and all other applicable local, state, and federal laws, except as disclosed in the application materials.

   To assist Deschutes County in evaluating the Deschutes County Code criteria applicable to this application, the undersigned owner, or applicant authorized by the owner, may grant Planning staff permission to enter the exterior portions of the subject property at reasonable times for a limited site inspection related to this application. If permission is not granted, or is limited or revoked, the applicant remains responsible for providing information sufficient to allow the County to determine whether the applicable approval criteria are met.

Section 3: Required Signature(s)

Applicant/Agent Signature: Christopher P. Koback Attorney in fact Date: 10/8/2026

Property Owner Signature (if different)*: _____ Date: _____

If this application is not signed by the property owner, written approval from the property owner authorizing signature by the applicant or agent must be attached.

Section 4: *Optional* Additional Contact

Agent Name (if applicable): Christopher P. Koback Phone: 541-388-1107

Agent Mailing Address: 937 NW Newport Ave., Suite 220, Bend, OR 97703

Agent Email Address: chris@buchananschmid.com

3. County Assessor Tax Map(s)/Tax Lot(s): 1510050001200, 1202, 1203, 1205

4. Property Zone(s): F-2 5. Lot of Record: _____

6. The following supplemental materials are commonly required for requests included on this application form.

   Please select which of the following are included as part of this request:

   ☐ Site plan drawing

   ☐ Construction plans (i.e. floor plan(s), elevations, grading information, etc.)

   ☐ All applicable standards and criteria addressed in writing (i.e. a burden of proof)

   ☐ Detailed descriptions, maps, and/or other relevant information.

7. Does this request involve the development of housing that is eligible to be reviewed pursuant to ORS 197A.400 and DCC 22.08.040? ☐ Yes / ☐ No

   If yes, which standards/criteria are you requesting approval under?

   ☐ Clear and Objective Standards (review pursuant to ORS 197A.400 and DCC 22.08.040)

   ☑ General/Discretionary Standards (review not pursuant to ORS 197A.400 and DCC 22.08.040)

8. To the best of my knowledge, the information submitted with this application is true and complete, and the proposal complies with all prior land use conditions of approval and all other applicable local, state, and federal laws, except as disclosed in the application materials.

   To assist Deschutes County in evaluating the Deschutes County Code criteria applicable to this application, the undersigned owner, or applicant authorized by the owner, may grant Planning staff permission to enter the exterior portions of the subject property at reasonable times for a limited site inspection related to this application. If permission is not granted, or is limited or revoked, the applicant remains responsible for providing information sufficient to allow the County to determine whether the applicable approval criteria are met.

Section 3: Required Signature(s)

Applicant/Agent Signature: Christopher P. Koback Attorney in fact Date: 10/8/2026

Property Owner Signature (if different)*: _____ Date: 10-14-2026

If this application is not signed by the property owner, written approval from the property owner authorizing signature by the applicant or agent must be attached.

Section 4: *Optional* Additional Contact

Agent Name (if applicable): Christopher P. Koback Phone: 541-388-1107

Agent Mailing Address: 937 NW Newport Ave., Suite 220, Bend, OR 97703

Agent Email Address: chris@buchananschmid.com

From: Bill Willitts
To: Chris Koback
Cc: Haleigh King; Anthony Raguine; Markay Everett
Subject: Re: McKenzie Meadows Village Remand; County Files 247-24-000839-PA and 247-24-00040-ZC
Date: Thursday, October 8, 2026 4:26:33 PM

! **Caution:** External email - If unexpected, verify with known contacts. If suspicious, use **Report > Report Phishing**. If you clicked/opened/replied/entered credentials, contact **Service Desk** immediately.

Haleigh and Anthony

I approve of the remand application and confirm my support.

Thank you

Bill
Sent from my iPhone

> On Oct 8, 2026, at 4:06 PM, Chris Koback <chris@buchananschmid.com> wrote:
>
> Haleigh and Anthony:
>
> I attached the applicant's Land Use Application form for the remand proceeding in the above files and the applicant's narrative for the application. Mr. Willitts is not in town to sign the application form. However, he is on this email and can confirm by email (1) that as the applicant's attorney in fact, I am authorized to sign the application on behalf of the owner/applicant and (2) that he can come to the county Monday to execute any supplemental documents necessary. We appreciate anything planning staff can do to expedite processing this application. Let me know if you have any questions. Thank you.
>
> **Christopher Koback**
> | T: 541.388.1107 | F: 541.388.7370
> **Buchanan Schmid LLC**
> 937 NW Newport Ave., Suite 220
> Bend, OR 97703
> chris@buchananschmid.com
>
> **CONFIDENTIALITY NOTICE:**
> The information contained in this e-mail is intended only for the use of the

designated recipients named above. This email, and any documents, files or previous e-mails attached to it, may be a confidential attorney-client communication or otherwise privileged and confidential. If you are not the intended recipient, you are hereby notified that you have received this transmittal in error, and that any review, dissemination, distribution or copying of the transmittal is STRICTLY PROHIBITED. If you have received this e-mail in error, please notify us immediately by telephone (541.388.1107) or return e-mail and delete this message. Thank you.

<2026.10.08 Signed Land Use Application - Remand Initiation MMV.pdf>
<2026.10.08 Letter and Exh A - MMV Remand.pdf>

buchanan schmid koback
Attorneys | representing you

VIA EMAIL haliegh.king@deschutes.gov

October 8, 2026

Haliegh King
Deschutes County Community Development
117 NW Lafayette Avenue
Bend, OR 97703

Re: Initiation of McKenzie Meadows Village Remand
Deschutes County File Nos. 247-24-000839-PA/000840-ZC
LUBA No. 2025-070
Our File: 2138

Dear Ms. King:

This firm represents McKenzie Meadows Village, the Applicant in the above files and in this remand application (the "Applicant"). On August 19, 2026, the Land Use Board of Appeals ("LUBA") remanded the County's approval of its application for a Comprehensive Plan amendment and zone change. This application and letter initiate the remand proceedings as of the date of this letter.

McKenzie Meadows Village Remand Application Narrative

This matter comes before the County on Remand from the Land Use Board of Appeals pursuant to LUBA's Final Opinion and Order in *Central Oregon LandWatch v. Deschutes County, LUBA No. 2025-070 (August 19, 2026)*.

Scope of Remand: In its LUBA appeal, Central Oregon LandWatch ("LandWatch") asserted four assignments of error:

1. The first assignment of error asserted (1) that the County's notice to DLCD was inadequate under ORS 197.610(3) and OAR 660-018-0020(3), and (2) that the County's public notices did not comply with the requirements of ORS 197.732(5) and ORS 197.797(3).

    a. LUBA agreed with LandWatch that the County's notice to DLCD and its public notices were inadequate. LUBA held that the notice to the DLCD did not include all the particulars required under OAR 660-018-0020(3). LUBA also agreed that the public notices did not describe the proposal consistent with the actual decision. LUBA held that remand was necessary for the County to address its notices.

2. In its second assignment of error, LandWatch asserted that the County erred in applying OAR 660-004-0020(1) to the Applicant's reasons exception request rather than OAR 660-004-0020(2).

    a. On LandWatch's second assignment, LUBA agreed that the application did not request approval for rural residential uses specifically; instead, it sought to rezone the property to MUA-10 as a transition-zoned property to be considered for inclusion in the Sisters UGB.

However, LUBA agreed with LandWatch that the actual decision approved more than a transition zone and allowed all uses authorized in the MUA-10 zone, including rural residential uses. Thus, LUBA agreed that the County erred in applying the "catchall" in OAR 660-004-0020(1) to justify the reasons exception.

3. In its third assignment of error, LandWatch asserted (1) that the County's decision violated ORS 197.732(4) by failing to set forth adequate findings (first sub assignment), and (2) that the County misconstrued the law and adopted inadequate findings to support an exception to Goal 4.

    a. On LandWatch's third assignment, LUBA denied the first sub-assignment of error asserting that the County violated ORS 197.732(4) agreeing that the decision included the required findings under that statutory provision. LUBA sustained LandWatch's second sub assignment concluding that the decision did not just approve a transition zone for inclusion in the UGB to provide needed housing but created an MUA-10 zone which allows a multitude of uses with no conditions of approval or any other limiting factor that would restrict the use of the property to a stated purpose.

4. In its fourth assignment of error, LandWatch asserted that the County misconstrued the law by allowing urban uses on rural land in violation of Goal 14 and allowing new residential uses with no minimum lot sizes in violation of DCCP Policy 3.3.1.

    a. On LandWatch's fourth assignment, LUBA found that because the application and decision did not include conditions or limitation on uses, particularly rural residential development with parcels less than 10-acres, the decision misconstrued how Goal 14 applied. LUBA for similar reasons, agreed that the decision without any conditions or limitation allowed MUA-10 zoning that includes cluster and planned development that conflict with Policy 3.3.1.

Applicant's Narrative Supporting Remand Application.

I. Introduction.

LUBA's remand on the first assignment of error involved the adequacy of the County's notices. Essentially, LUBA did not believe that the contents of the notices were sufficiently descriptive of the reason for the exception sought in the County decision. Those are procedural issues on which the applicant will coordinate with the County. The Applicant's response to LUBA's remand on the substantive issues will be helpful in preparing notices that address LUBA's remand.

On the substantive issues in assignments 2, 3, and 4, LUBA did not question that the Applicant requested a reasons exception to create an opportunity to address the documented housing crisis in Oregon in general and Deschutes County specifically. LUBA did not hold that the County cannot rezone property to MUA-10 for the purpose of creating a holding or transition zone for future inclusion in the UGB. Each of LUBA's substantive reasons for sustaining LandWatch's assignments of error stemmed from the same fact: the reason stated for the exception did not match what the County decision actually approved. In approving the exception to rezone the subject property to MUA-10 without conditions or limitations on the uses allowed, the decision authorized uses beyond the stated reasons,

which again, LUBA did not question. Thus, because the decision did not limit Rural Residential Uses, the County, in LUBA's view, was required to apply OAR 660-004-0020(2) and could not rely on the "catchall" provision in OAR 660-004-0020(1). Similarly, the County's findings under ORS 197.732 justifying the reasons did not account for the fact that the decision was not limited to the stated purpose but authorized all uses in the MUA-10 zone.

The fourth assignment of error involves a similar issue. As LUBA noted, as long as the decision does not condition or limit the uses authorized to uses consistent with a transition zone and allows parcels smaller than 10 acres to be created, the decision authorizes potentially urban densities without evaluating consistency with Goal 14 and violates Policy 3.3.1.

The best and most comprehensive means to address LUBA's remand is for the Applicant to submit a request to modify the application to rezone the subject property to MUA-10 and to apply a Limited Use ("LU") Overlay as provided for in DCC 18.112.010. The requested LU overlay will limit uses allowed on the property to those consistent with the reason for the exception: the creation of a transition-zoned area close to the Sisters schools and other services needed by residents and the facilitation of the property's inclusion into the UGB to address the current housing crisis.

II. Standard for Applying a Limited Use Overlay.

The LU overlay is the appropriate vehicle to respond to LUBA's remand. The purpose for the overlay is as follows:

18.112.0110 Purpose

1. **The purpose of the LU Zone is to limit the list of permitted uses and general activities allowed in the underlying zone, when a plan amendment and zone change rezones a lot or parcel to that underlying zone through the taking of an exception to a statewide land use planning goal under ORS 197.732.**

Applicant's Response: The proposed exception is to Goal 4-Forestland and asserts that there are reasons that the Goal should not apply to the subject property. The property is not productive forestland, and the Applicant obtained a professional assessment that it is not suitable for commercial forestry. The retention of the F-2 zone is not necessary to serve the purpose of conserving soil, air, water resources. The property is about 58 acres near thousands of acres of preserved forestland. Because the existing natural recourses, soil, water and air can be protected under future zoning and development scenarios, retaining the F-2 zoning is not necessary to meet the purpose for Goal 4.

On the other hand, the property is uniquely suited to help address the documented and growing housing crisis. To eventually construct and provide housing at the level needed and within the time needed, the City needs larger, vacant, relatively flat, unencumbered land. The best property to meet the need is close to the City, with public services nearby and public facilities that can be efficiently extended. It requires motivated owners willing to commit to creating the housing needed. The subject property meets every one of those attributes.

Thus, the Applicant proposed to rezone the property to MUA-10 to facilitate future inclusion in the

Sisters' UGB. As LUBA concluded, however, the simple placement of the MUA-10 zone does not limit uses allowed to those that serve the stated reasons for the exception. The LU Overlay is a tool uniquely suited to address LUBA's remand and this situation.

2. **The LU Zone is an overlay zone which may be applied, where appropriate, to plan amendments/zone changes effected by either a "physically developed" exception under ORS 197.732(1)(a), an "irrevocably committed" exception under ORS 197.732(1)(b), or a "reasons" exception under ORS 197.732(1)(c)**.

Applicant's Response: The LU overlay can be applied in this matter because it applies to plan amendments and zone changes effected by a reasons exception under ORS 197.732.

3. **The LU Zone, when adopted, shall carry out the requirement of Oregon Administrative Rule 660-04-018 that where a goal exception is taken, permitted uses shall be limited to those uses justified by the exception statement**.

Applicant's Response: The LU overlay can be drafted to carry out the requirements of OAR 660-004-0018. The reason for the requested exception is to create essentially a holding zone for future urban housing to meet the housing crisis. Development of some uses allowed under MUA-10 may be inconsistent with that purpose because those uses could impede development of housing on the scale needed, just as existing development in the Barclay area impedes future development. Applying the LU overlay will create a zone that limits uses and development to those that will facilitate future urban development at the scale needed. The Applicant proposes low-intensity uses and does not propose to allow subdivision, leaving a large parcel intact for efficient urban housing development. The Applicant will detail those proposed uses below.

The LU overlay will respond to LUBA's conclusion that the decision approving the MUA-10 zone without limitations authorizes uses that may not be consistent with the stated reason for the exception. DCC 18.112.020 provides:

18.112.020 Combining Zone Requirements

When the LU Zone is applied, the uses permitted in the underlying zone shall be limited to those uses and general activities specifically set forth in the ordinance adopting the underlying zone and the LU Zone. Any change in those uses and general activities must be made through the plan/land use regulation amendment process.

Applicant's Response: The proposed LU zone will limit uses within the adopted overlay for the property to uses that are consistent with future inclusion into the UGB and annexation for urban housing. The Applicant has included as **Exhibit A**, a draft of what the LU overlay will look like for this situation subject to refinement based on County staff input.

18.112.030 Procedure

The LU Zone shall be applied through the plan amendment and rezoning process at the time the underlying plan and/or zone designation is being changed.

Applicant's Response: The remand proceeding is the appropriate time to apply the LU overlay. DCC 18.112.030 provides that the LU Zone shall be applied through the plan amendment and rezoning process at the time the underlying plan and/or zone designation is being changed.

18.112.040 Use Limitations

The following limitations shall apply to the underlying zone when the LU Zone is applied: In all cases, the Hearings Body shall establish that:

1. **The uses and general activities subject to the rezoning are required to be limited to those uses and general activities justified in the goal exception taken**.

Applicant's Response: The reasons that justify the goal exception are that the subject property is not forestland that should be subject to Goal 4. It has few trees and limited soil capabilities for future growth. An expert opined that it is not suitable for forestry operations.

Oregon has a severe housing shortage and a significant gap between what the median wage earner earns and the cost of housing. The limited supply exacerbates the problem. Sisters and Deschutes County need specific land that can address the crisis now, not in 10 to 20 years. The subject property is uniquely suited to address the crisis, and the owners are highly motivated to develop it for needed and affordable housing. It is a large, undeveloped, unrestricted, and relatively flat parcel. It has services stubbed to it. It is adjacent to the City and its schools. It is close to many public and private services used by residents.

Thus, the Applicant is proposing to rezone the property as a future urban development parcel with uses limited to low-intensity uses that will not impede future urban housing development and with restrictions on parcelization. Exhibit A is a proposed LU Overlay for the property that lists the uses and activities that the Applicant believes are consistent with the reasons for the exception. In general, the proposed overlay allows one single-family dwelling on each lot of record, accessory structures, agricultural use, private parks, open space, recreational use, and private campgrounds without significant structures.

As noted above, the Applicant is proposing a draft LU overlay for the property that restricts future division that may impede including the property in the City for future urban housing needs. The Applicant is further proposing allowed uses that are lower in intensity and do not consume significant land with valuable permanent structures that can also impede future development. None of the allowed uses are designed to provide an incentive for owners to retain the MUA-10 zoning long term and develop the land inconsistently with the reason for the exception.

2. **A review of all zones in DCC Title 18 demonstrates that no existing zone adequately limits the uses and general activities**.

Applicant's Response: There is no existing zone in the County that can be applied to land that is not already within the UGB that will limit allowed uses to those consistent with the reasons for the requested exception. For properties that are within the UGB but not yet annexed, the County can apply

the Urban Area Reserve Zone which according to its purpose is a holding category. It is designed to preserve land as long as possible as useful open space until needed for orderly growth. DCC 21.16.010.

There are no other zones that both (1) preserve land as open space and (2) allow for or promote future urban development. Applying a forest zone or EFU zone can preserve land and open space, but neither zone accommodates future orderly development at urban levels. The applicant will demonstrate that all other resource land adjacent to the city not suited for future urban development for the needed housing identified in the city studies. Much of it is federally owned and will not be used for purposes other than public forest land. The EFU land is in use for farming activities, and has no public facilities close enough to promote any sense of orderly development.

Applying MUA-10 or RR-10 without an LU overlay will allow uses inconsistent with future orderly and efficient urban development. The impediments to future urban development created by valuable estate-type residential uses in those zones are well documented in Sisters. The material included in the current Sisters' UGB expansion process illustrates that most of the properties in the recognized exception areas has been parceled and improved making them unsuitable for any reasonable future residential development at urban densities.

3. **The LU Zone, when applied to the underlying zone, is consistent with the Comprehensive Plan and other applicable policies of the County**.

Applicant's Response: The application of the LU overlay in this case is consistent with all applicable provisions, goals and policies in the DCCP.

Chapter 1, Citizen Involvement. The request is being made within an ongoing land use proceeding where all affected citizens will receive notice and have the ability to participate. The Applicant is proceeding under procedures and regulations in the adopted and acknowledged land use regulations.

Chapter 2, Natural Resources.

Section 2.2 Forestland. The limitations on development will ensure that the property is largely open and undeveloped as long as it is in the County. Even though the Applicant has established that the goal related to preserving forestland should not apply, the proposed LU zone will have the effect of preserving the site close to its current state while in the County and also facilitating the later use consistent with the exception.

Section 2.4-Goal 5 Overview. The Goal 5 resource that impacts the property is the Highway 20 Scenic corridor. The Applicant is not proposing to remove that as part of this request. Furthermore, in its proposed LU Overlay, the Applicant is providing that the development standards that include protection of Goal 5 and other resources continue to apply.

Section 2.5-Water Resources. The site does not have mapped significant water resources but has the Trout Creek ephemeral creek that has water in certain years and does support wildlife habitat. The Applicant has already agreed to a condition of approval requiring a 200-foot protected corridor for that stream while the property is in the County.

Section 2.6-Wildlife. Again, the uses proposed are limited such that they will not have any significant impact on wildlife habitat. Also, as noted, the Applicant has agreed to a condition to protect the Trout Creek corridor.

Section 2.7-Open Space and Scenic Views. The proposed uses will facilitate leaving the property largely undeveloped preserving to the extent possible any existing open space. Some of the allowed uses are also consistent with retaining open space. Finally, the Applicant agreed to another condition adding protection for the scenic view in the northeast corner of the property.

Section 2.8-Energy. The uses allowed in the proposed LU overlay will conserve energy because they are low intensity uses and many are not reliant on outside energy at all.

Section 2.9-Environmental Quality. For similar reasons, the proposed LU overlay will allow uses that do not generate a significant negative environmental impact. A single-family dwelling on each parcel (3 total) will not produce significant impacts. If dwellings are constructed, any septic system must be approved by DEQ. Modern codes ensure that stormwater run-off is managed properly.

Section 2.11-Cultural/Historic Resources. No cultural or historic resources are located on the property.

Chapter 3 Rural Growth Management.

Section 3.3-Rural Housing. The uses proposed in the LU overlay allow limited rural housing consistent with the Goal but at a limited scale, retaining the ability to develop the property easily to urban housing densities when included in the City.

Section 3.4-Rural Economy. The Proposed LU zone has limited effect on the rural economy policies because the uses are limited to preserve land for future urban housing. The LU Overlay will not detract from any of the Rural Economy goals and policies.

Section 3.5-Natural Hazards. The limited uses allowed in the proposed overlay will not increase the risk of any natural hazard.

Section 3.6-Public Facilities. The uses proposed for the LU overlay will not place any unreasonable demand on any public services. The County roads will not be negatively impacted. The rural fire district and sheriff's office will continue to serve the property while it remains in the County.

Section 3.7-Transportation. The limited uses allowed in the proposed LU overlay will not generate an appreciable amount of traffic and will have no impact on the transportation network.

Section 3.8-Rural Recreation. At least two of the proposed uses allowed will promote recreational opportunities.

Chapter 4-Urban Growth Management.

Section 4.2-Urbanization. The policies behind this section address coordination with cities and special districts. The LU overlay will facilitate adding the property to the UGB. However, any action to formally add it will be a coordinated effort that involves Sisters and the County. The LU overlay is designed to preserve land for future Urban housing and related uses. That will add housing for residents who work and shop in the local markets which is consistent with the policies designed to build a thriving regional economy.

Sections 4.3 - 4.9 address specific unincorporated communities, rural service areas and other special uses that are not applicable to this situation.

Chapter 5-Goal 5. The Applicant previously addressed Goal 5 in the context of the proposed LU overlay.

Chapter 22.34 Proceedings on Remand

22.34.010 Purpose

DCC 22.34 shall govern the procedures to be followed where a decision of the County has been remanded by LUBA, or the appellate courts or a decision has been withdrawn by the County following an appeal to LUBA.

Applicant's Response: On August 19, 2026, LUBA issued its Final Order remanding this matter to the County.

22.34.020 Hearings Body

The Hearings Body for a remanded or withdrawn decision shall be the Hearings Body from which the appeal to LUBA was taken, except that in voluntary or stipulated remands, the Board may decide that it will hear the case on remand. If the remand is to the Hearings Officer, the Hearings Officer's decision may be appealed under DCC Title 22 to the Board, subject to the limitations set forth herein.

Applicant's Response: The appeal to LUBA was of an Ordinance adopted by the Board of County Commissioners, changing the Comprehensive Plan Map and rezoning property. The remand proceeding should be conducted by the Board.

22.34.030 Notice and Hearings Requirements

1. **The County shall conduct a hearing on any remanded or withdrawn decision, the scope of which shall be determined in accordance with the applicable provisions of DCC 22.34 and state law. Unless state law requires otherwise, only those persons who were parties to the proceedings before the County shall be entitled to notice and be entitled to participate in any hearing on remand.**

2. **The hearing procedures shall comply with the minimum requirements of state law and due process for hearings on remand and need comply with the requirements of DCC 22.24 only to the extent that such procedures are applicable to remand proceedings under state law.**
3. **A final decision shall be made within 120 days of the date the Applicant initiates the remand in accordance with state law.**
4. **In addition to the requirements of subsection (C) of this section, the 120-day period established under subsection (C) of this section shall not begin until the Applicant requests in writing that the County proceed with the application on remand, but if the County does not receive the request within 180 days of the effective date of the final order or the final resolution of the judicial review, the County shall deem the application terminated.**
5. **The 120-day period established under subsection (C) of this section may be extended for up to an additional 365 days if the parties enter mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. The County shall deem the application terminated if the matter is not resolved through mediation prior to the expiration of the 365-day extension**.

Applicant's Response: The Applicant understands the above procedural requirements.

22.34.040 Scope of Proceeding

1. **On remand, the Hearings Body shall review those issues that LUBA or the Court of Appeals required to be addressed. In addition, the Hearings Body shall have the discretion to reopen the record in instances in which it deems it to be appropriate.**
2. **At the Hearings Body's discretion, a remanded application for a land use permit may be modified to address issues involved in the remand or withdrawal to the extent that such modifications would not substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors. Any greater modification would require a new application.**
3. **If additional testimony is required to comply with the remand, parties may raise new, unresolved issues that relate to new evidence directed toward the issue on remand. Other issues that were resolved by the LUBA appeal or that were not appealed shall be deemed to be waived and may not be reopened.**

Applicant's Response:

DCC 22.34.040 grants discretion to the hearing body to allow a modification to address issues involved in the remand to the extent such modifications would not have significantly greater impact on surrounding neighbors. The Applicant's requested modification satisfies this rule. First, the modification just applies the Limited Use Overlay to the property which restricts allowed uses to those consistent with the reason for the requested exception. Thus, the modification directly responds to LUBA's reasons for remanding the decision. On the three substantive issues remanded, LUBA found that while the stated reason for the exception was to create a transitional holding zone for future inclusion in the UGB, the decision approved a rezone to MUA-10 without limiting any of the uses allowed in that zone. Some of the uses allowed may not be consistent with the reason for the exception.

Second, the modification will not substantially alter the original proposal. In fact, it creates the consistency that LUBA found was missing. LUBA stated that it did not question the stated reasons for the exception: to create an opportunity to help address the acute housing crisis by rezoning the property to a zone that will facilitate that objective. The issue LUBA identified was that the decision did not limit uses allowed on the property to only those consistent with the stated reason. The proposed modification does that.

Third, by limiting the uses allowed through the LU overlay, the universe of allowed uses includes uses less intense than those allowed in the MUA-10 zone. Any impacts from the allowed uses will therefore be less.

Notice Issues

Pursuant to DCC 22.34.030, the County is required to issue notices for the Remand proceedings. That notice must include notice of the modification that the Applicant requests. Due to the nature of the modification sought and specifically, the request to apply the LU Overlay to limit uses to those uses related to the reasons for the exception, the notice will address LUBA's remand on the procedural issues.

Very truly yours,

Christopher P. Koback
Buchanan Schmid Koback
CPK/mhe
Cc: Client

Exhibit A to Ordinance No. 2026-____

Limited Use Overlay for Tax Lots 1200, 1202, 1203 and 1205

Applicability The Limited Use Overlay created through Ordinance 2026-____ applies to the Tax Lots identified above, and the real property described in Exhibit A.

Purpose The purpose of the Limited Use Overlay is to limit uses and activities allowed on the Property to be consistent with the Reasons Exception to Goal 4 that was approved in Ordinance 2025-014 as required by OAR 660-04-0018 and DCC 18.112.010. The uses allowed are designed to preserve the land in open space as much as practical for future use as urban housing and other related uses.

Permitted Uses Notwithstanding any provision to the contrary in DCC 18.32.020, the following uses and activities are permitted under the Limited Use Overlay applicable to the Property:

A. Agricultural use as defined in Title 18

B. A single-unit dwelling, or a manufactured dwelling subject to DCC 18.116.070.

C. Propagation or harvesting of a forest product

D. Home occupation subject to DCC 21.60.010

E. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to DCC 21.56

F. Open space and natural resource conservation activities

Conditional Uses Notwithstanding anything to the contrary in DCC 18.32.030, the following uses may be allowed subject to DCC 18.128:

A. Private parks, playgrounds, hunting and fishing preserves, campgrounds, motorcycle tracks and other recreational uses.

B. Fill or removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270.

C. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).

D. Private roads

E. Utility substations or pumping stations with no equipment and sewage treatment facilities

Development Standards

Lot Area: The lawfully created parcels within the overlay shall not be further subdivided.

Setbacks: For permitted uses and conditional uses, the setbacks in the overlay will be the same setbacks established in DCC Chapter 18.32.

Exhibit A to Ordinance No. 2026-____

Limited Use Overlay for Tax Lots 1200, 1202, 1203 and 1205

Applicability The Limited Use Overlay created through Ordinance 2026-____ applies to the Tax Lots identified above, and the real property described in Exhibit A.

Purpose The purpose of the Limited Use Overlay is to limit uses and activities allowed on the Property to be consistent with the Reasons Exception to Goal 4 that was approved in Ordinance 2025-014 as required by OAR 660-04-0018 and DCC 18.112.010. The uses allowed are designed to preserve the land in open space as much as practical for future use as urban housing and other related uses.

Permitted Uses Notwithstanding any provision to the contrary in DCC 18.32.020, the following uses and activities are permitted under the Limited Use Overlay applicable to the Property:

A. Agricultural use as defined in Title 18

B. A single-unit dwelling, or a manufactured dwelling subject to DCC 18.116.070.

C. Propagation or harvesting of a forest product

D. Type 1 Home Occupation subject to DCC 18.116.280

E. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to DCC 18.116.040 and DCC 18.116.355.

F. Class I and II road or street project subject to the standards and criteria established by DCC18. 116.230

G. Class III road or street project.

Conditional Uses Notwithstanding anything to the contrary in DCC 18.32.030, the following uses may be allowed subject to DCC 18.128:

A. Private parks, playgrounds, hunting and fishing preserves, campgrounds, motorcycle tracks and other recreational uses.

B. Fill or removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.270.

C. Wireless telecommunications facilities, except those facilities meeting the requirements of DCC 18.116.250(A) or (B).

D. Utility facility necessary to serve the area subject to the provisions of DCC 18.124.

E. Type 2 or Type 3 Home Occupation subject to DCC 18.116.280

Development Standards

Lot Area: The lawfully created parcels within the overlay shall not be further divided or partitioned.

Setbacks: For permitted uses and conditional uses, the setbacks in the overlay will be the same setbacks established in DCC Chapter 18.32.

REVIEWED
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Allowing the Board of County Commissioners to Consider New Evidence Relevant to LUBA No. 2025-070 and Remand File No. 247-26-000606-A	* * *	ORDER NO. 2026-040

WHEREAS, the Oregon Land Use Board of Appeals ("LUBA") issued a Final Opinion and Order (ref. LUBA No. 2025-070) remanding Deschutes County's approval of a Comprehensive Plan Amendment and Zone Change request by McKenzie Meadow Village, LLC ("Applicant"); and

WHEREAS, the Applicant timely requested in writing that the County proceed with the remand application (ref. File No. 247-26-000606-A); and

WHEREAS, Section 22.34.040(A) of the Deschutes County Code ("DCC") allows the Board of County Commissioners ("Board") discretion to reopen the record in instances in which it deems to be appropriate; and

WHEREAS, Section 22.34.040(B) of the Deschutes County Code ("DCC") allows the Board of County Commissioners ("Board") discretion to review a modification to a remanded application to address issues involved in the remand or withdrawal to the extent that such modifications would not substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors; and

WHEREAS, the Applicant has submitted a modification to the remanded application, which modification will not substantially alter the proposal and will not have a significantly greater impact on surrounding neighbors; and

WHEREAS, the Board wishes to clarify that the parties may present new evidence regarding the issues remanded to the County by LUBA in this matter and regarding the Applicant's proposed modification to the remanded application; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. The Board hereby reopens the record for remand File No. 247-26-000606-A to consider new testimony and evidence related to all remand issues for LUBA No. 2025-070 and regarding the Applicant's proposed modification to the remanded application.

Section 2. The County on remand shall not accept new testimony and evidence on any other issues, except those related to the Applicant's proposed modification to the remanded application, File No. 247-26-000606-A, and unless allowed by DCC 22.34.040(C).

Dated this 19th of October, 2026

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PHIL CHANG, Chair

ANTHONY DeBONE, Vice Chair

ATTEST:

Recording Secretary

PATTI ADAIR, Commissioner

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

CENTRAL OREGON LANDWATCH,
Petitioner,

vs.

DESCHUTES COUNTY,
Respondent,

and

MCKENZIE MEADOW VILLAGE LLC,
Intervenor-Respondent.

LUBA No. 2025-070

FINAL OPINION
AND ORDER

Appeal from Deschutes County.

Rory Isbell filed the petition for review and reply brief and argued on behalf of petitioner.

No appearance by Deschutes County.

Christopher P. Koback filed the intervenor-respondent's brief and argued on behalf of intervenor-respondent. Also on the brief was Buchanan Schmid Koback.

WILSON, Board Member; ZAMUDIO, Board Chair; BASSHAM, Board Member; participated in the decision.

BASSHAM, Board Member, concurring.

REMANDED 8/19/2026

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Opinion by Wilson.

NATURE OF THE DECISION

Petitioner appeals a county decision that adopts a reasons exception to Statewide Planning Goal 4 (Forest Lands) to amend the comprehensive plan and zoning designation for property adjacent to the City of Sisters.

FACTS

The 58-acre subject property is located adjacent to the City of Sisters to the west. The property is designated Forest in the county's comprehensive plan and zoned Forest-2 (F-2). The county adopted a reasons exception to Goal 4 to redesignate the property Rural Residential Exception Area (RREA) and rezone the property to Multiple Use Agricultural-10 (MUA-10). City infrastructure is developed up to the property line, and the city hopes to expand its urban growth boundary (UGB) to include the property for additional housing, including needed housing. Redesignating the property from resource land to exception area would rank the property higher for inclusion in the city's UGB. The county hearings officer recommended approval of the application, and the board of commissioners approved the application. This appeal followed.

FIRST ASSIGNMENT OF ERROR

Petitioner argues that the county committed procedural errors that prejudiced petitioner's substantial rights. OAR 661-010-0071(2)(c). According to petitioner, the county violated a host of procedural requirements.

A. ORS 197.610(3) and OAR 660-018-0020(3)

Petitioner argues that the county's notice to the Department of Land Conservation and Development (DLCD) was inadequate under ORS 197.610(3) and OAR 660-018-0020(3). ORS 197.610 prescribes the requirements for submitting proposed comprehensive plan and land use regulation changes to DLCD.

Initially, intervenor argues that petitioner failed to preserve this issue.[1] According to intervenor, while petitioner challenged the adequacy of the notice for the public hearing, petitioner did not challenge the adequacy of the notice to DLCD during the proceedings below. Petitioner responds that it could not have specifically challenged the adequacy of the notice to DLCD because it was not aware of the DLCD notice until the notice was included in the record after petitioner's record objections. We agree with petitioner that it was not required to specifically raise the issue of the inadequacy of the DLCD notice when that notice was not in the record or available to petitioner during the local proceeding.

ORS 197.610 provides in pertinent part:

> "(1) *Before a local government adopts a change*, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the *proposed change* to the Director of [DLCD]. * * *

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[1] To be preserved for LUBA review, an issue must "be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue." ORS 197.797(1).

"* * * * *

"(3) Submission of *the proposed change* must include all of the following materials:

"(a) The text of *the proposed change* to the comprehensive plan or land use regulation implementing the plan;

"(b) If a comprehensive plan map or zoning map is created or altered by *the proposed change*, a copy of the map that is created or altered;

"(c) A brief narrative summary of *the proposed change* and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of *the proposed change*;

"(d) The date set for the first evidentiary hearing;

"(e) The form of notice or a draft of the notice to be provided under ORS 197.797[.]" (Emphases added.)

The notice to DLCD states:

"The applicant requests approval of a Comprehensive Plan Amendment to change the designation of the subject property from Forest to Rural Residential Exception Area (RREA) and a corresponding Zone Change to rezone the subject property from Forest Use 2 (F2) to Multiple- use Agricultural (MUA). The total area subject to the request is 58 acres." Second Supplemental Record 3.[2]

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[2] LUBA received the record in this appeal on November 20, 2025. On December 8, 2025, LUBA received an amended record. On February 3, 2026, LUBA received a supplemental record, and on February 17, 2026, LUBA received a second supplemental record. All citations to the record are to the amended record, all citations to the supplemental record are to the supplemental

Petitioner argues that the notice to DLCD was inadequate because it did not identify the proposed "use." According to petitioner, because the DLCD notice did not identify the proposed use and did not identify the applicable approval criteria the notice was defective. Unlike notices for public hearings, the notice to DLCD required under ORS 197.610(3) merely requires a "brief narrative summary of the proposed *change*" and any useful supplemental information. The notice required under ORS 197.610 does not require the identification of a proposed "use" or the applicable approval criteria. Petitioner cites *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001) (*Umatilla County*) for the proposition that the DLCD notice must identify the proposed "use" rather than merely the proposed "change." *Umatilla County*, however, did not involve any notice issues, let alone notice required under ORS 197.610. While *Umatilla County* concerns what approval criteria apply to exceptions, it does not concern the adequacy of notices to DLCD under ORS 197.610.

OAR 660-018-0020(3), regarding notice to DLCD of a proposed change to a comprehensive plan or land use regulation, however, provides:

> "The proposed text submitted to comply with [the notice to DLCD requirement] of this rule must include all of the proposed wording to be added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal or its purpose, by itself, is not sufficient. For map changes, the material submitted to the comply with [the notice to DLCD requirement] must include a

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record, and all citations to the second supplemental record are to the second supplemental record.

> graphic depiction of the change; a legal description, tax account number, address or similar general description, by itself, is not sufficient. If a goal exception is proposed, the submittal must include the proposed wording of the exception."

As indicated by comments submitted by DLCD, they were not sure whether the proposed change was being processed as a reasons exception or as a determination that the property was not resource land. Record 1030-33. The notice to DLCD did not include the proposed wording to be added or deleted to the comprehensive plan and did not include the proposed wording of the exception. The notice to DLCD did not comply with OAR 660-018-0020(3). Unlike procedural errors, failure to provide adequate notice to DLCD is a substantive error, and a petitioner does not need to demonstrate that its substantial rights were prejudiced. *North East Medford Neighborhood v. City of Medford*, 214 Or App 46, 53 (2007). Therefore, remand is required on this basis.

B. ORS 197.732(5) and 197.797(3)

Petitioner also argues that the public notices provided by the county did not comply with the requirements of ORS 197.732(5) and ORS 197.797(3). ORS 197.732(5) provides:

> "Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner."

ORS 197.797(3) provides, in pertinent part:

> "The notice provided by the jurisdiction shall:
>
> "(a) *Explain the nature of the application and the proposed use or uses which could be authorized*;

> "(b) List the applicable criteria from the ordinance and the plan that apply to the application at issue[.]" (Emphasis added.)

The public notices provided by the county state:

> "The applicant requests approval of a comprehensive Plan Amendment to change the designation of the property from Forest to Rural Residential Exception Area and a corresponding Zone Change to rezone the subject property from Forest Use 2 (F2) to Multiple-Use Agricultural (MUA-10). The total area subject to the request is 58 acres. The application includes a Goal 4 (Forest Lands) exception request.
>
> "The applicant states that the purpose of this request is to be considered for inclusion in the City of Sisters Urban Growth Boundary (UGB). The applicant intends to develop a needed housing residential development with 30 [percent] of dwellings being affordable housing. However, these applications do not include a concurrent request to expand the City of Sisters UGB." Record 418, 1232.

Petitioner argues again that the notices were deficient because they failed to state the proposed use sought by the exception. Intervenor again argues that the county was not required to state a specific use. Unlike ORS 197.610, ORS 197.797(3) specifically requires that the notice "[e]xplain the nature of the application and the *proposed use or uses which could be authorized*." ORS 197.797(3)(a) (emphasis added). As discussed later, there is a disconnect between what intervenor states is the purpose or result of the goal exception and what the goal exception actually allows. The only use or purpose stated in the notice is that the property is to be considered for inclusion in the city's UGB and to eventually be developed with residential housing. The decision, however, simply approves

a comprehensive plan and zone change that allows all of the myriad uses allowed in the MUA-10 zone. Therefore, the notices do not comply with ORS 197.797(3).

ORS 197.797(3) imposes procedural requirements. Although the county's notice was insufficient, we may not remand the county's decision based on a procedural error unless the petitioner's substantial rights were prejudiced. ORS 197.835(9)(a)(B). Those rights are the right to an adequate opportunity to prepare and submit one's case and to a full and fair hearing. *Muller v. Polk County*, 16 Or LUBA 771, 775 (1988). Petitioner explains that it was left in the dark as to how the county proposed to adopt an exception. As discussed later, there are different paths to adopting a reasons exception, especially depending upon what purpose or use is proposed. Petitioner was required, due to the deficient notices, to make many different arguments based on various potential avenues the county could have been pursuing. For instance, petitioner made arguments that the application would improperly allow urban development on resource land, but the county later explained that it was not approving urban development. Requiring petitioner to take such a blanket approach versus knowing what path the county was taking to adopt the decision prejudiced petitioner's substantial rights.

The first assignment of error is sustained.

SECOND ASSIGNMENT OF ERROR

Petitioner argues that the county misconstrued the applicable law by relying on the "catch-all" provision of OAR 660-004-0022(1) for a reasons

exception rather than OAR 660-004-0022(2), which specifically applies to rural residential development.

Initially, intervenor argues that petitioner failed to preserve the issue of whether the county was precluded from applying OAR 660-004-0022(1). According to intervenor, petitioner argued before the hearings officer that the county had to apply OAR 660-004-0022(2), but before the board of commissioners petitioner only argued that the hearings officer misapplied OAR 660-004-0022(1). Petitioner clearly raised before the hearings officers the issue that OAR 660-004-0022(2) must be applied. Record 733-34. Intervenor makes no attempt to explain why raising the issue before the hearings officer was insufficient to preserve the issue before LUBA. While *Miles v. City of Florence*, 190 Or App 500, 79 P3d 382 (2003), *rev den*, 336 Or 615 (2004), requires a party to have raised the issue before the final decision maker if required by the local appeal requirements, intervenor makes no attempt to explain that such a requirement was applicable in the present case. Therefore, the issue is preserved.

ORS 197.732(2)(c) allows for a reasons exceptions. Among the requirements for a reasons exception is ORS 197.732(2)(c)(A), that "[r]easons justify why the state policy embodied in the applicable goals should not apply[.]" OAR 660-004-0022 provides the rules regarding reasons exceptions and states in part:

> "An exception * * * may be taken for any use not allowed by the applicable goal(s) * * *. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands

are set forth in the following sections of this rule."

The following thirteen subsections then set out the allowable reasons for specific uses. For purposes of this opinion, only the first three subsections are relevant:

> "(1) *For uses not specifically provided for in this division* * * * the reasons shall justify why the state policy embodied in the applicable goals should not apply. *Such reasons include but are not limited to the following*: There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either:
>
> > "(a) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
>
> > "(b) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.
>
> "(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned that require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned

> rural industrial, commercial, or other economic activity in the area.
>
> "(3) Rural Industrial Development: * * * For the siting of rural industrial development on resource land outside an urban growth boundary, appropriate *reasons may include, but are not limited to, the following* [as listed in subsections (a) through (c).]" (Emphases added.)

The county approved the reasons exception under OAR 660-004-0022(1) and did not address OAR 660-004-0022(2). While OAR 660-004-0022(1) lists possible bases for a reasons exception under that subsection, the rule specifically allows for additional unenumerated reasons ("reasons include but are not limited to the following"). The county approved the reasons exception under the unenumerated reasons, or "catch-all," provision. Petitioner argues that because the approved exception allows for rural residential development, the county was required to proceed under OAR 660-004-0022(2) rather than OAR 660-004-0022(1). It is well established under our caselaw that only when a use for which a goal exception is sought is "not specifically provided for" in OAR 660-004-0022(2) to (13) does OAR 660-004-0022(1) allow for use of the catch-all basis for a reasons exception. *Oregon Shores Conservation Coalition v. Coos County*, LUBA No 2020-002 (May 4, 2021) (slip op at 23); *Friends of Yamhill County v. Yamhill County*, 47 Or LUBA 508, 516 (2004); *Morgan v. Douglas County*, 42 Or LUBA 46, 52-53 (2002).

Initially, intervenor responds that OAR 660-004-0022(2) does not apply because the exception does not authorize rural residential development.

According to intervenor, just because rural residential development is an allowed use in the MUA-10 zone that does not mean the approved exception authorizes rural residential development. Intervenor asserts that no specific use is authorized by the exception and the purpose of the exception is to create a transition zone that would allow the property to be more easily included in the UGB:

> "There is no interim purpose. If the property is not included in the UGB, which is unlikely given the letter from City Council to the County Board encouraging an expeditious decision on the rezone application, the applicant will not pursue rural residential development because that is not the long-term vision to provide affordable and work force housing in [the City of] Sisters." Intervenor-Respondent's Brief 24.

While we do not doubt intervenor's preferred plan is to bring the property into the city's UGB for housing, the problem with intervenor's position is that there is nothing in the decision that restricts the use of the property to that purpose. The decision merely redesignates and rezones the property to RREA and MUA-10, which allow for a multitude of uses including rural residential development. Absent any conditions of approval restricting the use of the property to intervenor's proffered intentions, the decision expressly allows rural residential development. When, as here, the decision does not approve a specific use but merely rezones the property allowing a multitude of uses, then the decision must apply the applicable specific reasons exception provisions of OAR 660-004-0022(2) to (13).

Intervenor and the county's decision also rely upon *1000 Friends of Oregon v. Jackson County*, 76 Or LUBA 270 (2017), *aff'd in part, rev'd in part*, 292 Or App 173, 423 P3d 793 (2018), *rev dismissed*, 365 Or 657 (2019) (*Solar 7*), for the proposition that a reasons exception can be approved under either OAR 660-004-0022(1) *or* one of the specific provisions of OAR 660-004-0022(2) to (13). The hearings officer stated:

> "Based on the [*Solar 7*] case, I find that [intervenor] can attempt to show compliance with either OAR 660-004-0022(1) or any other provision of OAR 660-004-0022 as the basis for the Reasons Exception." Record 69.

The *Solar 7* case involved a reasons exception for a solar power generation facility (solar farm). The various parties, including DLCD, were uncertain whether a solar farm constituted "rural industrial development," so the county adopted alternative findings under both the catch-all provision reasons in OAR 660-004-0022(1) and the reasons for rural industrial development in OAR 660-004-0022(3). Before LUBA, the petitioner argued that the county erred by adopting such alternative reasons for an exception. The intervenor argued that, given the uncertainty of whether the solar farm was a rural industrial development, alternative findings were acceptable. We generally agreed with the intervenor:

> "As we noted in *Morgan*, both OAR 660-004-0022(1)(a) and OAR 660-004-0022(3) set out a *non-exhaustive* list of acceptable reasons to justify an exception. We stated:
>
> "'"Although it is unlikely that [the Land Conservation and

> Development Commission (LCDC)] intended this result, as OAR 660-004-0022(1) and (3) are written, there is * * * nothing that expressly precludes use of the same reasons specified in OAR 660-004-0022(1) to justify rural industrial development under OAR 660-004-0022(3)' 42 Or LUBA at 52.

> "We went on to evaluate challenges to the findings articulated under OAR 660-004-0022(1), to determine if those reasons were sufficient to justify a reasons exception for rural industrial development. Similarly, in the present case, we see nothing in the rule that would preclude the county from attempting to justify a reasons exception for an indisputable rural industrial use using the standards set out in the 'catch-all' provision at OAR 660-004-0022(1), in lieu of the non-exclusive set of reasons listed in OAR 660-004-0022(3). Because the county is not limited to the reasons set out in OAR 660-004-0022(3) to justify rural industrial development, and can attempt to identify other reasons, including those set out in OAR 660-004-0022(1), it is not error, or at least not reversible error, to attempt to justify reasons exceptions under both OAR 660-004-0022(1) and OAR 660-004-0022(3) in the same decision, particularly where there is uncertainty regarding whether the proposed use is a rural industrial use. Errors made under one set of reasons standards may be harmless if the county adequately justifies an exception under a different set of reasons standards. Accordingly, we conclude that petitioner's categorical argument under the first subassignment of error that the county must choose one basis over another does not provide a basis for reversal or remand." *Solar* 7, 76 Or LUBA at 277-78.

As the preceding quotation explains, OAR 660-004-0022(3) provides a non-exhaustive list of reasons that can justify an exception for rural industrial development. Therefore, the reasons under OAR 660-004-0022(1) could be the same reasons justifying rural industrial development under OAR 660-004-0022(3). Given that there was uncertainty in *Solar 7* and a set of reasons to justify

the use could be the same under either OAR 660-004-0022(1) or (3), there was no error in proceeding under both subsections. Unlike the reasons sufficient to justify an exception to rural industrial use, the reasons justifying an exception for rural residential development *are* exhaustive. A county may not rely on the non-exhaustive list of reasons in OAR 660-004-0022(1) to justify an exception for rural residential use. As explained earlier, even though intervenor does not plan to develop rural residential housing, that use is allowed by the decision. Therefore, absent any conditions of approval prohibiting rural residential development, the county was required to satisfy OAR 660-004-0022(2).

The second assignment of error is sustained.

THIRD ASSIGNMENT OF ERROR

Petitioner argues that the county misconstrued the law and made a decision unsupported by substantial evidence and adequate findings in concluding that a reasons exception is justified.

A. First Subassignment of Error

Petitioner argues that the decision violates ORS 197.732(4) by failing to set forth findings of fact and a statement of reasons that demonstrate that the standards of ORS 197.732(2) have been met. ORS 197.732(4) provides:

> "A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons that demonstrate that the standards of [ORS 197.732](2) * * * have or have not been met."

ORS 197.732(2) provides:

"A local government may adopt an exception to a goal if

"* * * * *

"(c) The following standards are met:

"(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

"(B) Areas that do not require a new exception cannot reasonably accommodate the use;

"(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

"(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

Under ORS 197.732(4), for a reasons exception the county must set forth findings of fact and a statement of reasons that the four standards of ORS 197.132(2)(c)(A) through (D) are met. Petitioner's argument is essentially an adequate findings argument. ORS 197.732(4) does not concern whether the standards of ORS 197.732(2) are met – only whether the local government has set out findings of fact and a statement of reasons. Findings must (1) address the applicable standards; (2) set out the facts relied upon; and (3) explain how those facts lead to the conclusion that the standards are met. *Heiller v. Josephine County*, 23 Or LUBA 551, 556 (1992). "[T]o be sufficient for review, findings

need only 'establish the factual and legal basis for the particular conclusions drawn in a challenged decision.'" *Niederer v. City of Albany*, 79 Or LUBA 305, 314 (2019) (quoting *Thormahlen v. City of Ashland*, 20 Or LUBA 218, 229-30 (1990)).

ORS 197.732(2)(c)(A) requires that "[r]easons justify why the state policy embodied in the applicable goals should not apply[.]" The hearings officer's recommendation, which was adopted by the board of commissioners, devoted four pages to the issue of whether reasons justify why the policies of Goal 4 should not apply. The hearings officer agreed with intervenor and explained:

> "According to [intervenor] these [Goal 4] policies 'in most or all respects are advanced better under the proposed [MUA-10] zoning.' [Intervenor] has also asserted that there is a specific need for MUA-10 zoning near the City of Sisters to provide a better transitional zone between urban and rural development. I infer from [intervenor's] arguments that a reason for the Goal Exception is to establish this transitional zone on the Subject Properties, which [intervenor] asserts is more beneficial than keeping Goal 4 protections in place on a property that is not suitable for Goal 4 uses." Record 67 (third brackets in original).

The hearings officer further explains that the soil report confirms that the property is not suitable for commercial forestry and the natural area protections of the MUA-10 zone would provide greater protection for natural areas on the property such as Trout Creek. *Id.* The hearings officer concludes by explaining that intervenor has met the burden to show the reasons why the Goal 4 policies should not apply to the property and that opponents' comments do not dispute with any particularity intervenor's reasons for the exception. The hearings

officer's incorporated recommendation adequately sets forth findings of facts and a statement of reasons for why reasons justify why the policies of Goal 4 should not apply.

ORS 197.732(2)(c)(B) requires that "[a]reas that do not require a new exception cannot reasonably accommodate the use[.]" The hearings officer's recommendation explains the difficulty in analyzing potential alternative sites when intervenor has not proposed any of the specifically allowed MUA-10 uses, but rather proposes a transitional zone to allow future annexation into the city. The hearings officer explained that intervenor assessed the ability of other areas to accommodate the rural uses allowed in the MUA-10 zone and that those other areas do not allow the same types of uses and are encumbered by restrictions preventing certain types of developments. The hearings officer further explains that intervenor's analysis is largely unchallenged, and petitioner's challenges involved proposed urban uses rather than MUA-10 use. Finally, the hearings officer concluded that intervenor "met its burden to demonstrate that the proposed use (transitional zoning for the City of Sisters to allow a variety of rural uses) cannot reasonably be accommodated in areas that do not require a new Goal Exception." Record 71. The hearings officer's incorporated recommendation adequately sets forth findings of facts and a statement of reasons for why areas which do not require an exception cannot reasonably accommodate the use.

ORS 197.732(2)(c)(C) requires that economic, social, environmental, and energy (ESEE) consequences would not be significantly more adverse than

would result in other areas requiring a goal exception. The hearings officer explains that intervenor provided an analysis of ESEE consequences demonstrating that those consequences would be no greater, and in some cases less, than if the proposal were on other lands requiring a goal exception. The hearings officer further explained that opponents' comments did not contradict intervenor's analysis because they addressed other areas that did *not* require a goal exception rather than other areas that would require an exception. The hearings officer concludes that intervenor had satisfied its burden under this standard. Record 71-72. The hearings officer's incorporated recommendation adequately sets forth findings of facts and a statement of reasons for why the ESEE consequences would not be greater than for other areas that also require an exception.

ORS 197.732(2)(c)(D) requires that "proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The hearings officer explains that the property is too small for many of the uses allowed in the MUA-10 zone, such as dude ranches, golf courses, and destination resorts, so no impacts are likely to occur from such uses. The hearings officer further explains that opponents' comments again focused on potential urban uses rather than MUA-10 uses. The hearings officer concludes by explaining that all of the uses in the MUA-10 are compatible with adjacent uses.

ORS 197.732(4) is a findings requirement not a substantive standard. While the legal or evidentiary bases for the county's conclusions that ORS

197.732(2)(c)(A) through (D) are satisfied may or may not be sufficient, the decision adequately sets forth findings of fact and a statement of reasons for why it believes they are satisfied.

The first subassignment of error is denied.

B. Second Subassignment of Error

Petitioner argues that the county misconstrued the law and adopted inadequate findings unsupported by substantial evidence in finding that reasons support an exception to Goal 4. As discussed earlier, ORS 197.732(2)(c) provides, in part, that a local government may adopt a reasons exception if the following standards are met:

> "(A) Reasons justify why the state policy in the applicable goals should not apply;
>
> "(B) Areas that do not require a new exception cannot reasonably accommodate the use[.]"

1. Whether There Are Reasons Why the Goal Should Not Apply

Petitioner argues that, even if the catch-all provision of OAR 660-004-0022(1) can be used to obtain an exception in this situation, the reasons the county relied upon are not sufficient to justify an exception.[3] When proceeding

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[3] Although we held under the second assignment of error that the county erred in relying on OAR 660-004-0022(1) and not addressing OAR 660-004-0022(2), in the event our decision is overturned on appeal or the county conditions the decision to prohibit rural residential development, we address petitioner's arguments. *See* ORS 197.835(11) (providing that "to the extent possible

under the catch-all reasons exception, acceptable reasons must "be of comparable force and weight" to the reasons expressly identified in the rules and not be "makeweights that render the goal requirements meaningless." *Todd v. City of Florence*, 52 Or LUBA 445, 463 (2006). The three reasons the county relied upon to support the exception are: (1) need for a transition zone on property located near city limits that could be annexed into the city; (2) the property is not suitable for commercial forestry operations; and (3) the MUA-10 zone provides equivalent or better protection of soil, water, and wildlife resources.

While determining whether reasons under the catch-all provision are "makeweights" or not is a subjective standard, two prior cases give some insight into what types of reasons are not merely makeweights. In *Todd*, the city approved an exception to Statewide Planning Goal 11 (Public Facilities and Servies) to extend water and sewer services to an adjacent property held in trust for the federally-recognized Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (the Tribes). The Tribes had the right to develop to urban level uses, so we held that was a sufficient reason to justify an exception. *Id.* at 467. In *Oregon Coast Alliance v. Tillamook County*, LUBA Nos 2021-101/104 (Sept 30, 2022), the county took an exception to Statewide Planning Goal 18 (Beaches and Dunes) to allow shoreline armoring to protect an existing unincorporated community from encroaching tides. We held that the coastal

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consistent with the time requirements of ORS 197.830(14), the board shall decide all issues presented to it when reversing or remanding a land use decision").

weather phenomena combined with existing jetties created unique circumstances that justified the exception. *Oregon Coast Alliance*, LUBA Nos 2021-101/104 (slip op at 28).

The county's first reason – need for a transition zone on property located near city limits that could be included in the city's UGB – could constitute a reason that is more than a makeweight. Intervenor points to materials submitted into the record that support this reason. Intervenor-Respondent's Brief 24. These materials include that the state has an acknowledged housing crisis as evidenced by executive orders signed by the Governor and that in the City of Sisters in the last 20 years median household income has increased 88 percent while the cost of housing has increased approximately 400 percent. Record 1519-20. The stated purpose of creating the MUA-10 transitional zone was to change the designation of the subject property from resource land to an exception area, which would have higher priority over non-exception lands in any UGB expansion conducted by the City of Sisters. As discussed earlier, however, there is a disconnect between the stated purpose, which we do not doubt, and the practical effect of the decision. The decision does not merely create a transition zone that can be used, and only used, to facilitate inclusion in the city's UGB. Instead, the decision creates an MUA-10 zone which allows a multitude of uses, including rural residential use, with no conditions of approval or any other limiting factor that would restrict the use of the property to the stated purpose.

The county's second reason – the property is not suitable for commercial forestry operations – is not a sufficiently weighty reason to justify an exception. The suitability of resource land for resource use is not particularly relevant when considering a goal exception, rather it is a reason that an exception is not necessary. *Friends of Yamhill County*, 47 OR LUBA at 523. The county's third reason – the MUA-10 zone provides equivalent or better protection of soil, water, and wildlife resources – is also not a sufficiently weighty reason to justify an exception. As petitioner argues, this inverts the analysis by looking for reasons that Goal 4 should apply (and not finding them) rather than why Goal 4 should not apply. The reasons that the county relied upon, particularly when the purpose of creating a transition zone did much more than that, are not sufficient reasons to justify an exception under the catch-all provision of OAR 660-004-0022(1). Therefore, we agree with petitioner that the county misconstrued ORS 197.732(2)(c)(A).

2. Whether There Are Areas That Do Not Require an Exception That Can Reasonably Accommodate the Use

As discussed multiple times, there is a disconnect between the purpose of merely creating a transition zone to eventually be included in the UGB and the multitude of uses allowed in MUA-10 zone which are allowed by the decision. This disconnect is also reflected in the county's findings. Regarding ORS 197.732(2)(c)(B), other areas that do not require an exception, the board of commissioners found:

> "Other exception lands cannot reasonably accommodate the new MUA-10 uses. Other properties in the area designated are designated RREA and are predominantly zoned RR-10. Maps presented in the proceedings illustrate that those exception lands cannot reasonably accommodate new MUA-10 development." Record 55.

The hearings officer's findings, which were adopted by the board of commissioners, state:

> "[Intervenor] acknowledges that this criterion is difficult to apply because no one specific use is being proposed. By seeking to rezone the Subject Properties without specifying any limitation on which uses are or are not allowed, [intervenor] is proposing that all uses in the MUA-10 zone be allowed. More specifically, however, [intervenor] is proposing to allow those uses through the establishment of a transitional zone adjacent to the City that allows a variety of rural uses, including housing. Looking at the 'proposed use' through that lens, ORS 197.732(2)(c)(B) requires a determination of whether other areas not requiring a Goal Exception could also be used to establish a transitional zone adjacent to the City of Sisters to allow a variety of rural uses.
>
> "* * * * *
>
> "I find that [intervenor] has met its burden to demonstrate that the proposed use (transitional zoning for the City of Sisters to allow a variety of rural uses) cannot reasonably be accommodated in areas that do not require a new Goal Exception." Record 70-71.

While the county may be correct that there are no other areas that do not require an exception that could reasonably accommodate a transitional zone adjacent to current city limits that could eventually be included in the UGB, that is not what the decision approves. The decision that was actually approved creates a MUA-10 zone with all of its possible uses. There is little doubt that

there are many other areas in the county that could reasonably accommodate MUA-10 uses. If the county had adopted a decision that only allowed a transition zone pending inclusion in the UGB then perhaps the county could comply with ORS 197.732(2)(c)(B), but the decision that was adopted does not.

The county misconstrued ORS 197.732(2)(c)(B).

The second subassignment of error is sustained.

The third subassignment of error is sustained, in part.

FOURTH ASSIGNMENT OF ERROR

Petitioner argues that the decision misconstrues the applicable law by violating Statewide Planning Goal 14 (Urbanization) and Deschutes County Comprehensive Plan (DCCP) policy 3.3.1 by allowing new residential development with no minimum lot sizes.

A. First Subassignment of Error

Goal 14 prohibits the urban use of rural land. *1000 Friends of Oregon v. LCDC (Curry Co.)*, 301 Or 447, 724 P2d 268 (1986) (*Curry County*). Whether a use of land outside a UGB constitutes an urban or rural use involves an individualistic, site-specific inquiry – applying the *Curry County* factors. Petitioner argues that the MUA-10 zone allows urban use of rural land by permitting residential development of up to 12 lots, with no minimum lot size,

adjacent to a UGB. This issue has been a recurring issue in a series of cases involving the parties.[4]

The county initially found that "the application does not provide any basis for the County to revisit whether the RREA designation, or the RR-10/MUA-10 zones violate Goal 14 by allowing urban development. No individual analysis of whether specific allowable uses in the MUA-10 zone violate Goal 14 is required." Record 58. We rejected this exact argument in *Central Oregon LandWatch v. Deschutes County*, LUBA No 2025-015 (June 26, 2025) (*Destiny Court*) (slip op at 13).

The county then attempted to address the *Curry County* factors finding that no urban uses were authorized because "[t]he minimum size in the MUA-10 zone is 10 acres." Record 59. The decision also relied upon updates to the comprehensive plan made in response to *Destiny Court*. Those updates were remanded, however, in *Central Oregon LandWatch v. Deschutes County*, LUBA No 2024-080 (April 13, 2026) (*Pohaku Farms*), and are thus unacknowledged. In this appeal, intervenor argues that even though the MUA-10 zone allows uses that would clearly violate Goal 14, because *Pohaku Farms* holds that such uses cannot be allowed absent an exception to Goal 14 those uses are effectively prohibited, and therefore the current decision does not violate Goal 14. Intervenor

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[4] The county has admittedly been put in a difficult position as it has had to make decisions on individual applications while the law involving these issues has evolved with each individual decision's trip up the appellate ladder.

further argues that this decision does not authorize any specific development, let alone the type of development that would violate Goal 14. We rejected that argument in *Central Oregon Landwatch v. Deschutes County*, LUBA No 2026-015 (June 26, 2026) (*BCL*):

> "Intervenor responds that petitioner's speculations about potential actual lot size in a potential PUD are very interesting, but academic, because as discussed under the first assignment of error, intervenor did not propose cluster development or PUD and the county did not approve such development. Intervenor repeats its arguments that it is premature to consider what kind of development, at what density, intervenor or a future applicant will propose. Further, intervenor repeats its argument that under *Destiny Court* and *Pohaku Farms* an applicant is unlikely to gain approval for cluster development or PUD at sub-10-acre minimums, but instead would likely be limited to approval of a straightforward subdivision within the MUA-10 zone, where each lot is a minimum 10 acres in size.
>
> "However, as previously noted, the county expressly assumed that the subject property would be developed with cluster development and PUD at the maximum potential density allowed under the applicable code provisions. For purposes of evaluating whether the PAPA is consistent with Goal 14 under *Curry County*, that assumption is appropriate. The applicant did not propose, or the county impose, any conditions or restrictions that would limit the density or intensity of development. Accordingly, we disagree with intervenor that it is premature or advisory to reach the merits of petitioner's arguments regarding actual lot size allowed under potential cluster development or PUD of the property." (slip op at 30-31.)

While the county did not expressly assume that cluster development will occur in the present case, as in *BCL* intervenor did not propose and the county did not impose any conditions of approval that would limit the density or intensity

of development. Therefore, for the same reason the county misconstrued the law in finding the decision complied with Goal 14 in *BCL*, we conclude the present decision also misconstrues the law.

The first subassignment of error is sustained.

B. Second Subassignment of Error

DCCP policy 3.3.1 provides:

> "Except for parcels in the Westside Transect Zone, the minimum parcel size for new rural residential parcels shall be 10 acres."[5]

Petitioner argues that the MUA-10 zones explicitly allows parcels under 10-acres in size and therefore violates DCCP 3.3.1. While the county adopted comprehensive plan amendments to resolve this issue, that decision adopting those amendments was remanded in *Pohaku Farms*. Intervenor makes the same argument it made under the first subassignment of error, that because *Pohaku Farms* prohibits any development less than 10 acres, there is no conflict with DCCP 3.3.1. We rejected that argument in *BCL*:

> "Although petitioner raised below the issue of whether densities allowed under the MUA-10 zone would be consistent with DCCP 3.3.1, the findings do not address that issue, or explain why it need not be addressed. We agree with petitioner that that issue is most appropriately addressed in the context of the present plan and zoning

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[5] We note that the subject property is not within the Westside Transect Zone. Further, as discussed above, and extensively explained in *Pohaku Farms*, the county is in the process of amending its comprehensive plan, which includes amending and renumbering DCCP 3.3.1. We continue to refer and cite to this policy as DCCP 3.3.1.

> amendment that creates the potential conflict, not a subsequent land use application for a specific development proposal. As it stands, nothing in the county's decision would prevent a future applicant from seeking cluster development or PUD on the subject tract at sub-10-acre densities, and nothing cited to us in the DCCP or D[eschutes County Code] or elsewhere would ensure that the issue of consistency with DCCP 3.3.1 would be addressed and resolved in approving or denying a specific development proposal. Accordingly, we agree with petitioner that remand is appropriate for the county to address and resolve in the first instance the issues raised below regarding whether application of the MUA-10 zone in the present case is consistent with DCCP 3.3.1." (slip op at 10-11.)

As our decision in *BCL* had not been issued when the decision in this appeal was made, it is understandable that the county proceeded in the manner it did. Under *BCL*, however, the county may not rely on the decision in *Pohaku Farms* to solve the problem of the MUA-10 zone allowing uses that violate DCCP policy 3.3.1.

The second subassignment of error is sustained.

The county's decision is remanded.

BASSHAM, Board Member, concurring.

I agree with the majority's reasoning and conclusions, but write separately to highlight potential problems that the majority decision does not reach, and that may affect how the county addresses remand under the third assignment of error, concerning the criteria for adopting a reasons exception.

According to the decision, the stated purpose of the reasons exception is to facilitate inclusion of the subject property within the City of Sister's UGB, in anticipation of a city UGB amendment, driven by a serious local (and statewide)

housing crisis. Under the applicable statutes and administrative rules, a rigid priority scheme governs inclusion of land within UGBs. *See* OAR 660-024-0067 and OAR 660-038-0170 (setting out priorities for including land within UGBs). Under both rules, the highest priority is land within urban reserves, exception areas, and nonresource lands; the lowest priority is resource lands, with the lowest priority of all resource lands being those with high-value farm soils or higher capability forest soils. Against that backdrop, the subject application is best understood as an attempt by intervenor, blessed by the county, to leapfrog the subject property up the priority ladder, from one of the lower rungs to the highest rung. If intervenor is successful, that would effectively compel the city, in any subsequent UGB expansion, to consider the subject property as first priority land for inclusion.

