



## BOARD OF COMMISSIONERS

### BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, JULY 26, 2023

Barnes Sawyer Rooms - Deschutes Services Building - 1300 NW Wall St - Bend

(541) 388-6570 | [www.deschutes.org](http://www.deschutes.org)

### 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 view the meeting via Zoom, see below.

**Citizen Input:** The public may comment on any topic that is not on the current agenda. Alternatively, comments may be submitted on any topic at any time by emailing [citizeninput@deschutes.org](mailto:citizeninput@deschutes.org) 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: <http://bit.ly/3h3oqD>.
- To join by phone, call 253-215-8782 and enter webinar ID # 899 4635 9970 followed by the passcode 013510.
- 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 \*6 to indicate you would like to speak and \*9 to unmute yourself when you are called on.



Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, call (541) 388-6572 or email [brenda.fritsvold@deschutes.org](mailto:brenda.fritsvold@deschutes.org).

**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

## PLEDGE OF ALLEGIANCE

**CITIZEN INPUT:** Citizen Input may be provided as comment on any topic that is not on the agenda.

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

## CONSENT AGENDA

1. Consideration of Board Signature on letter appointing Duncan Atwood for service on the Deschutes County Four Rivers Vector Control District Board.
2. Consideration of Board Signature on letter thanking Cindy Van Patten for her service on the Four Rivers Vector Control District Board
3. Consideration of Board Signature on letter appointing Matt Muchna for service on the Deschutes County Bicycle-Pedestrian Advisory Committee.
4. Consideration of Board Signature on letter thanking Kenneth Piarulli for service on the Deschutes County Bicycle-Pedestrian Advisory Committee.
5. Approval of the minutes of the June 14, 2023 BOCC meeting

## ACTION ITEMS

- [6.](#) **9:10 AM** Public Hearing on Senate Bills 391 and 644 – Rural Accessory Dwelling Unit Legislative Amendments
- [7.](#) **9:40 AM** Deliberations and possible first reading of an ordinance amending Deschutes County Code relative to camping and other sleeping associated activity on public property
- [8.](#) **9:55 AM** Amendment to the Intergovernmental Agreement with the Oregon Department of Transportation for the US97: Lower Bridge Way-NW 10<sup>th</sup> Street project
- [9.](#) **10:05 AM** COIC Grant Application Request for Broadband Action Team Funding

- [10.](#) **10:30 AM** Deliberations: Destination Resort Text Amendments
- [11.](#) **10:55 AM** 10-year Ground Lease with City of Redmond
- [12.](#) **11:15 AM** Bend Downtown Campus Parking Project
13. Subrecipient Agreement with Central Oregon Intergovernmental Council for Emergency Housing Funds from Governor's Executive Order 23-02

#### **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**



BOARD OF  
COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** July 26, 2023

**SUBJECT:** Public Hearing on Senate Bills 391 and 644 – Rural Accessory Dwelling Unit  
Legislative Amendments

**BACKGROUND AND POLICY IMPLICATIONS:**

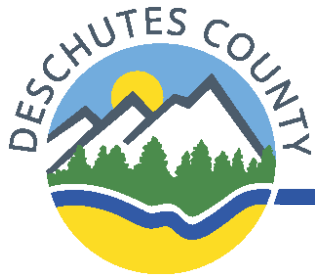
The Board will conduct a public hearing concerning local provisions for rural accessory dwelling units (ADUs) as identified in Senate Bill 391 (file no. 247-22-000671-TA). The first of two required public hearings on this matter was held before the Deschutes County Planning Commission (Commission) on September 22, 2022. Staff will provide an overview of the proposed amendments, recent state legislative changes, public comments received on the proposal to date, and recommendations from the Commission.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Kyle Collins, Associate Planner  
Will Groves, Planning Manager



**MEMORANDUM**

**TO:** Board of County Commissioners

**FROM:** Kyle Collins, Associate Planner  
Will Groves, Planning Manager

**DATE:** July 19, 2023

**SUBJECT:** Senate Bills (SBs) 391 and 644 Public Hearing – Rural Accessory Dwelling Unit (ADU) Legislative Amendments

**I. OVERVIEW & RECENT CHANGES**

The Board of County Commissioners (Board) will conduct a public hearing on July 26, 2023 concerning local provisions for rural ADUs as identified in Senate Bill (SB) 391<sup>1</sup> (file no. 247-22-000671-TA).

Staff submitted an initial 35-day Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) on August 17, 2022. A public hearing was held with the Deschutes County Planning Commission (Commission) on September 22, 2022<sup>2</sup>. The Commission held deliberations on October 27, 2022<sup>3</sup> and the recommendations from that meeting are discussed within provided attachments.

Since the Commission’s initial public hearing on this proposal, legislation was passed by the Oregon Legislature which requires several changes to the original proposed amendments to maintain compliance with state standards. Specifically, SB 644 was recently passed which provides direction to local jurisdictions looking to adopt rural ADU standards prior to formal release of the Statewide Wildfire Hazard Map required by SB 762. Additionally, SB 80 was passed which alters the original standards and terminology used within the forthcoming Statewide Wildfire Hazard Map. Further details regarding SB 644 and SB 80 are discussed in following sections.

Given the passage of SB 644 and SB 80, along with the necessary amendment changes required by the bills, staff conducted a work session with the Board on June 5, 2023 to understand preferred steps on the ADU proposal moving forward. During that work session, the Board directed staff to reinitiate

<sup>1</sup> <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0391/A-Engrossed>

<sup>2</sup> See Deschutes County Planning Commission September 22, 2022 Agenda for more information: <https://www.deschutes.org/bc-pc/page/planning-commission-17>

<sup>3</sup> See Deschutes County Planning Commission October 27, 2022 Agenda for more information: <https://www.deschutes.org/bc-pc/page/planning-commission-21>

PAPA notice proceedings with DLCD to capture the newest version of the amendments and provide the Commission with an opportunity to review the revised amendments. Per Board direction, staff submitted a revised 35-day PAPA notice to DLCD on June 7, 2023 and held a new work session with the Commission on July 13, 2023.

Attached to this memorandum are:

- Staff Report and Draft Amendments (Attachment 1)<sup>4</sup>
- Memo Summarizing Planning Commission Recommendations, Public Comments, and Agency Comments (Attachment 2)
- Memo Summarizing Anticipated Property Eligibility for Rural ADU Development (Attachment 3)

**II. RECORD**

The full record is available for inspection at the Planning Division and at the following website: <https://www.deschutes.org/adu>.

**III. STATE REGULATIONS**

SB 391 and SB 644 contain several provisions related to properties eligible for rural ADUs which cannot be amended by counties. Those criteria and restrictions are highlighted in the table below:

**Table 1: SB 391 & SB 644 – Rural Accessory Dwelling Unit Standards**

Eligibility	Restrictions
<b>1. Rural Residential Exception Areas, Minimum Lot Size, and Dwelling Requirements</b>	<ul style="list-style-type: none"> <li>• Applies to Rural Residential (RR10), Multiple Use Agricultural (MUA10), Urban Area Reserve (UAR-10), Suburban Residential (SR 2.5), and Westside Transect (WTZ) zones.</li> <li>• Lot or parcel must be at least two (2) acres in size.</li> <li>• One (1) single-family dwelling must be sited on the lot or parcel.</li> </ul>
<b>2. Existing Dwelling Nuisance</b>	<ul style="list-style-type: none"> <li>• The existing single-family dwelling is not subject to an order declaring it a nuisance or pending action under ORS 105.550 to 105.600.</li> </ul>
<b>3. ADU Sanitation Requirements</b>	<ul style="list-style-type: none"> <li>• The ADU must comply with all applicable laws and regulations relating to sanitization and wastewater disposal and treatment.</li> </ul>
<b>4. ADU Square Footage Requirements</b>	<ul style="list-style-type: none"> <li>• The ADU cannot include more than 900 square feet of useable floor area.</li> </ul>
<b>5. ADU Distance Requirements</b>	<ul style="list-style-type: none"> <li>• The ADU is required to be located no farther than 100 feet from the existing single-family dwelling.</li> </ul>
<b>6. ADU Water Supply Requirements</b>	<ul style="list-style-type: none"> <li>• If the ADU is relying on a domestic well, no portion of the lot or parcel can be within new or existing ground water uses restricted by the Water Resource Commission.</li> </ul>

<sup>4</sup> Within the proposed amendments, added language is shown underlined and deleted shown as strikethrough.

Eligibility	Restrictions
<b>7. ADU Water Supply Source Option</b>	<ul style="list-style-type: none"> <li>A county may require that an ADU be served by the same water supply source or water supply system as the existing single-family dwelling, provided such is allowed by an existing water right or a use under ORS 537.545 (exempt uses).<sup>5</sup></li> </ul>
<b>8. ADU / Metolius Area of Critical State Concern / Limitations</b>	<ul style="list-style-type: none"> <li>No portion of a lot or parcel can be within a designated area of critical state concern.</li> </ul>
<b>9. ADU Setback Requirements</b>	<ul style="list-style-type: none"> <li>The ADU is required to have adequate setbacks from adjacent lands zoned Exclusive Farm Use (EFU) or Forest Use (F1 or F2).</li> </ul>
<b>10. ADU / Statewide Wildfire Map Requirements</b>	<ul style="list-style-type: none"> <li>Applies to properties identified as high hazard and/or located within a designated wildland urban interface (WUI) on the statewide wildfire hazard maps established per SB 762 and SB 80.</li> <li>ADUs on properties identified as high hazard are required to comply with the Oregon Residential Specialty Code relating to wildfire hazard mitigation for the mapped area (R327.4).</li> <li>ADUs identified within a designated WUI on the statewide wildfire hazard maps are required to comply with the minimum defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392.</li> <li>Per SB 644, prior to release of the statewide wildfire hazard maps, all ADUs, regardless of future hazard classification, are required to comply with the Oregon Residential Specialty Code relating to wildfire hazard mitigation (R327.4).</li> </ul>
<b>11. ADU / Outside Wildland-Urban Interface (WUI) Area Requirements</b>	<ul style="list-style-type: none"> <li>If the ADU is not subject to ORS 477.015 to 477.061 (i.e. outside of the newly-defined WUI), local jurisdictions can impose supplemental defensible space and fuel break standards.</li> </ul>
<b>12. ADU Adequate Access and Evacuation for Firefighting Requirements</b>	<ul style="list-style-type: none"> <li>Local regulations must ensure the ADU has adequate access for firefighting equipment, safe evacuation, and staged evacuation areas</li> </ul>
<b>13. ADU Occupancy Requirements</b>	<ul style="list-style-type: none"> <li>ADUs cannot be allowed for vacation occupancy, as defined in ORS 90.100.</li> </ul>
<b>14. ADU Land Division Requirements</b>	<ul style="list-style-type: none"> <li>If an eligible property with an ADU is divided, the single-family dwelling and ADU cannot be situated on a different lot or parcel.</li> </ul>
<b>15. ADU / Additional Units</b>	<ul style="list-style-type: none"> <li>A second ADU is not allowed.</li> </ul>

<sup>5</sup> [https://oregon.public.law/statutes/ors\\_537.545](https://oregon.public.law/statutes/ors_537.545)

#### IV. DESCHUTES COUNTY INTERPRETATIONS

Numerous portions of the SB 391 language were not defined during the legislative process and thus were left open to interpretation by local jurisdictions that elect to allow rural ADUs. Specifically, the following items were not explicitly defined:

- “Useable Floor Area” as related to the 900-square-foot size limitation for rural ADUs.
- The specific standards of the 100-foot site distance requirements for rural ADUs.
- Adequate access for firefighting equipment, safe evacuation, and staged evacuation areas.

As summarized in Table 2, staff drafted the proposed amendments to address these areas in the following manner:

**Table 2: Draft Interpretations**

Undefined SB 391/SB 644 Standard	Draft County Interpretation
<b>Useable Floor Area</b>	<ul style="list-style-type: none"> <li>• Means the living space area of the accessory dwelling unit included within the surrounding insulated exterior walls, exclusive of garages, carports, decks and porch covers.</li> </ul>
<b>100-Foot Siting Distance</b>	<ul style="list-style-type: none"> <li>• A unit must be located no farther than 100 feet from the existing single family dwelling, measured from a wall of the single-family dwelling to the nearest part of the “useable floor area” of the accessory dwelling unit.</li> </ul>
<b>Adequate Access and Evacuation for Firefighting Requirements</b>	<ul style="list-style-type: none"> <li>• “Safe evacuation plan” means an identifiable route on a right(s)-of-way and any onsite driveways from the rural accessory dwelling unit to the staged evacuation area.</li> <li>• “Staged evacuation area” means a public or private location that occupants of the rural accessory dwelling unit may evacuate to reorganize.</li> <li>• “Adequate access” will be met by demonstrating a continuous, minimum 20-foot width right(s)-of-way and any onsite driveways with a minimum vertical clearance of 13.5 feet, connecting an accessory dwelling unit with a fire protection service provider with professionals who have received training or certification described in ORS 181A.410. Any onsite driveways providing access to an accessory dwelling unit must be improved and composed of an all-weather surface including asphalt or concrete.               <ul style="list-style-type: none"> <li>○ Alternatively, property owners may demonstrate adequate access by providing written certification from a fire protection service provider with professionals who have received training or certification described in ORS 181A.410, on a form prepared by Deschutes County, that access to the property meets minimum fire district requirements to provide emergency services to the property.</li> </ul> </li> </ul>



The following items describe supplemental development standards to ensure efficient operations for County staff and safe operations for any ADUs constructed within Deschutes County.

**Miscellaneous Code Changes**

These edits are broadly unrelated to updates from SB 644 or SB 80, but were completed based on recommendations from agency partners, direction from County Legal Counsel, and to provide for clear and objective standards. These supplementary edits are as follows:

- Updated the “adequate access” requirements for ADUs to provide a clear and objective option for compliance, along with a more discretionary standard based on fire protection district review.
- Included language to clarify that an ADU may be constructed simultaneously with a primary dwelling.
- Included language to clarify that a previously constructed primary dwelling may be converted to a lawful ADU, provided all relevant criteria are met.
- Included requirements confirming that any supplier of water is “Willing and Able to Serve” the accessory dwelling unit shall be provided if the accessory dwelling unit is to be served by any water source other than an onsite domestic well.
- Included language clarifying that any standards mandated by the Oregon Revised Statutes (ORS) or the Oregon Administrative Rules (OAR) are not subject to the local variance provisions of Deschutes County. This includes several components of the proposed ADU legislation.

**Groundwater Protection**

Due to vulnerable groundwater characteristics in southern Deschutes County, the Onsite Wastewater Division recommends increasing the minimum lot or parcel size for rural ADUs to be at least five (5) acres in size in this specific geographic area. The draft amendments as presented include this provision. Additionally, in consultation with the Onsite Wastewater Division, staff has explored the possibility of requiring advanced wastewater treatment systems for ADU development in southern Deschutes County. Further details are included as part of the attached Commission Recommendation and Discussion Memo (Attachment 2).

**Additional Dwelling Units**

Due to concerns regarding failing treatment systems and wastewater impacts, the Onsite Wastewater Division recommends limiting properties constructed with ADUs from all future residential dwelling development, including additional ADUs, medical hardship dwellings, temporary dwellings within recreational vehicles, or similar uses. The draft amendments as presented include this provision. Further details are included as part of the attached Commission Recommendation and Discussion Memo (Attachment 2).

## V. WILDFIRE STANDARDS

### Senate Bill 762

Certain properties in rural Deschutes County will likely be subject to new wildfire mitigation measures as approved under SB 762.<sup>6</sup> One of the primary pieces of SB 762 is the creation of a comprehensive Statewide Wildfire Hazard Map to guide new wildfire regulations for development. The initial hazard map was made available on June 30, 2022.<sup>7</sup> However, based on significant concern from citizens and interest groups through the state, the Oregon Department of Forestry (ODF) withdrew the initial map to provide more time for additional public outreach and refinement of hazard classification methodologies. At this time, it is staff’s understanding that ODF anticipates releasing new draft hazard maps in late 2023 or early 2024.

Due to the current unavailability of the wildfire hazard maps, staff cannot provide specific estimates on the number of properties which may be subject to additional wildfire mitigation standards. Additionally, per direction from County Legal Counsel (discussed in detail during a November 14, 2022 work session with the Board<sup>8</sup>), the specific language of SB 391 originally mandated that no properties would be eligible for rural ADUs, despite adoption of County standards which approve said use within the County Comprehensive Plan and zoning ordinances, until such time as a new iteration of a Statewide Wildfire Hazard Map is formally released by ODF.

The following discussion is specific to the effects of SB 762, prior to modification by SB 644. This discussion is provided for reference, but the statute has been modified in important ways, as discussed below.

Under SB 762, once these hazard maps are finalized, properties included in **both** a designated Wildland Urban Interface (WUI) boundary and classified as high hazard will be subject to additional development regulations. SB 762 requires that, at minimum, local governments ensure that properties meeting both of these standards will be subject to:

- 1) Home hardening building codes as described in section R327 of the Oregon Residential Specialty Code.
- 2) Defensible space standards as determined by the Oregon State Fire Marshal.

At present, the State Fire Marshal has yet to develop final statewide defensible space requirements.

### Senate Bill 644

SB 644 was recently passed by the Oregon State Legislature<sup>9</sup>. SB 644 temporarily decouples the Statewide Wildfire Hazard Map from the adoption of any local rules allowing rural ADUs. During any

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<sup>6</sup> SB 762 (2021)  
<sup>7</sup> <https://oregonexplorer.info/tools>  
<sup>8</sup> See Board of County Commissioners November 14, 2022 Agenda for more information:  
<https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-71>  
<sup>9</sup> <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB644/Enrolled>

interim period where a local jurisdiction has adopted rules allowing rural ADUs and prior to the release of the final hazard map, any constructed ADUs will be subject to the home hardening building codes as described in section R327 of the Oregon Residential Specialty Code. Additionally, SB 644 requires that any ADUs constructed within a designated WUI shall meet the minimum defensible space rules established by the State Fire Marshal.

SB 644 does not identify defensible space standards for ADUs constructed prior to the release of the Statewide Wildfire Hazard Map. At the urging of County Legal Counsel, and to provide for clear and objective standards, staff has proposed supplemental defensible space rules for all ADU development which occurs prior to adoption and release of the Statewide Wildfire Hazard Map. The proposed defensible space standards are based on existing rules within the Forest Use Zones (F1 and F2) and would be effectively removed after final adoption of the hazard map.

**Senate Bill 80**

SB 80 was recently passed by the Oregon State Legislature<sup>10</sup>. SB 80 is still awaiting final signature from the Governor, however staff believes final adoption is likely to occur in the coming weeks. SB 80 alters several components of the wildfire hazard map mandated by SB 762. As it relates to rural ADU standards, SB 80 changes the name of the “Statewide Map of Wildfire Risk” to the “Statewide Wildfire Hazard Map.” Additionally, the bill reduces the number of hazard classifications from five to three: high, moderate, and low. The currently proposed ADU amendments reflect these changes where appropriate.

**VI. NEXT STEPS**

At the conclusion of the public hearing, the Board may:

- Continue the hearing to a date certain;
- Close the hearing and leave the written record open to a date certain; or
- Close the hearing, and commence deliberations.

Attachments:

1. Staff Report and Draft Amendments
2. Memo Summarizing Planning Commission Recommendations, Public Comments, and Agency Comments
3. Memo Summarizing Anticipated Property Eligibility for Rural ADU Development

<sup>10</sup> <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB80/Enrolled>



STAFF REPORT

FILE NUMBER: 247-22-000671-TA

APPLICANT: Deschutes County Community Development
117 NW Lafayette Avenue
Bend, Oregon 97703

PROPERTY OWNER: N/A

REQUEST: Pursuant to Senate Bills (SB) 391 and 644, Text Amendments to allow an owner of a lot or parcel within a rural residential exception area to construct one accessory dwelling unit (ADU) subject to certain restrictions and limitations.

STAFF CONTACT: Kyle Collins, Associate Planner

I. APPLICABLE CRITERIA:

Deschutes County lacks specific criteria in DCC Titles 18, 19, 22, or 23 for reviewing a legislative text amendment. Nonetheless, since Deschutes County is initiating a legislative text amendment, the County bears the responsibility for justifying that the amendments are consistent with Statewide Planning Goals and its existing Comprehensive Plan

II. BASIC FINDINGS:

A. Senate Bill 391

On June 23, 2021, the Oregon Legislature adopted Senate Bill (SB) 391, which authorizes counties to allow an owner of a lot or parcel within a rural residential exception area to construct one accessory dwelling unit (ADU) subject to certain restrictions and limitations. SB 391 does not obligate a county to allow ADUs, nor does it prohibit a county from imposing any additional restrictions beyond what is mandated in state law.

Rural residential exception areas and their corresponding zones exist throughout Oregon. By definition, rural residential zones exist outside urban growth boundaries (UGBs), but are excluded

1 https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB391

from the state’s resource land (farm and forest zone) protections. While the protections afforded to resource lands allow residential uses only in conjunction with a farm or forest use, rural residential zones allow a dwelling as a primary use of the land. Prior to the adoption of SB 391, state law allowed counties to permit an additional dwelling on a property containing a house built prior to 1945.<sup>2</sup> However, unlike urban zones, rural residential zones did not have other by-right accessory dwelling options, making inter-generational and alternative housing options difficult to achieve.

SB 391 only authorizes ADUs on lands zoned for rural residential use. Areas zoned for rural residential use are defined by ORS 215.501 to mean “land that is not located inside a UGB as defined in ORS 195.060 (Definitions) and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.” The applicable zoning designations in Deschutes County for these lands are Multiple Use Agricultural (MUA-10), Rural Residential (RR-10), Suburban Low Density Residential (SR 2.5), Urban Area Reserve (UAR-10), and Westside Transect Zone (WTZ).

**B. Senate Bill 644**

On May 8, 2023, the Oregon Legislature adopted Senate Bill (SB) 644, which amends requirements relating to wildfire hazard mitigation for development of accessory dwelling units on lands zoned for rural residential use.<sup>3</sup> Prior to adoption of SB 644, counties were required to wait for final adoption of the Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map) from the Oregon Department of Forestry (ODF) as identified in SB 762<sup>4</sup> prior to adoption of any local administering rural ADU standards. SB 644 decouples adoption of the Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map) from the adoption of any local rules allowing rural ADUs. During any interim period where a local jurisdiction has adopted rules allowing ADUs and prior to the release of the final map, any constructed ADUs will be subject to the home hardening building codes as described in section R327 of the Oregon Residential Specialty Code.

**C. Deschutes County Rural ADU Ordinance**

In addition to only applying to lands recognized as rural residential exception areas, SB 391 also contains minimum criteria that must be met for a lot or parcel to qualify for an ADU. Many of those criteria are general in nature and therefore require counties to provide their own interpretations or definitions. At the same time, SB 391 contains several provisions related to wildfire hazard mitigation, which relied on and referred to actions at the state level as directed by the passage of SB 762, a comprehensive wildfire hazard mitigation bill.<sup>5</sup> While wildfire requirements were being created at the state level, staff worked with the Board of County Commissioners to “translate” the language of SB 391 into the local code presented in these amendments.

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<sup>2</sup> House Bill 3012 (2017).

<sup>3</sup> <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB644/Enrolled>

<sup>4</sup> <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB762/Enrolled>

<sup>5</sup> SB 1533 (2022) corrected broken links in SB 762 related to wildfire mapping.

**III. PROPOSAL:**

This is a legislative text amendment to Deschutes County Code (DCC), Title 18, County Zoning, and Title 19, Bend Urban Growth Boundary Zoning Ordinance. The primary purpose of the amendments is to allow rural ADUs per the adoption of SB 391 and SB 644. The proposal creates two new subsections (effectively the same, but pertaining to different zones in Titles 18 and 19) that govern the criteria for rural ADUs. Table 1 provides a summary of each provision of the amendments.

**Table 1 – SB 391 & SB 644 Requirements**

Topic	SB 391/SB 644 Requirements	Comment
<b>Single Family Dwelling</b>	SB 644 Section 1(2)(c) requires one single-family dwelling to be located on the lot or parcel.	DCC 18.116.355(B)(1) and DCC 19.92.160(B)(1) are consistent with SB 391/SB 644.
<b>Urban Reserve Area</b>	SB 644 Section 1(2)(a) requires that the lot or parcel is not located within an area designated as an urban reserve as defined in ORS 195.137. In Deschutes County, the Redmond Urban Reserve Area is the only urban reserve that meets this definition.	DCC 18.116.355(B)(2) is consistent with SB 391/SB 644. Redmond’s Urban Reserve Areas is not near lands zoned in Title 19, therefore it is not cited in DCC 19.92.160.
<b>Nonresource Lands</b>	SB 644 Section 1(1)(b) requires that “Area zoned for rural residential use” has the meaning given that term in ORS 215.501.  ORS 215.501(1)(b), “Area zoned for rural residential use” means land that is not located inside an urban growth boundary as defined in ORS 195.060 (Definitions) and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.	Pursuant to DLCD, Acknowledged nonresource plan amendments and zone changes from Exclusive Farm Use (EFU) to RR-10 or MUA-10 are eligible for an ADU.
<b>Areas of Critical State Concern</b>	SB 644 Section 1(2)(i) requires that no portion of the lot or parcel is within a designated area of critical state concern. Areas of critical state concern are generally defined in ORS 197.405 and apply to the Metolius Area of Critical State Concern in ORS 197.416.	DCC 18.116.355(B)(3) is consistent with SB 391/SB 644. The Metolius Area of Critical State Concern is not near lands zoned in Title 19, therefore it is not cited in DCC 19.92.160.
<b>Minimum Lot Size</b>	SB 644 Section 1(2)(b) requires the subject lot or parcel be at least two acres in size.	DCC 18.116.355(B)(4) and DCC 19.92.160(B)(2) are consistent with SB 391/SB 644.  DCC 18.116.355(B)(4) requires a minimum lot or parcel to be at least 5 acres in size south of Sunriver due to groundwater protection.