However, in my view, intervenor's attempted gaming of the UGB amendment priority scheme and its desire to leapfrog its property up the priority ladder is an insufficient "reason" under the catch-all provision of OAR 660-004-0022(1) to take an exception to the resource goals. The city in the present case apparently supports intervenor's application. However, it is easy to imagine circumstances where a property owner and a willing county, by taking a reasons exception like that attempted in the present case, leapfrogs resource land into the first priority despite the fact that that property may not be the most suitable for inclusion within the UGB, compared to other lands adjacent to the UGB, including other resource lands with lower quality soils than the hypothetical

subject property. It is possible in such circumstances that the property owner and county could effectively compel the affected city to include that leapfrogged property into the UGB to meet its identified housing needs, contrary to the city's desires and interests, and the planning principles embodied in the priority scheme. Stated differently, the property owner and county could effectively advantage the hypothetical subject property in the priority competition to be included in the UGB, at the expense of other, perhaps more suitable, resource lands that would otherwise have priority and that the city might prefer to include.

The present record includes no information evaluating how the subject property compares to other UGB-adjacent resource lands with respect to soil quality and suitability for inclusion within the UGB under the priority scheme and other required considerations. The city has no designated urban reserves, and apparently has not adopted a study of adjacent lands under OAR 660-024-0067 or OAR 660-038-0170, to determine which lands are most suitable for inclusion within the UGB. In my view, to the extent it is permissible for the county to invoke the catch-all provision of OAR 660-004-0022(1) as the basis for a reasons exception to a resource goal, in order to elevate resource land into the highest priority category for inclusion within an adjoining UGB, the county must base that decision on something more than the landowner's desire to jump to the head of the line. I believe intervenor, or a future applicant, must demonstrate, in coordination and with the support of the city, that the supply of first priority lands is likely insufficient to meet the city's projected needs, and that it is likely that

lower priority resource lands, the subject property, must be included when the city next expands its UGB. Further, the applicant must demonstrate that the subject property is better suited for inclusion in the UGB, compared to other adjoining resource lands, under all relevant considerations. In my opinion, potentially relevant other considerations that might support a reasons exception under OAR 660-004-0022(1) include the criteria for inclusion of land within urban reserves, set out in ORS 197A.245(6).[6] Arguably, if the record shows that

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[6] ORS 197A.245(6) provides:

> "The designation of urban reserves under subsection (1)(b) of this section must be based upon consideration of factors including, but not limited to, whether land proposed for designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:
>
> "(a) Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;
>
> "(b) Includes sufficient development capacity to support a healthy urban economy;
>
> "(c) Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;
>
> "(d) Can be designed to be walkable and served by a well-connected system of streets by appropriate service providers;
>
> "(e) Can be designed to preserve and enhance natural ecological systems; and

resource land is uniquely or at least better qualified for inclusion within an urban reserve under those statutory factors and other relevant considerations, compared to other adjoining resource lands, that qualification could supply a legally sufficient "reason" under OAR 660-004-0022(1) to take an exception to the resource goals. But such an exception would be justified, if at all, only because it increases the supply of suitable first priority lands and facilitates a more optimal UGB expansion, not because it allows a particular property owner to jump the queue.

Whatever approach is taken, it bears repeating that any attempt to use the reasons exception process to effectively alter application of the priority scheme that would govern a city's UGB expansion must be coordinated with, and explicitly supported by, the affected city.

"(f) Includes sufficient land suitable for a range of housing types."

Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2025-070 on August 19, 2026, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Christopher P. Koback
Buchanan Schmid LLC
937 NW Newport Ave, Ste 220
Bend, OR 97703

David Doyle
Deschutes County Counsel's Office
1300 NW Wall Street, 2nd Floor
Bend, OR 97701

Rory Isbell
Central Oregon LandWatch
2843 NW Lolo Drive, Suite 200
Bend, OR 97703

Dated this 19th day of August, 2026.

Erin Pence
Executive Assistant

Hannah Barkemeyer Baker
Executive Support Specialist

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Public Hearing involving an application to change the Comprehensive Plan designation of 79 acres located at 22295 Rickard Road and rezone the property from Exclusive Farm Use to Rural Residential (Madison Mtn Development)

RECOMMENDED MOTION:
None.

BACKGROUND AND POLICY IMPLICATIONS:
The applicant, Madison Mtn Development, requests to change the zoning of a 79-acre parcel located at 22295 Rickard Road from Exclusive Farm Use to Rural Residential and to change the Comprehensive Plan designation from Agriculture to Rural Residential Exception Area. A work session with the Board was held on November 9th in preparation for the public hearing on November 16th.

The record for files 247-26-000313-PA, 314-ZC is available at the following link:
www.deschutescounty.gov/MadisonMtnPAZC

BUDGET IMPACTS:
None.

ATTENDANCE:
Audrey Stuart, Associate Planner
Anthony Raguine, Principal Planner
Will Groves, Planning Manager

COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Board of County Commissioners

FROM: Audrey Stuart, Associate Planner

DATE: November 10, 2026

SUBJECT: November 16th Public Hearing for the Madison Mtn Plan Amendment and Zone Change

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The Board of County Commissioners ("Board") will hold a public hearing for a Comprehensive Plan Amendment and Zone Change application (file nos. 247-26-000313-PA, 314-ZC). The applicant requests to change the zoning of a 79-acre parcel located at 22295 Rickard Road from Exclusive Farm Use (EFU) to Rural Residential (RR10) and to change the Comprehensive Plan designation from Agriculture (AG) to Rural Residential Exception Area (RREA).

I. BACKGROUND

The subject property is developed with a single-unit dwelling and a detached shop, and has five acres of water rights. The property is located 2.25 miles to the east of the City of Bend urban growth boundary (UGB) and is bordered by land that is zoned EFU and RR10. The application was submitted on May 14, 2026, and a public hearing before a Hearings Officer was held on September 10, 2026.

The applicant has not requested an exception to a Statewide Planning Goal, on the basis that the property does not meet the definition of agricultural land. The applicant argues that the subject property does not meet the definition of "agricultural land" due to its poor soil quality, and that farm uses are not economically viable on the subject property. For these reasons, the applicant states a mistake was made when the property was originally zoned and RR10 zoning is more appropriate.

The applicant has provided a supplementary soil study that identifies non-high value (Class VII and VIII) loamy sand soils on a majority of the subject property. Additionally, the applicant has provided a traffic study prepared by a traffic engineer, as well as a burden of proof that addresses relevant approval criteria.

II. PUBLIC COMMENTS

All property owners within 750 feet of the subject property received a mailed Notice of Application and Notice of Public Hearing. Central Oregon LandWatch (COLW) provided three written comments and testified at the Hearings Officer hearing. No other members of the public submitted comments. The issues raised by COLW include the County's statutory authority to "unacknowledge" inventoried agricultural land, that a mistake was not made when the property was zoned EFU, and that the property does meet the definition of agricultural land.

The comments provided by COLW were addressed in the Hearings Officer's recommendation and no new public comments have been received since that recommendation was issued.

III. HEARINGS OFFICER RECOMMENDATION

The Deschutes County Hearings Officer held a public hearing on September 10, 2026. On October 22, 2026, the Hearings Officer issued a recommendation of denial for the subject applications.

The first basis for the recommendation of denial was insufficient evidence regarding OAR 660-033-0020(1)(C), which requires an analysis of whether the subject property is necessary to permit farm practices on nearby lands. The Hearings Officer states, "Without an inventory, description and analysis of potential "nearby agricultural lands" the Hearings Officer must find this criterion is not met by Applicant." (Hearings Officer Recommendation page 50).

The second issue area was regarding Statewide Planning Goal 14, which has been interpreted to prohibit urban use of rural land that is located outside of a UGB. The Oregon Supreme Court provided guidance on how to determine whether a use is urban or rural in nature through *1000 Friends of Oregon v. LDCD (Curry Co.)* and outlined a number of factors that must be weighed. The Hearings Officer provided an argument that an analysis of the *Curry County* factors was not required, and then provided an alternate set of findings addressing the *Curry County* factors. Under the alternate *Curry County* analysis the Hearings Officer found the factors regarding density and proximity to the UGB were not adequately addressed.

IV. BOARD CONSIDERATION

As the property includes lands designated for agricultural use, Deschutes County Code 22.28.030(C) requires the application to be heard de novo before the Board, regardless of the determination of the Hearings Officer. Per DCC Section 22.20.040(D), the review of the proposed quasi-judicial Plan Amendment and Zone Change is not subject to the 150-day review period typically associated with land use decisions.

The record is available for inspection at the following link:
www.deschutescounty.gov/MadisonMtnPAZC

V. NEXT STEPS

At the conclusion of the public hearing, the Board can choose one of the following options:

1. Continue the hearing to a date and time certain;
2. Close the oral portion of the hearing and leave the written record open to a date and time certain;
3. Close the hearing and commence deliberations; or
4. Close the hearing and schedule deliberations for a date and time to be determined.

VI. TIMELINE

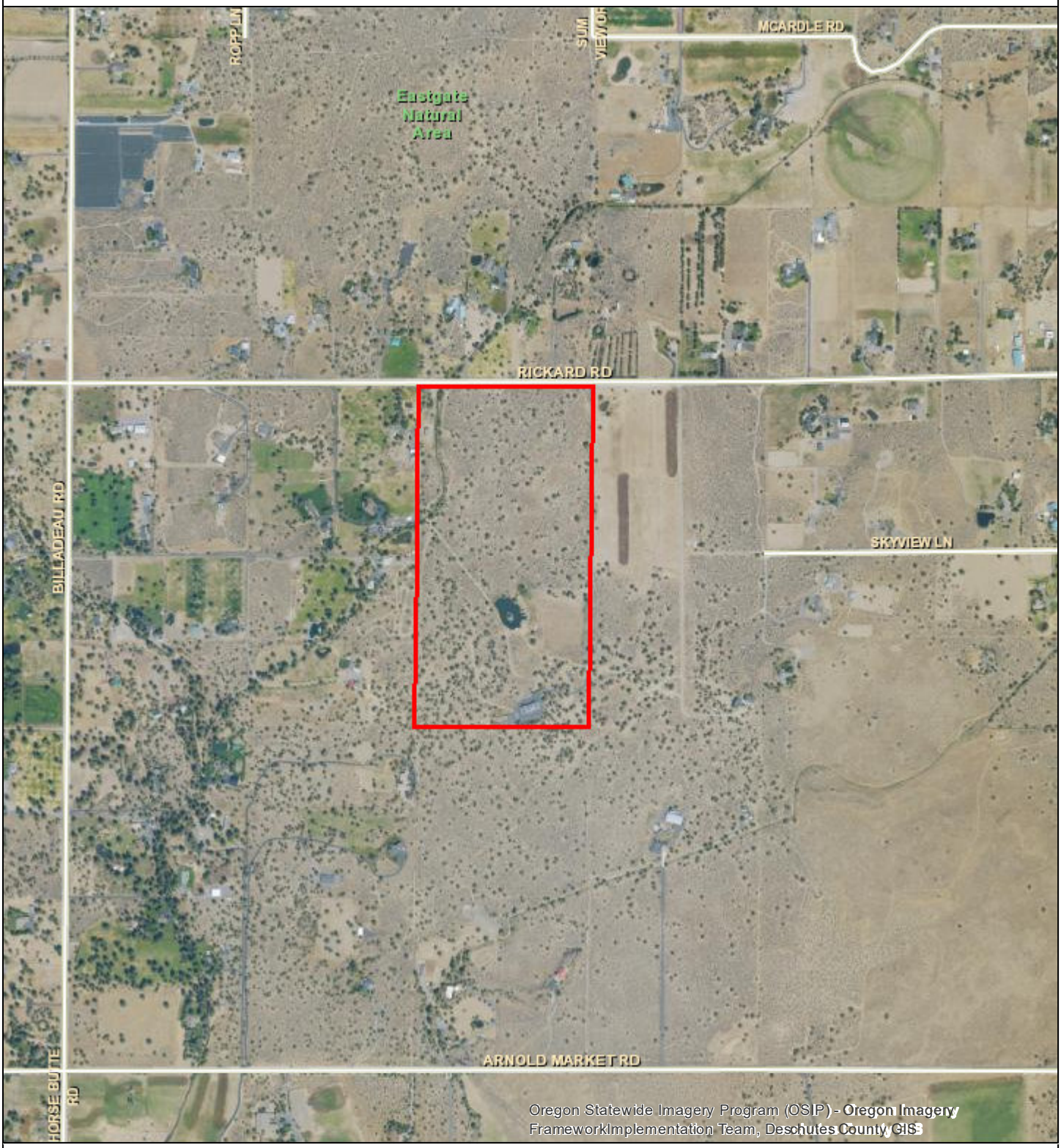
This proposal is not subject to the statutory 150-day review timeline.

ATTACHMENT(S):

1. Location Map
2. Hearings Officer's Recommendation

Land Use File #247-26-000313-PA, 314-ZC

22295 Rickard Rd





Date: 6/2/2026

N

0 625 1,250 2,500 ft

1 inch = 1,505 feet

HEARINGS OFFICER'S RECOMMENDATION

FILE NUMBER(S): 247-26-000313-PA, 247-26-000314-ZC

SUBJECT PROPERTY/ OWNER: Mailing Name: MADISON MTN DEVELOPMENT LLC,
Map and Tax Lot: 1813190000100
Account: 151764
Situs Address: 22295 RICKARD RD, BEND, OR 97702
(the "Subject Property")

APPLICANT: Quinn M. Burket

REQUEST: The Applicant requests a Comprehensive Plan Amendment to change the designation of the subject property from Agricultural ("AG") to Rural Residential Exception Area ("RREA") and a Zone Change to rezone the Subject Property from Exclusive Farm Use – Tumalo/Redmond/Bend Subzone ("EFU-TRB") to Rural Residential ("RR10").

STAFF CONTACT: Audrey Stuart, Associate Planner
Phone: 541-388-6679
Email: Audrey.Stuart@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.deschutescounty.gov/MadisonMtnPAZC

I. APPLICABLE CRITERIA

Deschutes County Code ("DCC")
- Title 18, Deschutes County Zoning Ordinance
  - Chapter 18.04, Title, Purpose, and Definitions
  - Chapter 18.16, Exclusive Farm Use Zones
  - Chapter 18.60, Rural Residential Zone
  - Chapter 18.113, Destination Resorts Zone ("DR")
  - Chapter 18.136, Amendments
- Title 22, Deschutes County Development Procedures Ordinance
- Deschutes County Comprehensive Plan ("DCCP")
- Chapter 2, Resource Management
- Chapter 3, Rural Growth Management
  - Appendix C, Transportation System Plan

Oregon Administrative Rules ("OAR")

Chapter 660, Land Conservation and Development Department
Division 6, Goal 4 Forest Lands
Division 12, Transportation Planning
Division 15, Statewide Planning Goals
Division 33, Agricultural Land
Oregon Revised Statutes ("ORS")
Chapter 215, County Land Use Planning; Resource Lands

II. BASIC FINDINGS

LOT OF RECORD: DCC 22.04.040(B)(1) specifies the types of land use applications that require lot of record verification. Comprehensive Plan Amendment and Zone Change are not listed as requiring lot of record verification. In the *Powell/Ramsey* (PA-14-2, ZC-14-2) decision, the Hearings Officer held to a prior zone change decision (*Belveron* ZC-08-04; page 3) that a property's lot of record status was not required to be verified as part of a plan amendment and zone change application. Rather, the Applicant would be required to receive lot of record verification prior to any development on the Subject Property. Therefore, the Hearings Officer finds this criterion does not apply.

Irrespective of the above findings the Hearings Officer takes note that the Subject Property is a legal lot of record because it was platted as Parcel 1 of Minor Partition MP-01-18.

SITE DESCRIPTION: The Subject Property is 79.25 acres in size and is developed with a single-unit dwelling, which is located in the south portion of the Subject Property, and a shop, which is located in the northwest portion of the Subject Property. The Subject Property is rectangular in shape and fronts on Rickard Road, which is a County-maintained rural collector street. Vegetation on the Subject Property primarily consists of juniper trees, sagebrush, and other native shrubs. The grade is relatively even across the Subject Property with a slight slope up towards the north, and there is an existing pond located towards the center of the Subject Property. The City of Bend urban growth boundary (UGB) is located 2.25 miles to the west of the Subject Property.

PROPOSAL: The Applicant requests approval of a Comprehensive Plan Map Amendment to change the designation of the subject properties from an Agricultural ("AG") designation to a Rural Residential Exception Area ("RREA") designation. The Applicant also requests approval of a corresponding Zoning Map Amendment to change the zoning of the subject properties from Exclusive Farm Use ("EFU") to Rural Residential ("RR10"). The Applicant asks that Deschutes County change the zoning and the plan designation because the Subject Property does not qualify as "agricultural land" under Oregon Revised Statutes ("ORS") or Oregon Administrative Rules ("OAR") definitions. The Applicant believes that no exception to Statewide Planning Goal 3, Agricultural Land is required because the Subject Property is not "agricultural land."

Submitted with the application is an analysis of the soils on the subject property, titled *Order 1 Soil Survey* (the "Soil Study") prepared by soil scientist Paul Kennedy, CPSS of Oregon Soil & Environmental. The Applicant also submitted a traffic analysis prepared by Transight Consulting, LLC dated March 3, 2026 (the "Traffic Study"). Additionally, the Applicant submitted an application form, a burden of proof

statement ("Burden of Proof"), and other supplemental materials, all of which are included in the record.

SOILS: According to current Natural Resources Conservation Service ("NRCS") maps of the area, the Subject Property contains one soil type, 38B – Deskamp-Gosney complex. The 38B soils complex is not defined as high-value farmland, regardless of irrigation.

The Applicant submitted the Soil Study to inventory and assess the soils on the Subject Property and to provide more detailed data on soil classifications and ratings than is contained in the NRCS soils maps. This Soil Study included the following statement:

> *"In conclusion the majority of the area of interest maps as Gosney loamy sand soil series. Map units Gosney, HA and MA do not qualify as non-resource soils. The soil map unit Gosney loamy sand soil is a 7e land use capability classification. The Gosney series is characterized by shallow soil depths to basalt, high potential for soil erosion, low water holding capacity and limiting rooting depth over the AOI… OSE soil survey found the 62 acres AOI has soil that are 7e and 8 class soils. Most of the AOI is not suitable for farm crops and livestock or merchantable tree species. The AOI is not prime farmland or farmland of interest."*

The NRCS soil map unit identified on the Subject Property is described below.

> *38B, Deskamp-Gosney complex, 0 to 8 percent slopes: This soil is composed of 50 percent Deskamp soil and similar inclusions, 35 percent Gosney soil and similar inclusions, and 15 percent contrasting inclusions. The Deskamp soils are somewhat excessively drained with rapid permeability, and an available water capacity of about 3 inches. The Gosney soils are somewhat excessively drained with rapid permeability, and an available water capacity of about 1 inch. The contrasting inclusions contain Clovkamp soils in swales, soils that are very shallow to bedrock, and are on ridges with occasional rock outcrops. The major use of this soil is for livestock grazing. The Deskamp soils have ratings of 6e when unirrigated, and 3e when irrigated. The Gosney soils have ratings of 7e when unirrigated, and 7e when irrigated. This soil type is not considered high-value soil.*

Further discussion regarding soils is found in Section III below.

SURROUNDING LAND USES: The general surrounding area includes a mix of land zoned EFU and RR10 and is characterized by residential and possible farm uses. Surrounding farm uses predominantly consist of small-scale irrigated pasture and hay fields. The City of Bend UGB is located 2.25 miles to the west of the Subject Property. This intervening area is zoned RR10 and EFU, with one parcel that is partially zoned Surface Mining and is adjacent to the UGB, which is developed with a County landfill. A 195-acre parcel owned by the Bend Parks and Recreation District is located 0.25 miles to the north of the Subject Property and is currently undeveloped.

The Burden of Proof provided the following comments related to adjacent properties:

> *"North: The land directly North (across Rickard Road) of the subject property is zoned RR-10 and consists of four strips of land owned by separate owners… In all, those properties consist of*

approximately 39.41 acres and are all part of the Landers Acres Subdivision, which was created in 1987. All lands directly to the North are not engaged in farm use.

Northwest: The land to the Northwest (across Rickard Road) of the subject property is also zoned RR-10 and consists of four strips of land owned by separate owners…. In all, those properties consist of approximately 39.28 acres and are all part of the Geil Estates Subdivision, which was created in 1993. All lands directly to the Northwest are not engaged in farm use.

West: The land directly to the West of the subject property consists of properties that are zoned RR-10 and EFU-TRB. The northern portion of those lands are zoned RR-10 and are broken into four parcels that are owned by separate owners…In all, those properties consisted of approximately 38.99 acres. The properties owned by Toney Charissa Living Trust and Laura Pennavaria were partitioned into two, separate parcels in 2002 by the then owners Alan and Vicky Hughes. The properties owned by Ronnie and Kimberly Hurt, and Stephen and Jennifer Green were partitioned into two, separate parcels in 2002 by the then owners Alan and Vicky Huhges. None of the above-mentioned properties are engaged in farm use.

The southern portion of the lands bordering the subject property directly to the West consists of properties that are zoned EFU-TRB…It is unclear whether property owned by the Bennetts [60690 Billadeau Road] is currently engaged in farm use. The last evidence that said property was engaged in farm use comes from a conditional use application in 1988 that references farm use on the property (247-CU-88136-PL). That application states that the property contained six acres of pasture that was sustained by irrigation water and soil on the property. The application further states that the then-owner had farmed the property going back to 1986 by planting a pasture and grazing cattle that he would sell. There is no, more current indication that the Bennett property is engaged in farm use at this time.

The land owned by the Ducharmes does not appear to have ever been used for farm use with the exception of 60630 Billadeau Rd., Bend, OR. The only indication that that property was once engaged in farm use is a previous owner's 2008 permit application (the permit was issued) for an agriculture building located on 20 contiguous acres that would be used to store a tractor, tack and feed. There is no, more current indication that said property is engaged in farm use at this time.

Southwest: The land directly to the Southeast of the subject property is zoned EFUTRB and is owned by the McMahon Family Trust. That property consists of approximately 20.02 acres and its address is 60352 Arnold Market Rd., Bend, OR 97702. It is unclear if the property has ever been engaged in farm use. There is nothing on file to suggest that it was ever engaged in farm use nor that it currently is, despite its zoning designation.

South: The land directly South of the subject property is zoned EFU-TRB and is owned by the Getz Revocable Trust Survivors Trust. That property consists of approximately 59.49 acres and its address is 60336 Arnold Market Rd., Bend, OR 97702. It is unclear if the property is currently engaged in farm use. The most recent indication that the property was engaged in farm use is a 2004 agricultural application to build a loafing shed for horses and a 12,800 square foot arena for horses. However,

there is little information available to determine whether the property is currently engaged in farm use.

Southeast: The land directly to the Southeast of the subject property is zoned EFUTRB and is owned by the John D Blizzard Trust with a situs address of 60316 Arnold Market Rd., Bend, OR 97702. That land consists of approximately 79.02 acres. There have been cellular towers that were constructed and maintained on that property since 2008, and a number of related permits applied for and issued.

In 2007, previous owners applied for an agricultural permit to construct a 7,200 square foot building to store equipment and hay in and categorized the building use as "equine." That application was approved and the permit was issued. However, there is no current indication that the land is presently engaged in farm use. In fact, it looks as if the land is primarily used as a cellular tower site.

East: The land directly to the East of the subject property is zoned EFU-TRB and is owned by Robert T. Quinn II. That property's address is 22393 Rickard Rd., Bend, OR 97702 and it consists of approximately 79.32 acres.

There is no information to suggest that the land is actively engaged in farm use. All that is present on the land is non-farm dwelling and a large, detached shop/garage at the Southeastern corner of the property. As of 2006, the owner of the property had altered the land to accommodate irrigation (from Arnold Irrigation District) on the property but there is no other indication that active farm use is taking place on that property. It does not appear that the owner currently owns water rights on the property.

Northeast: The land to the Northeast of the subject property is zoned EFU-TRB and is owned by the Living Trust for Morris Martin with a situs address of 22310 Rickard Rd., Bend, OR 97702. That property consists of approximately 9.77 acres.

Based on publicly available photographs of the property, there appear to be rows of trees on the property but it is unclear if those trees are used in conjunction with any farm use. There was an approved application for a barn to be built on the property in 1993 for the storage of hay and equipment, but it is unclear if the property is currently engaged in farm use based on available information."

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on June 3, 2026, to several public agencies and received the following comments:

Deschutes County Senior Transportation Planner, Tarik Rawlings

"I have reviewed the application materials for file no. 247-26-000313-PA, 314-ZC for a Plan Amendment to change the designation of a ~79.25-acre parcel from Agriculture (AG) to Rural Residential Exception Area (RREA) and a corresponding Zone Change to rezone the subject property from Exclusive Farm Use (EFUTRB) to Rural Residential (RR10) located at 22295 Rickard Rd, Bend, OR 97702 and recognized on County Assessor's Map 18-13-19 as Tax Lot 100.

The submitted application materials include a report prepared by Transight Consulting, LLC (dated March 3, 2026 and labeled as Exhibit E) analyzing the proposal's compliance with the Transportation Planning Rule (TPR) and Oregon Statewide Planning Goal 12 per OAR 660-012-0060. Staff generally agrees with the assumptions, methodology, and conclusions outlined in the report supporting the central conclusion that reasonable EFU development potential would exceed the trip generation potential under the requested RR10 Zone. Further, the report concludes that the proposal would not change County Road facility classifications or applicable classification standards. Collectively, the report demonstrates the proposal's compliance with Oregon Statewide Planning Goal 12 and TPR. No additional traffic analysis is required beyond this report.

As the subject application does not include a site plan or development proposal, the transportation analysis requirements of DCC 18.116.310 will need to be met during subsequent development review on the subject properties.

The subject property fronts on Rickard Road, to the north. Rickard Road is a public road right-of-way maintained by Deschutes County and functionally classified as a Rural Collector. The subject property records include Driveway Access Permits (permit no. 247-SW1560, 247-SW1561, and 247-SW8767) issued by Deschutes County, demonstrating compliance with the access permitting requirements of DCC 17.48.210 and DCC 12.28.050.

Board Resolution 2024-038 sets a transportation system development charge (SDC) rate of $5,856 per p.m. peak hour trip. As the plan amendment/zone change by itself does not generate any traffic, no SDCs apply at this time. SDCs will be assessed based on development and/or division of the property. When development occurs, the SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC BASE RATE IS ONLY VALID UNTIL JUNE 30, 2026 PENDING ANY AMENDMENTS TO THE COUNTY'S CURRENT SDC RESOLUTION 2024-038. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

ON JULY 1, 2026, THE SDC RATE WILL DECREASE TO A BASE RATE OF $5,633 PER P.M. PEAK HOUR TRIP. AGAIN, THE SDC IS ONLY ASSESSED WHEN ACTUAL DEVELOPMENT OCCURS OR LAND USE BECOMES FINAL."

The following agencies did not respond to the notice: Arnold Irrigation District, Avion Water Company, Bend Fire Department, Department of Land Conservation and Development, Deschutes County Assessor, Deschutes County Road Department, and State Watermaster's Office.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 750 feet of the Subject Property on June 3, 2026. The Applicant complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The Applicant submitted a Land Use Action Sign Affidavit indicating the applicant posted notice of the land use action on June 2, 2026.

Central Oregon LandWatch ("COLW") submitted public comments (6/11/2026, 9/10/2026 and 9/17/2026). The Hearings Officer addresses relevant COLW statements/comments in the findings below.

NOTICE REQUIREMENT: On July 31, 2026, the Planning Division mailed a Notice of Public Hearing to all property owners within 750 feet of the Subject Property and public agencies. A Notice of Public Hearing was published in the Bend Bulletin on August 5, 2026. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on July 30, 2026.

REVIEW PERIOD: According to Deschutes County Code 22.20.040(D), the review of the proposed quasi-judicial plan amendment and zone change application is not subject to the 150-day review period.

LAND USE HISTORY: Previous land use actions associated with the subject property are:

- LR-99-50: Lot of Record Verification.
- D-01-10: Deposit packet for a nonfarm dwelling.
- MP-01-18, CU-01-118: Three-lot Minor Partition, which created the subject property, and a Conditional Use Permit to establish a nonfarm dwelling.
- DR-06-5: Declaratory Ruling to determine whether a nonfarm dwelling approved through file no. CU-01-118 had been initiated.

III. FINDINGS & CONCLUSIONS

A. Preliminary Findings

1. ORS 215.788

COLW argued (oral testimony of Blair Batson and September 10, 2026, record submission) that the County does not have legal authority to consider and decide the application in this case. The Hearings Officer includes relevant portions of COLW's September 10, 2026, record submission below:

> ***"II. The Legislature Has Not Authorized the Case-by-Case "Unacknowledgment" of Isolated Tracts of Agricultural Lands***
>
> *State law provides two processes for removing land from a county's agricultural lands inventory established during acknowledgment and affirmed during periodic review. One is to take an exception to Goal 3 under ORS 197.732, which can be done in a quasi-judicial process. The other is to establish that there was a "mapping mistake" made during acknowledgment that was perpetuated during periodic review. ORS 215.788.[FN1] The statute specifies that this must be done during a legislative, not quasi-judicial, process. ORS 215.788(1).[FN2] ORS 215.788 is the sole statutory authority for LCDC to review and "re-acknowledge" agricultural lands designated and zoned for exclusive farm use zone during acknowledgment. See ORS 215.794 and ORS 215.659(1).[FN3]*

[FN1] While counties are authorized to process quasi-judicial as well as legislative post-acknowledgment plan amendments (PAPAs) under ORS 197.610, the specific statutory authority to alter an acknowledged farmland inventory due to an alleged mapping error is governed by ORS 215.788(1), which states:

> *"For the purposes of correcting mapping errors made in the acknowledgment process and updating the designation of farmlands and forestlands for land use planning, a county may conduct a legislative review of lands . . . to determine whether the lands . . . are consistent with the definitions of 'agricultural lands' [in the agricultural lands goal] . . . ." ORS 215.788(1)*

[FN2] The legislative processes include regional problem solving under ORS 197.652 and presumably periodic review under ORS 197.623.

[FN3] Counties do not possess unilateral or discretionary authority over resource mapping. ORS 197.175(2)(a) explicitly mandates that each county must "prepare, adopt, amend and revise comprehensive plans in compliance with goals approved by the commission." Once a county adopts its comprehensive plan, it is submitted to LCDC, which is granted the exclusive authority under ORS 197.251(1) to issue an "acknowledgment of compliance" confirming that the local plan satisfies the Statewide Planning Goals. To "un" or "re" acknowledge land that LCDC has found is properly designated as agricultural land under Goal 3, a developer bears the burden of proving in a legislative process that the County and LCDC made a mistake in the original designation and zoning. ORS 215.788.

The Developer has proposed neither an exception under ORS 197.732 nor a legislative "re-acknowledgment" process under ORS 215. 788, 215.794 and 215.659. Instead, the Developer seeks to "un-acknowledge" an isolated tract of land in a quasi-judicial process.

No Oregon statute authorizes counties to allow a county to retroactively "un-acknowledge" a valid LCDC acknowledgment order through a quasi-judicial process. The land was deliberately and correctly included in the county's agricultural lands inventory during the original acknowledgment process and re-evaluated during periodic review. If the Developer believes this land was included in the County's agricultural lands inventory by mistake—either during acknowledgment or during periodic review—it must make the case as part of a legislative process authorized under ORS 215.788, 215.794 and 215.659. See also DCCP 2.2.2 and 2.2.3 [FN4]

*[FN4] DCCP Policy 2.2.2 provides, "[EFU] sub-zones shall remain as described in the 1992 Farm Study * * * unless adequate legal findings for amending the sub-zones are adopted or an individual parcel is rezoned as allowed by Policy 2.2.3." DCCP Policy 2.2.3 is to "[a]llow comprehensive plan and zoning map amendments, including for those that qualify as non-resource land, for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan."*

In Central Oregon LandWatch v. Deschutes County (710 Properties), __ Or LUBA __ (LUBA Nos. 2023-006/009, July 28, 2023), LUBA held that ORS 215.788:

> *"does not prohibit counties from considering applications to redesignate and rezone individual properties in quasi-judicial proceedings. COLW's argument inserts into the statute what has been omitted, contrary to ORS 174.010."*

710 Properties, slip op at 81. LUBA, however, improperly relied on a maxim of statutory construction without considering the context of the statute within the land use regulatory framework. There is no other provision of law authorizing counties to "reacknowledge" agricultural lands designations outside

the acknowledgment and periodic review process. Why enact the statute it counties could already do it on a case-by-case quasi-judicial basis. Why create unnecessary legislation?

LUBA's construction substantially deprives ORS 215.788 of the function the legislature assigned it. Specifically, the statute expressly sets up a process to correct mapping made in the acknowledgment process and update the designation of farm and forest land that may no longer be accurate. ORS 215.788(1). The legislature prescribed a "legislative review" and "reacknowledgement" process to correct any such errors and make such designation updates. The process would be led by the state agency that led counties through acknowledgment and periodic review and provide an opportunity for all resource lands to be considered in the review. ORS 215.788(1)-(3).

Yet under LUBA's construction, the same acknowledged farm and forest designations may be "unacknowledged" one parcel at a time, without the type of state-led, broad-based planning process employed during acknowledgment and periodic review. If that authority existed before ORS 215.788, the legislature's carefully prescribed acknowledgment process would have little point, as every landowner seeking removal of a resource designation could pursue the simpler parcel-specific procedure that does not require it to be considered in a comprehensive planning process.

Oregon courts do not presume ordinarily that the legislature exerted the effort to enact a statutory provision that performs no meaningful function. . See State v. Cloutier, 351 Or 68, 98, 261 P3d 1234 (2011); State v. Clemente-Perez, 357 Or 745, 755, 359 P3d 232 (2015); ORS 174.010. ORS 215.788 should therefore be construed to give meaningful effect to the distinction the legislature has drawn between ordinary post-acknowledgment plan amendments and the reconsideration of an acknowledged resource land designation. When a plan amendment is proposed on the grounds that an acknowledged agricultural lands designation was incorrect or no longer satisfies the applicable definition, the legislature enacted ORS 215.788 to review that proposal.

ORS 215.788 does not govern every PAPA affecting agricultural and forest land. Rather, it distinguishes between plan amendment proposing a change to what may be done with acknowledged resource land and an amendment asserting the acknowledged resource designation is erroneous. ORS 215.788 is unambiguously specific about the latter. It created a process for "correcting mapping errors made in the acknowledgment process" and "updating the designation" by determining whether land meets the Goal definition."

The Applicant (10/1/2026) provided a response to COLW's ORS 215.788 argument as set forth above. The Hearings Officer quotes below portions of Applicant's 10/1/2026 record comments:

"COLW's position that a county in Oregon may not remove land from the county's agricultural lands inventory via a quasi-judicial process has no legitimate legal basis. The plain language of ORS 215.788(1) clearly indicates that the statute merely provides a county with an alternative pathway for redesignating previously designated farmland and forestland:

> *'For the purposes of correcting mapping errors made in the acknowledgment process and updating the designation of farmlands and forestlands for land use planning, a county may conduct a legislative review of lands in the county to determine whether the lands planned and*

zoned for farm use, forest use or mixed farm and forest use are consistent with the definitions of 'agricultural lands' or 'forest lands' in goals relating to agricultural lands or forestlands.' ORS 215.788(1)…"

The statute's inclusion of the word, 'may,' rather than, 'shall,' demonstrates that the legislature merely intended to give counties in Oregon another avenue to redesignate land not qualifying as 'agricultural land.' Under ORS 215.788(1), this option would permit counties to conduct a legislative review and redesignate such lands in a broader, sweeping fashion rather than on a case-by-case basis. The statute does not, however, preclude counties from engaging in a quasi judicial process to reacknowledge lands in the state. In Central Oregon LandWatch v. Deschutes County (710 Properties), __ Or LUBA __ (LUBA Nos. 2023-006/009, July 28, 2023) ('710 Properties'), LUBA's previous construction of ORS 215.788 does not deprive the statue of the function assigned to it by the legislature. As explained above, the statute merely provides additional options to counties to update inaccurate farmland designations.

Review of House Bill 2229 (2009), which was later (partly) codified as ORS 215.788 further supports Applicant's position that the legislature merely intended to grant counties more flexibility for land use planning. In fact, the overview from the Oregon Legislative Information System states that the bill, '[e]xpands authorities for regional land use planning.' This strongly implies that the legislature simply intended to give Oregon counties more tools for land use planning. Oregon law does not permit an individual property owner to compel a county to pass wide-reaching legislative policy for a single parcel. Individual applicants must instead rely on a site-specific quasi-judicial process. House Bill 2229 simply gave Oregon counties a macro-level tool to fix widespread mapping errors all at once, without altering an individual's right to prove their land is non-resource through the standard, independent evidentiary hearing process. OAR 660-033-0030(5)(c)(A) declares that the section applies to '[a] change in the designation of a lot or parcel and zoned for exclusive farm use . . . to a non resource plan designation and zone on the basis that such land is not agricultural land.' This provides further authority for the long-standing practice of approving redesignation on the basis that subject land does not fit the definition 'agricultural land,' without taking an exception and via a quasi-judicial process. The statutory authority for OAR 660-033-0020 and OAR 660-033-0030 does not include ORS 215.788, further indicating that ORS 215.788 simply offers an alternative method for a county to engage in the redesignation of land – albeit on a much broader scale."

The Hearings Officer reviewed LUBA's findings in *Central Oregon LandWatch v. Deschutes County (710 Properties), __ Or LUBA __ (LUBA Nos. 2023-006/009, July 28, 2023).* The Hearings Officer finds COLW proffered a similar ORS 215.788 argument in the *710 Properties* case and LUBA thoroughly considered that COLW argument. The Hearings Officer includes LUBA's *710 Properties* conclusion related to COLW's ORS 215.788 argument below:

"Nevertheless, we agree with Thomas that the board of commissioners did not err in failing to follow the process set out in ORS 215.788 or in redesignating and rezoning only the subject property. ORS 215.788 authorizes counties to conduct legislative reviews of geographic areas, and it prescribes the process that counties must follow in conducting those reviews. However, that statute does not prohibit counties from considering applications to redesignate and rezone individual properties in quasi-judicial proceedings. COLW's argument inserts into the statute what

has been omitted, contrary to ORS 174.010. [See n 6]. The board of commissioners did not misconstrue ORS 215.788 or exceed its authority in redesignating and rezoning only the subject property in a quasi-Judicial process.[footnote omitted] The board of commissioners did not misconstrue DCCP Policy 2.2.3 in concluding that it could redesignate and rezone individual properties in a quasi-judicial process."

The Hearings Officer finds LUBA, in the *710 Properties* opinion, considered COLW's ORS 215.788 argument and concluded that ORS 215.788 is not the sole avenue to address "mapping mistakes." The Hearings Officer finds COLW's ORS 215.788 arguments in this case represent an attempt to revisit LUBA's *710 Properties* findings related to ORS 215.788. The Hearings Officer finds LUBA's analysis and conclusions related to COLW's ORS 215.788 argument, until distinguished, reversed or overruled, remains good law. The Hearings Officer rejects COLW's ORS 215.788 argument as set forth in the quoted comments above.

2. Farm Unit

COLW (9/10/2026) referenced the OAR 660-033-0020(1)(b) "farm unit" terminology. COLW (9/10/2026, page 7) stated that "*the application omits any mention of the land's farm history…*" and also stated (9/10/2026, page 9) that the "*Developer has not provided the subject property's farm history…*" The Hearings Officer interprets COLW's comments, in the context of its 9/10/2026 submission, as an argument that the Applicant failed to adequately address the OAR 660-033-0020(1)(b) "farm unit" requirement.

COLW appears to argue two evidentiary issues. First, COLW argued that Applicant failed to provide sufficient farm history evidence of the Subject Property to allow a determination of whether the Subject Property was part of a "farm unit." Second, COLW itself provided conveyance history of the Subject Property and argued that such conveyance history suggests that the Subject Property may have been part of a "farm unit." COLW cited the Oregon Court of Appeals *Riggs v. Douglas County*, 167 Or App 1 (2000) in support of its argument that the Subject Property may be characterized as a "farm unit."

The Hearings Officer reviewed the *Riggs* Court of Appeals opinion. The Hearings Officer found the *Riggs* opinion addressed, to some degree, both evidentiary issues raised by COLW. The Hearings Officer finds that the *Riggs* opinion addressed COLW's conveyance history argument and concluded that conveyance history may be ***relevant*** but was not determinative. The Court of Appeals found that a site's 'historical joint management' or 'joint use' is an **important consideration** when addressing the "farm unit" issue.

The *Riggs* case involved a property that had been, prior to partitioning, used as a "sheep ranch" (the *Busenbark Ranch*). The *Busenbark Ranch* property was eventually divided into three smaller parcels and conveyed into separate ownerships. At some point in time the "sheep ranch" use was discontinued on all three parcels. The court in *Riggs* found that it was relevant to consider the historical "sheep ranch" use even beyond the time of partitioning in order to determine if a one or more of the parcels was/were part of a "farm unit." The court in *Riggs* stated that the county had to

consider the factual circumstances related to the historical "sheep ranch" use located on the property subject to that opinion.

There was no question in the *Riggs* factual setting that the historical "joint use" of the pre-partition and post-partition properties was for farming purposes ("sheep ranch"). The primary "farm unit" issue addressed by the Court of Appeals related to the timing of the cessation of the "sheep ranch" use. The Court of Appeals, in *Riggs,* quoted a section of the lower LUBA opinion which held:

> *"we conclude that the fact that the subject property is not owned by the same person who owns adjacent farm parcels does not conclusively established that the subject parcel is not part of a single farm unit. Lands in diverse ownership that are nonetheless jointly managed as a single operating farm unit may constitute a 'farm unit' for purposes of OAR 660-033-0020(1)(b)"*

The Court of Appeals provided another quote from the LUBA opinion which said:

> *"It may be that under the facts of this case the county could conclude, the historical use of the subject property as part of the Busenbark Ranch notwithstanding, that the subject property is no longer part of a farm unit by virtue of the cessation of joint farm activity on the subject property in 1996. However, the county made no finding to that effect, and we express no opinion in that regard."*

The Hearings Officer finds that the take-aways from the *Riggs* opinion are that (1) evidence of historical joint use or intermingled use of properties for farm purposes is relevant when determining if a "farm unit," as described in OAR 660-033-0020(1)(b) exists, and (2) the timing of any cessation of joint farm use of properties is also relevant. *Riggs* required evidence to be in the record related to the historical joint farm use or intermingled farm use of properties.

COLW, as noted above, argued that Applicant did not provide sufficient evidence of historical farm uses for Subject Property and/or nearby/adjacent properties and that the Subject Property was created from larger properties that may have been jointly used for farm purposes. The Hearings Officer finds that it is necessary, considering COLW's assertions, to review the evidence in the record related to whether the Subject Property was historically used jointly with one or more other properties for farm purposes. If the answer that question is affirmative, then the Hearings Officer needs to consider if and when the historical joint use ended. Based upon the answers to these questions the Hearings Officer can reach a conclusion as to whether the Subject Property is/was a part of a "farm unit" as described in OAR 660-033-0020(1)(C), OAR 660-033-0020(7) and ORS 215.203.

Applicant (See Section II, Surrounding Land Use discussion above) described properties located adjacent to the Subject Property. Applicant's adjacent property descriptions included current and historical references to the ownership, size and farming activities (if any) for each neighboring site. Applicant's representative (Burket), at the public hearing, testified there is no historical evidence that the Subject Property itself was ever used or that it was jointly used with surrounding properties for farming purposes (see also Applicant Response to Issues Raised by the County, 9/9/2026, section d. Existing Land Use Patterns).

The Hearings Officer finds that Applicant's Burden of Proof descriptions of surrounding properties included references to zoning (I.e., EFU and RR10) and public record references to applications for farm use activities (I.e., farm buildings). The Hearings Officer notes, for example, that property located immediately north and northwest of the Subject Property is zoned RR-10. The Hearings Officer finds that even if the RR10 properties were once part of a "farm unit" with the Subject Property those properties can no longer be considered part of a "farm unit" with the Subject Property. The RR10 properties have been developed as rural subdivisions.

Properties to the southwest, south, east and northeast of the Subject Property are currently zoned EFU. The Hearings Officer finds that it is a relevant inquiry to consider whether one or more of those properties are, or were in the past, a part of a "farm unit" with the Subject Property. Applicant addressed each of these properties individually. For example, Tax Lot 181319B001600, applied for a permit for irrigated pasture use for 6 acres in 1988. According to Applicant the owner of 60624 Billadeau Road applied for permit in 2008 for an agriculture building to serve 20 acres. The property owner of 59.59 acres located at 60336 Arnold Market Road applied in 2004 for a permit to build a loafing shed for horses and an area for horses. The owner of 60316 Arnold Market Road applied, in 2008, for a 7,200-square-foot building to store equipment and hay to support horses. The owner of 22393 Rickard Road altered, in 2006, a portion of the property to utilize irrigation water. The property at 2230 Rickard Road, was subject to an application for a barn to store hay and equipment.

Based on the evidence in the record the Hearings Officer finds that none of the surrounding EFU properties was used jointly for farm use or were somehow involved an intermingled farm use with the Subject Property. The Hearings Officer finds that the farm related actions (applications and permits) for the surrounding EFU properties were related solely to the particular or individual property and not related to joint farm use or intermingled farm use with the Subject Property.

The Hearings Officer does not dispute COLW's suggestion that historically a full section, half section or subsequently divided properties giving rise to the Subject Property could have been used for farm purposes. However, based upon the evidence the Hearings Officer must find there was no joint or intermingled farm use involving the Subject Property and any adjacent property. The Hearings Officer finds that any farm use of any adjacent property was solely related to that specific property and was not a joint use with the Subject Property.

The Hearings Officer finds the Subject Property is not, and has not for the recognizable past, been part of a "farm unit." The Hearings Officer finds that is unnecessary to address the *Riggs* opinion timing of cessation of joint farm use of properties issue.

3. Goal 14

The issue of compliance with Oregon Goal 14 was raised, in this case, by COLW (COLW 9/10/2026 and 9/17/2026). Applicant responded (Applicant 9/9/2026 Response to Issues letter and Other Relevant Matters and 10/1/2026 Final Argument) to COLW's argument. This Hearings Officer recently provided Goal 14 findings, which would be relevant in this case, in a recommendation to the Board of County Commissioners for files 247-26-000099-PA, 100-ZC. There is no evidence in the record indicating the Board resolution of the Goal 14 issues. The ultimate Board resolution of the

Goal 14 issues raised by the Hearings Officer in files 247-26-000099-PA, 100-ZC will most certainly impact future PAPA applications including the one in this case.

The Hearings Officer includes below, in their entirety, the Preliminary Findings related to Goal 14 for files 247-26-000099-PA, 100-ZC. The Hearings Officer addresses Applicant's *Curry/Shaffer* analysis evidence and its request for a Goal 14 oriented condition of approval later in these Preliminary Findings.

[start of Preliminary Findings for files 247-26-000099-PA, 100-ZC]

"Oregon Statewide Planning Goal 14, in overly simplified terms, is focused on locating "urban" uses within urban growth boundaries ("UGB") and "rural" uses outside the UGB's. Restated, satisfaction of Goal 14 generally requires demonstration that uses in a proposed land use action for lands outside an UGB must be characterized as "rural" and not "urban" uses. As stated by LUBA (Central Oregon LandWatch v. Deschutes County, LUBA No. 2023-006 (2023):

> *"Goal 14 generally prohibits urban use of rural land, that is land outside UGB's. 1000 Friends of Oregon v. LCDC (Curry Co.), 301 Or 447, 724 P2d 268 (1986). In Curry Co., the Supreme Court explained that, if a decision affecting rural land outside a UGB is challenged as allowing an urban use in violation of Goal 14, a local government may do one of three things. The local government may (1) establish that the decision does not offend Goal 14 by demonstrating that the proposed use is rural and not urban. Differently, if the local government determines that a proposed use is an urban use, then the local government may (2) comply with the Goal14 subject site within the UGB or (3) adopt an exception to Goal 14. Footnote 13 Considerations for determining whether a particular use is urban or rural derive from our decision in Shaffer v. Jackson County: 'Under the Supreme Court's decision in [Curry Co.], it may well there is nothing inherently rural or urban about residential, commercial, industrial or other types of uses. Rather there are merely a number of relevant factors to be considered, such as parcel size, intensity of use, necessity for urban facilities and proximity to a UGB."*

Staff (Staff Report, pages 56-58) requested the Hearings Officer in this case to take notice of a recent Deschutes County Hearings Officer's recommendation (247-26-000120-PA, 247-26-000121-ZC, hereafter the "Jaros Recommendation") and a recent Oregon Land Use Board of Appeals (LUBA) opinion (Central Oregon LandWatch v. Deschutes County, LUBA No. 2026-015, hereafter the "BCL" opinion. Both the Jaros Recommendation and BCL opinion addressed Goal 14 issues. In particular, the Jaros Recommendation and BCL opinion considered, in circumstances similar to those in this case, whether a decision maker needs to account for the various factors set forth in 1000 Friends of Oregon v. LCDC (Curry Co.), 301 Or 447 (1986) and Shaffer v. Jackson County, 17 Or LUBA 922 (1989) (collectively referred to as "Curry/Shaffer" or the "Curry/Shaffer analysis").

The Hearings Officer notes that the Applicant in this case addressed Goal 14 and included a Curry/Shaffer analysis. The Hearings Officer also takes note that one participant (Attorney Liz Fancher, hereafter "Fancher") addressed the necessity, in this case, of conducting a Curry/Shaffer analysis.

The Hearings Officer first considers Fancher's comments (July 29, 2026 and August 13, 2026 record submissions). Fancher acknowledges that LUBA recently indicated that a full Curry/Shaffer analysis may be required in PAPA cases [Central Oregon LandWatch v. Deschutes County ("Destiny Court"), Central Oregon LandWatch v. Deschutes County ("Pohaku Farms") and the BCL opinion]. Fancher stated that

> *"the issue has, however, been raised and decided by LUBA and affirmed by the Oregon Court of Appeals in Central Oregon Landwatch v. Deschutes County, LUBA Case Nos 2023-006/009 (July 28, 2023), 330 Or App 321 (2024) for the purposes of plan amendments and zone changes proposed under the 2010 comprehensive plan, as amended in 2016 [footnote omitted]."*

The Court/LUBA opinions referenced in the Fancher preceding quote, a LUBA and Court of Appeals opinion, are hereafter collectively referred to as the "710 Properties Opinions."The 1000 Friends of Oregon ("1000 Friends"), a statewide planning advocacy organization, participated in the 710 Properties Opinions appellate process. 1000 Friends argued, before LUBA, that the Deschutes County Board of Commissioners

> "*erred in relying on DLCD's acknowledgment of the 1016 amendment to conclude (1) that the RREA plan designation and RR-10 zone facially do not allow urban uses of rural land and (2) that it was therefore necessary to apply the Shaffer factors to determine whether the RREA plan designation and RR-10 zone allow urban uses of rural land as applied to the subject property."*

LUBA, in the 710 Properties LUBA Opinions (page 83) stated the following:

> *"We conclude that the board of commissioners did not err in relying on DLCD's acknowledgment of the 2016 amendments to conclude (1) that the RREA plan designation and RR-10 zone facially do not allow urban uses of rural land and (2) that it was therefore not necessary to apply the Shaffer factors to determine whether the RREA plan designation and RR-10 zone allow urban uses of rural land as applied to the subject property. 1000 Friends' fourth assignment of error is denied."*

The Hearings Officer takes notice that the Oregon Court of Appeals, 710 Properties Opinions, 330 Or App 321 @ 323, rejected the 1000 Friends argument set forth above; the Court of Appeals upheld the 710 Properties LUBA opinion as quoted immediately above.

LUBA, in the Destiny Court opinion, once again addressed whether the County's reliance on 2016 plan amendments necessitated a full Goal 14 Curry/Shaffer analysis.[FN1] LUBA, in the Destiny Court opinion (page 13), concluded that

> *"the acknowledged status of the plan provisions and zoning code applied may simplify any required goal analysis, and in limited cases render it redundant. However, the county had not established any basis in the present case to completely eliminate the contextual analysis required by Curry County and Shaffer."*

[FN1] LUBA stated (*Central Oregon LandWatch v. Deschutes County* [Destiny Court], LUBA No. 2025-015, page 12) "*We understand the hearings officer to have interpreted that acknowledgment to mean that, as a matter of law, the MUA-10 zone does not facially conflict with Goal 14.*"

LUBA, in the Destiny Court opinion, referenced Central Oregon Landwatch v. Deschutes County (Aceti V) LUBA No. 2022-075 (Dec 6, 2022), an opinion that concluded that an acknowledged rural zone (industrial) was consistent with Goal 14. LUBA, in the Destiny Court opinion distinguished the facts and legislative history in Aceti V from those existing in the Destiny Court case. LUBA did not, in the Destiny Court opinion, address its 710 Properties Opinions holding that a County adopted and DLCD acknowledged plan and code means no Goal 14 Curry/Shaffer analysis is necessary.
LUBA, in the BCL opinion, once again addressed the County's reliance on 2016 plan amendments and concluded that irrespective of the 2016 plan amendments a full Goal 14 Curry/Shaffer analysis was required. LUBA, in the BCL opinion (pages 27 & 28), concluded:

> *"In Destiny Court, we rejected arguments that the acknowledged status of the RREA plan designation and the MUA-10 zone means that, as a matter of law, the designation and zone allow only rural uses, and therefore no evaluation of consistency with Goal 14 is necessary."*
>
> *and*
>
> *"For the reasons stated in Destiny Court, we agree with petitioner that the legal conclusion is erroneous, and that the county must demonstrate that the proposed redesignation and rezoning is consistent with Goal 14, and apply the relevant Curry County factors."*

LUBA, in the BCL opinion, simply adopted its Destiny Court findings related to the necessity of a full Curry/Shaffer analysis in the context of the County adoption and DLCD acknowledgment of the 2016 County plan amendments. LUBA, in the neither the Destiny Court nor the BCL opinion, distinguished its 710 Properties Opinions from its more recent opinions (Destiny Court and BCL) as related to the necessity of a full Curry/Shaffer analysis in the context of the County's adopted and DLCD acknowledged 2016 amendments.

*This Hearings Officer was the Hearings Officer in the Destiny Court opinion hearing process. This Hearings Officer concluded, in his Destiny Court recommendation, that based upon LUBA prior opinions (I.e., Marken and Aceti) that when considering a PAPA application the **uses** set forth in the relevant County comprehensive plans and zoning ordinances that were adopted and acknowledged by DLCD means that those **uses**, as a matter of law, are consistent with **all** Oregon Goals and Guidelines including Goal 14. This Hearings Officer agrees with LUBA statement that the hearings officer recommendation (and County decision) in the Destiny Court case should be interpreted to mean that the adoption by the County and DLCD acknowledgment of the 2016 plan amendments, as a matter of law, means that the RREA and MUA10 zoning designations do not facially conflict with Goal 14.[FN2]*

[FN2] *710 Properties*, LUBA, page 83: "*Although the 2016 amendments themselves may not have included any mention of the RR-10 zone, as 1000 Friends points out, 'DLCD acknowledgment looks at the comprehensive plan as a whole to determine compliance with the goals.' 1000 Friends' Intervenor-Petitioner's Brief 53 (emphasis in the original). In acknowledging the 2016 amendment, DLCD would have been aware of DCCP Table 1.3.3 and would have understood that the RR-10 zone would implement the RREA plan designation on nonresource lands in order to provide standards for rural land use and development*."

The Hearings Officer finds Fancher's comments and conclusions persuasive with respect to the need for a full Curry/Shaffer analysis in this case. The Hearings Officer finds that LUBA confronted head-on, in the 710 Properties Opinions, the effect of the County adoption and DLCD acknowledgment of the 2016 plan amendments in the context of Goal 14. LUBA, in the 710 Properties Opinions, unequivocally opined that the County 2016 plan amendments related to the RREA designation and associated residential zones were acknowledged by DLCD and that acknowledgment meant that the uses listed in the RREA designation and associated residential zones were "rural" in nature; not "urban" uses. LUBA concluded (and confirmed by the Oregon Court of Appeals) that when plan designations and zones are adopted by a local jurisdiction and acknowledged by DLCD those plan designations and zones facially meet/satisfy ***all*** *of the Oregon Goals and Guidelines including Goal 14.*

The Hearings Officer finds that LUBA had an opportunity in the Destiny Court and BCL opinions to address its legal conclusions set forth in the 710 Properties Opinions but it did not do so. The Hearings Officer finds the Destiny Court and BCL opinions are inconsistent and conflict with the Court of Appeals affirmed 710 Properties LUBA opinion. The Hearings Officer finds that the County adoption of the 2016 plan amendments and the DLCD acknowledgment of those amendments means that the RREA designation and associated residential zones are ***facially*** *consistent with* ***all*** *Oregon Goals and Guidelines; including Goal 14.*

The Hearings Officer notes that the LUBA Goal 14 findings in the Destiny Court and BCL opinions appear to focus on the distinction between the legal concepts of "facial" and "as applied." The Hearings Officer finds LUBA appears to suggest that an "as applied" analysis is necessary in PAPA cases. Rather than engage in what may be a premature detailed analysis of the applicability of a "facial" versus "as applied" approach the Hearings Officer in this case points out that the application before him is for a plan change and a zone change only (PAPA). The Hearings Officer notes that the Shaffer case involved a specific use (batch plant) where an "as applied" analysis was considered appropriate.

The Hearings Officer finds that when an application is for a plan and zone change ***only*** *then the potential uses are those uses allowed under the relevant County adopted and DLCD acknowledged plan and zoning code; a "****facial****" approach. The Hearings Officer finds that if a* ***specific use*** *is applied for then it may, depending upon the facts of the case, be appropriate to consider an "****as applied****" approach. The application in this case does not propose a specific use despite Applicant's frequent reference to using the Subject Property for an emergency shelter; that specific emergency shelter use would require a separate application (beyond this PAPA application) for the specific emergency shelter use and it would be more like the specific use process used in the Shaffer case (industrial batch plant).*[FN3]

[FN3] *As noted in the Preliminary Findings Characterization of the Applicant's Proposed Use (Section III.A.1) the "emergency shelter" application is not part of the current application. In addition, the "emergency shelter" use may, at some future date, end and the Subject Property (if the PAPA is approved) may be used for any use allowed under the RREA designation and MUA-10 zone. Therefore, all uses allowed under the RREA designation and MUA-10 zone are relevant.*

The Hearings Officer concludes that the RREA designation and MUA10 zoning designation includes only "rural" uses. The Hearings Officer, based upon the findings above, concludes that no Curry/Shaffer analysis is necessary.

The Hearings Officer anticipates that a possible objection to the preceding findings is that the DCC includes provisions that, if exercised, may allow a MUA10 zoned property to be used for cluster or PUD developments. The Hearings Officer addressed the greater density potential in the alternative density findings below. The Hearings Officer concluded that in an application that is limited to a zone change to MUA10 only (not including an application for a cluster development or PUD) the appropriate standard of analysis is a review of the MUA10 zone language. In the event an application is reviewed for a cluster development or PUD then the specific development would likely require a full Curry/Shaffer analysis. The Hearings Officer incorporates the findings for subsection b. below as additional findings for this section.

In light of the Hearings Officer's findings above (Section III.2.a) the Hearings Officer finds it is prudent to offer the following alternative findings.

LUBA appears to have recently concluded that a full Curry/Shaffer analysis is necessary in most, if not all, PAPA application cases. LUBA, in the BCL opinion, provided an expanded discussion of the three primary Curry/Shaffer analysis requirements. LUBA, in the BCL opinion identified (in summary fashion) the following three factors must be considered when determining if a specific use or zone classification satisfies Goal 14; determining if uses are "urban" or "rural":
The Hearings Officer takes note that the recent Jaros Recommendation strictly applied the BCL steps for a Curry/Shaffer analysis to the facts of the Jaros case. The Hearings Officer, in these alternative findings, also follows the BCL approach. However, this Hearings Officer is not convinced that the BCL approach to Curry/Shaffer, in all instances, is the most appropriate interpretation of Oregon land use law and identifies such exceptions below.

LUBA, in the BCL opinion (and the hearings officer in the Jaros Recommendation), took the position that the MUA10 zone allowed cluster developments and planned unit developments. Cluster and PUD developments allow densities more intense that the Curry opinion 10-acre safe harbor. LUBA, in the BCL opinion applied the Curry density factor as if the MUA10 zone allowed parcels/densities greater than the MUA10 base zone code language. The MUA10 code language limits densities to no more than one parcel per 10-acres (DCC 18.32.040 A).

This Hearings Officer noted, in his Destiny Court recommendation to the Board, that the Destiny Court application was not for a specific development (i.e., cluster development or PUD) but was limited to a comprehensive plan and zone change (PAPA). This Hearings Officer, in his Destiny Court recommendation to the Board, stated that the MUA10 zone code section unequivocally limits density

to one parcel per 10-acres; the Curry opinion safe harbor density. The Hearings Officer, in the Destiny Court recommendation stated that if an application for greater density than the 10-acre MUA10 density limitation were before a County hearings officer or the Board then the hearings officer/Board would be required to consider relevant sections of the DCCP, DCC 18.32.040 A and prior LUBA opinions. This Hearings Officer, in the Destiny Court recommendation, concluded that the hearings officer/Board would be required to find any code sections allowing development at greater than 10-acre densities to be in conflict with the comprehensive plan (requiring 10-acre minimum parcel size) and code (18.32.040 A requiring a 10-acre minimum parcel size) and therefore such application would have to be denied. The Hearings Officer notes that had Applicant, in this case, sought a development that exceeded the 10-acre density MUA10 base zone requirement this Hearings Officer would have been required to deny such application.

LUBA, in the BCL opinion, concluded that it was appropriate to consider cluster and PUD potential densities (which are located in sections of the DCC separate from the MUA10 zoning code language - I.e., subdivision code) and not part of the application under consideration. LUBA stated that

> *"we agree with petitioner that issue [consideration of cluster development and PUD densities] is most appropriately addressed in the context of the present plan and zone amendment that creates the **potential** conflict, not a specific development proposal. As it stands, nothing in the county's decision would prevent a future applicant from seeking cluster development or PUD on the subject tract at sub-10-acre densities, and nothing cited to use in the DCCP or DCC or elsewhere would ensure that the issue of consistency with DCCP 3.3.1 would be addressed and resolved in approving or denying a specific development proposal." (BCL at page 10)(bolding added by the Hearings Officer)*

*The Hearings Officer does not disagree with LUBA that it may have the **legal authority** to consider the DCCP and DCC sections that relate to cluster development and PUD's in a PAPA application. However, the Hearings Officer believes LUBA's above quoted BCL statement may not fairly represent the historic Oregon land use practice of addressing only issues raised by an applicant in an application. LUBA states above "nothing…would prevent a future applicant from seeking cluster development or PUD on the subject tract…" The Hearings Officer agrees that nothing prevents an applicant from seeking approval of a cluster development, PUD, zone change, conditional use or any other County listed use of the Subject Property. In the event any of those requests are formally made in an application the facts and law associated with those applications would be considered. The Hearings Officer questions the timing of LUBA's consideration of cluster and PUD potential uses in the context of a simple PAPA application.*

The Hearings Officer finds LUBA's above-quoted comment that nothing "would ensure that the issue of consistency with DCCP 3.3.1 would be addressed and resolved" is disingenuous. A hearing before a County hearings officer, a de novo review of the hearings officer's recommendation by the County Board of Commissioners and judicial review by LUBA, the Court of Appeals and Oregon Supreme Court ensure the "issue of consistency" with the DCCP, DCC and Oregon laws is properly reviewed in any future application.

Because the application in this case is for a zone change to MUA10, which limits development to one parcel per 10-acres (which is consistent with the DCCP), the Hearings Officer finds that the Shaffer density factor favors a conclusion that the application is for a "rural" and not "urban" use.

In the alternative to the above density factor findings the Hearings Officer applies literally the BCL opinion and Jaros Recommendation approach to the Applicant's Curry/Shaffer density analysis. The hearings officer in the Jaros Recommendation provided the following comments:

> *"In light of LUBA's decision in BCL LLC, which indicates that the maximum density of the MUA-10 zone could be even greater than the one-dwelling-per-five-acres the Applicant states is the maximum, I find that the current record does not clearly establish that the ultimate density on the Subject Property will be limited to rural densities. This Curry County factor therefore provides weight that the proposal could result in urban-level development."*

The Hearings Officer finds that the Jaros Recommendation language quoted above is an accurate interpretation of the BCL opinion. The Hearings Officer in this case agrees that if the BCL opinion accurately reflects the law then the proposal in this case could result in an "urban" level of development.

The Hearings Officer incorporates the Preliminary Findings related to Applicant's suggested emergency shelter use (Characterization of the Applicant's Proposed Use, Section III.A.1) as additional findings for this section. In the incorporated Preliminary Findings the Hearings Officer determined that Applicant did not request approval for a specific use (I.e., emergency shelter). As noted in the Preliminary Findings the Hearings Officer concluded that the application in this case was limited to a request for a comprehensive plan amendment and a zone change (PAPA). The Hearings Officer finds that an appropriate Curry/Shaffer analysis must considers all MUA10 uses.

The Hearings Officer recognizes the courts (Curry Supreme Court opinion) and LUBA have raised the possible applicability of an "as applied" Goal 14 analysis when considering whether a use is "rural" or "urban." If the possible emergency shelter use must be considered as part of the Curry/Shaffer density factor in this case then the Hearings Officer finds an emergency shelter use is not clearly a "rural" or "urban" use. An emergency shelter will not divide the Subject Property into parcels and therefore the residential density (in the context of parcel sizes) would not change. If density is measured in other terms, such as number of occupants or persons utilizing the Subject Property, it is conceivable that "density" would be at "urban" levels. As stated above, the Hearings Officer does not believe it appropriate to consider Applicant's comments about a possible emergency shelter use in the Curry/Shaffer density factor analysis. Finally, the Hearings Officer believes that use of the Subject Property as an emergency shelter is not guaranteed to last forever. The Subject Property, if and when the emergency shelter use ends, would be eligible for all uses allowed by the MUA10 zone.

The Hearings Officer incorporates the Preliminary Findings related to Applicant's suggested emergency shelter use (Characterization of the Applicant's Proposed Use, Section III.A.1) as additional findings for this section.

Applicant stated (August 13, 2026 record submission page 3) that

> "*there will be no future demand for water and sewer, although extension of electoral to the subject property will be pursued…there will be no expectation of public water and sewer facilities*."

Applicant acknowledges that law enforcement will be provided by the Deschutes County Sheriff's Department and fire service will be provided by Bend Rual Fire District No. 2. No participant in this case provided any argument or evidence to suggest that the level of services for a MUA10 zone parcel (the Subject Property) will result in an "urban" use. The Hearings Officer finds, based upon Applicant's statements in its Burden of Proof, that the Curry/Shaffer level of services factor weighs in favor of the Subject Property, if the application is approved, of being a "rural" use.

The Hearings Officer incorporates the Preliminary Findings related to Applicant's suggested emergency shelter use (Characterization of the Applicant's Proposed Use, Section III.A.1) as additional findings for this section. The Hearings Officer also incorporates the findings above for the Curry/Shaffer density factor as additional findings the findings for this section.

Applicant (August 13, 2026 open-record submission pages 11 and 12) focused upon its intended future use of the Subject Property as an emergency shelter. The Hearings Officer finds the relevant focus needs to be, in this case, upon the proximity of the proposed MUA10 zoned property (the Subject Property) in relation to the location of the Bend UGB. The Subject Property is located approximately .30 miles from the Bend UGB.

LUBA, in the BCL opinion (page 39), stated the following:

> *"…the MUA-10 zone potentially allows two-acre parcels within a cluster development, and imposes no minimum lot sizes on lots within a PUD, whereas the county's finding note that the largest lot allowed in the City of Bend UGB is 1.1-acres per dwelling unit. At least theoretically, the county could approve a PUD on the subject property with residential lots that are comparable in size to those allowed on urban or urbanizable lands within the UGB."*

The hearings officer in the Jaros Recommendation stated (referencing the BCL opinion) that:

> *"…LUBA determined that changing a parcel to the RREA was inconsistent with Goal 14 where the property was within one-quarter of mile of the City of Bend's UGB, and where the allowed density on the property was similar to what would be allowed in that city. Applying that logic to the facts in this case, the third Curry County factor provides weight to the argument that the proposal will result in urbanization."*

Following the dictates of the BCL opinion and the Jaros Recommendation the Hearings Officer finds that the Subject Property is approximately .30 miles from the Bend UGB and, if allowed to consider densities permitted by cluster development and PUD DCC sections, approval of a zone change to MUA10 would weigh in favor of an "urban" use characterization of the Subject Property and not a "rural" use.

The Hearings Officer concludes this discussion by finding that if a decision maker is permitted to consider an "as applied" analysis and therefore consider Applicant's emergency shelter use then the Hearings Officer finds the application in this case does not weigh in favor of a "urban" or a "rural" use.

Curry/Shaffer Conclusion

The Hearings Officer provided alternative findings with respect to the need and application of the Curry/Shaffer analysis. The Hearings Officer's initial findings were that a Curry/Shaffer factor analysis was unnecessary because relevant comprehensive plan (DCCP) and zoning code (DCC) sections were adopted by the County and acknowledged by DLCD as therefore the RREA plan designation and MUA10 zone should be considered as conforming with Goal 14. In the alternative the Hearings Officer reviewed the Applicant's proposed Curry/Shaffer submission in the context of the BCL opinion and the Jaros Recommendation and concluded that the density factor suggested an "urban" use, the level of services factor suggested a "rural" use and the proximity of UGB factor suggested a "urban" use (unless Applicant's emergency shelter use could be considered – if so, then the UGB factor did not favor either an "urban" or "rural" use). The Hearings Officer, considering the Curry/Shaffer factors as a whole, concluded that the proposed plan amendment and zone change would result in an "urban" use. Therefore, based on the BCL opinion and the Jaros Recommendation, the Hearings Officer finds the application does not meet all relevant Goals and Guidelines; specifically Goal 14.

If the Hearings Officer were allowed to consider the Applicant's specific proposed use (not part of the current application) then the Hearings Officer would modify the proximity to UGB factor conclusion above and find that an emergency shelter would not weigh in favor of either an "urban" use or "rural" use. The result of weighing the Curry/Shaffer factors would then be one factor in favor of "urban" (density), one factor favoring "rural" (level of services) and one generally neutral factor (UGB). However, keeping in mind that if the emergency shelter use is terminated all MUA10 uses would be allowed (assuming that includes cluster developments and PUD's) which once again would weigh in favor of an "urban" use and an overall conclusion weighing approval of the application towards "urban" uses.

[end of quoted Goal 14 findings for files 247-26-000099-PA, 100-ZC]

The Goal 14 findings quoted above support a finding in this case that a full *Curry/Shaffer* analysis is not necessary. The Goal 14 findings quoted above also recognize that the Board, LUBA or a reviewing court may disagree with the Hearings Officer's conclusion that a full *Curry/Shaffer* analysis is not necessary. Therefore, considering the quoted Goal 14 alternative findings above, the Hearings Officer provides the following alternative findings for this case.

Applicant's *Curry/Shaffer* analysis - Density

Applicant (Response to Issues Letter and Other Relevant Matters, 9/9/2026) provided the following evidence/argument related to the *Curry/Shaffer* "Density" requirement:

"Approval of this application will not result in urban use of rural land. Applicant has previously referred to the 10-acre minimum parcel size established by DCC 18.60.060(C), but did not address density potential under a cluster or PUD under DCC 18.116.400.

Recently in Central Oregon LandWatch v. Deschutes County, LUBA NO. 2026-015 (June 26, 2026) (the "BCL Decision"), LUBA, while agreeing that Curry County created a Goal 14 safe harbor under which parcels of 10 acres or more were deemed rural density, expressed concerns that just because a present application for a MUA-10 zone (which is similar to an RR-10 zone for the purpose of this analysis) did not include a request to approve parcels less than 10 acres, a later application requesting increased density under DCC 18.116.400 or a cluster or planned development under DCC 18.128.200 or DCC 18.128.210 would be prevented from submission. LUBA's concern was further outlined by comments that without an express condition or other assurance, the chance for an inconsistent approval could not be ruled out.

LUBA has acknowledged that a comprehensive plan policy controls over any conflicting zoning regulations in a given county. DCC 18.116.400 specifies that cluster and planned developments are subdivisions subject to the provisions of Title 17 and Title 18 and DCC 17.12.010 requires that all subdivisions demonstrate compliance with the comprehensive plan. Planned developments must also demonstrate compliance with the comprehensive plan under DCC 18.128.210(B)(2). This all means that LUBA's concerns about an inconsistent approval should be assuaged because there are assurances in the DCCP and County code that applicable rural residential land policies will be applied before subdivisions or partitions can be approved.

Furthermore, the County is currently working toward adopting new housing policies 10.1.1, 10.1.2, 10.1.3 and 10.1.4 as part of its 2040 Comprehensive Plan. Those will replace Policy 3.3.1 in the Farm and Forest Resource Chapter of the 2010 comprehensive plan. The new policies provide a path for property owners to seek approval for cluster and planned development with parcel sizes less than 10 acres that were rezoned to RR-10. They also resolve the existing conflict between Policy 3.3.1 and provisions of DCC 18.32 that was brought to light by the BCL Decision.

Going forward and after adoption of the above-described policies, applicants seeking to rezone to RR-10 who do not submit a development plan with that application will be limited to parcels that are 10 acres or greater. Subsequent applications for the development of smaller parcels will require them to seek approval based on compliance with Goal 14. Any such approval will depend on whether the property is within an exception area or not. This ensures that LUBA concerns raised in the BCL Decision are satisfied."

The following represent the Hearings Office's alternative findings for the *Curry/Shaffer* density test factor. The Hearings Officer agrees with Applicant that the current comprehensive plan limits density to 10-acre parcels. The Hearings Officer finds that with the 10-acre minimum parcel size the application in this case suggests the proposed RREA plan designation and RR10 zone is a "rural use."

The Hearings Officer finds all Applicant references to the County's proposed (not acknowledged) Comprehensive Plan are irrelevant and may not be considered in this case.

As a further alternative, the Hearings Officer finds that if lots/parcels less than 10 acres are to be considered for the Subject Property then the proposed RREA plan designation and RR10 zone tend towards being considered an "urban use." A literal adherence to LUBA's most recent pronouncement in the *BCL* opinion would require the Hearings Officer to find the application in this case, if less than 10-acre lots/parcels are allowed (such as cluster developments or PUD's), suggest an "urban use."

Applicant, as further justification that its proposal would result in a density that is "rural" in nature, proposed that the Hearings Officer impose a condition of approval (Response to Issues Letter and Other Relevant Matters, 9/9/2026 and 10/1/2026 Final Argument). Applicant's proposed condition would limit parcel sizes to 2 acres.

The Hearings Officer notes that a part of Applicant's justification for a condition of approval in this case is a current and ongoing County legislative Comprehensive Plan amendment process. The Hearings Officer finds the current and ongoing amendment process is not relevant to this case. As noted in the Hearings Officer's quoted findings from his 247-26-000099-PA, 100-ZC recommendation this Hearings Officer has found that under the current and applicable Comprehensive Plan the minimum lot or parcel size under the RREA and relevant rural residential zones is 10-acres. The Hearings Officer finds that if this application is approved with a condition listing a minimum size of 2-acres then such approval would result in an "urban use."

COLW argued that the imposition of a condition of approval in this PAPA case is not legally supportable. The Hearings Officer does not make any findings related to the appropriateness or validity of a condition of approval in a PAPA case.

Applicant's Curry/Shaffer analysis - Level of Services

Applicant (Response to Issues Letter and Other Relevant Matters, 9/9/2026) provided the following evidence/argument related to the *Curry/Shaffer* "Level of Services" requirement:

> *"The Subject Property is currently served by the Deschutes County Sheriff's Office and Bend Rural Fire in addition to Deschutes County for County Services. The Subject Property does have a current water service provider listed as Avion Water Company but it also has a private well and its own septic system. Deschutes County has permitted significant residential development on other rural exception lands as rural development in the past and the fact that the Subject Property has its own septic system and a well indicates that extension of urban services like public water and sewer for the purpose of this analysis would not be necessary."*

The Hearings Officer finds, based upon Applicant's statements in its Burden of Proof, that the *Curry/Shaffer* level of services factor weighs in favor of the Subject Property, if the application is approved, being a "rural" use.

Applicant's Curry/Shaffer analysis - Proximity to UGB

Applicant (Response to Issues Letter and Other Relevant Matters, 9/9/2026) provided the following evidence/argument related to the *Curry/Shaffer* "Proximity to UGB" requirement:

> *"The Subject Property is approximately 2.25 miles from the Bend UGB. RR-10 is an acknowledged residential rural zoning district that limits the intensity and density of developments to rural levels. The most common development that could result from rezoning to RR-10 would be residential dwellings, which are unlikely to draw urban users in large numbers to this rural area*."

COLW provided the following response to the Applicant's above-quoted statements:

> *The proximity of a proposed rural residential development to an existing urban growth boundary (UGB) is another Curry County factor for determining whether rural land is being urbanized under Goal 14. BCL, supra, LUBA No. 2026-015, slip op at 36-37 (citing Curry County). The question is whether the rezoning undermines the effectiveness of the UGB in containing urban development by attracting new residents to locate outside the UGB:*
>
> > *"In our view, if, due to proximity, density, and other relevant factors, residential development of rural land could have a similar functional relationship to an urban area as would a residential development within the UGB, that is, function essentially as a suburban neighborhood, attracting residents drawn to proximity to the urban area, then rezoning rural land to allow such development would undermine the effectiveness of the UGB, and require a Goal 14 exception."*
>
> *BCL, supra, LUBA No. 2026-015, slip op at 38.*
>
> *The proposed plan amendment and zone change fail to address the Curry County proximity factor. Specifically, the application fails to establish that the residential development allowed by the proposed zoning, including cluster developments and PUDs, could undermine the effectiveness of a UGB. See BCL, supra, LUBA No. 2026-015, slip op at 38.*
>
> *The subject 79.25-acre property is 2.25 miles east of Bend's urban growth boundary. The proposed RR10 zone, with no minimum lot sizes for "planned developments," and the opportunity for clustering, could create a dense suburban neighborhood competing with areas designated for development inside the urban growth boundary thereby frustrating the UGB's purpose.*
>
> *Even if the property were developed with seven dwellings on 10-acre lots, the application would frustrate the purpose of the UGB and violate Goal 14, because that new development would "have a similar functional relationship to an urban area as would a residential development within the UGB, that is, function essentially as a suburban neighborhood, attracting residents drawn to proximity to the urban area[.]" BCL, supra, slip op at 38. The application therefore proposes to urbanize rural land in violation of Goal 14 under the Curry County factors."*

The Hearings Officer finds it appropriate, in this case, to remain consistent with his findings in the above-quoted findings for the 247-26-000099-PA, 100-ZC recommendation. The Hearings Officer finds that LUBA, in the *BCL* opinion, stated the following:

> *"…the MUA-10 zone potentially allows two-acre parcels within a cluster development, and imposes no minimum lot sizes on lots within a PUD, whereas the county's finding note that the largest lot allowed in the City of Bend UGB is 1.1-acres per dwelling unit. At least theoretically, the county could approve a PUD on the subject property with residential lots that are comparable in size to those allowed on urban or urbanizable lands within the UGB."*

The Hearings Officer finds that the Deschutes County hearings officer rendering the *Jaros Recommendation* stated (referencing the *BCL* opinion) that:

> *"…LUBA determined that changing a parcel to the RREA was inconsistent with Goal 14 where the property was within one-quarter of mile of the City of Bend's UGB, and where the allowed density on the property was similar to what would be allowed in that city. Applying that logic to the facts in this case, the third Curry County factor provides weight to the argument that the proposal will result in urbanization."*

Following the dictates of the *BCL* opinion and the *Jaros Recommendation* the Hearings Officer finds that the Subject Property is approximately 2.25 miles from the Bend UGB and, if allowed to consider densities permitted by cluster development and PUD DCC sections, approval of a zone change to RR10 would weigh in favor of an "urban" use

Curry/Shaffer Conclusions

The Hearings Officer's initial finding, as described above, is that a full *Curry/Shaffer* analysis is not required in this case. In the alternative, the Hearings Officer addressed the three primary *Curry/Shaffer* factors.

The Hearings Officer found that if density was limited to 10-acres the "Density" factor suggested "rural" level development. However, if the *Destiny Court* and *BCL* opinions were followed literally then the possibility of development of the Subject Property on less than 10 acres lots/parcels must be considered. In that event the Hearings Officer found, in the alternative, that the "Density" factor, in this case, suggested "urban" level development.

The Hearings Officer found the "Level of Services" factor, in this case suggested a "rural" level of development. The Hearings Officer found that strict adherence to the LUBA findings for the *Destiny Court* and *BCL* cases suggest that the application in this case proposes an "urban" level of development for the proximity to UGB factor.

The Hearings Officer concluded, based upon the findings above, that if a full *Curry/Shaffer* analysis is required then the proposed development is best characterized as "urban."

4. Farm Study

COLW noted (9/10/2026 and 9/17/2026) that the County relied upon a 1992 Farm Study ("92 Farm Study") as justification and support for designating land as agricultural. At the public hearing the Hearings Officer indicated that he was uncertain as to the importance and/or relevance of the 92

Farm Study in the context of a PAPA application. The Hearings Officer appreciates COLW's follow-up (9/17/2026) to the Hearings Officer's inquiry.

The Hearings Officer incorporates the Preliminary Findings for **ORS 215.788** (Section III.A.1) as additional findings for this section. The Hearings Officer finds that the application in this case is based upon the premise that the initial designation of the Subject Property as resource land (agricultural land) was a mistake. The Hearings Officer, in the incorporated findings, concluded that the County has the authority, in a quasi-judicial setting, to consider if a mistake in soil mapping occurred. The Hearings Officer finds that the 92 Farm Study may be considered in the context of determining if a "mistake" in soil mapping occurred.

The Hearings Officer finds that the existence of the 92 Farm Study is not, by itself, determinative of whether a soil mapping "mistake" occurred. The Hearings Officer finds the existence of the 92 Farm Study does not preclude the Hearings Officer from considering all relevant evidence related to Applicant's claimed soil mapping mistake; including, but not limited to, the Farm Study and Applicant's Soil Study.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.136, Amendments

Section 18.136.010, Amendments

DCC Title 18 may be amended as set forth in DCC 18.136. The procedures for text or legislative map changes shall be as set forth in DCC 22.12. A request by a property owner for a quasi-judicial map amendment shall be accomplished by filing an application on forms provided by the Planning Department and shall be subject to applicable procedures of DCC Title 22.

FINDING: The Applicant requested a quasi-judicial plan amendment and filed the applications for a plan amendment and zone change. The Applicant has filed the required Planning Division land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code.

Section 18.136.020, Rezoning Standards

The applicant for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property. Factors to be demonstrated by the applicant are:

A. That the change conforms with the Comprehensive Plan, and the change is consistent with the plan's introductory statement and goals.

FINDING: The Applicant provided the following response to this criterion (Burden of Proof):

"The Plan's introductory statement explains that land use must comply with the statewide planning system and sets out legal framework set by Oregon State law. The introductory statement also provides

that land use should also reflect the local needs and interests of Deschutes County. The Plan summarizes Oregon's Statewide Planning Goals and explains the process Deschutes County used to adopt the current Plan. This application is consistent with the Plan's introductory statement because the requested changes are consistent with State law, Deschutes County needs, and Deschutes County plan provisions and zoning code that implement the Statewide Planning Goals.

The following provisions of Deschutes County's amended comprehensive plan set out goals or text that may be relevant to Deschutes County's review of this application. Other provisions of the Plan not included in this burden of proof do not apply."

The Hearings Officer finds Applicant adequately addressed this criterion through its record submissions for relevant approval criteria below. Each relevant approval criterion is assessed independently based upon record submissions.

Staff (Staff Report) provided the following comments:

"The applicant utilized this analysis, as well as analyses provided in prior Hearings Officers' decisions to determine and respond to only the Comprehensive Plan Goals and policies that apply, which are listed in the Comprehensive Plan section of this staff report in further detail. Staff generally agrees with the applicant's analysis and finds the above provision to be met based on Comprehensive Plan conformance as demonstrated in subsequent findings. As discussed in more detail below, staff asks the Hearings Officer to make specific findings regarding whether the subject property qualifies as agricultural land, which may impact the findings for compliance with certain Comprehensive Plan policies. In addition, under the Statewide Planning Goals section below, staff requests the Hearings Officer make findings regarding Comprehensive Plan policy 3.3.1, which establishes the minimum parcel size for new rural residential parcels. If the Hearings Officer finds that the subject Zone Change conflicts with Comprehensive Plan policy 3.3.1, the findings under DCC 18.136.020(A) may need to be revised accordingly.

The Hearings Officer addresses Staff's concerns in findings for each of the referenced policies and approval criteria.

B. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

FINDING: The Applicant provided the following response (Burden of Proof statement):

"The approval of this application is consistent with the purpose of the RR-10 zoning district which is stated in DCC 18.60.010:

'The purposes of the Rural Residential Zone are to provide rural residential living environments; to provide standards for rural land use and development consistent with desired rural character and the capability of the land and natural resources; to manage the extension of public services; to provide for public review of nonresidential uses; and to balance the public's interest in the

management of community growth with the protection of individual property rights through review procedures and standards.'

The approval of this application will allow Applicant to seek approval from Deschutes County to provide residential living on the subject property, which is not suitable for agricultural use due to the poor soil conditions of the subject property. The subject property is located near the City of Bend, which will help maintain air quality by reducing vehicle trip lengths by any future residents of the property and will provide for an orderly and efficient transition from rural to urban land use. Furthermore, public services are already available for the subject property, as demonstrated above by the Utility Services described in this burden of proof."

The Hearings Officer finds the Applicant has demonstrated that the proposed zone change is consistent with the purpose and intent of the RR10 zone. As noted by the Staff, in the Staff report the Subject Property, is bordered to the north and northwest by RR10-zoned land, and that rural residential uses are the predominant development pattern of the general surrounding area.

C. That changing the zoning will presently serve the public health, safety and welfare considering the following factors:

1. The availability and efficiency of providing necessary public services and facilities.

FINDING: Although there are no plans to develop the properties in their current state, the above criterion specifically asks if the proposed zone exchange will *presently* serve public health, safety, and welfare. The Applicant provided the following response (Burden of Proof statement):

"Necessary public facilities and services are available to serve the subject property and in many cases already are serving the subject property, which currently contains a private dwelling. The subject property is served by Avion Water Company, Cascade Disposal for garbage and recycling services, Central Electric Cooperative for electrical services, and the Arnold Irrigation District.

Applicant submits that the existing road network is adequate to serve the proposed use and zone change. In fact, the proposed zone change would likely result in a lower number of weekday daily and weekday afternoon peak hour trips than the current zoning. This is evidenced by the transportation system impact review conducted by Transight Consulting, LLC. That impact review is attached as Exhibit E. The property receives police services from the Deschutes County Sheriff, and is within the boundaries of the rural fire protection district close to the City of Bend (Rural Fire District #2)."

The Hearings Officer finds that there are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare. Prior to development of the properties, the Applicant would be required to comply with the applicable requirements of the Deschutes County Code, including possible land use permit, building permit, and sewage disposal permit processes. Through these development review processes assurance of adequate public services and facilities will be verified. In addition, the northwest corner of the Subject Property is located 2.25 miles from the City of Bend UGB. This close proximity to urban development will allow for efficient service provision. The Hearings Officer finds this provision is met.

2. The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.

FINDING: The Applicant provided the following response (Burden of Proof):

"The application of RR-10 zoning to the subject property is consistent with the specific goals and policies of the Deschutes County Comprehensive Plan as shown by the discussion of non-resource land plan policies above.

The properties immediately surrounding the subject property are either not zoned EFU, or even if they are, do not appear to be actively engaged in farm use. Still, to the extent that any of the surrounding properties are engaged in commercial farm use, those will continue to be protected by their EFU zoning designation. The proposed rezoning and redesignation would not have a negative impact on farm use of the surrounding properties, as evidenced by the transportation system review (Exhibit E) and the simple fact that rezoning to RR-10 would only permit the following outright allowable uses: construction of single family dwellings and accessory buildings, utilities, agricultural uses (which, again is not feasible given the poor soil quality on the subject property), and equestrian events (which Applicant has no desire to have).

Of the permitted uses allowed outright under an RR-10 zoning designation, the most likely outcome would be the construction of single family dwelling units. The construction of six new single family dwellings would not have a negative impact on any of the surrounding properties' farm use, if any such uses are taking place. Thus, impacts to surrounding land would be consistent with the specific goals and policies contained with the Deschutes County Comprehensive Plan."

In addition to these comments, the Applicant provided specific findings for each relevant Comprehensive Plan goal and policy, which are addressed below. The Hearings Officer finds the Applicant has demonstrated the impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.

D. That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question.

FINDING: The Applicant proposed to rezone the Subject Property from EFU to RR10 and re-designate the Subject Property from Agriculture to Rural Residential Exception Area. The Applicant provided the following response in the submitted Burden of Proof statement:

"There has been a change in circumstances since the property was last zoned, and a mistake in designating the subject property EFU/Agriculture. The soils on Applicant's property demonstrate that the designation as "Agricultural Land" was improper. Exhibit A. The current zone was applied to the subject property in 1979.

In 1979, undeveloped rural lands that contained poor soils were zoned EFU without regard to the actual soil characteristics of the property. Land owners were required to apply for a zone change

to change the zoning of their unproductive EFU properties and were permitted a one-year window to complete the task. This approach recognized that some rural properties were mistakenly classified EFU because their soils and other conditions did not merit inclusion of the property in the EFU zone.

Some Deschutes County property owners of lands received approval to rezone properties but many eligible parcels were not rezoned during this short window of time. Since 1979, there is a change of circumstances related to this issue. The County's comprehensive plan has been amended to reinstate the right of individual property owners to seek approval of a nonagricultural land zone change and plan amendment.

Additionally, the population of Deschutes County has, according to the US Census, increased by 336% between 1980 when the County's last zoned this property and 202l from 62,142 persons to 209,266 persons. The supply of rural residential dwelling lots has been diminishing in the same time period.

Since the property was zoned, it has become evident that farm uses are not viable on the subject property. The economics of farming have worsened over the decades making it difficult for most Deschutes County property owners to make money farming good ground and impossible to earn a profit from attempting to farm Class 7 and 8 farm soils. The vast majority of farms in Deschutes County have soils that are superior to those found on the subject property. As farming on those superior soils is typically not profitable, it is reasonable to conclude that no reasonable farmer would purchase the subject property for the purpose of attempting to earn a profit in money from agricultural use of the land."

COLW, in its record submissions and public hearing testimony, argued that ORS 215.788 applies to this application. COLW argued that Applicant asserts that a "mapping mistake" occurred and that "mapping mistakes" may only be addressed by the terms of ORS 215.788. The Hearings Officer incorporates the Preliminary Findings for **ORS 215.788** (Section III.A.1) as additional findings for this criterion. Based upon the incorporated findings the Hearings Officer finds that this criterion is valid and must be addressed and that ORS 215.788 does not apply.

The Hearings Officer takes note of a recent LUBA opinion addressing this approval criterion, *Central Oregon Landwatch v. Deschutes County* (*Destiny Court*) LUBA No. 2025-015 (2025). LUBA, in *Destiny Court*, provided the following findings:

"…we agree with respondents that the Order 1 soil study can be viewed as a 'change in circumstances' for purposes of DCC 18.136.020(D). Petitioner argues that only a physical change to the soils or conditions on the subject property, such as a flood or earthquake, could possibly constitute a 'change in circumstances.' But petitioner cites nothing in the text or context of DCC 18.136.020(D) suggesting that a 'change of circumstances' is limited to physical changes.

The board of commissioners adopted the hearings officer's findings concluding that the new and more detailed information provided by the soils study is sufficient to constitute a 'change in circumstances.' The board of commissioners clearly understood the phrase 'change in

circumstances.' The board of commissioners clearly understood the phrase 'change in circumstances to encompass more than physical changes to the soil or site conditions, and to broadly include development of new information that fundamentally challenges the agricultural status of the property. That implicit understanding is adequate for our review and therefore subject to the deferential standard of review we apply to a governing body's interpretations of its land use regulations, under ORS 197.829(1) [LUBA footnote omitted] We cannot say that the county's understanding of DCC 18.136.020(D) is inconsistent with the text, context, purpose or underlying policy of that provision."

The Hearings Officer finds that Applicant, in this case, provided an updated and more precise soils analysis for the Subject Property (the Soil Study). The Hearings Officer finds the site-specific Soil Study indicates a "mistake" and "change in circumstances" occurred at the Subject Property.

Deschutes County Comprehensive Plan

Chapter 2, Resource Management

Section 2.2 Agricultural Lands

Goal 1, Preserve and maintain agricultural lands and the agricultural industry.

FINDING: The Applicant provided the following responsive comments (Burden of Proof):

"Applicant's soils study, Exhibit A, and the findings in this burden of proof demonstrate that the subject property is not agricultural land. This goal, therefore, does not apply. The vast majority of the subject property is comprised of class 7e and class 8 soils, meaning that even with expensive and intensive management of the area, it would not be feasible or economical to grow commercial crops on the subject property. The soil survey summarizes by essentially saying that the vast majority of the subject property is not suitable for farm crops, livestock, or merchantable tree species. Thus, the subject property cannot seriously be considered "agricultural land" for farm use and allowing the requested changes would do nothing to negatively impact this goal."

The Hearings Officer finds a central issue in this case is the determination of whether the Subject Property is "agricultural land." The Hearings Officer addresses relevant criteria in the findings below related to whether the Subject Property is "agricultural land."

Policy 2.2.2 Exclusive Farm Use sub-zones shall remain as described in the 1992 Farm Study and shown in the table below, unless adequate legal findings for amending the sub-zones are adopted or an individual parcel is rezoned as allowed by Policy 2.2.3.

FINDING: The Applicant did not ask to amend the subzone that applies to the Subject Property; rather, the Applicant requested a change under Policy 2.2.3 and has provided evidence to support rezoning the subject property to RR10.

Policy 2.2.3 Allow comprehensive plan and zoning map amendments, including for those that qualify as non-resource land, for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan.

FINDING: The Hearings Officer incorporates the Preliminary Findings for **ORS 215.788** (Section III.AA.1) as additional findings for this policy. The Hearings Officer finds this policy expressly authorizes site specific plan amendment and zone change (PAPA) applications to be submitted and decided by the County.

The Applicant requested approval of a PAPA to re-designate the Subject Property from Agricultural to Rural Residential Exception Area and rezone the Subject Property from EFU to RR10. The Applicant did not seek an exception to Goal 3 – Agricultural Lands, but rather to demonstrate that the Subject Property does not meet the state definition of "agricultural land" as defined in Statewide Planning Goal 3 (OAR 660-033-0020).

The Hearings Officer finds a central issue in this case is the determination of whether the Subject Property is "agricultural land" or "non-resource land." The Hearings Officer addresses relevant criteria in the findings below related to whether the Subject Property is "agricultural land" or "non-resource land." If the Applicant prevails in its position that the Subject Property is not "agricultural land" then it has proven that the Subject Property is "non-resource land." If the Hearings Officer finds the Subject Property is "agricultural land" then this goal/policy is not met.

Policy 2.2.4 Develop comprehensive policy criteria and code to provide clarity on when and how EFU parcels can be converted to other designations.

FINDING: The Hearings Officer incorporates the Preliminary Findings for **ORS 215.788** (Section III.AA.1) as additional findings for this policy. The Hearings Officer finds this policy expressly authorizes site-specific PAPA applications to be submitted and decided by the County.

Staff, in the Staff Report stated that it "concurs with the County's previous determinations in plan amendment and zone change applications and finds the proposal is consistent with this policy." The Hearings Officer agrees with Staff's statement and conclusion.

Goal 3, Ensure Exclusive Farm Use policies, classifications and codes are consistent with local and emerging agricultural conditions and markets.

Policy 2.2.13 Identify and retain accurately designated agricultural lands.

FINDING: The Applicant provided the following response to this policy:

> *"This goal clearly states that Deschutes County's policy is to identify and retain agricultural lands that are accurately designated. The subject property was not accurately designated "agricultural land" as demonstrated by the soil report, Exhibit A, and Applicant's burden of proof."*

The Hearings Officer finds a central issue in this case is the determination of whether the Subject

Property is "agricultural land." The Hearings Officer addresses relevant criteria in the findings below related to whether the Subject Property is "agricultural land."

Section 2.5, Water Resources Policies

Goal 6, Coordinate land use and water policies.

Policy 2.5.24 Ensure water impacts are reviewed and, if necessary, addressed for significant land uses or developments.

FINDING: The Applicant has not proposed a specific development application at this time. Therefore, the Hearings Officer finds that Applicant is not required to address water impacts associated with development. Rather, the Applicant will be required to address this criterion during development of the Subject Property, which would be reviewed under any necessary land use process for the site (I.e. conditional use permit, tentative plat).

Staff (Staff Report) included the following findings from *Aceti IV* (247-20-000438-PA, 439-ZC) for reference. In this previous land use decision, the Hearings Officer and the Board of County Commissioners (Board) made the following findings:

"The Hearings Officer found in Aceti 1 that this policy is directed at the County. In said decision, the Hearings Officer cited a previous decision of Hearings Officer Green for file nos. PA-14-2 and ZC-14-2 that stated, "Nevertheless, in my decision in NNP I held it is not clear from this plan language what ''water impacts" require review -- impacts to water supplies from use or consumption on the subject property, or Impacts to off-site water resources from development on the subject property." The Applicant has not proposed any particular land use or development, and any subsequent applications for development of the subject property would be reviewed under the County's land use regulations that include consideration of a variety of on- and off-site impacts.

The Hearings Officer finds it is premature to review ''water impacts" because the Applicant has not proposed any particular land use or development. Thus, there are no "significant land uses or developments" that must be reviewed or addressed in this decision. Any subsequent applications for development of the subject property will be reviewed under the County's land use regulations, which include consideration of a variety of on- and off-site impacts. Notwithstanding this statement, the Hearings Officer includes the following findings.

The Applicant's requested zone change to RI would allow a variety of land uses on the subject property. The land east of the subject property (57 acres) is zoned RI and developed with a variety of rural industrial uses. Consequently, it is likely that similar development may occur on the property if it were re-designated and rezoned to RI. In light of existing uses in the surrounding area, and the fact that Avion Water Company provides water service in the Deschutes Junction area, and a 12-inch diameter Avion water line and two fire hydrants are already installed on site, future development of the subject property with uses permitted in the RI Zone will have water service.

The subject property has 16 acres of irrigation water rights and, therefore, the proposed plan amendment and zone change will result in the loss or transfer of water rights unless it is possible to bring some irrigated water to the land for other allowed beneficial uses, such as irrigated landscaping. As stated in the Applicant's Burden of Proof, the 16 acres of irrigation water rights are undeliverable and are not mentioned in the property deed. The Applicant has not grown a crop on the subject property or effectively used his water right since the overpass was constructed in 1998.

The Hearings Officer finds that the proposal will not, in and of itself, result in any adverse water impacts. The proposal does not request approval of any significant land uses or development."

Staff noted (Staff Report) it may be possible to demonstrate compliance with this Comprehensive Plan policy but noted that the Applicant did not provide a specific response to this policy. The Hearings Officer finds that it would be premature to review "water impacts" at this stage because Applicant has not proposed any particular land use or development.

Section 2.7, Open Spaces, Scenic Views and Sites

Goal 1, Coordinate with property owners to ensure protection of significant open spaces and scenic view and sites.

Policy 2.7.3 Support efforts to identify and protect significant open spaces and visually important areas including those that provide a visual separation between communities such as the open spaces of Bend and Redmond or lands that are visually prominent.

Policy 2.7.5 Encourage new development to be sensitive to scenic views and sites.

FINDING: Applicant provided the following responsive comments and analysis (Burden of Proof):

"The Goals outlined for open space and scenic views are fulfilled by Deschutes County's Goal 5 program. The County protects scenic views and sites along rivers and roadways by imposing Landscape Management Zoning overlay zones. Notably, Deschutes County has not imposed any such LM overlay zone on the subject property. For the purposes of this application for a zone change, there are no new developments being proposed at this time. The relevant provisions of the Comprehensive Plan are not impacted by approval of the proposed zone change here."

The Hearings Officer agrees with the Applicant's analysis and finds that the Landscape Management Combining Zone does not apply to the Subject Property.

Chapter 3, Rural Growth

Section 3.2, Rural Development

Growth Potential

As of 2010, the strong population growth of the last decade in Deschutes County was thought to have leveled off due to the economic recession. Besides flatter growth patterns, changes to State regulations opened up additional opportunities for new rural development. The following list identifies general categories for creating new residential lots, all of which are subject to specific State regulations.

- ***2009 legislation permits a new analysis of agricultural designated lands***
- ***Exceptions can be granted from the Statewide Planning Goals***
- ***Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential***

FINDING: This section of the Comprehensive Plan does not contain Goals or Policies, but does provide the guidance above. In file nos. 247-24-000097-PA, 98-ZC 247-25-000021-MA (*BCL*), the Hearings Officer and Board made the following findings regarding this Comprehensive Plan section:

"The Hearings Officer agrees with Applicant that this part of the Comprehensive Plan is not a relevant approval criteria. The Hearings Officer finds the language in this section is purely aspirational and provides no clear and objective standards which must be met by an applicant for a plan and zone change."

Staff, in the Staff report, provided the following comments:

"Staff notes that the RR10 Zone is a rural residential zone and as discussed in the Findings of Fact above, adjacent properties to the north and northwest are zoned RR10. These adjacent RR10-zoned properties range from 9.6 to 9.9 acres in size and each is developed with a single-unit dwelling. Staff notes this policy also references the soil quality, which staff discusses in more detail below. The applicant has provided an Order 1 soil study demonstrating that the subject property predominantly consists of Class 7 and Class 8 soils."

The Hearings Officer finds, consistent with the *BCL* opinion referenced above, that this policy is not a relevant approval standard. In the alternative, the Hearings Officer finds that the Rural Residential Exception Area comprehensive plan designation (RREA) is intended to maintain the "rural" character and safety of housing in unincorporated Deschutes County. Generally, the minimum parcel size in the RREA is 10 acres. The Hearings Officer also finds that the MUA10 zone purpose statement indicates that the intent of the zone is to preserve the "rural" character of the lands zoned MUA10. The Hearings Officer finds approval of Applicant's request for RREA and MUA10 designations addresses this goal/policy.

Section 3.3, Rural Housing

Rural Residential Exception Areas

In Deschutes County most rural lands are designated for farms, forests or other resources and protected as described in the Resource Management chapter of this Plan. The majority of the land not recognized as resource lands or Unincorporated Community is designated Rural Residential Exception Area. The County had to follow a process under Statewide Goal

2 to explain why these lands did not warrant farm or forest zoning. The major determinant was that many of these lands were platted for residential use before Statewide Planning was adopted.

In 1979 the County assessed that there were over 17,000 undeveloped Rural Residential Exception Area parcels, enough to meet anticipated demand for new rural housing. As of 2010 any new Rural Residential Exception Areas need to be justified through initiating a nonresource plan amendment and zone change by demonstrating the property does not meet the definition of agricultural or forest land, or taking exceptions to farm, forest, public facilities and services and urbanization regulations, and follow guidelines set out in the OAR.

FINDING: The Applicant did not specifically address this Comprehensive Plan language. Staff indicated (Staff Report) that it agreed with prior Deschutes County Hearings Officer interpretations that concluded that the above language is not a policy and does not require an exception to the applicable Statewide Planning Goal 3. The Hearings Officer finds that this policy does not represent a required approval criterion. In the alternative, the Hearings Officer finds the Applicant in this case initiated a non-resource plan amendment and zone change and provided evidence that the subject Property does not meet the definition of "agricultural land."

Section 3.7, Transportation

Appendix C – Transportation System Plan
ARTERIAL AND COLLECTOR ROAD PLAN
…
Goal 4. Establish a transportation system, supportive of a geographically distributed and diversified economic base, while also providing a safe, efficient network for residential mobility and tourism.

…
Policy 4.4 Deschutes County shall consider roadway function, classification and capacity as criteria for plan map amendments and zone changes. This shall assure that proposed land uses do not exceed the planned capacity of the transportation system.

FINDING: This policy applies to the County and advises it to consider the roadway function, classification and capacity as criteria for plan amendments and zone changes. The County will comply with this direction by determining compliance with the Transportation Planning Rule ("TPR"), also known as OAR 660-012, as described below in subsequent findings.

OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

Division 6, Goal 4 – Forest Lands

OAR 660-006-0005, Definitions

(7) "Forest lands" as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:

(a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and

(b) Other forested lands that maintain soil, air, water and fish and wildlife resources.

FINDING: The Subject Property is not zoned for forest lands, nor are any of the properties within a 1.5-mile radius. Based upon the evidence in the record the Subject Property does not contain merchantable tree species and there is no evidence in the record that the properties have been employed for forestry uses historically. The Hearings Officer finds that there is no evidence in the record to even suggest the Subject Property is suitable for commercial forest uses or necessary to permit forest operations or practices on adjacent or nearby forest lands. The Subject Property does not appear to qualify as forest land. The Hearings Officer finds this criterion does not apply.

Division 33 - Agricultural Lands & Statewide Planning Goal 3 - Agricultural Lands;

OAR 660-015-0000(3)

To preserve and maintain agricultural lands.

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

FINDING: Goal 3 defines "agricultural land" which is repeated in OAR 660-033-0020(1). Findings set forth below address the "agricultural land" legal requirements.

OAR 660-033-0020, Definitions

For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:
(1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon[4];

[4] OAR 660-033-0020(5): "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

FINDING: The Applicant's basis for not requesting an exception to Goal 3 is based on the premise that the Subject Property does not meet the definition of "agricultural land." The Applicant offered the following response (Burden of Proof statement):

"If a property owner concludes that more detailed soils information that that contained in the NRCS Web Soil Survey would assist a given county in making a better determination of whether the land qualifies as agricultural land, then the property owner must request that DLCD arrange for an assessment of the capability of the land by a professional soil classifier. ORS 215.211(1). Goal 3, as discussed above, and OAR 660-033-0030(5) also allow a given county to rely on a survey with more detailed and accurate information than that provided by the NRCS, so long as the survey uses the NRCS soil classification system. The objective of the survey is to provide better soil classification than that provided by the NRCS in determining whether land is "agricultural land."

As explained above, the soil survey conducted by Paul Kennedy was approved by the DLCD as being complete and consistent with the reporting requirements for agricultural soils capability. The Soil Study concluded that the soils present on the Subject Property were not capable of supporting agricultural/farm use. The Soil Study found that the vast majority of the Subject Property's acreage was class 7e or class 8 soils, not class 1-6 soils."

COLW (9/10/2026 record submission) disputed the analysis and conclusions of the Soil Study. COLW stated (9/10/2026 record submission) the following:

"The first prong of Goal 3's definition of agricultural lands is "Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon." Goal 3 requires that these lands be preserved and maintained for farm use consistent with the state's agricultural land use policy expressed in ORS 215.243. This policy is to preserve "the maximum amount" of the state's "limited supply" of agricultural land "in large blocks." OAR 660-015-0000(3); ORS 215.243(2).

The record shows that the land's soils are 100% NRCS soils class 38B, Deskamp-Gosney complex, and that the soils have not changed since acknowledgment. The staff report notes that the NRCS describes the major use of this soil mapping unit as livestock grazing.

The Developer hired a soils scientist who confirmed the NRCS mapped soils on the property were Deskamp-Gosney complex, but broke down the NRCS map unit into a "Deskamp part," a "Gosney part" and a "rock outcrop part." After taking a series of soils samples on 62 of the subject property's 79.25 acres, the soils scientist concluded only 8% of the land's soils were the Deskamp part, i.e. Class VI unirrigated and Class III when irrigated, thereby meeting the Goal 3 definition of agricultural land.

The soils scientist opined that the rest of the soils on the property were not NRCS Class I-VIII soils, including 18 acres where he did not assess the soils ratings, but rather stated they were "HA" or "humanly altered." These 18 acres apparently contain the farm field, irrigation pond, greenhouse, barn and other outbuildings identified on the soils assessment map. Application Exhibit A, page 17. So while the soils scientist concludes the property is not "farmland of interest," it appears a landowner reached a different conclusion in developing the land for farm use."

The Hearings Officer reviewed Applicant's Soil Study and generally concurs with the Applicant's analysis. The Hearings Officer finds that there is no evidence in the record that the COLW comments quoted above were made by a person with training and/or qualifications sufficient to dispute the qualified soil scientist analysis and conclusions set forth in the DLCD accepted Soil Study.[5] The Hearings Officer found no persuasive evidence in the record to dispute the Soil Study evidence, analysis or conclusions.

The Hearings Officer finds that the Soil Study is substantial evidence that the Subject Property does not contain soils classified as Class I – VI.

> ***(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and***

FINDING: The Applicant's reason for not requesting an exception to Goal 3 is that the Subject Property does not meet the statutory and regulatory definition of "agricultural land."

This criterion applies when the soils of a property do not meet the requirements of subsection (A) above. This criterion has generated significant discussion from prior PAPA applicants, participants in opposition of the PAPA applications and legal reviewing bodies (LUBA and Oregon Court of Appeals). This Hearings Officer has found, in prior recommendations, that there are a number of issues that are appropriately addressed under this criterion. The Hearings Officer found that the issues to be addressed, under this criterion, can be summarized as follows:

* **OAR 660-033-0020 (1)(a)(B) "Suitable for Farm Use" Factors:**

    * Soil Fertility
    * Suitability for Grazing
    * Climatic Conditions
    * Water for Farm Irrigation Purposes
    * Existing Land Use Patterns
    * Technological/Energy Inputs
    * Accepted Farming Practices

* **ORS 215.203(2)(a) Farm Use Definitional Factors**

The Hearings Officer interprets OAR 660-033-0020(1)(a)(B) as establishing a multi-factor analysis that **requires consideration of each of the factors** (i.e., soil fertility, suitability for grazing, etc.) **in the context of the ORS 215.203(a)(2) definition of farm use** (including the ORS 215.203(a)(2) list

[5] The application materials also include a Soil Assessment Completeness Review from the Department of Land Conservation and Development ("DLCD) dated January 18, 2022.

of potential farm uses). The Hearings Officer finds that while each OAR 660-033-0020(1)(a)(B) factor must be considered in the context of the evidence in the record, no one factor is determinative. The language of OAR 660-033-0020(1)(a)(B) states that a decision maker **must consider all of the factors but the rule does not dictate that one facto**r **is the most important or some combination of factors, dictates the ultimate answer**. The Hearings Officer finds that the decision maker, in this case the Board, must consider the substantial evidence in the record and relevancy of such evidence as related to each factor. Ultimately a decision maker must exercise its discretion, based on the record, to determine if the Subject Property is "suitable for farm use."

The Applicant provided comments related to the OAR 660-033-0020(1)(a)(B) and ORS 215.203(2)(a) factors in its Burden of Proof, 9/9/2026 Response to Issues Letter and Other Relevant Matters and its 10/1/2026 Final Argument record submissions and in oral testimony at the public hearing. COLW also provided comments related to OAR 660-033-0020(1)(a)(B) and ORS 215.203(2)(a) in its 9/10/2026 and 9/17/2026 record submissions and in oral testimony at the public hearing. Staff provided comments related to OAR 660-033-0020(1)(a)(B) and ORS 215.203(2)(a) in the Staff Report.

The Hearings Officer addresses all participant comments in the context of the outline of the factors set forth above.

Soil Fertility Factor

The Hearings Officer finds Applicant's Soil Study represents substantial evidence related to the characteristics of soils on the Subject Property. The qualified soil scientist preparing the Soil Study included the following comments related to soil fertility at the Subject Property:

> *"OSE mapped the Gosney loamy sand as lithic map units that do not meet the definition primary farmland or farmland of interest for the following reasons:*
>
> **The lava rock is paralithic meaning it's a material has no cracks that roots can penetrate 10 cm or more. Such a restrictive layer that limits rooting, which is called effect soil depth (ESD) in terms of soil management. Rock (MA) has a land use classification 8.*
>
> **OSE mapped 62 acres, the polypedon is mostly paralithic, soils shallow to parent material or exposed bedrock. OSE found soil map units with lithic contact, shallow to lava rock that is within 50 cm (19.6 inches) of the mineral soil surface. Soils shallow to basalt are land use classification 7e.*
>
> **A majority of the AOI was mapped as Gosney loamy sand. OSE found soil profile depths ranging between 0 and 21 inches. The mapped soils are shallow for rooting depth and low available water holding capacity (loamy sands 0.75 - .125 inches water per soil foot UC Davis Drought Management 2009) which make these soils are severely limiting and are not suitable for agriculture or commercial timber production.*
>
> **The mapped areas as loamy sand map units in the AOI are extremely erodible to anthropogenic activities mapped as (HA). Anthropogenic activity can impact soil so that most the upper A1-A2*

soil horizons are removed, exposed, and or altered. Disturbance of the nature soil profile increases the hazard of soil erosion and ground surface destabilization.

**Loamy sand soil have very low soil water holding capacity making them incapable of hold a normal amount of soil water for a commercial crip production for the region. These soils need intensive and elaborate soil erosion control and soil remediation measures, nutrient and water management practices to consider farming them. Farming these soils would destabilize the soil surface and would promote soil erosion. It is not economical or reasonable to farm or use these lithic soils for forest activities. The soils do not meet the definition of commercial agricultural land for the region as defined in OAR 660-033-0020."*

The Hearings Officer finds the portions of the Soil Study quoted above are credible and substantial evidence of the soil fertility conditions at the Subject Property. The Hearings Officer finds the Subject Property soil fertility strongly suggests that the Subject Property is not "suitable for farm use."

Suitability for Grazing Factor

COLW provided comments related to the Suitability for Grazing Factor (9/10/2026). Initially, COLW suggests that the Applicant in this case "would have to overcome the presumption that the land is suitable for farm use, a determination made by the County and affirmed by LCDC during acknowledgment." The Hearings Officer finds that the PAPA process, including a review of OAR 660-033-0020, addresses COLW's "overcome the presumption" issue.

COLW next argues that the Applicant failed to "establish that the Subject Property is not suitable for grazing as part of a larger livestock operation or that, in fact, it has not been part of a larger operation in the past." The Hearings Officer incorporates the Preliminary Findings for **Farm Unit** (Section III.A.2) as additional findings for the Suitability for Grazing Factor. The Hearings Officer finds there is no substantial evidence in the record to support a conclusion that the Subject Property was part of a "Farm Unit" or part of a larger grazing operation in the past. The Hearings Officer finds Applicant's surrounding properties descriptions (Surrounding Land Uses, Section II) adequately addressed the possibility that the Subject Property was historically part of a "Farm Unit" or larger grazing operation.

Finally, COLW argues that the existence of a small farm field, barn, greenhouse and irrigation pond indicate the Subject Property is suitable for grazing. The Hearings Officer concurs with COLW that the existence of the farm field, barn and irrigation pond suggest some sort of farm use may have occurred on the Subject Property. However, the Hearings Officer does not agree with COLW that the existence of the small farm field, barn and irrigation pond, standing alone, is substantial evidence that the Subject Property is suitable for grazing. The small farm field (represented by Applicant as 3.5 acres) and existence of 5 acres of irrigation rights is more indicative of "hobby farm" use than a commercial "agricultural use."

Applicant (9/9/2026 Response to Issues Letter and Other Relevant Matters) provided the following comments related to the suitability for grazing on the Subject Property:

"An average number for the amount of forage allocated to one cow with a calf is 900 lbs per month or 10,800 pounds per year. Applying that math, the portion of the Subject Property composed of 57B soil will support less than three cow calf pairs (less than 27,160 of forage produced and 10,800 lbs needed for one cow calf pair annually). The 3.5 acres identified as potential farmland of interest composed of 36B soil would not even support one cow calf pair for a year (10,800 lbs per year needed and only 3,150 lbs produced). Even if Applicant were to dry graze the other 2.5 acres of 36B soil on the Subject Property, that would still not be enough to support one cow calf pair (5,400 lbs per year if taking the other 2.5 acres into account)."

The Hearings Officer also considered Soil Study comments, quoted above, that indicates that soil characteristics at the Subject Property, such as shallow soils, presence of bedrock, lack of water holding capacity and erosion issues suggest that growing and sustaining feed sources (pasture) for grazing cattle is problematic. While not the sole consideration the Hearings Officer also takes note of the soil scientist comments in the Soil Study that farming of any type on the Subject Property, including the growing and sustaining of grazing feedstock (pasture), would be economically unreasonable.

Climatic Conditions Factor

The Hearings Officer finds that climatic conditions in the general area surrounding Bend, Oregon (not including the high mountain areas) are relatively consistent. The Hearings Officer acknowledges that there are agricultural uses in the area. The Hearings Officer finds nothing unique about climatic conditions existing at the Subject Property. The Hearings Officer finds, from the perspective of climatic conditions perspective, the Subject Property is "suitable for farm use."

Water for Farm Irrigation Purposes

The Subject Property has five acres of irrigation water rights. The Hearings Officer finds the existing irrigation water rights suggest that the Subject Property, at least for five acres of the Subject Property, is "suitable for farming."

Existing Land Use Patterns

The Hearings Officer in a prior PAPA recommendation made the following findings (247-25-000727-PA, 728-ZC):

"COLW framed the issue to be addressed in this factor as asking the question "whether existing land use patterns would diminish the Subject Property's suitability for farm use?" COLW answered that question by stating "nothing in the record suggests that either the EFU-zoned properties or the non-agricultural uses in the area would interfere with or limits the Subject Property's suitability for farm use." Neither the Applicant or Staff offered any argument contrary to COLW's framing of the OAR 660-033-0020(1)(a)(B) "existing land use patterns" factor. For the purposes of this recommendation the Hearings Officer adopts COLW's framing of the approach to the "existing land use patterns" factor.

…

The Hearings Officer, based on evidence and arguments in the record, finds that existing land use patterns are consistent with a conclusion that the Subject Property is "suitable for farm use."

The Hearings Officer finds that properties directly to the north and northwest are zoned RR10. The Hearings Officer finds properties located to the east, south and southwest are all zoned EFU-TRB. The Hearings Officer finds the properties zoned RR10 do not diminish the Subject Property's suitability for farm use. The Hearings Officer finds the adjacent EFU properties are compatible with farm use of the Subject Property and therefore do not diminish the Subject Property's suitability for farm use.

Technological/Energy Inputs Factor

The Hearings Officer interprets this factor as requiring analysis of what farming inputs will allow a reasonable farmer to productively use the Subject Property for "agricultural" purposes. In this case the Applicant (9/9/2026 Response to Issues and Other Relevant Matters) noted soil and climatic issues impacting the Subject Property that require "*significant management, remediation and elaborate steps in order for them to be used for agricultural purposes*." Further, Applicant stated:

"...the area identified as plausible for use as farmland (approximately 3.5 acres out of nearly 80 that the Subject Property consists of) does not have irrigation set up or any other infrastructure that would make it viable for farm use nor qualify it as agricultural land."
and,
"the energy and technology inputs that would be required to do so would very likely be substantial (high labor costs, labor-intensive, high cost of irrigation equipment and electricity, high cost of fertilizer, etc.) and would dwarf any potential profits that could be had from using the Subject Property for farm use."

COLW (9/10/2026) stated that

"The Developer has not addressed whether and what technological and energy inputs would be required to engage the subject property in a new or historic farm use."

The Hearings Officer disagrees with COLW's conclusionary statement quoted above. The Hearings Officer finds Applicant did identify some technological and energy inputs required to allow the Subject Property to be used for "agricultural" or "farm" purposes. While the Applicant's discussion of technological and energy factors is not as robust as in some prior PAPA cases, for the purposes of this recommendation the Hearings Officer can find, based upon the evidence in the record, that some technological and energy inputs, such as constructing and maintaining an irrigation system and significant soil amendments would be necessary.

The Hearings Officer notes that the Subject Property is approximately 79 acres and only has water rights for 5-acres. Any costs associated with irrigation at the Subject Property should only be considered in the context of the number of acres of water rights as described in the evidence that is in the record.

In this case the Hearings Officer finds that the Technological/Energy Inputs Factor leans towards a conclusion that the Subject Property is not suitable for farming. However, based on the evidence in the record the Hearings Officer concludes the Technological/Energy Inputs Factor is neutral with respect to whether or not the Subject Property is "suitable for farming."

Accepted Farming Practices Factor

The Applicant and COLW appear to agree that the most likely farming practices that may occur on the Subject Property are dryland grazing and irrigated grazing. However, the Hearings Officer does take note of COLW's following statement (9/10/2026):

> *"The Developer has not shown why the subject property is not suitable for use in conjunction with nearby and adjacent farms for the production of cattle, horses, chickens, eggs, honey, goats, sheep, pigs, llamas, alpacas, greenhouses, horse boarding, horse training, a riding school or any other farm use defined in ORS 215.203."*

The Hearings Officer addresses the legal aspects of COLW's above-quoted comment in the findings related to ORS 215.203 and the definition of "farm use" which are set forth in findings below. In summary, the Hearings Officer finds Applicant need not address accepted farming practices for each of the uses listed in the COLW quoted comments above.

The Hearings Officer finds that accepted farming practices must take into account the soil characteristics of a property. The Hearings Officer finds that soil characteristics, in this particular case, are the most influential determinant of what "accepted farming practices" may be on the Subject Property.

Applicant provided comments related to dry land and irrigated grazing in comments quoted earlier in this recommendation. The Hearings Officer finds that Applicant's comments focused on the climatic conditions (limited growing season), quality of soils (approximately 6 acres or 3.5 acres of "good soil" out of a total of approximately 79 acres), separation of the two primary "good soils" areas from one another (see Soil Study pages 17 and 18) and limited size of potential grazing land that would limit grazing to "one cow calf pair (9/9/2026 Response to Issues Letter and Other Relevant Matters). If dryland or irrigated grazing are the most likely "agricultural" or "farm" uses at the Subject Property then the Hearings Officer finds that Applicant has provided sufficient evidence in the record to conclude that when considering Accepted Farm Practices in the area the Subject Property is likely not "suitable for farming."

ORS 215.203(2)(a) "Farm Use" Definitional Factors

ORS 215.203(2)(a), in part states the following:

> *'As used in this section, 'farm use' means the current employment of land for the primary purpose of obtaining a profit in money by" (followed by extensive list of possible 'farm uses')*

ORS 215.203(2)(a) has generated varying legal interpretations by applicants and public interest law organizations. Ultimately, it is the province of the Oregon Land Use Board of Appeals and appellate courts to provide legal guidance as to the interpretation of ORS 215.203.(2)(a).

LUBA, in *Central Oregon LandWatch v. Deschutes County* (*Destiny Court)* (LUBA 2025-015 (2025)) addressed the ORS 215.203(2)(a) list of possible 'farm uses." LUBA provided comments giving direction to the County as well as future applicants with respect to what potential farm uses should be considered under OAR 660-033-0020(1)(a)(B) and ORS 215.203(2)(a).

Selected sections of the *Destiny Court* LUBA opinion follow:

> "*We generally agree with the hearings officer that an applicant is not required to go through a rote initial exercise of evaluating every possible type of activity that potentially falls with the broad definition of 'farm use,' and produce evidence regarding whether the subject property is suitable for all conceivable farm uses.*
>
> *However, an applicant has the burden of demonstrating that the subject property is not suitable for 'farm use,' which as defined includes a wide range of activities. In our view, an applicant has the initial burden of identifying, from that wide range of activities, potentially feasible farm uses that are commonly employed on EFU-zoned lands in the area or county, and providing some evidence or explanation, based on the factors listed in OAR 660-033-0020(1)(a)(B), as to whether the land is suitable for such initially identified uses. Such an initial analysis could address potential farm uses together in broad categories as appropriate.*
>
> *More detailed analysis may be needed if, as happened here, other parties identify specific farm uses that are common in the area or county on EFU-zoned land, and provide some evidence or argument that the property is suitable for such uses, considering the listed factors. If so, an applicant, such as intervenor in this appeal, is obliged to evaluate those uses as well, and demonstrate that the subject property is not suitable for such uses. Based on such evidence, the hearings officer will then be in a position to determine whether an applicant has demonstrated that the subject property is not suitable for farm use, under the listed factors.*"

The Hearings Officer finds that Applicant and COLW generally agree that the most likely "farm uses" for the Subject Property are dryland and irrigated grazing. COLW did, per the quote in the Accepted Farming Practices Factor findings above, list a number of "other" uses that could possibly occur at the Subject Property. The Hearings Officer finds that COLW did "*identify*" other potential "farm uses" but did not "*provide some evidence or argument that the property is suitable for such uses"* as required by the *Destiny Court* LUBA opinion. The Hearings Officer finds that without at least some evidence or argument related to the Subject Property's suitability for such uses as raising, for example, cattle, horses, sheep, pigs or "other farm use[s]" as defined in ORS 215.203" the Applicant in this case is not "*obliged to evaluate those uses as well, and demonstrate that the subject property is not suitable for such uses."* The Hearings Officer finds Applicant is required to evaluate dryland and irrigated grazing farm uses in its effort to demonstrate that the Subject Property is not "suitable for farm use."

This Hearings Officer, in a recent recommendation (247-25-00727-PA, 247-000728-ZC), made the following finding:

> *"The Hearings Officer finds that "profit" or "profitability," in the context of the ORS 215.203(2)(a) definition of farm use, is to be assessed as an objective standard. The Hearings Officer agrees with LUBA that the overarching ORS 215.213(2)(a) test, per the 2025 710 Opinion (@ 416) quoted above,* ***considers whether a 'reasonable farmer' would have an expectation [intent] of obtaining a profit in money****." (****bolding in original hearings officer recommendation****)*

COLW argued that the Applicant, in this case, "over-relied on profitability" in reaching its conclusion that the Subject Property was not "suitable for farm use" under ORS 215.203(2)(a). The Hearings Officer notes that while the Applicant did frequently reference commercial viability of conducting dryland and irrigated grazing the Applicant did not reach its conclusion that the Subject Property was not "agricultural land" solely on the basis that the Subject Property could not be farmed for a profit. The Applicant referenced the poor soil fertility, climatic conditions, limited "good soil" acreage and logistical and financial expenditures necessary to even attempt to make a profit farming the Subject Property as reasons for concluding the Subject Property is not "suitable for farming." Based upon the record of this case the Hearings Officer finds that a reasonable farmer would not attempt to engage in farm uses on the Subject Property with the expectation of obtaining a profit in money.

COLW (9/10/2026, pages 14 and 15) raised an issue of first impression for this Hearings Officer. COLW stated:

> *"ORS 215.203(2)(b) clarifies that "current employment" of land for farm use includes:*
>
> > *"Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use."*
>
> *ORS 215.203(2)(b)(E). As farm use can include wasteland that is "neither economically tillable nor grazeable," and is "not currently being used for any economic farm use," profitability is not even necessarily relevant to a determination of whether land is suitable for farm use. In Destiny Court, LUBA analyzed only on ORS 215.203(2)(a), as the Supreme Court had done in Wetherell v. Douglas County, 342 Or 666 (2007), where the parties' arguments addressed the Goal 3 rule language and not the Goal language itself. But Goal 3 refers to farm use as defined in ORS 215.203 and does not limit the definition to subsection(2)(a)."*

Applicant did not provide any meaningful response to the COLW "wasteland" argument. Therefore, it is left to the Hearings Officer to consider whether the COLW argument related to "wasteland" is plausible.

"Wasteland" is defined (see COLW quoted reference above) to require:

* Land zoned EFU; and
* Land that is dry or covered with water; and

* Land that Is neither economically tillable or grazeable; and
* Is situated lying in or adjacent to and in common ownership with a farm use land; and
* Is not currently being used for any economic farm use.

The Hearings Officer finds the "wasteland" definition and concept to be a carve out or exception to the general "farm use" definition which anticipates a reasonable farmer engaging in farming activities with the expectation of a profit.

The Hearings Officer finds the Subject Property, in its entirety, EFU. The Hearings Officer finds that the Subject Property is dry and/or covered with water. These two "wasteland" definitional requirements are met.

The Hearings Officer finds that the Applicant has asserted that the Subject Property is "neither economically tillable nor grazeable." This definitional requirement, based upon Applicant's representations, is met.

The next "wasteland" definition inquiry is whether the "wasteland" is "*situated lying in or adjacent to* ***and*** *in common ownership with a farm use*." [bolding added by the Hearings Officer] This definitional requirement presents a more meaningful interpretive and application challenge.

The Hearings Officer finds that "lying in or adjacent" requirement necessitates a property or properties that is/are "commonly owned." In this case the Hearings Officer could reasonably find that the "common ownership" requirement is met if the entire Subject Property is considered. If the entire Subject Property is the "commonly owned" land then the "wasteland" must be located within ("lying in") the Subject Property. In other words, the "wasteland" is only a portion of the entire Subject Property. The "adjacent" to another property concept does not appear to apply in this case. The Subject Property is not owned in common with any adjacent property.

If the Hearings Officer's interprets the "wasteland" definition contemplates two identifiable portions of a single property or two adjacent properties. If only the Subject Property is the "commonly owned land" then there would be a "wasteland" portion and a surrounding (lying in) property. The Hearings Officer finds some sort of description of each of those two portions of land is required.

The Hearings Officer finds COLW did not describe what portion of the Subject Property it considers "wasteland." Without such a description the Hearings Officer cannot make a finding that there is a "wasteland" portion of the Subject Property that is lying in or is adjacent to a "farm use." The Hearings Officer finds COLW did not provide sufficient evidence and argument to allow the Hearings Officer to find that ORS 215.203(1)(b)(L) applies in this case.

The next "wasteland" definitional requirement requires a showing that the "wasteland" portion of land is within (lying in) or adjacent to a "farm use." The Hearings Officer incorporates all findings related to "agricultural use" as additional findings for this section. The Hearings Officer concluded, based on the record, that the entire Subject Property was not "agricultural" land and was not in "farm use." If those findings are correct then the COLW undefined "wasteland" area is not surrounded by (lying in) or adjacent to "farm use" land (that is commonly owned).

The final "wasteland" definitional requirement requires a showing that the "wasteland" portion of land is "not currently in farm" use. The Hearings Officer agrees that the entire Subject Property is not currently in "farm use."

The Hearings Officer acknowledges that the above "wasteland" findings are first impressions. The Hearings Officer would hope that the Applicant and COLW provide the Board with a more thorough legal analysis of ORS 215.203(2)(b)(L) and its application to the ORS 215.203(2)(a) definition of "farm use."

The Hearings Officer finds that Applicant adequately addressed the ORS 215.203(2)(a) definition of "farm use" and that the Subject Property use is not a "farm use."

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

FINDING: The Applicant offered the following response (Burden of Proof):

> *"The subject property is not land that is necessary to permit surrounding or nearby lands to engage in farming-related practices. None of those properties rely in any way on the subject property to practice any "farm use."*

In files 247-25-000727-PA, 728-ZC (*Dickey Road*), this Hearings Officer recently provided the following statements regarding the analysis required under this section:

> *"OAR 660-033-0020(1)(a)(C) has been the subject of prior Deschutes County land use decisions. The Hearings Officer finds the Oregon Court of Appeals opinion in Central Oregon Landwatch v. 1000 Friends of Oregon (2024 710 Opinion), 330 Or App 321 (2024) is particularly relevant to this case. The 2024 710 Opinion (@ 333) contains the following holdings that should be applied in this case:*
>
> > *'…consideration of whether land is 'agricultural land' under OAR 660-033-0020(1)(a)(C) must include consideration of whether the land's resource designation and zoning is 'necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.'"*
>
> And
>
> > *"We note that we also agree with LUBA that 'necessary to permit farm practices on adjacent or nearby agricultural lands' is a 'high standard.' Webster's Third New Int'l Dictionary 1510 (unabridged ed 2002) ('necessary' means 'whatever is essential for some purpose' and things that must be had'). That is, we do not understand land to be agricultural land under OAR 660-033-0020(1)(a)(C) merely because its designation as such would merely be 'useful" or 'desirable' for nearby farm practices. Rather, for 'land' to be agricultural land under OAR 660-033-0020(1)(a)(C), that land, considering its resource designation and zoning, must truly be necessary to adjacent and nearby farm practices.'*

The Hearings Officer concurs with the two above-quoted Oregon Court of Appeals statements. The Hearings Officer finds that to determine if the Subject Property is "necessary" to permit farm practices to be undertaken on adjacent or nearby agricultural lands the Hearings Officer must consider (1) is the Subject Property (itself) physically "necessary" and (2) is retaining the EFU designation "necessary?" The Hearings Officer agrees with the description of the "necessary" standard set forth by the Court of Appeals in the quoted section above."

The Hearings Officer notes that Staff (Staff Report) and COLW (9/10/2026) questioned whether there was substantial evidence in the record related to farming practices on adjacent and nearby agricultural lands. The Hearings Officer finds that Applicant did (Burden of Proof, Area Land Uses) provide a historical and use description for surrounding (adjacent) properties. However, the Hearings Officer finds Applicant did not provide in the record any description or analysis of "nearby agricultural lands." It may be that there are no "nearby agricultural lands" but that would be mere speculation based on the record of this case.