Topic	SB 391/SB 644 Requirements	Comment
<b>Setbacks</b>	SB 644 Section 1(2)(m)(A) requires that the ADU has adequate setbacks from adjacent lands zoned for resource use.	DCC 18.116.355(B)(5) and DCC 19.92.160(B)(3) are consistent with SB 391. Both require a minimum setback of 100 feet between the ADU and adjacent EFU and Forest Use zoned (F-1, F-2) properties.
<b>ADU Size</b>	SB 644 Section 1(2)(f) limits the size of the ADU to 900 square feet of useable floor area.	DCC 18.116.355(B)(6) and DCC 19.92.160(B)(4) are consistent with SB 391/SB 644.  Usable floor area is defined as, "the area of the accessory dwelling unit included within the surrounding insulated exterior walls, exclusive of garages, carports, decks and porch covers."
<b>Distance from Dwelling</b>	SB 644 Section 1(2)(g) requires the ADU to be located no farther than 100 feet from the single family dwelling. <sup>6</sup>	DCC 18.116.355(B)(7) and DCC 19.92.160(B)(5) are consistent with SB 391/SB 644.  Both require the ADU be located no farther than 100 feet from the existing single family dwelling, measured from a wall of the single-family dwelling to the nearest part of the useable floor area of the ADU.
<b>Sanitation and Wastewater</b>	SB 644 Section 1(2)(e) requires the ADU to comply with applicable sanitation and wastewater regulations.	DCC 18.116.355(B)(8) and DCC 19.92.160(B)(6) are consistent with SB 391/SB 644.
<b>Fire Protection District Service</b>	SB 644 Section 1(2)(j) requires the lot or parcel be served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410.	DCC 18.116.355(B)(9) and DCC 19.92.160(B)(7) are consistent with SB 391/SB 644.
<b>Access and Evacuation</b>	SB 644 Section 1(2)(m)(B) requires that the ADU has adequate access for firefighting equipment and safe evacuation and staged evacuation areas.	DCC 18.116.355(B)(10) and DCC 19.92.160(B)(8) are consistent with SB 391/SB 644.  As an alternative standard, both sections allow certification of access by the applicable fire protection district and that there are evacuation plan and authorized staged evacuation areas.

<sup>6</sup> The bill language and legislative history are unclear if the entire ADU must be entirely within 100 feet of the dwelling or just a portion. Local governments are therefore granted deference to interpret this provision.

Topic	SB 391/SB 644 Requirements	Comment
<p><b>Wildland Urban Interface (WUI) Defensible Space Requirements</b></p>	<p>SB 644 Section 1(2)(k) requires that if the lot or parcel is in an area identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface, the lot or parcel and accessory dwelling unit comply with any applicable minimum defensible space requirements for wildfire risk reduction established by the State Fire Marshal under ORS 476.392 and any applicable local requirements for defensible space established by a local government pursuant to ORS 476.392</p>	<p>DCC 18.116.355(B)(12) and DCC 19.92.160(B)(10) are consistent with SB 391/SB 644.</p> <p>Consistent with SB 644, the code sections identify alternatives for properties wishing to develop rural ADUs prior to and after the adoption of the State Map of Wildfire Risk identified in SB 762.</p>
<p><b>Wildland Urban Interface (WUI) Fire Hardening</b></p>	<p>SB 644 Section 1(2)(l)(A) requires that if the lot or parcel is in an area identified on the statewide map of wildfire risk described in ORS 477.490, the ADU must comply with R327 (fire hardening standards) in the Oregon Residential Specialty Code.</p> <p>SB 644 Section 1(2)(l)(B) requires that if no statewide map of wildfire risk has been adopted, the ADU must comply with R327 (fire hardening standards) in the Oregon Residential Specialty Code</p>	<p>DCC 18.116.355(B)(11) and DCC 19.92.160(B)(9) are consistent with SB 391/SB 644.</p> <p>Consistent with SB 644, the code sections identify alternatives for properties wishing to develop rural ADUs prior to and after the adoption of the State Map of Wildfire Risk identified in SB 762.</p>
<p><b>Nuisance</b></p>	<p>SB 644 Section 1(2)(d) requires the existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600.</p>	<p>DCC 18.116.355(B)(13) and DCC 19.92.160(B)(11) are consistent with SB 391/SB 644.</p>
<p><b>Subdivision and Other Accessory Dwelling Unit Limitations</b></p>	<p>SB 644 Section 1(2)(m)(C)(4)(a) and (b) preclude a subdivision, partition or other division of the lot or parcel so that the existing single-family dwelling is situated on a different lot or parcel than the ADU; and precludes construction of an additional ADU on the same lot or parcel.</p>	<p>DCC 18.116.355(B)(14) and DCC 19.92.160(B)(12) are consistent with SB 391/SB 644.</p>
<p><b>Water Supply</b></p>	<p>SB 644 Section 1(2)(m)(C)(5) allows a county to require that the ADU be served by the same water source or water supply system as the existing single-family dwelling. If the ADU is served by a well, the construction of the ADU shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.</p>	<p>DCC 18.116.355(B)(15) and DCC 19.92.160(B)(13) are consistent with SB 391/SB 644.</p> <p>While not requiring the same water source, DCC 18.116.355(B)(15) and DCC 19.92.160(B)(13) require setbacks from the well to be maintained from an ADU.</p>



Topic	SB 391/SB 644 Requirements	Comment
<b>Water Right Exempt Use</b>	SB 644 Section 1(2)(m)(C)(6) recognizes that a single-family dwelling and an ADU are considered a single unit and therefore do not require a groundwater permit from the Oregon Water Resources Department.	DCC 18.116.355(B)(17) and DCC 19.92.160(B)(15) are consistent with SB 391/SB 644.
<b>Water Right Restrictions</b>	SB 644 Section 1(2)(h) requires that no ADUs be permitted in areas if the water supply source for the accessory dwelling unit or associated lands or gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission <sup>7</sup> .	DCC 18.116.355(B)(18) and DCC 19.92.160(B)(16) are consistent with SB 391/SB 644.
<b>Vacation Occupancy</b>	SB 644 Section 1(2)(m)(C)(3) prevents an ADU from being used for vacation occupancy as defined in ORS 90.100.	DCC 18.116.355(B)(19) and DCC 19.92.160(B)(17) are consistent with SB 391/SB 644.  Both require a restrictive covenant be recorded to ensure compliance.

**IV. FINDINGS:**

**CHAPTER 22.12, LEGISLATIVE PROCEDURES**

Section 22.12.010.

***Hearing Required***

**FINDING:** This criterion will be met because a public hearing was held before the Deschutes County Planning Commission and Board of County Commissioners.

Section 22.12.020, Notice

***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.***

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<sup>7</sup> Deschutes County does not contain any critical groundwater areas as defined by the Water Resources Commission.

**FINDING:** This criterion will be met as notice was published in the Bend Bulletin newspaper for the Planning Commission public hearing, and the Board of County Commissioners' 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:** Given the proposed legislative amendments do not apply to any specific property, no individual notices were sent.

**D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.**

**FINDING:** Notice was provided to the County public information official for wider media distribution. This criterion is 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 of County Commissioners, and has received a fee waiver. This criterion is 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:** The Deschutes County Planning Commission held the initial public hearing on September 22, 2022 and subsequently reviewed the proposed amendments on July 13, 2023. The Board then held a public hearing on July 26, 2023. These criteria are met.

Section 22.12.050 Final Decision

**All legislative changes shall be adopted by ordinance**

**FINDING:** The proposed legislative changes will be implemented by Ordinance No. [number TBD] upon approval and adoption by the Board of County Commissioners. This criterion will be met.

**B. Statewide Planning Goals and Guidelines**

Goal 1: Citizen Involvement: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments was provided to the *Bulletin* for the Board public hearing.

Goal 2: Land Use Planning: This goal is met because ORS 197.610 allows local governments to initiate post acknowledgments plan amendments (PAPA). An Oregon Land Conservation and Development Department 35-day notice was initiated on August 17, 2022. An Oregon Land Conservation and Development Department 35-day notice was reinitiated on June 7, 2023 to capture amendments required by state legislative action. The Planning Commission held a public hearing on September 22, 2022 and the Board of County Commissioners held a public hearing on July 26, 2023. The Findings document provides the adequate factual basis for the amendments.

Goal 3: Agricultural Lands: No changes related to agricultural lands are proposed as part of the text amendments. This goal does not apply.

Goal 4: Forest Lands: No changes related to forest lands are proposed as part of the text amendments. This goal does not apply.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources: By adopting SB 391 in 2021 and SB 644 in 2023, the Oregon Legislature added a new use, ADU, to rural residential exception areas. Local governments can choose to allow this use by: 1) amending their zoning codes and complying with SB 391/SB 644's development standards. Goal 5 does not apply.

However, to the extent that it does, local governments apply Goal 5 to a PAPA when the amendment allows a new use and the new use "could be" a conflicting use with a particular Goal 5 resource site on an acknowledged resource list. Certain areas in rural Deschutes County, zoned MUA-10 and RR-10 contain Goal 5 resources because they are overlaid with a Wildlife Area Combining Zone. Two zoning codes are being amended to allow Rural ADUs and are therefore subject to an ESEE Analysis. No other changes to the code warrant specific ESEE Analysis as they are not adding new uses that conflict with Goal 5 resources. The ESEE analysis is included in *Appendix A* which is attached to this document.

Goal 6: Air, Water and Land Resources Quality: The proposed text amendments do not propose changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 6, and therefore are in compliance. However, it is worth noting that the amendments preclude citing an ADU south of Sunriver on lots or parcels less than 5 acres. The eligible lot or parcel

size in this area of the County is 5 acres or larger. In the RR-10 zone south of Sunriver, there are 1,129 tax lots between 2 acres or larger, and 319 tax lots 5 acres or larger.

Goal 7: Areas Subject to Natural Disasters and Hazards: The proposed text amendments do not propose to changes the County’s Comprehensive Plan or implementing regulations regarding natural disasters and hazards; therefore, they are in compliance. Eligible properties subject to SB 762/SB 644 and those constructed prior to adoption of the State Map of Wildfire Risk, will be required to comply with Oregon Residential Specialty Code (R327) to fire harden the ADU and coordinate with the Oregon State Fire Marshal or local fire protection districts to ensure the property has defensible space.

Goal 8: Recreational Needs: Accessory Dwelling Units are not a recreational use or need. This goal does not apply.

Goal 9: Economic Development: Accessory Dwelling Units are not primarily economic in nature. This goal does not apply.

Goal 10: Housing: This goal is not applicable because unlike municipalities, unincorporated areas are not obligated to fulfill certain housing requirements.

Goal 11: Public Facilities and Services: Accessory Dwelling Units in the rural county typically rely on domestic wells and onsite wastewater treatment systems. A Goal 11 exception would be required for a centralized sewer system and would need to be applied on a property specific, needs related basis. This goal does not apply.

Goal 12: Transportation: By adopting SB 391 in 2021 and SB 644 in 2023, the Oregon Legislature added a new use, ADUs, to rural residential exception areas. Local governments can choose to allow this use by amending their zoning codes and complying with SB 391/SB 644’s development standards. ADUs will still be subject to Transportation System Development Charges (SDCs) prior to the issuance of a building permit.

To the extent that the Transportation Planning Rule at OAR 660-012-0060 does apply, staff notes the following comments from the County’s Senior Transportation Planner:

The Transportation Planning Rule (TPR) at OAR 660-012-0060 requires a determination if a new land use regulation will significantly affect a transportation facility. Approximately 9,831 lots could be eligible for a rural accessory dwelling unit (ADU) based on zoning and size of the tax lot with roughly 3,000 tax lots being eligible immediately. The remaining roughly 6,000 tax lots’ eligibility will need to be determined based on the wildfire rules and requirements in development based on Senate Bill (SB) 763 [sic].

The potential lots for a rural ADU are geographically spread out:

- Bend area: 3,876 lots

- Redmond area: 2,886 lots
- Sisters area: 1,576 lots
- South County: 1,123 lots

The County is currently updating its 2010-2030 Transportation System Plan (TSP) to 2020-2040. The analysis of future traffic volumes only indicated a few intersections that would not meet County performance standards. Both were tied to the Deschutes Junction interchange at US 97/Deschutes Market Road-Tumalo. The TSP has planned improvements to mitigate the deficiencies at those intersections.

The geographic distribution of the lots, the adequate reserve capacity on the County system, the low trip generation of each home, an average of nine daily trips, including one p.m. peak hour trip, and the fact the lots will develop over years and years, means the road system is adequate to handle the traffic volumes generated by rural ADUs.

The rural ADUs do not result in any changes to the County’s functional classifications or access management policies. The County collects transportation system development charges (SDCs) for all new developments, including single-family homes. The SDC rate is indexed to construction costs and resets every July 1. As a rural ADU is essentially a second home on the property, the County would collect SDCs as each rural ADU develops. The current SDC rate for a single-family home is \$4,115. If the SDC rate remained unchanged, which is highly unlikely, the 9,831 lots would generate \$38.6 million dollars in SDCs.

The addition of a second rural ADU on approximately 9,381 lots will not create a significant nor adverse effect to the County transportation system and thus complies with the TPR.

Goal 13: Energy Conservation: Any future site-specific application for an ADU will be required to incorporate energy conservation measures through the Oregon Building Code. This goal does not apply.

Goal 14: Urbanization: The purpose of Goal 14 is to direct urban uses to areas inside UGBs. As the proposed amendments do not seek to allow urban uses on rural land, nor do they seek to expand an existing urban growth boundary, this goal does not apply.

Goals 15 through 19: Deschutes County does not contain any of the relevant land types included in Goals 15-19. Therefore these goals do not apply.

**C. Deschutes County Comprehensive Plan**

**Chapter 3, Rural Growth**

Section 3.3, Rural Housing

3.3.5 *Maintain the rural character of the County while ensuring a diversity of housing opportunities, including initiating discussions to amend State Statute and/or Oregon Administrative Rules to permit accessory dwelling units in Exclusive Farm Use, Forest and Rural Residential zones.*

**FINDING:** Implementing SB 391 and SB 644, which allows ADUs to be sited in rural residential exception areas, is consistent with Policy 3.3.5.

**V. CONCLUSION:**

Based on the information provided herein, the staff recommends the Board of County Commissioners approve the proposed text amendments to allow an owner of a lot or parcel within a rural residential exception area to construct one accessory dwelling unit (ADU) subject to certain restrictions and limitations.

# Rural Accessory Dwelling Unit Text Amendment

**Appendix A: ESEE Analysis Document to**

**File No. 247-22-000671-TA**

Deschutes County Community Development

July 5, 2023

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## References

- Attachment 1 – Deschutes County Goal 5 Inventory Summary Table
- Attachment 2 – Inventory Site Maps



# Chapter 1: Overview of Goal 5 and ESEE Analyses

## Introduction

This appendix report was prepared to supplement the findings document associated with File No. 247-22-000671-TA. Deschutes County is amending Deschutes County Code (DCC), Titles 18 and 19 to allow Rural Accessory Dwelling units (ADUs) consistent with Senate Bill (SB) 391 (2021) and SB 644 (2023) in Multiple Use Agricultural (MUA-10), Rural Residential (RR-10), Suburban Low Density Residential (SR 2.5), Urban Area Reserve (UAR-10), and Westside Transect Zones (WTZ). DCC Chapter 18.88 is the Wildlife Area (WA) Combining Zone, which recognizes four Goal 5 inventories: Antelope Range, Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. Certain areas in rural Deschutes County, zoned MUA-10 and RR-10, are overlaid with a Deer Migration Corridor, Deer Winter Range, and/or Significant Elk Habitat.

In addition, there are some areas zoned MUA-10 and RR-10 that contain Goal 5 riparian resources and their associated fish, furbearer, waterfowl, and upland game bird habitat. Recognizing that an ADU is a new conflicting use in the WA Combining Zone, Deschutes County is applying Goal 5 in consideration of this Post Acknowledgment Plan Amendment (PAPA). The full findings document provides additional detail and background information regarding the intent of the amendments and compliance with other applicable local and state regulations outside of Statewide Land Use Planning Goal 5 – *Natural Resources, Scenic and Historic Areas, and Open Spaces*.

## Deschutes County Goal 5 Program

The purpose of Goal 5 is “to protect natural resources and conserve scenic and historic areas and open spaces.” Local governments, as part of the Comprehensive Planning process, are required to inventory the extent, location, quality, and quantity of significant natural resources within their jurisdictional boundaries. Following this inventory, local governments then conduct an economic, social, environmental, and energy (ESEE) analysis to determine the extent to which land uses should be limited in order to adequately protect significant resources. Following an ESEE analysis, governments then establish a program to protect significant natural resources. Deschutes County established its initial Goal 5 natural resource inventory, ESEE analyses, and protection programs between the years of 1988-1994, as part of periodic review.

In reviewing this document, it is important to acknowledge there are six policies and development standards within the Deschutes County Comprehensive Plan and DCC that were established through ESEEs over time that could still limit the development of ADUs near inventoried Goal 5 resources. Deschutes County finds the proposed amendments do not alter the following existing protections.

1. Setback Protections: 100-foot structural setback from the ordinary high water mark (OHWM) of rivers and streams.

2. Scenic Protections: Development near rivers in the Landscape Management Combining Zone must be reviewed for aesthetic compatibility.
3. Wetland Protections: Prohibition of fill or removal of any material or wetland vegetation, regardless of the amount, within the bed and banks of any stream or river or in any wetland unless approved as a conditional use.
4. Mitigation Protections: Impacts to any wetland or riverbank impacts to be fully mitigated, as evaluated by Oregon Department of Fish and Wildlife (ODFW).
5. Flood Plain Protections: All new construction, expansion or substantial improvement of an existing dwelling, an agricultural related structure, a commercial, industrial or other non-residential structure, or an accessory building in a designated Flood Plain must obtain a conditional use permit.
6. Combining Zone Requirements: Deer Migration Corridor, Deer Winter Range, Elk Habitat, and Sensitive Bird and Mammal Habitat have site specific requirements including development setbacks and/or seasonal construction requirements to prevent impacts to sensitive species and habitat.

## Required Steps and Discretionary Review

Local governments are required to comply with Goal 5 when a PAPA allows a new use and the new use “could be” a conflicting use with a particular Goal 5 resource site on an acknowledged resource list.<sup>8</sup> Deschutes County is amending the MUA-10, RR-10, SR 2.5, UAR-10 and WTZ zoning chapters to allow ADUs consistent with SB 391 (2021) and SB 644 (2023).

ADUs have the potential to generate a certain level of noise and habitat alteration. As this new use could potentially impact Goal 5 resources, Deschutes County is conducting an ESEE Analysis to identify potential consequences and protections related to the amendments. ADUs will be added as a new permitted use in the MUA-10, RR-10, SR 2.5, UAR-10 and WTZ zones. As shown below, only two of those zones, MUA-10 and RR-10 contain Goal 5 resources and are being reviewed as part of this ESEE analysis.

**Table 2: Zones Containing Goal 5 Resources**

Contain Goal 5 Resources	Do Not Contain Goal 5 Resources
<ul style="list-style-type: none"> <li>• DCC Chapter 18.32, Multiple Use Agricultural Zone</li> <li>• DCC Chapter 18.60, Rural Residential Zone</li> </ul>	<ul style="list-style-type: none"> <li>• DCC Chapter 19.12, Urban Area Reserve Zone</li> <li>• DCC Chapter 19.20, Suburban Low Density Residential Zone</li> <li>• DCC Chapter 19.22, Westside Transect Zone</li> </ul>

<sup>8</sup> OAR 660-023-0250(3)(b)

ESEEs are meant to be analytical tools. The content of the ESEE is discretionary and is intended to be conducted by planning staff using existing information. An ESEE is not meant to focus exclusively on environmental impacts such as an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). Additionally, Goal 5 explains “the ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected.”<sup>9</sup> In utilizing this analytical tool, there are a few steps jurisdictions must include and address in accordance with OAR 660-023 – *Procedures and Requirements for Complying with Goal 5*:

1. Identify Conflicting Uses – Does the land use or activity negatively impact natural resources?
2. Determine Impact Area – What is the geographic extent to which land uses or activities adjacent to natural resources could negatively impact those resources?
3. Analyze ESEE Consequences – What are the positive and negative consequences (both for development and natural resources) of a decision to fully protect natural resources, fully allow conflicting uses, or limit conflicting uses?
4. Develop a program – How and to what extent will the natural resources be protected based on the ESEE analysis?

A response to each of these steps is included throughout this report. The relevant page and chapter can be found in the table of contents.

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<sup>9</sup> OAR 660-023-0040(1)

# Chapter 2: Deschutes County Goal 5 Inventory and Methodology

## 660-23-0030 – Inventory Goal 5 Resources

Stemming from periodic review, Deschutes County adopted inventories for a variety of Goal 5 natural resources (Attachment 1). Some of these resources have mapped geographic boundaries such as Deer Winter Range, whereas others are described as being located in general areas – such as furbearer habitat in riparian corridors. The inventories were produced at a countywide scale, with additional detail for the Deschutes River and its tributaries through the Deschutes County/City of Bend River Study. County staff digitized these habitat boundaries into Geographic Information Systems (GIS) shape files in the 2000s for public awareness. The shape files were created from hard copy maps and descriptions found in the ordinances establishing the County’s Goal 5 program, in consultation with the Oregon Department of Fish and Wildlife (ODFW).

Maps provided in this document include inventoried habitat that spatially overlaps with the MUA-10 and RR-10 zones impacted by the proposed text amendments (Attachment 2). The habitat areas include: deer migration corridor, deer winter range, elk habitat, flood plain, and wetlands. Staff utilized the County’s WA Combining Zone layers to determine the general extent of habitat for big game species as the Combining Zone was designed to cover a larger area than the habitat itself (Ordinance 92-046). Inventoried streams and rivers are shown on the map, as well as wetlands and flood plains. Goal 5 Riparian areas (flood plain, wetlands and 100 feet measured from ordinary high water mark) associated with these water bodies is also the habitat area for fish, furbearers, waterfowl, and upland game birds (Ordinance 92-041, 94-007). As the proposed text amendments are legislative and do not impact any specific properties, staff did not review Goal 5 impacts on an individual parcel level basis. Instead staff identified the following potential resource sites in which the allowance of ADUs could potentially intersect with Goal 5 resources:

Riverine Resources: Some properties in the MUA-10 and RR-10 zones are located in relative proximity to the Deschutes River, Little Deschutes River, Paulina Creek, and Whychus Creek and its associated Goal 5 Riparian Area.<sup>10</sup> Ordinance 92-041 stated the following additional Goal 5 resources depend on riparian corridors for habitat: furbearer, waterfowl, and upland game bird habitat. As the extent of the habitat locations for these species are not detailed in a boundary description or on a map, staff assumes the species habitat is found entirely inside the Riparian Area boundary shown in Attachment 2.

Wildlife Area Combining Zone: The WA Combining Zone was adopted as a protection measure for antelope, deer, and elk in Deschutes County. As an overlay zone, the mapped area conservatively identified typical habitat and migration areas and provided additional development requirements to ensure impacts to wildlife are properly mitigated alongside the underlying base zone regulations. The zone encompasses the previously inventoried area for Antelope Range, Deer Migration

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<sup>10</sup> There are 386 RR-10 tax lots, two acres or greater that abut the Little Deschutes River or Deschutes River and 505 tax lots that are split-zoned RR-10 or MUA-10 with the Flood Plain Zone. The Flood Plain Zone is not recognized as a rural residential exception area. RR-10 and MUA-10 split zoned properties will be required to contain the minimum lot or parcel area to qualify for an ADU.

Corridor, Deer Winter Range, and Significant Elk Habitat. The proposed amendments add a conflicting use, ADUs which affect three habitat ranges in MUA-10 and RR-10: Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. These habitat ranges are shown in Attachment 2. The maps include federal land. However, these properties are not subject to Deschutes County land use regulations.

The Deschutes County Goal 5 inventory also includes scenic and open space sites such as Landscape Management Rivers and Streams, State Scenic Waterways and Federal Wild and Scenic Rivers, and Ecologically and Scientifically Significant Natural Areas - Little Deschutes River / Deschutes Confluence (Attachment 1). As these are resources associated with mitigating visual impacts and do not impact development potential, they are not impacted by the proposed amendments and therefore are not reviewed in this document.

### Chapter 3: Conflicting Use Analysis

**660-023-0040(2): Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site.**

Deschutes County is proposing to add ADUs in the MUA-10 and RR-10 zones in the WA Combining Zone. ADUs could be a conflicting use to significant Goal 5 resources as they generate vehicle trips, buildable footprints, and noise. Other uses that are allowed in the two zones are shown below.