The Hearings Officer concurs with Applicant that adjacent properties to the north and northwest are zoned RR10 and are not relevant to this criterion. The Hearings Officer finds adjacent properties to the southwest, south, east and northeast are zoned EFU and must be considered under this criterion. The Hearings Officer finds, based upon Applicant's Burden of Proof statements, that there is no persuasive evidence that any adjacent EFU zoned property is actively engaged in farm use as described in ORS 215.203(2)(a). However, there is no evidence that there is/are "nearby agricultural lands". Without an inventory, description and analysis of potential "nearby agricultural lands" the Hearings Officer must find this criterion is not met by Applicant.

(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

FINDING: The Hearings Officer incorporates the Preliminary Findings for **Farm Unit** (Section III.A.2) as additional findings for this criterion. The Applicant provided the following response in the submitted Burden of Proof:

"This rule applies when a property owner seeks to rezone a parcel that used to be a part of a farm without addressing the land capability of the entire farm. Thus, for the purposes of this burden of proof, this rule is inapplicable since Applicant is seeking to rezone the entirety of the subject property. Furthermore, all parts of the subject property were studied by the Applicant's soils analysis. Exhibit A. The analysis shows that the predominant soil type found on the property is class 7e and class 8 – land that is not conducive to "farm use" or any other agricultural purpose."

The Hearings Officer finds the Subject Property is in "capability classes other than I-IV/I-VI." The Hearings Officer concluded in the Preliminary Findings **Farm Unit** that based upon the evidence in the record the Subject Property was not part of a "Farm Unit." The Hearings Officer finds that the Subject Property is not "agricultural land" under the terms of this criterion.

(c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

FINDING: The Subject Property is not within an acknowledged urban growth boundary or land within acknowledged exception areas for Goals 3 or 4.

OAR 660-033-0030, Identifying Agricultural Land

(1) All land defined as "agricultural land" in OAR 660-033-0020(1) shall be inventoried as agricultural land.

(2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is "suitable for farm use" requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands". A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in 660-033-0020(1).

FINDING: The Hearings Officer incorporates the findings for OAR 660-033-0020(1) as additional findings for this criterion. The Hearings Officer finds that the Subject Property is not "agricultural land" under OAR 660-033-0020(1)(a)(A) and (B). The Hearings Officer found that Applicant did not provide substantial evidence related to "nearby agricultural lands" sufficient to satisfy OAR 660-033-0020(1)(a)(C). Therefore, the Hearings Officer finds that Applicant failed to satisfy the requirements of OAR 660-033-0030(1).

(3) Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either "suitable for farm use" or "necessary to permit farm practices to be undertaken on adjacent or nearby lands" outside the lot or parcel.

FINDING: The ownership of the Subject Property is not used to determine whether the parcel is "agricultural land."

(5)(a) More detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the NRCS land capability classification system.

(b) If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS as of January 2, 2012, would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the department arrange for an assessment of the capability of the land by a professional soil classifier who is chosen by the person, using the process described in OAR 660-033-0045.

FINDING: The Hearings Officer incorporates the Preliminary Findings for **ORS 215.788** (Section III.A.1) as additional findings for this criterion.

The Soil Study provides more detailed soils information than contained in the NRCS Web Soil Survey. The Soil Study is related to the NRCS Land Capability Classification ("LLC") system that classifies soils as Class 1 through 8. An LCC rating is assigned to each soil type based on rules provided by the NRCS. DLCD's Soil Assessment Completeness Review confirmed, in accordance with OAR 660-033-0045(6)(a), that the Applicant's soil assessment (Soil Study) is complete and consistent with its reporting requirements.

The County has consistently relied, in part, on Order 1 soil surveys when determining if a property contains "agricultural lands". LUBA and other appellate bodies have affirmed the County's consideration of this information as substantial evidence. The Hearings Officer finds that the Applicant's soil study should be considered as part of the County's determination if the Subject Property is "agricultural land".

(c) This section and OAR 660-033-0045 apply to:

(A) A change to the designation of land planned and zoned for exclusive farm use, forest use or mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is not agricultural land; and

FINDING: The Hearings Officer incorporates the Preliminary Findings for **ORS 215.788** (Section III.A.1) as additional findings for this criterion. The Applicant requested approval of a non-resource plan designation on the basis that the Subject Property is not defined as "agricultural land."

(d) This section and OAR 660-033-0045 implement ORS 215.211, effective on October 1, 2011. After this date, only those soils assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.

FINDING: The Hearings Officer incorporates the Preliminary Findings for **ORS 215.788** (Section III.A.1) as additional findings for this criterion. The Applicant submitted the Soil Study into the record. The Soil Study was submitted following the ORS 215.211 effective date and the Applicant has provided a certification of completeness from DLCD. The Hearings Officer finds this criterion has been met.

(e) This section and OAR 660-033-0045 authorize a person to obtain additional information for use in the determination of whether land qualifies as agricultural land, but do not otherwise affect the process by which a county determines whether land qualifies as agricultural land as defined by Goal 3 and OAR 660-033-0020.

FINDING: The Hearings Officer incorporates the Preliminary Findings for **ORS 215.788** (Section III.A.1) as additional findings for this criterion. The Applicant has provided the Soil Study, an Order 1 soil survey, which can be considered additional information on the agricultural capability of the property under OAR 660-033-0045.

DIVISION 12, TRANSPORTATION PLANNING

OAR 660-012-0060 Plan and Land use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

FINDING: This above language is applicable to the proposal because it involves an amendment to an acknowledged comprehensive plan. The proposed plan amendment would change the

designation of the Subject Property from AG to RREA and change the zone from EFU to RR10. The Applicant is not proposing any land use development of the Subject Property at this time.

The Applicant submitted a Transportation Planning Rule ("TPR") assessment, Exhibit E, dated March 3, 2026, and prepared by Joe Bessman, PE, of Transight Consulting LLC. (Traffic Study). This TPR assessment was reviewed by the County Transportation Planner, who agreed with the report's conclusions. The Hearings Officer finds that the proposed plan amendment and zone change will be consistent with the identified function, capacity, and performance standards of the County's transportation facilities in the area. The proposed zone change will not change the functional classification of any existing or planned transportation facility or change the standards implementing a functional classification system. The County Transportation Planner provided the following comments in an email dated June 4, 2026:

> *"The submitted application materials include a report prepared by Transight Consulting, LLC (dated March 3, 2026 and labeled as Exhibit E) analyzing the proposal's compliance with the Transportation Planning Rule (TPR) and Oregon Statewide Planning Goal 12 per OAR 660-012-0060. Staff generally agrees with the assumptions, methodology, and conclusions outlined in the report supporting the central conclusion that reasonable EFU development potential would exceed the trip generation potential under the requested RR10 Zone. Further, the report concludes that the proposal would not change County Road facility classifications or applicable classification standards. Collectively, the report demonstrates the proposal's compliance with Oregon Statewide Planning Goal 12 and TPR. No additional traffic analysis is required beyond this report.*
>
> *As the subject application does not include a site plan or development proposal, the transportation analysis requirements of DCC 18.116.310 will need to be met during subsequent development review on the subject properties.*
>
> *The subject property fronts on Rickard Road, to the north. Rickard Road is a public road right-of-way maintained by Deschutes County and functionally classified as a Rural Collector. The subject property records include Driveway Access Permits (permit no. 247-SW1560, 247-SW1561, and 247-SW8767) issued by Deschutes County, demonstrating compliance with the access permitting requirements of DCC 17.48.210 and DCC 12.28.050."*

Based on the County Senior Transportation Planner's comments and the Traffic Study the Hearings Officer finds compliance with the Transportation Planning Rule has been effectively demonstrated.

DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES

OAR 660-015, Division 15, Statewide Planning Goals and Guidelines

FINDING: The Statewide Planning Goals and the applicant's findings are quoted below:

> ***"Goal 1, Citizen Involvement.*** *Deschutes County will provide notice of this application to the public through mailed notice to affected property owners and by requiring Applicant to post a "proposed land use action sign" on the subject property. Notice of the public hearings held*

regarding this application will be placed in the Bend Bulletin. A minimum of two public hearings will be held to consider the application.

Goal 2, Land Use Planning. *Goals, policies and processes related to zone change applications are included in the Deschutes County Comprehensive Plan and Titles 18 and 23 of the Deschutes County Code. The outcome of the application will be based on findings of fact and conclusions of law related to the applicable provisions of those laws as required by Goal 2.*

Goal 3, Agricultural Lands. *Applicant has demonstrated in this burden of proof that the subject property is not agricultural land, so Goal 3 does not apply.*

Goal 4, Forest Lands. *The subject property and surrounding areas do not include any lands that are suited for forestry operations. Goal 4 says that forest lands "are those lands acknowledged as forest lands as of the date of adoption of this goal amendment." The subject property does not include forest lands as of the date of adoption of Goal 4.*

*Goal 4 also says that "[w]here **a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources."*

This plan amendment does not involve any forest land as defined by OAR 660-005-0010. That is because none of the subject property is suitable for commercial forest use and protection. This is further evidenced by Applicant's soil study, which stated, in part, that the soil on the subject property is not suitable for merchantable tree species.

Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces. *The subject property does not contain any inventoried Goal 5 resources.*

Goal 6, Air, Water, and Land Resources Quality. *The approval of this application will not cause a measurable impact on Goal 6 resources.*

Goal 7, Areas Subject to Natural Disasters and Hazards. *The subject property is not identified by the comprehensive plan as a known natural disaster or hazard area with the exception that the entire county is recognized as being a wildfire hazard area.*

Goal 8, Recreational Needs. *This goal is not applicable because the property is not planned to meet the recreational needs of Deschutes County residents and does not directly impact areas that meet Goal 8 needs.*

Goal 9, Economy of the State. *This goal does not apply to this application because the subject property is not designated as Goal 9 economic development land. In addition, the approval of this application will not adversely impact economic activities of the state or local area.*

Goal 10, Housing. *The County's comprehensive plan Goal 10 analysis highlights the increased demand for rural housing reflected that between 2010 and 2022, the County processed 7 applications to rezone non-residential property to a residential zone. Those applications to rezone farmland were primarily due to poor soil quality for farming and the County predicted that trend would continue – as is the case here and concerning the subject property. In considering the increased demand for rural housing in the County and the State's goal to provide more housing, approval of this application, therefore, is consistent with Goal 10 as implemented by the acknowledged Deschutes County comprehensive plan.*

Goal 11, Public Facilities and Services. *The approval of this application is highly unlikely to have any adverse impact on the provision of public facilities and services to the subject site.*

Goal 12, Transportation. *This application complies with the Transportation System Planning Rule, OAR 660-012-0060, the rule that implements Goal 12. Compliance with that rule, addressed above, also demonstrates compliance with Goal 12.*

Goal 13, Energy Conservation. *The approval of this application does not impede energy conservation. The subject property is located in a part of the community that contains a relatively large amount of rural residential development. While located outside the City of Bend's UGB, the ability to build more residential properties in this location as opposed to more remote rural locations will conserve energy needed for residents to travel to work, shopping and other essential services.*

Goal 14, Urbanization. *This goal is not applicable because the applicant's proposal does not involve property within an urban growth boundary and does not involve the urbanization of rural land. The RR-10 zone is an acknowledged rural residential zoning district that limits the intensity and density of developments to rural levels. The comprehensive plan recognizes the fact that the RR zone is one that will be applied to lands designated Rural Residential Exception Area."*

Staff (Staff Report) generally accepted the Applicant's responses referenced above and concluded that compliance with the applicable Statewide Planning Goals has been effectively demonstrated. However, Staff requested that the Hearings Officer consider Applicant's responses related to Goal 14.

The Hearings Officer incorporates the Preliminary Findings for **Goal 14** (Section III.A.3) as additional findings. The Hearings Officer concurs that Applicant's above quoted Statewide Goals comments are reasonable and appropriate and therefore compliance has been effectively demonstrated excepting that the Hearings Officer concluded, in the incorporated **Goal 14** findings, that Applicant had not effectively demonstrated compliance with Goal 14.

IV. CONCLUSION & RECOMMENDATION

The Applicant requested a Comprehensive Plan designation change from Agricultural (AG) to Rural Residential Exception Area (RREA) and a zoning designation change from Exclusive Farm Use –

Tumalo/Redmond/Bend Subzone (EFU-TRB) to Rural Residential (RR10).

Central Oregon LandWatch (COLW) opposed the application on various grounds. COLW argued that the County does not have authority to approve the application because Applicant based its request upon a "mistake" in soil classification. COLW argued that soil classification "mistakes" must be addressed legislatively by the County under the terms of ORS 215.788. The Hearings Officer, based on the included findings, concluded that County has authority to consider and decide Comprehensive Plan and Zone change applications in the quasi-judicial setting and that ORS 215.788 does not apply to this case.

COLW also argued that the Subject Property was "agricultural land" under relevant law. The Applicant did not propose a Goal 3 exception because Applicant believes the Subject Property is not "agricultural" or "resource" land. The Hearings Officer considered the Applicant's and COLW evidence and arguments and concluded that the Subject Property was not "agricultural land" as defined by OAR 660-033-0020(1)(A) and (B). However, the Hearings Officer found that the Applicant failed to meet the "nearby agricultural lands" requirement of OAR 660-033-0020(1)(C).

COLW argued that the application needed to be denied because it failed to satisfy Statewide Goal 14. The Hearings Officer included findings from a prior recommendation (247-26-000099-PA, 100-ZC) holding that a full *Curry/Shaffer* analysis was not necessary. Until overturned or reversed by the Board and/or LUBA, the Hearings Office stands by the conclusion that a full *Curry/Shaffer* analysis is not necessary. However, in the alternative, the Hearings Officer provided *Curry/Shaffer factor analysis* and concluded that the application must be denied because it failed to adequately address, consistent with the recent *BCL* LUBA opinion, the *Currey/Shaffer* Goal 14 Density and Proximity to UGB factors.

Gregory J Frank

Gregory J Frank
Deschutes County Hearings Officer

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Finance Report for October 2026

RECOMMENDED MOTION:
None--discussion only.

BACKGROUND AND POLICY IMPLICATIONS:
The Finance Department will present the monthly financial report. The report is informational only and is intended to provide the Board of County Commissioners with current financial information. The report will provide budget to actual comparisons and highlight any potential issues or changes that may impact current or future budgets. There are no direct policy implications.

BUDGET IMPACTS:
None.

ATTENDANCE:
Cam Sparks, Chief Financial Officer

MEMORANDUM

DATE: November 16, 2026

TO: Board of County Commissioners

FROM: Cam Sparks, Chief Financial Officer

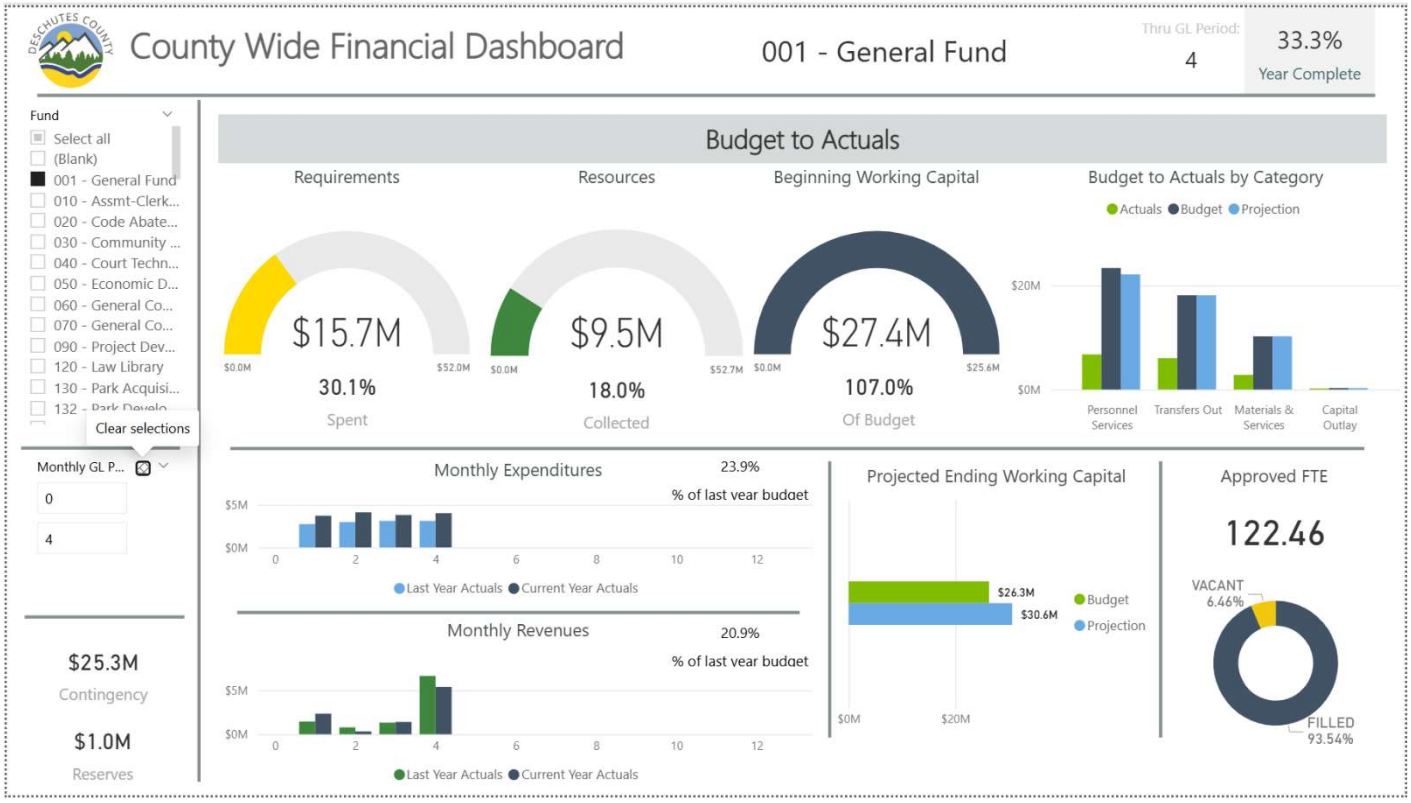
SUBJECT: Finance Report for October 2026

Following is the unaudited monthly finance report for fiscal year to date (YTD) as of October 30, 2026.

Budget to Actuals Report

General Fund

- *Revenue* YTD in the General Fund is $9.5 M or 18.0% of budget. By comparison, last year revenue YTD was $8.8M or 18.0% of budget.
- *Expenses* YTD are $15.7M and 30.1% of budget. By comparison, last year expenses YTD were $11.9M and 23.8% of budget.
- *Beginning Fund Balance* is $27.4M or 107% of the budgeted $26.2M beginning fund balance.



All Major Funds

On the attached pages you will find the Budget to Actuals Report for the County's major funds with actual revenue and expense data compared to budget through October 31, 2026.

Position Control Summary FY27

Org		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	April	May	July - June Percent Unfilled
Assessor	Filled	32.00	31.00	32.00	32.00								
	Unfilled	3.26	4.26	3.26	3.26								9.95%
Clerk	Filled	9.48	9.48	9.48	9.48								
	Unfilled	1.00	1.00	1.00	1.00								9.54%
BOPTA	Filled	0.52	0.52	0.52	0.52								
	Unfilled	-	-	-	-								0.00%
DA	Filled	58.05	59.05	59.05	58.05								
	Unfilled	3.65	2.65	2.65	3.65								5.11%
Tax	Filled	6.50	6.50	4.50	6.50								
	Unfilled	-	-	2.00	-								7.69%
Veterans'	Filled	5.00	5.00	5.00	5.00								
	Unfilled	-	-	-	-								0.00%
Property Mgmt	Filled	3.00	3.00	3.00	3.00								
	Unfilled	-	-	-	-								0.00%
Total General Fund	Filled	114.55	114.55	113.55	114.55	-	-	-	-	-	-	-	
	Unfilled	7.91	7.91	8.91	7.91	-	-	-	-	-	-	-	**6.66%**
Justice Court	Filled	5.70	5.70	5.70	5.70								
	Unfilled	-	-	-	-								**0.00%**
Sheriff	Filled	240.50	239.50	239.50	238.50								
	Unfilled	19.50	20.50	20.50	21.50								**7.88%**
Health Srvcs	Filled	376.28	378.18	382.78	380.33								
	Unfilled	19.75	17.85	13.25	15.70								**4.20%**
CDD	Filled	52.00	51.00	50.00	51.00								
	Unfilled	2.00	3.00	4.00	3.00								**5.56%**
Road	Filled	60.00	61.00	61.00	61.00								
	Unfilled	3.00	2.00	2.00	2.00								**3.57%**
Community Justice	Filled	68.10	67.10	67.10	68.10								
	Unfilled	3.80	4.80	4.80	3.80								**5.98%**
Solid Waste	Filled	44.00	46.00	48.00	48.00								
	Unfilled	6.00	4.00	2.00	2.00								**7.00%**
Victims Assistance	Filled	5.50	5.50	6.50	7.50								
	Unfilled	2.00	2.00	1.00	-								**16.67%**
GIS Dedicated	Filled	2.00	2.00	2.00	2.00								
	Unfilled	-	-	-	-								**0.00%**
Fair & Expo	Filled	12.50	11.50	11.50	10.50								
	Unfilled	5.00	6.00	6.00	7.00								**34.29%**
Natural Resource	Filled	2.00	2.00	3.00	3.00								
	Unfilled	1.00	1.00	-	-								**16.67%**
ISF - Facilities	Filled	26.75	26.75	26.75	26.75								
	Unfilled	2.00	2.00	2.00	2.00								**6.96%**
ISF - Admin	Filled	8.85	8.85	8.35	7.35								
	Unfilled	-	-	0.50	1.50								**5.65%**
ISF - BOCC	Filled	3.00	3.00	3.00	3.00								
	Unfilled	-	-	-	-								**0.00%**
ISF - Finance	Filled	13.00	12.00	13.00	12.00								
	Unfilled	1.00	2.00	1.00	2.00								**10.71%**
ISF - Legal	Filled	7.00	6.00	7.00	7.00								
	Unfilled	-	1.00	-	-								**3.57%**
ISF - HR	Filled	10.00	10.00	11.00	11.00								
	Unfilled	1.00	1.00	-	-								**4.55%**
ISF - IT	Filled	16.40	18.40	18.40	18.40								
	Unfilled	4.00	2.00	2.00	2.00								**12.25%**
ISF - Risk	Filled	2.25	2.25	2.25	2.25								
	Unfilled	1.00	1.00	1.00	1.00								**30.77%**
911	Filled	54.52	52.52	54.05	54.05								
	Unfilled	6.48	8.48	6.95	6.95								**11.83%**
Total:													
	Filled	1,124.90	1,123.80	1,134.43	1,131.98	-	-	-	-	-	-	-	
	Unfilled	85.44	86.54	75.91	78.36	-	-	-	-	-	-	-	
	Total	1,210.34	1,210.34	1,210.34	1,210.34	-	-	-	-	-	-	-	
	% Unfilled	**7.06%**	**7.15%**	**6.27%**	**6.47%**								**6.74%**

Budget to Actuals - Total Personnel and Overtime Report
FY27 YTD October 31, 2026

	Total Personnel Costs				Overtime		
Fund	Budgeted Personnel Costs	Actual Personnel Costs	Projected Personnel Costs	Projection (Over)/Under Budget	Budgeted OT	Actual OT	(Over)/Under Budget
001 - General Fund	$ 23,368,054	$ 6,745,771	$ 22,134,717	$ 1,233,337	$ 77,300	$ 10,327	$ 66,973
160/170 - TLT	326,476	110,011	326,476	-	110	-	110
220 - Justice Court	908,857	272,724	885,668	23,189	1,000	-	1,000
255 - Sheriff's Office	56,791,092	16,991,344	56,791,092	-	2,358,777	741,661	1,617,116
274 - Health Services	68,432,680	21,108,296	68,519,399	(86,719)	190,768	71,898	118,870
295 - CDD	10,192,961	2,914,829	9,870,896	322,065	32,000	10,086	21,914
325 - Road	10,954,021	3,370,104	11,016,470	(62,449)	200,000	61,640	138,360
355 - Community Justice	13,926,026	4,075,496	13,380,989	545,037	140,000	70,892	69,108
610 - Solid Waste	7,532,997	2,056,411	7,532,997	-	165,000	71,045	93,955
615 - Fair & Expo	2,253,333	533,245	1,881,004	372,329	54,000	20,409	33,591
616 - Annual County Fair	321,535	84,015	305,447	16,088	3,500	861	2,639
618 - RV Park	175,049	66,201	188,179	(13,130)	2,000	1,236	764
670 - Risk Management	663,142	155,012	509,699	153,443	-	-	-
705 - 911	11,620,402	3,449,309	11,021,034	599,368	400,000	135,894	264,106
999 - All Other Funds	22,572,359	6,112,032	22,484,434	87,925	50,000	11,050	38,950
Total	$ 230,038,984	$ 68,044,800	$ 226,848,501	$ 3,190,483	$ 3,674,455	$ 1,206,998	$ 2,467,457

Budget to Actuals - Countywide Summary

All Departments

FY27 YTD October 31, 2026 (unaudited)

Year Complete

	Fiscal Year 2026			Fiscal Year 2027				
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%
001 - General Fund	49,178,624	51,695,580	105%	52,318,054	9,442,893	18%	53,622,196	102%
160/170 - TLT	13,470,000	13,500,694	100%	13,681,700	8,409,952	61%	14,363,700	105%
200 - ARPA	984,959	241,967	25%	595,412	-	0%	595,412	100%
220 - Justice Court	682,597	563,192	83%	1,140,097	317,523	28%	1,139,397	100%
255 - Sheriff's Office	67,313,989	66,969,485	99%	69,274,662	9,959,715	14%	69,460,662	100%
270 - OHP & Capital Reserves	11,829,200	14,878,033	126%	16,921,000	525,882	3%	15,065,000	89%
274 - Health Services	65,203,690	63,209,999	97%	67,571,380	18,026,857	27%	67,782,759	100%
295 - CDD	9,986,869	10,980,717	110%	10,522,048	3,391,729	32%	10,676,623	101%
325 - Road	27,423,030	28,877,832	105%	27,936,493	10,530,550	38%	28,581,352	102%
355 - Community Justice	7,821,216	7,795,908	100%	7,566,252	3,846,961	51%	7,827,253	103%
465 - Road CIP	1,384,712	1,646,771	119%	1,558,045	262,806	17%	1,582,001	102%
610 - Solid Waste	22,198,501	24,265,135	109%	25,461,001	8,759,883	34%	25,523,001	100%
615 - Fair & Expo	2,627,500	2,930,662	112%	2,633,500	404,790	15%	2,318,948	88%
616 - Annual County Fair	2,656,367	2,826,769	106%	2,840,778	2,486,193	88%	2,912,051	103%
617 - Fair & Expo Capital Reserve	117,000	153,148	131%	130,000	52,448	40%	142,000	109%
618 - RV Park	493,800	568,289	115%	667,700	200,692	30%	661,420	99%
619 - RV Park Reserve	58,000	71,915	124%	64,000	25,517	40%	69,000	108%
670 - Risk Management	3,401,406	3,512,072	103%	3,479,798	1,366,449	39%	3,441,798	99%
675 - Health Benefits	43,475,500	43,595,338	100%	44,333,511	12,823,070	29%	43,850,052	99%
705 - 911	15,281,100	15,811,114	103%	16,046,775	1,650,771	10%	15,980,775	100%
999 - Other	49,616,766	52,984,828	107%	66,535,866	16,799,469	25%	66,952,917	101%
TOTAL RESOURCES	395,204,826	407,079,447	103%	431,278,072	109,284,149	25%	432,548,317	100%

Budget to Actuals - Countywide Summary

All Departments

FY27 YTD October 31, 2026 (unaudited)

Year Complete

REQUIREMENTS	Fiscal Year 2026			Fiscal Year 2027				
	Budget	Actuals	%	Budget	Actuals	%	Projection	%
001 - General Fund	32,061,198	29,260,300	91%	33,875,808	9,616,303	28%	32,642,471	96%
160/170 - TLT	4,016,828	4,010,929	100%	4,029,735	2,051,496	51%	4,208,485	104%
200 - ARPA	984,959	241,967	25%	595,412	312,402	52%	595,412	100%
220 - Justice Court	1,051,837	937,596	89%	1,241,200	358,151	29%	1,218,011	98%
255 - Sheriff's Office	70,121,938	67,468,602	96%	72,135,352	20,685,895	29%	72,135,352	100%
270 - OHP & Capital Reserves				2,133	711	33%	2,133	100%
274 - Health Services	86,220,992	82,149,501	95%	92,466,751	25,912,243	28%	92,250,416	100%
295 - CDD	10,858,928	10,498,333	97%	12,099,915	3,546,827	29%	11,791,950	97%
325 - Road	19,713,342	17,464,345	89%	20,663,346	6,551,255	32%	20,725,795	100%
355 - Community Justice	16,703,187	15,902,333	95%	17,660,128	5,016,969	28%	17,050,989	97%
465 - Road CIP	19,022,701	9,516,423	50%	17,554,943	3,549,999	20%	17,341,390	99%
610 - Solid Waste	18,981,700	17,616,544	93%	22,067,804	4,396,977	20%	22,067,804	100%
615 - Fair & Expo	4,130,328	3,852,705	93%	4,777,355	951,739	20%	4,266,038	89%
616 - Annual County Fair	2,733,905	2,856,994	105%	2,589,160	1,913,046	74%	2,500,286	97%
617 - Fair & Expo Capital Reserve	1,265,000	371,500	29%	1,166,631	6,544	1%	1,166,631	100%
618 - RV Park	584,318	503,869	86%	491,357	134,641	27%	507,820	103%
619 - RV Park Reserve	170,000	44,090	26%	123,834	1,953	2%	123,834	100%
670 - Risk Management	6,555,370	4,570,223	70%	6,337,326	2,585,496	41%	6,183,883	98%
675 - Health Benefits	42,410,545	34,685,280	82%	43,301,976	9,226,385	21%	41,485,900	96%
705 - 911	17,381,915	15,124,004	87%	17,360,447	5,115,518	29%	16,761,079	97%
999 - Other	100,327,480	82,348,057	82%	95,622,732	13,643,182	14%	95,268,153	100%
TOTAL REQUIREMENTS	455,296,471	399,423,595	88%	466,163,345	115,577,734	25%	460,293,832	99%

Budget to Actuals - Countywide Summary

All Departments

FY27 YTD October 31, 2026 (unaudited)

Year Complete

TRANSFERS	Fiscal Year 2026 Budget	Fiscal Year 2026 Actuals	Fiscal Year 2026 %	Fiscal Year 2027 Budget	Fiscal Year 2027 Actuals	Fiscal Year 2027 %	Fiscal Year 2027 Projection	Fiscal Year 2027 %
001 - General Fund	(18,279,648)	(18,292,702)	100%	(17,728,982)	(6,013,666)	34%	(17,728,982)	100%
160/170 - TLT	(9,453,172)	(8,489,765)	90%	(9,651,965)	(2,549,255)	26%	(10,155,215)	105%
220 - Justice Court	391,417	374,404	96%	120,103	40,034	33%	120,103	100%
255 - Sheriff's Office	3,319,909	3,333,155	100%	3,303,845	1,239,648	38%	3,303,845	100%
270 - OHP & Capital Reserves	(12,051,594)	(10,618,604)	88%	(18,742,515)	(4,451,628)	24%	(18,116,945)	97%
274 - Health Services	18,883,070	17,450,080	92%	24,560,403	6,978,740	28%	23,934,833	97%
295 - CDD	5,941	(265,950)	-4477%	1,569,090	358,000	23%	1,378,107	88%
325 - Road	(9,690,281)	(9,690,281)	100%	(10,438,556)	(12,852)	0%	(10,260,778)	98%
355 - Community Justice	8,915,815	8,915,815	100%	9,448,547	3,149,516	33%	9,448,547	100%
465 - Road CIP	9,600,781	8,897,559	93%	10,420,078	-	0%	10,420,078	100%
610 - Solid Waste	(4,673,934)	(4,673,934)	100%	(6,623,953)	(7,984)	0%	(6,623,953)	100%
615 - Fair & Expo	1,382,508	1,382,508	100%	1,241,058	347,019	28%	1,300,523	105%
616 - Annual County Fair	(235,000)	(235,000)	100%	(205,000)	-	0%	(205,000)	100%
617 - Fair & Expo Capital Reserve	478,946	479,732	100%	545,467	155,156	28%	570,952	105%
618 - RV Park	(41,600)	(41,600)	100%	(48,000)	(16,000)	33%	(48,000)	100%
619 - RV Park Reserve	221,600	221,600	100%	228,000	76,000	33%	228,000	100%
670 - Risk Management	(4,800)	(4,800)	100%	(5,040)	(1,680)	33%	(5,040)	100%
705 - 911	-	-		-	-		-	
999 - Other	11,230,042	11,257,783	100%	12,007,420	708,952	6%	12,438,925	104%
TOTAL TRANSFERS	-	-		-	-		-	

Budget to Actuals - Countywide Summary

All Departments

FY27 YTD October 31, 2026 (unaudited)

Year Complete

ENDING FUND BALANCE	Fiscal Year 2026 Budget	Fiscal Year 2026 Actuals	Fiscal Year 2026 %	Fiscal Year 2027 Budget	Fiscal Year 2027 Actuals	Fiscal Year 2027 Projection	Fiscal Year 2027 %
001 - General Fund	22,087,420	27,392,220	124%	26,305,930	21,205,144	30,642,963	116%
160/170 - TLT	1,500,000	2,500,000	167%	1,500,000	6,309,201	2,500,000	167%
200 - ARPA	-	-	999%	-	(312,402)	-	999%
220 - Justice Court	22,177	-	0%	19,000	(593)	41,489	218%
255 - Sheriff's Office	23,143,093	25,465,171	110%	25,893,155	15,978,639	26,094,326	101%
270 - OHP & Capital Reserves	38,736,444	43,218,267	112%	38,903,953	39,291,810	40,164,189	103%
274 - Health Services	8,590,176	9,234,988	108%	8,150,317	8,328,343	8,705,377	107%
295 - CDD	21,417	1,103,969	999%	1,009,410	1,306,871	1,366,750	135%
325 - Road	3,750,751	7,454,550	199%	2,575,735	11,420,993	5,049,329	196%
355 - Community Justice	4,304,759	5,080,306	118%	3,554,671	7,059,813	5,305,117	149%
465 - Road CIP	9,750,027	18,815,142	193%	9,063,946	15,527,949	13,475,831	149%
610 - Solid Waste	2,955,737	6,387,527	216%	2,424,022	10,742,448	3,250,234	134%
615 - Fair & Expo	457,635	1,038,419	227%	383,429	838,490	391,852	102%
616 - Annual County Fair	11,678	58,992	505%	249,425	632,140	265,758	107%
617 - Fair & Expo Capital Reserve	3,061,660	3,992,093	130%	2,591,233	4,193,153	3,538,414	137%
618 - RV Park	207,811	362,748	175%	428,333	412,799	468,348	109%
619 - RV Park Reserve	1,813,562	1,953,388	108%	1,992,228	2,052,951	2,126,554	107%
670 - Risk Management	4,276,673	6,372,486	149%	4,494,477	5,151,759	3,625,361	81%
675 - Health Benefits	13,170,569	21,015,671	160%	15,531,535	24,612,355	23,557,941	152%
705 - 911	13,048,680	15,836,605	121%	13,910,328	12,371,858	15,056,301	108%
999 - Other	69,963,064	91,265,401	130%	73,735,318	95,161,059	75,080,591	102%
TOTAL FUND BALANCE	220,873,333	288,547,942	131%	232,716,445	282,284,778	260,706,726	112%

Budget to Actuals Report
General Fund - Fund 001
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
PVAB	11,000	12,855	117%	11,000	3,262	30%	11,000	100%	-	
Property Taxes - Current	41,196,000	42,007,741	102%	43,666,000	4,352,615	10%	44,370,000	102%	704,000	A
Property Taxes - Prior	338,000	520,794	154%	378,000	152,153	40%	378,000	100%	-	
Other General Revenues	4,111,171	5,288,189	129%	3,727,075	2,584,319	69%	4,286,989	115%	559,914	B
Assessor	821,000	934,163	114%	866,000	252,582	29%	866,000	100%	-	
Clerk	1,331,240	1,575,357	118%	1,646,923	522,001	32%	1,646,923	100%	-	
District Attorney	497,137	355,679	72%	931,876	971,442	104%	972,104	104%	40,228	
Tax Office	142,700	170,396	119%	150,700	54,018	36%	150,700	100%	-	
Veterans	194,448	201,448	104%	194,448	50,362	26%	194,448	100%	-	C
Property Management	97,000	103,961	107%	118,000	41,083	35%	118,000	100%	-	
Non-Departmental	438,928	524,997	120%	628,032	459,057	73%	628,032	100%	-	
TOTAL RESOURCES	49,178,624	51,695,580	105%	52,318,054	9,442,893	18%	53,622,196	102%	1,304,142	

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
PVAB	105,980	101,461	96%	115,398	39,717	34%	117,536	102%	(2,138)	D
Assessor	6,898,967	6,403,618	93%	7,521,551	2,377,927	32%	7,223,434	96%	298,117	E
Clerk	2,442,414	2,094,987	86%	2,892,951	737,649	25%	2,731,575	94%	161,376	F
District Attorney	14,433,733	13,596,411	94%	15,777,744	4,585,305	29%	14,990,119	95%	787,625	G
Medical Examiner	465,653	408,836	88%	466,906	85,845	18%	466,906	100%	-	
Tax Office	1,054,084	1,036,744	98%	1,162,100	427,364	37%	1,169,042	101%	(6,942)	D
Veterans	1,012,065	958,325	95%	1,093,616	372,456	34%	1,092,892	100%	724	H
Property Management	655,822	644,861	98%	715,067	222,924	31%	720,492	101%	(5,425)	D
Non-Departmental	4,992,480	4,015,057	80%	4,130,475	767,117	19%	4,130,475	100%	-	
TOTAL REQUIREMENTS	32,061,198	29,260,300	91%	33,875,808	9,616,303	28%	32,642,471	96%	1,233,337	

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In	131,500	118,446	90%	408,184	32,056	8%	408,184	100%	-
Transfers Out	(18,411,148)	(18,411,148)	100%	(18,137,166)	(6,045,722)	33%	(18,137,166)	100%	-
TOTAL TRANSFERS	(18,279,648)	(18,292,702)	100%	(17,728,982)	(6,013,666)	34%	(17,728,982)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Beginning Fund Balance	23,249,642	23,249,642	100%	25,592,666	27,392,220	107%	27,392,220	107%	1,799,554	
Resources over Requirements	17,117,426	22,435,280		18,442,246	(173,410)		20,979,725		2,537,479	
Net Transfers - In (Out)	(18,279,648)	(18,292,702)		(17,728,982)	(6,013,666)		(17,728,982)		-	
TOTAL FUND BALANCE	$ 22,087,420	$ 27,392,220	124%	$ 26,305,930	$ 21,205,144	81%	$ 30,642,963	116%	$4,337,033	I

A Current Year taxes received primarily in November, February, and May. Actual FY 2027 TAV is 4.66% over FY 2026 vs 4.70% budgeted. Additionally, the County is expecting higher than budgeted penalties from late filings.

B The Payment in Lieu of Taxes (PILT) payment came in approximately $394K higher than budgeted.

C Oregon Dept. of Veteran's Affairs grant reimbursed quarterly.

D Projected personnel based on overage to date.

E Projected personnel savings estimated at 6.6% based on YTD cost savings rate.

F Projected personnel savings estimated at 9.0% based on YTD cost savings rate.

G Projected personnel savings estimated at 6.1% based on YTD cost savings rate.

H Projected personnel savings estimated at 0.2% based on YTD cost savings rate.

I $14,409,780 is required contingency balance, $138,320 are restricted Opioid Settlement Funds and $1.0 million is Emergency Reserves.

Budget to Actuals Report
TLT - Fund 160/170
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Lodging Taxes	13,100,000	13,114,835	100%	13,070,000	8,194,285	63%	13,720,000	105%	650,000	A
Certificate of Authority Revenue	261,000	258,300	99%	509,000	155,700	31%	509,000	100%	-	
Interest on Investments	108,000	126,486	117%	102,000	57,968	57%	132,700	130%	30,700	
Miscellaneous	1,000	1,073	107%	700	1,999	286%	2,000	286%	1,300	
TOTAL RESOURCES	13,470,000	13,500,694	100%	13,681,700	8,409,952	61%	14,363,700	105%	682,000	
REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
VCO	3,512,934	3,517,472	100%	3,505,760	1,900,834	54%	3,684,510	105%	(178,750)	B
Administrative	347,976	338,170	97%	371,301	114,675	31%	371,301	100%	-	
Interfund Charges	113,168	113,168	100%	107,599	35,866	33%	107,599	100%	-	
Software	42,750	42,120	99%	45,075	120	0%	45,075	100%	-	
TOTAL REQUIREMENTS	4,016,828	4,010,929	100%	4,029,735	2,051,496	51%	4,208,485	104%	(178,750)	
TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Transfer Out - RV Park	(20,000)	(20,000)	100%	(20,000)	(6,667)	33%	(20,000)	100%	-	
Transfer Out - Annual Fair	(75,000)	(75,000)	100%	(75,000)	-	0%	(75,000)	100%	-	
Transfer Out - Admin	-	-		(126,000)	-	0%	(126,000)	100%	-	C
Transfer Out - Justice Court	(400,521)	(383,508)	96%	(129,207)	(43,069)	33%	(129,207)	100%	-	
Transfer Out - General Fund	-	-		(300,000)	-	0%	(300,000)	100%	-	
Transfer Out - Health	(376,572)	(376,572)	100%	(384,103)	(128,034)	33%	(384,103)	100%	-	
Transfer Out - F&E Reserve	(478,946)	(479,732)	100%	(465,467)	(155,156)	33%	(490,952)	105%	(25,485)	D
Transfer Out - General County Projects	-	-		(716,625)	(238,875)	33%	(716,625)	100%	-	
Transfer Out - F&E	(1,048,285)	(1,048,285)	100%	(1,016,835)	(338,945)	33%	(1,076,300)	106%	(59,465)	
Transfer Out - General County Reserve	(1,898,811)	(952,746)	50%	(1,190,705)	(396,902)	33%	(1,609,005)	135%	(418,300)	
Transfer Out - Courthouse Debt Service	(1,503,250)	(1,502,135)	100%	(1,503,200)	-	0%	(1,503,200)	100%	-	
Transfer Out - Sheriff	(3,651,787)	(3,651,787)	100%	(3,724,823)	(1,241,608)	33%	(3,724,823)	100%	-	
TOTAL TRANSFERS	(9,453,172)	(8,489,765)	90%	(9,651,965)	(2,549,255)	26%	(10,155,215)	105%	(503,250)	
FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Beginning Fund Balance	1,500,000	1,500,000	100%	1,500,000	2,500,000	167%	2,500,000	167%	1,000,000	
Resources over Requirements	9,453,172	9,489,765		9,651,965	6,358,456		10,155,215		503,250	
Net Transfers - In (Out)	(9,453,172)	(8,489,765)		(9,651,965)	(2,549,255)		(10,155,215)		(503,250)	
TOTAL FUND BALANCE	$ 1,500,000	$ 2,500,000	167%	$ 1,500,000	$ 6,309,201	421%	$ 2,500,000	167%	$1,000,000	E

A Lodging Tax revenue up 10.0% from FY26, up 10.4% compared to FY27 budget.

B TLT Approved Ballot Measures:
1975: 5% -General Fund, discretionary
1980: 1% -To promote tourism and pay for public services to persons the County generally does not tax otherwise
1987: 1% -To promote tourism and to pay for the construction of a welcome center complex
2013: 1% -70% to promote tourism at DCF&E, 30% is available to fund other county services such as public safety, health and human services and county infrastructure (though the County has allocated the 30% to the Fair & Expo Reserve Fund since approval)

C This transfer supports countywide USDA wildlife management services, as approved by the Budget Committee.

D The balance of the 1% F&E TLT is transferred to F&E reserves.

E Remaining funds will be reserved in the TLT fund to cover one year's worth of debt service of $1.5 million. The transfer to the General County Reserve was reduced in FY26 by $1.0 million from the budgeted amount to allow for the establishment of an 8% operating contingency in the fund in FY27, in addition to the $1.5 million debt service reserve.

Budget to Actuals Report
ARPA – Fund 200
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
State & Local Coronavirus Fiscal Recovery Funds	984,959	241,967	25%	595,412	-	0%	595,412	100%	-
TOTAL RESOURCES	984,959	241,967	25%	595,412	-	0%	595,412	100%	-
REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Infrastructure	625,719	28,675	5%	595,412	312,402	52%	595,412	100%	- A
Services to Disproportionately Impacted Communities	359,240	213,293	59%	-	-		-		-
TOTAL REQUIREMENTS	984,959	241,967	25%	595,412	312,402	52%	595,412	100%	-
TOTAL	-	-		-	-		-		-
FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	-	-		-	-		-	999%	0
Resources over Requirements	-	-		-	(312,402)		-		0
Net Transfers - In (Out)	-	-		-	-		-		-
TOTAL FUND BALANCE	-	-	999%	-	($ 312,402)		-	999%	$0

A On 8/26 the BOCC authorized the reallocation of ARPA revenue replacement funds back to original categories. A budget adjustment was approved in September to make appropriations in the ARPA fund. All funds are anticipated to be spent by December 31, 2026.

Budget to Actuals Report

Justice Court - Fund 220

FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Court Fines & Fees	674,597	552,943	82%	1,131,347	313,914	28%	1,131,347	100%	- A
Other	7,300	7,545	103%	7,750	3,550	46%	7,750	100%	-
Interest on Investments	700	2,704	386%	1,000	59	6%	300	30%	(700)
TOTAL RESOURCES	682,597	563,192	83%	1,140,097	317,523	28%	1,139,397	100%	(700)
REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Personnel Services	774,892	705,660	91%	908,857	272,724	30%	885,668	97%	23,189 B
Materials and Services	276,945	231,936	84%	332,343	85,427	26%	332,343	100%	-
TOTAL REQUIREMENTS	1,051,837	937,596	89%	1,241,200	358,151	29%	1,218,011	98%	23,189
TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In - TLT	400,521	383,508	96%	129,207	43,069	33%	129,207	100%	-
Transfers Out	(9,104)	(9,104)	100%	(9,104)	(3,035)	33%	(9,104)	100%	-
TOTAL TRANSFERS	391,417	374,404	96%	120,103	40,034	33%	120,103	100%	-
FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	-	-		-	-		-	999%	0
Resources over Requirements	(369,240)	(374,404)		(101,103)	(40,627)		(78,614)		22,489
Net Transfers - In (Out)	391,417	374,404		120,103	40,034		120,103		-
TOTAL FUND BALANCE	$ 22,177	-	0%	$ 19,000	($ 593)	-3%	$ 41,489	218%	$22,489

A Reflects increased citation revenue for City of Redmond traffic cameras.

B Projected personnel savings estimated at 2.5% based on YTD cost savings rate. Projected personnel savings will decline as temporary staff address the photo enforcement ticket backlog.

Budget to Actuals Report
Sheriff's Office - Fund 255
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
LED #1 Property Tax Current	41,530,000	41,802,516	101%	43,616,000	4,819,804	11%	43,653,000	100%	37,000 A
LED #2 Property Tax Current	16,573,000	16,642,634	100%	17,302,000	1,926,226	11%	17,448,000	101%	146,000 A
Sheriff's Office Revenues	8,032,989	6,692,067	83%	6,848,662	2,772,561	40%	6,851,662	100%	3,000
LED #1 Interest	504,000	968,187	192%	781,000	203,440	26%	781,000	100%	-
LED #1 Property Tax Prior	310,000	381,703	123%	310,000	146,519	47%	310,000	100%	-
LED #2 Interest	239,000	322,380	135%	292,000	31,889	11%	292,000	100%	-
LED #2 Property Tax Prior	125,000	155,249	124%	125,000	59,275	47%	125,000	100%	-
LED #2 Foreclosed Properties	-	1,352		-	-		-		-
LED #1 Foreclosed Properties	-	3,397		-	-		-		-
TOTAL RESOURCES	67,313,989	66,969,485	99%	69,274,662	9,959,715	14%	69,460,662	100%	186,000

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Digital Forensics	1,518,547	1,580,562	104%	1,862,834	619,468	33%	1,862,834	100%	- B
Concealed Handgun Licenses	681,414	571,884	84%	604,760	144,348	24%	604,760	100%	-
Rickard Ranch	489,653	387,467	79%	108,930	18,689	17%	108,930	100%	-
Sheriff's Services	5,483,124	5,942,906	108%	7,457,790	2,251,163	30%	7,457,790	100%	-
Civil/Special Units	1,359,767	860,715	63%	939,681	192,372	20%	939,681	100%	-
Automotive/Communications	3,775,328	3,453,169	91%	4,260,067	869,953	20%	4,260,067	100%	-
Detective	5,097,713	4,184,038	82%	4,430,565	1,082,330	24%	4,430,565	100%	-
Patrol	14,967,896	17,412,765	116%	17,856,414	5,358,294	30%	17,856,414	100%	-
Records	1,056,150	1,049,529	99%	1,135,230	282,301	25%	1,135,230	100%	-
Adult Jail	27,312,459	26,026,295	95%	27,189,708	8,237,960	30%	27,189,708	100%	-
Court Security	679,401	793,278	117%	945,530	340,327	36%	945,530	100%	-
Emergency Services	863,808	803,605	93%	834,650	275,386	33%	834,650	100%	-
Special Services	2,895,912	2,494,892	86%	2,507,443	744,440	30%	2,507,443	100%	-
Training	1,505,100	921,977	61%	901,198	195,064	22%	901,198	100%	-
Other Law Enforcement	858,666	580,864	68%	700,552	73,802	11%	700,552	100%	-
Non - Departmental	1,577,000	404,655	26%	400,000	-	0%	400,000	100%	-
TOTAL REQUIREMENTS	70,121,938	67,468,602	96%	72,135,352	20,685,895	29%	72,135,352	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfer In - TLT	3,651,787	3,651,787	100%	3,724,823	1,241,608	33%	3,724,823	100%	-
Transfer In - Video Lottery	2,500	2,500	100%	2,500	2,500	100%	2,500	100%	-
Transfers Out	(74,878)	(61,824)	83%	(163,378)	(4,459)	3%	(163,378)	100%	-
Transfers Out - Debt Service	(259,500)	(259,307)	100%	(260,100)	-	0%	(260,100)	100%	-
TOTAL TRANSFERS	3,319,909	3,333,155	100%	3,303,845	1,239,648	38%	3,303,845	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	22,631,133	22,631,133	100%	25,450,000	25,465,171	100%	25,465,171	100%	15,171
Resources over Requirements	(2,807,949)	(499,117)		(2,860,690)	(10,726,181)		(2,674,690)		186,000
Net Transfers - In (Out)	3,319,909	3,333,155		3,303,845	1,239,648		3,303,845		-
TOTAL FUND BALANCE	$ 23,143,093	$ 25,465,171	110%	$ 25,893,155	$ 15,978,639	62%	$ 26,094,326	101%	$201,171

A Current Year taxes received primarily in November, February, and May. Actual FY 2027 TAV for LED #1 is 4.66% over FY 2026 vs 4.70% budgeted. Actual FY 2027 TAV for LED #2 is 5.03% over FY 2026 vs 4.50% budgeted. Additionally, the Districts are expecting higher than budgeted penalties from late filings.

B YTD actual expenses are trending in-line with the budgeted amounts. Adjustments may be needed once the DCSEA contract is finalized.

Budget to Actuals Report
OHP & Capital Reserves - Fund 270
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
CCBHC Grant	10,922,200	11,032,390	101%	13,600,000	-	0%	13,600,000	100%	-
Local Grants	-	1,942,657		1,925,000	-	0%	-	0%	(1,925,000) A
Interest on Investments	907,000	1,585,890	175%	1,396,000	525,882	38%	1,465,000	105%	69,000
OHP Capitation	-	317,096		-	-		-		-
TOTAL RESOURCES	11,829,200	14,878,033	126%	16,921,000	525,882	3%	15,065,000	89%	(1,856,000)
REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Materials & Services	-	-		2,133	711	33%	2,133	100%	-
TOTAL REQUIREMENTS	-	-		2,133	711	33%	2,133	100%	-
TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers Out	(12,051,594)	(10,618,604)	88%	(18,742,515)	(4,451,628)	24%	(18,116,945)	97%	625,570
TOTAL TRANSFERS	(12,051,594)	(10,618,604)	88%	(18,742,515)	(4,451,628)	24%	(18,116,945)	97%	625,570
FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	38,958,838	38,958,838	100%	40,727,601	43,218,267	106%	43,218,267	106%	2,490,666 B
Resources over Requirements	11,829,200	14,878,033		16,918,867	525,171		15,062,867		(1,856,000)
Net Transfers - In (Out)	(12,051,594)	(10,618,604)		(18,742,515)	(4,451,628)		(18,116,945)		625,570
TOTAL FUND BALANCE	$ 38,736,444	$ 43,218,267	112%	$ 38,903,953	$ 39,291,810	101%	$ 40,164,189	103%	$1,260,236

A Central Oregon Health Council Behavioral Health one-time funding. Funds budgeted in FY27 but received in June FY26.

B Finalizing BWC, budget adjustment forthcoming.

Budget to Actuals Report
Health Services - Fund 274
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
State Grant	24,077,614	20,024,050	83%	26,803,613	5,700,574	21%	26,561,856	99%	(241,757)
OHP Capitation	17,407,429	17,458,553	100%	15,427,412	5,094,445	33%	15,427,412	100%	-
State Miscellaneous	8,147,931	8,054,624	99%	11,612,069	3,716,220	32%	11,396,320	98%	(215,749)
OHP Fee for Service	5,680,220	6,810,239	120%	4,781,600	976,211	20%	4,786,596	100%	4,996
Environmental Health Fees	1,746,506	1,818,961	104%	1,799,637	111,632	6%	1,799,637	100%	-
Medicaid	1,168,850	1,784,256	153%	1,562,722	301,357	19%	1,589,910	102%	27,188
Interfund Contract- Gen Fund	1,094,969	1,093,716	100%	1,024,619	42,333	4%	1,023,062	100%	(1,557)
State - Medicaid/Medicare	981,950	956,129	97%	860,738	166,335	19%	860,927	100%	189
Local Grants	1,402,192	1,747,729	125%	832,683	1,173,857	141%	1,478,327	178%	645,644
Other	1,047,130	1,100,071	105%	818,360	118,189	14%	863,337	105%	44,977
Patient Fees	740,630	841,348	114%	613,377	217,434	35%	623,038	102%	9,661
Interest on Investments	752,000	428,374	57%	506,000	126,936	25%	425,000	84%	(81,000)
State - Medicare	380,938	511,305	134%	380,751	135,425	36%	384,538	101%	3,787
Vital Records	325,000	374,220	115%	355,000	102,524	29%	370,000	104%	15,000
Liquor Revenue	177,799	152,943	86%	177,799	43,386	24%	177,799	100%	-
Federal Grants	72,532	53,481	74%	15,000	-	0%	15,000	100%	-
TOTAL RESOURCES	65,203,690	63,209,999	97%	67,571,380	18,026,857	27%	67,782,759	100%	211,379

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Administration Allocation	-	-	999%	-	-		-		-
Personnel Services	62,756,082	62,939,304	100%	68,432,680	21,108,296	31%	68,519,399	100%	(86,719)
Materials and Services	16,823,068	15,618,102	93%	22,481,257	4,014,979	18%	22,178,358	99%	302,899
Capital Outlay	6,641,842	3,592,095	54%	1,552,814	788,968	51%	1,552,659	100%	155
TOTAL REQUIREMENTS	86,220,992	82,149,501	95%	92,466,751	25,912,243	28%	92,250,416	100%	216,335

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In- OHP Mental Health	12,051,594	10,618,604	88%	18,392,515	4,451,628	24%	17,766,945	97%	(625,570)
Transfers In- General Fund	6,808,300	6,808,300	100%	7,255,632	2,418,544	33%	7,255,632	100%	-
Transfers In - TLT	376,572	376,572	100%	384,103	128,034	33%	384,103	100%	-
Transfers In- Sheriff's Office	-	-		150,000	-	0%	150,000	100%	-
Transfers In - Video Lottery	108,770	108,770	100%	114,209	114,209	100%	114,209	100%	-
Transfers In- Acute Care Service	148,546	148,545	100%	-	-		-		-
Transfers Out	(610,712)	(610,712)	100%	(1,736,056)	(133,675)	8%	(1,736,056)	100%	-
TOTAL TRANSFERS	18,883,070	17,450,080	92%	24,560,403	6,978,740	28%	23,934,833	97%	(625,570)

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	10,724,408	10,724,410	100%	8,485,285	9,234,988	109%	9,238,201	109%	752,916
Resources over Requirements	(21,017,302)	(18,939,502)		(24,895,371)	(7,885,385)		(24,467,657)		427,714
Net Transfers - In (Out)	18,883,070	17,450,080		24,560,403	6,978,740		23,934,833		(625,570)
TOTAL FUND BALANCE	$ 8,590,176	$ 9,234,988	108%	$ 8,150,317	$ 8,328,343	102%	$ 8,705,377	107%	$555,060

Budget to Actuals Report
Health Services - Admin - Fund 274
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Interest on Investments	752,000	428,374	57%	506,000	126,936	25%	425,000	84%	(81,000)
Vital Records	325,000	374,220	115%	355,000	102,524	29%	370,000	104%	15,000
State Miscellaneous	355,930	354,648	100%	172,310	5,764	3%	172,310	100%	-
Other	256,035	251,050	98%	66,592	8,015	12%	66,592	100%	-
State Grant	6,450	6,375	99%	-	-		-		-
Local Grants	-	53,766		-	-		-		-
TOTAL RESOURCES	1,695,415	1,468,433	87%	1,099,902	243,239	22%	1,033,902	94%	(66,000)
REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Personnel Services	9,660,203	9,340,850	97%	10,378,408	3,089,847	30%	10,191,353	98%	187,055 A
Materials and Services	9,922,479	9,649,433	97%	9,360,689	3,039,559	32%	9,544,258	102%	(183,569) B
Capital Outlay	23,453	22,124	94%	-	-		-		-
Administration Allocation	(17,635,844)	(17,635,844)	100%	(18,351,904)	-	0%	(18,351,904)	100%	-
TOTAL REQUIREMENTS	1,970,291	1,376,563	70%	1,387,193	6,129,406	442%	1,383,707	100%	3,486
TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In- General Fund	175,000	175,000	100%	175,000	58,333	33%	175,000	100%	-
Transfers Out	(394,712)	(394,712)	100%	(401,026)	(133,675)	33%	(401,026)	100%	-
TOTAL TRANSFERS	(219,712)	(219,712)	100%	(226,026)	(75,342)	33%	(226,026)	100%	-
FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	3,500,029	3,500,029	100%	3,358,307	3,372,187	100%	3,372,187	100%	13,880
Resources over Requirements	(274,876)	91,870		(287,291)	(5,886,167)		(349,805)		(62,514)
Net Transfers - In (Out)	(219,712)	(219,712)		(226,026)	(75,342)		(226,026)		-
TOTAL FUND BALANCE	$ 3,005,441	$ 3,372,187	112%	$ 2,844,990	($ 2,589,323)	-91%	$ 2,796,356	98%	($48,634)

A Payroll projections include market analysis adjustments, and vacancy savings at 5%.

B Expenses increased due to the use of temporary staffing to fill a vacant position. A budget adjustment is anticipated at year-end.

Budget to Actuals Report

Health Services - Behavioral Health - Fund 274

FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
State Grant	18,052,953	14,531,607	80%	20,268,359	3,969,563	20%	20,239,449	100%	(28,910)	
OHP Capitation	17,016,429	17,066,693	100%	15,032,023	4,997,732	33%	15,032,023	100%	-	
State Miscellaneous	6,853,401	6,676,631	97%	10,076,018	3,625,994	36%	9,860,512	98%	(215,506)	
OHP Fee for Service	5,645,320	6,756,000	120%	4,722,500	973,054	21%	4,727,496	100%	4,996	
Medicaid	1,168,850	1,784,256	153%	1,562,722	301,357	19%	1,589,910	102%	27,188	
Interfund Contract- Gen Fund	830,239	830,763	100%	713,687	42,333	6%	712,130	100%	(1,557)	
Patient Fees	661,110	734,525	111%	589,199	205,991	35%	592,399	101%	3,200	
State - Medicare	380,938	511,305	134%	380,751	135,425	36%	384,538	101%	3,787	
Local Grants	826,007	1,010,963	122%	375,000	585,971	156%	664,152	177%	289,152	A
Liquor Revenue	177,799	152,943	86%	177,799	43,386	24%	177,799	100%	-	
Other	10	38,383	999%	393	545	139%	3,976	999%	3,583	
TOTAL RESOURCES	51,613,056	50,094,070	97%	53,898,451	14,881,350	28%	53,984,384	100%	85,933	

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Administration Allocation	13,820,873	13,820,873	100%	14,180,286	-	0%	14,180,286	100%	-	
Personnel Services	40,925,213	42,198,901	103%	44,393,262	14,036,325	32%	45,176,442	102%	(783,180)	B
Materials and Services	5,045,481	4,306,119	85%	11,187,070	671,688	6%	10,666,964	95%	520,106	C
Capital Outlay	6,618,389	3,569,971	54%	1,552,814	788,968	51%	1,552,659	100%	155	
TOTAL REQUIREMENTS	66,409,956	63,895,864	96%	71,313,432	15,496,981	22%	71,576,351	100%	(262,919)	

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In- OHP Mental Health	11,743,257	10,328,067	88%	18,100,849	4,451,628	25%	17,475,279	97%	(625,570)
Transfers In- General Fund	1,396,236	1,396,236	100%	1,627,085	542,362	33%	1,627,085	100%	-
Transfers In- Sheriff's Office	-	-		150,000	-	0%	150,000	100%	-
Transfers In- Acute Care Service	148,546	148,545	100%	-	-		-		-
Transfers Out	(216,000)	(216,000)	100%	(1,335,030)	-	0%	(1,335,030)	100%	-
TOTAL TRANSFERS	13,072,039	11,656,849	89%	18,542,904	4,993,990	27%	17,917,334	97%	(625,570)

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	4,118,021	4,118,022	100%	1,571,417	1,973,077	126%	1,973,077	126%	401,660
Resources over Requirements	(14,796,900)	(13,801,795)		(17,414,981)	(615,631)		(17,591,967)		(176,986)
Net Transfers - In (Out)	13,072,039	11,656,849		18,542,904	4,993,990		17,917,334		(625,570)
TOTAL FUND BALANCE	$ 2,393,160	$ 1,973,077	82%	$ 2,699,340	$ 6,351,436	235%	$ 2,298,444	85%	($400,896)

A Projections include unbudgeted Central Oregon Health Council QIM funds to be earned in future years.

B Payroll projections include market analysis adjustments, and vacancy savings at 7%. Budget adjustment forthcoming.

C Due to filling medical team FTE positions, anticipated contracted personnel service costs have decreased.

Budget to Actuals Report

Health Services - Public Health - Fund 274

FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
State Grant	6,018,211	5,486,067	91%	6,535,254	1,731,011	26%	6,322,407	97%	(212,847) A
Environmental Health Fees	1,746,506	1,818,961	104%	1,799,637	111,632	6%	1,799,637	100%	-
State Miscellaneous	938,600	1,023,345	109%	1,363,741	84,463	6%	1,363,498	100%	(243)
State - Medicaid/Medicare	981,950	956,129	97%	860,738	166,335	19%	860,927	100%	189
Other	791,085	810,638	102%	751,375	109,629	15%	792,769	106%	41,394
Local Grants	576,185	683,000	119%	457,683	587,886	128%	814,175	178%	356,492 B
OHP Capitation	391,000	391,861	100%	395,389	96,713	24%	395,389	100%	-
Interfund Contract- Gen Fund	264,730	262,952	99%	310,932	-	0%	310,932	100%	-
OHP Fee for Service	34,900	54,239	155%	59,100	3,157	5%	59,100	100%	-
Patient Fees	79,520	106,823	134%	24,178	11,443	47%	30,639	127%	6,461
Federal Grants	72,532	53,481	74%	15,000	-	0%	15,000	100%	-
TOTAL RESOURCES	11,895,219	11,647,497	98%	12,573,027	2,902,268	23%	12,764,473	102%	191,446

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Administration Allocation	3,814,971	3,814,971	100%	4,171,618	-	0%	4,171,618	100%	-
Personnel Services	12,170,666	11,399,553	94%	13,661,010	3,982,124	29%	13,151,604	96%	509,406 C
Materials and Services	1,855,108	1,662,550	90%	1,933,498	303,731	16%	1,967,136	102%	(33,638) D
TOTAL REQUIREMENTS	17,840,745	16,877,074	95%	19,766,126	4,285,856	22%	19,290,358	98%	475,768

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In- General Fund	5,237,064	5,237,064	100%	5,453,547	1,817,849	33%	5,453,547	100%	-
Transfers In - TLT	376,572	376,572	100%	384,103	128,034	33%	384,103	100%	-
Transfers In- OHP Mental Health	308,337	290,537	94%	291,666	-	0%	291,666	100%	-
Transfers In - Video Lottery	108,770	108,770	100%	114,209	114,209	100%	114,209	100%	-
TOTAL TRANSFERS	6,030,743	6,012,943	100%	6,243,525	2,060,092	33%	6,243,525	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	3,106,358	3,106,359	100%	3,555,561	3,889,725	109%	3,892,937	109%	337,376
Resources over Requirements	(5,945,526)	(5,229,577)		(7,193,099)	(1,383,587)		(6,525,885)		667,214
Net Transfers - In (Out)	6,030,743	6,012,943		6,243,525	2,060,092		6,243,525		-
TOTAL FUND BALANCE	$ 3,191,575	$ 3,889,725	122%	$ 2,605,987	$ 4,566,230	175%	$ 3,610,577	139%	$1,004,590

A FY27 budgeted State Rural Health Transformation Program grant funds anticipated to be earned in the first quarter of FY28.

B Projections include unbudgeted Pacific Source Immunization Quality Improvement Program (IQIP) funds and Central Oregon Health Council QIM funds.

C Payroll projections include market analysis adjustments, and vacancy savings at 5%.

D Includes newly awarded Pacific Source IQIP funded expenses. Budget adjustment forthcoming.

Budget to Actuals Report
Community Development - Fund 295
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Code Enforcement	1,085,878	1,199,964	111%	1,168,825	374,757	32%	1,168,825	100%	-	
Admin - Operations	144,500	184,264	128%	132,000	44,827	34%	139,000	105%	7,000	A
Building Safety	3,243,170	3,492,599	108%	3,439,300	1,029,033	30%	3,361,800	98%	(77,500)	
Electrical	1,039,420	1,096,486	105%	1,028,600	400,349	39%	1,138,400	111%	109,800	A
Onsite Wastewater	1,144,292	1,226,162	107%	1,346,148	386,182	29%	1,327,423	99%	(18,725)	B
Current Planning	2,269,685	2,625,618	116%	2,393,956	789,506	33%	2,393,956	100%	-	
Long Range Planning	1,059,924	1,155,624	109%	1,013,219	367,076	36%	1,147,219	113%	134,000	C
TOTAL RESOURCES	9,986,869	10,980,717	110%	10,522,048	3,391,729	32%	10,676,623	101%	154,575	

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Code Enforcement	870,608	833,415	96%	945,646	248,954	26%	861,751	91%	83,895	D
Admin - Operations	3,640,125	3,555,367	98%	4,026,699	1,235,515	31%	3,868,883	96%	157,816	D
Building Safety	2,298,843	2,504,111	109%	2,857,859	820,929	29%	2,847,216	100%	10,643	D
Electrical	809,673	521,778	64%	643,662	190,255	30%	643,497	100%	165	
Onsite Wastewater	841,118	844,453	100%	1,097,172	312,468	28%	1,067,492	97%	29,680	D
Current Planning	1,556,999	1,472,803	95%	1,612,264	498,230	31%	1,631,240	101%	(18,976)	
Long Range Planning	841,562	766,405	91%	916,613	240,477	26%	871,871	95%	44,742	D
TOTAL REQUIREMENTS	10,858,928	10,498,333	97%	12,099,915	3,546,827	29%	11,791,950	97%	307,965	

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Transfers In – CDD Building Reserve	633,865	487,000	77%	1,012,590	488,000	48%	1,253,917	124%	241,327	
Transfers In - CDD Operating Fund	-	-		616,500	-	0%	316,500	51%	(300,000)	E
Transfers Out - CDD Reserve	(785,000)	(715,400)	91%	-	(110,000)	999%	(132,310)	999%	(132,310)	F
Transfers In - CDD Electrical Reserve	194,626	-	0%	-	-		-		-	
Transfers Out	(37,550)	(37,550)	100%	(60,000)	(20,000)	33%	(60,000)	100%	-	
TOTAL TRANSFERS	5,941	(265,950)	-4,477%	1,569,090	358,000	23%	1,378,107	88%	(190,983)	

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	887,535	887,535	100%	1,018,187	1,103,969	108%	1,103,970	108%	85,783
Resources over Requirements	(872,059)	482,384		(1,577,867)	(155,098)		(1,115,327)		462,540
Net Transfers - In (Out)	5,941	(265,950)		1,569,090	358,000		1,378,107		(190,983)
TOTAL FUND BALANCE	$ 21,417	$ 1,103,969	999%	$ 1,009,410	$ 1,306,871	129%	$ 1,366,750	135%	$357,340

A Revenue collection is anticipated to be higher than budgeted.

B Revenue collection is anticipated to be lower than budgeted.

C Projection reflects lower percentage of advanced planning fees being remitted to the cities than budgeted.

D Expenditures anticipated to be lower than budgeted including cost savings from unfilled positions and use of Oregon Paid Leave.

E Both higher projected revenue and lower projected expenditures reduce current year reliance on reserves.

F Higher projected revenues are expected to allow transfers to reserves that were not included in the original budget.

Budget to Actuals Report
Road - Fund 325
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Motor Vehicle Revenue	21,908,000	22,278,495	102%	21,850,000	7,227,877	33%	21,850,000	100%	-
Federal - PILT Payment	2,401,500	2,401,500	100%	2,401,500	2,919,359	122%	2,919,359	122%	517,859
Other Inter-fund Services	1,642,616	2,074,486	126%	1,992,536	204,645	10%	1,992,536	100%	-
Forest Receipts	426,750	771,632	181%	642,337	-	0%	642,337	100%	-
Sale of Equip & Material	431,000	409,521	95%	477,000	5,982	1%	482,000	101%	5,000
Interest on Investments	299,000	295,929	99%	268,000	143,756	54%	390,000	146%	122,000
Cities-Bend/Red/Sis/La Pine	180,000	218,414	121%	183,500	-	0%	183,500	100%	-
Miscellaneous	63,164	186,797	296%	68,960	24,914	36%	68,960	100%	-
Mineral Lease Royalties	50,000	131,564	263%	50,000	3,357	7%	50,000	100%	-
Assessment Payments (P&I)	-	2,432		2,660	660	25%	2,660	100%	-
Federal Reimbursements	21,000	62,499	298%	-	-		-		-
State Miscellaneous	-	7,657		-	-		-		-
IF Capital Projects - Revenue	-	36,906		-	-		-		-
TOTAL RESOURCES	27,423,030	28,877,832	105%	27,936,493	10,530,550	38%	28,581,352	102%	644,859

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Personnel Services	10,434,868	9,826,445	94%	10,954,021	3,370,104	31%	11,016,470	101%	(62,449)	A
Materials and Services	9,278,474	7,637,900	82%	9,709,325	3,181,151	33%	9,709,325	100%	-	
TOTAL REQUIREMENTS	19,713,342	17,464,345	89%	20,663,346	6,551,255	32%	20,725,795	100%	(62,449)	

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In	-	-		-	-		177,778		177,778
Transfers Out	(9,690,281)	(9,690,281)	100%	(10,438,556)	(12,852)	0%	(10,438,556)	100%	-
TOTAL TRANSFERS	(9,690,281)	(9,690,281)	100%	(10,438,556)	(12,852)	0%	(10,260,778)	98%	177,778

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	5,731,344	5,731,344	100%	5,741,144	7,454,550	130%	7,454,550	130%	1,713,406
Resources over Requirements	7,709,688	11,413,487		7,273,147	3,979,295		7,855,557		582,410
Net Transfers - In (Out)	(9,690,281)	(9,690,281)		(10,438,556)	(12,852)		(10,260,778)		177,778
TOTAL FUND BALANCE	$ 3,750,751	$ 7,454,550	199%	$ 2,575,735	$ 11,420,993	443%	$ 5,049,329	196%	$2,473,594

A Projected personnel based on overage to date.

Budget to Actuals Report
Community Justice - Fund 355
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
DOC Grant in Aid SB 1145	4,915,459	4,562,804	93%	4,562,804	2,282,886	50%	4,562,804	100%	-
CJC Justice Reinvestment	950,000	1,020,205	107%	1,063,718	702,389	66%	1,063,718	100%	-
OYA Basic & Diversion	480,000	524,202	109%	480,008	-	0%	480,008	100%	-
State Miscellaneous	20,000	29,601	148%	475,004	113,751	24%	475,004	100%	-
DOC Measure 57	270,000	330,544	122%	294,946	314,947	107%	314,947	107%	20,001 A
Interest on Investments	158,000	224,658	142%	170,000	89,426	53%	170,000	100%	-
Gen Fund-Opioid Settlement	161,000	189,166	117%	140,000	-	0%	140,000	100%	-
ODE Juvenile Crime Prev	112,772	145,795	129%	112,772	-	0%	112,772	100%	-
Leases	101,000	105,959	105%	101,000	44,321	44%	101,000	100%	-
DOC Unif Crime Fee/HB2712	35,000	60,613	173%	50,000	-	0%	50,000	100%	-
Expungements	40,000	34,755	87%	40,000	-	0%	40,000	100%	-
Miscellaneous	430,985	435,722	101%	34,000	268,319	789%	275,000	809%	241,000 B
Inmate/Prisoner Housing	75,000	58,500	78%	30,000	22,200	74%	30,000	100%	-
OJD Court Fac/Sec SB 1065	12,000	12,623	105%	12,000	8,721	73%	12,000	100%	-
Contract Payments	-	760		-	-		-		-
Interfund- Sheriff	60,000	60,000	100%	-	-		-		-
TOTAL RESOURCES	7,821,216	7,795,908	100%	7,566,252	3,846,961	51%	7,827,253	103%	261,001

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Personnel Services - Admin	746,621	1,188,469	159%	1,256,041	381,812	30%	1,239,698	99%	16,343
Materials and Services - Admin	1,704,799	2,045,864	120%	2,036,762	623,750	31%	2,000,000	98%	36,762
Personnel Services - Juvenile	6,976,088	6,349,307	91%	7,332,863	2,122,001	29%	6,996,669	95%	336,194
Materials and Services - Juvenile	851,900	460,100	54%	857,040	151,400	18%	840,000	98%	17,040
Personnel Services - Adult	5,483,329	5,230,440	95%	5,337,122	1,572,897	29%	5,144,622	96%	192,500
Materials and Services - Adult	940,450	628,154	67%	840,300	165,110	20%	830,000	99%	10,300
TOTAL REQUIREMENTS	16,703,187	15,902,333	95%	17,660,128	5,016,969	28%	17,050,989	97%	609,139

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In- General Funds	9,082,800	9,082,800	100%	9,615,532	3,205,177	33%	9,615,532	100%	-
Transfer In-Comm Just Juvenile	3,000,000	3,000,000	100%	-	-		-		-
Transfer Out - Adult Parole	(3,000,000)	(3,000,000)	100%	-	-		-		-
Transfers Out	(14,621)	(14,621)	100%	(14,621)	(4,874)	33%	(14,621)	100%	-
Transfer to Vehicle Maint	(152,364)	(152,364)	100%	(152,364)	(50,788)	33%	(152,364)	100%	-
TOTAL TRANSFERS	8,915,815	8,915,815	100%	9,448,547	3,149,516	33%	9,448,547	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	4,270,915	4,270,916	100%	4,200,000	5,080,306	121%	5,080,306	121%	880,306 C
Resources over Requirements	(8,881,971)	(8,106,425)		(10,093,876)	(1,170,009)		(9,223,736)		870,140
Net Transfers - In (Out)	8,915,815	8,915,815		9,448,547	3,149,516		9,448,547		-
TOTAL FUND BALANCE	$ 4,304,759	$ 5,080,306	118%	$ 3,554,671	$ 7,059,813	199%	$ 5,305,117	149%	$1,750,446

A Final M57 Allocation based on legislative changes.

B Capacity building grant from Pacific Source for HRSN. Carry forward from FY 26.

C Final fund balance. Grant carry forward.

Budget to Actuals Report
Road CIP - Fund 465
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
State Miscellaneous	884,712	890,398	101%	887,045	-	0%	887,045	100%	-
Interest on Investments	500,000	756,373	151%	671,000	227,851	34%	660,000	98%	(11,000)
Miscellaneous	-	-		-	34,956		34,956		34,956
TOTAL RESOURCES	1,384,712	1,646,771	119%	1,558,045	262,806	17%	1,582,001	102%	23,956
REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Materials and Services	111,704	111,704	100%	235,693	78,564	33%	235,693	100%	-
Capital Outlay	18,910,997	9,404,719	50%	17,319,250	3,471,435	20%	17,105,697	99%	213,553
TOTAL REQUIREMENTS	19,022,701	9,516,423	50%	17,554,943	3,549,999	20%	17,341,390	99%	213,553
TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In	9,600,781	8,897,559	93%	10,420,078	-	0%	10,420,078	100%	-
TOTAL TRANSFERS	9,600,781	8,897,559	93%	10,420,078	-	0%	10,420,078	100%	-
FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	17,787,235	17,787,235	100%	14,640,766	18,815,142	129%	18,815,142	129%	4,174,376
Resources over Requirements	(17,637,989)	(7,869,652)		(15,996,898)	(3,287,193)		(15,759,389)		237,509
Net Transfers - In (Out)	9,600,781	8,897,559		10,420,078	-		10,420,078		-
TOTAL FUND BALANCE	$ 9,750,027	$ 18,815,142	193%	$ 9,063,946	$ 15,527,949	171%	$ 13,475,831	149%	$4,411,885

Budget to Actuals Report

Road CIP (Fund 465) - Capital Outlay Summary by Project

FY27 YTD October 31, 2026

33.33%
Year Completed

	Fiscal Year 2026			Fiscal Year 2027					
	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Intersection Safety Improvements				300,000			150,000		150,000
Hamehook Rd Bridge #16181 Rehabilitation	40,000	7,051	18%						-
NW Lower Bridge Way: 43rd St to Holmes Rd	810,844	85,510	11%	2,400,000	90,940	4%	2,531,000	105%	(131,000)
Northwest Way: NW Coyner Ave to NW Altmeter Wy	1,085,000		0%	1,114,000		0%	1,114,000	100%	-
Tumalo Reservoir Rd: OB Riley to Sisemore Rd	4,846,453	3,962,712	82%	1,800,000	835,275	46%	837,000	47%	963,000
Local Road Pavement Preservation	500,000		0%						-
Paving Of Horse Butte Rd	1,023,000	89,554	9%		568,447		568,447		(568,447)
La Pine Uic Stormwater Improvements	350,000	191,024	55%	350,000		0%	350,000	100%	-
S Century Dr: Sunriver Corridor Improvements	4,012,300	2,000,823	50%	4,245,250	181,819	4%	4,245,250	100%	-
Burgess Rd/Day Rd Traffic Signal	90,000	35,372	39%	820,000	19,136	2%	820,000	100%	-
Powell Butte Hwy: McGrath Rd to US20	350,000		0%						-
Slurry Seal 2025	500,000		0%						-
ODOT ARTS Program - Driver Speed Feedback Signs		41,193							-
Paving of Skyline Ranch Rd: Century Dr to City limits	1,370,000			1,000,000	1,491		430,000	43%	570,000
Tumalo Rd	1,760,000	2,096,301	119%						-
Buckhorn Rd: Hwy 126 to MP 1.6 (FLAP	83,400								-
Buckhorn Rd: MP 1.6 to Lower Bridge Way	250,000	82		1,130,000	50,044		1,130,000	100%	-
Lower Bridge Way Repair	100,000								-
S Century Dr Bridge # 16181 Rehab	300,000	12,736	4%	860,000	49,767	6%	860,000	100%	-
Signage improvements	150,000	190,203	127%						-
La Pine School Zone Safety Imprpvements									
Slurry Seal 2026		465,118							-
Indian Ford Rd	740,000		0%						-
Knott Rd/Baker Rd: US 97 Interchange	300,000		0%						-
Paving of 6th & Dorrance Meadow		1,036		1,200,000	1,674,517		2,520,000		(1,320,000)
3rd St/Walker St/Pengra St/5th				700,000			-		700,000
Slurry Seal 2027				500,000			500,000		-
Misc Local Road Pavement Preservation				500,000			500,000		-
Paving of Coyner and Pershall	-	226,005							-
Ward Rd-Larsen Rd Intersection Improvements							150,000		(150,000)
Spring River Congestion Signage									-
Signage Improvements				150,000			150,000		-
Guardrail Improvements	150,000		0%	150,000		0%	150,000	100%	-
Sidewalk Ramp Improvements	100,000		0%	100,000		0%	100,000	100%	-
TOTAL CAPITAL OUTLAY	$ 18,910,997	$ 9,404,719	50%	$ 17,319,250	3,471,435	20%	17,105,697	99%	$ 213,553

Budget to Actuals Report

Solid Waste - Fund 610

FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Franchise Disposal Fees	11,440,000	11,662,199	102%	12,240,000	4,029,661	33%	12,240,000	100%	- A
Commercial Disp. Fee	4,710,000	5,840,754	124%	6,010,000	2,429,570	40%	6,010,000	100%	- A
Private Disposal Fees	4,070,000	4,315,661	106%	4,640,000	1,582,992	34%	4,640,000	100%	- A
Franchise 5% Fees	750,000	828,630	110%	800,000	219,800	27%	800,000	100%	- B
State Grants	250,000	165,441	66%	602,000	-	0%	602,000	100%	-
Yard Debris	450,000	575,839	128%	575,000	238,462	41%	575,000	100%	- C
Interest on Investments	168,000	303,000	180%	216,000	112,425	52%	278,000	129%	62,000 D
Special Waste	167,500	267,350	160%	200,000	61,851	31%	200,000	100%	-
Miscellaneous	185,000	263,938	143%	170,000	78,056	46%	170,000	100%	-
Recyclables	8,000	36,117	451%	8,000	7,066	88%	8,000	100%	-
Leases	1	1	100%	1	-	0%	1	100%	-
Local Grants	-	6,205		-	-		-		-
TOTAL RESOURCES	22,198,501	24,265,135	109%	25,461,001	8,759,883	34%	25,523,001	100%	62,000

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Personnel Services	6,742,398	6,428,351	95%	7,532,997	2,056,411	27%	7,532,997	100%	-
Materials and Services	9,460,502	8,701,739	92%	11,345,207	2,192,526	19%	11,345,207	100%	-
Capital Outlay	477,000	184,986	39%	686,000	148,040	22%	686,000	100%	-
Debt Service	2,301,800	2,301,469	100%	2,503,600	-	0%	2,503,600	100%	-
TOTAL REQUIREMENTS	18,981,700	17,616,544	93%	22,067,804	4,396,977	20%	22,067,804	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfer In - TLT	-	-		-	-		-		-
Transfers Out - SW Capital & Equipment Reserve	(4,673,934)	(4,673,934)	100%	(6,623,953)	(7,984)	0%	(6,623,953)	100%	-
TOTAL TRANSFERS	(4,673,934)	(4,673,934)	100%	(6,623,953)	(7,984)	0%	(6,623,953)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	4,412,870	4,412,870	100%	5,654,778	6,387,527	113%	6,418,990	114%	764,212 E
Resources over Requirements	3,216,801	6,648,591		3,393,197	4,362,905		3,455,197		62,000
Net Transfers - In (Out)	(4,673,934)	(4,673,934)		(6,623,953)	(7,984)		(6,623,953)		-
TOTAL FUND BALANCE	$ 2,955,737	$ 6,387,527	216%	$ 2,424,022	$ 10,742,448	443%	$ 3,250,234	134%	$826,212

A Total disposal fee projections reflect management's best estimate of revenues to be collected. Fiscal YTD disposal tons are consistent with last year-to-date. Franchise disposal fee payments of $431K were not received from Republic Services (High Country, Wilderness) by closing.

B Annual fees due April 15, 2027; received monthly installments from Republic.

C Yard Debris revenue is seasonal with higher utilization in summer months; fiscal YTD volumes are running ~2% higher than last year-to-date.

D Investment Income projected to come in higher than budget.

E Beginning Fund Balance actuals are not final until year-end close is complete.

Budget to Actuals Report

Fair & Expo - Fund 615

FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Events Revenue	1,100,000	1,373,060	125%	1,239,900	171,115	14%	952,000	77%	(287,900) A
Food & Beverage	1,222,500	1,291,037	106%	1,202,600	104,685	9%	1,114,778	93%	(87,822)
Rights & Signage	135,000	71,000	53%	84,000	83,350	99%	131,350	156%	47,350
Horse Stall Rental	47,500	51,980	109%	66,700	32,000	48%	64,700	97%	(2,000)
Interest on Investments	6,000	33,678	561%	25,000	12,421	50%	33,000	132%	8,000
Camping Fee	37,500	42,799	114%	9,300	-	0%	21,900	235%	12,600
Miscellaneous	19,000	6,610	35%	6,000	1,220	20%	1,220	20%	(4,780)
Other Inter-fund Services	60,000	60,497	101%	-	-		-		-
TOTAL RESOURCES	2,627,500	2,930,662	112%	2,633,500	404,790	15%	2,318,948	88%	(314,552)

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Personnel Services	1,715,250	1,522,891	89%	2,051,703	533,245	26%	1,746,584	85%	305,119 B
Personnel Services - F&B	175,250	-	0%	201,630	-	0%	134,420	67%	67,210 B
Materials and Services	1,415,378	1,536,421	109%	1,676,572	349,446	21%	1,590,340	95%	86,232
Materials and Services - F&B	741,450	710,595	96%	766,050	69,048	9%	713,294	93%	52,756
Debt Service	83,000	82,798	100%	81,400	-	0%	81,400	100%	-
TOTAL REQUIREMENTS	4,130,328	3,852,705	93%	4,777,355	951,739	20%	4,266,038	89%	511,317

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In - Lodging Tax	1,048,285	1,048,285	100%	1,016,835	338,945	33%	1,076,300	106%	59,465
Transfers In - County Fair	310,000	310,000	100%	200,000	-	0%	200,000	100%	-
Transfers In - Park Fund	35,000	35,000	100%	35,000	11,667	33%	35,000	100%	-
Transfers Out	(10,777)	(10,777)	100%	(10,777)	(3,592)	33%	(10,777)	100%	-
TOTAL TRANSFERS	1,382,508	1,382,508	100%	1,241,058	347,019	28%	1,300,523	105%	59,465

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	577,955	577,955	100%	1,286,226	1,038,419	81%	1,038,419	81%	(247,807)
Resources over Requirements	(1,502,828)	(922,044)		(2,143,855)	(546,949)		(1,947,090)		196,765
Net Transfers - In (Out)	1,382,508	1,382,508		1,241,058	347,019		1,300,523		59,465
TOTAL FUND BALANCE	$ 457,635	$ 1,038,419	227%	$ 383,429	$ 838,490	219%	$ 391,852	102%	$8,423

A The decease in projected revenue is expected to improve in future monthly reports. The reported projection was a point in time number based on actual business and did not account for some typical business that had not been accounted for yet.

B Projected personnel savings estimated at 14.5% based on YTD cost savings rate.

Budget to Actuals Report
Annual County Fair - Fund 616
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Gate Receipts	950,000	1,006,940	106%	1,015,000	710,467	70%	1,015,000	100%	- A
Concessions and Catering	841,500	895,170	106%	919,000	785,133	85%	785,133	85%	(133,867)
Carnival	455,000	458,545	101%	458,500	516,792	113%	516,792	113%	58,292
Commercial Exhibitors	132,500	130,530	99%	130,250	142,917	110%	143,217	110%	12,967
Fair Sponsorship	125,500	143,800	115%	119,865	140,633	117%	169,950	142%	50,085
State Grant	53,167	87,943	165%	87,943	79,848	91%	159,565	181%	71,622
Rodeo Sponsorship	45,000	37,150	83%	42,720	60,576	142%	60,576	142%	17,856
R/V Camping/Horse Stall Rental	30,000	38,550	128%	38,300	36,935	96%	37,166	97%	(1,134)
Interest on Investments	18,000	22,124	123%	24,000	7,633	32%	20,100	84%	(3,900)
Livestock Entry Fees	3,450	4,694	136%	4,700	2,983	63%	2,276	48%	(2,424)
Merchandise Sales	2,250	500	22%	500	2,276	455%	2,276	455%	1,776
Miscellaneous	-	824		-	-		-		-
TOTAL RESOURCES	2,656,367	2,826,769	106%	2,840,778	2,486,193	88%	2,912,051	103%	71,273

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Personnel Services	246,380	263,626	107%	321,535	84,015	26%	305,447	95%	16,088 B
Materials and Services	2,487,525	2,593,367	104%	2,267,625	1,829,031	81%	2,194,838	97%	72,787
TOTAL REQUIREMENTS	2,733,905	2,856,994	105%	2,589,160	1,913,046	74%	2,500,286	97%	88,875

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfer In - TLT 1%	75,000	75,000	100%	75,000	-	0%	75,000	100%	-
Transfers Out	-	-		(80,000)	-	0%	(80,000)	100%	-
Transfer Out - Fair & Expo	(310,000)	(310,000)	100%	(200,000)	-	0%	(200,000)	100%	-
TOTAL TRANSFERS	(235,000)	(235,000)	100%	(205,000)	-	0%	(205,000)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	324,216	324,216	100%	202,807	58,992	29%	58,992	29%	(143,815)
Resources over Requirements	(77,538)	(30,224)		251,618	573,148		411,766		160,148
Net Transfers - In (Out)	(235,000)	(235,000)		(205,000)	-		(205,000)		-
TOTAL FUND BALANCE	$ 11,678	$ 58,992	505%	$ 249,425	$ 632,140	253%	$ 265,758	107%	$16,333

A Additional Annual County Fair revenue was received but not reconciled in time for the monthly financial statements.

B Projected personnel based on YTD cost savings rate.

Budget to Actuals Report
Annual County Fair - Fund 616
CY26 YTD October 31, 2026 (unaudited)

	Fair 2025	Fair 2026 Actuals to Date	2026 Projection
RESOURCES			
Gate Receipts	$ 1,007,067	$ 710,340	1,015,000
Carnival	458,545	516,792	516,792
Commercial Exhibitors	514,293	512,185	512,185
Livestock Entry Fees	4,685	2,983	2,983
R/V Camping/Horse Stall Rental	37,879	37,166	37,166
Merchandise Sales	500	2,276	2,276
Concessions and Catering	512,108	416,164	416,164
Fair Sponsorship	171,892	201,210	231,210
TOTAL FAIR REVENUES	**$ 2,706,968**	**$ 2,399,117**	**$ 2,733,777**
OTHER RESOURCES			
State Grant	141,110	79,848	159,565
Interest	25,943	15,782	20,100
Miscellaneous	824	-	-
TOTAL RESOURCES	**$ 2,874,844**	**$ 2,494,747**	**$ 2,913,442**
REQUIREMENTS			
Personnel	254,155	218,595	287,431
Materials & Services	2,539,670	2,034,863	2,241,668
TOTAL REQUIREMENTS	**$ 2,793,825**	**$ 2,253,458**	**$ 2,529,098**
TRANSFERS			
Transfer In - TRT 1%	75,000	37,500	75,000
Transfer Out - F&E Reserve	-	-	(40,000)
Transfer Out - Fair & Expo	(253,450)	(155,000)	(255,000)
TOTAL TRANSFERS	**$ (178,450)**	**$ (117,500)**	**$ (220,000)**
Net Fair	**$ (97,431)**	**$ 123,788**	**$ 164,343**
Beginning Fund Balance on Jan 1	**$ 613,654**	**$ 516,223**	**$ 516,223**
Ending Balance	**$ 516,223**	**$ 640,011**	**$ 680,566**

Budget to Actuals Report

Fair & Expo Capital Reserve - Fund 617

FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Interest on Investments	117,000	153,148	131%	130,000	52,448	40%	142,000	109%	12,000
TOTAL RESOURCES	117,000	153,148	131%	130,000	52,448	40%	142,000	109%	12,000
REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Materials and Services	475,000	306,848	65%	521,631	6,544	1%	521,631	100%	-
Capital Outlay	790,000	64,652	8%	645,000	-	0%	645,000	100%	- A
TOTAL REQUIREMENTS	1,265,000	371,500	29%	1,166,631	6,544	1%	1,166,631	100%	-
TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In - TLT 1%	478,946	479,732	100%	465,467	155,156	33%	490,952	105%	25,485
Transfers In - Annual County Fair	-	-		80,000	-	0%	80,000	100%	-
TOTAL TRANSFERS	478,946	479,732	100%	545,467	155,156	28%	570,952	105%	25,485
FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	3,730,714	3,730,714	100%	3,082,397	3,992,093	130%	3,992,093	130%	909,696
Resources over Requirements	(1,148,000)	(218,352)		(1,036,631)	45,905		(1,024,631)		12,000
Net Transfers - In (Out)	478,946	479,732		545,467	155,156		570,952		25,485
TOTAL FUND BALANCE	$ 3,061,660	$ 3,992,093	130%	$ 2,591,233	$ 4,193,153	162%	$ 3,538,414	137%	$947,181

A Capital Outlay appropriations are a placeholder should viable projects be recommended and approved for construction.

Budget to Actuals Report

RV Park - Fund 618

FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
RV Park Fees < 31 Days	450,000	469,357	104%	582,000	173,571	30%	569,825	98%	(12,175)
RV Park Fees > 30 Days	11,000	49,388	449%	40,400	11,290	28%	43,421	107%	3,021
Cancellation Fees	17,500	18,079	103%	18,500	4,967	27%	18,500	100%	-
Interest on Investments	8,000	14,427	180%	12,000	5,009	42%	13,400	112%	1,400
Washer / Dryer	5,000	10,969	219%	8,500	4,466	53%	9,660	114%	1,160
Miscellaneous	1,500	4,570	305%	4,800	1,032	21%	5,036	105%	236
Vending Machines	800	1,499	187%	1,500	357	24%	1,578	105%	78
TOTAL RESOURCES	493,800	568,289	115%	667,700	200,692	30%	661,420	99%	(6,280)

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Personnel Services	172,715	168,772	98%	175,049	66,201	38%	188,179	108%	(13,130)
Materials and Services	355,503	279,157	79%	260,508	68,441	26%	263,841	101%	(3,333)
Debt Service	56,100	55,941	100%	55,800	-	0%	55,800	100%	-
TOTAL REQUIREMENTS	584,318	503,869	86%	491,357	134,641	27%	507,820	103%	(16,463)

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In - Park Fund	160,000	160,000	100%	160,000	53,333	33%	160,000	100%	-
Transfers In - TLT Fund	20,000	20,000	100%	20,000	6,667	33%	20,000	100%	-
Transfer Out - RV Reserve	(221,600)	(221,600)	100%	(228,000)	(76,000)	33%	(228,000)	100%	-
TOTAL TRANSFERS	(41,600)	(41,600)	100%	(48,000)	(16,000)	33%	(48,000)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	339,929	339,929	100%	299,990	362,748	121%	362,748	121%	62,758
Resources over Requirements	(90,518)	64,420		176,343	66,050		153,600		(22,743)
Net Transfers - In (Out)	(41,600)	(41,600)		(48,000)	(16,000)		(48,000)		-
TOTAL FUND BALANCE	$ 207,811	$ 362,748	175%	$ 428,333	$ 412,799	96%	$ 468,348	109%	$40,015

Budget to Actuals Report
RV Park Reserve - Fund 619
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Interest on Investments	58,000	71,915	124%	64,000	25,517	40%	69,000	108%	5,000
TOTAL RESOURCES	58,000	71,915	124%	64,000	25,517	40%	69,000	108%	5,000
REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Materials and Services	100,000	44,090	44%	78,834	1,953	2%	78,834	100%	-
Capital Outlay	70,000	-	0%	45,000	-	0%	45,000	100%	- A
TOTAL REQUIREMENTS	170,000	44,090	26%	123,834	1,953	2%	123,834	100%	-
TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfer In - RV Park Ops	221,600	221,600	100%	228,000	76,000	33%	228,000	100%	-
TOTAL TRANSFERS	221,600	221,600	100%	228,000	76,000	33%	228,000	100%	-
FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	1,703,962	1,703,962	100%	1,824,062	1,953,388	107%	1,953,388	107%	129,326
Resources over Requirements	(112,000)	27,825		(59,834)	23,564		(54,834)		5,000
Net Transfers - In (Out)	221,600	221,600		228,000	76,000		228,000		-
TOTAL FUND BALANCE	$ 1,813,562	$ 1,953,388	108%	$ 1,992,228	$ 2,052,951	103%	$ 2,126,554	107%	$134,326

A Capital Outlay appropriations are a placeholder.

Budget to Actuals Report
Risk Management - Fund 670
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Workers' Compensation	1,111,329	1,152,158	104%	1,124,652	387,357	34%	1,124,652	100%	-
General Liability	941,127	941,127	100%	947,396	315,799	33%	947,396	100%	- A
Property Damage	430,181	430,181	100%	458,182	152,728	33%	458,182	100%	-
Unemployment	364,469	347,386	95%	353,653	319,424	90%	353,653	100%	- B
Vehicle	245,300	245,300	100%	277,915	92,638	33%	277,915	100%	-
Interest on Investments	219,000	270,652	124%	243,000	70,234	29%	205,000	84%	(38,000)
Skid Car Training	45,000	37,835	84%	45,000	9,300	21%	45,000	100%	-
Claims Reimbursement	40,000	85,673	214%	25,000	18,558	74%	25,000	100%	-
Process Fee- Events/ Parades	3,000	1,760	59%	3,000	385	13%	3,000	100%	-
Miscellaneous	2,000	-	0%	2,000	25	1%	2,000	100%	-
TOTAL RESOURCES	3,401,406	3,512,072	103%	3,479,798	1,366,449	39%	3,441,798	99%	(38,000)

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Workers' Compensation	2,000,000	1,893,751	95%	2,000,000	1,113,423	56%	2,000,000	100%	-
General Liability	1,860,000	604,196	32%	1,500,000	625,722	42%	1,500,000	100%	-
Insurance Administration	1,045,110	972,895	93%	1,187,050	290,518	24%	1,033,607	87%	153,443
Vehicle	800,000	311,641	39%	800,000	34,959	4%	800,000	100%	-
Property Damage	600,260	618,435	103%	500,276	450,291	90%	500,276	100%	-
Unemployment	250,000	169,305	68%	350,000	70,584	20%	350,000	100%	-
TOTAL REQUIREMENTS	6,555,370	4,570,223	70%	6,337,326	2,585,496	41%	6,183,883	98%	153,443

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers Out - Vehicle Replacement	(4,800)	(4,800)	100%	(5,040)	(1,680)	33%	(5,040)	100%	-
TOTAL TRANSFERS	(4,800)	(4,800)	100%	(5,040)	(1,680)	33%	(5,040)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	7,435,437	7,435,437	100%	7,357,045	6,372,486	87%	6,372,486	87%	(984,559)
Resources over Requirements	(3,153,964)	(1,058,151)		(2,857,528)	(1,219,047)		(2,742,085)		115,443
Net Transfers - In (Out)	(4,800)	(4,800)		(5,040)	(1,680)		(5,040)		-
TOTAL FUND BALANCE	$ 4,276,673	$ 6,372,486	149%	$ 4,494,477	$ 5,151,759	115%	$ 3,625,361	81%	($869,116)

A Includes reimbursement from State for higher general liability insurance related to aid and assist.

B Unemployment collected on first $25K of employee's salary in fiscal year.

Budget to Actuals Report
Health Benefits - Fund 675
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Internal Premium Charges	35,820,000	34,604,622	97%	34,903,000	10,609,809	30%	34,156,000	98%	(747,000)	A
COIC Premiums	3,122,834	3,912,947	125%	4,470,459	1,022,869	23%	4,380,000	98%	(90,459)	
Employee Co-Pay	1,556,257	1,575,549	101%	1,600,000	535,520	33%	1,565,000	98%	(35,000)	
Retiree / COBRA Premiums	1,268,401	1,268,469	100%	1,134,052	367,790	32%	1,134,052	100%	-	
Prescription Rebates	666,008	1,173,021	176%	1,065,000	1,676	0%	1,144,000	107%	79,000	
Claims Reimbursement & Other	800,000	408,634	51%	700,000	-	0%	700,000	100%	-	B
Interest on Investments	242,000	652,096	269%	461,000	285,407	62%	771,000	167%	310,000	
TOTAL RESOURCES	43,475,500	43,595,338	100%	44,333,511	12,823,070	29%	43,850,052	99%	(483,459)	

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Health Benefits	35,790,482	29,081,763	81%	36,394,457	7,547,250	21%	34,918,000	96%	1,476,457	C
Deschutes On-Site Pharmacy	5,108,296	4,239,864	83%	5,250,266	1,231,290	23%	4,986,000	95%	264,266	
Deschutes On-Site Clinic	1,466,802	1,342,999	92%	1,617,714	445,509	28%	1,548,500	96%	69,214	
Wellness	44,965	20,654	46%	39,539	2,336	6%	33,400	84%	6,139	
TOTAL REQUIREMENTS	42,410,545	34,685,280	82%	43,301,976	9,226,385	21%	41,485,900	96%	1,816,076	

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Beginning Fund Balance	12,105,614	12,105,614	100%	14,500,000	21,015,671	145%	21,193,789	146%	6,693,789	
Resources over Requirements	1,064,955	8,910,057		1,031,535	3,596,684		2,364,152		1,332,617	
Net Transfers - In (Out)	-	-		-	-		-		-	
TOTAL FUND BALANCE	$ 13,170,569	$ 21,015,671	160%	$ 15,531,535	$ 24,612,355	158%	$ 23,557,941	152%	$8,026,406	D

A Department premiums did not increase from FY 2026.

B Budget estimate is based on claims which are difficult to predict.

C Projected claims costs for FY 2027 are estimated to increase over FY 2026 actual costs by 3% for vision, 6% for dental, and 9% for medical and prescription coverage. The total projected cost also includes a placeholder for currently unknown claims.

D Deschutes County Administrative Policy No. F-13 sets forth the appropriate level of reserves. The reserve is comprised of two parts: 1) Claims Reserve at 1.5 times the valuation amount, and 2) Contingency Reserve at 150% of the value of the Claims Reserve. The level of reserve is set at $8 million ($3.2 million claim reserve and $4.8 million contingency reserve requirements). The reserve requirement amount should be compared to the Total Fund Balance amount in this report.

Budget to Actuals Report
911 - Fund 705 and 710
FY27 YTD October 31, 2026 (unaudited)

33.3%
Year Complete

	Fiscal Year 2026			Fiscal Year 2027					
RESOURCES	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Property Taxes - Current Yr	12,020,000	12,101,555	101%	12,624,000	1,395,235	11%	12,637,000	100%	13,000	A
Telephone User Tax	1,800,500	1,969,492	109%	1,800,500	-	0%	1,800,500	100%	-	B
Interest on Investments	468,000	660,704	141%	588,000	173,578	30%	509,000	87%	(79,000)	
Police RMS User Fees	274,200	291,131	106%	291,000	-	0%	291,000	100%	-	C
Contract Payments	185,600	193,487	104%	188,000	6,631	4%	188,000	100%	-	
User Fee	157,000	166,677	106%	162,000	3,328	2%	162,000	100%	-	
Data Network Reimbursement	122,300	133,094	109%	135,575	-	0%	135,575	100%	-	
Property Taxes - Prior Yr	95,000	112,405	118%	95,000	42,834	45%	95,000	100%	-	
State Reimbursement	80,000	102,000	128%	80,000	19,500	24%	80,000	100%	-	D
Property Taxes - Jefferson Co.	42,500	43,763	103%	46,700	806	2%	46,700	100%	-	
Miscellaneous	36,000	36,806	102%	36,000	8,860	25%	36,000	100%	-	
TOTAL RESOURCES	15,281,100	15,811,114	103%	16,046,775	1,650,771	10%	15,980,775	100%	(66,000)	

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance	
Personnel Services	11,064,394	10,323,415	93%	11,620,402	3,449,309	30%	11,021,034	95%	599,368	E
Materials and Services	4,377,521	3,800,335	87%	4,010,045	1,376,820	34%	4,010,045	100%	-	
Capital Outlay	1,940,000	1,000,254	52%	1,730,000	289,389	17%	1,730,000	100%	-	
TOTAL REQUIREMENTS	17,381,915	15,124,004	87%	17,360,447	5,115,518	29%	16,761,079	97%	599,368	

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Transfers In	630,000	630,000	100%	560,000	560,000	100%	560,000	100%	-
Transfers Out	(630,000)	(630,000)	100%	(560,000)	(560,000)	100%	(560,000)	100%	-
TOTAL TRANSFERS	-	-		-	-		-		-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	$ Variance
Beginning Fund Balance	15,149,495	15,149,495	100%	15,224,000	15,836,605	104%	15,836,605	104%	612,605
Resources over Requirements	(2,100,815)	687,110		(1,313,672)	(3,464,747)		(780,304)		533,368
Net Transfers - In (Out)	-	-		-	-		-		-
TOTAL FUND BALANCE	$ 13,048,680	$ 15,836,605	121%	$ 13,910,328	$ 12,371,858	89%	$ 15,056,301	108%	$1,145,973

A Current Year taxes received primarily in November, February, and May. Actual FY 2027 TAV is 4.66% over FY 2026 vs 4.70% budgeted. Additionally, the District is expecting higher than budgeted penalties from late filings.

B Telephone tax payments are received quarterly.

C Invoices are mailed in the Spring.

D State GIS reimbursements are received quarterly.

E Projected personnel savings estimated at 6.0% based on YTD cost savings rate.

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Applications for Oregon Department of Transportation's Local Bridge Program

RECOMMENDED MOTION:
Move to authorize the Road Department to submit three applications for ODOT's Local Bridge Program.

BACKGROUND AND POLICY IMPLICATIONS:
The Oregon Department of Transportation (ODOT) Local Bridge Program provides federal funding for replacement or rehabilitation of deficient City- and County-owned bridges. ODOT is currently accepting applications through November 23, 2026 for the 2030-2033 ODOT Statewide Transportation Improvement Program (STIP) cycle.

The Road Department is preparing applications for rehabilitation of the following bridges:

- Spring River Rd (Deschutes River) Bridge 17923
- Cottonwood Rd (BNSF RR) Bridge 17C550
- Burgess Rd (Deschutes River) Bridge 09C783

The Road Department seeks authorization from the Board to submit the proposed funding applications.

BUDGET IMPACTS:
None at this time. Selected projects would be delivered during the 2030-2033 ODOT STIP cycle. If any of Deschutes County's proposed projects are selected, County matching funds would be budgeted in the Road CIP Fund (Fund 465) based on when projects are programed in the STIP.

ATTENDANCE:
Cody Smith, County Engineer/Assistant Road Department Director

ODOT Local Bridge Program (LBP)

2026 Applications

Cody Smith, PE
County Engineer/Assistant Road Dept. Director

BOCC MEETING | MAY 27, 2026

LBP Overview

- Federal bridge funding administered by ODOT for replacement or rehabilitation of deficient city and county-owned bridges.
- Created under ODOT/AOC/LOC Agreement
- Current call for projects for 2030-2033 ODOT STIP cycle
- Available funding = $63,132,117
- Eligibility:
  - Bridges in National Bridge Inventory (NBI) (span ≥ 20 ft.)
  - Replacement – Bridge Sufficiency Rating <50 (no Deschutes County bridges)
  - Rehabilitation - Bridge Sufficiency Rating <80 and ≥50
- Projects delivered by ODOT due to Federal funding (as such, cost estimates are higher than that of County-led projects)
- 10.27% matching funds are required

LBP Overview

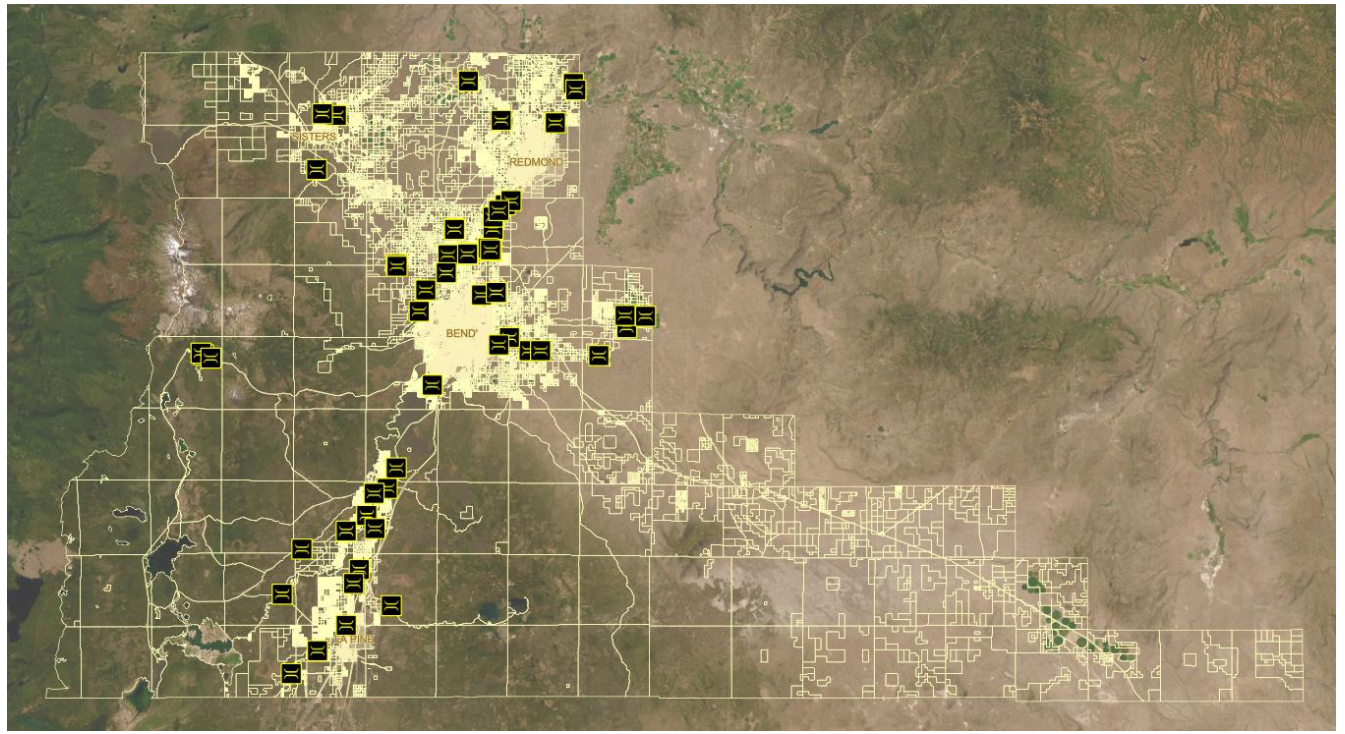
- Timeline:
  - Call for projects — August 2026
  - Applications due — November 23, 2026
  - Scoring and scoping — March 2027 – August 2027
  - Final project selection — April 2028

LBP Overview

- Program Updates:
  - ODOT/LOC/AOC Agreement is outdated
    - Program criteria does not align with current FHWA Standards for the National Bridge Inventory (SNBI)
      - Sufficiency Ratings have been eliminated in SNBI
      - Bridges conditions are now classified as “Good”, “Fair, or “Poor” based on lowest condition rating (0-to-9 scale) of primary bridge components
      - Sufficiency rating is currently primary factor in technical ranking for ODOT LBP
    - Program does not provide for lower cost preservation projects
  - This is last call-for-projects under current agreement

County Bridges Overview

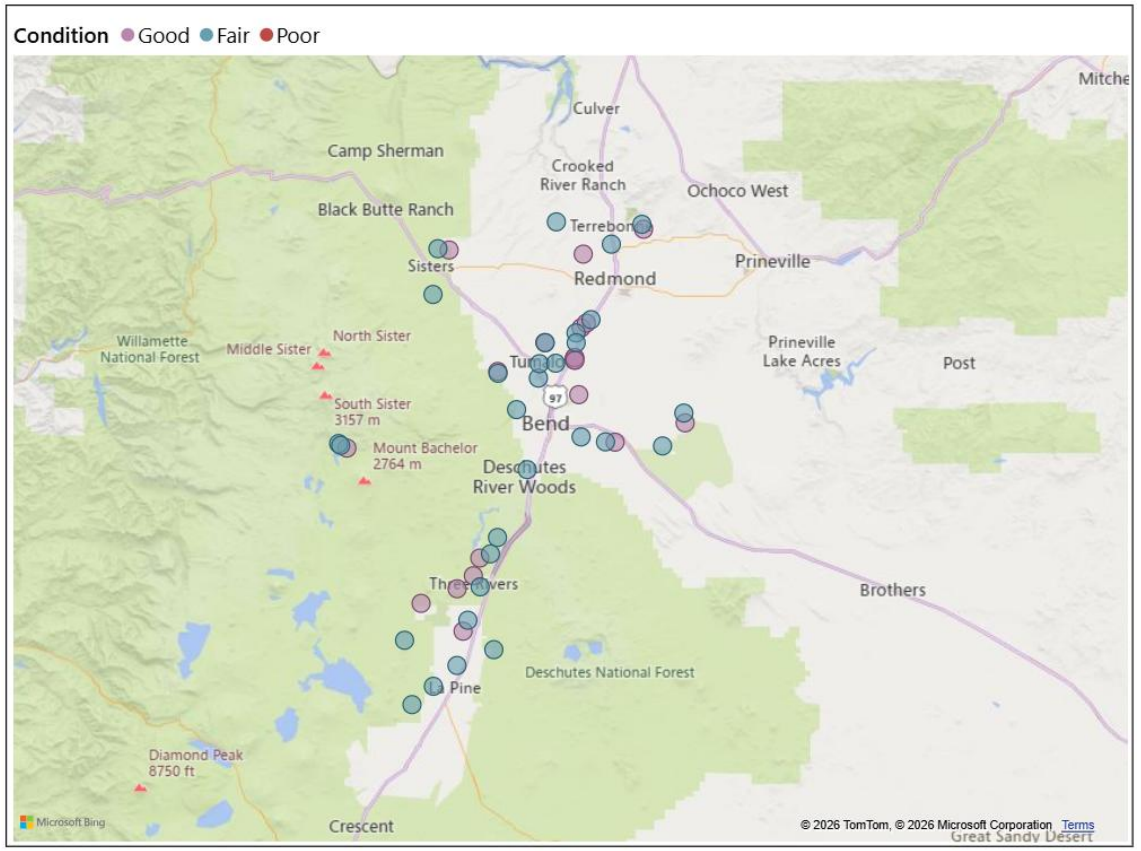
- 56 Bridges
  - 49 NBI Bridges
  - 7 Non-NBI Bridges



County Bridges Overview

- NBI Bridge Conditions
  - 20 bridges = “Good” condition
  - 29 bridges = “Fair” condition
  - 0 bridges = “Poor” condition

- No Deschutes County bridges eligible for replacement funds



Source: ODOT Transparency, Accountability and Performance Website (https://www.oregon.gov/odot/TAP/Pages/BridgeData.aspx)

Spring River Rd (Deschutes River) Bridge 17923



- Current Conditions
  - Sufficiency Rating = 54.4 out of 100 (2024)
  - Built in 1995
  - Three-Span w/ Concrete Girders, Steel Piles
- Scope of Work
  - Patching of concrete railing
  - Repair steel piles and concrete substructure elements
  - Replace transverse joints in bridge deck
  - Replace bridge rail and approach guardrail
- Est. Cost: $1,485,000
  - LBP Share: $1,332,491
  - County Share: $152,509

Cottonwood Rd (BNSF RR) Bridge 17C550

- Current Conditions
  - Sufficiency Rating = 59.5 out of 100 (2024)
  - Built in 1984
  - Three-Span w/ Concrete Girders
- Scope of Work
  - Patch concrete elements
  - Replace bridge joints and bearings
  - Replace bridge rail
  - Install new fencing along bridge railing (required by BNSF)
- Est. Cost: $1,750,000
  - LBP Share: $1,570,275
  - County Share: $179,725



Burgess Rd (Deschutes River) Bridge 09C783

- Current Conditions
  - Sufficiency Rating = 64.2 out of 100 (2024)
  - Built in 1963
  - Single-span: Steel Girders w/ Concrete Deck
- Scope of Work
  - Patch concrete deck & install polymer overlay
  - Replace failed bridge bearings
  - New bridge rail and approach guardrail
- Est. Cost: $1,495,000
  - LBP Share: $1,341,464
  - County Share: $153,536



DESCHUTES COUNTY | ROAD DEPARTMENT

Thank you

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Fagen Rural Industrial Plan Amendment and Zone Change for four properties located on Tumalo Road

RECOMMENDED MOTION:
Move approval of Hearings Officer decision for files 247-26-000431-PA, 432-ZC, approving a Comprehensive Plan Amendment from RREA to Rural Industrial and a Zone Change from Flood Plain and Multiple Use Agricultural to Rural Industrial.

Or

Move to initiate *de novo* review of files 247-26-000431-PA, 432-ZC regarding a Comprehensive Plan Amendment from RREA to Rural Industrial and a Zone Change from Flood Plain and Multiple Use Agricultural to Rural Industrial.

BACKGROUND AND POLICY IMPLICATIONS:
Staff will provide background to the Board for consideration of whether to initiate review of a Comprehensive Plan Amendment and Zone Change application for four properties located at 21006 Tumalo Road, 21020 Tumalo Road, 21028 Tumalo Road, and 21040 Tumalo Road. Three of the properties are currently zoned Flood Plain and one property is split-zoned FP and Multiple Use Agricultural.

The applicant proposes to rezone the properties to Rural Industrial (RI) and change the Comprehensive Plan designation from Rural Residential Exception Area to RI. A public hearing was held before the Deschutes County Hearings Officer on September 14, 2026, and a Hearings Officer decision approving the applications was mailed on November 10, 2026.

BUDGET IMPACTS:
None.

ATTENDANCE:
Audrey Stuart, Associate Planner
Anthony Raguine, Principal Planner
Will Groves, Planning Manager

COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Board of County Commissioners

FROM: Audrey Stuart, Associate Planner

DATE: November 10, 2026

RE: Consideration of whether to initiate review of a Comprehensive Plan Amendment and Zone Change request; Land use file nos. 247-26-000431-PA, 432-ZC.

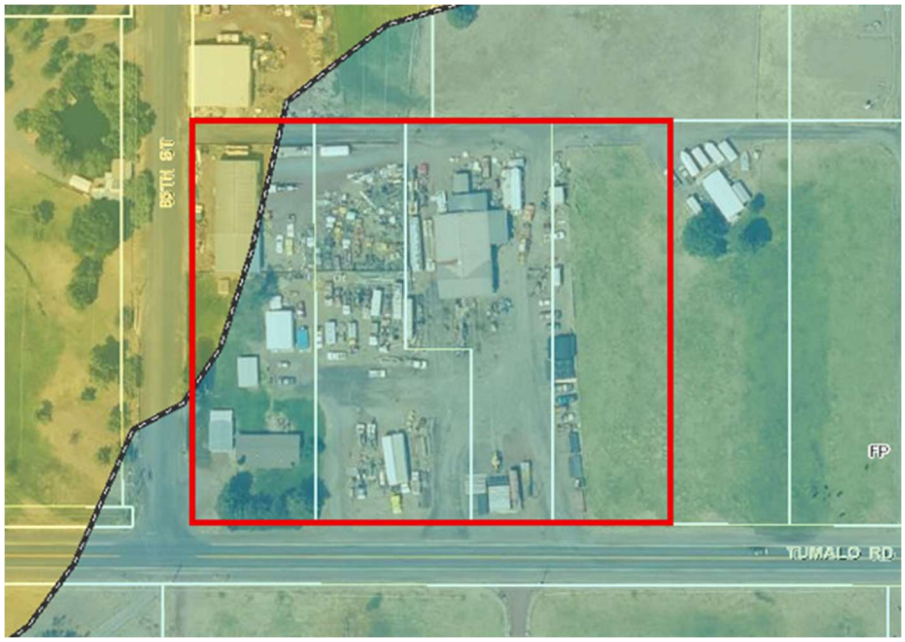
On November 16, 2026, the Board of County Commissioners (Board) will consider whether to initiate review of a Hearings Officer's decision regarding a Comprehensive Plan Amendment and Zone Change for four properties. The applicant proposes to change the zoning from Flood Plain (FP) and Multiple Use Agricultural (MUA10) to Rural Industrial (RI) and proposes to change the Comprehensive Plan designation from Rural Residential Exception Area (RREA) to Rural Industrial (RI).

I. SUBJECT PROPERTY

The subject property consists of four adjacent properties, which are located west of Highway 97 at the intersection of Tumalo Road and 85th Street. Three of the properties are currently zoned FP and one of the properties is currently split-zoned FP and MUA10. The subject properties are listed below:

Address	*Taxlot*	*Owner*
21006 Tumalo Road	161227A002900	Fagen Family Trust
21020 Tumalo Road	161227A002800	Fagen Family Trust
21028 Tumalo Road	161227A002700	Fagen Family Trust
21040 Tumalo Road	161227A002600	Fagen Family Trust

The figure below shows the current zoning of the four subject properties. As shown in this figure, the northwest portion of the property at 21006 Tumalo Road is within the MUA10 zone, and the remainder of the subject property is currently zoned FP.

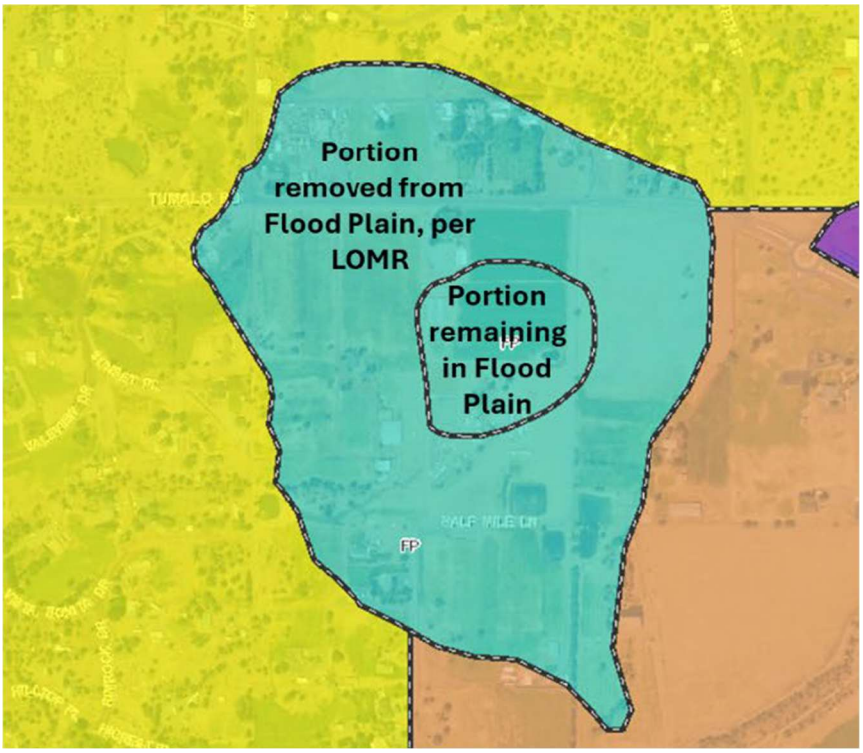


The property at 21006 Tumalo Road is developed with a dwelling and accessory structure. This property received approval for a home occupation for an antique and collectables business through file no. CU-88-54. The property at 21028 Tumalo Road is developed with a 4,100-square-foot building that is utilized for a well-drilling business. A building expansion was approved through file nos. 247-25-000519-CU, 620-SP and has not been constructed yet. The application materials state that the subject properties have historically been developed for commercial and industrial uses, including the storage of equipment and vehicles.

II. PROPOSAL

The Applicant requests a change in the zoning designation, from FP and MUA10 to RI, and a concurrent change in the Comprehensive Plan designation to Rural Industrial. Any future development under the proposed RI zoning would be subject to separate land use review pursuant to DCC 18.100.

Per DCC 18.96.020, areas designated as the special flood hazard area (or "100-year floodplain") on the Flood Insurance Rate Maps dated September 28, 2007, were assigned a county zoning designation of FP. There is a process that property owners can go through with the Federal Emergency Management Agency (FEMA) to revise the flood insurance maps if new information or studies become available, or if fill is added to a property. However, revising the flood insurance maps through FEMA does not automatically change the boundary of the FP zone on the property. The subject properties are located within an area that went through a FEMA map amendment process in 2015, and the figure below shows the smaller area that was acknowledged as being below base flood elevation. The subject application will rezone the subject properties to remove the FP zoning from the area that was recognized as outside of the special flood hazard area.



The subject application was originally submitted on June 30, 2026, as part of a larger application package that also includes 17 properties that are proposed to be rezoned from FP to MUA10 (file no. 247-26-000483-ZC). The corresponding FP to MUA10 zone change was split into a separate file on July 31, 2026, and has been approved by a Hearings Officer through a separate review process.

A staff report was mailed on September 4, 2026, and a public hearing was held before a Hearings Officer on September 14, 2026. As described below, the Board may decide to either adopt the Hearing's Officer decision or initiate review of the decision.

III. PUBLIC COMMENTS

As described above, this application was originally submitted as part of a larger application package that included a neighboring zone change to MUA10. In an abundance of caution, all public comments received prior to the July 31st date that the two applications were split apart were included in the record for both files.

Thirteen written comments were submitted prior to the Hearings Officer hearing, and five members of the public submitted written comments during the post-hearing open record period. Of the written comments that were submitted, approximately six were supportive of the application and eleven were opposed to the application. Six members of the public provided oral testimony in support of the application at the Hearings Officer hearing.

General themes of comments in support:

- The existing commercial and industrial uses in the general surrounding area;
- The historical use of the subject properties; and
- Lack of impacts that existing industrial uses have generated on surrounding residences.

General themes of comments in opposition:

- Negative impacts that new industrial uses may generate on surrounding residences;
- Increased traffic and road safety; and
- Procedural concerns with submitting the FP to MUA10 and the FP to RI zone change requests as one application package.

IV. HEARINGS OFFICER DECISION

The Hearings Officer found the proposal complied with all applicable provisions of Deschutes County Code, Deschutes County Comprehensive Plan policies, and Statewide Planning Goals, and their decision approving this application was mailed on November 10, 2026.

There is a 12-day appeal period following the date that the Hearings Officer's decision is mailed. This appeal period ends at 4:00 pm on November 23, 2026[1], and if appealed, a public hearing before the Board will be scheduled.

V. BOARD OPTIONS

Pursuant to DCC 22.28.030(B), the Board shall adopt the Hearing's Officer decision unless an appeal is filed or the Board initiates review of the application. Under DCC Title 22, the Board is only required to hold their own hearing when a Zone Change application involves an exception to a Statewide Planning Goal or involves land that is designated for forest or agricultural use. In this instance, neither of those conditions apply and the Board is therefore not required to hear this application.

Reasons not to hear

Members of the public received a mailed Notice of Application and Notice of Public Hearing and were provided an opportunity to submit written comments and provide oral testimony. The written comment period was left open following the Hearings Officer hearing, with seven days for new evidence and testimony, and an additional seven days for rebuttal testimony. The Hearings Officer Decision responds to issues raised in public comments, to the extent they are directed to applicable approval criteria.

If the Board decides the Hearings Officer's decision shall be the final decision of the county, then the Board shall not initiate review. Assuming no appeals are filed, staff will then return to the Board for a first and second reading of a draft Ordinance approving the subject Comprehensive Plan Amendment and Zone Change.

[1] DCC 22.08.070: Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the County is not open for business pursuant to a county ordinance, in which case it shall also be excluded.

Reasons to hear

The Board may want to take testimony and make interpretations relating to the Hearings Officer's decision. The Board may also want to reinforce or refute some or all of the decision findings/interpretations prior to Land Use Board of Appeals review, if the county's decision is appealed. The Board may also choose to modify the Hearings Officer's findings to provide additional analysis in response to concerns raised by members of the public. Finally, the Board may want to offer additional opportunities for public testimony by holding a new public hearing.

VI. 150-DAY LAND USE CLOCK

This proposal is not subject to the statutory 150-day review timeline.

VII. RECORD

The record for File Nos. 247-26-000431-PA, 432-ZC is as presented at the following Deschutes County Community Development Department website:

www.deschutescounty.gov/FagenPAZC

Attachments:
1. Hearing's Officer Decision for file nos. 247-26-000431-PA, 432-ZC
2. Staff Report for file nos. 247-26-000431-PA, 432-ZC

DECISION AND FINDINGS OF
THE DESCHUTES COUNTY HEARINGS OFFICER

FILE NUMBERS: 247-26-000431-PA / 247-26-000432-ZC

HEARING DATE: September 14, 2026, 1:00 p.m.

HEARING LOCATION: Videoconference and
Barnes & Sawyer Rooms
Deschutes Services Center
1300 NW Wall Street
Bend, OR 97708

APPLICANT/OWNER: Harry and Beverly Fagen ("Applicant")
Fagen Family Trust ("Owner")

SUBJECT PROPERTIES: Map and Tax Lots/Situs Address:
161227A002600; 21040 Tumalo Road, Bend, OR 97703
161227A002700; 21028 Tumalo Road, Bend, OR 97703
161227A002800; 21020 Tumalo Road, Bend, OR 97703
161227A002900; 21006 Tumalo Road, Bend, OR 97703

REQUEST: The Applicant requests approval of a Comprehensive Plan Map Amendment to change the designation of the Subject Properties from Rural Residential Exception Area (RREA) to Rural Industrial (RI). The Applicant also requests a Zone Change to rezone the Subject Properties to Rural Industrial (RI), three of which are currently zoned Flood Plain (FP), and one of which is currently zoned FP and Multiple Use Agricultural (MUA-10).

HEARINGS OFFICER: Tommy A. Brooks

SUMMARY OF DECISION: The Hearings Officer finds that the Applicant has met its burden of satisfying the approval criteria and APPROVES the requested Comprehensive Plan Map Amendment and the requested Zone Change.

I. APPLICABLE STANDARDS AND CRITERIA

Deschutes County Code (DCC)
- Title 18, Deschutes County Zoning Ordinance:
  - Chapter 18.04, Title, Purpose, and Definitions
  - Chapter 18.32, Multiple Use Agricultural Zone (MUA-10)
  - Chapter 18.56, Surface Mining Impact Area Combining Zone (SM)
  - Chapter 18.80, Airport Safety Combining Zone (AS)
  - Chapter 18.96, Flood Plain Zone (FP)
  - Chapter 18.100, Rural Industrial Zone
  - Chapter 18.113, Destination Resorts Zone (DR)
  - Chapter 18.136, Amendments
- Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan
- Chapter 2, Resource Management
- Chapter 3, Rural Growth Management
  - Appendix C, Transportation System Plan

Oregon Administrative Rules (OAR) - Chapter 660
- Division 12, Transportation Planning
- Division 15, Statewide Planning Goals

Oregon Revised Statutes (ORS)
- Chapter 197, Comprehensive Land Use Planning

II. BACKGROUND AND PROCEDURAL FINDINGS

A. Nature of Proceeding

This matter comes before the Hearings Officer as a request by the Applicant, on behalf of the Owner, for approval of a Comprehensive Plan Map ("Plan Map") Amendment ("Plan Amendment") to change the Plan Map designation of the four parcels comprising the Subject Properties to Rural Industrial ("RI"). All of the parcels comprising the Subject Properties are currently designated Rural Residential Exception Area ("RREA") on the County's Plan Map. The Applicant also seeks to change the zoning designation of the Subject Properties to the Rural Industrial ("RI") zone. Three of the parcels (Tax Lots 2600, 2700, and 2800) are currently zoned Flood Plain ("FP"), and the fourth parcel (Tax Lot 2900) is split-zoned, carrying both the FP zone and the Multiple Use Agricultural ("MUA-10") zone designations.

The Applicant initially submitted the Application as part of a larger request that also sought to change the zoning designation for other properties near the Subject Properties. The request relating to those other properties was separated into a different case file (File No. 247-26-000483-ZC) and is no longer part of

this request, and this matter involves only the Applicant's request for the Plan Amendment and Zone Change for the Subject Properties.

The Applicant asserts that the RREA Plan Map designation for the Subject Properties indicates that the Subject Properties are no longer "designated for forest or agricultural use" and, therefore, that the Hearings Officer is to make a decision on the Plan Amendment and Zone Change rather than a recommendation to the County's Board of Commissioners ("County Board") pursuant to Deschutes County Code ("DCC" or "Code") 22.28.030(A) and (C). No participant in this proceeding disputes that assertion. This Decision therefore considers whether the Applicant has met its burden of proof in a manner that justifies a final determination on the Application.