**Table 3: Allowed Uses**

Zoning	Outright Uses	Conditional Uses
MUA-10	Agricultural uses Single family dwelling or manufactured home Harvesting a forest product Class I and II road or street projects subject to land division standards Class III road or street project Noncommercial horse stables Horse events Operation, maintenance and piping of canals Type I Home occupation Historic accessory dwelling units	Public use Semipublic use Dude ranch Kennel and/or veterinary clinic Guest house Manufactured home as a secondary accessory farm dwelling Exploration for minerals Private parks Personal use airstrip Golf course Type 2 or 3 Home occupation Destination resorts Planned developments Cluster developments Landfills Timeshare Hydroelectric facility Storage, crushing and processing of minerals Bed and breakfast inn Excavation, grading and fill Religious institutions Private or public schools Utility facility Cemetery Commercial horse stables Horse events Manufactured home park or RV park Wireless telecommunication facilities Guest lodge Surface mining in conjunction with operation and maintenance of irrigation system

Zoning	Outright Uses	Conditional Uses
RR-10	Single family dwelling or manufactured home Utility facility Community center Agricultural use Class I and II road or street projects subject to land division standards Class III road or street project Noncommercial horse stables Horse events Operation, maintenance and piping of canals Type I Home occupation Historic accessory dwelling units	Public park Dude ranch Personal use airstrip Planned developments Cluster developments Recreation-oriented facility Landfills Cemetery Timeshare Hydroelectric facility Bed and breakfast inn Golf course Excavation, grading and fill Religious institutions Public use Semipublic use Commercial horse stables Private or public schools Manufactured home park or RV park Wireless telecommunication facilities Surface mining in conjunction with operation and maintenance of irrigation system

**General Impacts of Conflicting Uses**

The proposed amendments would allow ADUs in inventoried Goal 5 resources. As part of the ESEE review “a local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning”.<sup>11</sup> In reviewing the proposed amendments, Deschutes County finds that the impacts from ADUs in the MUA-10 and RR-10 zones as they relate to Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat are of such a similar nature that the impacts for these areas may be reviewed together via the general impacts described below.

- *Noise and Light*

ADUs as a secondary dwelling may distress inventoried wildlife, as they seek to avoid noise and light.

- *Habitat Removal*

ADUs would likely require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by wildlife, outside of their primary habitat.

<sup>11</sup> OAR 660-023-0040(4)

- *Introduction of Invasive, Nonnative Plants*

ADUs may contribute to the spread of invasive, nonnative plants which could replace and degrade native vegetation of which many species depend.

- *Habitat Fragmentation*

Additional human development may result in fences, roads, traffic and other barriers to the movement of terrestrial wildlife that is critical to their survival.

Greater detail on these potential conflicts and their consequences are provided below.



# Chapter 4: Impact Areas

**660-023-0040(3): Determine the impact area. Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource site.**

This step is discretionary and allows for the local jurisdiction to define which areas are the most vulnerable and/or most likely to be affected by the proposed amendments. The impact area for this ESEE analysis are properties that are within the Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat in the MUA-10 and RR-10 zones. As this ESEE is not for any specific property, but instead reflects changes to the code generally, there is no individual property specific data.

Properties in this impact area can be found in Attachment 2 – *Impact Area Maps*

## Impact Area Methodology

To understand the impact of the proposed amendments, an estimate of the number of parcels is shown in Table 4 below.

**Table 4: Number of Affected Non-Federal Properties in Impact Area <sup>12</sup>**

Zone	Deer Migration	Deer Winter	Elk
Multiple Use Agricultural Zone	0	9	0
Rural Residential Zone	1,293	446	39
<b>Total</b>	<b>1,293</b>	<b>455</b>	<b>39</b>

<sup>12</sup> See footnote #8.

# Chapter 5: ESEE Analysis

**660-023-0040(4): Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.**

## Background

Deschutes County is choosing to conduct a single analysis for all resource sites as the impacts from ADUs could have very similar impacts to both riparian areas and fish and wildlife that depend on the riparian for their habitat, and for big game including deer and elk.

As described above, the potential impacts fall into four general areas:

- *Noise and Light*

ADUs as a secondary dwelling may distress inventoried wildlife, as they seek to avoid noise and light.

- *Habitat Removal*

ADUs would likely require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by wildlife, outside of their primary habitat.

- *Introduction of Invasive, Nonnative Plants*

ADUs may the spread of invasive, nonnative plants which could replace and degrade native vegetation of which many species depend.

- *Habitat Fragmentation*

Additional human development may result in fences, roads, traffic and other barriers to the movement of terrestrial wildlife that is critical to their survival.

This step is discretionary. The purpose of an ESEE analysis is to provide a qualitative exercise for local governments to weigh the positive and negative consequences of three scenarios in order to determine a preferred outcome. Governments may choose to use quantitative data as necessary, but are not required to gather new information or hire wildlife biologists, economists, sociologists, or energy consultants.

**ESEE Scenario Descriptions**

*Scenario (A) – Allow the Conflicting Use*

In this scenario, the local government may decide that a conflicting use should be allowed fully, without any restrictions, no matter the potential impacts on the inventory site(s). In this instance, the Goal 5 rule would require the government to determine the conflicting use is of such importance compared to the site that the use should be allowed without any protections or limitations. In choosing this scenario, the local government could still use other tools to protect the inventories that are currently in place.

*Scenario (B) – Prohibit the Conflicting Use*

In this scenario, the local government may decide that the inventory site is of such importance or the conflicting use has the potential to be so detrimental to the inventory site(s), that the conflicting use should be entirely prohibited.

*Scenario (C) – Limit the Conflicting Use*

In this scenario, the local government may decide that the inventory site and the conflicting use are both important when compared to each other, and the use should be allowed with limitations to balance the impacts to the inventory site(s).

**Accessory Dwelling Unit ESEE Analysis**

**Scenario (A) Allow the Conflicting Use**

In this scenario, Deschutes County would allow ADUs in MUA-10 and RR-10 zones without any additional requirements to protect the inventoried resources.

***Economic Consequences:***

Permitting ADUs would have positive consequences by allowing a second dwelling on a property. Deschutes County is experiencing a housing shortage. Allowing ADUs, which are limited to 900-square-feet of useable floor area and cannot be used as vacation rentals, could help address work force housing shortages in the region. It could reduce commuting costs for those workers that live in adjoining Crook, Jefferson and Klamath counties, and coupled with other work force housing strategies, attract businesses and employment opportunities in Central Oregon.

Allowing ADUs could also have negative consequences. The development of ADUs in MUA-10 and RR-10 zones could significantly increase land value, which could price out low and middle-income residents from the opportunity to own a home. Previous testimony from ODFW estimates that hunting and wildlife viewing contributed more than \$50 million to the Deschutes County economy annually. Deschutes County is proposing to allow ADUs in some areas that contain riparian areas

and species that rely on the riparian area for habitat including fish, furbearers, upland game birds, and waterfowl. Allowing for ADUs near these areas could reduce income associated with wildlife viewing and hunting of these species.

In some parts of the county, mule deer populations have declined up to 70% since 2000 as a result of human caused habitat reduction, fragmentation, and disturbance on winter range. By allowing ADUs in Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat, there is the potential for greater disturbance of deer and elk populations that could reduce hunting and viewing opportunities.

**Social Consequences:**

Permitting ADUs could have positive consequences by allowing property owners with an existing single family dwelling to build an ADU that accommodates aging parents or family members, farm help for those that are working on MUA-10 zoned agricultural properties or nearby Exclusive Farm Use zoned properties. By providing affordable housing, it could help lift people out of poverty and increase economic mobility. It could bring a positive impact on the surrounding community, encouraging social connections and lowering crime rates.

It could also have negative consequences by allowing ADUs in rural areas with inadequate access to employment, schools, food markets, medical facilities and parks. This could lead to higher automobile-dependence and vehicle emissions caused by more people driving to and from rural areas. Based on previous testimony from ODFW, there could also be negative impacts due to the potential loss of wildlife habitat. Many residents, advocacy organizations, and wildlife agencies continue to express concerns regarding the loss of fish and wildlife habitat due to the region's rapid growth and development. There is a recognition that increases in human activity, especially in rural areas, displace habitat and diminish, incrementally, Deschutes County's rural character and quality of life. The proposed amendments could have negative consequences due to increased human presence and infrastructure near the inventoried Goal 5 resources, which could lead to a reduced level of access and enjoyment for recreationalists.

**Environmental Consequences:**

In this scenario, ADUs would be permitted outright. As stated previously, ADUs could present negative impacts as they have the potential to increase noise and light near fish and wildlife habitats, and in turn cause distress to inventoried Goal 5 species.

Developing an ADU would likely require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by wildlife, outside of their primary habitat. Permitting ADUs could create negative impacts to designated habitat for Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. Based on previous testimony from ODFW, mule deer populations have declined up to 70% since 2000. Their testimony identified other elements contributing to reductions in mule deer populations tied to human caused habitat reduction, fragmentation, and disturbance on winter range.

As previously stated, the following Goal 5 protections established during the creation of the initial inventory would remain in place:

1. Setback Protections: 100-foot structural setback from the ordinary high water mark of rivers or streams.
2. Scenic Protections: Development near rivers in the Landscape Management Combining Zone must be reviewed for aesthetic compatibility.
3. Wetland Protections: Prohibition of fill or removal of any material or wetland vegetation, regardless of the amount, within the bed and banks of any stream or river or in any wetland unless approved as a conditional use.
4. Mitigation Protections: Impacts to any wetland or riverbank impacts to be fully mitigated, as evaluated by ODFW.
5. Flood Plain Protections: All new construction, expansion or substantial improvement of an existing dwelling, an agricultural related structure, a commercial, industrial or other non-residential structure, or an accessory building in a designated Flood Plain shall obtain a conditional use permit.
6. Combining Zone Requirements: Deer Migration Corridor, Deer Winter Range, Significant Elk Habitat and Sensitive Bird and Mammal Habitat have site specific requirements including development setbacks and seasonal construction requirements to prevent impact to sensitive species and habitat.

Existing protections would prevent riparian areas from being developed with ADUs established near them. As the existing Goal 5 measures in place today protect riparian areas and the fish and wildlife within that habitat area, the addition of ADUs near these areas will be neutral.

**Energy Consequences:**

ADUs are unlikely to cause any major energy consequences. Per SB 391 and SB 644, the ADU must be within 100 feet of the existing dwelling. It must utilize the existing onsite system if there is no pre-existing centralized wastewater treatment system. It can also rely on an existing domestic well.

A potential negative consequence of the proposed amendments could be additional development in rural Deschutes County. Depending on the location of the ADU, it could lead to additional Vehicle Miles Traveled and greater congestion on county owned roads for employment, education, and basic services.

**Scenario (B) Prohibit the Conflicting Use**

In this scenario, Deschutes County would not allow ADUs in the MUA-10 and RR-10 zones associated with the WA Combining Zone and Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat.

***Economic Consequences:***

Prohibiting ADUs could have negative economic consequences, as it prevents certain property owners from using their land and building a secondary dwelling unit. This could contribute to work force housing deficiencies in the region and compel residents to commute from adjoining areas in Crook, Jefferson, and Klamath counties.

It could also have neutral consequences based on previous testimony from ODFW. Prohibiting ADUs could contribute to stabilizing mule deer populations, thereby maintaining economic benefits from wildlife viewing or hunting. Wildlife viewing, hunting, and fishing experiences in Deschutes County is a major economic asset to the region. Continuing with the current regulations could minimize further habitat fragmentation and help maintain wildlife viewing, hunting, and fishing revenues in Deschutes County.

***Social Consequences:***

Prohibiting ADUs could have negative consequences. Many residents and multi-generational families in Deschutes County need affordable housing and are rent-burdened. Limiting the potential supply of ADUs could exacerbate Central Oregon’s housing crisis by forcing some residents to pay higher rents, commute longer distances for basic services, or relocate. Those circumstances could lead to further mental and physical stress.

It could also have positive consequences. Many residents express their appreciation for undisturbed landscapes because they contribute to Deschutes County’s rural character and quality of life. Prohibiting ADUs, which generate noise and light would continue to limit disturbance to existing fish and wildlife habitats.

***Environmental Consequences:***

There are 386 RR-10 tax lots, two acres or greater that abut the Little Deschutes River or Deschutes River and 505 tax lots that are split-zoned RR-10 or MUA-10 with Flood Plain. These properties contain a Goal 5 Riparian Area which is also the habitat for Goal 5 inventoried waterfowl, upland game bird, furbearers, and fish. The WA Combining Zone contains Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. By prohibiting ADUs and maintaining the status quo, these species will continue to be protected against habitat fragmentation and distress from second dwellings. The environmental consequences are therefore neutral.

***Energy Consequences:***

Energy consumption would have neutral consequences as this scenario maintains the status quo. Development associated with ADUs may be displaced to other areas of rural Deschutes County, which could still have demands on utilities.

**Scenario (C) Limit the Conflicting Use**

In this scenario, Deschutes County would allow ADUs in the MUA-10 and RR-10 zones, with additional limitations to protect the inventoried resources, outside of existing protections. For example, a limitation requiring the entire ADU to be within a 100 feet of the existing dwelling.

***Economic Consequences:***

Permitting ADUs would have positive consequences by allowing a second dwelling on a property. Deschutes County is experiencing a housing shortage. Allowing ADUs, which are limited to 900-square-feet of livable floor area and cannot be used as vacation rentals, could help address work force housing shortages in the region. It could reduce commuting costs for those workers that live in adjoining Crook, Jefferson and Klamath counties and coupled with other work force housing strategies, attract businesses and employment opportunities in Central Oregon.

Compared to scenario (a) in which only a portion of the ADU must be within a 100 feet of the existing dwelling, the addition of limitations could lessen the impact by minimizing the buildable footprint and ultimately, the number of eligible properties, recognizing that some may not have enough area to accommodate an ADU. This could positively impact the hunting and wildlife viewing economy in Central Oregon, valued at \$50 million annually. While such measures could lessen impacts, the overall burden caused by allowing ADUs nevertheless may still overall impact wildlife and thereby impact revenue generated from the recreation economy.

In comparison to scenario (a), which would allow the use outright, Deschutes County finds that this scenario would provide a limitation to reduce the amount of impacts, even if those impacts still exist.

***Social Consequences:***

The positive social consequences in this scenario are very similar to scenario (a). Permitting ADUs could have positive consequences by allowing property owners with an existing single family dwelling to build an ADU that accommodates aging parents or family members, farm help for those that are working on MUA-10 zoned agricultural properties or nearby Exclusive Farm Use zoned properties. By providing affordable housing, it could help lift people out of poverty and increase economic mobility. It could bring a positive impact on the surrounding community, encouraging social connections and lowering crime rates.

Adding a limitation requiring the entire ADU to be within a 100 feet of the existing dwelling (or others), could establish a negative consequence of ADUs in rural areas with inadequate access to employment, schools, food markets, medical facilities and parks. This could lead to higher automobile-dependence and vehicle emissions caused by more people driving to and from rural areas. Based on previous testimony from ODFW, there could also be negative impacts due to the potential loss of wildlife habitat stemming from the possible removal of habitat areas and construction of structures and their associated human presence. Many residents, advocacy organizations, and wildlife agencies continue to express concerns regarding the loss of fish and wildlife habitat due to the region’s rapid growth and development. There is a recognition that increases in human activity, especially in rural areas, displace habitat and diminish, incrementally, Deschutes County’s rural character and quality of life. The proposed amendments could have

negative consequences due to increased human presence and infrastructure near or within the inventoried Goal 5 resources, which could lead to a reduced level of access and enjoyment for recreationalists.

**Environmental Consequences:**

ADUs could present negative consequences as they have the potential to increase activity, noise, and light near fish and wildlife habitats, and in turn cause distress to inventoried Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat.

Development of an ADU would likely require removal of upland vegetation, grading, and soil compaction that could alter drainage and runoff patterns. This could increase peak runoff, cause bank erosion, flooding, or increase the flow of sediment into water bodies. The removal of upland vegetation could also reduce tree canopy and understory vegetation which could be utilized by fish and wildlife species, outside of their primary habitat. Permitting ADUs could result in further negative impacts to the Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat. Based on recent testimony from ODFW, mule deer populations have declined up to 70% since 2000. Their testimony identified other elements contributing to reductions in mule deer populations tied to human caused habitat reduction, fragmentation, and disturbance on winter range.

Existing protections in place today (discussed above) would prevent Goal 5 riparian areas from being developed when ADUs are nearby. The establishment of ADUs in these areas would likely be neutral.

By limiting the entire ADU within a 100 feet of the existing dwelling, the negative environmental consequences associated with ADU could be mitigated to a certain extent.

**Energy Consequences:**

The energy consequences in this scenario are the same as in scenario (a). Limiting the entire ADU to within a 100 feet of the existing dwelling could decrease the amount of energy used to operate the ADU.



# Chapter 6: ESEE Decision

**660-023-0040(5): Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:**

**(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.**

The graphic below is meant to be a simplified representation to balance each of the ESEE factors. As stated in the ESEE analysis, there are a variety of positive, negative, and neutral consequences associated with each scenario. Deschutes County finds that the issue of allowing an ADU in MUA-10 and RR-10 zones are both a social and economic issue that outweighs the other ESEE consequences. The County considered allowing the use with limitations by limiting the entire ADU within a 100 feet of the existing dwelling, but this practice could limit the number of affordable housing opportunities. Therefore the County is choosing scenario (a) which will allow the use fully notwithstanding the possible impacts on the resource sites.

**Table 5: ESEE Factors**

<b>ESEE Factors</b>	<b>Support habitat functions (Environmental, economic, social)</b>	<b>Support Affordable Housing (Social, economic)</b>	<b>Support Recreational Economy (Economic, Social)</b>	<b>Preserves Rural Character (Social, economic)</b>	<b>Transportation (Energy)</b>
<b>Prohibit conflict</b> (No code change)	<b>0</b>	<b>-</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Allow conflict</b> Allow ADUs with no additional requirements	<b>-</b>	<b>+</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Limit conflict</b> Allow ADUs with additional limitation	<b>-</b>	<b>+</b>	<b>-</b>	<b>-</b>	<b>-</b>

## Chapter 7: Program to Achieve Goal 5

**660-023-0050(1):** *For each resource site, local governments shall adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to OAR 660-023-0040(5). The plan shall describe the degree of protection intended for each significant resource site. The plan and implementing ordinances shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses. A program to achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5)(b) and (c)).*

**660-023-0050(2):** *When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:*

- (a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;*
- (b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or ...*

Deschutes County has determined that allowing ADUs within the MUA-10 and RR-10 zones and within the Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat should be allowed fully, notwithstanding the possible impacts on the inventoried resources. The implementing measures do not include alternative, discretionary procedures for compliance.

Attachment 1 - Deschutes County Significant Goal 5 Resources

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Fish Habitat</b> (Inventory – Ord. No. 92-041, page 18; creeks, rivers and lakes)</p>	<p>Yes</p>	<p>Major conflicts are removal of riparian vegetation, fill and removal activities within the bed and banks of streams or wetlands, hydroelectric, rural residential development and water regulation</p>	<p>Floodplain zone recognized as program to achieve the goal to conserve fish habitat (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include: fill and removal permits, wetland removal regulations, hydro prohibitions, rimrock setbacks, 100’ setback from OHW, conservation easements and restrictions on boats and docks.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041</p>
<p><b>Deer Winter Range</b> (Inventory – Ord. No. 92-041, page 22; Metolius, Tumalo, North Paulina, and Grizzly ranges identified by ODFW)</p>	<p>Yes</p>	<p>Major conflicts are dwellings, roads, and dogs. Activities which cause deterioration of forage quality and quantity or cover are conflicting uses. Fences which impede safe passage are also a conflicting use.</p>	<p>Floodplain zone recognized as a program to achieve the goal to protect deer winter range (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include Wildlife Area Combining Zone. Requires 40-acre minimum lot size for all new residential land divisions. Underlying zoning in most of the deer winter range is: EFU, Forest, and Floodplain. These zones provide for large lot sizes and limit uses that are not compatible with farm or forest zones.</p>	<p>Ordinance Nos. 88-030, 88-031, 89-009, 92-040, 92-041, 92-042, 92-046</p>
<p><b>Deer Migration Corridor</b> (Inventory – Ord. No. 92-041, page 26; Bend-La Pine migration corridor identified by ODFW)</p>	<p>Yes</p>	<p>Major conflicts are dwellings, roads, and dogs. Fences which impede safe passage are also a conflicting use.</p>	<p>Wildlife Area Combining Zone was recognized as the only program to achieve the goal to protect the deer migration corridor. Underlying zoning is RR-10. It was amended to require cluster development for all land divisions in the RR-10 zone in the Bend/La Pine migration corridor (92-042). A 20-acre parcel is the minimum size required for a cluster development. Siting and fencing standards also apply in the deer migration corridor. Migration corridor includes some EFU, Forest, and Floodplain zoned land. These resource zones provide for large lot sizes and limit uses that are not compatible with farm or forest zones.</p>	<p>Ordinance Nos. 92-040, 92-041, 92-042, 92-046</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Elk Habitat</b> (Inventory – Ord. No. 92-041 – page 32; identified by USFS and ODFW)</p>	<p><b>Yes</b></p>	<p>Major conflict is the loss of habitat due to increased residential densities in the habitat areas. Increased human disturbance can cause conflict with elk. The use of land which necessitates the removal of large amounts of vegetative cover can also alter the quality of elk habitat.</p>	<p>Wildlife Area Combining Zone was recognized as the only program to achieve the goal to protect the elk habitat.</p> <p>It was amended to require a 160-acre minimum lot size for areas identified as significant elk habitat. Siting standards are required to minimize conflicts of residences with habitat protection.</p> <p>Underlying zoning in the elk habitat areas is either Floodplain, Forest, or Open Space and Conservation. These resource zones restrict high density residential development and prohibit industrial and commercial uses.</p> <p>* Some lands are zoned RR10, including lots that are split zoned with flood plain. They are already parcelized, preventing future land divisions.</p>	<p>Ordinance Nos. 88-030, 88-031, 89-009, 92-040, 92-041, 92-042, 92-046</p>
<p><b>Antelope Habitat</b> (Inventory – Ord. No. 92-041 – page 38; identified by ODFW)</p>	<p><b>No</b></p>	<p>Land use or development activities which would result in the loss of habitat, and animal harassment and disturbance associated with human activity.</p>	<p>To achieve the goal to conserve antelope habitat, uses conflicting with antelope habitat are limited to the Wildlife Area Combining Zone. In antelope range, the minimum lot size is 320 acres. Except for rural service centers, the antelope habitat is zoned EFU or F1.</p>	<p>Ordinance Nos. 92-040, 92-041, 92-042, 92-046</p>
<p><b>Habitat for Sensitive Birds</b> (Inventory – Ord. No. 92-041 – page 41 and Table 5; identified by ODFW, ODF, OSU, Oregon Natural Heritage Data Bases).</p> <p>The area required for each nest site varies between species.</p>	<p><b>No</b></p>	<p>Nest sites are found in Forest, EFU and Open Space and Conservation zones. Uses that could conflict with the habitat site are surface mining, residential use, recreation facilities, roads, logging, and air strips.</p> <p>Any activity which would disturb the nesting birds, including intensive recreational use or removal of trees or</p>	<p>The Sensitive Bird and Mammal Combining Zone achieves the goal to protect sensitive bird sites.</p>	<p>Ordinance Nos. 92-040, 92-041, 92-042, 92-046</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
		vegetation could conflict with the habitat site.		
<p><b>(UPDATE -</b> Inventory – Ord. No. 94-004 –pages 3 to 140 Site specific ESEE analysis and decisions follow each site.</p>	<b>No</b>	See above.	<p>Habitat areas for sensitive birds of the Fish and Wildlife Element, adopted in No. 92-041 is repealed and replaced by inventories in Exhibit 1. Area required around each nest site needed to protect the nest from conflict varies between species. It’s called “sensitive habitat area.”</p> <p>Note: Northern bald eagle, osprey, golden eagle, prairie falcon, and great blue heron rookeries are located on federal land. Classified as “2A” Goal 5 Resources. Great Grey owl site no longer exists. Some bald eagle, golden eagle sites are controlled by the Sensitive Bird and Mammal Combining Zone.</p>	Ordinance Nos. 94-004, 94-005 and 94-021
<p><b>Waterfowl Habitat</b> (Inventory – Ord. No. 92-041 – page 56; includes all rivers, streams, lakes and perennial wetlands and ponds identified on the 1990 US Fish and Wildlife Wetland Inventory Maps; ODFW provided lists of all bird species; Co/City of Bend River Study provides additional information)</p>	<b>Yes</b>	<p>Future resort and vacation home development, human activity associated with recreation along rivers and lakes, timber-cutting around sensitive habitats, fill and removal of material in wetlands and within the bed and banks of rivers and streams, and removal of riparian vegetation are conflicting uses.</p>	<p>Floodplain zone recognized as program to achieve the goal to conserve waterfowl habitat (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include: fill and removal permits, wetland removal regulations, rimrock setbacks, 100’ setback from OHW, conservation easements, restrictions on boats and docks, landscape management, state and federal scenic water regulations. In addition, the Forest and EFU zones require large minimum lot size which limits the potential density of development in the areas adjacent to many of the rivers, streams, wetlands, and ponds used for waterfowl habitat.</p>	Ordinance Nos. 86-018, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-042- 92-045, 92-046