B. Notices, Hearing, Record

The Applicant initially filed the Application on June 30, 2026, and provided supplemental materials during this proceeding. As noted above, the initial request in the Application materials was separated into multiple case files, and the report prepared by staff in the County's Community Development Department ("Staff") states that the case file in this matter was created on July 31, 2026.

On July 21, 2026, after the Application was submitted, but prior to the creation of this separate case file, Staff mailed a Notice of Application identifying the standards and criteria governing the review of the request in the Application and seeking public comment on the Application. On August 20, 2026, Staff mailed a Notice of Public Hearing ("Hearing Notice") to agencies, interested persons, and all property owners within 250 feet of the Subject Properties, announcing a public hearing to be held on September 14, 2026. The Hearing Notice was also published in the Bend Bulletin on August 23, 2026. The County submitted notice of the Hearing to the Department of Land Conservation and Development on August 10, 2026.

Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on September 14, 2026, opening the Hearing at approximately 1:04 p.m. The Hearing was held in person and via videoconference, with the Hearings Officer appearing remotely. At the beginning of the Hearing, I provided an overview of the quasi-judicial process and instructed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. I stated I had no *ex parte* contacts to disclose or bias to declare. I invited but received no objections to the County's jurisdiction over the matter or to my participation as the Hearings Officer.

The Hearing concluded at approximately 2:03 p.m. Prior to the close of the Hearing, I received a request to leave the record open for written materials following a traditional "7-7-7" process. In response to that request, I announced that the record would remain open for additional written submittals as follows: (1) all participants had until September 21, 2026, to submit additional evidence or argument ("Open Record Period"); (2) all participants had until September 28, 2026, to submit evidence or argument to rebut evidence and arguments provided during the Open Record Period; and (3) the Applicant had until October 5, 2026, to submit a final legal argument, without any new evidence.

/ / /

C. Review Period

Because the Application includes a request for the Plan Amendment, the 150-day review period set forth in ORS 215.427(1) is not applicable.[1] The Staff Report also concludes that the 150-day review period is not applicable by virtue of DCC 22.20.040(D). No participant in this proceeding disputes that conclusion.

III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

A. Staff Report

On September 4, 2026, Staff issued a report setting forth the applicable criteria and presenting evidence in the record at that time ("Staff Report").

The Staff Report, although it expresses agreement with the Applicant in many places, does not make a final recommendation. Instead, the Staff Report asks the Hearings Officer to determine if the Applicant has met the burden of proof necessary to justify the Plan Amendment and the Zone Change. Where the Staff Report does make conclusions and findings, I find that the Staff Report is comprehensive and well-reasoned. As a result, I hereby adopt the findings in the Staff Report as my findings, as supplemented and modified by the findings in this Decision, which address the disputed issues in this proceeding, or address areas where the Staff Report does not make specific findings. To the extent any of the findings in this Decision conflict with the findings in the Staff Report, my intent is to have these findings control.

B. Findings

The legal criteria applicable to the requested Plan Amendment and Zone Change were set forth in the Hearing Notice and also appear in the Staff Report. No participant to this proceeding asserted that those criteria do not apply, or that other criteria are applicable. This Decision therefore addresses the applicable provisions of the identified criteria, as set forth below.

1. Procedural Issues

Participant Central Oregon LandWatch ("COLW") submitted multiple comments raising procedural issues in this matter.

COLW's initial comments were submitted on July 23, 2026, prior to the date when this case file was made separate from the case file referenced above that sought only a zone change on nearby properties. As a result, those comments addressed some issues no longer relevant to this proceeding. COLW then submitted comments on September 14, 2026, just prior to the Hearing, and during the Open Record Period noting that it still requested the Hearings Officer to address "other procedural concerns" raised in its earlier submittals, but did not identify which concerns were specific to this proceeding or otherwise elaborate on those concerns. I therefore address those procedural concerns as presented in COLW's July 23rd and September 14th submittals, but only as they apply to this proceeding.

[1] ORS 215.427(7).

One concern COLW raised was its objection to a "consolidated procedure." According to COLW, ORS 215.416(2) allows an applicant to apply for all permits or zone changes needed for a development project as part of a single proceeding, but that the current request does not include a proposed "development project." Rather, the initial application included a combination of plan amendments and zone changes for multiple parcels under different ownership, which COLW argues is too "disparate" to combine into a single review. I find that concern to no longer be relevant to this proceeding. This case file involves a limited number of parcels, all under the same ownership, with the same request – that each parcel be included in the RI zone with an RI designation on the Plan Map. Those are not disparate requests, and it is possible to discern the specific request in this matter even though the record contains materials that are no longer relevant. Further, to the extent COLW is insisting that each parcel be reviewed separately in its own case file, it has not provided a sufficient legal basis mandating such an approach.

COLW's July 23rd submittal also asserted that the Applicant's request is legislative rather than quasi-judicial. That assertion, however, is based on an argument that the application involves multiple property owners and that it "proposes differing end outcomes." That observation may have been relevant to the initial application, but it is no longer relevant to this proceeding, which involves a single property owner seeking the same outcome on all parcels comprising the Subject Properties. I find that such a narrowly-circumscribed situation is quasi-judicial in nature and may be reviewed as proposed by the Applicant.

2. Plan Amendment

Pursuant to ORS 197.175(2), a Plan Amendment must comply with Statewide Planning Goals (each a "Goal" and, together, the "Goals"). Further, because the Plan has been acknowledged, the Plan Amendment must adhere to the procedures for a post-acknowledged plan amendment ("PAPA") set forth in state statutes and rules.

The Applicant addresses the Goals in its Application materials and explains why it believes the Application is consistent with each Goal. The Staff Report generally agrees with and supports the Applicant's analysis, although the Staff Report requests that the Hearings Officer specifically address Goal 14 relating to urbanization. The only other Goals expressly addressed by the participants are Goal 3, Goal 5, and, potentially, Goal 12. In the absence of any argument or evidence asserting that the Application is not consistent with the other Goals, I find that the explanation in the Application, repeated in the Staff Report, is sufficient to demonstrate compliance with the Goals, except for Goals 3, 5, 12, and 14, which require additional explanation, and which are addressed in more detail below.

Goal 3 – Agricultural Lands

Goal 3 and its implementing rules protect agricultural lands for farm use.[2] The Applicant's proposed Plan Amendment and Zone Change are premised on its assertion that the Subject Properties were never designated as "Agricultural Land" or other resource land under Goal 3 and its implementing rules and, therefore, do not require protection under Goal 3.

[2] *See, e.g.,* OAR 660-033-0010.

COLW disagrees with the Applicant's characterization of the Subject Properties. COLW asserts that the current RREA designation of the Subject Properties was done as a "committed exception" to encourage agricultural use at a noncommercial level while also providing rural living opportunities. According to COLW, designating the Subject Properties as RI on the Plan Map would go beyond that purpose, implying that an additional (or different) exception to Goal 3 is required.

The Applicant's response to COLW's arguments highlights the distinction between the three tax lots zoned FP and Tax Lot 2900, which is zoned FP and MUA-10. With respect to the three tax lots zoned FP, the Applicant asserts those parcels were never designated as agricultural land and that they were designated FP on the County's original 1979 zoning map without the need for taking an exception to Goal 3. The Applicant makes a similar argument for Tax Lot 2900, but acknowledges a portion of that parcel originally carried the MUA-10 zoning designation, and that it is only "unlikely" that the parcel was subject to the County's exception statement that later adopted the RREA designation on the Plan Map.

Having reviewed the information in the record, I find that it is more likely than not that the entirety of the Subject Properties was never inventoried as agricultural land subject to the protections of Goal 3. In making that finding, I am persuaded by the analysis in the matter presented in *Central Oregon LandWatch v. Deschutes County*, 80 Or LUBA 252 (2019) (slip op Aug 21, 2019) and *Central Oregon LandWatch v. Deschutes County*, 301 Or App 701 (2020). In those cases, the Land Use Board of Appeals ("LUBA") and the Court of Appeals considered the history of a parcel's designation, noting that its original zoning, as well as later analyses during periodic review, treated it consistently as being zoned Surface Mining ("SM"). Because the SM zone was not a resource zone implicating Goal 3, LUBA and the Court of Appeals concluded the parcel was never a protected resource, and that no exception to Goal 3 was necessary when later changing the Plan Map designation on that parcel.

Although LUBA and the Court of Appeals appeared to rely on a more detailed history of the parcel in those cases than exists for the Subject Properties in this matter, the only evidence in this record is that the Subject Properties have never carried a resource designation since the County adopted its original zoning map in 1979. Other properties during that time frame were clearly designated as exclusive farm use ("EFU"), meaning the County was capable of applying a similar designation to the Subject Properties at that time, but chose not to. As COLW notes in its discussion of the County's adoption of the RREA designation, the County's ordinance adopting the RREA designation in 1979 concludes that all other lands meeting the definition of agricultural lands must be zoned EFU unless an exception to Goal 3 is obtained. But that statement does not indicate that properties like the Subject Properties met the definition of agricultural land at that time and, in light of the non-resource designation of MUA-10 that the County originally applied to the Subject Properties, there is no basis to conclude that they did.

Based on the foregoing, I find that the requested Plan Amendment is consistent with Goal 3.[3]

[3] COLW makes similar arguments regarding OAR 660-004-0018(2)(d), which relates to the planning of exception areas. Because this Decision finds that the original zoning of the Subject Properties was done without an exception, I find that this administrative rule is not applicable as suggested by COLW.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces

Goal 5 and its implementing rules protect natural resources, scenic and historic areas, and open spaces. Pursuant to OAR 660-023-0250(3), the County does not have to apply Goal 5 as part of a PAPA "unless the PAPA affects a Goal 5 resource." In its initial comments, COLW asserts that Goal 5 is implicated because "[i]t appears the County's Goal 5 program is proposed to be altered by this application and an amendment of the County's 1992 Goal 5 inventory for wetlands/riparian areas may be in order."

COLW asserts only that there are "wetlands in the area" and does not assert that any wetlands exist on the Subject Properties. In response to a question by the Hearings Officer during the Hearing, the Applicant's representative indicated that the Subject Properties do not contain wetlands. In the absence of specific information indicating that a wetland or wetlands exist on the Subject Properties, I find no basis to further analyze Goal 5 as suggested by COLW in its July 23rd letter.

Based on the foregoing, I find that the requested Plan Amendment is consistent with Goal 5.

Goal 12 – Transportation

Goal 12 and OAR 660-012-0060 (the "Transportation Planning Rule" or "TPR" that implements Goal 12) are applicable to the Plan Amendment and the Zone Change. The Applicant asserts that its request complies with OAR 660-012-0060 and, therefore, is consistent with Goal 12. In support of that assertion, the Applicant submitted a transportation impact analysis memorandum dated June 30, 2026, prepared by traffic engineer, Joe Bessman, PE, addressing the requirements of the TPR. The County's Transportation Planner agreed with the report's methodologies and conclusions.

Multiple comments in the record express general concerns over increased traffic and potential traffic safety concerns. While those concerns implied the transportation system is not adequate to support more development in this area, no participant disputes with specificity the facts or conclusions in the Applicant's transportation impact analysis, and no participant specifically asserts that the Application does not comply with either Goal 12 or the TPR.

Based on the foregoing, and in the absence of more specific countervailing evidence or argument, I find that the requested Plan Amendment and Zone Change are consistent with Goal 12.

Goal 14 – Urbanization

Participant Kelly Hansen asserts that the Application is inconsistent with Goal 14. The Staff Report also contains some discussion about Goal 14 and asks the Hearings Officer to make specific findings for that Goal.

Goal 14 seeks to "provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure the

efficient use of land, and to provide for livable communities."[4] When a Plan Amendment results in the urbanization of rural land, it generally requires an exception to Goal 14. The Applicant asserts that no Goal 14 exception is required in this case, because the Plan Amendment and Zone Change will not result in the urbanization of land.

The County has on multiple occasions determined that all uses in the RI zone are rural in nature and, therefore, consistent with Goal 14. Those determinations have been upheld on review by LUBA and the Court of Appeals, most recently in *Central Oregon LandWatch v. Deschutes County*, 347 Or App 287 (2026) ("*Last Ranch*").

Based on the current state of the case law, it is clear that rezoning property to the County's RI zone complies with Goal 14 without the need to take an exception to that Goal. For that reason, I find that the Applicant has demonstrated the Application does not propose urban uses and is consistent with Goal 14.

3. Zone Change

The standards for approving the Zone Change are set forth in DCC Chapter 18.136. The only contested provisions of that Code chapter are in DCC 18.136.020. Those sections of that Chapter are set forth below in *italics*, followed by a discussion and conclusion relating to each section.

Section 18.136.020, Rezoning Standards

The applicant for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property. Factors to be demonstrated by the applicant are:

As explained in the Staff Report, this introductory Code language requires a consideration of the public interest based on the factors set forth in subsections (A) through (D) of this Code section rather than serving as a separate approval standard.

A. That the change conforms with the Comprehensive Plan, and the change is consistent with the plan's introductory statement and goals.

This Code provision requires a consideration of the public interest based on whether: (1) the Zone Change conforms to the Comprehensive Plan; and (2) the change is consistent with the Comprehensive Plan's introductory statement and goals.

With respect to the first factor, the Applicant primarily considers whether the Zone Change is consistent with the Subject Properties' current Plan Map designation. The Applicant notes that the current FP zoning actually "violates" the Plan because the Plan does not list the FP zone as one of the zones that implements the RREA Plan Map designation. According to the Applicant, the proposed Zone Change, which is being done in conjunction with a Plan Amendment, corrects that violation.

[4] OAR 660-015-0000(14).

Although the Applicant's logic makes sense, I find that this Code provision is better focused on the change in zoning designation, and whether the new zoning designation conforms to the Plan. The existing Plan Map designation is not relevant since the Applicant is also requesting to change that designation through the Plan Amendment. Accordingly, the analysis must consider what the Plan Map designation will be and not what it currently is. To that end, if the Plan Map designation is relevant, it is more appropriate to consider whether the new RI zone conforms with the RI Plan Map designation, and I find that it does. As the Applicant notes, the FP zone is contemplated in only a limited number of Plan Map designations, none of which include either the existing RREA or the future RI designations applicable to the Subject Properties. In contrast, the RI zone specifically implements the RI Plan Map designation.

With respect to the second factor, the Applicant notes that the introductory statements and goals in the Plan are not approval criteria, and no participant to this proceeding asserts otherwise. Even so, the Applicant asserts that the Zone Change is consistent with those statements and Goals because it is consistent with state law and the County's Plan provisions, which is part of the purpose of the Plan's introductory statements and goals.

Additionally, the Applicant identifies several individual Plan policies and goals potentially applicable to the Application, and then analyzes whether the Application is consistent with those policies and goals. The Applicant specifically points to some of the policies and goals in Chapter 2, Resource Management, as well as Chapter 3, Rural Growth Management.

Of the Plan goals and policies the Applicant relies on, the only dispute arises out of Policy 3.10.5, which relates to planning in the "Deschutes Junction" area. That policy is to "[m]aximize protection of the rural character of neighborhoods in the Deschutes Junction area while recognizing the intended development of properties designated for commercial, industrial and agricultural uses."

The Applicant addresses this policy, but questions whether this Plan policy applies because the Plan does not set forth a clear boundary of the Deschutes Junction area. The Applicant asserts that the new RI zone is consistent with this policy because the existing area is a mix of residential, commercial, and industrial uses, and the RI zone similarly allows only rural industrial uses. COLW expressly states that the Subject Properties are not in the Deschutes Junction area, but asserts the Zone Change is not consistent with this policy and that, for purposes of this Application, the surrounding area is better characterized as a rural residential area, and that Deschutes Junction was established in part to help protect those residential uses. As such, COLW asserts that the County cannot "maximize" the rural character of this neighborhood except by maintaining rural residential uses, and that the introduction of uses allowed in the RI zone is therefore improper.

Having reviewed the arguments of the Applicant and COLW, I initially find that Policy 3.10.5 is not directly applicable to the Subject Properties. Even so, I find that the Zone Change is consistent with Plan Policy 3.10.5. The express terms of that policy require consideration of the "rural character" of the neighborhood in Deschutes Junction, and that policy does not further refine what specific rural uses must be considered as part of that character. There is no dispute in this record that residential, commercial, and industrial uses can all be "rural" in nature, depending on the specific development. As noted above, all uses in the RI zone are considered rural in nature. Based on that factor alone, I find that the proposed Zone Change does not alter the rural character of a neighborhood, much less a neighborhood that it is not part

of. Even if a more refined approach is required, however, the record indicates that there are existing rural commercial and industrial uses either on the Subject Properties or in the vicinity of the Subject Properties. Thus, there is no basis to conclude that only rural residential uses in this area can support its rural character.

Based on the foregoing, I find that the Application satisfies DCC 18.136.020(A).

B. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

Only the Applicant and Staff offer any evidence or argument with respect to whether the Zone Change is consistent with the purpose and intent of the RI zoning district. Unlike almost every other zoning district, DCC 18.100, which governs uses in the RI zoning district, does not contain a purpose statement. The RI zoning district implements the Rural Industrial plan designation in the Comprehensive Plan, and Section 3.4 of the Comprehensive Plan provides the following:

> The county may apply the Rural Industrial plan designation to specific property within existing Rural Industrial exception areas, or to any other specific property that satisfies the requirements for a comprehensive plan designation change set forth by State Statute, Oregon Administrative Rules, this Comprehensive Plan and the Deschutes County Development Code, and that is located outside unincorporated communities and urban growth boundaries. The Rural Industrial plan designation and zoning brings these areas and specific properties into compliance with state rules by adopting zoning to ensure that they remain rural and that the uses allowed are less intensive than those allowed in unincorporated communities as defined in OAR 660-022.

The Subject Properties are located outside unincorporated communities and urban growth boundaries. This Code section is therefore satisfied if the Application "satisfies the requirements for a Comprehensive Plan designation change set forth by State Statute, Oregon Administrative Rules, the DCCP and the Deschutes County Development Code." In the findings above, this Decision determines that the Application satisfies the requirements for a Plan designation change to RI. The purpose and intent of the Zone Change is in part to allow zoning consistent with the new Plan Map designation, but also to allow rural industrial uses that are contemplated within the RI zone.

Based on the foregoing, and in the absence of any arguments that this Code provision is not satisfied, I find that the Application satisfies DCC 18.136.020(B).

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C. That changing the zoning will presently serve the public health, safety and welfare considering the following factors:

1. The availability and efficiency of providing necessary public services and facilities.

Only the Applicant and Staff address this Code provision. The Applicant states this criterion is met because public services are currently available to the Subject Properties, including electricity and water, and because the proposal satisfies the Transportation Planning Rule.

The Staff Report notes that there are no known deficiencies in public services or facilities that would negatively impact the public health, safety, or welfare.

Some comments in the record express general concerns about impacts to water or transportation, but those concerns generally focus on future, speculative development rather than on the current availability of services.

Based on the foregoing, and in the absence of more specific countervailing evidence or argument, I find that the Application satisfies DCC 18.136.020(C)(1).

2. The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.

The Applicant states that the Applicant's proposal is consistent with all applicable Plan goals and policies for the same reasons discussed above in response to DCC 18.136.020(A). The only discussion of those goals and policies by other participants relates to their arguments that certain statewide Goals have not been satisfied, or that Plan Policy 3.10.5 is not satisfied. Those arguments are addressed above.

As the Staff Report notes, the requested Zone Change will allow a different range of uses compared to what is allowed under the current FP zone. COLW agrees, and asserts that the differences in allowed uses are a material expansion of industrial uses not currently allowed in the FP zone, and that those uses will unacceptably impact existing residential uses on surrounding lands.

Although there are residential uses immediately surrounding the Subject Properties, the record indicates that there are residential, commercial, and industrial uses in the vicinity. Further, the record reveals that the Subject Properties themselves have historically been used for commercial purposes and other higher-intensity uses. The specific Plan goals and policies addressed by the participants are aimed at ensuring the rural character of the area. I find the rural character can be maintained so long as the uses allowed under the zone change are rural in nature. Because all uses in the RI zone are rural in nature, I find that the requested Zone Change will be consistent with those Plan goals and policies, even if there will be uses allowed that are not currently allowed in the FP zone.[5]

[5] The Applicant and COLW each address in some detail the scope of uses currently allowed in the FP zone. I find it is not necessary to address that issue as part of resolving the application of DCC 18.136.020 or any other approval standard.

Based on the foregoing, I find that the Application satisfies DCC 18.136.020(C)(2).

D. That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question.

According to the Applicant, this standard is satisfied based on there being a "mistake" in the identification of a flood hazard area that resulted in the initial application of the FP zone to the Subject Properties. The Applicant has obtained a Letter of Map Revision ("LOMR") that now indicates the Subject Properties are not within a flood hazard area, which the Applicant also characterizes as a change in circumstances for purposes of this Code section.

DCC 18.96.130 contemplates that something like a LOMR can exempt a property from certain flood protection regulations, but as the Staff Report notes, a change in the location of a flood hazard area does not appear to have any automatic effect on the zoning of property removed from the flood hazard area.

While the Applicant's LOMR is evidence that there is not currently a flood hazard area on the Subject Properties, I do not agree with the Applicant's characterization of this as a "mistake." The Applicant has not shown what the condition of the Subject Properties was when the FP zone was originally applied. In other words, there is no information in the record mandating a finding that the Subject Properties were never in a flood hazard area. Instead, it is more likely that the County used the best evidence it had at the time, but anticipated conditions could change, or that better information could be presented to inform a more precise location of the flood hazard area.

I agree with the Applicant, however, that the LOMR can be viewed as a change in circumstances. Either because of changed conditions on the ground, or because of having access to better information, the change in circumstances is that the Owner now knows, and can demonstrate, that the Subject Properties are not in a flood hazard area. Since that was the original basis of applying the FP zone to the Subject Properties, that is a sufficient basis for showing compliance with DCC 18.136.020(D).

COLW does not challenge using the LOMR as evidence of a change in circumstances, but it does dispute using that logic as a basis for changing the zoning of Tax Lot 2900. Because that parcel is partially zoned MUA-10, that portion was never considered to be within the flood hazard area, and COLW argues this prevents a finding that there was ever a mistake, or that there is now a change in circumstances with respect to that portion of the Subject Properties.

While I agree with COLW that the MUA-10 portion of Tax Lot 2900 does not show a mistake, I disagree that there has not been a change in circumstances for that portion of the Subject Properties. Two circumstances have changed. First, a majority of Tax Lot 2900 is now known to be outside of the flood hazard area, and the MUA-10 portion of the Subject Properties is part of that larger parcel. Second, the findings above approve the requested Plan Amendment, meaning that the Plan Map designation for Tax Lot 2900 is different. I find a change in a Plan Map designation to be a sufficient change in circumstances to show compliance with DCC 18.136.020(D).

Based on the foregoing, I find that the Application satisfies DCC 18.136.020(D).

4. Code Enforcement Issues

COLW asserts that the County cannot approve the Plan Amendment and Zone Change in light of DCC 22.20.015(A). Pursuant to that Code provision, if any property is in violation of applicable land use regulations, approvals, or permits, the County cannot make land use decisions relating to that property. COLW provided evidence of Code violations on the Subject Properties that were sustained as part of a Code enforcement proceeding.

Although the evidence shows the existence of a Code violation in 2025, that evidence does not indicate that the violation still exists. In contrast, the Applicant has confirmed that the enforcement proceedings have been fully resolved and that there are no active or ongoing enforcement actions.

Because there is no evidence of an existing violation on the Subject Properties, I find that DCC 22.20.015(A) does not prohibit consideration of the Plan Amendment and Zone Change. Even if a prior violation still existed, I find it is not necessary to resolve such a violation as part of this Decision, and the County retains the right to enforce its Code.

IV. CONCLUSION

Based on the foregoing findings, I find the Applicant has met its burden of proof with respect to the standards for approving the requested Plan Amendment and Zone Change. The Application is therefore GRANTED.

Dated this 10th day of November 2026



Tommy A. Brooks
Deschutes County Hearings Officer

owner	agent	inCareof	address	cityStZip	type	cdd id
Ken Katzaroff			US Bank Center 1420 5th Ave, Suite 3400	Seattle, WA 98101	HOD	26-431-PA, 432-ZC
Daniel Robinson			360 SW Bond Street, Suite 500	Bend, OR 97702	HOD	26-431-PA, 432-ZC
FAGEN FAMILY TRUST			21059 ROBIN AVE	BEND, OR 97703	HOD	26-431-PA, 432-ZC

NOTICE OF HEARINGS OFFICER'S DECISION

The Deschutes County Hearings Officer has approved the land use application(s) described below:

FILE NUMBER: 247-26-000431-PA, 247-26-000432-ZC

LOCATION: The subject properties are listed below:

Address	*Taxlot*
21006 Tumalo Road	161227A002900
21020 Tumalo Road	161227A002800
21028 Tumalo Road	161227A002700
21040 Tumalo Road	161227A002600

OWNER: Fagen Family Trust

APPLICANT: Harry and Beverly Fagen

SUBJECT: The Applicant requests approval of a Comprehensive Plan Map Amendment to change the designation of the Subject Properties from Rural Residential Exception Area (RREA) to Rural Industrial (RI). The Applicant also requests a Zone Change to rezone the Subject Properties to Rural Industrial (RI), three of which are currently zoned Flood Plain (FP), and one of which is currently zoned FP and Multiple Use Agricultural (MUA-10).

STAFF CONTACT: Audrey Stuart, (541) 388-6679, Audrey.Stuart@deschutes.org

RECORD: Record items can be viewed and downloaded from: www.deschutescounty.gov/FagenPAZC

APPLICABLE CRITERIA: The Hearings Officer reviewed this application for compliance against criteria contained in Chapters 18.04, 18.32, 18.56, 18.80, 18.96, 18.100, and 18.136 in Title 18 of the Deschutes County Code (DCC), the

Deschutes County Zoning Ordinance, the Deschutes County Comprehensive Plan, OAR Chapter 660, ORS Chapter 197, as well as against the procedural requirements of Title 22 of the DCC.

DECISION: The Hearings Officer finds that the Applicant has met its burden of satisfying the approval criteria and approves the requested Comprehensive Plan Map Amendment and the requested Zone Change.

This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the base appeal deposit plus 20% of the original application fee(s), and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Board of County Commissioners an adequate opportunity to respond to and resolve each issue.

Copies of the decision, application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

Land Use File 247-26-000431-PA, 432-ZC

21006, 21020, 21028, and 21040 Tumalo Road





Date: 8/6/2026

N

0 80 160 320 ft

1 inch = 188 feet

DESCHUTES COUNTY

owner	agent	inCareof	address	citySt Zip	type	cdd id
BEND FIRE DEPT.	Jeff Bond / Drew Whyte/ Jace Moulton		ELECTRONIC		NOHD	26-431-PA, 432-ZC
BEND GROWTH MANAGEMENT DEPT.			709 NW WALL ST., STE. 102	Bend, OR 97701	NOHD	26-431-PA, 432-ZC
BEND MUNICIPAL AIRPORT (CITY OF BEND)	Airport Manger / Economic Development		P.O. BOX 431	Bend, OR 97709	NOHD	26-431-PA, 432-ZC
DEPT. OF LAND CONSERV. & DEVEL.			63055 North Highway 97, Building M	Bend, OR 97703	NOHD	26-431-PA, 432-ZC
DEPT. OF LAND CONSERV. & DEVEL.			635 CAPITOL ST. NE, #150	Salem, OR 97301-2540	NOHD	26-431-PA, 432-ZC
DEPT. OF STATE LANDS	Mike Schmeiske		ELECTRONIC		NOHD	26-431-PA, 432-ZC
DESCHUTES CO. ASSESSOR			ELECTRONIC		NOHD	26-431-PA, 432-ZC
DESCHUTES CO. ROAD DEPT.	Cody Smith / Quinn Shubert		ELECTRONIC		NOHD	26-431-PA, 432-ZC
DESCHUTES CO. SR. TRANS. PLANNER	Tarik Rawlings		ELECTRONIC		NOHD	26-431-PA, 432-ZC
ODOT REGION 4 PLANNING			ELECTRONIC		NOHD	26-431-PA, 432-ZC
SWALLEY IRRIGATION DISTRICT			64672 COOK AVE.	BEND, OR 97701	NOHD	26-431-PA, 432-ZC
WATERMASTER - DISTRICT 11	Sam VanLingham		ELECTRONIC		NOHD	26-431-PA, 432-ZC
Ken Katzaroff			US Bank Center 1420 5th Ave, Suite 3400	Seattle, WA 98101	NOHD	26-431-PA, 432-ZC
Daniel Robinson			360 SW Bond Street, Suite 500	Bend, OR 97702	NOHD	26-431-PA, 432-ZC
11 ROBIN LLC	FAGEN, HARRY J & BEVERLY (LE)		53 NW TUMALO AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
60 TUMALO LLC			53 NW TUMALO AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
BEDFORD, SHAUNAGH M			20955 89TH ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
BERG,TIMOTHY A & JENNIFER J			20962 SUNSET PLACE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
BRAD DAHLEN TRUST	DAHLEN, BRADLEY M TTEE		20972 VISTA BONITA DR	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
BRADEN, AUGUST J			PO BOX 7991	BEND, OR 97708	NOHD	26-431-PA, 432-ZC
CAVE ,JACK A & ELIZABETH J			20969 89TH ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
CHRISTENSEN, KRAIG A & SHIRLEY			64992 VALEVIEW DR	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
COURTNEY LEE JONES FAMILY TRUST	JONES, COURTNEY LEE TTEE		64879 HALF MILE LN	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
DAHLEN, A R			63715 OB RILEY RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
DANZIG, MAC & ANGELA NICOLE			20940 89TH ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
DAVIS, CORY & AGNES			64859 HALF MILE LN	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
DEAN & RENEE BORYS TRUST	BORYS, DEAN ALLEN & RENEE VALORA TTEES		21056 ROBIN AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
DIXON MORGAN D & THORP CARSON			21055 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
DUE, SUSSIE MARIE ET AL			21114 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
EDWARD & CONNIE SCHIERLING FAMILY TR	SCHIERLING,EDWARD D & CONNIE A TTEES		20947 89TH ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
EVANOFF, ERIC & DENISE			545 NE LAFAYETTE	BEND, OR 97701	NOHD	26-431-PA, 432-ZC
FAGEN FAMILY TRUST	FAGEN, HARRY J SR & BEVERLY A TTEES		53 NW TUMALO AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC

FAGEN FAMILY TRUST	FAGEN, HARRY & BEVERLY TTEES	53 NW TUMALO AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
FAGEN TRUST	FAGEN, NEIL M TTEE	53 NW TUMALO AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
GLENDA COX FAMILY TRUST ET AL	COX, GLENDA S TTEE	20975 SUNSET PL	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
GROZA, ANDREW JOSEPH & JOHANNA JOY		21070 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
HANSEN, KELLY S		21042 ROBIN AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
HARTMAN REVOCABLE TRUST	HARTMAN, SANDRA J & KARNES, AMY E TTEES	21080 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
HELLWICH, DEANNA JEAN MOZO & DYLAN		65043 85TH ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
HERR FAMILY TRUST ET AL	HERR, CHRISTY TTEE ET AL	11386 SW IRONWOOD LP	TIGARD, OR 97223	NOHD	26-431-PA, 432-ZC
HICKEY, PAULA		PO BOX 5381	BEND, OR 97708	NOHD	26-431-PA, 432-ZC
HIGHSMITH, DEANNA D		21070 ROBIN AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
JONES, COURTNEY		64879 HALF MILE LN	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
KARNES, KENNETH & AMY		21086 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
KRISTYN DUEBER LIVING TRUST	DUEBER, KRISTYN L TTEE	20989 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
KYLE SULLIVAN & MARY DILL JOINT LIV TRUS	DILL, MARY & SULLIVAN, KYLE TTEES	20980 SUNSET PL	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
LAYNE K MILOWE TRUST	MILOWE, LAYNE K TTEE	64978 VALEVIEW DR	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
LISA ANN ENSWORTH REVOCABLE LIVING TRUST	ENSWORTH, LISA ANN TTEE	20909 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
MALONE, LUMAE T ET AL		64880 HALF MILE LN	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
MARKS, JONATHAN		20929 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
MCCREERY, JONI MARIE		64895 HALF MILE LN	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
MCVAY, HELEN AIMEE & RYAN EDWIN		20995 VISTA BONITA DR	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
MILLAR, BRAXTON & CYNTHIA		809 W LUCKY CLOVER LN	SALT LAKE CITY, UT 84123	NOHD	26-431-PA, 432-ZC
MILLER, SARAH ANN & STEVEN D ET AL		PO BOX 6316	BEND, OR 97708	NOHD	26-431-PA, 432-ZC
MONA TWIGGS TRUST	TWIGGS, MONA E TTEE	21125 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
NICHOLLS, SARAI & JACOB		21101 ROBIN AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
NIEMEYER, DARIN & SHERRI D		740 NE 3RD #3-277	BEND, OR 97701	NOHD	26-431-PA, 432-ZC
PASAYE, LAURA & RODRIGUEZ, ANTONIO		64870 RIMROCK DR	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
PEDERSEN, ERIN		65075 85TH ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
PETER IACOPUCCI LIVING TRUST ET AL	IACOPUCCI, PETER TTEE	20973 89TH ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
PRICE 2013 REV LIV TRUST	PRICE, LARRY D TTEE	47821 SHAWNEE AVE	COARSEGOLD, CA 93614	NOHD	26-431-PA, 432-ZC
SCHREINER FAMILY TRUST,	SCHREINER, KENNETH A & MARILYN TRUSTEES	65070 85TH ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
SCHREINER, JAMES & JULIE		65528 93RD ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
SPENCER,HOWARD & BRENDA		20904 TUMALO RD	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
STACEY,RONALD D JR & ANTOINETTE M		20960 89TH ST	BEND, OR 97703	NOHD	26-431-PA, 432-ZC

TERRY & LAURIE MAZZOTTA TRUST	MAZZOTTA, TERRY T TTEE ET AL		20865 HEREFORD AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
THOMASBERG,PAUL R & RITA			21122 ROBIN AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
THOMPSON,JEFFREY ROY			21081 ROBIN AVE	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
UMEMOTO, ROBERT		C/O B&G EXCAVATION & PLUMBING	17835 SE FOSTER RD	DAMASCUS, OR 97069-5557	NOHD	26-431-PA, 432-ZC
UNBOTHERED LLC			2234 SANDY DR	EUGENE, OR 97401	NOHD	26-431-PA, 432-ZC
VAN TASSEL,SHIRLEY			20990 VISTA BONITA DR	BEND, OR 97703	NOHD	26-431-PA, 432-ZC
Kelly Hansen			1001 SW Disk Dr suite 250	Bend OR 97702	NOHD	26-431-PA, 432-ZC
Robin Hayakawa			2843 NW Lolo Dr. Ste. 200	Bend, OR 97703	NOHD	26-431-PA, 432-ZC
Dan Maricich			21080 Oriole Ln	Bend, OR 97703	NOHD	26-431-PA, 432-ZC
Noemi Arellano-Summer			ELECTRONIC		NOHD	26-431-PA, 432-ZC
Kimberly Young			ELECTRONIC		NOHD	26-431-PA, 432-ZC
Carol Schrader			ELECTRONIC		NOHD	26-431-PA, 432-ZC
Dean and Renee Borys			ELECTRONIC		NOHD	26-431-PA, 432-ZC
Kathleen Brown			20845 Hereford Ave.	Bend, OR 97703	NOHD	26-431-PA, 432-ZC
Allison Suran			ELECTRONIC		NOHD	26-431-PA, 432-ZC
Eric and Ranae Christensen			65290 78th St.	Bend, OR 97703	NOHD	26-431-PA, 432-ZC
Eric and Ranae Christensen			65290 78th St.	Bend OR 97703	NOHD	26-431-PA, 432-ZC
Chelsea Culpon			ELECTRONIC		NOHD	26-431-PA, 432-ZC
Phil G Peterson			63130 94th St	Bend, OR 97703	NOHD	26-431-PA, 432-ZC
Tony Aceti			21235 Tumalo Pl	Bend, OR 97703	NOHD	26-431-PA, 432-ZC
Ann Dahlen			63715 OB Riley Rd	Bend, OR 97703	NOHD	26-431-PA, 432-ZC
Carson Thorp			21055 Tumalo Rd	Bend, OR 97703	NOHD	26-431-PA, 432-ZC
Carl Cromwell			21006 Tumalo Rd	Bend, OR 97703	NOHD	26-431-PA, 432-ZC

STAFF REPORT

FILE NUMBER(S): 247-26-000431-PA, 247-26-000432-ZC

SUBJECT PROPERTY/ OWNER:

Mailing Name: FAGEN FAMILY TRUST
Map and Taxlot: 161227A002900
Account: 133011
Situs Address: 21006 TUMALO RD, BEND, OR 97703

Mailing Name: FAGEN FAMILY TRUST
Map and Taxlot: 161227A002800
Account: 133012
Situs Address: 21020 TUMALO RD, BEND, OR 97703

Mailing Name: FAGEN FAMILY TRUST
Map and Taxlot: 161227A002700
Account: 133013
Situs Address: 21028 TUMALO RD, BEND, OR 97703

Mailing Name: FAGEN FAMILY TRUST
Map and Taxlot: 161227A002600
Account: 133014
Situs Address: 21040 TUMALO RD, BEND, OR 97703

APPLICANT: Harry and Beverly Fagen

ATTORNEY FOR APPLICANT: Ken Katzaroff, Schwabe, Williamson & Wyatt

REQUEST: Zone Change of three (3) properties from Flood Plain (FP) to Rural Industrial (RI), and one (1) split zoned property from FP and Multiple Use Agricultural (MUA10) to RI.

The Applicant also requests a Comprehensive Plan Amendment to change the designation of the four properties from Rural Residential Exception Area (RREA) to Rural Industrial (RI).

STAFF CONTACT: Audrey Stuart, Associate Planner
Phone: 541-388-6679
Email: Audrey.Stuart@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.deschutescounty.gov/FagenPAZC

I. APPLICABLE CRITERIA

Deschutes County Code ("DCC")
- Title 18, Deschutes County Zoning Ordinance
  - Chapter 18.04, Title, Purpose, and Definitions
  - Chapter 18.96, Flood Plain Zone
  - Chapter 18.100, Rural Industrial Zone
  - Chapter 18.113, Destination Resorts Zone ("DR")
  - Chapter 18.136, Amendments
- Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan ("DCCP")
- Chapter 1, Comprehensive Planning
- Chapter 2, Resource Management
- Chapter 3, Rural Growth Management
  - Appendix C, Transportation System Plan

Oregon Administrative Rules ("OAR")
- Chapter 660, Land Conservation and Development Department
  - Division 12, Transportation Planning
  - Division 15, Statewide Planning Goals

Oregon Revised Statutes ("ORS")
- Chapter 197, Comprehensive Land Use Planning

II. BASIC FINDINGS

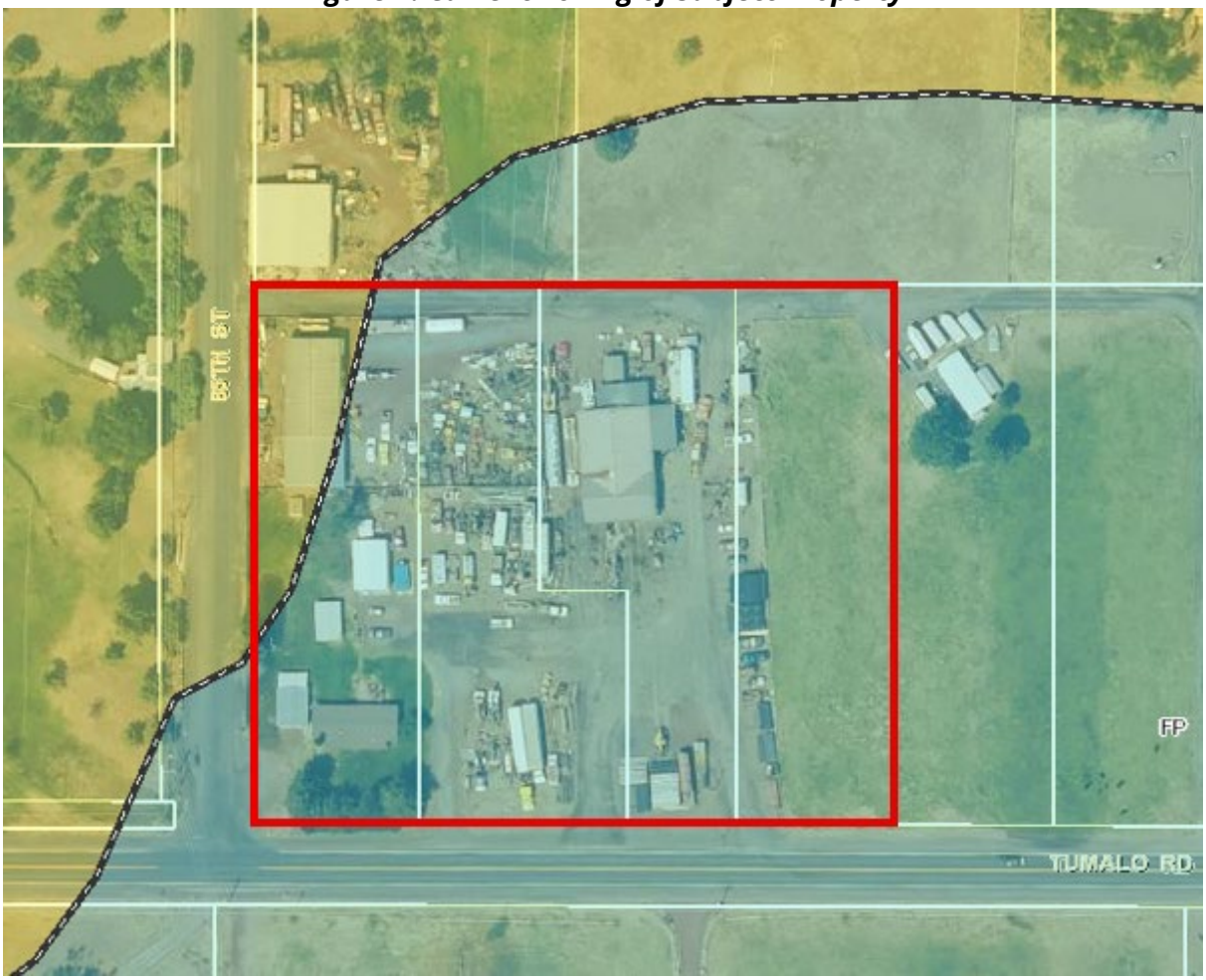
LOT OF RECORD: DCC 22.04.040(B)(1) specifies the types of land use applications that require lot of record verification, and a Comprehensive Plan Amendment and Zone Change are not listed. In the *Powell/Ramsey* (PA-14-2, ZC-14-2) decision, the Hearings Officer held to a prior zone change decision (*Belveron* ZC-08-04; page 3) that a property's lot of record status was not required to be verified as part of a plan amendment and zone change application. Rather, the applicant would be required to receive lot of record verification prior to any development on the subject property. Therefore, this criterion does not apply.

Furthermore, the four lots that comprise the subject property are each a legal lot of record because they were platted as lots within the First Addition to Whispering Pines Estates subdivision.

SITE DESCRIPTION: The subject property consists of four lots which are located at or near the

intersection of 85th Street and Tumalo Road. As shown in the figure below, three of the properties are currently zoned FP and one property is zoned FP and MUA10.

Figure 1: Current Zoning of Subject Property

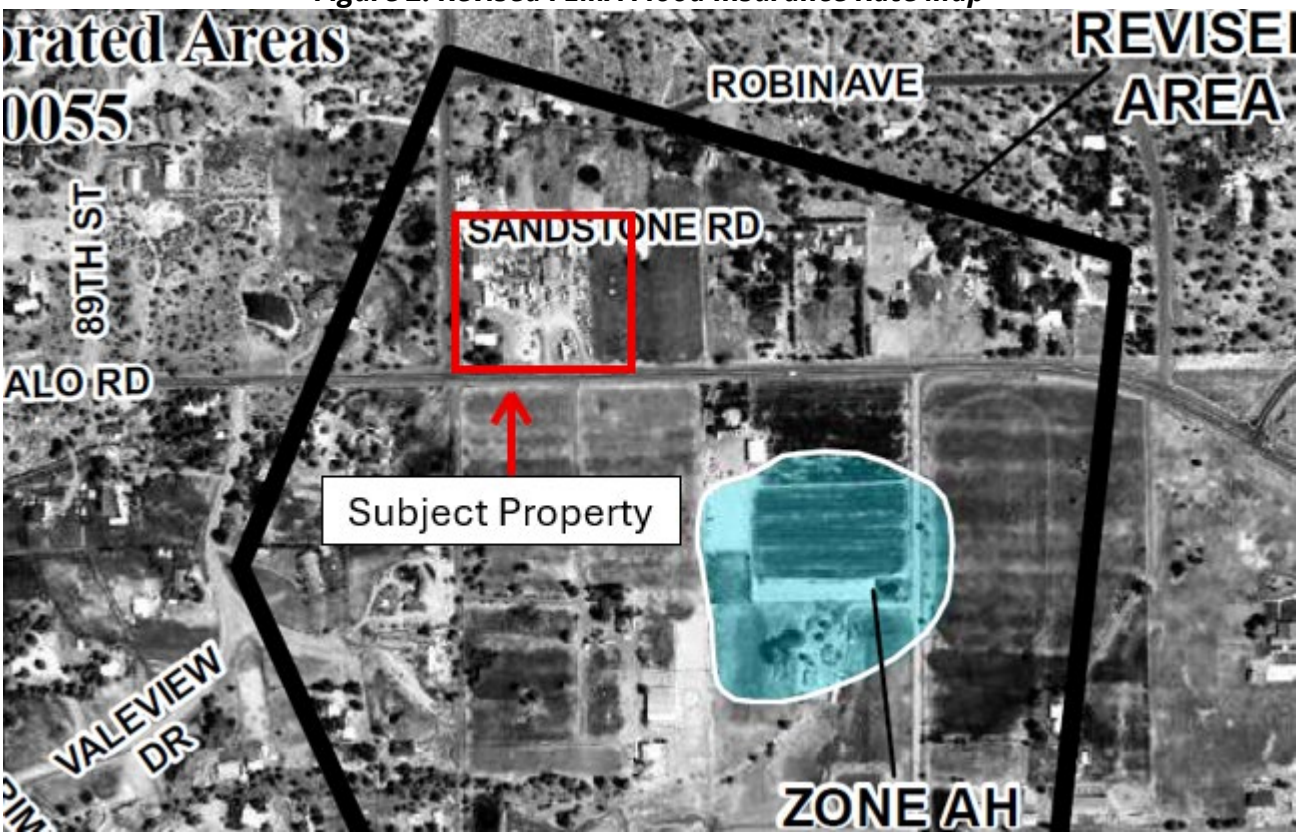


PROPOSAL: The applicant requests approval of a Comprehensive Plan Map Amendment to change the designation of the subject properties from Rural Residential Exception Area (RREA) to Rural Industrial (RI). The applicant also requests approval of a corresponding Zoning Map Amendment to change the zoning of the subject properties from Flood Plain (FP) and Multiple Use Agricultural (MUA10) to Rural Industrial (RI). The application materials include the following explanation of the history of the FP zone on the subject property:

> **FLOODPLAIN HISTORY:** The Deschutes County Flood Plain (FP) Zone includes all areas designated as "Special Flood Hazard Areas" on the Federal Flood Insurance Rate Maps (FIRM). Special Flood Hazards Areas are lands that would be inundated by a 100-year flood event, that are at or below the base flood elevation (BFE). The flood map for the subject properties are FIRM No. 41017C0470E, Effective Date: September 28, 2007. The subject properties are currently wholly or partly located in the FP zone, however, no portion of any of the properties are subject to the one percent chance flood hazard, based on the Letter of Map Revision (LOMR) Case No. 15-10-0345P, effective July 6, 2015 (Exhibit F).

The subject properties are part of a larger area that went through a LOMR with the Federal Emergency Management Agency (FEMA), which recognized that the subject properties are *not* subject to the 100-year flood risk. In the figure below, the subject properties are approximately shown with a red outline, while the blue shaded area is the revised boundary of the special flood hazard area, based on the 2015 LOMR.

Figure 2: Revised FEMA Flood Insurance Rate Map



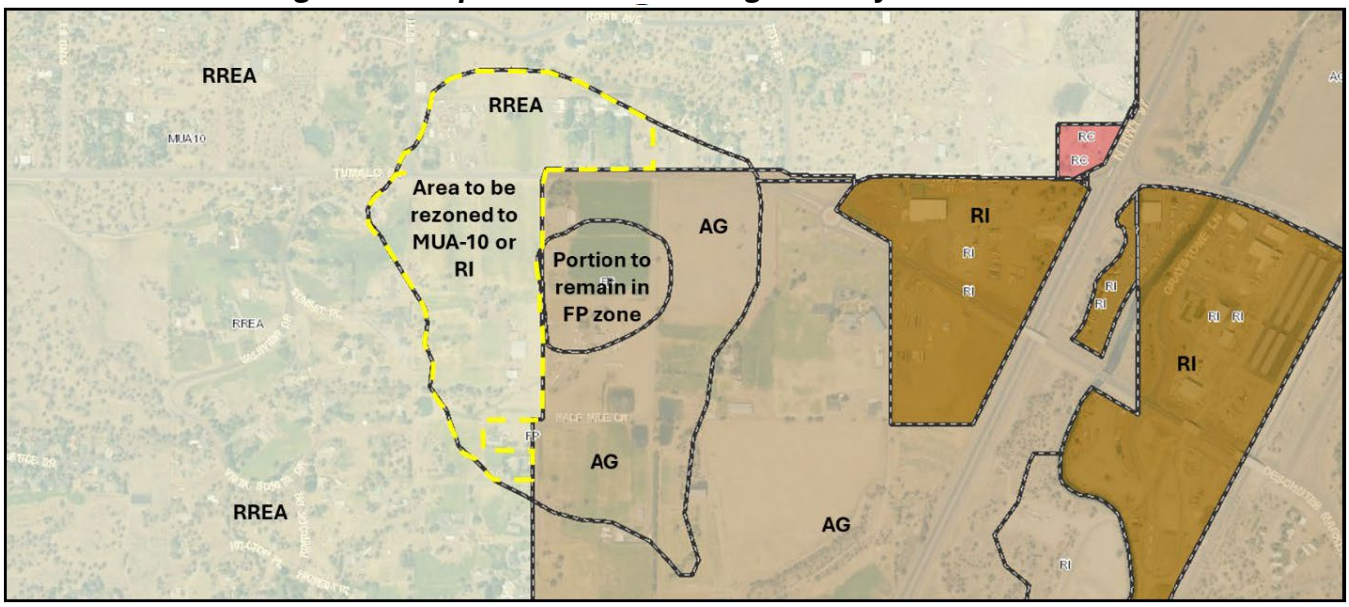
The applicant has submitted a traffic analysis prepared by Transight Consulting, LLC dated June 30, 2026, hereafter referred to as "traffic study." Additionally, the applicant has submitted an application form, a burden of proof statement, and other supplemental materials, all of which are included in the record for the subject applications.

PROCEDURAL HISTORY: The application package for file nos. 247-26-000431-PA, 432-ZC originally included a request to change the zoning of 17 nearby properties from FP to MUA10. The application package was split into two separate Zone Change files on July 31, 2026. The FP to MUA10 rezone request is being reviewed through file no. 247-26-000483-ZC.

SURROUNDING LAND USES: Immediately surrounding properties are zoned FP and MUA10 and are predominantly developed with rural residences and small-scale agriculture consisting of irrigated pasture. The larger surrounding area also includes commercial and industrial developments, which are primarily concentrated along Highway 97. A number of surrounding properties are being reviewed through a concurrent Zone Change from FP to MUA10, which is described in the Procedural History section above.

The applicant provided the following figure in their Burden of Proof, which shows the Comprehensive Plan designation of the subject property and surrounding area. As illustrated in this figure, the general surrounding area includes a mix of land designated RREA, Agriculture (AG), RI, and Rural Commercial (RC).

Figure 3: Comprehensive Plan Designation of General Area



The adjacent properties are outlined below in further detail:

North: Adjacent properties to the north were platted as part of the First Addition to Whispering Pines Estates subdivision and range in size from 2.14 to 2.68 acres. These properties are primarily developed with single-unit dwellings and accessory structures. The adjacent property located at 21011 Robin Avenue (Tax Lot 3000 on Assessor's Map 16-12-27A) received a Land Use Combability Statement for hemp processing in 2019 and it is not clear if this use is still continuing on the property. Farther north, the First Addition to Whispering Pines Estates subdivision contains lots that are zoned MUA10 and Rural Residential (RR10), and are developed with private residences.

South: The closest property that is receiving special tax assessment for farm use is the neighboring parcel to the south, which is separated from the subject properties by Tumalo Road. The property at 21025 Tumalo Road (Tax Lot 400 on Assessor's Map 16-12-27D) is 21 acres in size and appears to contain irrigated fields and some animal corrals. Other properties located to the south of Tumalo Road are receiving farm tax deferral and appear to contain small-to-medium scale agricultural uses, in addition to single-unit dwellings.

Southwest: Properties to the southwest are located within the Ranch El Sereno subdivision and range in size from approximately 1.7 to 3 acres. These lots are predominantly developed with single-unit dwellings and accessory structures.

East: Properties immediately to the east of the subject property are zoned FP and MUA10 and contain single-unit dwellings, accessory structures, and several vacant properties. Properties adjacent to Highway 97 contain commercial uses such as well-drilling and logging business, including a verified nonconforming use in the MUA10 zone. There is a small area located at the intersection of Highway 97 and Tumalo Place which is zoned Rural Commercial and has received approval for a business that sells landscaping materials.

Farther east is an area known as Deschutes Junction, which has historically been developed with commercial and industrial uses. This area to the east of Highway 97 and to the south of Pleasant Ridge Road is heavily developed with industrial uses such as mineral aggregate sale, a fuel yard, and a mini storage facility.

Southeast: Approximately 0.35 miles to the east of the subject property at 21235 Tumalo Place is a parcel that went through a Zone Change from Exclusive Farm Use to RI through file nos. 247-20-000438-PA, 439-ZC (*Aceti*). A school is located on the EFU-zoned parcel to the west of the Aceti property.

PUBLIC AGENCY COMMENTS: The Planning Division mailed notice on July 21, 2026, to several public agencies and received the following comments:

Deschutes County Senior Transportation Planner, Tarik Rawlings

> I have reviewed the application materials for file no. 247-26-000431-PA, 432-ZC for a Plan Amendment to change the Comprehensive Plan designation for four (4) properties from Rural Residential Exception Area (RREA) to Rural Industrial (RI) and a corresponding Zone Change of five (5) properties from Flood Plain (FP) to Multiple Use Agricultural (MUA10), twelve (12) split-zoned properties from FP/MUA10 to MUA10, three (#) properties from FP to Rural Industrial (RI), and one (1) split-zoned property from FP/MUA10 to RI. The proposal is associated with the following properties:

Address	*Taxlot*	*Owner*	*Current Base Zone*	*Proposed Base Zone*
21006 Tumalo Road	161227A002900	FAGEN FAMILY TRUST	FP, MUA10	RI
21020 Tumalo Road	161227A002800	FAGEN FAMILY TRUST	FP	RI
21028 Tumalo Road	161227A002700	FAGEN FAMILY TRUST	FP	RI
21040 Tumalo Road	161227A002600	FAGEN FAMILY TRUST	FP	RI
21050 Tumalo Road	161227A002500	FAGEN FAMILY TRUST	FP	MUA10
21054 Tumalo Road	161227A002400	FAGEN FAMILY TRUST	FP	MUA10
21060 Tumalo Road	161227A002300	60 TUMALO LLC	FP	MUA10
21011 Robin Ave	161227A003000	11 ROBIN LLC	FP, MUA10	MUA10
21035 Robin Ave	161227A003101	FAGEN FAMILY TRUST	FP, MUA10	MUA10
21025 Tumalo Road	161227D000400	FAGEN TRUST	FP, MUA10	MUA10
21051 Robin Ave	161227A003100	FAGEN FAMILY TRUST	FP, MUA10	MUA10
21059 Robin Ave	161227A003100	FAGEN FAMILY TRUST	FP, MUA10	MUA10

21096 Tumalo Road	161227A001900	DAHLEN, A R	FP, MUA10	MUA10
20989 Tumalo Road	161227CA00100	KRISTYN DUEBER LIVING TRUST	FP, MUA10	MUA10
21070 Tumalo Road	161227A002200	GROZA, ANDREW JOSEPH & JOHANNA JOY	FP	MUA10
21080 Tumalo Road	161227A002100	HARTMAN REVOCABLE TRUST	FP, MUA10	MUA10
20954 Tumalo Road	161227B010001	HICKEY, PAULA	FP, MUA10	MUA10
64879 Half Mile Lane	161227D000500	COURTNEY LEE JONES FAMILY TRUST	FP, MUA10	MUA10
21086 Tumalo Road	161227A002000	KARNES, KENNETH & AMY	FP, MUA10	MUA10
20980 Sunset Place	161227CA00500	KYLE SULLIVAN & MARY DILL JOINT LIV TRUS	FP, MUA10	MUA10
21081 Robin Ave	161227A003200	THOMPSON,JEFFREY ROY	FP, MUA10	MUA10

The submitted application materials include a report prepared by Transight Consulting, LLC (dated June 30, 2026 and labeled as Exhibit H) analyzing the proposal's compliance with the Transportation Planning Rule (TPR) and Oregon Statewide Planning Goal 12 per OAR 660-012-0060. Staff generally agrees with the assumptions, methodology, and conclusions outlined in the report supporting the central conclusion that reasonable RI development potential would generate approximately 193 daily weekday vehicle trips and 37 p.m. peak hour trips when compared to the existing zoning designations of the subject properties. Staff further agrees that, even with the anticipated increase in vehicle trips, the Level of Service (LOS) associated with the primary roadways of Tumalo Road and Tumalo Place would remain within acceptable thresholds. Further, the report concludes that the proposal would not change County Road facility classifications or applicable classification standards. Collectively, the report demonstrates the proposal's compliance with Oregon Statewide Planning Goal 12 and TPR. No additional traffic analysis is required beyond this report.

As the subject application does not include a site plan or development proposal, the transportation analysis requirements of DCC 18.116.310 will need to be met during subsequent development review on the subject properties and any necessary mitigations, SDCs, or other relevant transportation improvements or considerations will need to be addressed at that time.

The subject properties primarily take access from various points along Tumalo Road and 8th Street. Tumalo Road is a public road right-of-way maintained by Deschutes County and functionally classified as a Rural Collector. 85th Street is a public road right-of-way maintained by Deschutes County and functionally classified as a Rural Local road. Any subsequent proposals or development on the subject properties will require the applicant(s) to

demonstrate compliance with the access permitting requirements of DCC 17.48.210 and DCC 12.28.050.

Board Resolution 2024-038 sets a transportation system development charge (SDC) rate of $5,633 per p.m. peak hour trip. As the plan amendment/zone change by itself does not generate any traffic, no SDCs apply at this time. SDCs will be assessed based on development and/or division of the properties. When development occurs, the SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC BASE RATE IS ONLY VALID UNTIL JUNE 30, 2027 PENDING ANY AMENDMENTS TO THE COUNTY'S CURRENT SDC RESOLUTION 2024-038. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS PULLED.

Thanks for the opportunity to comment and please let me know if you have any questions.

[STAFF COMMENT: The transportation comments above respond to both the subject application and file 247-26-000483-ZC.]

Quinn Shubert, Deschutes County Road Department

I have reviewed the submitted Transportation Planning Rule (TPR) analysis for the proposed Comprehensive Plan amendment and zone change associated with the Fagen PAZC / Floodplain MUA-10 and RI application. Staff finds that the report is generally sufficient for the limited purpose of evaluating Transportation Planning Rule / Goal 12 compliance for this land use action.

Staff generally agrees with the report's core conclusion that the proposed rezoning could increase trip generation potential compared to the existing zoning, but that the increase would not create a significant effect on an existing or planned transportation facility under OAR 660-012-0060. The report concludes that the affected study intersections and roadway segment would continue to operate acceptably under the County's adopted performance thresholds with or without the proposed rezone.

Staff also agrees, in general, with the report's framing that a rezone-level TPR analysis is intended to compare reasonable development potential under the existing and proposed zoning designations, rather than to function as a site-specific development traffic impact analysis. The report's use of a reasonable comparative trip-generation scenario is appropriate for this stage of review, provided the record remains clear that any future development proposal may require additional transportation review based on the specific use, site design, access configuration, and trip generation proposed at that time.

With respect to the applicable OAR 660-012-0060 significance standards, staff generally agrees that the proposed amendment would not change the functional classification of an existing or planned transportation facility, would not amend standards implementing a functional classification system, and would not result in travel levels or access conditions inconsistent with the functional classification of affected facilities. Staff also agrees that, based on the operational information provided, the proposal would not cause a facility to fall below adopted performance standards or further degrade a facility that is otherwise projected not to meet those standards.

Staff notes that the report's operational adequacy discussion is important because the proposed zoning does not appear to reduce trip generation potential. The report concludes that the study intersections and roadway segment continue to operate acceptably under the proposed rezone scenario, including in the Tumalo Road / Tumalo Place area. Staff generally accepts this conclusion for purposes of the TPR review, while noting that this analysis should not be interpreted as approval of a specific development plan, access location, driveway configuration, or development intensity.

Staff further notes that the record would be stronger if the report more clearly identified the land use assumptions, acreage assumptions, trip-generation methodology, and any uses or development intensities that were excluded from the analysis. This is particularly relevant where the proposed RI zoning could allow a range of uses with different trip characteristics. However, staff does not find this issue sufficient to undermine the report's overall conclusion for purposes of this plan amendment and zone change.

Staff also notes that any access permitting, access spacing, frontage improvements, or driveway-related requirements associated with future development should remain subject to review at the time a specific development proposal is submitted. To the extent any affected facility is under another road authority's jurisdiction, the County should ensure that the applicable agency has an opportunity to review the application and provide comments through the County's standard interagency review process.

Overall, while the report could have more clearly articulated certain methodological assumptions and tied them more directly to each individual TPR significance criterion, staff generally accepts the analysis as adequately fulfilling its intended purpose for this Comprehensive Plan amendment and zone change review. Based on the report's conclusion that affected transportation facilities would continue to operate acceptably under adopted performance standards, staff generally agrees that the proposal would not significantly affect an existing or planned transportation facility under OAR 660-012-0060. No additional traffic analysis or transportation mitigation is recommended at this stage, provided that future development remains subject to applicable County and road authority transportation review requirements.

The following agencies did not respond to the notice: Bend Fire Department, Bend Municipal Airport, City of Bend Growth Management Department, Department of Land Conservation and

Development, Department of State Lands, Deschutes County Assessor, Oregon Department of Transportation, and Swalley Irrigation District.

PUBLIC COMMENTS: The Planning Division mailed notice of the application to all property owners within 250 feet of the subject property on July 21, 2026. The applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. Six public comments were received from nearby property owners and Central Oregon LandWatch. Public comments include concerns regarding increased traffic, increased noise, impacts to existing domestic wells, and compatibility issues between industrial uses and surrounding residences.

NOTICE REQUIREMENT: On August 20, 2026, the Planning Division mailed a Notice of Public Hearing to all property owners within 250 feet of the subject property and public agencies. A Notice of Public Hearing was published in the Bend Bulletin on August 23, 2026. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on August 10, 2026.

REVIEW PERIOD: According to Deschutes County Code 22.20.040(D), the review of the proposed quasi-judicial plan amendment and zone change application is not subject to the 150-day review period.

LAND USE HISTORY: Previous land use actions associated with the subject properties are listed below.

Tax Lot 2900, 21006 Tumalo Road

- CU-88-54: Conditional Use Permit for an antique and collectables business as a home occupation. The applicant proposed to operate the business in the 520-square-foot garage located to the west of the manufactured home.

Tax Lot 2800, 21020 Tumalo Road

- 247-25-000435-LL: Property Line Adjustment with tax lot 2700.

Tax Lot 2700, 21028 Tumalo Road

- 247-25-000435-LL: Property Line Adjustment with tax lot 2800.
- 247-25-000519-CU, 247-25-000620-SP: Conditional Use Permit and Site Plan Review to construct an addition to an existing building for a well-drilling business.

Tax Lot 2600, 21040 Tumalo Road

- No previous land use permits.

III. FINDINGS & CONCLUSIONS

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.96, Flood Plain Zone

Section 18.96.020, Designated Areas

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for Deschutes County, Oregon and Incorporated Areas" revised September 28, 2007, with accompanying Flood Insurance Rate Maps is hereby adopted by reference and incorporated herein by this reference. The Flood Insurance Study is on file at the Deschutes County Community Development Department.

The Flood Plain Zone shall include all areas designated as "Special Flood Hazard Areas" by the Flood Insurance Study for Deschutes County. When base flood elevation data has not been provided in the Flood Insurance Study, the Planning Director will obtain, review and reasonably utilize any base flood elevation or floodway data available from federal, state or other sources in determining the location of a flood plain or floodway.

FINDING: Staff includes DCC 18.96.020 for reference, as it provides background on the establishment of the Flood Plain zone boundary. The four subject tax lots are part of a larger area, located to the west of Highway 97 and along Tumalo Road, which was designated as an isolated pocket of special flood hazard area by the 2007 Flood Insurance Study.

Section 18.96.130, Interpretation Of FIRM Boundaries

The Planning Director shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Such interpretations shall be processed as a development action pursuant to Chapter 22.16.

Where Flood Plain zoned land has been recognized as above the base flood elevation in a FEMA Letter of Map Change, uses and structures on such land shall be exempt from 18.96.080(D); 18.96.080(E); 18.96.080(G)(1), (2), and (3); 18.96.080(H); and 18.96.085.

FINDING: Staff also includes this code section for reference. Importantly, DCC 18.96.130 acknowledges the potential for property owners to refine the flood insurance maps through FEMA as new elevation data becomes available. The drafters of DCC 18.96 clearly contemplated that the special flood hazard area, as delineated on the 2007 Flood Insurance Study, would be updated as individual property owners went through a Letter of Map Change[1] process through FEMA. DCC 18.96.130 exempts these "over-mapped" portions of the FP zone from certain code provisions related to flood-proofed construction but clearly does not remove the FP base zone. County staff has historically interpreted this code section to mean that a separate Zone Change application is required to remove the FP zoning, even when a property has gone through a Letter of Map Change through FEMA.

[1] https://www.fema.gov/flood-maps/change-your-flood-zone/loma-lomr-f

Chapter 18.136, Amendments

Section 18.136.010, Amendments

DCC Title 18 may be amended as set forth in DCC 18.136. The procedures for text or legislative map changes shall be as set forth in DCC 22.12. A request by a property owner for a quasi-judicial map amendment shall be accomplished by filing an application on forms provided by the Planning Department and shall be subject to applicable procedures of DCC Title 22.

FINDING: The applicant, with written consent from the property owners, has requested a quasi-judicial plan amendment and filed the applications for a plan amendment and zone change. The applicant has filed the required Planning Division land use application forms for the proposal. The application will be reviewed utilizing the applicable procedures contained in Title 22 of the Deschutes County Code.

Section 18.136.020, Rezoning Standards

The applicant for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property. Factors to be demonstrated by the applicant are:

FINDING: Staff notes that the Hearings Officer recently addressed the introductory 'public interest is best served' language in *BCL* and interpreted the standard in conjunction with the factors identified in DCC 18.136.020(A)-(D). The Board adopted and added onto the Hearings Officer's findings in *BCL* and provided the following interpretation:

> ...COLW continued to argue to the Board that DCC 18.136.020 requires that an applicant show both that the factors in (A) through (D) are met and independently demonstrate that the rezoning best serves the public interest. The Board considered the countervailing arguments carefully and finds the Hearings Officers analysis to be sound and correct. The Board adopts the Hearings Officer's interpretation of DCC 18.136.020. Board interprets 'public interest is best served' to mean compliance with subsections (A)-(D).

Staff requests the Hearings Officer apply the introductory standard consistently with the Code and prior decisions to the extent applicable.

A. That the change conforms with the Comprehensive Plan, and the change is consistent with the plan's introductory statement and goals.

FINDING: The applicant provided the following response in its submitted burden of proof statement:

In previous decisions, the Hearings Officer found the introductory statement and goals are not approval criteria for the proposed plan amendment and zone change[2]. However, the Hearings Officer in the Landholdings decision found that depending on the language, some plan provisions may apply and found the following amended comprehensive plan goals and policies require consideration and that other provisions of the plan do not apply as stated below in the *Landholdings* decision:

> "Comprehensive plan statements, goals and policies typically are not intended to, and do not, constitute mandatory approval criteria for quasi-judicial/and use permit applications. *Save Our Skyline v. City of Bend*, 48 Or LUBA 192 (2004). There, LUBA held:
>
> > As intervenor correctly points out, local and statutory requirements that land use decisions be consistent with the comprehensive plan do not mean that all parts of the comprehensive plan necessarily are approval standards. [Citations omitted.] Local governments and this Board have frequently considered the text and context of cited parts of the comprehensive plan and concluded that the alleged comprehensive plan standard was not an applicable approval standard. [Citations omitted.] Even if the comprehensive plan includes provisions that can operate as approval standards, those standards are not necessarily relevant to all quasi-judicial land use permit applications. [Citation omitted.] Moreover, even if a plan provision is a relevant standard that must be considered, the plan provision might not constitute a separate mandatory approval criterion, in the sense that it must be separately satisfied, along with any other mandatory approval criteria, before the application can be approved. Instead, that plan provision, even if it constitutes a relevant standard, may represent a required consideration that must be balanced with other relevant considerations. [Citations omitted.]'
>
> LUBA went on to hold in *Save Our Skyline* that it is appropriate to 'consider first whether the comprehensive plan itself expressly assigns particular role to some or all of the plan's goals and policies.' Section 23.08.020 of the county's comprehensive plan provides as follows:
>
> The purpose of the Comprehensive Plan for Deschutes county is not to provide a site-specific identification of the appropriate land uses which may take place on a particular piece of land but rather it is to consider the significant factors which affect or are affects by development in the county and provide a general guide to the various decision which must be made to promote the greatest efficiency and equity possible, which managing the continuing growth and change of the area. Part of that process is identification of an appropriate land use plan, which is then interpreted to make decision about specific sites (most often in zoning and subdivision administration) but the plan must also consider the sociological, economic and environmental consequences of various actions and provide guidelines and policies

[2] *Powell/Ramsey* decision (PA-14-2 / ZC-14-2) and *Landholdings* Decision (247-16-000317-ZC / 318-PA).

for activities which may have effects beyond physical changes of the land (Emphases added.)

The Hearings Officer previously found that the above-underscored language strongly suggests the county's plan statements, goals and policies are not intended to establish approval standards for quasi-judicial/and use permit applications.

In *Bothman v. City of Eugene*, 51 Or LUBA 426 (2006), LUBA found it appropriate also to review the language of specific plan policies to determine whether and to what extent they may in fact establish decisional standards. The policies at issue in that case included those ranging from aspirational statements to planning directives to the city to policies with language providing 'guidance for decision-making' with respect to specific rezoning proposals. In *Bothman* LUBA concluded the planning commission erred in not considering in a zone change proceeding a plan policy requiring the city to '[r]ecognize the existing general office and commercial uses located * * * [in the geographic area including the subject property] and discourage future rezonings of these properties.' LUBA held that:

> * * * even where a plan provision might not constitute an independently applicable mandatory approval criterion, it may nonetheless represent a relevant and necessary consideration that must be reviewed and balanced with other relevant considerations, pursuant to ordinance provisions that require * * * consistency with applicable plan provision.' (Emphasis added.)
>
> The county's comprehensive plan includes a large number of goals and policies. The applicant's burden of proof addresses goals for rural development, economy, transportation, public facilities, recreation, energy, natural hazards, destination resorts, open spaces, fish and wildlife, and forest lands. The Hearings Officer finds these goals are aspirational in nature and therefore are not intended to create decision standards for the proposed zone change."

Hearings Officer Karen Green adhered to these findings in the *Powell/Ramsey* decision (file nos. PA-14-2/ZC-14-2), and found the above-referenced introductory statements and goals are not approval criteria for the proposed plan amendment and zone change. This Hearings Officer also adheres to the above findings herein. Nevertheless, depending upon their language, some plan provisions may require "consideration" even if they are not applicable approval criteria. *Save Our Skyline v. City of Bend*, 48 Or LUBA 192, 209 (2004). I find that the following amended comprehensive plan goals and policies require such consideration, and that other provisions of the plan do not apply:"

The comprehensive plan goals and policies that the *Landholdings* Hearings Officer found to apply include the following...

The applicant utilized this analysis, as well as analyses provided in prior Hearings Officers' decisions to determine and respond to only the Comprehensive Plan Goals and policies that apply, which are listed in the Comprehensive Plan section of this staff report in further detail. Staff generally agrees with the applicant's analysis and finds the above provision to be met based on Comprehensive Plan conformance as demonstrated in subsequent findings.

B. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

FINDING: The applicant provided the following response in the submitted burden of proof statement and notes that Chapter 18.100 of Deschutes County Code (DCC) does not include a purpose statement for the RI zone.

> The areas within the subject properties that are included in this application do not currently meet the definition of flood plain (1% flood hazard) and therefore are not consistent with the purpose and intent of its existing FP zoning. As described herein, the purpose of the Zone Change and Comprehensive Plan Map Amendment is to largely correct a mapping error, which is the result of a Letter of Map Revision (LOMR), which officially removed portions of Flood Plain from the subject properties in 2015. According to the Deschutes County Code (DCC), the FP zone includes all areas designated as "Special Flood Hazard Areas" on the Federal Flood Insurance Rate Maps (FIRM). However, while the subject properties are all, or partly, currently located in the FP zone, no portion within any of the properties included in this application are now subject to the one percent chance flood hazard, as was recognized in the FIRM with a Letter of Map Revision (LOMR) Case No. 15-10-0345P, effective July 6, 2015 (Exhibit F).
>
> …
>
> The proposed RI zone change is consistent with the current character of the immediate area which is primarily characterized by rural industrial and rural commercial uses. The "existing rural character of the area," does not consist of bucolic farmland and small farm-related buildings, but instead is a mixture of various rural industrial and rural commercial uses, a school, several dwellings, and hobby farms. As determined by the County in its decision in County File No. 247-25-000519-CU, 620-SP (Exhibit I), the site (161227A002700) was deemed suitable for the expansion of a non-residential storage structure "based on the developed nature of the subject property." In addition, the decision states that "Due to the developed nature of the subject property, staff finds the proposal will not impact any identified natural resources." Adjacent and nearby properties proposed to be rezoned to RI (Map and Tax Lots 161227A002600, 161227A002900, and 161227A002900) share the same characteristics. These properties are similarly developed with rural industrial and rural commercial type uses, such as storage of equipment and vehicles, and a[n] antique business home occupation (Exhibit J) on Map and Tax Lots 161227A002800 and 161227A002900, respectively.

Staff finds the following findings, which were written by the Hearings Officer and adopted by the Board of County Commissioners ("Board") in their decision for file nos. 247-21-000881-PA, 882-ZC (*LBNW*), provide guidance on how to apply this criterion in the absence of a purpose statement for the RI zone:

Section 3.4 of the Comprehensive Plan includes the following language for the rural industrial designation:

> ***Rural Industrial***
>
> ***The county may apply the Rural Industrial plan designation to specific property within existing Rural Industrial exception areas, or to any other specific property that satisfies the requirements for a comprehensive plan designation change set forth by State Statute, Oregon Administrative Rules, this Comprehensive Plan and the Deschutes County Development Code, and that is located outside unincorporated communities and urban growth boundaries. The Rural Industrial plan designation and zoning brings these areas and specific properties into compliance with state rules by adopting zoning to ensure that they remain rural and that the uses allowed are less intensive than those allowed in unincorporated communities as defined in OAR 660-022.***

The subject property is not within any existing Rural Industrial exception areas and is located outside unincorporated communities and urban growth boundaries. The County may apply the RI plan designation to any other specific property (outside of an RI exception area, and outside unincorporated communities and urban growth boundaries) that satisfies the requirements for a comprehensive plan designation change set forth by State Statute, Oregon Administrative Rules, the Deschutes County Comprehensive Plan ("DCCP") and the Deschutes County Development Code. The Hearings Officer finds that the fact the subject property is outside of an RI exception area does not preclude consideration of the application.

There is no longer a "purpose" statement in DCC Chapter 18.100 regarding the intent of the RI zone. Chapter 18.100 merely sets forth uses permitted outright, conditional uses, use limitations, dimensional standards, off-street parking and loading requirements, site design, "additional requirements" and solar setback requirements and includes a separate section concerning a limited use combining zone, Deschutes Junction. Without a "purpose and intent" statement for the RI zone, the Hearings Officer cannot make findings as to whether the application is consistent with the proposed zone classification's purpose and intent.

As stated in Section 3.4 of the Comprehensive Plan, RI plan designation and zoning brings specific properties into compliance with state rules "by adopting zoning to ensure that they remain rural and that the uses allowed are less intensive than those allowed in unincorporated communities as defined in OAR 660-022." The Hearings Officer finds the applications are consistent with the general statement in the DCCP regarding RI plan designation and zoning, given that the RI zone does not allow urban uses. The Hearings Officer finds that the proposed change in designation and zone classification to RI will ensure that the property remains rural and that the uses allowed are less intensive than those allowed in unincorporated communities.

The applicant has not proposed a specific use or development proposal for the subject properties. The applicant proposes that the RI zoning is appropriate based on the development of the surrounding area and established uses on the subject property. As described by the applicant, existing commercial or industrial uses exist on the subject properties. To the extent any of the four tax lots was historically utilized for a lawful, nonconforming use, separate verification is required pursuant to DCC 18.120.010. The subject application does not include a request for Verification of a Nonconforming Use and staff therefore relies on available land use records to determine the existing uses on each of the four tax lots.

C. That changing the zoning will presently serve the public health, safety and welfare considering the following factors:

1. The availability and efficiency of providing necessary public services and facilities.

FINDING: Although there are no plans to develop the properties in their current state, the above criterion specifically asks if the proposed zone exchange will *presently* serve public health, safety, and welfare. The applicant provided the following response in the submitted burden of proof statement:

> Necessary public facilities and services are available to serve the subject properties, including electrical power from Pacific Power and water service from on-site wells. Transportation access to the properties are existing and readily available from Highway 20, Tumalo Road, Half Mile Lane, Robin Avenue, and Sunset Place.
>
> The Transportation Study, prepared by Transight Consulting LLC (Exhibit H), finds that a reasonable "worst-case" comparative trip generation scenario shows that the proposed rezoning of the floodplain lands to a combination of Multiple Use Agricultural (MUA-10) and Rural Industrial (RI) zoning could generate a higher number of weekday daily and weekday p.m. peak hour trips. However, while the analysis shows potential increases in trip generation, the additional trips do not create a significant impact, with the transportation facilities continuing to operate acceptably per the County's adopted performance thresholds.
>
> The subject properties receive police services from the Deschutes County Sheriff and are located within the Bend Rural Fire/Deschutes County Rural Fire Protection District #2 fire district. Neighboring properties contain rural residential uses, which have water service from wells, on-site sewage disposal systems, electrical service, telephone services, etc. There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare.

There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare. Prior to development of the properties, the applicant would be required to comply with the applicable requirements of the Deschutes County Code, including possible land use permit, building permit, and sewage disposal permit processes. Through these development review processes, assurance of adequate public services and facilities will be verified.

However, staff notes that several public comments cite concerns regarding the availability of domestic water and impacts to surrounding wells. Staff requests the Hearings Officer modify these findings as they see fit.

2. The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.

FINDING: The applicant provided the following response in the submitted burden of proof statement:

> The proposed RI zoning is also consistent with the specific goals and policies in the Comprehensive Plan discussed above, and consistent with the current character of the immediate area which is primarily characterized by rural industrial and rural commercial uses. The Applicant's proposed zone change and Comprehensive Plan map amendment would create employment opportunities in rural areas in general and in the rural Deschutes Junction area in particular. There are more than 4,000 people living in the Deschutes Junction area who largely commute to Redmond or Bend. Some could seek employment in businesses that may be permitted in the new RI zone, meeting goals for fewer miles traveled to work and enhancing air quality and reducing fuel usage.
>
> Approval of the subject application will not impose new impacts on MUA-10 or EFU-zoned land adjacent to or nearby the subject properties because many of those properties are residential properties, hobby farms, already developed with dwellings, not engaged in commercial farm use, are idle, or are otherwise not suited for farm use due to soil conditions, topography, or ability to make a profit farming. As discussed below, the subject properties are not agricultural land.

No specific development or new use is proposed on the subject properties at this time. In file nos. 247-21-000881-PA, 882-ZC (*LBNW*), the Hearings Officer provided the following analysis of impacts on surrounding lands that may be considered under this criterion.

> The Hearings Officer's review includes consideration of the range of uses allowed outright and conditionally in the RI zone which inform a decision on whether expected or anticipated impacts of such potential uses on surrounding land use will be consistent with the specific goals and policies in the DCCP. Although no specific development is proposed at this time, the Hearings Officer notes that potential impacts to surrounding land use from industrial uses generally include traffic, visual impacts, odor, dust, fumes, glare, flashing lights, noise, and similar disturbances. Again, such impacts are considered in light of existing impacts of development and roads in the surrounding area.

Because approval would change the range of uses potentially authorized on the subject properties even though no specific development is presently proposed, staff has identified the surrounding residential pattern and the RI standards that would govern future development. Staff requests the Hearings Officer determine whether that regulatory framework and the evidence in the record demonstrate consistency with Policy 3.10.5 and DCC 18.136.020(C)(2). If the subject property is

rezoned to RI, the permitted uses would be those listed in DCC 18.100.010 and DCC 18.100.020. Staff notes that the uses listed in DCC 18.100.010 are permitted outright 'unless located within 600 feet from a residential dwelling unit, a lot within a platted subdivision, or a residential zone.' Based on the proximity to MUA10-zoned lots within the First Addition to Whispering Pines subdivision, any subsequent establishment of an industrial use pursuant to DCC 18.100.010 or DCC 18.100.020 would require a Conditional Use Permit.

As described herein, immediately surrounding properties are zoned FP and MUA10 and primarily contain rural residential development. The larger surrounding area includes commercial and industrial uses located to the east of the subject property, along Highway 97. The closest surrounding property in the RI zone is located approximately 0.36 miles to the east of the subject property.

The applicant provided specific findings for relevant Comprehensive Plan goals and policies, which are addressed below. Where appropriate, staff has requested the Hearings Officer make findings regarding specific Comprehensive Plan goals and policies detailed below.

D. That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question.

FINDING: The applicant proposes to rezone the properties from FP and FP/MUA to RI and re-designate the properties from Rural Residential Exception Area to Rural Industrial. The applicant provided the following response in the submitted burden of proof statement:

> **1. Mistake:** The original FP zoning across the subject properties appears to have been a mistake at the time of its original designation that has now been corrected through issuance of a Letter of Map Revision (LOMR), which officially changed/removed the area of the subject flood plain from the subject properties in 2015. This official map revision reduced the amount of land within this mapped flood plain from approximately 87 acres to less than 10 acres (See Figures 1 and 2, above). In addition, the FP zoning itself cannot be overlayed on RREA Comprehensive Plan designated properties. The Comprehensive Plan only authorizes RR-10 and MUA-10 zoning, so the FP zoning over the RREA designation constitutes a mistake to be corrected.
>
> **2. Change in Circumstances:** There has been a change in circumstances since the subject properties were last zoned. The purpose of the Zone Change and Comprehensive Plan Map Amendment is to largely correct a mapping error, which is the result of a Letter of Map Revision (LOMR), which officially changed/removed the area of the subject flood plain from the subject properties in 2015. This official map revision reduced the amount of land within this mapped flood plain from approximately 87 acres to less than 10 acres (See Figures 1 and 2, above).

> The Deschutes County Code (DCC) makes clear that the FP zone includes all areas designated as "Special Flood Hazard Areas" on the Federal Flood Insurance Rate Maps (FIRM).[3] However, no portion of land within any of the properties included in this application are now subject to the one percent chance flood hazard, as was recognized in the FIRM pursuant to LOMR, Case No. 15-10-0345P, effective July 6, 2015 (Exhibit F). Accordingly, lands within the Subject Properties that were once within the Flood Plain are now no longer. The LOMR is shown above in Figure 1.
>
> ...
>
> A change in circumstances can also be made for the four (4) proposed RI zoned properties. The intention of rezoning three (3) properties from FP to RI and one (1) split-zoned property to from FP/MUA-10 to RI (with all four properties correspondingly redesignated to RI) is to better reflect these properties' existing and long-standing land use pattern of rural industrial/rural commercial uses and existing uses as confirmed by the County's recent decision in Land Use File No. 247-25-000519-CU, 620-SP (Exhibit I). The other adjacent proposed RI properties are similarly developed with rural industrial and rural commercial type uses, such as storage of equipment and vehicles, and a County-approved antique business home occupation (Exhibit J) on Map and Tax Lots 161227A002800 and 161227A002900, respectively.

Below, staff provides analysis for this criterion for each of the tax lots that make up the subject property.

Tax Lots 2600, 2700, and 2800

Staff concurs with the applicant's statement that the 2015 LOMR provides more accurate information regarding the boundary of the special flood hazard area, and represents a change in circumstances since the property was last zoned. In Central Oregon LandWatch v. Deschutes County (*Destiny Court*), LUBA No. 2025-015, the Land Use Board of Appeals (LUBA) provided the following guidance on whether a site-specific soil study constitutes a "change in circumstances" for the purpose of this criterion:

> However, we agree with respondents that the Order 1 soil study can be viewed as a "change in circumstances" for purposes of DCC 18.136.020(D)...
>
> The board of commissioners adopted the hearings officer's findings concluding that the new and more detailed information provided by the soils study is sufficient to constitute a "change in circumstance" for purposes of DCC 18.136.020(D). We understand those incorporated findings to embody an implicit interpretation of the phrase "change in circumstances." The board of commissioners clearly understood the phrase "change in circumstances" to encompass more than physical changes to the soil or site conditions, and

[3] Special Flood Hazards Areas are lands that would be inundated by a 100-year flood event, that are at or below the base flood elevation (BFE). The flood map for this area is FIRM No. 41017C0470E, which has an effective date of September 28, 2007.

to broadly include development of new information that fundamentally challenges the agricultural status of the property.

The subject application does not involve a soil study, but staff finds the LUBA analysis above is applicable because it clarifies that updated, property-specific studies can constitute a 'change in circumstances.' As described herein, the Flood Plain zone boundary does not automatically update if a property goes through a Letter of Map Revision (LOMR) or Letter of Map Amendment to refine the flood insurance rate map through FEMA. Therefore, a Zone Change application is required to amend the Flood Plain zone boundary to reflect the new information.

Tax Lot 2900

The applicant proposes to remove the FP zoning from the south and east portion of Tax Lot 2900. As described above, staff finds the revision to the FEMA flood insurance maps constitutes a change in circumstances since the property was last zoned.

The northwest portion of Tax Lot 2900 is currently zoned MUA10 and therefore was not impacted by the 2015 LOMR, as there was no erroneous floodplain mapping to remove from this portion of the subject property. The applicant provides an alternate argument that the development pattern of the subject property and surrounding area, such as the spread of industrial and commercial uses in the general Deschutes Junction area, represents a change in circumstances since the property was last zoned. The applicant also cites the existing uses on the subject property as evidence that there has been a chance in circumstances since the FP and MUA10 zoning was applied. Tax Lot 2900 received a Conditional Use Permit for an antique store as a home occupation through file no. CU-88-54, and the entire property was zoned MUA10 at the time. Home occupations continue to be a permitted use in the MUA10 zone and are governed by DCC 18.116.280, DCC 18.32.020(I), and DCC 18.32.030(L).

Staff requests the Hearings Officer make findings specific to this criterion for Tax Lot 2900, and determine whether there has been a change in circumstances or a mistake was made when this property was last zoned to warrant a zone change to RI.

Deschutes County Comprehensive Plan

Chapter 2, Resource Management

Section 2.5, Water Resources

Floodplains

Federal Emergency Management Agency Maps
The Federal Emergency Management Agency (FEMA) maps flood-plains adjacent to the following rivers and streams in Deschutes County. The floodplain along these rivers and streams is recognized in a Flood Plain zone by the County.

Table 2.5.6 - Floodplains Adjacent to Rivers and Streams

• Deschutes River	• Long Prairie
• Little Deschutes River	• Dry River
• Whychus Creek	• Spring River
• Crooked River	• Indian Ford Creek
• Paulina Creek	

Source: Deschutes County GIS

Floodplains are defined as the lowland and relatively flat areas adjoining inland waters including at a minimum, that area subject to a one percent (100-year recurrence) or greater chance of flooding in any one year. Generally, river flooding along the Deschutes River has not historically been a serious problem in Deschutes County. This is due to the porous nature of the local geology, irrigation diversion canals and reservoir retention. Studies completed by the U.S. Army Corp of Engineers have resulted in designating a 100 year flood-plain for the Little Deschutes River and Whychus Creek. Regular flooding events have occurred near the headwaters of Tumalo Creek and in the Tumalo community. Along Whychus Creek, the city of Sisters frequently experiences flooding, with the most significant event occurring in 1964 (see also Section 3.5).

In 2019, Deschutes County amended the Flood Plain Zone to define split zoned properties as they exist in the Flood Plain Zone and created procedures to guide division of these split zoned properties.

In 2019, Deschutes County amended its Flood Plain Zone to incorporate additional standards from the 2014 DLCD Model Flood Ordinance.

The purpose of the Zone is to continue promoting public health, safety, and general welfare, and minimize losses due to flood conditions in specific areas. It is designed to:
(1) Protect human life and health;
(2) Minimize expenditure of public money and costly flood control projects;
(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
(4) Minimize prolonged business interruptions;
(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
(6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
(7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and,
(8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

The Zone also provides riparian area conservation along inventoried rivers and streams for fish and wildlife and preservation of significant scenic and natural resources.

Comprehensive plan policies for Water Resources (Section 2.5), Wildlife Resources (Section 2.6), Open Space and Scenic Views and Sites Resources (Section 2.7), and the corresponding development standards in Title 18 implement protections pertaining to Goal 5.

FINDING: This section of the Comprehensive Plan does not include specific goals or policies, but provides background on the purpose of the FP zone. The proposed zone change is consistent with DCCP Section 2.5 because it would remove the FP zoning designation from areas that have been identified by FEMA as outside of the 100-year flood plain ("special flood hazard area"). Refining the boundary of the County-designated FP zone to align with FEMA's flood insurance maps is consistent with this section of the Comprehensive Plan.

This section of the Comprehensive Plan clarifies that the FP zone is intended to conserve riparian areas *along inventoried rivers and streams*, and staff finds the subject property is not located along one of the inventoried waterways. Removing the FP zoning from the subject property does not remove the protections offered by Section 2.5, 2.6, or 2.7 of the Comprehensive Plan.

The 2015 Letter of Map Revision (LOMR) revised the effective FEMA flood-hazard mapping applicable to this area. The LOMR did not itself amend the County zoning map and does not, by itself, determine whether land is included in a separately acknowledged wetland or other Goal 5 resource inventory. Staff therefore addresses current FEMA flood-hazard status, County FP zoning, and any applicable Goal 5 resource inventory separately.

Section 2.5, Water Resources Policies

Goal 6, Coordinate land use and water policies.

Policy 2.5.24 Ensure water impacts are reviewed and, if necessary, addressed for significant land uses or developments.

FINDING: The applicant provided the following response to this policy in the Burden of Proof:

> The Applicant is not proposing a specific development proposal or proposing a significant land use at this time. Therefore, the Applicant is not required to demonstrate water impacts associated with development. Regardless, the zone change should have little or no impact on water resources. If applicable, the Applicant, or another Applicant, will be required to address this criterion during future development on the subject properties which would be reviewed under any necessary land use process. This criterion, therefore, does not apply because no pending development proposal or use of the subject properties are proposed in association with this application.

Staff includes the following findings from *Aceti IV* (247-20-000438-PA, 439-ZC) for reference. In this previous land use decision, the Hearings Officer and the Board made the following findings:

> The Hearings Officer found in *Aceti 1* that this policy is directed at the County. In said decision, the Hearings Officer cited a previous decision of Hearings Officer Green for file nos. PA-14-2

and ZC-14-2 that stated, "Nevertheless, in my decision in *NNP* I held it is not clear from this plan language what ''water impacts" require review -- impacts to water supplies from use or consumption on the subject property, or Impacts to off-site water resources from development on the subject property." The Applicant has not proposed any particular land use or development, and any subsequent applications for development of the subject property would be reviewed under the County's land use regulations that include consideration of a variety of on- and off-site impacts.

The Hearings Officer finds it is premature to review ''water impacts" because the Applicant has not proposed any particular land use or development. Thus, there are no "significant land uses or developments" that must be reviewed or addressed in this decision. Any subsequent applications for development of the subject property will be reviewed under the County's land use regulations, which include consideration of a variety of on- and off-site impacts. Notwithstanding this statement, the Hearings Officer includes the following findings.

The Applicant's requested zone change to RI would allow a variety of land uses on the subject property. The land east of the subject property (57 acres) is zoned RI and developed with a variety of rural industrial uses. Consequently, it is likely that similar development may occur on the property if it were re-designated and rezoned to RI. In light of existing uses in the surrounding area, and the fact that Avion Water Company provides water service in the Deschutes Junction area, and a 12-inch diameter Avion water line and two fire hydrants are already installed on site, future development of the subject property with uses permitted in the RI Zone will have water service.

The subject property has 16 acres of irrigation water rights and, therefore, the proposed plan amendment and zone change will result in the loss or transfer of water rights unless it is possible to bring some irrigated water to the land for other allowed beneficial uses, such as irrigated landscaping. As stated in the Applicant's Burden of Proof, the 16 acres of irrigation water rights are undeliverable and are not mentioned in the property deed. The Applicant has not grown a crop on the subject property or effectively used his water right since the overpass was constructed in 1998.

The Hearings Officer finds that the proposal will not, in and of itself, result in any adverse water impacts. The proposal does not request approval of any significant land uses or development.

No specific development is proposed at this time and any future use would be required to be served by an on-site well or public water system pursuant to DCC 18.100.030(L). Staff notes that several public comments cite concerns regarding the availability of domestic water and impacts to surrounding wells. Staff requests the Hearings Officer modify these findings as they see fit.

Section 2.7, Open Spaces, Scenic Views and Sites

Goal 1, Coordinate with property owners to ensure protection of significant open spaces and scenic view and sites.

Policy 2.7.3 Support efforts to identify and protect significant open spaces and visually important areas including those that provide a visual separation between communities such as the open spaces of Bend and Redmond or lands that are visually prominent.

Policy 2.7.5 Encourage new development to be sensitive to scenic views and sites.

FINDING: The submitted burden of proof includes the following analysis:

> The County protects scenic views and sites along major rivers and roadways by imposing Landscape Management (LM) Combining Zones to adjacent properties. The subject properties are not within the LM combining zone.

Staff agrees with the applicant's analysis and confirms that the Landscape Management Combining Zone does not apply to the subject property. Staff notes that DCC 18.96.010 includes the following purpose statement for the FP zone:

> The purposes of the Flood Plain Zone are: To implement the Comprehensive Plan Flooding Section; to protect the public from the hazards associated with flood plains; to conserve important riparian areas along rivers and streams for the maintenance of the fish and wildlife resources; and to preserve significant scenic and natural resources while balancing the public interests with those of individual property owners in the designated areas.

As described above, the subject property is part of an isolated pocket of low-lying land that was identified as special flood hazard area on the 2007 Flood Insurance Study. The subject property is not adjacent to a stream or river and does not contain any riparian area. The subject properties are located approximately 0.32 miles from the Landscape Management Combining Zone associated with Highway 97. The subject zone change will not modify or remove any provisions of DCC 18.84, which are the local code provisions that implement these policies regarding open space and scenic area preservation. Therefore, while portions of the FP zone in Deschutes County certainly overlap with significant open spaces and scenic resources, staff finds the subject properties have not been identified as such.

Chapter 3, Rural Growth

Section 3.2, Rural Development

Growth Potential

As of 2010, the strong population growth of the last decade in Deschutes County was thought to have leveled off due to the economic recession. Besides flatter growth patterns,

changes to State regulations opened up additional opportunities for new rural development. The following list identifies general categories for creating new residential lots, all of which are subject to specific State regulations.

- ***2009 legislation permits a new analysis of agricultural designated lands***
- ***Exceptions can be granted from the Statewide Planning Goals***
- ***Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential***

FINDING: This section of the Comprehensive Plan does not contain goals or policies, but does provide the guidance above. In file nos. 247-24-000097-PA, 98-ZC 247-25-000021-MA (*BCL*), the Hearings Officer and Board made the following findings regarding this Comprehensive Plan section:

> The Hearings Officer agrees with Applicant that this part of the Comprehensive Plan is not a relevant approval criteria. The Hearings Officer finds the language in this section is purely aspirational and provides no clear and objective standards which must be met by an applicant for a plan and zone change.

The applicant does not propose to create new residential lots and DCC 18.100.010(C) allows for a caretaker's residence within the RI zone. The subject property is currently designated RREA and has therefore received an exception to Goal 3 and Goal 4.

> Section 3.3, Rural Housing
>
> ***Rural Residential Exception Areas***
>
> ***In Deschutes County most rural lands are designated for farms, forests or other resources and protected as described in the Resource Management chapter of this Plan. The majority of the land not recognized as resource lands or Unincorporated Community is designated Rural Residential Exception Area. The County had to follow a process under Statewide Goal 2 to explain why these lands did not warrant farm or forest zoning. The major determinant was that many of these lands were platted for residential use before Statewide Planning was adopted.***
>
> ***In 1979 the County assessed that there were over 17,000 undeveloped Rural Residential Exception Area parcels, enough to meet anticipated demand for new rural housing. As of 2010 any new Rural Residential Exception Areas need to be justified through initiating a nonresource plan amendment and zone change by demonstrating the property does not meet the definition of agricultural or forest land, or taking exceptions to farm, forest, public facilities and services and urbanization regulations, and follow guidelines set out in the OAR.***

FINDING: Staff includes this section for context, as the subject properties currently have a Comprehensive Plan designation of RREA. This demonstrates that the properties previously went through a process under Statewide Planning Goal 2 to explain why these lands did not warrant farm or forest zoning. The four tax lots that make up the subject property were platted for residential use

as approximately one-acre lots within the First Addition to Whispering Pines Estates subdivision in 1968. Staff therefore finds that the subject property was previously determined not to be farm or forest land.

Section 3.4, Rural Economy

Rural Industrial

The county may apply the Rural Industrial plan designation to specific property within existing Rural Industrial exception areas, or to any other specific property that satisfies the requirements for a comprehensive plan designation change set forth by State Statute, Oregon Administrative Rules, this Comprehensive Plan and the Deschutes County Development Code, and that is located outside unincorporated communities and urban growth boundaries. The Rural Industrial plan designation and zoning brings these areas and specific properties into compliance with state rules by adopting zoning to ensure that they remain rural and that the uses allowed are less intensive than those allowed in unincorporated communities as defined in OAR 660-022.

FINDING: The applicant provided the following response in the Burden of Proof:

The four (4) properties planned to be redesignated and rezoned to RI (Map and Tax Lots 161227A002600, 161227A002700, 161227A002800, and 161227A002900) are not within existing Rural Industrial exception areas and are located outside unincorporated communities and urban growth boundaries. Therefore, these properties must be found to satisfy the requirements for a Comprehensive Plan designation change set forth by State Statute, Oregon Administrative Rules, the DCCP and the Deschutes County Development Code.

As stated in Section 3.4 of the DCCP, quoted above, RI plan designation and zoning brings specific properties, such as the four (4) properties, into compliance with state rules "*by adopting zoning to ensure that they remain rural and that the uses allowed are less intensive than those allowed in unincorporated communities as defined in OAR 660-022*." (emphasis added).

DCC 18.100.010 states the purpose of the RI Zone is:

"... to encourage employment opportunities in rural areas and to promote the appropriate economic development of rural service centers which are rapidly becoming urbanized and soon to be full service incorporated cities, while protecting the existing rural character of the area as well as preserving or enhancing the air, water and land resources of the area."

The record supports a finding that rezoning four (4) properties (Map and Tax Lots 161227A002600, 161227A002700, 161227A002800, 161227A002900) to RI is consistent with the purpose and intent of the RI zone. The Applicant's proposed zone change and Comprehensive Plan map amendment would create employment opportunities in rural areas in general and in the rural Deschutes Junction area in particular. There are more than

4,000 people living in the Deschutes Junction area who largely commute to Redmond or Bend. Some could seek employment in businesses that may be permitted in the new RI zone, meeting goals for fewer miles traveled to work and enhancing air quality and reducing fuel usage.

Because the application does not seek approval of any specific use on the subject properties, rezoning them to RI will not directly impact the "existing rural character of the area," nor the air, water and land resources of the area. The proposed RI zone change is consistent with the current character of the immediate area which is primarily characterized by rural industrial and rural commercial uses. The "existing rural character of the area," does not consist of bucolic farmland and small farm-related buildings, but instead is a mixture of various rural industrial and rural commercial uses, a school, several dwellings, and hobby farms. As determined by the County in its decision in County File No. 247-25-000519-CU, 620-SP (Exhibit I), the site (Map and Tax Lot 161227A002700) was deemed suitable for the expansion of a non-residential storage structure "based on the developed nature of the subject property." In addition, the decision states that "Due to the developed nature of the subject property, staff finds the proposal will not impact any identified natural resources." Adjacent and nearby properties proposed to be rezoned to RI (Map and Tax Lots 161227A002600, 161227A002900, and 161227A002900) share the same characteristics, including being similarly developed with rural industrial and rural commercial type uses, such as storage of equipment and vehicles, and a County-approved antique business home occupation (Exhibit J) on Map and Tax Lots 161227A002800 and 161227A002900, respectively.

As noted above, DCC 18.100.010 no longer includes a purpose statement for the RI zone. The purpose statement that is quoted above by the applicant was removed from DCC through Ordinance 2002-127 as part of a Periodic Review conducted by the County. However, staff finds the quoted purpose statement is not central to the applicant's argument regarding this Comprehensive Plan policy.

This Comprehensive Plan section is partly implemented through DCC 18.100, which limits the permitted uses within the RI zone to ensure they are rural in nature and in compliance with state statute. The subject property is located outside of an urban growth boundary or unincorporated community and is therefore eligible for a zone change to RI if the applicant can demonstrate compliance with State Statute, Oregon Administrative Rules, the Comprehensive Plan and DCC.

Policy 3.4.23 To assure that urban uses are not permitted on rural industrial lands, land use regulations in the Rural Industrial zones shall ensure that the uses allowed are less intensive than those allowed for unincorporated communities in OAR 660-22 or any successor.

FINDING: The applicant did not provide a response to this specific policy. However, as described in detail under the Statewide Planning Goals section below, the uses permitted within the RI zone have previously been determined to be rural in nature and less intensive than those uses permitted within an unincorporated community.

Policy 3.4.31 Residential and industrial uses shall be served by DEQ approved on-site sewage disposal systems.

FINDING: Staff finds this Comprehensive Plan policy has been codified through DCC 18.100.030(K), which states:

> Residential and industrial uses shall be served by DEQ approved on-site sewage disposal systems.

If the subject zone change is approved, any future development will be subject to the provisions of DCC 18.100.030 and will therefore comply with this policy.

Policy 3.4.32 Residential and industrial uses shall be served by on-site wells or public water systems.

FINDING: Staff finds this Comprehensive Plan policy has been codified through DCC 18.100.030(L), which states:

> Residential and industrial uses shall be served by on-site wells or public water systems.

No specific development is proposed at this time and any future use would be subject to DCC 18.100.030(L). Staff therefore finds this policy will be met.

Policy 3.4.33 Community sewer systems shall not be allowed in Rural Industrial zones.

FINDING: No community sewer system or specific development is proposed at this time. Staff finds that DCC 18.100.030(K) will ensure that any future development complies with this Comprehensive Plan policy.

Policy 3.4.36 Properties for which a property owner has demonstrated that Goals 3 and 4 do not apply may be considered for Rural Industrial designation as allowed by State Statute, Oregon Administrative rules and this Comprehensive Plan. Rural Industrial zoning shall be applied to a new property that is approved for the Rural Industrial Plan designation.

FINDING: The subject property is currently designated RREA and is therefore not considered to be agricultural or forest lands. However, staff requests the Hearings Officer amend these findings if they determine that additional analysis is required to demonstrate that Goals 3 and 4 do not apply to the subject property.

Section 3.5, Natural Hazards

Policy 3.5.10 Regulate development in designated floodplains identified on the Deschutes County Zoning Map based on Federal Emergency Management Act regulations.

FINDING: FEMA regulations for development within the special flood hazard area are implemented through DCC 18.96. The proposed zone change is consistent with this policy, because it will update the designated floodplain identified on the Deschutes County Zoning Map to align with the special flood hazard area identified by FEMA. The applicant's proposal would not remove any FEMA regulations from accurately-designated floodplain.

Policy 3.5.11 Review and revise County Code as needed to:

…

f. Make the Floodplain Zone a combining zone and explore ways to minimize and mitigate floodplain impacts

FINDING: This policy is directed towards the County and the applicant's proposal would not convert the FP zone from a base zone to a combining zone. Further, staff finds the applicant is not required, under this policy, to explore ways to minimize and mitigate floodplain impacts.

Section 3.7, Transportation

Appendix C – Transportation System Plan
ARTERIAL AND COLLECTOR ROAD PLAN

…

Goal 4. Establish a transportation system, supportive of a geographically distributed and diversified economic base, while also providing a safe, efficient network for residential mobility and tourism.

…

Policy 4.4 Deschutes County shall consider roadway function, classification and capacity as criteria for plan map amendments and zone changes. This shall assure that proposed land uses do not exceed the planned capacity of the transportation system.

FINDING: This policy applies to the County and advises it to consider the roadway function, classification and capacity as criteria for plan amendments and zone changes. The County will comply with this direction by determining compliance with the Transportation Planning Rule (TPR), also known as OAR 660-012, as described below in subsequent findings.

Section 3.10, Area Specific Policies

Deschutes Junction

Policy 3.10.5 Maximize protection of the rural character of neighborhoods in the Deschutes Junction area while recognizing the intended development of properties designated for commercial, industrial and agricultural uses.

FINDING: The applicant provided the following response to this Comprehensive Plan section:

> Regarding the properties proposed to be rezoned to RI, the "existing rural character of the area" does not consist of bucolic farmland and small farm-related buildings, but instead is a mixture of various rural industrial and rural commercial uses, a school, several dwellings, and hobby farms. In addition, because the application does not seek approval of any specific use on the subject properties, rezoning them to RI will not directly impact the "existing rural character of the area," nor the air, water and land resources of the area.

Staff notes that Section 3.4 of the Comprehensive Plan provides the following description of the Deschutes Junction boundary:

> The Deschutes Junction site consists of the following tax lots: 161226C000107 (9.05 acres),16126C000106 (4.33 acres), 161226C000102 (1.41 acres), 161226C000114 (2.50 acres), portions 161226C000300 (12.9 acres). 161226C000301 (8.93 acres), 161226A000203 (1.5 acres) and those portions of 161226C000111 located west of the Burlington Northern-Santa Fe railroad tracks (16.45 acres). Generally, the Deschutes Junction site is bordered on the west by Highway 97, on the east by the Burlington Northern Railroad, on the north by Nichols Market Road (except for a portion of 1612226A000111), and on the south by EFU-zoned property owned by the City of Bend.

While the subject property is not located within the tax lots listed above, it is located within the general vicinity of Deschutes Junction. Staff therefore finds the proposal is subject to this policy, as it is located within "neighborhoods in the Deschutes Junction area." Staff requests the Hearings Officer determine whether the applicant has demonstrated compliance with this policy.

Staff interprets the Board and Hearings Officer findings in *LBNW* to mean that potential impacts on surrounding properties may be reasonably evaluated, based on the uses that are permitted outright and conditionally under the proposed zoning, even if a specific development proposal is not included at this time. Staff requests the Hearings Officer determine whether the use limitations in the RI zone are sufficient to "maximize protection of the rural character" of the area, or whether additional analysis is required of the potential future development that the zone change would allow and its impact on the rural character of the neighborhood.

OREGON REVISED STATUTES CHAPTER 197, COMPREHENSIVE LAND USE PLANNING

> ORS 197.713, Industrial development on industrial lands outside urban growth boundaries; exceptions
>
> ***(1) Notwithstanding statewide land use planning goals relating to urbanization or to public facilities and services, a county or its designee may authorize:***
>
> ***(a) Industrial development, including accessory uses subordinate to the industrial development, in buildings of any size and type, subject to the permit approval process described in ORS 215.402 to 215.438 and to applicable building codes, in an area planned and zoned for industrial use on January 1, 2004, subject to the territorial limits described in subsections (2)***

and (3) of this section.

(b) On-site sewer facilities to serve the industrial development authorized under this section, including accessory uses subordinate to the industrial development.

(2) Subject to subsection (3) of this section, a county or its designee may consider the following land for industrial development under this section:

(a) Land more than three miles outside the urban growth boundary of every city with a population of 20,000 individuals or more; and

(b) Land outside the urban growth boundary of every city with a population of fewer than 20,000 individuals.

(3) A county or its designee may not authorize industrial development under this section on land within the Willamette Valley as defined in ORS 215.010.

(4) A county or its designee may not authorize under this section retail, commercial or residential development in the area zoned for industrial use.

FINDING: The applicant did not provide a response to this ORS section, but the Hearings Officer made the following findings in files 247-20-000438-PA, 439-ZC (*Aceti*):

> COWL's argument that all industrial uses are per se urban uses has been consistently rejected by LUBA and reviewing courts. In LUBA No. 2017-009 and LUBA No. 2018-126, LUBA rejected the broad argument that "all industrial development is urban in nature and requires a Goal 14 exception unless located within an urban growth boundary or a designated unincorporated community." These rulings are binding on the parties as the law of the case. *E.g., Gould*, 272 Or.App. at 673. The Hearings Officer thus rejects COWL's repeated arguments on this issue. Specifically, I reject the arguments that: (1) the only rural uses allowed without an exception to Goal 14 are a sparse settlement, a small farm or an acreage homesite; (2) "without an exception to Goal 14, all new industrial development is limited to urban growth boundaries, unincorporated communities, and the circumstances set out in ORS 197.713 and 197.714 for certain lands that were "planned and zoned for industrial use on January 1, 2004"; (3) industrial uses are fundamentally incompatible and inherently conflict with other rural uses, regardless of conditions; and (4) zoning code requirements do not alter the nature of the use. The Hearings Officer also rejects COWL's argument that there is no "need" for additional rural industrial or rural commercial land, under the law of the case doctrine.

Prior decisions appear to conclude that this section is not applicable, as the uses permitted in the RI zone have been found to comply with Goal 14. The applicant has not requested an exception to Goal 14 and the RI zone does not allow industrial uses "in buildings of any size and type." Staff therefore finds this section is not applicable but requests the Hearings Officer modify these findings as they see fit.

> ORS 197.714 Cooperation of county and city concerning industrial development.
>
> ***(1) Notwithstanding the authority granted in ORS 197.713 and 197.716 to allow industrial or other employment use development, when a county or its designee considers action under ORS 197.713 or 197.716 for land within 10 miles of the urban***

growth boundary of a city, the county or its designee shall give notice to the city at least 21 days prior to taking action.

(2) If the city objects to the authorization of industrial or other employment use development under ORS 197.713 or 197.716, the city and county shall negotiate to establish conditions on the industrial or other employment use designation, development or changes in the development necessary to mitigate concerns raised by the city's objection.

FINDING: The subject property is located within ten miles of the Bend urban growth boundary. A notice of the subject application was mailed to the City of Bend's Growth Management Department and no comments or objections were received.

OREGON ADMINISTRATIVE RULES CHAPTER 660, LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

Division 6, Goal 4 – Forest Lands

OAR 660-006-0005, Definitions

(7) "Forest lands" as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:

(a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and

(b) Other forested lands that maintain soil, air, water and fish and wildlife resources.

FINDING: The applicant provided the following response in the Burden of Proof:

The subject properties and surrounding areas do not include any lands that are suited for forestry operations. Goal 4 says that forest lands "are those lands acknowledged as forest lands as of the date of adoption of this goal amendment." The subject properties do not include lands acknowledged as forest lands as of the date of adoption of Goal 4. Goal 4 also says that "where a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources." The proposed Comprehensive Plan map amendment does not involve any forest land. The subject properties do not contain any merchantable timber and are not located in a forested part of Deschutes County.

The subject properties are not zoned for forest lands, do not contain merchantable tree species, and there is no evidence in the record that the properties have been employed for forestry uses historically.

Division 33 - Agricultural Lands & Statewide Planning Goal 3 - Agricultural Lands;

OAR 660-015-0000(3)

To preserve and maintain agricultural lands.

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

FINDING: The applicant provided the following statement regarding the applicability of Goal 3:

> State law requires the County to determine if the subject property has resource values that merit protection under State law. In 1979, Deschutes County applied an agricultural plan designation on properties based on limited and general information about the nature of the soils found in the area. The County must also determine if the property has forest resources that merit protection under Goal 4. In this case, it is clear that the subject property is not Goal 3 agricultural land or Goal 4 forest land.

Staff concurs with the applicant and finds the subject property is not designated as agricultural land.

OAR 660-033-0020, Definitions

For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:
(1)(a) "Agricultural Land" as defined in Goal 3 includes:

- ***(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon[4];***
- ***(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and***
- ***(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.***
  - ***(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;***

[4] OAR 660-033-0020(5): "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

FINDING: The subject property is currently designated RREA and is therefore within an acknowledged exception area for Goals 3 or 4.

OAR 660-033-0030, Identifying Agricultural Land

(c) This section and OAR 660-033-0045 apply to:

(A) A change to the designation of land planned and zoned for exclusive farm use, forest use or mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is not agricultural land; and

FINDING: The applicant has not requested a map amendment for land planned or zoned for exclusive farm use, forest use or mixed farm-forest use. Staff therefore finds the methodology described in OAR 660-033-0030 for determining soil capability is not applicable.

DIVISION 12, TRANSPORTATION PLANNING

OAR 660-012-0060 Plan and Land use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

FINDING: This above language is applicable to the proposal because it involves an amendment to an acknowledged comprehensive plan. The proposed plan amendment would change the designation of the subject property from RREA to RI and change the zone from FP and MUA10 to RI. The applicant is not proposing any land use development of the property at this time.

The applicant submitted a Transportation Planning Rule ("TPR") assessment, Exhibit H, dated June 30, 2026, and prepared by Joe Bessman, PE, of Transight Consulting LLC. This TPR assessment was reviewed by the County Transportation Planner, who agreed with the report's conclusions. Staff finds that the proposed plan amendment and zone change will be consistent with the identified function, capacity, and performance standards of the County's transportation facilities in the area. The proposed zone change will not change the functional classification of any existing or planned transportation facility or change the standards implementing a functional classification system. The County Transportation Planner provided the following comments in an email dated March 5, 2025:

> The submitted application materials include a report prepared by Transight Consulting, LLC (dated June 30, 2026 and labeled as Exhibit H) analyzing the proposal's compliance with the Transportation Planning Rule (TPR) and Oregon Statewide Planning Goal 12 per OAR 660-012-0060. Staff generally agrees with the assumptions, methodology, and conclusions outlined in the report supporting the central conclusion that reasonable RI development potential would generate approximately 193 daily weekday vehicle trips and 37 p.m. peak hour trips when compared to the existing zoning designations of the subject properties. Staff further agrees that, even with the anticipated increase in vehicle trips, the Level of Service (LOS) associated with the primary roadways of Tumalo Road and Tumalo Place would remain within acceptable thresholds. Further, the report concludes that the proposal would not change County Road facility classifications or applicable classification standards. Collectively, the report demonstrates the proposal's compliance with Oregon Statewide Planning Goal 12 and TPR. No additional traffic analysis is required beyond this report.
>
> As the subject application does not include a site plan or development proposal, the transportation analysis requirements of DCC 18.116.310 will need to be met during subsequent development review on the subject properties and any necessary mitigations, SDCs, or other relevant transportation improvements or considerations will need to be addressed at that time.
>
> The subject properties primarily take access from various points along Tumalo Road and 8th Street. Tumalo Road is a public road right-of-way maintained by Deschutes County and functionally classified as a Rural Collector. 85th Street is a public road right-of-way maintained by Deschutes County and functionally classified as a Rural Local road. Any

subsequent proposals or development on the subject properties will require the applicant(s) to demonstrate compliance with the access permitting requirements of DCC 17.48.210 and DCC 12.28.050.

The submitted TPR memorandum addresses both the subject application and the FP-to-MUA10 zone change that is being concurrently reviewed through file no. 247-26-000483-ZC. Staff therefore notes that certain sections of the memorandum are not applicable to the subject application. Based on the County Senior Transportation Planner's comments and the traffic study from Transight Consulting LLC, staff finds compliance with the Transportation Planning Rule has been effectively demonstrated. Staff notes the public comments related to traffic impacts and asks the Hearings Officer to make specific findings related to these criteria.

DIVISION 15, STATEWIDE PLANNING GOALS AND GUIDELINES

OAR 660-015, Division 15, Statewide Planning Goals and Guidelines

FINDING: The Statewide Planning Goals and the applicant's findings are quoted outlined below:

Goal 1, Citizen Involvement. Deschutes County will provide notice of the application to the public through mailed notice to affected property owners and by requiring the applicant to post a "proposed land use action sign" on the subject property. Notice of the public hearings held regarding this application will be placed in the Bend Bulletin. A minimum of two public hearings will be held to consider the application.

Goal 2, Land Use Planning. Goals, policies, and processes related to zone change applications are included in the Deschutes County Comprehensive Plan and Titles 18 and 23 of the Deschutes County Code. The outcome of the application will be based on findings of fact and conclusions of law related to the applicable provisions of those laws as required by Goal 2.

Goal 3, Agricultural Lands. Goal 3 is not applicable because the subject properties do not include any lands that are zoned for, or that support, farm uses. The subject properties are not Agricultural Land.

Goal 4, Forest Lands. Goal 4 is not applicable because the subject properties do not include any lands that are zoned for, or that support, forest uses. Forest land is defined by OAR 660-005-0010 as lands suitable for commercial forest use protection under Goal 4, which are identified using NCRS soil survey maps to determine average annual wood fiber production figures.

Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces. The subject properties are not within the Landscape Management (LM) Combining Zone. The FP Zone is not a Goal 5 zone and does not include any program to achieve the goal for any Goal 5 compliance. It does, however, include certain standards regarding stream setbacks for

protection of natural resources, generally. For example, the purpose statement notes one purpose is to "conserve important riparian areas along rivers and streams for the maintenance of the fish and wildlife resources" – which would not apply in this instance because no rivers or streams or associated riparian areas exist on the subject properties.

Goal 6, Air, Water, and Land Resources Quality. Approval of this application will not impact the quality of the air, water, and land resources of Deschutes County. Any future development of the subject properties would be subject to local, state, and federal regulations that protect these resources.

Goal 7, Areas Subject to Natural Disasters and Hazards. According to the Deschutes County Property Information (DIAL), the entirety of Deschutes County, including the subject properties, are located in a Wildfire Hazard Area. Rezoning and redesignating the properties to MUA-10 and RI does not change the Wildfire Hazard Area designation. Any future development of the subject properties would need to demonstrate compliance with any fire protection regulations and requirements of Deschutes County.

Goal 8, Recreational Needs. This goal is not applicable because no development is proposed and the subject properties are not planned to meet the recreational needs of Deschutes County. Therefore, the proposed rezone and redesignation will not impact the recreational needs of Deschutes County.

Goal 9, Economy of the State. This goal does not apply to this application because the subject properties are not designated as Goal 9 economic development land. In addition, the approval of this application will not adversely affect economic activities of the state or area. This goal is to provide adequate opportunities throughout the state for a variety of economic activities. The proposed Comprehensive Plan map amendment and Zone Change of four (4) properties to RI is consistent with this goal because it will provide opportunities for economic development in the county in general, and in this area in particular.

Goal 10, Housing. The proposed application supports the need for rural housing by providing rural housing consistent with the MUA-10 residential zone. Approval of this application, therefore, is consistent with Goal 10 as implemented by the acknowledged Deschutes County Comprehensive Plan.

[STAFF NOTE: The applicant's response regarding Goal 10 appears to be directed at the FP to MUA10 zone change that is being reviewed through file no. 247-26-000483-ZC.]

Goal 11, Public Facilities and Services. The approval of this application will have no adverse impact on the provision of public facilities and services to the subject properties. Pacific Power currently serves the subject properties with power and will continue to do so. Well water and septic systems are currently provided for each property and will continue to be provided, and the proposal will not result in the extension of urban services to rural areas.

Goal 12, Transportation. This application complies with the Transportation System Planning Rule, OAR 660-012-0060, the rule that implements Goal 12. Compliance with that rule also demonstrates compliance with Goal 12.

Goal 13, Energy Conservation. The approval of this application does not impede energy conservation, and the proposal itself will have no effect on energy use or conservation since no specific development has been proposed in conjunction with the subject application. Providing additional economic opportunities on the subject property may decrease vehicle trips for persons working in the Deschutes Junction area, therefore conserving energy.

Goal 14, Urbanization. This application involves the rezoning and redesignation of lands to both RI and MUA-10. The Applicant's proposal does not involve any property within an Urban Growth Boundary and does not involve the urbanization of rural land.

Rural Industrial Properties. For the four (4) properties proposed to be rezoned and redesignated to RI, the proposed plan amendment and zone change would allow for future development of these properties with uses permitted in the RI Zone. LUBA has concluded that the uses listed in DCC 18.100.010 are not urban uses and thus, the proposal is not likely to result in the "urbanization" of these specific properties by allowing potential future development of RI zone uses. Due to the appropriate County rural industrial development standards in DCC Chapter 18.100, compliance with these regulations will result in appropriate and compatible low density and not an "urban level" density. In addition, the Court of Appeals recently confirmed that the uses allowed in an acknowledged rural zone (e.g., the RI zone) are not subject to a site-specific, present-in-time evaluation (i.e., the Curry/Shaffer analysis) of a property to show compliance with Goal 14 [Central Oregon LandWatch v. Deschutes County (*Last Ranch*) 347, Or App 287, 293 (2026)].

However, in the event that the Curry County/Shaffer Analysis is found to be a requirement for the proposed RI properties, the Applicant provides the following alternative Goal 14 analysis.

The Court in *Curry County* acknowledged that there is no established definition of rural use and urban uses. The Court discussed factors to consider in evaluating whether development allowed is rural or urban including the density, dependence on urban services, and proximity to the urban area. None of the factors were deemed to be determinative and all must be applied in the context of the individual situation. A review of the factors identified by the Supreme Court in Curry County confirms that the RI zone does not allow urban development.

In this case, these four (4) properties contain a variety of rural industrial uses, including an existing and long-standing well-drilling business on Map and Tax Lot 161227A002700, which was recently approved for expansion (County Land Use File No. 247-25-000519-CU, 620-SP) (Exhibit I). As determined by the County in that decision, the site was deemed suitable for the expansion of a non-residential storage structure "based on the developed nature of the subject property." In addition, the decision states that "Due to the developed nature of the subject property, staff finds the proposal will not impact any identified natural resources."

> The other adjacent proposed RI properties are similarly developed with rural industrial and rural commercial type uses, such as storage of equipment and vehicles, and a County-approved antique business home occupation (Exhibit J) on Map and Tax Lots 161227A002800 and 161227A002900, respectively.
>
> Because the application does not seek approval of any specific use on the subject properties, rezoning them to RI will not directly impact the "existing rural character of the area," nor the air, water and land resources of the area. The proposed RI zone change is consistent with the current character of the immediate area which is primarily characterized by rural industrial and rural commercial uses. The "existing rural character of the area," does not consist of bucolic farmland and small farm-related buildings, but instead is a mixture of various rural industrial and rural commercial uses, a school, several dwellings, and hobby farms.

Staff generally accepts the applicant's responses and finds compliance with the applicable Statewide Planning Goals has been effectively demonstrated. However, staff requests the Hearings Officer make specific findings under this Statewide Planning Goal 14. In LUBA No. 2022-075, the Land Use Board of Appeals made the following findings regarding Goal 14 for the *Aceti* property.

> As we explained in *Aceti IV*, in 2002, the county amended the DCCP and DCC to limit the uses authorized in the RI zone to rural uses. Those amendments ensured that uses allowed on RI-zoned lands comply with Goal 14. The county adopted what is now DCCP Policy 3.4.23, which applies to lands designated and zoned RI and provides: "To assure that urban uses are not permitted on rural industrial lands, land use regulations in the [RI] zones shall ensure that the uses allowed are less intensive than those allowed for unincorporated communities in OAR 660-22 or any successor." The 2002 amendments also restricted new rural industrial uses, except primary processing of raw materials produced in rural areas, to a maximum of 7,500 square feet of floor space within a building. That floor-area limitation is codified in DCC 18.100.040(H)(1)[5]. In 2003, DLCD issued an order acknowledging the 2002 ordinances as consistent with Goal 14. The county further amended the RI zone use limitations in 2004, 2009, and 2018. There is no dispute that those amendments are acknowledged as consistent with Goal 14. ORS 197.625(1).[6]
>
> ...

[5] DCC 18.100.040(H)(1) provides: "The maximum size of a building is 7,500 square feet of floor space. The maximum square footage in a building or buildings for a single allowable use, as defined in DCC 18.100.020 and 18.100.030, on an individual lot or parcel shall not exceed 7,500 square feet. There is no building size limit for uses that are for the primary processing of raw materials produced in rural areas."

[6] ORS 197.625(1) provides:

"A local decision adopting a change to an acknowledged comprehensive plan or a land use regulation is deemed to be acknowledged when the local government has compiled with the requirements of ORS 197.610 and 197.615 and either:

> "(a) The 21-day appeal period set out in ORS 197.830(9) has expired and a notice of intent to appeal has not been filed; or
>
> "(b) If an appeal has been timely filed, [LUBA] affirms the local decision or, if an appeal of the decision of [LUBA] is timely filed, an appellate court affirms the decision."

> Petitioner mischaracterizes the county's conclusions and our analysis in *Aceti III*. Contrary to petitioner's characterization, the county's response to petitioner's Goal 14 argument in that appeal did not rely solely on the future direct application of Goal 14 to PAPA applications to apply the RI designation and zone. Instead, the county concluded that (1) the DCCP amendments were consistent with Goal 14 because they did not apply the RI plan designation to any property and therefore could not allow urban use of rural land, (2) the county would analyze consistency with Goal 14 at the time the county considered applying the RI plan designation to specific property, and (3) land use regulations for the RI zone ensure that the county cannot authorize urban uses therein. We agreed with all three of those conclusions.
>
> ...The county and our decisions in prior appeals have illuminated the procedural history of the county's adoption of the applicable RI designation and zone and demonstrated that the applicable DCCP policies and DCC implementing regulations limit rural industrial uses to an intensity less than that allowed by the Unincorporated Communities Rule in order to comply with Goal 14. DLCD found that those policies and regulations are sufficient to demonstrate compliance with Goal 14. Petitioner has not established that that conclusion is incorrect or subject to challenge in this appeal.
>
> Accordingly, we affirm the county's primary conclusion that the policies and provisions of the DCCP and DCC are independently sufficient to demonstrate that PAPAs that apply the RI plan designation and zone to rural land are consistent with Goal 14. In other words, uses and development permitted pursuant to those acknowledged provisions constitute rural uses, do not constitute urban uses, and maintain the land as rural land, consistent with Goal 14.

As noted in the above-quoted LUBA decision, the County's previous amendments to DCC and DCCP regarding industrial uses have been extensively litigated and determined to comply with state statute and Goal 14. As an alternate argument, the applicant has also provided a site-specific *Curry County* analysis.

IV. CONCLUSION & RECOMMENDATION

Staff requests the Hearings Officer determine if the applicant has met the burden of proof necessary to justify changing the Plan Designation from Rural Residential Exception Area to Rural Industrial and Zoning of the subject properties from Flood Plain and Multiple Use Agricultural to Rural Industrial through effectively demonstrating compliance with the applicable criteria of DCC Title 18 (the Deschutes County Zoning Ordinance), the Deschutes County Comprehensive Plan, and applicable sections of OAR and ORS.

DESCHUTES COUNTY PLANNING DIVISION



Written by: Audrey Stuart, Associate Planner



Reviewed by: Anthony Raguine, Principal Planner

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Work Session for upcoming Board consideration of Duplex Definition Text Amendments

RECOMMENDED MOTION:
None.

BACKGROUND AND POLICY IMPLICATIONS:
On November 23, 2026, the Board will hold a public hearing on proposed amendments to the definition of "duplex" in Title 18 of Deschutes County Code (ref. file no. 247-26-000573-TA). The amendments would revise the definition of “duplex” to allow two dwelling units on the same lot regardless of whether the units are attached or detached, while maintaining existing zoning limitations on where duplexes are permitted. The amendments do not expand where duplexes are allowed.

In advance of the public hearing, staff will be available to answer any questions as part of the Board’s work session scheduled on November 16, 2026.

Please see attached memorandum for additional information.

BUDGET IMPACTS:
None.

ATTENDANCE:
Caroline House, Senior Planner
Anthony Raguine, Principal Planner
Will Groves, Planning Manager

MEMORANDUM

TO: Board of County Commissioners (“Board”)

FROM: Caroline House, Senior Planner

DATE: November 10, 2026

SUBJECT: Work Session for Upcoming Board Consideration of Duplex Definition Text Amendments (247-26-000573-TA)

On November 23, 2026, the Board will hold a public hearing on proposed amendments to the Deschutes County Code ("DCC") Title 18 definition of "duplex." The proposed amendments would revise the definition to allow a duplex to consist of two dwelling units on the same lot that may be either attached or detached. In advance of this public hearing, staff will be available to answer any questions as part of a Board work session scheduled on November 16, 2026.

I. BACKGROUND

In 2026, the Board of County Commissioners ("Board") directed Community Development Department staff to initiate a text amendment to the County's definition of "duplex." The Board was contacted by a community member requesting that the County's definition be updated to better align with House Bill (“HB”) 2138, which authorizes both attached and detached duplexes within incorporated cities.

Under the current DCC definition, a duplex consists of two dwelling units that are attached by a common wall, floor, or ceiling. The proposed amendment would revise the definition to allow two dwelling units on the same lot regardless of whether the units are attached or detached. The proposed amendment is intended to increase site-design flexibility and reduce potential barriers to housing development in zoning districts where duplexes are already permitted. The amendments do not expand where duplexes are allowed.

Within unincorporated Deschutes County, duplexes are permitted only in the zoning districts identified in *Table 1* below. These allowances are limited to specific unincorporated communities, rural commercial exception areas, and approved destination resorts. Although duplexes are permitted in a limited number of zoning districts, the proposed amendment would provide additional flexibility for future housing development opportunities within those areas.

Table 1 – DCC Title 18 Zoning Districts Where Duplexes Are Permitted		
18.65 Rural Service Centers	Commercial/Mixed Use District	Brothers
		Hampton
		Millican
		Whistlestop
		Wildhunt
		Alfalfa
18.66 Terrebonne Rural Community Zoning Districts	Terrebonne Residential (TeR) District	
	Terrebonne Residential 5-Acre Min. (TeR5) District	
	Terrebonne Commercial (TeC) District	
18.67 Tumalo Rural Community Zoning Districts	Tumalo Residential (TuR) District	
	Tumalo Commercial (TuC) District	
18.74 Rural Commercial Zone (RC)	Deschutes Junction	
	Deschutes River Woods Store	
18.108 Urban Unincorporated Community Zone; Sunriver	Multiple Unit Residential (RM) District	
18.113 Destination Resort (DR) Combining Zone	Eagle Crest Resort	
	Caldera Springs Resort	
	Juniper Preserve (formerly Pronghorn)	
	Thornburgh Resort	

II. PLANNING COMMISSION REVIEW

On November 12, 2026, the Planning Commission will review the proposed text amendments and may provide comments and recommendations for the Board's consideration. The Planning Commission proceeding is being conducted under DCC Chapter 22.12 as a review work session in lieu of a full Planning Commission public hearing. DCC 22.12.040 requires Commission review before Board action on Board-initiated legislative changes.

To date, no agency or public comments have been received.

III. NEXT STEPS

The Board will conduct a public hearing on November 23, 2026, to consider adoption of the proposed amendments.

At the conclusion of the hearing, the Board can choose one of the following options:

1. Continue the hearing to a date and time certain;
2. Close the oral portion of the hearing and leave the written record open to a date and time certain;

3. Close the hearing and commence deliberations; or
4. Close the hearing and schedule deliberations for a date and time to be determined.

If the Board chooses to close the hearing and commence deliberations, staff will have the ordinance materials ready for first and second reading, and adoption if the Board wishes to proceed with adoption following deliberations.