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Upland Game Bird Habitat</b>                      (Inventory – Ord. No. 92-041 – page 60; ODFW did not identify critical habitat for any of the upland game species except for the sage grouse; habitat for upland game birds is dispersed throughout the county in riparian, forest, agricultural, and rangeland areas)</p>	<p><b>Yes</b></p>	<p>Pheasant and quail are affected whenever agricultural land is taken out of production through urban sprawl, road construction, industrial development and other land clearing activities.</p> <p>Farming practices on existing agricultural lands also have an impact. Fence row, woodlots, and riparian vegetation are constantly being removed at the expense of upland bird use.</p> <p>Chapter 6 of County/City of Bend River Study identifies conflicting uses with upland bird habitat.</p>	<p>For all of the upland game birds except sage grouse, the habitat is adequately protected by the existing EFU and Forest zoning and the provisions to protect wetlands and riparian areas to achieve the goal of protecting upland game birds.</p> <p>County provisions to protect riparian areas and wetlands protect one of the most significant components of upland game habitat.</p> <p>Note: conflicts with sage grouse are limited by EFU zoning with a 320 acre minimum parcel size. Sensitive Bird and Mammal Combining Zone pertaining to sage grouse and leks have been repealed due to LCDC enacted rules in OAR 660, Division 23.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-042, 92-046</p>
<p><b>UPDATE</b> - Inventory – Ord. No. 94-004 – pages 156-201.</p>	<p><b>Yes</b></p>	<p>See above.</p>	<p>Habitat areas for Upland Game Bird Habitat, adopted in No. 92-041 is repealed and replaced and further amended in Exhibit 4 with the ESEE Analysis and inventory for upland game bird habitat.</p> <p>Conflicts with sage grouse are reduced by the limitations on uses in the EFU and Floodplain zone, by the 320 acre minimum lot size and predominance of BLM lands.</p> <p>Note: conflicts with sage grouse are limited by EFU zoning with a 320 acre minimum parcel size. Sensitive Bird and Mammal Combining Zone pertaining to sage grouse and leks have been repealed due to LCDC enacted rules in OAR 660, Division 23.</p>	<p>Ordinance Nos. 94-004 and 94-021</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Furbearer Habitat</b> (Inventory – Ord. No. 92-041 – page 65; ODFW has not identified any specific habitat sites other than riparian and wetland areas that are critical for the listed species.</p>	<p><b>Yes</b></p>	<p>The conflicting uses are those activities or development which would degrade or destroy habitat, or disturb the animals causing them to relocate.</p> <p>Conflicts between furbearers and other land uses are minimal in the county.</p>	<p>Furbearer habitat is adequately protected by the existing EFU and Forest zoning and the provisions to protect farm use and forest zoning, and the provisions to protect wetlands and riparian areas to achieve the goal to protect furbearers.</p> <p>The farm and forest zones require large minimum lot sizes and many uses are permitted only as conditional uses. The measures to protect riparian and wetland habitat are detailed in this plan in the Riparian and Wetland Habitat section.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041</p>
<p><b>Habitat Areas for Townsend’s Big-Eared Bats</b> (Inventory – Ord. No. 92-041 – page 69; identified by ODFW, ODF, OSU, Oregon Natural Heritage Data Bases)</p>	<p><b>No</b></p>	<p>Caves located in EFU zones. Uses permitted in those zones that could conflict with the habitat site are surface mining, recreation facilities including golf courses and destination resorts, roads, logging, and air strips.</p>	<p>Program to achieve the goal is Sensitive Bird and Mammal Combining Zone</p>	<p>Ordinance No. 92-041 and 042</p>
<p><b>UPDATE</b> - Inventory – Ord. No. 94-004 – pages 140 to 155 Site specific ESEE analysis and decisions follow each site.</p>	<p><b>No</b></p>	<p>See above.</p>	<p>Habitat areas for Townsend Bats, adopted in No. 92-041 is repealed and replaced and further amended in Exhibit 2. The ESEE for Townsend’s big-eared bats is amended for additional bat sites in Exhibit 3.</p>	<p>Ordinance Nos. 94-004 and 94-021</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Wetlands and Riparian Areas</b>                      (Inventory – Ord. No. 92-041 – page 73; identified on USFWS NWI)</p>	<p><b>Yes</b></p>	<p>Conflicting uses include fill and removal of material, including vegetation which could cause a reduction in the size or quality or function of a wetland, or cause destruction or degradation of the riparian habitat and vegetation.</p> <p>Structural development in wetlands or riparian areas would reduce the habitat and the use of the structure could cause conflicts such as harassment or disturbance or wildlife dependent on the habitat. Cutting of riparian vegetation can remove important shade for streams, eliminate habitat for various waterfowl, furbearers, and nongame bird species, and can increase the potential for erosion or bank instability in riparian areas.</p>	<p>Floodplain zone recognized as program to achieve the goal to conserve wetland and riparian habitat (Ordinance Nos. 88-030, 88-031, 89-009).</p> <p>Others include: fill and removal permits, wetland removal regulations, hydro prohibitions, 100’ setback from OHW, conservation easements, restrictions on boats and docks, and landscape management.</p>	<p>Ordinance Nos. 86-018, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-045</p>



Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>UPDATE – Riparian inventory</b> – Ord. No. 94-007; Significant riparian habitat is located in three areas:</p> <p>Area within 100’ of OHW of an inventoried stream or river;</p> <p>Area adjacent to an inventoried river or stream and located within a flood plain mapped by FEMA and zoned Floodplain by the county (Deschutes River, Little Deschutes River, Paulina Creek, Fall River, Indian Ford Creek, Tumalo Creek, Squaw (Whychus) Creek, and Crooked River</p> <p>Area adjacent to a river or stream and inventoried as a wetland on the NWI</p>	<p><b>Yes</b></p>	<p>Conflicting uses:</p> <p>Locating septic systems in riparian area could cause pollution of ground and surface water systems. The potential for this conflict depends on the characteristics of the soil.</p> <p>Locating structural development in riparian areas can reduce the habitat and the use of structures could cause conflicts such as harassment or disturbance of wildlife dependent on habitat.</p> <p>Recreational use of the riparian area including boat landing areas, formal and informal trails, and camping areas can alter soil composition and cause destruction of vegetation.</p> <p>Increase in density of residential lots in or adjacent to riparian areas could result in a decrease of habitat effectiveness because of disturbance to wildlife.</p>	<p>Riparian Areas inventory and ESEE analysis adopted by Ordinance No. 92-041 is deleted and replaced by an inventory and ESEE contained in Exhibit A.</p> <p>New parcels meeting the minimum lot size in the resource zones (EFU, Forest, non-exception flood plain) will not cause an increase in residential density that would conflict with riparian habitat values.</p> <p>In RR10, MUA-10, and Floodplain zones found adjacent to inventoried riparian areas, the creation of new 10 acre parcels would not significantly increase the overall density of residential use adjacent to riparian areas because the areas where new parcels could be created, with the exception of Tumalo Creek, are already divided into lots considerably smaller than 10 acres.</p> <p>Program to achieve Goal 5 for Riparian Habitat: fill and removal regulations to protect wetlands, 100’ setback from OHW, Floodplain zone (regulates docks too), Landscape Management zone, Conservation easements, State Scenic Waterway</p>	<p>Ordinance Nos. 94-007</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>UPDATE – Wetland Inventory</b> – Ord. No. 94-007, Exhibit B – inventory is NWI (Ord. No. 92-045)</p>	<p><b>Yes</b></p>	<p>Conflicting uses include fill and removal of material, including vegetation, which could cause reduction in the size, quality or function of a wetland.</p> <p>Locating structural development in wetlands could reduce the habitat and the use of the structure could cause conflicts such as harassment or disturbance of wildlife dependent on the habitat.</p> <p>Draining wetlands for agriculture or other development purposes destroys the hydrological function of the wetland and alters the habitat qualities that certain wildlife depend on.</p> <p>Cutting wetland vegetation adjacent to streams can remove important shade for streams, eliminate habitat for various waterfowl, furbearers, and nongame bird species, and can also increase the potential for erosion or bank instability in riparian areas.</p>	<p>Wetlands Inventory and ESEE analysis adopted by Ordinance No. 92-041 is deleted and replaced by an inventory and ESEE contained in Exhibit B, Wetlands.</p> <p>Program to achieve Goal 5 for Wetland Habitat:</p> <ul style="list-style-type: none"> <li>• Fill and removal regulations to protect wetlands</li> <li>• 100’ setback from OHW</li> <li>• Flood plain zone (regulates docks too)</li> <li>• DSL Removal / Fill law</li> </ul>	<p>Ordinance Nos. 94-007</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Ecologically and Scientifically Significant Natural Areas * Little Deschutes River / Deschutes River Confluence</b>                      (Inventory – Ord. No. 92-052, Exhibit B, Page 1; identified by Oregon Natural Heritage Program); Analysis of Pringle Falls and Horse Ridge Research Areas, West Hampton Butte and Davis Lakes excluded b/c they’re on federal land and/or not related to flood plains.</p>	<p><b>Yes</b></p>	<p>Resort and vacation home development, recreational uses, livestock grazing, and fill and removal in wetlands are conflicting uses.</p>	<p>Programs for resource protection include the zoning of the property, the provisions of the flood plain, wetlands and the river corridor.</p> <p>The implementing measures which protect and regulate development in the confluence area are: EFU zoning, Floodplain zoning, conservation easements, and fill and removal permits.</p> <p>The confluence area is located in the undeveloped open space area of the Sunriver development (Crosswater). 80% of the property is retained as open space.</p> <p>Today, zoning is Floodplain and Forest Use.</p>	<p>Ordinance Nos. 86-018, 86-054, 86-056, 88-030, 88-031, 89-009, 92-040, 92-041, 92-045</p>
<p><b>Landscape Management Rivers and Streams</b>                      (Inventory – Ord. No. 92-052, Exhibit C, Page 3; identified by state and federal wild and scenic corridors; and within 660’ of OHW of portions of Deschutes River, Little Deschutes River, Paulina Creek, Fall River, Spring river, Tumalo Creek, Squaw (Whychus) Creek, and Crooked River not on the state or federal scenic designations)</p>	<p><b>Yes</b></p>	<p>Uses conflicting with open space and scenic resources along the designated Landscape Management rivers and streams include land management activities that result in habitat loss or development within river or stream corridors which would excessively interfere with the scenic or natural appearance of the landscape as seen from the river or stream or alteration of existing natural landscape by removal of vegetative cover.</p>	<p>Program for resource protection includes: Floodplain zone and restrictions, fill and removal permits, wetland removal regulations, hydro prohibitions, rimrock setbacks, conservation easements, restrictions on boats and docks, and landscape management.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-033, 93-034</p>

Inventoried Resource	Flood Plain Relationship	Conflicts	Comments	Relevant Ordinances
<p><b>Lakes and Reservoirs</b>                      (Inventory – Ord. No. 92-052, Exhibit C, Page 10; includes Upper Tumalo Reservoir; remaining are on federal land)</p>	<p><b>No</b></p>	<p>Conflicting uses with the open space and scenic values of the land adjacent to the inventoried lakes include development which would cause a loss of open space or a decrease in the aesthetic and scenic resources, and land management activities resulting in the removal of natural vegetation which provides wildlife habitat and scenic value.</p>	<p>Conflicting uses around Tumalo Reservoir are specifically limited by Title 18.48, Open Space Conservation Zone and a 100’ setback for any structure from OHW.</p>	<p>Ordinance No. 91-020</p>
<p><b>State Scenic Waterways and Federal Wild and Scenic Rivers</b>                      (Inventory – Ord. No. 92-052, Exhibit E, Page 1;</p>	<p><b>Yes</b></p>	<p>See County / City of Bend River Study and 1986 River Study Staff Report. Both referenced in Ord. 92-005, Exhibit E.</p>	<p>Program for resource protection includes:                      Floodplain zone and restrictions, fill and removal permits, wetland removal regulations, hydro prohibitions, rimrock setbacks, conservation easements, restrictions on boats and docks, and landscape management.</p>	<p>Ordinance Nos. 86-018, 86-053, 86-054, 86-056, 88-030, 88-031, 89-009, 92-033, 93-034</p>
<p><b>Wilderness Areas, Areas of Special Concern, Energy Sources (Ord. No 92-052), and Groundwater Resources (Ord. No. 94-003)</b> not analyzed because they’re on federal land or don’t relate to flood plains.</p>	<p><b>No</b></p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>

**Attachment 2 - Inventory Site Maps**







1" = 10,000'

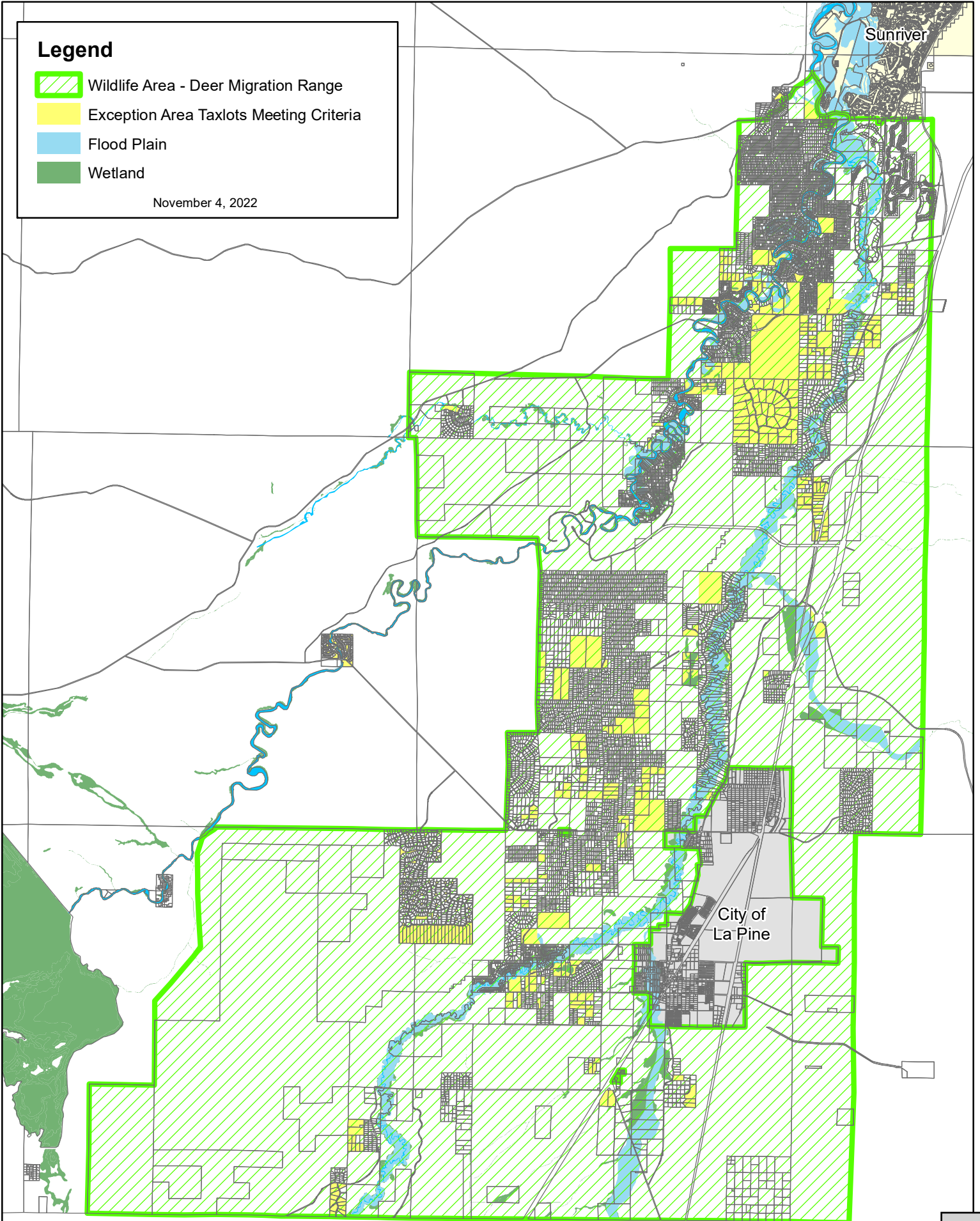
# Exception Area Taxlots Meeting ADU Criteria - Deer Migration R

07/26/2023 Item #6.

## Legend

-  Wildlife Area - Deer Migration Range
-  Exception Area Taxlots Meeting Criteria
-  Flood Plain
-  Wetland

November 4, 2022









1" = 6 mi.

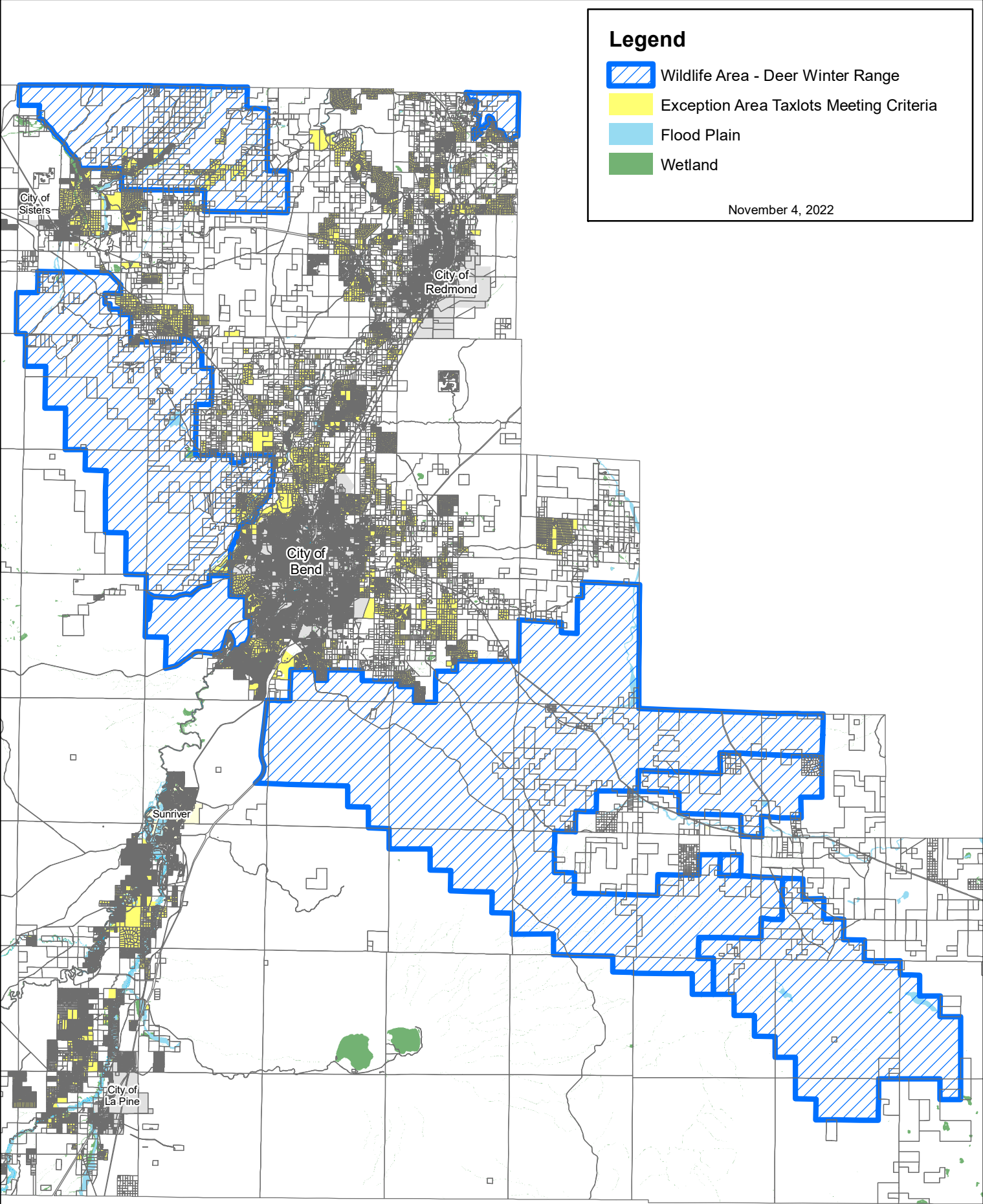
# Exception Area Taxlots Meeting ADU Criteria - Deer Winter Range

07/26/2023 Item #6.

## Legend

-  Wildlife Area - Deer Winter Range
-  Exception Area Taxlots Meeting Criteria
-  Flood Plain
-  Wetland

November 4, 2022

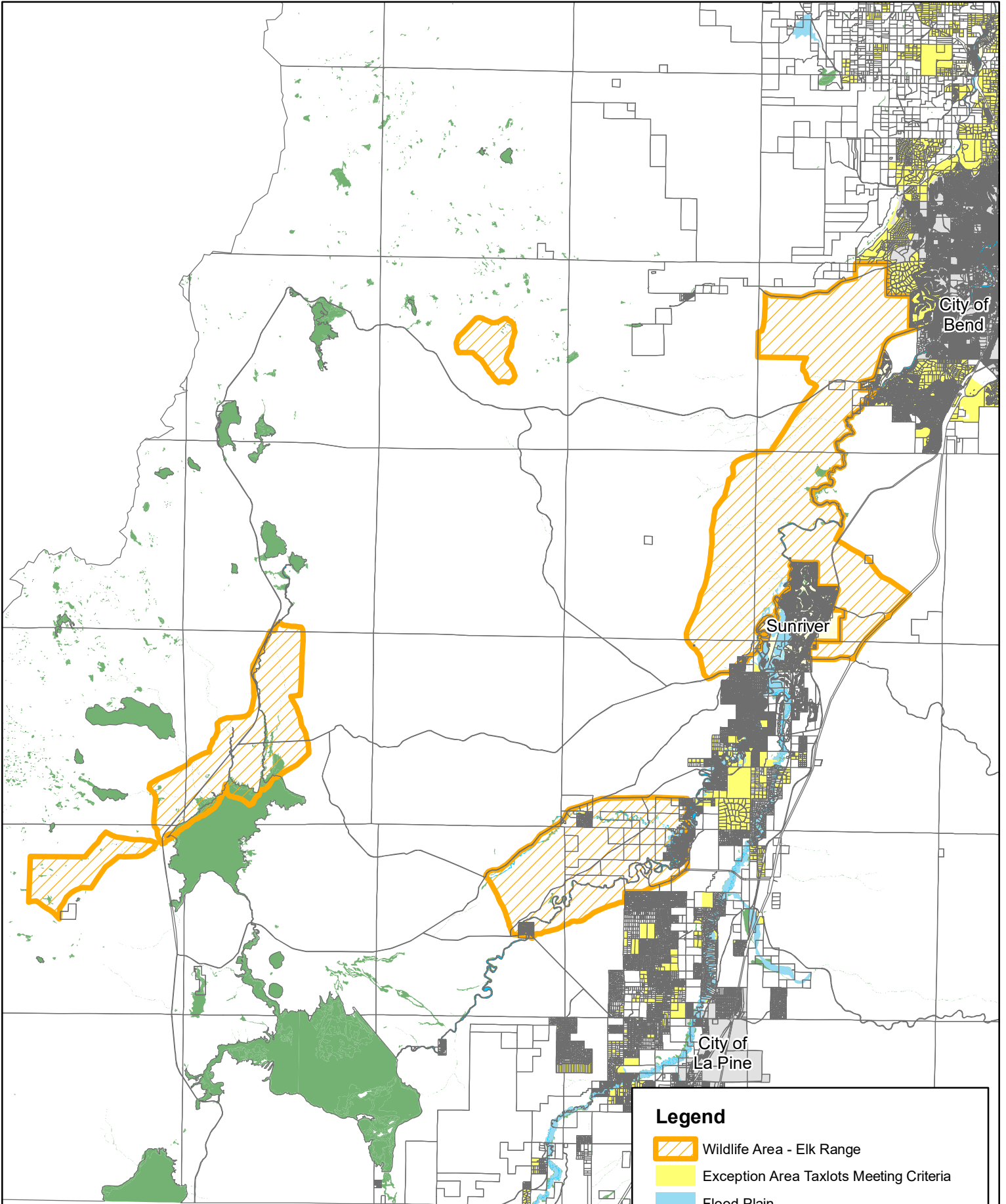








1" = 4 mi.

# Exception Area Taxlots Meeting ADU Criteria - Elk Range

07/26/2023 Item #6.



## Legend

-  Wildlife Area - Elk Range
-  Exception Area Taxlots Meeting Criteria
-  Flood Plain
-  Wetland

November 4, 2022



**Attachment 3 - Proposed Text Amendments**

**CHAPTER 18.32 MULTIPLE USE AGRICULTURAL ZONE; MUA**

**18.32.020 Uses Permitted Outright**

\* \* \*

**18.32.020 Uses Permitted Outright**

The following uses and their accessory uses are permitted outright:

- A. Agricultural uses as defined in DCC Title 18.
- B. A single family dwelling, or a manufactured home subject to DCC 18.116.070.
- C. Propagation or harvesting of a forest product.
- D. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- E. Class III road or street project.
- F. Noncommercial horse stables, excluding horse events.
- G. Horse events, including associated structures, involving:
  - 1. Fewer than 10 riders;
  - 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or
  - 3. More than 25 riders, no more than two times per year on nonconsecutive days. Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.
- H. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- I. Type 1 Home Occupation, subject to DCC 18.116.280.
- J. Historic Accessory Dwelling Units, subject to DCC 18.116.350.
- K. Residential Accessory Dwelling Units, subject to DCC 18.116.355.

**HISTORY**

- Adopted by Ord. PL-15 on 11/1/1979*
- Amended by Ord. 91-002 §6 on 2/6/1991*
- Amended by Ord. 91-005 §18 on 3/4/1991*
- Amended by Ord. 91-020 §1 on 5/29/1991*
- Amended by Ord. 91-038 §1 on 9/30/1991*

Amended by Ord. 93-001 §1 on 1/27/1993  
Amended by Ord. 93-043 §4 on 8/25/1993  
Amended by Ord. 94-008 §10 on 6/8/1994  
Amended by Ord. 2001-016 §2 on 3/28/2001  
Amended by Ord. 2001-039 §2 on 12/12/2001  
Amended by Ord. 2004-002 §3 on 4/28/2004  
Amended by Ord. 2019-009 §1 on 9/3/2019  
Recorded by Ord. 2019-009 §1 on 9/3/2019  
[Amended by Ord. 2023-00x §x on \[date\]](#)

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**CHAPTER 18.60 RURAL RESIDENTIAL ZONE; RR-10**

**18.60.020 Uses Permitted Outright**

\* \* \*

**18.60.020 Uses Permitted Outright**

The following uses and their accessory uses are permitted outright.

- A. A single-family dwelling, or a manufactured home subject to DCC 18.116.070.
- B. Utility facilities necessary to serve the area including energy facilities, water supply and treatment and sewage disposal and treatment.
- C. Community center, if shown and approved on the original plan or plat of the development.
- D. Agricultural use as defined in DCC Title 18.
- E. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC 18.116.230.
- F. Class III road or street project.
- G. Noncommercial horse stables as defined in DCC Title 18, excluding horse events.
- H. Horse events, including associated structures, involving:
  - 1. Fewer than 10 riders;
  - 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or
  - 3. More than 25 riders, no more than two times per year on nonconsecutive days.  
Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.
- I. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- J. Type 1 Home Occupation, subject to DCC 18.116.280.
- K. Historic Accessory Dwelling Units, subject to DCC 18.116.350.
- L. Residential Accessory Dwelling Units, subject to DCC 18.116.355.

**HISTORY**

*Adopted by Ord. PL-15 on 11/1/1979*  
*Amended by Ord. 91-005 §§30 & 31 on 3/4/1991*  
*Amended by Ord. 91-020 §1 on 5/29/1991*

*Amended by Ord. 93-043 §8 on 8/25/1993*  
*Amended by Ord. 94-008 §12 on 6/8/1994*  
*Amended by Ord. 2001-016 §2 on 3/28/2001*  
*Amended by Ord. 2001-039 §5 on 12/12/2001*  
*Amended by Ord. 2004-002 §7 on 4/28/2004*  
*Amended by Ord. 2019-009 §2 on 9/3/2019*  
*Recorded by Ord. 2019-009 §2 on 9/3/2019*  
*Amended by Ord. 2023-00x §x on [date]*

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**CHAPTER 18.116 SUPPLEMENTARY PROVISIONS**

[18.116.350 Historic Home Accessory Dwelling Units In The RR10 And MUA Zones](#)

[18.116.355 Residential Accessory Dwelling Units In The RR10 And MUA 10 Zones](#)

\* \* \*

**[18.116.350 Historic Home Accessory Dwelling Units In The RR10 And MUA Zones](#)**

A. As used in this section:

1. “[Historic](#) Accessory dwelling unit (‘ADU’)” means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling. For the purposes of this section, “auxiliary” means a use or structure incidental and subordinate to the main use of the property, and located on the same lot as the main use.
2. “Area zoned for rural residential use” means land that is not located inside an urban growth boundary as defined in ORS 195.060 and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.
3. “Historic home” means a single-family dwelling constructed between 1850 and 1945.
4. “New” means that the dwelling being constructed did not previously exist in residential or nonresidential form. “New” does not include the acquisition, alteration, renovation or remodeling of an existing structure.
5. “Place a manufactured home” means the placement of a manufactured home that did not previously exist on the subject lot of record; it may include the placement of a manufactured home that was previously used as a dwelling on another lot and moved to the subject lot of record.
6. “Single-family dwelling” means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.

B. An owner of a lot or parcel within an area zoned for rural residential use (RR10 and MUA [zonesZones](#)) may construct a new single-family dwelling or place a manufactured home on the lot or parcel, provided:

1. The lot or parcel is not located in an area designated as an urban reserve as defined in ORS 195.137;
2. The lot or parcel is at least two acres in size;
3. A historic home is sited on the lot or parcel;
4. The owner converts the historic home to an accessory dwelling unit upon completion of the new single-family dwelling or placement of a manufactured home; and

- 5. The accessory dwelling unit may be required to comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment.
- C. The construction of an accessory dwelling unit under subsection (B) of this section is a land use action subject to DCC 22.20.
- D. An owner that constructs a new single-family dwelling or places a manufactured home under subsection (B) of this section may not:
  - 1. Subdivide, partition or otherwise divide the lot or parcel so that the new single-family dwelling or manufactured home is situated on a different lot or parcel from the accessory dwelling unit.
  - 2. Alter, renovate or remodel the accessory dwelling unit so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home’s square footage at the time construction of the new single-family dwelling commenced.
  - 3. Rebuild the accessory dwelling unit if the structure is deemed a dangerous building due to fire or other natural disaster, pursuant to the Uniform Code for the Abatement of Dangerous Buildings, which defines “dangerous building” as “Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.”
  - 4. Construct an additional accessory dwelling unit on the same lot or parcel.
- E. A new single-family dwelling constructed or a manufactured home placed under this section may be required to be served by the same water supply source as the accessory dwelling unit.
- F. Owner occupancy of either the accessory dwelling unit or the new single-family dwelling is not required. However, the accessory dwelling unit and the new single-family dwelling placed under this section and the accessory dwelling unit may not be used simultaneously for short-term rentals of thirty (30) consecutive days or less.

HISTORY

*Adopted by Ord. 2019-009 §3 on 9/3/2019*  
*Recorded by Ord. 2019-009 §3 on 9/3/2019*  
*Amended by Ord. 2023-00x §x on [date]*

**18.116.355 Residential Accessory Dwelling Units In The RR-10 And MUA Zones**

A. As used in this section:

- 1. “Accessory dwelling unit (‘ADU’)” means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling. For the purposes of this section, “auxiliary” means a use or structure incidental and subordinate to the main use of the property, and located on the same lot as the main use.

2. “Rural residential use” means a lot or parcel located in the RR-10 or MUA-10 zones, consistent with the definition in ORS 215.501.
  3. “Safe evacuation plan” means an identifiable route on a right(s)-of-way and any onsite driveways from the accessory dwelling unit to the staged evacuation area.
  4. “Single-family dwelling” means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.
  5. “Staged evacuation area” means a public or private location that occupants of the accessory dwelling unit may evacuate to reorganize.
  6. “Useable floor area” means all areas of the accessory dwelling unit included within the surrounding insulated exterior walls, exclusive of garages, carports, decks and porch covers.
  7. “Vacation occupancy” means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that has all of the following characteristics:
    - a. The occupant rents the unit for vacation purposes only, not as a principal residence; and
    - b. The occupant has a principal residence other than at the unit; and
    - c. The period of authorized occupancy does not exceed 45 days.
- B. One accessory dwelling unit (ADU) is permitted outright on a lot or parcel zoned RR-10 or MUA-10, provided:
1. One single-family dwelling is sited on the lot or parcel:
    - a. As used in this section, “sited” means established onsite or applied for prior to issuance of any building or land use permits for an accessory dwelling unit.
    - b. Existing dwelling units meeting all other criteria in this section may be converted to an accessory dwelling unit during construction of a new primary single-family dwelling.
  2. The lot or parcel is not located within the Redmond Urban Reserve Area, consistent with ORS 195.137.
  3. No portion of the lot or parcel is within the Metolius Area of Critical State Concern, as defined in ORS 197.416.
  4. The lot area is at least two acres in size, with the exception of those unsewered areas between Sunriver and the Klamath County border, defined as those unincorporated portions of Deschutes County contained in Townships 19S, 20S, 21S, and 22S and Ranges 9E, 10E and 11E. Within these exception areas, the lot area is at least five acres in size.



- 5. The accessory dwelling unit will have a minimum setback of 100 feet from adjacent land zoned F-1, F-2, or EFU and meet any other minimum setback requirements of the underlying zone and combining zones.
- 6. The accessory dwelling unit will not include more than 900 square feet of useable floor area.
- 7. The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling, measured from a wall of the existing single-family dwelling to the nearest part of the useable floor area of the accessory dwelling unit.
- 8. The accessory dwelling unit receives approval from a sewer authority or Deschutes County Environmental Soils for onsite wastewater disposal and treatment.
- 9. The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410.
- 10. The accessory dwelling unit provides for all of the following:
  - a. Adequate access connecting an accessory dwelling unit with a fire protection service provider with professionals who have received training or certification described in ORS 181A.410. Adequate access is met by demonstrating compliance with section 10(a)i and 10(a)(ii), or section 10(a)(iii):
    - i. A continuous, minimum 20-foot width right(s)-of-way with an unobstructed vertical clearance of not less than 13.5 feet. For the purposes of this section, right(s)-of-way are defined as:
      - 1. Public roads with maintenance responsibility accepted by a unit of local or state government or assigned to landowners or homeowners association by covenant or agreement; or
      - 2. Private roads, as permitted by DCC Title 18, with maintenance responsibility assigned to landowners or homeowners associations by covenant or agreement pursuant to ORS 105; and
    - ii. A continuous, minimum 20-foot width onsite driveway with an unobstructed vertical clearance of not less than 13.5 feet, designed and maintained as follows:
      - 1. Composed of an all-weather surface including asphalt or concrete; or
      - 2. Designed and maintained to support a minimum gross vehicle weight (GVW) of 75,000 lbs as certified by a Professional Engineer, registered in Oregon;
    - iii. Written confirmation from a fire protection service provider with professionals who have received training or certification described in ORS 181A.410, on a form prepared by Deschutes County, that access to the property meets minimum fire district requirements to provide emergency services to the property;
  - b. A safe evacuation plan; and

c. Written authorization from the property owner(s) of the staged evacuation area that the occupants of the accessory dwelling unit may evacuate to the staged evacuation area.

11. Wildfire Hazard Mitigation Building Code Standards:

a. If the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved, the following requirements shall apply:

i. For areas designated as high wildfire hazard that are identified pursuant to ORS 477.490:

1. The Wildfire Hazard Mitigation building code standards as described in section R327 of the Oregon Residential Specialty Code.

b. If the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved, the following requirements shall apply:

i. The Wildfire Hazard Mitigation building code standards as described in section R327 of the Oregon Residential Specialty Code.

12. Wildfire Hazard Mitigation Defensible Space Standards:

a. If the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved, the following requirements shall apply:

i. For all wildfire hazard designations in the wildland-urban interface that are identified pursuant to ORS 477.490:

1. The minimum defensible space rules established by the State Fire Marshal as described in ORS 476.392.

b. If the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved, then either the section 12(b)(i) or 12(b)(ii) requirements shall apply:

i. The property owner(s) shall construct and maintain the following firebreaks on land surrounding the accessory dwelling unit on land that is owned or controlled by the owner:

1. Primary Firebreak. Prior to use, a primary firebreak, not less than 10 feet wide, shall be constructed containing nonflammable materials. This may include lawn, walkways, driveways, gravel borders or other similar materials; and

2. Secondary Firebreak. A secondary firebreak of not less than 20 feet wide shall be constructed outside the primary firebreak. This firebreak need not be bare ground, but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed; and

3. Fuel Break. A fuel break shall be maintained, extending a minimum of 100 feet in all directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to the beginning of the coming fire season; and
4. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
- ii. The accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers who have received training or certification described in ORS 181A.410.
13. The existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600.
14. A lot or parcel with an accessory dwelling unit approved under this section is ineligible for:
- a. A subdivision, partition, other division of the lot or parcel, or a property line adjustment where the result of such application would be to situate the existing single-family dwelling on a different lot or parcel than the accessory dwelling unit; and
- b. Placement or construction of any additional accessory dwelling unit or any other permanent or temporary structure or dwelling unit designed or used for residential purposes, including medical hardship dwellings.
15. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling unit shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.
16. A letter confirming that the supplier of water is "Willing and Able to Serve" the accessory dwelling unit shall be provided if the accessory dwelling unit is to be served by any water source other than an onsite domestic well.
17. An existing single-family dwelling and an accessory dwelling unit allowed under this section are considered a single unit for the purposes of calculating ground water right exemptions under ORS 537.545(1).
18. If the water supply source for the accessory dwelling unit or associated lands or gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel

is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission.

19. The applicant shall sign and record with the County Clerk, prior to the issuance of a building permit, a restrictive covenant stating an accessory dwelling unit allowed under this section cannot be used for vacation occupancy, as defined in DCC 18.116.355(A)(7) and consistent with ORS 90.100.

**HISTORY**

*Adopted by Ord. 2023-00x \$x on [date]*

DRAFT

**CHAPTER 18.132 VARIANCES**

- [18.132.010 Variance Application](#)
- [18.132.020 Authority Of Hearings Body](#)
- [18.132.025 Minor Variances](#)
- [18.132.030 Hearings Body Action On Variance](#)
- [18.132.040 Variance Procedure](#)

**18.132.010 Variance Application**

The Planning Director or Hearings Body may authorize area or use variance from the requirements of DCC Title 18. Application for a variance shall be made by petition stating fully the grounds of the application and the facts relied upon by the petitioner.

**HISTORY**

*Adopted by Ord. [PL-15](#) on 11/1/1979  
Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991*

**18.132.020 Authority Of Hearings Body**

A variance may be granted unqualifiedly or may be granted subject to prescribed conditions, provided that the Planning Director or Hearings Body shall make all of the following findings:

- A. Area variance.
  - 1. That the literal application of the ordinance would create practical difficulties resulting in greater private expense than public benefit.
  - 2. That the condition creating the difficulty is not general throughout the surrounding area but is unique to the applicant's site.
  - 3. That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the restriction at the time the site was purchased.
  - 4. That the variance conforms to the Comprehensive Plan and the intent of the ordinance being varied.
- B. Use variance.
  - 1. That the literal application of the ordinance would result in unnecessary hardship to the applicant. An unnecessary hardship will be found when the site cannot be put to any beneficial use under the terms of the applicable ordinance.
  - 2. Each of the findings listed in DCC 18.132.020(A)(1), (2) and (4).

**C. Statutory Provisions.**

- 1. Notwithstanding the provisions of this section, a variance may not be granted which amends any standards mandated by the Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR).

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979  
Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991  
Amended by Ord. [93-043](#) §24 on 8/25/1993  
Amended by Ord. 2023-00x §x on [date]

**18.132.025 Minor Variances**

A variance seeking to depart from on-site requirements of DCC Title 18, such as setbacks and area requirements, by no greater than 10 percent of the required distance or area may be granted by the Planning Director or Hearings Body in conformance with DCC 18.132.025.

- A. In the case of a setback or size variance, the applicant shall show that the approval will result in:
  - 1. More efficient use of the site;
  - 2. Preservation of natural features where appropriate;
  - 3. Adequate provision of light and privacy to adjoining properties; and
  - 4. Preservation of topographic, vegetative and drainage features which would be adversely affected by application of the standards otherwise required by DCC Title 18.
- B. A parcel that is smaller than the minimum lot size at the time of application may not be reduced by more than 10 percent from its current size without a variance.
- C. Notwithstanding B, above, a property may be reduced by more than 10 percent of its current size without a variance if :
  - 1. The property is located outside of a Farm (EFU) or Forest (F) zone;
  - 2. The long-standing occupation area is different than the legal description in the deed for the subject property;
  - 3. The purpose of the property line adjustment is to correct the deed description to match the long-standing occupation lines of the properties; and
  - 4. The discrepancy between the deed lines and the occupation lines is documented by submittal of a narrative and maps prepared by an Oregon Licensed Professional Surveyor.
  - 5. As used in this sub-section, “long-standing” means in excess of ten (10) years.

**D. Statutory Provisions.**

- 1. Notwithstanding the provisions of this section, a variance may not be granted which amends any standards mandated by the Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR).

HISTORY

Adopted by Ord. [91-038](#) §3 on 9/30/1991  
Amended by Ord. [2004-013](#) §15 on 9/21/2004  
Amended by Ord. [2010-003](#) §1 on 7/6/2010  
*Amended by Ord. [2023-00x](#) §x on [date]*

**18.132.030 Hearings Body Action On Variance**

In granting or denying a variance, the Planning Director or Hearings Body shall make a written record of his findings and the facts in connection therewith, and shall describe the variance granted and the conditions designated. The Planning Department shall keep the findings on file, and a copy of the variance granted and the condition thereof shall be recorded with the County Clerk.

HISTORY

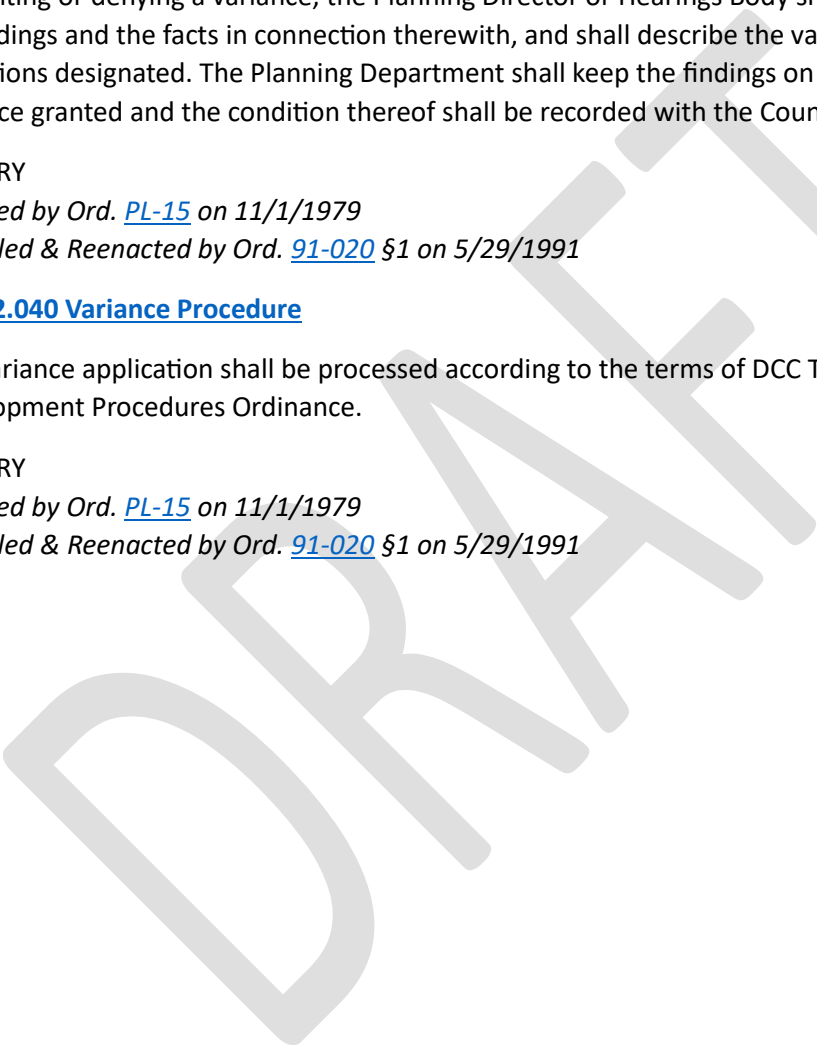
Adopted by Ord. [PL-15](#) on 11/1/1979  
Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

**18.132.040 Variance Procedure**

The variance application shall be processed according to the terms of DCC Title 22, the Uniform Development Procedures Ordinance.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979  
Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991



**CHAPTER 19.12 URBAN AREA RESERVE ZONE UAR-10**

**19.12.020 Permitted Uses**

\* \* \*

**19.12.020 Permitted Uses**

The following uses are permitted:

- A. Farm uses as defined in DCC Title 19.
- B. Single-family dwelling.
- C. Home occupation subject to DCC 19.88.140.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to DCC 19.92.020.
- E. Day care center facilities subject to site review, DCC 19.76 and DCC 19.88.160.
- F. Farm stands subject to DCC 19.76 and DCC 19.88.290.
- G. Historic** Accessory Dwelling Units, subject to DCC 19.92.150.
- H. Residential Accessory Dwelling Units, subject to DCC 19.92.160**

**HISTORY**

*Adopted by Ord. PL-11 on 7/11/1979*  
*Amended by Ord. 88-042 §4 on 12/19/1988*  
*Repealed & Reenacted by Ord. 90-038 §1,2 on 10/3/1990*  
*Amended by Ord. 91-001 §2 on 1/28/1991*  
*Amended by Ord. 2008-014 §3 on 3/31/2008*  
*Repealed & Reenacted by Ord. 2009-002 §1,2 on 2/11/2009*  
*Amended by Ord. 2019-009 §4 on 9/3/2019*  
*Recorded by Ord. 2019-009 §4 on 9/3/2019*  
**Amended by Ord. 2023-00x §x on [date]**



**CHAPTER 19.20 SUBURBAN LOW DENSITY RESIDENTIAL ZONE; SR 2 1/2**

19.20.020 Permitted Uses

\* \* \*

19.20.020 Permitted Uses

The following uses are permitted:

- A. Single-family dwelling.
- B. Agriculture, excluding the keeping of livestock.
- C. Home occupations subject to DCC 19.88.140.
- D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to DCC 19.92.020.
- E. Historic Accessory Dwelling Units, subject to DCC 19.92.150.
- F. Child care facility and/or preschool.
- G. Residential Accessory Dwelling Units, subject to DCC 19.92.160.

**HISTORY**

*Adopted by Ord. PL-11 on 7/11/1979*  
*Amended by Ord. 88-042 §6 on 12/19/1988*  
*Repealed & Reenacted by Ord. 90-038 §1,2 on 10/3/1990*  
*Amended by Ord. 91-001 §4 on 1/28/1991*  
*Amended by Ord. 93-018 §3 on 5/19/1993*  
*Repealed & Reenacted by Ord. 2009-002 §1,2 on 2/11/2009*  
*Amended by Ord. 2019-009 §5 on 9/3/2019*  
*Recorded by Ord. 2019-009 §5 on 9/3/2019*  
*Amended by Ord. 2020-001 §20 on 4/21/2020*  
*Amended by Ord. 2020-010 §9 on 7/3/2020*  
*Amended by Ord. 2023-00x §x on [date]*

**CHAPTER 19.22 WESTSIDE TRANSECT ZONE; WTZ**

**19.22.020 Permitted Uses**

\* \* \*

**19.22.020 Permitted Uses**

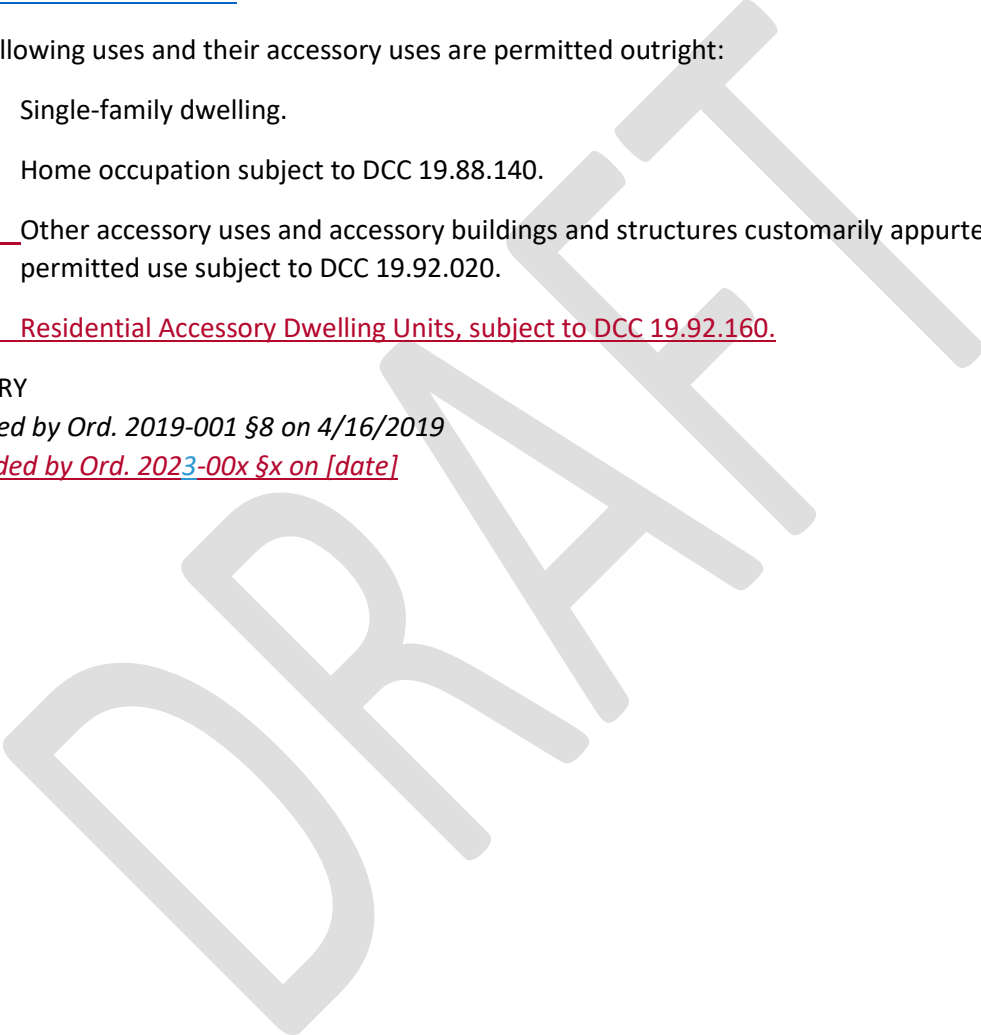
The following uses and their accessory uses are permitted outright:

- A. Single-family dwelling.
- B. Home occupation subject to DCC 19.88.140.
- C. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use subject to DCC 19.92.020.
- D. Residential Accessory Dwelling Units, subject to DCC 19.92.160.