ATTACHMENTS:

A. Draft Ordinance No. 2026-028 (Emergency Adoption – Effective in 30 days)
B. Draft Ordinance No. 2026-028 (Standard Adoption – Effective in 90 days)
C. Draft Exhibit “A” – Text Amendments, DCC 18.04.030 Definitions
D. Draft Exhibit “B” – Findings, DCC Title 18 Duplex Definition Amendments

REVIEWED

_____

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending the Deschutes County Code Title 18, Zoning Ordinance, Definition of Duplex.	* * * *	ORDINANCE NO. 2026-028

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-26-000573-TA) to the Deschutes County Code ("DCC"), Chapter 18.04 – Title, Purpose, and Definitions; and

WHEREAS, the Deschutes County Planning Commission, pursuant to DCC 22.12.010(A), reviewed the proposed changes on November 12, 2026; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on November 23, 2026, and concluded that the public will benefit from the proposed changes to the Deschutes County Code Titles 18; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC Section 18.04.030, Definitions, is amended to read as described in Exhibit "A", attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 2. FINDINGS. The Board adopts as its findings Exhibit "B", attached and incorporated by reference herein.

Section 3. EMERGENCY. This Ordinance being necessary for the public peace, health, and safety, an emergency is declared to exist, and this Ordinance becomes effective upon adoption by the Board.

/ / /

Dated this _____ of _____, 2026

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

_____
PHIL CHANG, Chair

_____
ANTHONY DeBONE, Vice Chair

ATTEST:

_____
Recording Secretary

_____
PATTI ADAIR, Commissioner

Date of 1st Reading: _____ day of _____, 2026.

Date of 2nd Reading: _____ day of _____, 2026.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Phil Chang	___	___	___	___
Anthony DeBone	___	___	___	___
Patti Adair	___	___	___	___

Effective date: _____ day of _____, 2026.

REVIEWED

_____

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending the Deschutes County Code Title 18, Zoning Ordinance, Definition of Duplex.	* * * *	ORDINANCE NO. 2026-028

WHEREAS, the Deschutes County Community Development Department (CDD) initiated amendments (Planning Division File No. 247-26-000573-TA) to the Deschutes County Code ("DCC"), Chapter 18.04 – Title, Purpose, and Definitions; and

WHEREAS, the Deschutes County Planning Commission reviewed the proposed changes on November 12, 2026; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on November 23, 2026, and concluded that the public will benefit from the proposed changes to the Deschutes County Code Titles 18; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC Section 18.04.030, Definitions, is amended to read as described in Exhibit "A", attached and incorporated by reference herein, with new language underlined and deleted language set forth in ~~strikethrough~~.

Section 2. FINDINGS. The Board adopts as its findings Exhibit "B", attached and incorporated by reference herein.

Section 3. EFFECTIVE DATE. This Ordinance takes effect on the 90th day after the date of adoption, or if appealed, the date the ordinance is no longer subject to appeal.

/ / /

Dated this _____ of _____, 2026

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

_____
PHIL CHANG, Chair

_____
ANTHONY DeBONE, Vice Chair

ATTEST:

_____
Recording Secretary

_____
PATTI ADAIR, Commissioner

Date of 1st Reading: _____ day of _____, 2026.

Date of 2nd Reading: _____ day of _____, 2026.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Phil Chang	___	___	___	___
Anthony DeBone	___	___	___	___
Patti Adair	___	___	___	___

Effective date: _____ day of _____, 2027.

TITLE 18 COUNTY ZONING

CHAPTER 18.04 TITLE, PURPOSE AND DEFINITIONS

18.04.030 Definitions

As used in DCC Title 18, the following words and phrases shall mean as set forth in DCC 18.04.030, or, where such words and phrases are defined in applicable Oregon Revised Statutes (ORS) and/or Oregon Administrative Rules (OAR), as defined therein. If there is any conflict between the definitions set forth in DCC 18.04.030 and the definitions of the same words and phrases in applicable ORS and/or OAR, the definitions in ORS and/or OAR shall prevail.

...

"Dwelling unit" means a building or portion thereof providing living facilities for one or more persons living together, including provisions for sleeping, cooking, and sanitation. Cooking facilities shall be limited to one kitchen and sanitation facilities shall include at least one full bath. All areas shall have an enclosed and unobstructed way of travel within the dwelling unit to all other areas within the dwelling unit. With the exclusion of bedrooms, all areas within the dwelling unit shall be shared in common.

A. “Duplex” means two attached, or detached, dwelling units on an individual lot or parcel when neither is an accessory dwelling.
B. “Dwelling unit, accessory” shall have the meaning set forth in DCC 18.116.355(A).
C. “Dwelling unit, historic accessory” shall have the meaning set forth in DCC 18.116.350(A).
D. "Dwelling unit, live/work” for purposes of DCC 18.108.055, is a dwelling unit in which a commercial use may be operated on the ground floor of the dwelling unit.
E. "Dwelling, lot of record" means a dwelling unit approved pursuant to ORS 215.705.
F. "Dwelling, manufactured" shall have the meaning set forth in ORS 446.003. As used in DCC Title 18, “manufactured home” shall be synonymous with “manufactured dwelling” as defined herein.
G. “Dwelling, multi-unit” means a building that consists of three or more attached dwelling units on an individual lot or parcel.
H. "Dwelling, multi-family" means a “multi-unit dwelling” as defined herein.
I. “Dwelling, single-unit” means a detached dwelling unit on an individual lot or parcel.
J. "Dwelling, single-family" means a “single-unit dwelling” as defined herein.
K. "Dwelling, single-family – zero lot line” in the Neighborhood Planning Area means a detached building containing one (1) single-unit dwelling, where one or more of the building’s sides coincide with a lot line, not including manufactured dwellings and

temporary structures such as tents, teepees, travel trailers, and other similar structures.

L. "Dwelling, seasonal" means a single-unit dwelling, including a manufactured dwelling, travel trailer, or camping vehicle, designed for and used as a temporary dwelling for recreational or seasonal purposes only.

M. “Dwelling unit, zero lot line” means dwelling units which are constructed with a zero side setback.

N. “Town home”, as applied in the La Pine Neighborhood Planning Area, means a single-unit dwelling with common walls on one or both side lot lines and continuous front facades. Alleys to the rear of the building provide parking and service access.

O. “Townhouse” means a dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual lot or parcel.

~~P. “Two-family dwelling” means a “duplex” as defined herein.~~

HISTORY

Adopted by Ord. PL-15 on 11/1/1979
Amended by Ord. 82-013 §1 on 5/25/1982
Amended by Ord. 83-037 §2 on 6/1/1983
Amended by Ord. 83-033 §1 on 6/15/1983
Amended by Ord. 84-023 §1 on 8/1/1984
Amended by Ord. 85-002 §2 on 2/13/1985
Amended by Ord. 86-032 §1 on 4/2/1986
Amended by Ord. 86-018 §1 on 6/30/1986
Amended by Ord. 86-054 §1 on 6/30/1986
Amended by Ord. 86-056 §2 on 6/30/1986
Amended by Ord. 87-015 §1 on 6/10/1987
Amended by Ord. 88-009 §1 on 3/30/1988
Amended by Ord. 88-030 §3 on 8/17/1988
Amended by Ord. 89-004 §1 on 3/24/1989
Amended by Ord. 89-009 §2 on 11/29/1989
Amended by Ord. 90-014 §2 on 7/12/1990
Amended by Ord. 91-002 §11 on 2/6/1991
Amended by Ord. 91-005 §1 on 3/4/1991
Amended by Ord. 92-025 §1 on 4/15/1991
Amended by Ord. 91-020 §1 on 5/29/1991
Amended by Ord. 91-038 §§3 and 4 on 9/30/1991
Amended by Ord. 92-004 §§1 and 2 on 2/7/1992
Amended by Ord. 92-034 §1 on 4/8/1992
Amended by Ord. 92-065 §§1 and 2 on 11/25/1992
Amended by Ord. 92-066 §1 on 11/25/1992
Amended by Ord. 93-002 §§1, 2 and 3 on 2/3/1993
Amended by Ord. 93-005 §§1 and 2 on 4/21/1993

Amended by Ord. 93-038 §1 on 7/28/1993
Amended by Ord. 93-043 §§1, 1A and 1B on 8/25/1993
Amended by Ord. 94-001 §§1, 2, and 3 on 3/16/1994
Amended by Ord. 94-008 §§1, 2, 3, 4, 5, 6, 7 and 8 on 6/8/1994
Amended by Ord. 94-041 §§2 and 3 on 9/14/1994
Amended by Ord. 94-038 §3 on 10/5/1994
Amended by Ord. 94-053 §1 on 12/7/1994
Amended by Ord. 95-007 §1 on 3/1/1995
Amended by Ord. 95-001 §1 on 3/29/1995
Amended by Ord. 95-075 §1 on 11/29/1995
Amended by Ord. 95-077 §2 on 12/20/1995
Amended by Ord. 96-003 §2 on 3/27/1996
Amended by Ord. 96-082 §1 on 11/13/1996
Amended by Ord. 97-017 §1 on 3/12/1997
Amended by Ord. 97-003 §1 on 6/4/1997
Amended by Ord. 97-078 §5 on 12/31/1997
Amended by Ord. 2001-037 §1 on 9/26/2001
Amended by Ord. 2001-044 §2 on 10/10/2001
Amended by Ord. 2001-033 §2 on 10/10/2001
Amended by Ord. 2001-048 §1 on 12/10/2001
Amended by Ord. 2003-028 §1 on 9/24/2003
Amended by Ord. 2004-001 §1 on 7/14/2004
Amended by Ord. 2004-024 §1 on 12/20/2004
Amended by Ord. 2005-041 §1 on 8/24/2005
Amended by Ord. 2006-008 §1 on 8/29/2006
Amended by Ord. 2007-019 §1 on 9/28/2007
Amended by Ord. 2007-020 §1 on 2/6/2008
Amended by Ord. 2007-005 §1 on 2/28/2008
Amended by Ord. 2008-015 §1 on 6/30/2008
Amended by Ord. 2008-007 §1 on 8/18/2008
Amended by Ord. 2010-018 §3 on 6/28/2010
Amended by Ord. 2010-022 §1 on 7/19/2010
Amended by Ord. 2011-009 §1 on 10/17/2011
Amended by Ord. 2012-004 §1 on 4/16/2012
Amended by Ord. 2012-007 §1 on 5/2/2012
Amended by Ord. 2013-008 §1 on 7/5/2013
Amended by Ord. 2014-009 §1 on 8/6/2014
Amended by Ord. 2015-004 §1 on 4/22/2015
Amended by Ord. 2016-015 §1 on 7/1/2016
Amended by Ord. 2016-026 §1 on 11/9/2016
Amended by Ord. 2016-006 §1 on 2/27/2017
Amended by Ord. 2017-015 §1 on 11/1/2017
Repealed by Ord. 2018-005 §8 on 10/10/2018
Amended by Ord. 2018-006 §4 on 11/20/2018

Amended by Ord. 2019-010 §1 on 5/8/2019
Amended by Ord. 2019-016 §1 on 2/24/2020
Amended by Ord. 2020-001 §1 on 4/21/2020
Amended by Ord. 2020-010 §1 on 7/3/2020
Amended by Ord. 2020-007 §7 on 10/27/2020
Amended by Ord. 2021-013 §3 on 4/5/2022
Amended by Ord. 2022-014 §1 on 4/4/2023
Amended by Ord. 2023-001 §2 on 5/30/2023
Amended by Ord. 2024-008 §2 on 1/7/2025
Amended by Ord. 2025-002 §1 on 3/28/2025
Amended by Ord. 2025-009 §1 on 7/1/2025
Amended by Ord. 2025-016 §1 on 1/13/2026
Amended by Ord. 2026-028 §1 on XX/XX/XXXX

FINDINGS
TITLE 18 – DUPLEX DEFINITION AMENDMENTS
TEXT AMENDMENTS
FILE NO. 247-26-000573-TA

I. APPLICABLE CRITERIA:

Deschutes County Code ("DCC")
Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan ("DCCP")

Oregon Administrative Rule ("OAR")
Chapter 660-015, Statewide Planning Goals and Guidelines

II. BACKGROUND:

In 2026, the Board of County Commissioners ("Board") directed Community Development Department staff to initiate a text amendment to the County's definition of "duplex". The Board was contacted by a community member requesting that the County's definition be amended to align with House Bill (HB) 2138, which applies to cities and allows both attached and detached duplexes. This amendment is intended to increase flexibility in site design and reduce barriers to developing housing in certain zones.

Within Deschutes County's jurisdiction under DCC Title 18, duplexes are allowed in the zones listed in *Table 1* below. These allowances apply only to specific zones located within certain Unincorporated Communities and Rural Commercial exception areas, or approved Destination Resorts.

Table 1 – DCC Title 18 Duplex Zoning Allowances

18.65 Rural Service Centers	Commercial/Mixed Use District	Brothers
		Hampton
		Millican
		Whistlestop
		Wildhunt
		Alfalfa
18.66 Terrebonne Rural Community Zoning Districts	Terrebonne Residential (TeR) District	
	Terrebonne Residential 5-Acre Min. (TeR5) District	
	Terrebonne Commercial (TeC) District	

18.67 Tumalo Rural Community Zoning Districts	Tumalo Residential (TuR) District
	Tumalo Commercial (TuC) District
18.74 Rural Commercial Zone (RC)	Deschutes Junction
	Deschutes River Woods Store
18.108 Urban Unincorporated Community Zone; Sunriver	Multiple Unit Residential (RM) District
18.113 Destination Resort (DR) Combining Zone	Eagle Crest Resort
	Caldera Springs Resort
	Juniper Preserve (formerly Pronghorn)
	Thornburgh Resort

III. PROPOSED TEXT AMENDMENTS:

The proposed text amendments are detailed in the referenced ordinance, with additional text identified by underline and deleted text by ~~strikethrough~~.

IV. BASIC FINDINGS:

The Board of County Commissioners directed staff to initiate the proposed text amendment. Staff initiated the proposed amendments and notified the Oregon Department of Land Conservation and Development ("DLCD") on September 30, 2026. As demonstrated in the findings below, the amendments remain consistent with Deschutes County Code, the Deschutes County Comprehensive Plan, and the Statewide Planning Goals.

V. FINDINGS:

DESCHUTES COUNTY CODE ("DCC")

Chapter 22.12, Legislative Procedures.

Section 22.12.010, Hearing Required.

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

FINDING: The Planning Commission ("Commission") will review the proposed amendments on November 12, 2026, and a public hearing before the Board will be conducted afterwards. Given the limited scope of the amendments, the Planning Director has elected to not schedule a public hearing before the Commission as allowed under this criterion.

Section 22.12.020, Notice.

A. Published Notice

1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.

2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.

FINDING: Published notice with the required information described under subsection (2) above will be published in *The Bulletin* newspaper at least 10 days prior to the public hearing.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.

FINDING: Posted notice was determined by the Planning Director not to be necessary.

C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.

FINDING: The proposed amendments are legislative and do not apply to any specific property. Therefore, individual notice is not required.

D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

FINDING: Notice will be provided to the County public information official for wider media distribution. This criterion has been met.

Section 22.12.030, Initiation of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division at the direction of the Board and has received a fee waiver. This criterion has been met.

Section 22.12.040, Hearings Body

A. The following shall serve as hearings or review body for legislative changes in this order:

1. The Planning Commission.

2. The Board of County Commissioners.

B. Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.

FINDING: As noted above and required under this section, the Commission will review the proposed amendments on November 12, 2026, and afterwards the Board will hold a public hearing to review the proposed amendments on November 23, 2026.

Section 22.12.050, Final Decision.

All legislative changes shall be adopted by ordinance.

FINDING: The proposed legislative changes included in file no. 247-26-000573-TA will be implemented by an ordinance upon approval and adoption by the Board.

2011 DESCHUTES COUNTY COMPREHENSIVE PLAN ("DCCP")

Chapter 1, Comprehensive Planning

Section 1.2, Community Involvement Policies.

Policy 1.2.5. Ensure effective, efficient planning procedures.

FINDING: The proposed amendments amend the "duplex" definition to allow for detached or detached dwellings, as permitted by HB 2138. This amendment will align the County's definition with other jurisdictions in the Central Oregon region, ensuring an effective and efficient planning process. This policy is met.

Appendix A – Terrebonne Community Plan

Residential Area Policies.

8. Plan and zone for a diversity of housing types and densities suited to the capacity of the land to accommodate water and sewer facilities.

FINDING: The proposed amendments provide additional flexibility for duplex site design within existing zoning and infrastructure constraints, and the amendments support a diversity of housing types and densities suited to the capacity of available water and sewer facilities. The proposed amendments do not change the zones in which duplexes are allowed or modify applicable requirements related to water and sewer facilities. This policy is met.

Appendix B – Tumalo Community Plan

Residential Area Policies.

1. Encourage density and design features that are compatible with existing development.

FINDING: The proposed amendments provide additional flexibility in site design and allow duplexes to be configured in ways that respond to the character and pattern of existing development. This policy is met.

OREGON ADMINISTRATIVE RULES ("OAR")

OAR 660-015, Statewide Planning Goals and Guidelines

Goal 1: Citizen Involvement:
FINDING: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments was provided to T*he Bulletin* for the Board public hearing.

Goal 2: Land Use Planning:
FINDING: The proposed amendments respond to community input and are supported by a reasoned review of applicable state and local land use regulations. The amendment updates the definition of "duplex" to allow the two dwelling units to be either attached or detached, providing greater flexibility in site design while preserving the existing zoning allowances for areas where duplex uses are permitted under DCC Title 18. The amendment provides clear direction for the consistent application of the County's land use regulations and supports efficient housing development consistent with the County's acknowledged land use planning framework. This goal is met.

Goal 3: Agricultural Lands:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 3. This goal does not apply.

Goal 4: Forest Lands:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 4. This goal does not apply.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 5. This goal does not apply.

Goal 6: Air, Water and Land Resources Quality:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 6. This goal does not apply.

Goal 7: Areas Subject to Natural Disasters and Hazards:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 7. This goal does not apply.

Goal 8: Recreational Needs:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 8. This goal does not apply.

Goal 9: Economic Development:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 9. This goal does not apply.

Goal 10: Housing:
FINDING: The proposed amendments update the definition of "duplex" to allow the two dwelling units to be either attached or detached. This expanded site design flexibility is supportive of housing development and may broaden housing options without altering where duplex uses are allowed. This goal is met.

Goal 11: Public Facilities and Services:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 11. This goal does not apply.

Goal 12: Transportation:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 12. This goal does not apply.

Goal 13: Energy Conservation:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 13. This goal does not apply.

Goal 14: Urbanization:
FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 14. This goal does not apply.

Goals 15 through 19
FINDING: These goals are not applicable to the proposed plan and text amendments because the County does not contain these types of lands.

VI. CONCLUSION:

Based on the information provided herein, the staff recommends the Board of County Commissioners approve the proposed text amendments to the Deschutes County Code.

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Treasury Report for November 2026

ATTENDANCE:
Bill Kuhn, County Treasurer

MEMORANDUM

DATE: November 16, 2026

TO: Board of County Commissioners

FROM: Bill Kuhn, Treasurer

SUBJECT: Treasury Report for October 2026

Following is the unaudited monthly treasury report for fiscal year to date (YTD) as of October 31, 2026.

Treasury and Investments

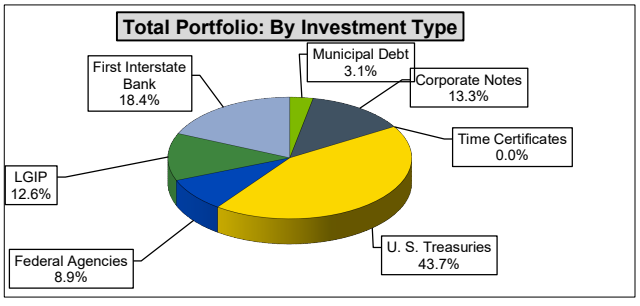
- The portfolio balance at the end of October was $360.7 million, an increase of $62.4 million from September and a decrease of $8.7 million from last year (October 2025).
- Net investment income for October was $935.3K approximately $70k lower than last month and $76K lower than October 2025. YTD earnings of $3,876.3K are $194K lower than the YTD earnings last year.
- All portfolio category balances are within policy limits.
- The LGIP interest rate increased to 4.25% during the month. The FIB rate was 3.65%. Benchmark returns for 24-month treasuries were down 19 basis points and 36-month rates were down 26 bps from the prior month.
- The average portfolio yield was at 3.88%, which was down slightly from last month's average %.
- With recent redemption activity and tax receipts, the portfolio weighted average time to maturity was .99 years.

Deschutes County

10/31/2026

Portfolio Breakdown: Par Value by Investment Type			
Municipal Debt		11,115,000	3.1%
Corporate Notes		48,000,000	13.3%
		-	0.0%
U.S. Treasuries		157,500,000	43.7%
Federal Agencies		32,085,000	8.9%
LGIP		45,505,200	12.6%
First Interstate (Book Balance)		66,518,403	18.4%
Total Investments	**$**	**360,723,603**	**100.0%**

Investment Income		Oct-26	Y-T-D
Total Investment Income		$ 947,801	$ 3,926,370
Less Fee: $12,500 per month		(12,500)	(50,000)
Investment Income - Net		**$ 935,301**	**$ 3,876,370**
Prior Year Comparison	**Oct-25**	$ 1,011,344	$ 4,070,520

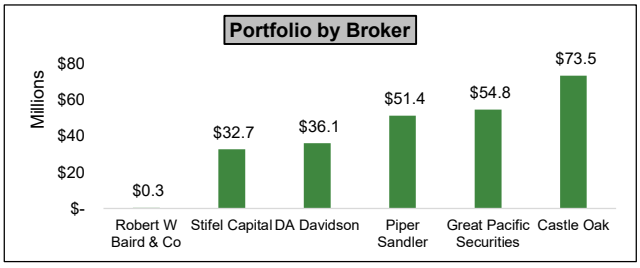


Category Maximums:	
U.S. Treasuries	100%
LGIP ($65,463,000)	100%
Federal Agencies	100%
Banker's Acceptances	25%
Time Certificates	50%
Municipal Debt	25%
Corporate Debt	25%

Maturity (Years)	
Max	**Weighted Average**
3.00	0.99

Yield Percentages	Current Month	Prior Month
LGIP	**4.25%**	**4.10%**
Investments	**3.92%**	**3.94%**
Average	**3.88%**	**3.90%**

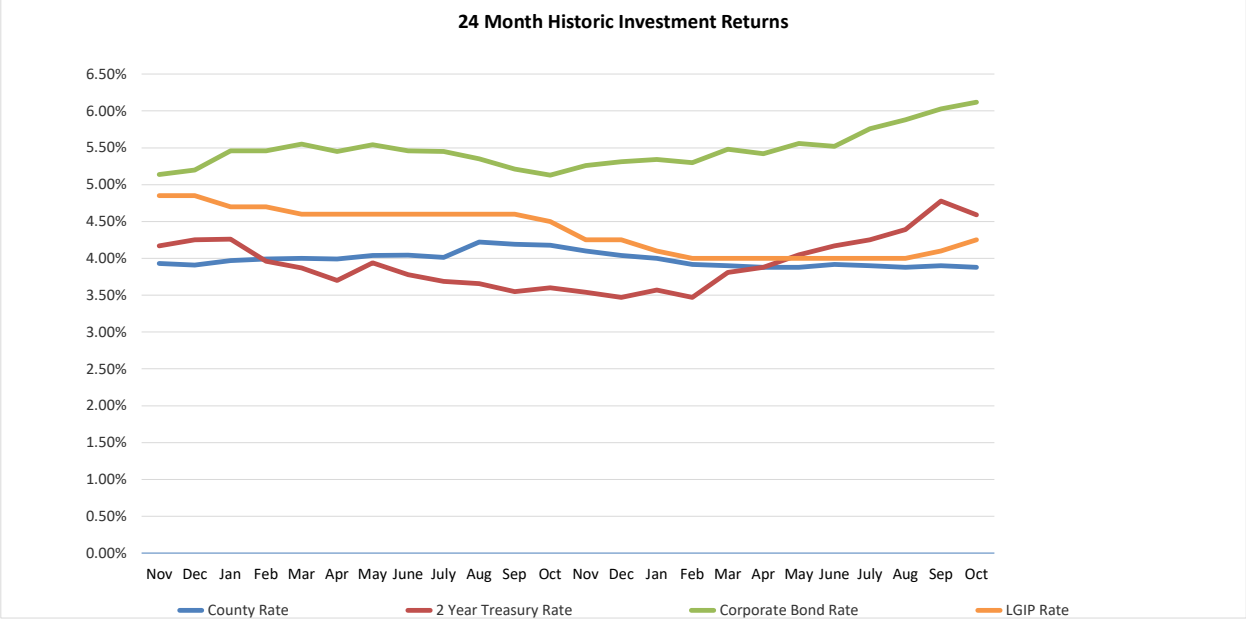
Benchmarks		
24 Month Treasury	**4.59%**	**4.78%**
LGIP Rate	**4.25%**	**4.10%**
36 Month Treasury	**4.65%**	**4.91%**

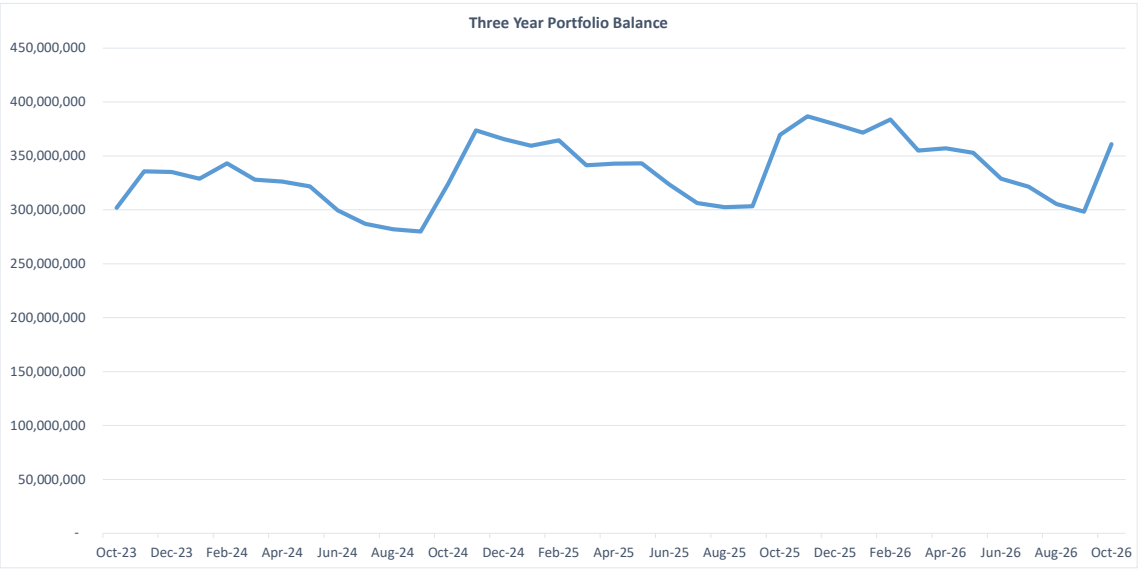


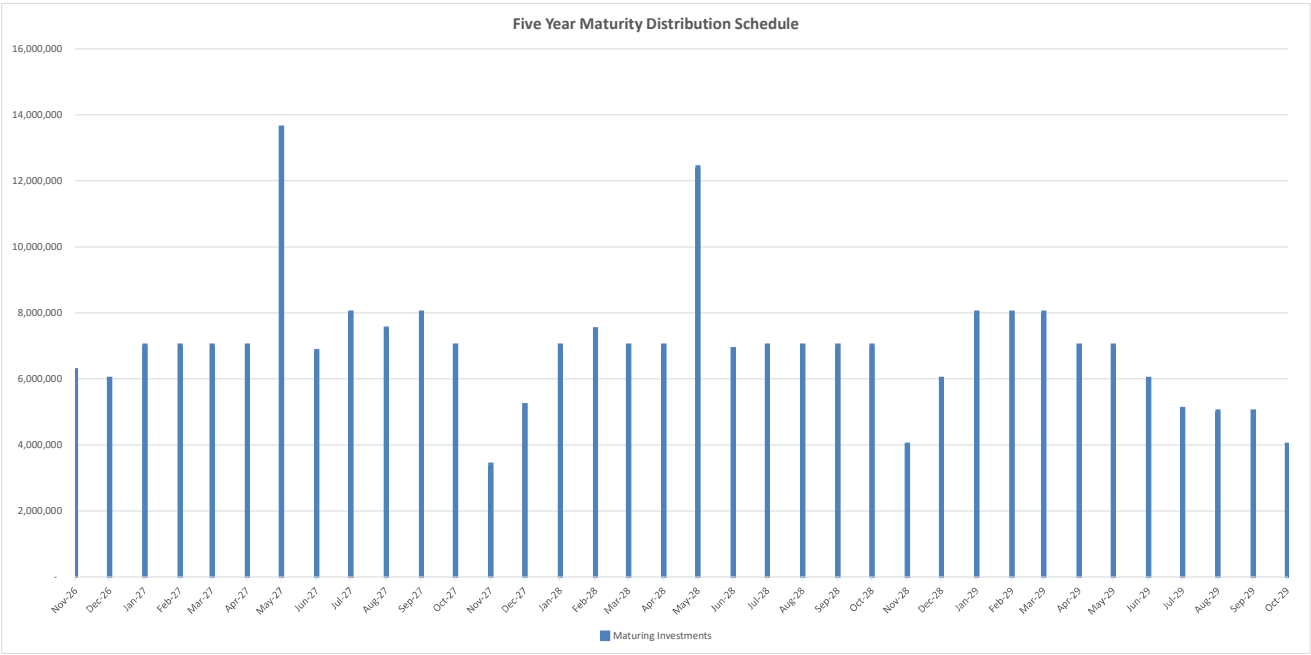
Term	Minimum	Actual
0 to 30 Days	**10%**	**32.8%**
Under 1 Year	**25%**	**56.5%**
Under 5 Years	**100%**	**100.0%**

Other	Policy	Actual
Corp Issuer	**5%**	**2.8%**
Callable	**25%**	**11.7%**
Weighted Ave.	**AA2**	**AA1**

Investment Activity	
Purchases in Month	**$**
Sales/Redemptions in Month	**$**


24 Month Historic Investment Returns
6.50%
6.00%
5.50%
5.00%
4.50%
4.00%
3.50%
3.00%
2.50%
2.00%
1.50%
1.00%
0.50%
0.00%
Nov Dec Jan Feb Mar Apr May June July Aug Sep Oct Nov Dec Jan Feb Mar Apr May June July Aug Sep Oct
County Rate
2 Year Treasury Rate
Corporate Bond Rate
LGIP Rate


Three Year Portfolio Balance
450,000,000
400,000,000
350,000,000
300,000,000
250,000,000
200,000,000
150,000,000
100,000,000
50,000,000
-
Oct-23 Dec-23 Feb-24 Apr-24 Jun-24 Aug-24 Oct-24 Dec-24 Feb-25 Apr-25 Jun-25 Aug-25 Oct-25 Dec-25 Feb-26 Apr-26 Jun-26 Aug-26 Oct-26


Five Year Maturity Distribution Schedule
16,000,000
14,000,000
12,000,000
10,000,000
8,000,000
6,000,000
4,000,000
2,000,000
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Nov-26 Dec-26 Jan-27 Feb-27 Mar-27 Apr-27 May-27 Jun-27 Jul-27 Aug-27 Sep-27 Oct-27 Nov-27 Dec-27 Jan-28 Feb-28 Mar-28 Apr-28 May-28 Jun-28 Jul-28 Aug-28 Sep-28 Oct-28 Nov-28 Dec-28 Jan-29 Feb-29 Mar-29 Apr-29 May-29 Jun-29 Jul-29 Aug-29 Sep-29 Oct-29
Maturing Investments

Deschutes County Investments
Portfolio Management
Portfolio Details - Investments
October 31, 2026

Inv #	Inv Type	CUSIP	Security	Broker	Purchase Date	Maturity Date	Days To Maturity	Ratings		Coupon Rate	YTM 365	Par Value	Market Value	Book Value	Call Date
								Moodys	S&P/Fitch						
11062	FAC	3130AL2X1	Federal Home Loan Bank	DA DAV	11/22/2024	2/17/2027	108	AA1	AA+	0.85	4.35	$ 2,000,000	$ 1,979,055	$ 1,980,557	11/17/2026
11023	FAC	3130AL5A8	Federal Home Loan Bank	STIFEL	3/21/2024	2/26/2027	117	AA1	AA+	0.9	4.57	$ 2,000,000	$ 1,977,695	$ 1,978,275	11/26/2026
11025	FAC	3130AVBC5	Federal Home Loan Bank	PS	4/29/2024	3/12/2027	131	AA1	AA+	4.5	4.87	$ 2,000,000	$ 2,001,953	$ 1,997,474	- -
11024	FAC	31424WHG0	Federal Agriculture Mtg Corp	PS	4/29/2024	4/16/2027	166			4.8	4.88	$ 2,000,000	$ 2,004,350	$ 1,999,282	- -
11041	FAC	3134HATD5	Federal Home Loan Mtg Corp	DA DAV	10/25/2024	10/22/2027	355	AA1	AA+	3.75	4.16	$ 1,000,000	$ 994,863	$ 996,252	- -
11033	FAC	3134GVYY8	Federal Home Loan Mtg Corp	GPAC	10/4/2024	11/26/2027	390	AA1		1	3.65	$ 1,000,000	$ 963,678	$ 973,261	11/26/2026
11173	FAC	3133ETA98	Federal Farm Credit Bank	PS	2/19/2026	1/3/2028	428	AA1	AA+	3.5	3.47	$ 1,000,000	$ 987,974	$ 1,000,332	- -
11095	FAC	3133ERT84	Federal Farm Credit Bank	GPAC	1/17/2025	1/14/2028	439	AA1	AA+	4.25	4.31	$ 2,000,000	$ 1,992,019	$ 1,998,762	- -
11115	FAC	3133ETMC8	Federal Farm Credit Bank	GPAC	8/20/2025	4/20/2028	536	Aaa	AA+	3.875	3.71	$ 3,000,000	$ 2,971,421	$ 3,006,695	- -
11094	FAC	3133EMXW7	Federal Farm Credit Bank	DA DAV	1/17/2025	4/28/2028	544	AA1	AA+	1.4	4.39	$ 1,000,000	$ 953,696	$ 958,868	- -
11110	FAC	3133ETNU7	Federal Farm Credit Bank	PS	7/23/2025	7/3/2028	610	Aa1	AA+	3.75	3.77	$ 2,000,000	$ 1,973,167	$ 1,999,353	- -
11111	FAC	3133ETNU7	Federal Farm Credit Bank	CASTLE	8/20/2025	7/3/2028	610	Aa1	AA+	3.75	3.73	$ 3,000,000	$ 2,959,750	$ 3,001,115	- -
11151	FAC	3133ER6E6	Federal Farm Credit Bank	GPAC	12/8/2025	12/7/2028	767	AA1	AA+	4	3.58	$ 2,000,000	$ 1,974,364	$ 2,016,577	- -
11144	FAC	3130A0FR6	Federal Home Loan Bank	PS	11/24/2025	12/8/2028	768	AA1	AA+	4	3.49	$ 2,000,000	$ 1,973,079	$ 2,020,094	- -
11165	FAC	3133EMVB5	Federal Farm Credit Bank	STIFEL	12/22/2025	4/5/2029	886	AA1	AA+	1.73	3.59	$ 2,000,000	$ 1,860,162	$ 1,915,363	- -
11156	FAC	3133EMYY2	Federal Farm Credit Bank	CASTLE	12/22/2025	5/11/2029	922	AA1	AA+	1.6	3.59	$ 2,000,000	$ 1,848,716	$ 1,905,924	- -
11167	FAC	3130AQKX0	Federal Home Loan Bank	DA DAV	1/21/2026	7/27/2029	999	AA1	AA+	2	3.74	$ 1,085,000	$ 1,009,383	$ 1,036,960	1/27/2027
11166	FAC	3133ERSP7	Federal Farm Credit Bank	CASTLE	1/21/2026	9/10/2029	1044	AA1	AA+	3.5	3.73	$ 1,000,000	$ 967,092	$ 993,963	- -
10997	TRC	91282CJK8	U.S. Treasury	STIFEL	12/12/2023	11/15/2026	14	AA1		4.625	4.45	$ 2,000,000	$ 2,000,182	$ 2,000,123	- -
11058	TRC	91282CJK8	U.S. Treasury	CASTLE	11/22/2024	11/15/2026	14	AA1		4.625	4.31	$ 2,000,000	$ 2,000,182	$ 2,000,228	- -
11069	TRC	91282CJK8	U.S. Treasury	GPAC	11/25/2024	11/15/2026	14	AA1		4.625	4.34	$ 2,000,000	$ 2,000,182	$ 2,000,207	- -
11022	TRC	91282CJP7	U.S. Treasury	CASTLE	3/21/2024	12/15/2026	44	AA1		4.375	4.50	$ 2,000,000	$ 2,000,586	$ 1,999,711	- -
11068	TRC	91282CJP7	U.S. Treasury	DA DAV	11/25/2024	12/15/2026	44	AA1		4.375	4.33	$ 2,000,000	$ 2,000,586	$ 2,000,100	- -
11021	TRC	91282CJT9	U.S. Treasury	CASTLE	3/21/2024	1/15/2027	75	AA1		4	4.49	$ 2,000,000	$ 1,999,273	$ 1,998,134	- -
11061	TRC	91282CJT9	U.S. Treasury	CASTLE	11/22/2024	1/15/2027	75	AA1		4	4.31	$ 2,000,000	$ 1,999,273	$ 1,998,782	- -
11070	TRC	91282CJT9	U.S. Treasury	GPAC	11/25/2024	1/15/2027	75	AA1		4	4.32	$ 2,000,000	$ 1,999,273	$ 1,998,747	- -
11178	TRC	912828Z78	U.S. Treasury	STIFEL	2/19/2026	1/31/2027	91	AA1		1.5	3.54	$ 1,000,000	$ 993,457	$ 995,047	- -
11077	TRC	91282CKA8	U.S. Treasury	PS	11/25/2024	2/15/2027	106	AA1		4.125	4.32	$ 2,000,000	$ 1,999,453	$ 1,998,898	- -
11171	TRC	912828V98	U.S. Treasury	PS	2/19/2026	2/15/2027	106	AA1		2.25	3.51	$ 1,000,000	$ 994,681	$ 996,447	- -
11063	TRC	91282CKE0	U.S. Treasury	DA DAV	11/22/2024	3/15/2027	134	AA1		4.25	4.28	$ 2,000,000	$ 2,000,453	$ 1,999,768	- -
11075	TRC	91282CKE0	U.S. Treasury	CASTLE	11/25/2024	3/15/2027	134	AA1		4.25	4.32	$ 2,000,000	$ 2,000,453	$ 1,999,477	- -
11059	TRC	91282CKJ9	U.S. Treasury	CASTLE	11/22/2024	4/15/2027	165	AA1		4.5	4.30	$ 2,000,000	$ 2,002,164	$ 2,001,711	- -
11071	TRC	91282CKJ9	U.S. Treasury	GPAC	11/25/2024	4/15/2027	165	AA1		4.5	4.31	$ 2,000,000	$ 2,002,164	$ 2,001,598	- -
11172	TRC	91282CKJ9	U.S. Treasury	PS	2/19/2026	4/15/2027	165	AA1		4.5	3.49	$ 1,000,000	$ 1,001,082	$ 1,004,408	- -
11057	TRC	91282CKR1	U.S. Treasury	CASTLE	11/22/2024	5/15/2027	195	AA1		4.5	4.29	$ 2,000,000	$ 2,001,773	$ 2,002,107	- -
11119	TRC	912828X88	U.S. Treasury	STIFEL	9/12/2025	5/15/2027	195	Aa1		2.375	3.53	$ 2,000,000	$ 1,979,639	$ 1,988,089	- -
11121	TRC	912828X88	U.S. Treasury	PS	11/12/2025	5/15/2027	195	Aa1		2.375	3.61	$ 2,000,000	$ 1,979,639	$ 1,987,234	- -
11131	TRC	91282CKR1	U.S. Treasury	DA DAV	11/18/2025	5/15/2027	195	AA1		4.5	3.63	$ 2,000,000	$ 2,001,773	$ 2,008,978	- -
11137	TRC	91282CKR1	U.S. Treasury	CASTLE	11/24/2025	5/15/2027	195	AA1		4.5	3.56	$ 1,600,000	$ 1,601,419	$ 1,607,807	- -
11086	TRC	91282CKV2	U.S. Treasury	GPAC	12/6/2024	6/15/2027	226	AA1		4.625	4.13	$ 1,500,000	$ 1,503,066	$ 1,504,357	- -
11177	TRC	91282CKV2	U.S. Treasury	CASTLE	2/19/2026	6/15/2027	226	AA1		4.625	3.48	$ 1,000,000	$ 1,002,044	$ 1,006,828	- -
11038	TRC	912828ZV5	U.S. Treasury	GPAC	10/25/2024	6/30/2027	241	AA1		0.5	3.98	$ 1,000,000	$ 975,410	$ 978,390	- -
11031	TRC	91282CFB2	U.S. Treasury	CASTLE	10/4/2024	7/31/2027	272	AA1		2.75	3.62	$ 1,000,000	$ 988,208	$ 993,893	- -
11040	TRC	91282CFB2	U.S. Treasury	CASTLE	10/25/2024	7/31/2027	272	AA1		2.75	4.00	$ 1,000,000	$ 988,208	$ 991,281	- -
11052	TRC	91282CFB2	U.S. Treasury	STIFEL	11/14/2024	7/31/2027	272	AA1		2.75	4.24	$ 2,000,000	$ 1,976,416	$ 1,979,203	- -
11072	TRC	91282CFB2	U.S. Treasury	GPAC	11/25/2024	7/31/2027	272	AA1		2.75	4.30	$ 2,000,000	$ 1,976,416	$ 1,978,359	- -
11085	TRC	91282CFB2	U.S. Treasury	STIFEL	12/6/2024	7/31/2027	272	AA1		2.75	4.13	$ 1,500,000	$ 1,482,312	$ 1,485,502	- -
11032	TRC	9128282R0	U.S. Treasury	CASTLE	10/4/2024	8/15/2027	287	AA1		2.25	3.61	$ 1,000,000	$ 983,633	$ 989,883	- -
11048	TRC	91282CLG4	U.S. Treasury	CASTLE	11/14/2024	8/15/2027	287	AA1		3.75	4.25	$ 2,000,000	$ 1,990,250	$ 1,992,586	- -
11067	TRC	91282CFH9	U.S. Treasury	DA DAV	11/25/2024	8/31/2027	303	AA1		3.125	4.30	$ 2,000,000	$ 1,979,438	$ 1,981,850	- -
11084	TRC	91282CFH9	U.S. Treasury	STIFEL	12/6/2024	8/31/2027	303	AA1		3.125	4.12	$ 2,000,000	$ 1,979,438	$ 1,984,453	- -
11080	TRC	91282CLL3	U.S. Treasury	PS	12/6/2024	9/15/2027	318	AA1		3.375	4.12	$ 2,000,000	$ 1,982,688	$ 1,987,885	- -
11053	TRC	91282CAL5	U.S. Treasury	GPAC	11/14/2024	9/30/2027	333	AA1		0.375	4.25	$ 2,000,000	$ 1,929,258	$ 1,934,119	- -
11074	TRC	91282CAL5	U.S. Treasury	CASTLE	11/25/2024	9/30/2027	333	AA1		0.375	4.30	$ 1,000,000	$ 964,629	$ 966,598	- -
11076	TRC	91282CLQ2	U.S. Treasury	CASTLE	11/25/2024	10/15/2027	348	AA1		3.875	4.30	$ 2,000,000	$ 1,989,766	$ 1,992,416	- -
11122	TRC	91282CLQ2	U.S. Treasury	PS	11/12/2025	10/15/2027	348	AA1		3.875	3.58	$ 2,000,000	$ 1,989,766	$ 2,005,304	- -
11046	TRC	91282CFU0	U.S. Treasury	CASTLE	11/6/2024	10/31/2027	364	AA1		4.125	4.16	$ 2,000,000	$ 1,993,688	$ 1,999,269	- -
11087	TRC	9128283F5	U.S. Treasury	GPAC	12/6/2024	11/15/2027	379	AA1		2.25	4.12	$ 2,000,000	$ 1,955,647	$ 1,963,774	- -
11081	TRC	91282CGC9	U.S. Treasury	DA DAV	12/6/2024	12/31/2027	425	AA1		3.875	4.10	$ 2,000,000	$ 1,986,172	$ 1,995,105	- -

Inv #	Inv Type	CUSIP	Security	Broker	Purchase Date	Maturity Date	Days To Maturity	Ratings Moodys	Ratings S&P/Fitch	Coupon Rate	YTM 365	Par Value	Market Value	Book Value	Call Date
11090	TRC	91282CBB6	U.S. Treasury	CASTLE	1/8/2025	12/31/2027	425	AA1		0.625	4.34	$ 2,000,000	$ 1,913,438	$ 1,919,726	- -
11093	TRC	91282CMF5	U.S. Treasury	DA DAV	1/15/2025	1/15/2028	440	AA1		4.25	4.33	$ 2,000,000	$ 1,993,906	$ 1,998,184	- -
11083	TRC	91282CBJ9	U.S. Treasury	STIFEL	12/6/2024	1/31/2028	456	AA1		0.75	4.12	$ 2,000,000	$ 1,910,078	$ 1,921,745	- -
11089	TRC	9128283W8	U.S. Treasury	CASTLE	1/8/2025	2/15/2028	471	AA1		2.75	4.36	$ 2,500,000	$ 2,445,508	$ 2,452,015	- -
11096	TRC	9128283W8	U.S. Treasury	PS	1/17/2025	2/15/2028	471	AA1		2.75	4.29	$ 2,000,000	$ 1,956,406	$ 1,963,125	- -
11174	TRC	9128283W8	U.S. Treasury	PS	2/19/2026	2/15/2028	471	AA1		2.75	3.45	$ 1,000,000	$ 978,203	$ 991,365	- -
11082	TRC	91282CGP0	U.S. Treasury	STIFEL	12/6/2024	2/29/2028	485	AA1		4	4.12	$ 2,000,000	$ 1,986,797	$ 1,997,051	- -
11175	TRC	91282CMS7	U.S. Treasury	PS	2/19/2026	3/15/2028	500	AA1		3.875	3.44	$ 1,000,000	$ 991,641	$ 1,005,722	- -
11079	TRC	91282CBS9	U.S. Treasury	PS	12/6/2024	3/31/2028	516	AA1		1.25	4.12	$ 2,000,000	$ 1,911,406	$ 1,924,967	- -
11091	TRC	91282CGT2	U.S. Treasury	PS	1/8/2025	3/31/2028	516	AA1		3.625	4.35	$ 2,000,000	$ 1,975,391	$ 1,981,007	- -
11098	TRC	91282CGT2	U.S. Treasury	CASTLE	1/17/2025	3/31/2028	516	AA1		3.625	4.32	$ 2,000,000	$ 1,975,391	$ 1,981,792	- -
11184	TRC	91282CMW8	U.S. Treasury	PS	3/6/2026	4/15/2028	531	AA1		3.75	3.57	$ 1,000,000	$ 989,102	$ 1,002,459	- -
11078	TRC	91282CHA2	U.S. Treasury	PS	12/6/2024	4/30/2028	546	AA1		3.5	4.12	$ 2,000,000	$ 1,970,156	$ 1,982,951	- -
11109	TRC	91282CND9	U.S. Treasury	CASTLE	7/23/2025	5/15/2028	561	AA1		3.75	3.76	$ 2,000,000	$ 1,976,484	$ 1,999,531	- -
11112	TRC	9128284N7	U.S. Treasury	CASTLE	8/20/2025	5/15/2028	561	AA1		2.875	3.71	$ 3,000,000	$ 2,926,172	$ 2,963,806	- -
11116	TRC	9128284N7	U.S. Treasury	CASTLE	9/12/2025	5/15/2028	561	AA1		2.875	3.48	$ 2,000,000	$ 1,950,781	$ 1,982,487	- -
11129	TRC	9128284N7	U.S. Treasury	CASTLE	11/18/2025	5/15/2028	561	AA1		2.875	3.60	$ 2,000,000	$ 1,950,781	$ 1,978,978	- -
11136	TRC	91282CND9	U.S. Treasury	CASTLE	11/24/2025	5/15/2028	561	AA1		3.75	3.50	$ 2,400,000	$ 2,371,781	$ 2,408,737	- -
11097	TRC	91282CCE9	U.S. Treasury	STIFEL	1/17/2025	5/31/2028	577	AA1		1.25	4.32	$ 1,000,000	$ 950,156	$ 955,243	- -
11179	TRC	91282CNH0	U.S. Treasury	CASTLE	3/6/2026	6/15/2028	592	AA1		3.875	3.58	$ 1,000,000	$ 989,336	$ 1,004,586	- -
11113	TRC	91282CCH2	U.S. Treasury	STIFEL	8/20/2025	6/30/2028	607	AA1		1.25	3.71	$ 3,000,000	$ 2,842,383	$ 2,884,826	- -
11123	TRC	91282CNM9	U.S. Treasury	PS	11/12/2025	7/15/2028	622	AA1		3.875	3.59	$ 2,000,000	$ 1,977,422	$ 2,009,164	- -
11180	TRC	91282CNU1	U.S. Treasury	CASTLE	3/6/2026	8/15/2028	653	Aaa		3.625	3.59	$ 1,000,000	$ 983,867	$ 1,000,657	- -
11181	TRC	91282CNY3	U.S. Treasury	CASTLE	3/6/2026	9/15/2028	684	AA1		3.375	3.59	$ 1,000,000	$ 978,516	$ 996,183	- -
11125	TRC	91282CPC9	U.S. Treasury	CASTLE	11/12/2025	10/15/2028	714	AA1		3.5	3.58	$ 2,000,000	$ 1,959,688	$ 1,997,075	- -
11130	TRC	91282CPC9	U.S. Treasury	CASTLE	11/18/2025	10/15/2028	714	AA1		3.5	3.61	$ 4,000,000	$ 3,919,375	$ 3,991,806	- -
11186	TRC	91282CPC9	U.S. Treasury	PS	3/6/2026	10/15/2028	714	AA1		3.5	3.59	$ 1,000,000	$ 979,844	$ 998,346	- -
11124	TRC	9128285M8	U.S. Treasury	PS	11/12/2025	11/15/2028	745	AA1		3.125	3.59	$ 2,000,000	$ 1,943,281	$ 1,982,212	- -
11134	TRC	91282CJR3	U.S. Treasury	PS	11/18/2025	12/31/2028	791	Aaa		3.75	3.60	$ 2,000,000	$ 1,965,000	$ 2,006,042	- -
11135	TRC	91282CDW8	U.S. Treasury	PS	11/18/2025	1/31/2029	822	AA1		1.75	3.61	$ 2,000,000	$ 1,878,438	$ 1,921,453	- -
11157	TRC	91282CDW8	U.S. Treasury	CASTLE	12/22/2025	1/31/2029	822	AA1		1.75	3.54	$ 2,000,000	$ 1,878,438	$ 1,924,249	- -
11128	TRC	9128286B1	U.S. Treasury	CASTLE	11/18/2025	2/15/2029	837	AA1		2.625	3.62	$ 2,000,000	$ 1,913,984	$ 1,957,344	- -
11145	TRC	9128286B1	U.S. Treasury	STIFEL	11/24/2025	2/15/2029	837	AA1		2.625	3.51	$ 2,000,000	$ 1,913,984	$ 1,961,868	- -
11146	TRC	9128286B1	U.S. Treasury	CASTLE	12/8/2025	2/15/2029	837	AA1		2.625	3.59	$ 2,000,000	$ 1,913,984	$ 1,958,520	- -
11158	TRC	9128286B1	U.S. Treasury	CASTLE	12/22/2025	2/15/2029	837	AA1		2.625	3.54	$ 2,000,000	$ 1,913,984	$ 1,960,686	- -
11143	TRC	91282CEE7	U.S. Treasury	PS	11/24/2025	3/31/2029	881	AA1		2.375	3.50	$ 2,000,000	$ 1,897,891	$ 1,949,114	- -
11149	TRC	91282CEE7	U.S. Treasury	DA DAV	12/8/2025	3/31/2029	881	AA1		2.375	3.59	$ 2,000,000	$ 1,897,891	$ 1,945,347	- -
11138	TRC	9128286T2	U.S. Treasury	CASTLE	11/24/2025	5/15/2029	926	AA1		2.375	3.54	$ 2,000,000	$ 1,892,969	$ 1,944,772	- -
11147	TRC	9128286T2	U.S. Treasury	CASTLE	12/8/2025	5/15/2029	926	AA1		2.375	3.60	$ 2,000,000	$ 1,892,969	$ 1,941,848	- -
11185	TRC	9128286T2	U.S. Treasury	PS	3/6/2026	5/15/2029	926	AA1		2.375	3.60	$ 1,000,000	$ 946,484	$ 970,886	- -
11182	TRC	91282CEV9	U.S. Treasury	DA DAV	3/6/2026	6/30/2029	972	AA1		3.25	3.59	$ 1,000,000	$ 965,508	$ 991,507	- -
11148	TRC	912828YB0	U.S. Treasury	CASTLE	12/8/2025	8/15/2029	1018	Aaa		1.625	3.59	$ 2,000,000	$ 1,844,609	$ 1,898,252	- -
11169	TRC	91282CLK5	U.S. Treasury	PS	1/21/2026	8/31/2029	1034	AA1		3.625	3.72	$ 1,000,000	$ 972,813	$ 997,560	- -
11155	TRC	91282CLN9	U.S. Treasury	PS	12/8/2025	9/30/2029	1064	AA1		3.5	3.62	$ 2,000,000	$ 1,937,500	$ 1,993,457	- -
11161	TRC	91282CLN9	U.S. Treasury	DA DAV	12/22/2025	9/30/2029	1064	AA1		3.5	3.59	$ 2,000,000	$ 1,937,500	$ 1,995,074	- -
11170	TRC	91282CFT3	U.S. Treasury	STIFEL	1/21/2026	10/31/2029	1095	AA1		4	3.74	$ 2,000,000	$ 1,963,359	$ 2,014,272	- -
11065	MC1	48125LRU8	JPMorgan Chase - Corporate N	GPAC	11/22/2024	12/8/2026	37	Aa2	AA-	5.11	4.52	$ 2,000,000	$ 2,000,631	$ 2,001,140	11/8/2026
11176	MC1	742718FG9	Procter & Gamble	GPAC	2/19/2026	3/25/2027	144	AA3	AA-	2.8	3.51	$ 1,000,000	$ 994,152	$ 997,229	- -
11118	MC1	22160KAM7	COSTCO WHOLESALE CORP	GPAC	9/12/2025	5/18/2027	198	Aa3	AA	3	3.61	$ 2,000,000	$ 1,984,215	$ 1,993,596	2/18/2027
11039	MC1	037833DB3	Apple Inc	GPAC	10/25/2024	9/12/2027	315	Aaa	AA+	2.9	4.10	$ 1,000,000	$ 985,760	$ 990,307	6/12/2027
11045	MC1	037833DB3	Apple Inc	GPAC	11/6/2024	9/12/2027	315	Aaa	AA+	2.9	4.26	$ 2,000,000	$ 1,971,520	$ 1,977,994	6/12/2027
11108	MC1	037833EH9	Apple Inc	GPAC	7/23/2025	8/5/2028	643	Aaa	AA+	1.4	3.92	$ 2,000,000	$ 1,890,255	$ 1,917,208	6/5/2028
11126	MC1	037833EH9	Apple Inc	DA DAV	11/12/2025	8/5/2028	643	Aaa	AA+	1.4	3.71	$ 2,000,000	$ 1,890,255	$ 1,923,275	6/5/2028
11114	MC1	166756BH8	Chevron Corp	PS	8/20/2025	8/13/2028	651	AA2	AA-	4.05	3.93	$ 2,000,000	$ 1,975,872	$ 2,003,865	7/13/2028
11127	MC1	931142ES8	WALMART	DA DAV	11/12/2025	9/22/2028	691	AA2	AA	1.5	3.65	$ 2,000,000	$ 1,887,898	$ 1,923,569	7/22/2028
11132	MC1	931142ES8	WALMART	GPAC	11/18/2025	9/22/2028	691	AA2	AA	1.5	3.71	$ 4,000,000	$ 3,775,796	$ 3,842,638	7/22/2028
11140	MC1	02079KAV9	ALPHABET INC	DA DAV	11/24/2025	11/15/2028	745	AA2	AA+	3.875	3.65	$ 2,000,000	$ 1,961,128	$ 2,008,759	10/15/2028
11152	MC1	89236TFT7	Toyota Mtr Cred - Corp N	GPAC	12/8/2025	1/8/2029	799	A1	A+	3.65	3.97	$ 2,000,000	$ 1,946,365	$ 1,986,912	- -
11142	MC1	24422EXH7	JOHN DEERE CAPITAL CORP	GPAC	11/24/2025	1/16/2029	807	A1	A	4.5	3.84	$ 2,000,000	$ 1,981,593	$ 2,027,151	- -
11133	MC1	58933YAX3	Merck & Co. Inc.	GPAC	11/18/2025	3/7/2029	857	Aa3	A+	3.4	4.01	$ 2,000,000	$ 1,936,435	$ 1,973,554	- -
11162	MC1	58933YBW4	Merck & Co. Inc.	GPAC	12/22/2025	3/15/2029	865	AA3	A+	3.85	3.67	$ 2,000,000	$ 1,956,871	$ 2,007,857	2/15/2029
11139	MC1	023135CG9	AMAZON	DA DAV	11/24/2025	4/13/2029	894	A1	AA	3.45	3.85	$ 2,000,000	$ 1,924,408	$ 1,981,738	- -
11183	MC1	023135CG9	AMAZON	GPAC	3/6/2026	4/13/2029	894	A1	AA	3.45	3.76	$ 1,000,000	$ 962,204	$ 992,870	- -
11153	MC1	24422EWE5	JOHN DEERE CAPITAL CORP	GPAC	12/8/2025	4/18/2029	899	A1	A	3.35	3.93	$ 2,000,000	$ 1,928,112	$ 1,973,610	- -
11164	MC1	57636QAM6	MASTERCARD	PS	12/22/2025	6/1/2029	943	AA3	A+	2.95	3.91	$ 2,000,000	$ 1,904,810	$ 1,954,213	3/1/2029

Inv #	Inv Type	CUSIP	Security	Broker	Purchase Date	Maturity Date	Days To Maturity	Ratings Moodys	Ratings S&P/Fitch	Coupon Rate	YTM 365	Par Value	Market Value	Book Value	Call Date
11154	MC1	437076BY7	HOME DEPOT INC	GPAC	12/8/2025	6/15/2029	957	A2	A	2.95	3.92	$ 2,000,000	$ 1,901,366	$ 1,952,897	3/15/2029
11168	MC1	437076BY7	HOME DEPOT INC	GPAC	1/21/2026	6/15/2029	957	A2	A	2.95	3.94	$ 1,000,000	$ 950,683	$ 975,906	3/15/2029
11150	MC1	931142EN9	WALMART	DA DAV	12/8/2025	7/8/2029	980	AA2	AA	3.25	3.74	$ 2,000,000	$ 1,922,039	$ 1,975,503	4/8/2029
11159	MC1	931142EN9	WALMART	DA DAV	12/22/2025	7/8/2029	980	AA2	AA	3.25	3.69	$ 2,000,000	$ 1,922,039	$ 1,978,008	4/8/2029
11163	MC1	532457CQ9	Eli Lilly & Co.	GPAC	12/22/2025	8/14/2029	1,017	AA3	A+	4.20	3.85	$ 2,000,000	$ 1,967,745	$ 2,018,118	7/14/2029
11160	MC1	166756AS5	Chevron Corp	DA DAV	12/22/2025	10/15/2029	1,079	AA2	AA-	3.25	3.86	$ 2,000,000	$ 1,911,553	$ 1,966,708	7/15/2029
10876	MUN	68607DVC6	ODOT HWY USER TAX REV	R W B	12/8/2021	11/15/2026	14	Aa1	AAA	0.93	**1.37**	**$ 260,000**	**$ 259,657**	**$ 259,958**	- -
11036	MUN	68609TWF1	Oregon State Lottery	STIFEL	10/23/2024	5/1/2027	181	Aa1	AA+	1.32	**4.05**	**$ 1,000,000**	**$ 984,607**	**$ 987,122**	- -
11029	MUN	91412HGF4	UNIV OF CALIFORNIA CA REVENUES	STIFEL	9/25/2024	5/15/2027	195	AA2	AA	1.32	**3.70**	**$ 1,000,000**	**$ 982,899**	**$ 987,864**	- -
11056	MUN	473448EZ7	JEFFERSON COUNTY SCHOOL DIST	STIFEL	11/15/2024	6/15/2027	226	AA1		1.79	4.32	$ 1,580,000	$ 1,553,019	$ 1,556,634	- -
11034	MUN	515390PX4	Lane County School District	PS	10/9/2024	6/15/2027	226	Aa1		1.10	4.01	$ 500,000	$ 489,401	$ 491,510	- -
11037	MUN	68587FAX2	OR EDU DISTS FF&C PENSION OBLI	GPAC	10/24/2024	6/30/2027	241	AA2	AA	1.36	4.09	$ 1,260,000	$ 1,233,141	$ 1,238,571	- -
11027	MUN	685869FR5	OR ST COMMUNITY COLLEGE DIST	GPAC	9/25/2024	7/1/2027	242	Aa3	A+	2.60	3.60	$ 505,000	$ 497,843	$ 501,694	- -
11028	MUN	68608USZ0	Oregon State Lottery	GPAC	9/24/2024	8/1/2027	273	Aa1	AA+	3.23	3.64	$ 515,000	$ 510,142	$ 513,494	- -
11035	MUN	68609TNF1	Oregon State Lottery	STIFEL	10/23/2024	11/1/2027	365	Aa1	AA+	2.10	4.11	$ 400,000	$ 390,802	$ 392,496	- -
11073	MUN	0793653X8	City of Bellevue WA	STIFEL	11/25/2024	12/1/2027	395	Aaa	AAA	1.12	4.35	$ 1,200,000	$ 1,158,229	$ 1,161,030	- -
11092	MUN	473448FA1	JEFFERSON COUNTY SCHOOL DIST	PS	1/8/2025	6/15/2028	592	AA1		1.87	4.49	$ 1,920,000	$ 1,833,224	$ 1,845,109	- -
11088	MUN	68587FAY0	OR EDU DISTS FF&C PENSION OBLI	STIFEL	12/6/2024	6/30/2028	607	Aa2	AA	1.53	4.21	$ 975,000	$ 923,871	$ 935,055	- -
10078	RRP	SYS10078	Local Govt Investment Pool		7/1/2006	- -	1			4.25	4.25	$ 45,505,200	$ 45,505,200	$ 45,505,200	- -
10084	RR2	SYS10084	First Interstate Bank		7/1/2006	- -	1			2.32	2.32	$ 9,000,000	$ 9,000,000	$ 9,000,000	- -
10085	RR2	SYS10085	First Interstate Bank		10/13/2023	- -	1			3.65	3.65	$ 57,518,403	$ 57,518,403	$ 57,518,403	- -
												$ 360,723,603	$355,065,294	$357,924,525	

BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: November 16, 2026

SUBJECT: Consideration to extend the written open record period for the following quasi-judicial applications: Appeal of a Thornburgh Destination Resort Site Plan Review Application (File Nos. 247-26-000575-A, 247-26-000422-SP), and Appeal of Thornburgh Destination Resort Modification (File No. 247-26-000576-A, 247-26-000424-MC)

RECOMMENDED MOTION:
Should the Board decide to grant the open record extension as proposed:

> Move approval of Order No. 2026-046, extending the open record period for File Nos. 247-26-000575-A and 247-26-000576-A in accordance with the following dates: Rebuttal is due no later than November 20, 2026 at 4pm and Final Legal Argument is due no later than November 30, 2026 at 4pm.

Should the Board propose different dates, staff would return with a modified Order based on Board direction.

No motion is needed should the Board decide not to grant the open record extension.

BACKGROUND AND POLICY IMPLICATIONS:
The rebuttal open record period for the two Thornburgh appeal applications before the Board was set to conclude at 4pm on Thursday, November 12, 2026. Due to the widespread email outage on November 12th, County staff was unable to access email for most of the day. It is staff's understanding that many others outside the County experienced the same issues, with the result that emails could neither be sent nor received. For these reasons, staff is presenting Order No. 2026-046 to the Board to request an extension of the open record period to afford parties sufficient time to submit record items.

Staff proposes that the rebuttal open record period is extended to 4pm on Friday, November 20 and the Final Legal Argument (Applicant Only) is extended to Monday, November 30. County offices are closed on Friday, November 27. This allows staff adequate time to mail the order and provide adequate notice of the change.

BUDGET IMPACTS:
None.

ATTENDANCE:
Haleigh King, Senior Planner
Anthony Raguine, Principal Planner

REVIEWED

_____
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Extending the Post-Hearing Open Record Period for Appeal File Nos.; 247-26-000575-A and 247-26-000576-A,	* * *	ORDER NO. 2026-046

WHEREAS, the Board of County Commissioners ("Board") is the hearings body for a Land Use Action Hearing on Appeal for two Administrative decisions approving a Site Plan Review application (File No. 247-26-000422-SP) and Modification application concerning the Thornburgh Destination Resort (File No. 247-26-000424-MC);

WHEREAS, a public hearing was held for each appeal file before the Board on October 28, 2026; and

WHEREAS, on October 28, 2026, the Board closed oral testimony and specified periods for the receipt of written evidence or testimony in accordance with the following dates; New Evidence and Testimony, November 4, 2026; Rebuttal Evidence and Testimony, November 12, 2026, and Final Legal Argument (Applicant Only), November 19, 2026. These open record periods applied for each of the appeal files; and,

WHEREAS, DCC 22.24.140(C)(4) grants the Board the authority to grant "any continuance…at the discretion of the hearings body."; and

WHEREAS, on November 12, 2026, starting at approximately 10:00 a.m., there was a significant email outage that potentially precluded submission of open record evidence and testimony related to the rebuttal period; and

WHEREAS, the Board finds it is necessary to extend the Rebuttal open record period to Friday, November 20 at 4:00 p.m., and the Final Legal Argument to Monday, November 30 at 4:00 p.m., to afford all parties sufficient time to respond to the issues raised on appeal; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. The record for File Nos. 247-26-000575-A and 247-26-000576-A be left open to accept rebuttal evidence and testimony until November 20, 2026, at 4:00 p.m.

Section 2. The record for File Nos. 247-26-000575-A and 247-26-000576-A be left open to accept the Applicant's final legal argument until November 30, 2026, at 4:00 p.m.

Section 3. Staff shall give written notice to all parties that the periods for the receipt of written evidence and testimony has been extended as established in this Order.

DATED this _____ day of _____, 2026.

BOARD OF COUNTY COMMISSIONERS

_____
PHIL CHANG, Chair

ATTEST:

_____
ANTHONY DeBONE, Vice Chair

_____
Recording Secretary

_____
PATTI ADAIR, Commissioner