HISTORY

*Adopted by Ord. 2019-001 §8 on 4/16/2019*

*Amended by Ord. 2023-00x §x on [date]*



**CHAPTER 19.92 INTERPRETATIONS AND EXCEPTIONS**

\* \* \*

[19.92.150 Accessory Dwelling Units In UAR-10 And SR-2 1/2 Zones](#)

[19.92.160 Residential Accessory Dwelling Units In UAR-10, SR-2 1/2, And WTZ Zones](#)

**[19.92.150 Historic Accessory Dwelling Units In UAR-10 And SR-2 1/2 Zones](#)**

- A. As used in this section:
  - 1. “[Historic](#) Accessory dwelling unit (‘ADU’)” means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling. For the purposes of this section, “auxiliary” means a use or structure incidental and subordinate to the main use of the property, and located on the same lot as the main use.
  - 2. “Area zoned for rural residential use” means land that is not located inside an urban growth boundary as defined in ORS 195.060 and that is subject to an acknowledged exception to a statewide land use planning goal relating to farmland or forestland and planned and zoned by the county to allow residential use as a primary use.
  - 3. “Historic home” means a single-family dwelling constructed between 1850 and 1945.
  - 4. “New” means that the dwelling being constructed did not previously exist in residential or nonresidential form. “New” does not include the acquisition, alteration, renovation or remodeling of an existing structure.
  - 5. “Single-family dwelling” means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.
- B. An owner of a lot or parcel within an area zoned for rural residential use (UAR-10 and SR-2 1/2 ~~zones~~Zones) may construct a new single-family dwelling on the lot or parcel, provided:
  - 1. The lot or parcel is not located in an area designated as an urban reserve as defined in ORS 195.137;
  - 2. The lot or parcel is at least two acres in size;
  - 3. A historic home is sited on the lot or parcel;
  - 4. The owner converts the historic home to an accessory dwelling unit upon completion of the new single-family dwelling; and
  - 5. The accessory dwelling unit may be required to comply with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment.
- C. The construction of an accessory dwelling unit under subsection (B) of this section is a land use action subject to DCC 22.20.

- D. An owner that constructs a new single-family dwelling under subsection (B) of this section may not:
  - 1. Subdivide, partition or otherwise divide the lot or parcel so that the new single-family dwelling is situated on a different lot or parcel from the accessory dwelling unit.
  - 2. Alter, renovate or remodel the accessory dwelling unit so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home’s square footage at the time construction of the new single-family dwelling commenced.
  - 3. Rebuild the accessory dwelling unit if the structure is deemed a dangerous building due to fire or other natural disaster, pursuant to the Uniform Code for the Abatement of Dangerous Buildings, which defines “dangerous building” as “Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.”
  - 4. Construct an additional accessory dwelling unit on the same lot or parcel.
- E. A new single-family dwelling constructed under this section may be required to be served by the same water supply source as the accessory dwelling unit.
- F. Owner occupancy of either the accessory dwelling unit or the new single-family dwelling is not required. However, the new single-family dwelling and the accessory dwelling unit may not be used simultaneously for short-term rentals of thirty (30) consecutive days or less.

HISTORY

Adopted by Ord. [2019-009 §6](#) on 9/3/2019

Recorded by Ord. [2019-009 §6](#) on 9/3/2019

Amended by Ord. [2023-00x §x](#) on [date]

**[19.92.160 Residential Accessory Dwelling Units In UAR-10, SR-2 ½, And WTZ Zones](#)**

**A. As used in this section:**

- 1. “Accessory dwelling unit (‘ADU’)” means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling. For the purposes of this section, “auxiliary” means a use or structure incidental and subordinate to the main use of the property, and located on the same lot as the main use.
- 2. “Rural residential use” means a lot or parcel located in the UAR-10, SR 2 ½, or WTZ zones, consistent with the definition in ORS 215.501.
- 3. “Safe evacuation plan” means an identifiable route on a right(s)-of-way and any onsite driveways from the accessory dwelling unit to the staged evacuation area.
- 4. “Single-family dwelling” means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.

- 5. “Staged evacuation area” means a public or private location that occupants of the accessory dwelling unit may evacuate to reorganize.
- 6. “Useable floor area” means all areas of the accessory dwelling unit included within the surrounding insulated exterior walls, exclusive of garages, carports, decks and porch covers.
- 7. “Vacation occupancy” means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that has all of the following characteristics:
  - a. The occupant rents the unit for vacation purposes only, not as a principal residence; and
  - b. The occupant has a principal residence other than at the unit; and
  - c. The period of authorized occupancy does not exceed 45 days.

B. One accessory dwelling unit (ADU) is permitted outright on a lot or parcel zoned UAR-10, SR-2 ½, or WTZ, provided:

- 1. One single-family dwelling is sited on the lot or parcel:
  - a. As used in this section, “sited” means established onsite or applied for prior to issuance of any building or land use permits for an accessory dwelling unit.
  - b. Existing dwelling units meeting all other criteria in this section may be converted to an accessory dwelling unit during construction of a new primary single-family dwelling.
- 2. The lot area or parcel area is at least two acres in size.
- 3. The accessory dwelling unit will have a minimum setback of 100 feet from adjacent land zoned F-1, F-2, or EFU and meet any other minimum setback requirements of the underlying zone and combining zones.
- 4. The accessory dwelling unit will not include more than 900 square feet of useable floor area.
- 5. The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling, measured from a wall of the existing single-family dwelling to the nearest part of the useable floor area of the accessory dwelling unit.
- 6. The accessory dwelling unit receives approval from a sewer authority or Deschutes County Environmental Soils for onsite wastewater disposal and treatment.
- 7. The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410.
- 8. The accessory dwelling unit provides for all of the following:
  - a. Adequate access connecting an accessory dwelling unit with a fire protection service provider with professionals who have received training or certification described in

ORS 181A.410. Adequate access is met by demonstrating compliance with section 8(a)i and 8(a)(ii), or section 8(a)(iii):

i. A continuous, minimum 20-foot width right(s)-of-way with an unobstructed vertical clearance of not less than 13.5 feet. For the purposes of this section, right(s)-of-way are defined as:

- 1. Public roads with maintenance responsibility accepted by a unit of local or state government or assigned to landowners or homeowners association by covenant or agreement; or
- 2. Private roads, as permitted by DCC Title 18, with maintenance responsibility assigned to landowners or homeowners associations by covenant or agreement pursuant to ORS 105; and

ii. A continuous, minimum 20-foot width onsite driveway with an unobstructed vertical clearance of not less than 13.5 feet, designed and maintained as follows:

- 1. Composed of an all-weather surface including asphalt or concrete; or
- 2. Designed and maintained to support a minimum gross vehicle weight (GVW) of 75,000 lbs as certified by a Professional Engineer, registered in Oregon;

iii. Written confirmation from a fire protection service provider with professionals who have received training or certification described in ORS 181A.410, on a form prepared by Deschutes County, that access to the property meets minimum fire district requirements to provide emergency services to the property;

b. A safe evacuation plan; and

c. Written authorization from the property owner(s) of the staged evacuation area that the occupants of the accessory dwelling unit may evacuate to the staged evacuation area.

9. Wildfire Hazard Mitigation Building Code Standards:

a. If the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved, the following requirements shall apply:

i. For areas designated as high wildfire hazard that are identified pursuant to ORS 477.490:

- 1. The Wildfire Hazard Mitigation building code standards as described in section R327 of the Oregon Residential Specialty Code.

b. If the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved, the following requirements shall apply:

i. The Wildfire Hazard Mitigation building code standards as described in section R327 of the Oregon Residential Specialty Code.

10. Wildfire Hazard Mitigation Defensible Space Standards:

- a. If the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved, the following requirements shall apply:
- i. For all wildfire hazard designations in the wildland-urban interface that are identified pursuant to ORS 477.490:
1. The minimum defensible space rules established by the State Fire Marshal as described in ORS 476.392.
- b. If the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved, then either the section 10(b)(i) or 10(b)(ii) requirements shall apply:
- i. The property owner(s) shall construct and maintain the following firebreaks on land surrounding the accessory dwelling unit on land that is owned or controlled by the owner:
1. Primary Firebreak. Prior to use, a primary firebreak, not less than 10 feet wide, shall be constructed containing nonflammable materials. This may include lawn, walkways, driveways, gravel borders or other similar materials; and
  2. Secondary Firebreak. A secondary firebreak of not less than 20 feet wide shall be constructed outside the primary firebreak. This firebreak need not be bare ground, but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed; and
  3. Fuel Break. A fuel break shall be maintained, extending a minimum of 100 feet in all directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to the beginning of the coming fire season; and
  4. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
- ii. The accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers who have received training or certification described in ORS 181A.410.

- 11. The existing single-family dwelling property on the lot or parcel is not subject to an order declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600.
- 12. A lot or parcel with an accessory dwelling unit approved under this section is ineligible for:

  - a. A subdivision, partition, other division of the lot or parcel, or a property line adjustment where the result of such application would be to situate the existing single-family dwelling on a different lot or parcel than the accessory dwelling unit; and
  - b. Placement or construction of any additional accessory dwelling unit or any other permanent or temporary structure or dwelling unit designed or used for residential purposes, including medical hardship dwellings.
- 13. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling unit shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.
- 14. A letter confirming that the supplier of water is "Willing and Able to Serve" the accessory dwelling unit shall be provided if the accessory dwelling unit is to be served by any water source other than an onsite domestic well.
- 15. An existing single-family dwelling and an accessory dwelling unit allowed under this section are considered a single unit for the purposes of calculating ground water right exemptions under ORS 537.545(1).
- 16. If the water supply source for the accessory dwelling unit or associated lands or gardens will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been restricted by the Water Resources Commission.
- 17. The applicant shall sign and record with the County Clerk, prior to the issuance of a building permit, a restrictive covenant stating an accessory dwelling unit allowed under this section cannot be used for vacation occupancy, as defined in DCC 19.92.160(A)(7) and consistent with ORS 90.100.

HISTORY

Adopted by Ord. 2023-00x \$x on [date]



**CHAPTER 19.108 VARIANCES**

19.108.010 Authorization To Grant Or Deny Variances

19.108.020 Criteria

19.108.030 Authorization To Grant Or Deny Variances To On-Site Requirements

19.108.040 Criteria For Variances Granted Under DCC 19.108.030

19.108.050 Application For A Variance

**19.108.010 Authorization To Grant Or Deny Variances**

Except as provided in DCC 19.108.030, the Planning Director or Hearings Body may authorize variances from the standards of DCC Title 19 where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of DCC Title 19 would cause an undue or unnecessary hardship; except that no variance shall be granted to allow the use of the property for purposes not authorized within the pertinent zone or to alter any procedural requirements of DCC Title 19. In granting a variance, the Planning Director or Hearings Body may attach conditions necessary to protect the best interest of the surrounding property or neighborhood and to otherwise achieve the purposes of DCC Title 19.

**HISTORY**

*Adopted by Ord. PL-11 on 7/11/1979*

*Repealed & Reenacted by Ord. 90-038 §1 on 10/3/1990*

**19.108.020 Criteria**

No variance shall be granted pursuant to the provisions of DCC 19.108.010 unless the applicant can establish:

- A. That special conditions exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the same zone; and
- B. That strict interpretation of the provisions of DCC Title 19 would deprive the applicant of rights commonly enjoyed by other properties in the same zone under the terms of DCC Title 19; and
- C. That the special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience; and
- D. That granting the variance will be in harmony with the objectives of DCC Title 19 and not injurious to the neighborhood or otherwise detrimental to the public welfare.

~~D.E.~~ Notwithstanding the provisions of this section, a variance may not be granted which amends any standards mandated by the Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR).

**HISTORY**

*Adopted by Ord. PL-11 on 7/11/1979*

*Repealed & Reenacted by Ord. 90-038 §1 on 10/3/1990*

*Amended by Ord. 2023-00x §x on [date]*

**19.108.030 Authorization To Grant Or Deny Variances To On-Site Requirements**

The Planning Director or Hearings Body may authorize a variance from the standards of DCC Title 19 relating to on-site requirements (e.g. yards, parking, etc.), provided that no variance under DCC 19.108.030 shall be greater than 25% of the setback, parking or other similar area requirement from which the variance is sought.

**HISTORY**

*Adopted by Ord. [PL-11](#) on 7/11/1979  
Repealed & Reenacted by Ord. [90-038](#) §1 on 10/3/1990*

**19.108.040 Criteria For Variances Granted Under DCC 19.108.030**

In the case of a yard variance, the applicant shall show the approval will result in:

- A. More efficient use of the site; and
- B. Preservation of natural features, where appropriate; and
- C. Adequate provision of light and privacy to adjoining properties; and
- D. Preservation of natural features of the site (topography, vegetation and drainage) which would be adversely affected by application of required parking standards, where appropriate.

**HISTORY**

*Adopted by Ord. [PL-11](#) on 7/11/1979  
Repealed & Reenacted by Ord. [90-038](#) §1 on 10/3/1990*

**19.108.050 Application For A Variance**

A property owner or his agent, authorized in writing, may initiate a request for a variance by filing an application with the Planning Director. The application shall be accompanied by a plan, drawn to a suitable scale, showing the condition to be varied and the dimensions and arrangements of the proposed development. The application shall be reviewed in the manner provided for in the County's land use procedures ordinance.

**HISTORY**

*Adopted by Ord. [PL-11](#) on 7/11/1979  
Amended by Ord. [88-042](#) §42 on 12/19/1988  
Repealed & Reenacted by Ord. [90-038](#) §1,2 on 10/3/1990  
Amended by Ord. [95-050](#) §9 on 6/28/1995*

**CHAPTER 22.04 INTRODUCTION AND DEFINITIONS**

**22.04.040 Verifying Lots of Record**

\* \* \*

**22.04.040 Verifying Lots of Record**

A. Purpose; scope. Concurrent with or prior to the issuance of certain permits, a lot or parcel shall be verified pursuant to this section to reasonably ensure compliance with the zoning and land division laws in effect on the date the lot or parcel was created. Not all permits require verification. If required, verifying that the lot or parcel was lawfully created is a threshold issue that should be addressed before the permit may be issued, but does not supersede or nullify other permit requirements. This section 22.04.040 provides an applicant the option to concurrently verify a lot or parcel as part of applying for a permit that requires verification, or preliminarily apply for a declaratory ruling to thereby determine the scope of available permits.

B. Permits Requiring Verification.

1. Unless an exception applies pursuant to subsection (B)(2) below, verifying a lot or parcel pursuant to subsection (C) shall be required prior to the issuance of the following permits:

- a. Any land use permit for a unit of land in the Exclusive Farm Use Zones (DCC Chapter 18.16), Forest Use Zone – F1 (DCC Chapter 18.36), or Forest Use Zone – F2 (DCC Chapter 18.40);
- b. Any permit for a lot or parcel that includes wetlands as shown on the Statewide Wetlands Inventory;
- c. Any permit for a lot or parcel subject to wildlife habitat special assessment;
- d. In all zones, a land use permit relocating property lines that reduces in size a lot or parcel;
- e. In all zones, a land use, structural, or non-emergency on-site sewage disposal system permit if the lot or parcel is smaller than the minimum area required in the applicable zone;
- f. In all zones, a permit for a Historic Accessory Dwelling Unit as defined in DCC 18.116.350 or 19.92.150;
- e.g. In all zones, a permit for an Accessory Dwelling Unit as defined in DCC 18.116.355 or 19.92.160.

C. Verified Lots of Record. Permits that require verification shall only be issued to lots or parcels that meet the “lot of record” definition in 18.04.030.

D. Findings; Declaratory Ruling. If an applicant is applying for a land use permit listed in subsection (B)(1), the County shall include a finding verifying that the lot or parcel meets the “lot of record” definition in 18.04.030, a finding noting that the lot or parcel does not meet the “lot of record”

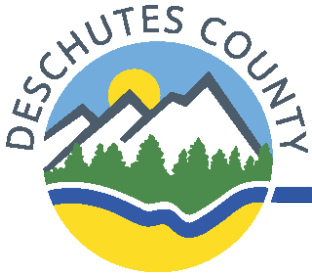
definition in 18.04.030, or a finding noting that verification was not required because the lot or parcel qualified for an exception pursuant to subsection (B)(2). If an applicant is applying for a permit listed in subsection (B)(1) that does not require public notice, or prior to applying for any permit, an applicant may request a declaratory ruling pursuant to DCC Chapter 22.40. If the lot or parcel meets the “lot of record” definition in 18.04.030, the County shall issue the declaratory ruling determining that the lot or parcel qualifies for all permits listed in subsection (B)(1). If the lot or parcel does not meet the “lot of record” definition in 18.04.030, the County shall not issue the declaratory ruling and instead shall provide the applicant information on permit options that do not require verification and information on verification exceptions that may apply pursuant to subsections (B)(2).

HISTORY

*Adopted by Ord. 2017-015 §3 on 11/1/1979*

*[Amended by Ord. 2023-00x §x on \[date\]](#)*

DRAFT



MEMORANDUM

**TO:** Deschutes County Planning Commission

**FROM:** Kyle Collins, Associate Planner  
Will Groves, Planning Manager

**DATE:** July 19, 2023

**SUBJECT:** Rural Accessory Dwelling Unit (ADU) Legislative Amendments – Planning Commission Recommendations, Public Comments, and Agency Comments

The Board of County Commissioners (Board) will conduct a public hearing on July 26, 2023 concerning local provisions for rural ADUs as identified in Senate Bill (SB) 391<sup>1</sup> (file no. 247-22-000671-TA).

Staff submitted an initial 35-day Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) on August 17, 2022. A public hearing was held with the Deschutes County Planning Commission (Commission) on September 22, 2022<sup>2</sup>. The Commission held deliberations on October 27, 2022<sup>3</sup> and the recommendations from that meeting are discussed within provided attachments.

Since the Commission’s initial public hearing on this proposal, legislation was passed by the Oregon Legislature which requires several changes to the original proposed amendments to maintain compliance with state standards. Specifically, SB 644 was recently passed which provides direction to local jurisdictions looking to adopt rural ADU standards prior to formal release of the Statewide Wildfire Hazard Map required by SB 762. Additionally, SB 80 was passed which alters the original standards and terminology used within the forthcoming Statewide Wildfire Hazard Map. Further details regarding SB 644 and SB 80 are discussed in following sections.

Given the passage of SB 644 and SB 80, along with the necessary amendment changes required by the bills, staff conducted a work session with the Board on June 5, 2023 to understand preferred steps on the ADU proposal moving forward. During that work session, the Board directed staff to reinstate PAPA notice proceedings with DLCD to capture the newest version of the amendments and provide the Commission with an opportunity to review the revised amendments. Per Board direction, staff

<sup>1</sup> <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0391/A-Engrossed>

<sup>2</sup> See Deschutes County Planning Commission September 22, 2022 Agenda for more information: <https://www.deschutes.org/bc-pc/page/planning-commission-17>

<sup>3</sup> See Deschutes County Planning Commission October 27, 2022 Agenda for more information: <https://www.deschutes.org/bc-pc/page/planning-commission-21>

submitted a revised 35-day PAPA notice to DLCD on June 7, 2023 and held a new work session with the Commission on July 13, 2023.

**I. FIRST PLANNING COMMISSION RECOMMEDATIONS**

As noted above, a public hearing was held with the Commission on September 22, 2022. The Commission held deliberations on October 27, 2022 and made recommendations concerning the proposed amendments. Many of these recommendations correspond with staff's initial draft amendments while others would require new language and modifications to the proposed amendments:

- **Recommendation #1** (*approved 4 to 2*): The Commission recommended adoption of the proposed amendments, with changes to the initial proposal as discussed herein.
- **Recommendation #2** (*approved 5 to 1*): "Useable floor area" is undefined within SB 391 and the administering statutes. The Commission recommends "Useable Floor Area" be defined as "the area of the accessory dwelling unit included within the surrounding exterior walls, including garages and other accessory components." To clarify, the 900 square-foot size limitation for rural ADUs would apply to the entire ADU structure, including garages and accessory components.
- **Recommendation #3**: A unit must be located no farther than 100 feet from the existing single family dwelling, measured from a wall of the single-family dwelling to the nearest part of the "useable floor area" of the accessory dwelling unit. This recommendation was unchanged by the Commission from staff's initial proposal and thus no approval vote was taken.
- **Recommendation #4**: Due to vulnerable groundwater characteristics in southern Deschutes County, the Commission recommends the minimum lot or parcel size for rural ADUs to be at least five (5) acres in size. The boundaries of this recommendation were defined by the upper Deschutes watershed area studied during the La Pine Demonstration Project, US Geological Survey report 2007-5237, USGS Fact Sheet 2007-3103. This recommendation was unchanged by the Commission from staff's initial proposal and thus no approval vote was taken.
- **Recommendation #5** (*approved 5 to 1*): The Commission recommends prohibiting rural ADU development in designated Goal 5 resource areas (i.e. – Wildlife Area Combining Zone, Greater Sage-Grouse Area Combining Zone, and the Sensitive Bird and Mammal Habitat Combining Zone).
- **Recommendation #6** (*approved 6 to 0*): Pursuant to SB 762, the Commission recommends delaying the adoption of any local rural ADU legislation until such time as the final Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map) has been released by the Oregon Department of Forestry (ODF).
  - This recommendation was made prior to adoption of SB 644 and the corresponding impacts on SB 391 and the Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map).

- SB 644 effectively decouples the Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map) from the adoption of any local rules allowing rural ADUs. During any interim period where a local jurisdiction has adopted rules allowing ADUs and prior to the release of the final risk map, any constructed ADUs will be subject to the home hardening building codes as described in section R327 of the 2021 Oregon Residential Specialty Code.
- **Recommendation #7** (*approved 6 to 0*): The Commission recommends prohibiting rural ADU development the Westside Transect Zone (WTZ) Zone.
- **Recommendation #8** (*approved 6 to 0*): The Commission recommends prohibiting both the existing single-family dwelling and the ADU for vacation occupancy use, as defined in DCC 18.116.370(A)(8) and consistent with ORS 90.100.

Outside of the explicit recommendations above, the Commission engaged in numerous discussion points relevant to the proposed amendments. A number of Commissioners expressed concern that the rural ADU amendments were being presented prior to completion of other ongoing long range planning initiatives which may have significant bearing on the proposal. Specifically, some Commissioners highlighted the importance of the ongoing state wildfire mitigation efforts and SB 762, the ongoing Deschutes County Comprehensive Plan update ([Deschutes 2040](#)), and the ongoing Goal 5 habitat inventory update for mule deer ([Wildlife Inventory Update](#))<sup>4</sup>. Of these items, only the SB 762 mapping and wildfire mitigation efforts received a majority vote recommending delay of the proposed amendments. Should the Board elect to follow the Commission’s recommendation to delay adoption of the proposed amendments until release of the final Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map) by ODF, it is unclear when these maps will be formally released and may delay adoption and implementation of any local ADU standards.

## II. SECOND PLANNING COMMISSION RECOMMEDATIONS

As noted above, a second work session was held with the Commission on July 13, 2023. The Commission made recommendations concerning the proposed amendments during the same meeting. This work session was held before a different Commission composition, as two previous Commissioners ended their terms prior to July 2023. Many of these recommendations correspond with staff’s initial draft amendments while others would require new language and modifications to the proposed amendments:

- **Recommendation #1** (*approved 5 to 0*): The Commission recommended adoption of the proposed amendments, with changes to the initial proposal as discussed herein.
- **Recommendation #2**: “Useable floor area” is undefined within SB 391 and the administering statutes. For the purposes of Deschutes County Code, “Useable Floor Area” currently means “the area of the accessory dwelling unit included within the surrounding insulated exterior

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<sup>4</sup> As of June 26, 2023, the Board elected to withdraw the proposed Goal 5 habitat inventory update for mule deer.

walls, exclusive of garages, carports, decks and porch covers.” This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.

- **Recommendation #3:** A unit must be located no farther than 100 feet from the existing single family dwelling, measured from a wall of the single-family dwelling to the nearest part of the “useable floor area” of the accessory dwelling unit. This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.
- **Recommendation #4:** Due to vulnerable groundwater characteristics in southern Deschutes County, the Commission recommends the minimum lot or parcel size for rural ADUs to be at least five (5) acres in size. The boundaries of this recommendation were defined by the upper Deschutes watershed area studied during the La Pine Demonstration Project, US Geological Survey report 2007-5237, USGS Fact Sheet 2007-3103. This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.
- **Recommendation #5** (*approved 3 to 2*): The Commission recommends prohibiting rural ADU development in designated Goal 5 resource areas (i.e. – Wildlife Area Combining Zone, Greater Sage-Grouse Area Combining Zone, and the Sensitive Bird and Mammal Habitat Combining Zone).
- **Recommendation #6** (*approved 3 to 2*): The Commission recommends prohibiting rural ADU development in the Westside Transect Zone (WTZ) Zone.
- **Recommendation #8** (*approved 4 to 0, 1 abstain*): The Commission recommends prohibiting both the existing single-family dwelling and the ADU for vacation occupancy use, as defined in DCC 18.116.370(A)(8) and consistent with ORS 90.100.

Ultimately, all the previous recommendations from the Commission were maintained, with the exception of the previously proposed “useable floor area” definition. During the second round of deliberations, the Commission ultimately agreed with the draft proposal as initially drafted by staff.

Outside of the explicit recommendations above, the Commission engaged in numerous discussion points relevant to the proposed amendments. Some Commissioners expressed possible options to mitigate the groundwater impacts in southern Deschutes County without imposing acreage standards for new ADU development. However, ultimately no supplementary recommendation on this point was proposed. Additionally, some Commissioners expressed support for allowing ADU development within the WTZ Zone, given existing requirements for wildlife habitat protection and wildfire mitigation.

### III. WRITTEN TESTIMONY & DISCUSSION

To date, a total of seventeen (17) comments from sixteen (16) members of the public have been received by staff concerning the initially proposed amendments.



Eight (8) of the submitted comments generally expressed support for the proposed ADU amendments, citing the following items:

- Opportunities for a general increase in housing supply, particular given ongoing housing shortages and burdensome rental costs in Central Oregon.
- Increased opportunities for intergenerational living as many aging parents and family members pursue housing with other family members on existing developed properties.
- Increased economic activity from rural ADU development.
- In conjunction with the initially proposed County standards, the existing requirements in SB 391 will serve to limit the effects of increased development in rural areas of the county.

Alternatively, nine (9) of the submitted comments expressed general disapproval of the proposed ADU amendments, citing the following items:

- Negative impacts from increased traffic.
- Additional risk from adding residential development in high wildfire risk areas.
- Impacts to pre-existing water resources from adding additional exempt, private residential wells in the rural county.
- Loss of open space and rural quality of life expected from increased rural density.
- Impacts to wildlife populations and habitat related to increased development density.
- General skepticism around the impact that rural ADUs would have on housing availability and affordability in the region.
- Concerns that certain restrictions, such as the limitation of utilizing rural ADUs for short term vacation rental purposes, can be accurately tracked and enforced by county staff.

Among those comments expressing general disapproval, not all requested a full denial of the proposed amendments. Certain commenters suggested additional actions or details that should accompany any ADU program if ultimately approved by the Board:

- Delaying the amendment process until final versions of the Statewide Wildfire Hazard Map required by Senate Bill (SB) 762 has been released by the Oregon Department of Forestry.
- Prohibit ADUs in all Goal 5 inventories captured by Deschutes County, including the Wildlife Area Combining Zone, Greater Sage-Grouse Area Combining Zone, and the Flood Plain Zone.
- Prohibit ADUs in the Westside Transect Zone.

- Delay the amendment process until the County’s proposed Goal 5 inventory update is completed<sup>5</sup>.

**IV. PLANNING COMMISSION HEARING TESTIMONY & DISCUSSION**

During the public hearing before the Commission, nine (9) individuals provided testimony. Some testimony expressed dissatisfaction regarding the proposed text amendments in general. These comments focused primarily on the following items:

- Negative impacts to wildlife populations.
- Negative impacts on ground water supplies.
- Potential code compliance issues, specifically related to the required prohibition on vacation rentals.
- Additional wildfire risk from increased development in the rural county.
- A lack of compatibility between the proposed amendments, the statewide land use goals, and the Deschutes County Comprehensive Plan.

Some testimony expressed support for the proposed text amendments in general. These comments focused primarily on the following items:

- Opportunities for a general increase in housing supply, particular given ongoing housing shortages and burdensome rental costs in Central Oregon.
- Increased opportunities for intergenerational living as many aging parents and family members pursue housing with other family members on existing developed properties.
- Increased economic activity from rural ADU development.

**V. AGENCY COMMENTS & DISCUSSION**

As part of the record, ten (10) comments have been included from several state and local agencies with an interest in the proposed ADU amendments. Staff will attempt to highlight some of those specific comments that are particularly pertinent:

**Deschutes County Environmental Soils Division**

Due to concerns regarding failing treatment systems and groundwater impacts, the Onsite Wastewater Division recommends the following:

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<sup>5</sup> As noted above, the Board elected to withdraw the proposed Goal 5 habitat inventory update for mule deer.

- Increasing the minimum lot or parcel size for rural ADUs to be at least five (5) acres in size in this specific geographic area. Additionally, in consultation with the Onsite Wastewater Division, staff has explored the possibility of requiring advanced wastewater treatment systems for ADU development in southern Deschutes County.
- Limiting properties constructed with ADUs from all future residential dwelling development, including additional ADUs, medical hardship dwellings, and temporary dwellings within recreational vehicles or similar uses.

**Oregon Department of Fish and Wildlife**

The Oregon Department of Fish and Wildlife (ODFW) has requested certain mitigation standards for any ADUs that may be developed within the Wildlife Area (WA) Combining Zone. Specifically, ODFW has requested the following:

- The siting and fencing standards of Deschutes County Code (DCC) 18.88<sup>6</sup> be maintained for all rural ADU development in the WA Combining Zone.
- A specific size limitation be instituted for all accessory components (i.e. - garages, storage structures, etc.) of any developed ADU not included in the 900 square-foot “useable floor area” required by SB 391.
- Access to properties should utilize existing roads and driveways for all rural ADU development.

Staff believes that the siting and fencing standards of DCC 18.88 would apply to all rural ADU development, regardless of specific language included in the proposed text amendments. To maintain clarity, should rural ADUs be allowed within the Wildlife Area Combining Zone, staff could modify the proposed amendment language to explicitly state the referenced standards from DCC 18.88 will apply to any future ADU development.

Options for specific size limitations have been proposed and discussed by the Commission regarding accessory components of an ADU. As discussed above and within the attached Recommendation Matrix (Attachment 1), the Commission initially recommended limiting the definition of “useable floor area” to encompass both living areas and accessory components of an ADU. As recommended, the total footprint of any proposed ADU, including components such as garages or storage areas, would be limited to 900 square feet.

Finally, staff notes that construction of new roads is typically reviewed through a subdivision or partition process against the standards of DCC Title 17. These proposals are generally distinct from specific physical development on an individual property, such as the construction of an ADU. Additionally, driveway permits are issued and reviewed through the Road Department primarily for

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[https://deschutescounty.municipalcodeonline.com/book?type=ordinances#name=CHAPTER\\_18.88\\_WILDLIFE\\_AREA\\_COMBINING\\_ZONE;\\_WA](https://deschutescounty.municipalcodeonline.com/book?type=ordinances#name=CHAPTER_18.88_WILDLIFE_AREA_COMBINING_ZONE;_WA)

compliance with clear sighting and other safety requirements. If driveway access to rural ADUs is required to be consolidated to existing access points, it is unclear how this specific standard would be reviewed or enforced over time.

**Oregon Association of Water Utilities**

The Oregon Association of Water Utilities has requested certain permitting standards for properties pursuing ADU development. Specifically, the Association notes there are many different types of water systems serving portions of rural Deschutes County, and not all of these systems have the ability to add new demand. While any one ADU may not be problematic, the cumulative additional demand of multiple new ADU's in portions of a system without available capacity will result in a degradation of service to existing customers.

In order to avoid legal battles from all involved and/or existing utility customers, the Association has requested that a letter of approval to proceed from a county is provided only after or upon such letters of capacity and capability from utilities are received, otherwise known as a "Willing and Able to Serve Letter."

After review of this request, staff notes that the proposed draft amendments were altered to require the submittal of a "Willing and Able to Serve Letter" from any property owner looking to develop an ADU if the unit is to be served by any water source other than an onsite domestic well.

Attachments:

- 1. Planning Commission Recommendation Matrix

**PLANNING COMMISSION RECOMMENDATION MATRIX**

**SENATE BILLS (SBs) 391 & 644 – RURAL ACCESSORY DWELLING UNIT (ADU) TEXT AMENDMENTS**  
**Land Use File No. 247-22-000671-TA**

	Issue Area	SB 391/644 Criterion	Draft Amendment Standards	Possible Alternatives	First Recommendation	Second Recommendation
1	Should rural ADUs be allowed with additional standards or prohibited?	None	Allows an owner of a lot or parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the lot or parcel. Applies to Rural Residential (RR10), Multiple Use Agricultural (MUA10), Urban Area Reserve (UAR-10), Suburban Residential (SR 2.5), and Westside Transect (WTZ) zones. Additional local standards are proposed.	1. Prohibit rural ADU development in Deschutes County.	<ul style="list-style-type: none"> <li>Approve rural ADU development in Deschutes County</li> <li>Recommended by Planning Commission 4 to 2</li> </ul>	<ul style="list-style-type: none"> <li>Approve rural ADU development in Deschutes County</li> <li>Recommended by Planning Commission 5 to 0</li> </ul>
2	How should "Useable Floor Area" be defined?	The ADU cannot include more than 900 square feet of "useable floor area."	"Useable floor area" is undefined within SB 391 and the administering statutes. For the purposes of Deschutes County Code, "Useable Floor Area" currently means "the area of the accessory dwelling unit included within the surrounding insulated exterior walls, exclusive of garages, carports, decks and porch covers."	<ol style="list-style-type: none"> <li>Require the 900 square-foot limit to apply to the entire ADU structure, including garages and accessory components.</li> <li>Set a maximum size limit to accessory components of ADUs such as garages.</li> <li>Additional requirements for permitting standards on habitable versus non-habitable space (i.e. – Group R-3 building permits for habitable space and Group U permits for non-habitable space).</li> </ol>	<ul style="list-style-type: none"> <li>Require the 900 square-foot limit to apply to the entire ADU structure, including garages and accessory components</li> <li>Recommended by Planning Commission 5 to 1</li> </ul>	<ul style="list-style-type: none"> <li>"Useable Floor Area" means "the area of the accessory dwelling unit included within the surrounding insulated exterior walls, exclusive of garages, carports, decks and porch covers."</li> <li>This recommendation was unchanged by the Commission from staff's initial proposal and thus no approval vote was taken.</li> </ul>
3	How should the 100-Foot Siting Distance requirement be interpreted?	The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling.	A unit must be located no farther than 100 feet from the existing single family dwelling, measured from a wall of the single-family dwelling to the nearest part of the "useable floor area" of the accessory dwelling unit.	1. Requiring the entire footprint of an ADU to be located within 100 feet of the existing single-family dwelling.	<ul style="list-style-type: none"> <li>A unit must be located no farther than 100 feet from the existing single family dwelling, measured from a wall of the single-family dwelling to the nearest part of the "useable floor area" of the accessory dwelling unit.</li> <li>This recommendation was unchanged by the Commission from staff's initial proposal and thus no approval vote was taken.</li> </ul>	<ul style="list-style-type: none"> <li>A unit must be located no farther than 100 feet from the existing single family dwelling, measured from a wall of the single-family dwelling to the nearest part of the "useable floor area" of the accessory dwelling unit.</li> <li>This recommendation was unchanged by the Commission from staff's initial proposal and thus no approval vote was taken.</li> </ul>

## PLANNING COMMISSION RECOMMENDATION MATRIX

### SENATE BILLS (SBs) 391 & 644 – RURAL ACCESSORY DWELLING UNIT (ADU) TEXT AMENDMENTS

Land Use File No. 247-22-000671-TA

Issue Area	SB 391/644 Criterion	Current Amendment Standards	Possible Alternatives	First Recommendation	Second Recommendation	
4	Are specific limitations warranted for Southern Deschutes County Groundwater Protection?	None	<p>Due to vulnerable groundwater characteristics in southern Deschutes County, the Onsite Wastewater Division recommends increasing the minimum lot or parcel size for rural ADUs to be at least five (5) acres in size. The boundaries of this recommendation were defined by the upper Deschutes watershed area studied during the La Pine Demonstration Project, US Geological Survey report 2007-5237, USGS Fact Sheet 2007-3103.</p>	<ol style="list-style-type: none"> <li>1. Prohibit all rural ADU development in the identified southern Deschutes County boundaries.</li> <li>2. Maintain 5-acre minimum parcel size for rural ADU development and require advanced nitrogen reducing systems for wastewater treatment for both existing single-family dwellings and proposed ADUs.</li> <li>3. Set a larger minimum parcel size requirement for all southern Deschutes County properties to qualify for rural ADU development.</li> <li>4. Remove the minimum size requirements for all southern Deschutes County properties to qualify for rural ADU development.</li> </ol>	<ul style="list-style-type: none"> <li>• In southern Deschutes County, the minimum lot or parcel size for rural ADUs is at least five (5) acres in size.</li> <li>• This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.</li> </ul>	<ul style="list-style-type: none"> <li>• In southern Deschutes County, the minimum lot or parcel size for rural ADUs is at least five (5) acres in size.</li> <li>• This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.</li> </ul>
5	Do the current amendments and ESEE analysis adequately address and protect Goal 5 and Natural Resources?	None	<p>Allows rural ADU development in designated Goal 5 areas such as the Wildlife Area Combining Zone, subject to existing standards and requirements. Any development within Goal 5 sites such as the Flood Plain Zone or jurisdiction wetlands requires a Conditional Use Permit and review by local, state, and federal agencies to ensure compliance with environmental and natural hazard mitigation regulations. However, as presently drafted, the proposed amendments do not allow ADU development within the Flood Plain Zone (DCC 18.96).</p>	<ol style="list-style-type: none"> <li>1. Prohibit rural ADU development in designated Goal 5 resource areas (i.e. – Wildlife Area Combining Zone, Greater Sage-Grouse Area Combining Zone, and the Sensitive Bird and Mammal Habitat Combining Zone)</li> <li>2. Prohibit rural ADU development in some, but not all, designated Goal 5 resource areas.</li> <li>3. Develop additional restrictions in coordination with the Oregon Department of Fish and Wildlife (ODFW) for rural ADU development in designated Goal 5 resources areas such as minimum parcel sizes, driveway access consolidation, etc.</li> </ol>	<ul style="list-style-type: none"> <li>• Prohibit rural ADU development in designated Goal 5 resource areas (i.e. – Wildlife Area Combining Zone, Greater Sage-Grouse Area Combining Zone, and the Sensitive Bird and Mammal Habitat Combining Zone)</li> <li>• Recommended by Planning Commission 5 to 1</li> </ul>	<ul style="list-style-type: none"> <li>• Prohibit rural ADU development in designated Goal 5 resource areas (i.e. – Wildlife Area Combining Zone, Greater Sage-Grouse Area Combining Zone, and the Sensitive Bird and Mammal Habitat Combining Zone)</li> <li>• Recommended by Planning Commission 3 to 2</li> </ul>

**PLANNING COMMISSION RECOMMENDATION MATRIX**

**SENATE BILLS (SBs) 391 & 644 – RURAL ACCESSORY DWELLING UNIT (ADU) TEXT AMENDMENTS**  
**Land Use File No. 247-22-000671-TA**

	Issue Area	SB 391/644 Criterion	Current Amendment Standards	Possible Alternatives	First Recommendation	Second Recommendation
6	Do the current amendments adequately address Senate Bill 762 and Wildfire Mitigation?	<ul style="list-style-type: none"> <li>The Statewide Wildfire Hazard Maps have been approved and the accessory dwelling unit complies with the Oregon Residential Specialty Code relating to wildfire hazard mitigation for the mapped area; or the Statewide Wildfire Hazard Maps have been approved and all accessory dwelling units comply with the Oregon Residential Specialty Code relating to wildfire hazard mitigation</li> <li>The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use;</li> <li>The accessory dwelling unit has adequate access for firefighting</li> </ul>	<ul style="list-style-type: none"> <li>The accessory dwelling unit will have a minimum setback of 100 feet between the accessory dwelling unit and adjacent land zoned F-1, F-2, or EFU and meet the other minimum setback requirements of the underlying zone and combining zones.</li> <li>The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410.</li> <li>A designated staged evacuation areas and safe evacuation route must be identified.</li> <li>Adequate access for firefighting equipment, safe evacuation and staged evacuation areas are met by providing:             <ul style="list-style-type: none"> <li>A continuous, minimum 20-foot width right(s)-of-way with an unobstructed vertical clearance of not less than 13.5 feet, defined as:                 <ul style="list-style-type: none"> <li>Public roads with maintenance responsibility accepted by a unit of local or state government or assigned to landowners or homeowners association by covenant or agreement; or</li> <li>Private roads, as permitted by DCC Title 18, with maintenance responsibility assigned to landowners or homeowners associations by covenant or agreement pursuant to ORS 105; and</li> <li>A continuous, minimum 20-foot width onsite driveway with an unobstructed vertical clearance of not less than 13.5 feet, designed and maintained as follows:</li> </ul> </li> </ul> </li> </ul>	<ol style="list-style-type: none"> <li>Delay the adoption of rural ADU legislation until such time as the final Statewide Wildfire Hazard Map has been released by the Oregon Department of Forestry.</li> <li>Require all rural ADUs contain fire sprinklers (per recommendation from Chief Mike Supkis of La Pine Rural Fire Protection District).</li> </ol>	<ul style="list-style-type: none"> <li>Delay the adoption of rural ADU legislation until such time as the final Statewide Wildfire Hazard Map has been released by the Oregon Department of Forestry.</li> <li>Recommended by Planning Commission 6 to 0.</li> </ul>	<ul style="list-style-type: none"> <li>Decision point is no longer relevant given the new provisions of SB 644.</li> <li>No vote undertaken by Planning Commission.</li> </ul>

		<p>equipment, safe evacuation and staged evacuation areas.</p>	<ul style="list-style-type: none"> <li>• Composed of an all-weather surface including asphalt or concrete; or</li> <li>• Designed and maintained to support a minimum gross vehicle weight (GVW) of 75,000 lbs as certified by a Professional Engineer, registered in Oregon; or</li> <li>▪ Written confirmation from a fire protection service provider with professionals who have received training or certification described in ORS 181A.410, on a form prepared by Deschutes County, that access to the property meets minimum fire district requirements to provide emergency services to the property;</li> <li>• Wildfire Hazard Mitigation Defensible Space Standards: <ul style="list-style-type: none"> <li>○ If the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved, the following requirements shall apply: <ul style="list-style-type: none"> <li>▪ For all wildfire risk designations and/or hazard designations in the wildland-urban interface that are identified pursuant to ORS 477.490: <ul style="list-style-type: none"> <li>• The minimum defensible space rules established by the State Fire Marshal as described in ORS 476.392</li> </ul> </li> <li>○ If the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved, then either of the following requirements shall apply: <ul style="list-style-type: none"> <li>▪ The property owner(s) shall construct and maintain the following firebreaks on land surrounding the accessory dwelling unit on land that is owned or controlled by the owner: <ul style="list-style-type: none"> <li>• Primary Firebreak. Prior to use, a primary firebreak, not less than 10 feet wide,</li> </ul> </li> </ul> </li> </ul> </li> </ul> </li> </ul>			
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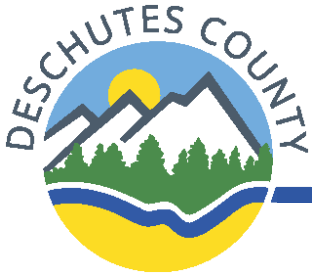
			<p>shall be constructed containing nonflammable materials. This may include lawn, walkways, driveways, gravel borders or other similar materials; and</p> <ul style="list-style-type: none"><li>• Secondary Firebreak. A secondary firebreak of not less than 20 feet wide shall be constructed outside the primary firebreak. This firebreak need not be bare ground, but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed; and</li><li>• Fuel Break. A fuel break shall be maintained, extending a minimum of 100 feet in all directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to</li></ul>			
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			<p>the beginning of the coming fire season; and</p> <ul style="list-style-type: none"><li>• No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney; or</li><li>▪ The accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers who have received training or certification described in ORS 181A.410</li></ul> <ul style="list-style-type: none"><li>• Wildfire Hazard Mitigation Building Code Standards:<ul style="list-style-type: none"><li>○ If the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved, the following requirements shall apply:<ul style="list-style-type: none"><li>▪ For areas designated as high wildfire hazard that are identified pursuant to ORS 477.490:<ul style="list-style-type: none"><li>• The Wildfire Hazard Mitigation building code standards as described in section R327 of the Oregon Residential Specialty Code.</li></ul></li></ul></li><li>○ If the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved, the following requirements shall apply:<ul style="list-style-type: none"><li>▪ The Wildfire Hazard Mitigation building code standards as described in section R327 of the Oregon Residential Specialty Code.</li></ul></li></ul></li></ul>			
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**PLANNING COMMISSION RECOMMENDATION MATRIX**

**SENATE BILLS (SBs) 391 & 644 – RURAL ACCESSORY DWELLING UNIT (ADU) TEXT AMENDMENTS**  
**Land Use File No. 247-22-000671-TA**

	<b>Issue Area</b>	<b>SB 391/644 Criterion</b>	<b>Current Amendment Standards</b>	<b>Possible Alternatives</b>	<b>First Recommendation</b>	<b>Second Recommendation</b>
7	Should ADUs be allowed in the Westside Transect Zone?	None	Rural ADUs would be allowed on properties within the Westside Transect Zone (WTZ). All existing requirements related to development within the WTZ including subdivision and property scale fuel treatments, wildfire mitigation building code standards, and maintenance of designated open space corridors would be unaffected by the proposed amendments.	<ol style="list-style-type: none"> <li>1. Prohibit rural ADU development in the WTZ.</li> <li>2. Develop additional restrictions for rural ADU development in the WTZ such as siting standards, etc.</li> </ol>	<ul style="list-style-type: none"> <li>• Prohibit rural ADU development in the WTZ</li> <li>• Recommended by Planning Commission 6 to 0</li> </ul>	<ul style="list-style-type: none"> <li>• Prohibit rural ADU development in the WTZ</li> <li>• Recommended by Planning Commission 3 to 2</li> </ul>
8	Should Vacation Occupancy be prohibited in the existing residence, as well as the ADU?	A county may not allow an accessory dwelling unit allowed under this section to be used for vacation occupancy, as defined in ORS 90.100.	The applicant shall sign and record with the County Clerk, prior to the issuance of a building permit, a restrictive covenant stating an accessory dwelling unit allowed under this section cannot be used for vacation occupancy, as defined in ORS 90.100.	<ol style="list-style-type: none"> <li>1. Prohibit both the existing single-family dwelling and the ADU for vacation occupancy use, as defined in ORS 90.100.</li> </ol>	<ul style="list-style-type: none"> <li>• Prohibit both the existing single-family dwelling and the ADU for vacation occupancy use, as defined in ORS 90.100</li> <li>• Recommended by Planning Commission 6 to 0</li> </ul>	<ul style="list-style-type: none"> <li>• Prohibit both the existing single-family dwelling and the ADU for vacation occupancy use, as defined in ORS 90.100</li> <li>• Recommended by Planning Commission 4 to 0 (1 abstain)</li> </ul>



MEMORANDUM

**TO:** Deschutes County Planning Commission

**FROM:** Kyle Collins, Associate Planner  
Will Groves, Planning Manager

**DATE:** July 19, 2023

**SUBJECT:** Rural Accessory Dwelling Unit (ADU) Legislative Amendments – Anticipated Property Eligibility

The Board of County Commissioners (Board) will conduct a public hearing on July 26, 2023 concerning local provisions for rural ADUs as identified in Senate Bill (SB) 391<sup>1</sup> (file no. 247-22-000671-TA).

Staff submitted an initial 35-day Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) on August 17, 2022. A public hearing was held with the Deschutes County Planning Commission (Commission) on September 22, 2022<sup>2</sup>. The Commission held deliberations on October 27, 2022<sup>3</sup> and the recommendations from that meeting are discussed within provided attachments.

Since the Commission’s initial public hearing on this proposal, legislation was passed by the Oregon Legislature which requires several changes to the original proposed amendments to maintain compliance with state standards. Specifically, SB 644 was recently passed which provides direction to local jurisdictions looking to adopt rural ADU standards prior to formal release of the Statewide Wildfire Hazard Map required by SB 762. Additionally, SB 80 was passed which alters the original standards and terminology used within the forthcoming Statewide Wildfire Hazard Map. Further details regarding SB 644 and SB 80 are discussed in following sections.

Given the passage of SB 644 and SB 80, along with the necessary amendment changes required by the bills, staff conducted a work session with the Board on June 5, 2023 to understand preferred steps on the ADU proposal moving forward. During that work session, the Board directed staff to reinstate PAPA notice proceedings with DLCD to capture the newest version of the amendments and provide the Commission with an opportunity to review the revised amendments. Per Board direction, staff

<sup>1</sup> <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0391/A-Engrossed>

<sup>2</sup> See Deschutes County Planning Commission September 22, 2022 Agenda for more information: <https://www.deschutes.org/bc-pc/page/planning-commission-17>

<sup>3</sup> See Deschutes County Planning Commission October 27, 2022 Agenda for more information: <https://www.deschutes.org/bc-pc/page/planning-commission-21>

submitted a revised 35-day PAPA notice to DLCD on June 7, 2023 and held a new work session with the Commission on July 13, 2023.

**I. ANTICIPATED PROPERTY ELIGIBILITY**

This proposal amends Deschutes County Code (DCC), Titles 18 and 19 to allow Rural ADUs consistent with SB 391 in the Multiple Use Agricultural (MUA-10), Rural Residential (RR-10), Suburban Low Density Residential (SR 2.5), Urban Area Reserve (UAR-10), and Westside Transect (WTZ) Zones. Eligibility criteria will be incorporated in DCC Chapters 18.116, Supplementary Provisions and 19.92, Interpretations and Exceptions. Based on initial review of the qualifying characteristics, approximately **8,660 tax lots in Deschutes County could potentially qualify for a rural ADU**. This includes properties which do not currently have a single-family dwelling onsite, but otherwise meet the qualifying standards. Additionally, this includes parcels which the Commission has recommended be prohibited from rural ADU development. However, staff notes the following limitations and revisions to that initial estimate:

- The estimate is only based on general requirements from SB 391 and SB 644, and does not evaluate properties on an individual level. Specific properties may have unique lot boundaries, geographic features, onsite wastewater limitations, or other characteristics which make the establishment of a rural ADU more challenging or impossible.
- Property owners may encounter additional costs and challenges when constructing a rural ADU above and beyond specific land use standards. It is likely that numerous properties will need to incorporate significant upgrades to onsite wastewater treatment systems prior to establishment of rural ADUs.
- This estimate includes 765 potentially eligible tax lots in the Wildlife Area Combining Zone (includes Deer Migration Corridor, Deer Winter Range, and Significant Elk Habitat). There are no potentially eligible tax lots within the Greater Sage Grouse Area Combining Zone.
- This estimate includes 120 potentially eligible parcels in the Westside Transect Zone.
- This estimate is based on a 5-acre minimum parcel size in southern Deschutes County. There are approximately 319 potentially eligible tax lots in southern Deschutes County based on a 5-acre minimum parcel size. There are approximately 1,129 potentially eligible tax lots in this area based on a 2-acre minimum parcel size.

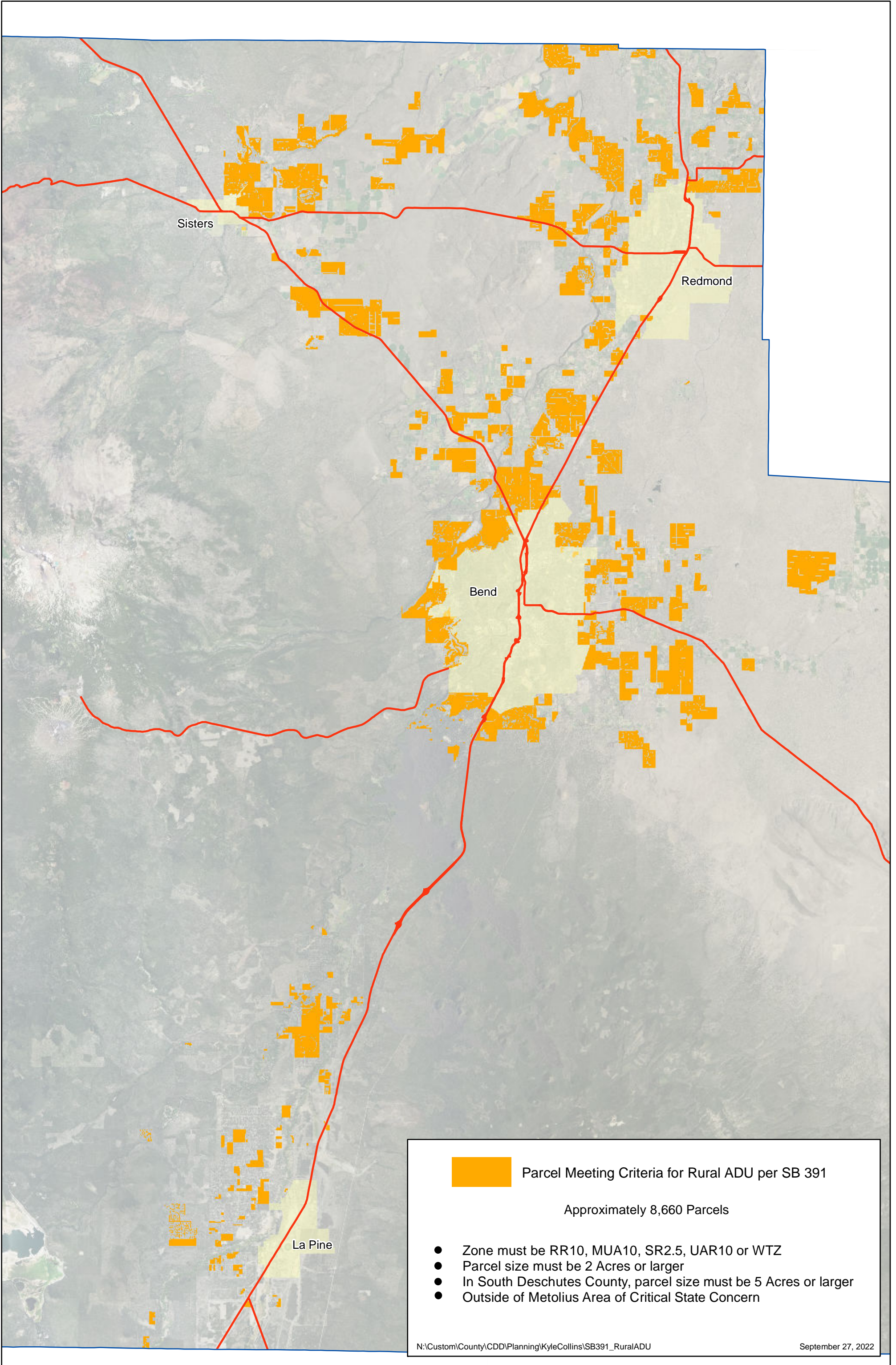
Attachments:

1. Map of Potentially Eligible Properties



1" = 3.5 Miles

# Parcels Meeting Initial Criteria for Rural ADUs per SB 391



 Parcel Meeting Criteria for Rural ADU per SB 391

Approximately 8,660 Parcels

- Zone must be RR10, MUA10, SR2.5, UAR10 or WTZ
- Parcel size must be 2 Acres or larger
- In South Deschutes County, parcel size must be 5 Acres or larger
- Outside of Metolius Area of Critical State Concern



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** July 26, 2023

**SUBJECT:** Deliberations and possible first reading of an ordinance amending Deschutes County Code relative to camping and other sleeping associated activity on public property

**RECOMMENDED MOTION:**

Move approval of first reading of Ordinance No. 2023-013, amending Deschutes County Code Title 11.04 relative to camping and other sleeping associated activity on public property.

**BACKGROUND AND POLICY IMPLICATIONS:**

In June, the Deschutes County Sheriff's Office submitted a proposal to add a new section to Deschutes County Code with respect to camping on public property.

County Legal Counsel has drafted an ordinance amending Title 11.04 of Deschutes County Code relative to camping and other sleeping associated activity on public property.

**BUDGET IMPACTS:**

N/A

**ATTENDANCE:**

Erik Kropp, Deputy County Administrator  
Dave Doyle, County Counsel

**11.04.06(TBD by BOCC)**

**Camping on Publicly Owned Land**

1. Camping on publicly owned land is allowed with the restrictions provided in this County Code.

A. Definitions

1. The terms “camp”, “campsite or “encampment” shall mean a location on publicly owned land within Deschutes County, where one or more tents, awnings, lean-tos, sleeping or bedding materials, cooking implements or materials, or other items or structures have been erected, constructed, or placed including vehicles and recreational vehicles, and appear to be used for human habitation, including but not limited to sleeping, preparing cooking or warming fires, storing personal belongings, and urinating or defecating.

B. Restrictions on camping on publicly owned land within Deschutes County may be suspended during periods of extreme weather or other emergency situations.

2. Individuals who are camping are prohibited from camping on publicly owned land except as noted below, and are required to comply with these time, place and manner regulations.

A. Time.

- 1. Camping on publicly owned land where allowed is subject to a 14-day stay limitation.
- 2. Campers must move no less than 2.5 miles from their original campsite at the conclusion of this 14-day limit.
- 3. Enforcement of time restrictions may be suspended when an individual does not have access to shelter and when an individual is engaged in case management or behavioral health services, or when necessary or appropriate to respond to an individual’s disability.

B. Place.

Camping is not allowed at any time in any of the following places:

- 1. In or one mile from the boundary of any private property line.
- 2. Camping on publicly owned land and open to the public within the county, within one mile of an Urban Growth Boundary on the Deschutes County Zoning Map in effect at the time, unless at a posted, designated and developed campground. (16 U.S.C. 551A provides that States or political subdivisions thereof, such as Deschutes County, shall retain their rights to exercise civil and criminal jurisdiction within or on lands which are a part of the national forest system. 43 CFR 8365.1-7 provides the same protections regarding Bureau of Land Management lands).
- 3. Any place where camping, a camp, or camp materials create a physical impediment to emergency or nonemergency ingress, egress, or access to property, whether private or public, or on public sidewalks or other public rights-of-way, including but



not limited to driveways providing access to vehicles, and entrances or exits from buildings and/or other real property.

4. Camping on publicly owned land within 1000 feet of a school or park.

C. Manner.

Camping, when and where allowed, is subject to all of the following:

1. Open Fires are prohibited on publicly owned land within one mile of the Urban Growth Boundary and within one mile of private property lines, including campfires, charcoal fires, cooking fires and warming fires.
2. Local, State, and Federal fire regulations shall be followed.
3. Individuals may not accumulate, discard, or leave behind garbage, debris, unsanitary or hazardous materials, or other items of no apparent utility in public rights-of-way, on publicly owned land.
4. Dumping of gray water (i.e., wastewater from baths, sinks, and the like) or black water (i.e., sewage) into any facilities or places not intended for gray water or black water disposal is prohibited. This includes but is not limited to storm drains or onto open ground, which are not intended for disposal of gray water or black water.
5. Individuals may not build or erect structures, whether by using plywood, wood materials, pallets, or other materials. Items such as tents and similar items used for shelter that are readily portable are not structures for purposes of this section.
6. Storage of personal property such as vehicle tires, bicycles or associated components (except as needed for an individual's personal use), gasoline, generators, lumber, household furniture, extra propane tanks, combustible material, lumber, or other items or materials is prohibited, other than what is related to camping, sleeping, resting or keeping warm and dry.
7. Vehicles used for camping purposes must be operational, i.e., capable of being started and driven under their own power, or ready to be towed if designed to be towed and may not be discarded or left inoperable in public rights-of-way or on publicly owned land.
8. Digging, excavation, terracing of soil, alteration of ground or infrastructure, or damage to vegetation or trees is prohibited.

3. A citation for a violation of this chapter will be a civil infraction (TBD by BOCC).

4. Campsites in violation of this ordinance will be addressed in accordance with the law.

REVIEWED  
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 11.04, Public Use, of the Deschutes County Code. \*  
\* ORDINANCE NO. 2023-013  
\*

WHEREAS, the Deschutes County Code (DCC) contains rules and regulations duly enacted through ordinance by Deschutes County and the Deschutes County Board of Commissioners; and

WHEREAS, from time-to-time the need arises to make amendments, including new enactments to the DCC; and

WHEREAS, upon direction from the Board of Commissioners, County Legal drafted revisions to DCC 11.04 to specifically address homeless camping issues raised by the Sheriff at a public work session on June 7, 2023; and

WHEREAS, the Board of County Commissioners of Deschutes County considered this matter at a duly noticed public hearing during the Board meeting on July 19, 2023, and determined that DCC 11.04 should be amended; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 11.04 is amended to read as described in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 2. ADOPTION. This Ordinance takes effect 90 days after second reading.

///

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2023

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ANTHONY DeBONE, Chair

\_\_\_\_\_  
PATTI ADAIR, Vice Chair

ATTEST:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PHIL CHANG, Commissioner

Date of 1st Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Date of 2nd Reading: \_\_\_\_\_ day of \_\_\_\_\_, 2023.

<u>Commissioner</u>	Record of Adoption Vote			
	<u>Yes</u>	<u>No</u>	<u>Abstained</u>	<u>Excused</u>
Patti Adair				
Phil Chang				
Anthony DeBone				

Effective date: \_\_\_\_\_ day of \_\_\_\_\_, 2023.

# **EXHIBIT A**

## **(To Ordinance No. 2023-013)**

**CHAPTER 11.04 PUBLIC USE**

11.04.010 Purpose

11.04.020 Definitions

11.04.030 Policies

11.04.040 Justice Building; Searches

11.04.050 Road Closures

11.04.060 Prohibited Activities

11.04.070 Alienation

11.04.080 Violation; Penalty

**11.04.010 Purpose**

Public use regulations are adopted for the purpose of protecting public property.

**HISTORY**

*Adopted by Ord. 96-013 §1 on 5/22/1996*

**11.04.020 Definitions**

For the purposes of DCC 11.04, unless otherwise apparent from the context, certain words and phrases used in DCC 11.04 are defined and as set forth in DCC 1.04 and DCC 11.04.020.

"Alternate shelter" means an outdoor location that provides access for sleeping and/or camping through the use of a vehicle, a recreational vehicle, a tent, or some other structure which offers some protection from the outdoor elements, provided that any alternate shelter shall not be located: (1) in a manner that will create a physical impediment to emergency or nonemergency ingress, egress or access to public or private property, including but not limited to driveways, sidewalks and entrances or exits from buildings and/or other real property; and/or (2) within 1000 feet of a school or public park.

"Bed" means an item(s) utilized for sleeping.

"Bedding" means the collective term for the articles which compose a bed.

"Camping" means any form of sleeping or use of a bed, to include bedding materials, whether outdoors or through use of a vehicle, recreational vehicle, tent or other structure which can offer some protection from the outdoor elements.

"Campsite" means the location where camping is occurring.

~~"Industrial land" means any County owned real property zoned for industrial, commercial, manufacturing, research and development or warehousing purposes as authorized.~~

"Park" means any County owned real property designated by resolution of the Board as a County park, pursuant to ORS 275.320.

"Parking lot" means an area consisting of one or more parking spaces grouped.

"Program Administrator" means the Board, the County Property and Real Estate Manager, Deschutes County department head or designees.

"Public places" means County-owned or controlled real property that is open and available for use by the public. It does not include "vacant county land" or any County-owned or controlled real property designated by the County Administrator as not open for public use, or as use limited.

"Public service facility" means any real property that is owned or leased by County where public services are provided or conducted and shall include, but not be limited to, buildings, facilities, or real property which is fenced, enclosed or otherwise developed and any associated grounds.

"Right of way" means the area between the boundary lines of a street, road or other public easement.

"Shelter" means an indoor location that provides access for sleeping.

"Sleeping" means sitting, lying and/or employing rudimentary forms of protection from outdoor elements.

"Vacant county land" means all County owned land which does not qualify as a "public place," "public service facility," "park" or "right of way." Unless specifically authorized by Order of the Board of Commissioners, sleeping, camping, taking shelter or taking alternate shelter is at all times prohibited on vacant county land.

HISTORY

Adopted by Ord. [96-013](#) §1 on 5/22/1996

Amended by Ord. 2023-013 §1 on 7/26/2023

**11.04.030 Policies**

- A. Real Property. Except as otherwise provided in this section 11.04, ~~Public use of County-owned or controlled~~ real property, not including vacant county land, shall be limited to day use (dawn to dusk) except as permitted herein or otherwise permitted by adoption of resolution of the Board.
  - 1. Any County owned real property leased by authority of the Board of Commissioners to other public agencies or private parties shall be governed by the terms and provisions of such leases.
  - 2. County-owned or controlled real property may be posted closed, not open for public use, or use limited, upon direction of ~~by~~ the County Administrator, County Property Manager, Director of Road Department, Director of Solid Waste, or Risk Manager.
  - 3. County shall not accept conveyance or transfer of real property except upon recording of a written acceptance from the Board of Commissioners.
  - 4. Exclusive or other special use of County-owned or controlled real property by private entities or other agencies shall only be granted pursuant to a written lease or license authorized by the Board of Commissioners.
- B. County Owned/Occupied Buildings. The open common areas of County public service facilities and other buildings occupied by County employees are open to members of the public who have

business with County employees. However, these buildings are also places where County employees do their work. That work often involves sensitive and confidential issues. County employees require work areas that are quiet, free from unnecessary foot traffic and where they may discuss sensitive or confidential matters without being overheard by persons not employed by the County.

1. Each department or other program occupying a building shall where feasible, establish a waiting area which is, to the extent possible, located near the department or program receptionist and outside the department’s or program’s work area. Members of the public are to wait in this area until the person they are waiting to see is available. Each waiting area shall be clearly posted as such.
2. Areas other than open common areas and designated waiting areas are open to visitors by invitation only. County department heads and staff are responsible for their offices, and may request (or order) visitors to leave their offices at their discretion. County department heads and department support staff supervisors are responsible for support staff work areas, and may, in their discretion, ask visitors to leave those areas.

C. Public Service Facilities.

Public service facilities which provide services beyond the hours of dawn to dusk shall operate in a manner deemed appropriate by the Program Administrator. Public access may be restricted by the Program Administrator, on the basis of public safety or administrative efficiency to those areas deemed by the Program Administrator to be necessary for provision of the intended services.

D. Parking Lots

~~1. \_\_\_\_\_~~

~~2. \_\_\_\_\_ County parking lots may be posted with time and use restrictions, and unless otherwise posted, are not available for overnight use, to include but not limited to sleeping, camping or taking alternate shelter. Violations may be cited as authorized by this section 11.04 by the Facilities Director or County Administrator designee. The recommended penalty for the citation of violation of DCC 11.04 shall be 35 dollars, which shall double each 24 hours up to four days, and which may be paid as a bail for forfeiture. If not paid at that time, a warrant may be issued by the Circuit Court to the violator.~~

HISTORY  
Adopted by Ord. 96-013 §1 on 5/22/1996  
Amended by Ord. 2020-005 §1 on 1/1/2021

Amended by Ord. 2023-013 §1 on 7/26/2023

11.04.040 Justice Building; Searches

Except for on-duty law enforcement personnel, and individually designated county staff, every person entering through the public entrances of the Courthouse facility, District Attorney facility, Community and Juvenile Justice facilities, and all other Deschutes County Justice / Law Enforcement facilities,

including any annex thereto, is subject to search of his or her possessions and must pass through metal detectors.

HISTORY

Adopted by Ord. [97-046 §1](#) on 6/4/1997

Amended by Ord. [2020-005 §1](#) on 1/1/2021

**11.04.050 Road-Property Closures**

Where ~~vacant~~ County property, not generally open for public use, is or has been used by automobiles, motorcycles and other off-road vehicles or bicycles for recreation, or for other purposes ~~including sleeping, camping, or taking alternate shelter as defined in this section 11.04,~~ and the County has a need to close ~~and discontinue~~ the property to ~~these is~~ uses, the County will notify the general public of the intent to close in a local paper of general circulation ~~in addition to the notification procedures outlined in applicable County Encampment Removal Policy.~~ The design of ~~and~~ the closure shall be in accordance with ~~applicable County Encampment Removal Policy and also~~ the requirements of the Manual on Uniform Traffic Control Devices, published by the Federal Highway Administration, in terms of signing and barricading. ~~Any person who refuses to leave after implementation of applicable County Encampment Removal Policy may be cited/charged as authorized by this section 11.04.~~ Permanent closures ~~shall~~may, ~~to the extent directed by the County Administrator,~~ consist of appropriate berms, ditches and obliteration of existing roads. The closure design shall be in written form and approved by the County Engineer or County Traffic Engineer. In no case shall ropes or cables be used to close the road or area.

HISTORY

Adopted by Ord. [96-013 §1](#) on 5/22/1996

Amended by Ord. [2023-013 §1](#) on 7/26/2023

**11.04.060 Prohibited Activities**

- ~~A.~~ ~~Excepting for site-specific authorization by Order of the Board of Commissioners, n~~No person shall construct, install, ~~or encroach,~~ ~~sleep, camp, or obtain shelter or alternate shelter~~ upon County-~~owned~~ ~~or controlled real property~~land.
- ~~A.~~~~B.~~ No person shall sever, excavate, damage, vandalize, burn, litter, remove materials from or cause other site disturbing activity upon or to County-~~owned~~ ~~or controlled real property~~land without obtaining an appropriate permit or license authorizing such activity, from the ~~Board,~~ Property Manager, Director of Road Department or Director of Solid Waste. ~~Open fires are strictly prohibited at all times on County-owned or controlled real property.~~
- ~~B.~~~~C.~~ No person shall cut or remove ~~wood-vegetation or trees~~ on or from County-~~owned~~ ~~or controlled~~ real property except upon first obtaining a wood cutting permit from the County Property Manager or County Forester.
- ~~C.~~~~D.~~ ~~Excepting for site-specific authorization by Order of the Board of Commissioners, m~~Motor vehicles (~~operable and inoperable~~), ~~including but not limited to R.V's, trailers and personal use vehicles,~~ shall be limited to existing parking lots ~~during business hours, (subject to time, place and manner regulations, if any, as posted)~~ and ~~operation on established~~ roads. Motor vehicles are prohibited on dedicated public pedestrian/bicycle trails.



~~D.E.~~ Discharge of firearms is prohibited in and on public service facilities and County-owned or controlled real property except as may be provided by Order/resolution of the Board of Commissioners.

~~E.F.~~ No person or group shall exclude any other member of the public from County-owned or controlled real property that is open for public use and, except as provided by lease, license or Order/resolution of the Board of Commissioners.

~~F.G.~~ No person shall engage in any conduct in or on property where public services are provided which hinders, interferes with or prevents those employees from performing their duties.

~~H.~~ No person shall smoke or carry any lighted or electronic smoking instrument in any Deschutes County-owned, controlled or occupied building, except as permitted by the Deschutes County Smoke Free Policy.

~~G-I.~~ No person shall discharge or dump any sewage or wastewater from baths, sinks and showers on or adjacent to County-owned or controlled real property.

~~JK.~~ No person shall cause or contribute to the accumulation of solid waste materials on County-owned or controlled real property.

HISTORY

*Adopted by Ord. [96-013](#) §1 on 5/22/1996*

*Amended by Ord. [97-057](#) §1 on 10/8/1997*

*Amended by Ord. [2020-005](#) §1 on 1/1/2021*

*Amended by Ord. [2023-013](#) §1 on 7/26/2023*

**11.04.070 Alienation**

Excepting conveyances signed by the County Property Manager upon written authorization of the County Commissioners or the County Administrator, no County-owned real property shall be sold, leased, dedicated, licensed, donated, exchanged, encumbered or otherwise alienated except upon signature, authorization, order or ratification of the Board.

HISTORY

*Adopted by Ord. [96-013](#) §1 on 5/22/1996*

*Amended by Ord. [2020-005](#) §1 on 1/1/2021*

**11.04.080 Violation; Penalty**

Any violation or failure to comply with any provision of DCC 11.04, may be prosecuted in Justice Court as a Class A violation, or may be charged and prosecuted in Circuit Court as Trespass pursuant to ORS 164.205 et seq. except DCC 11.04.030(B), is a Class A violation. If imposed civil penalties are not timely paid, upon application by the County a warrant may be issued by the Circuit Court to the violator.

HISTORY

*Adopted by Ord. [96-013](#) §1 on 5/22/1996*

*Amended by Ord. [2003-021](#) §24 on 4/9/2003*

| Amended by Ord. 2023-013 §1 on 7/26/2023



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: July 26, 2023

SUBJECT: Amendment to the Intergovernmental Agreement with the Oregon Department of Transportation for the US97: Lower Bridge Way-NW 10th Street project

RECOMMENDED MOTION:

Move approval of Board signature of Document No. 2023-724, Amendment No. 1 to the Intergovernmental Agreement with the Oregon Department of Transportation for the US97: Lower Bridge Way-NW 10th Street Project

BACKGROUND AND POLICY IMPLICATIONS:

The US97: Lower Bridge Way-NW 10th St (Terrebonne) project is currently in the Preliminary Engineering phase, with the Construction phase anticipated to begin in November 2023. This Amendment No. 1 to the original project intergovernmental agreement (Document No. 2022-084) will:

- Modify the timing of the County's remaining payment to ODOT for the project, changing it to coincide with completion of the preliminary engineering phase of the project which is anticipated to occur in late August 2023.
• Include the County's additional financial contribution of \$1,493,000, which includes \$1,300,000 for the Terrebonne sanitary sewer work associated with the project and \$193,000 for additional paving on Old Bend Redmond Hwy between US20 and 1,600 feet north of Rogers Road as part of the US20: Tumalo to Cooley Road project.

BUDGET IMPACTS:

The County's contribution to the project to date is as follows:

- \$130,000 for refinement planning (FY 2018)
• \$2,200,000 for preliminary engineering (FY 2023)
• Total contribution to date (County funds) = \$2,330,000

Under the original agreement, together with this amendment, the County will be making a remaining contribution as follows:

- \$7,800,000 for interchange and County road improvements (includes \$2,742,084 in Surface Transportation Block Grant Program funding)
• \$1,300,00 for sanitary sewer improvements (includes \$1,000,000 in Coronavirus

- State Fiscal Recovery Grant funding)
- \$193,000 for paving on Old Bend Redmond Hwy
- **Total remaining contribution = \$9,293,000**
  - Total County funds =\$5,550,916
  - Total grant funds = \$3,742,084

The remaining County funds contribution is budgeted in the Road Capital Fund for Fiscal Year 2024.

**ATTENDANCE:**

Chris Doty, Road Department Director

**AMENDMENT NUMBER 01**  
**INTERGOVERNMENTAL AGREEMENT**  
**US97: Lower Bridge Way – NW 10<sup>th</sup> St (Terrebonne) (K21126)**  
**Deschutes County**

This is Amendment No. 01 to the Agreement between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as “State” or “ODOT,” and **Deschutes County**, acting by and through its elected officials, hereinafter referred to as “Agency,” entered into on June 17, 2022.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to revise the amount of Agency funds contributed toward the project and to define the post-construction maintenance responsibilities.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.

2. **Amendment to Agreement.**

a. **Insert new Recitals, Paragraphs 5, through 10 to read as follows:**

5. Agency wishes to contribute a total of \$11,643,000 to State’s US97: Lower Bridge Way – NW 10<sup>th</sup> St (Terrebonne) project.
6. Agency wishes that \$1,493,000 of the total Agency cash contribution be allocated to the Agency’s sanitary sewer and other project work to be constructed by State on Agency’s behalf in conjunction with State’s US97: Lower Bridge Way – NW 10<sup>th</sup> St (Terrebonne) Project.
7. Agency has paid to State and State has received from Agency the amount of \$2,200,000 on July 26, 2022.
8. The Parties wish to define the roles and responsibilities of the Parties regarding the jurisdiction and maintenance of post-construction facilities and appurtenances.
9. State, Agency, and Jefferson County entered into Agmt No. 31810 on May 30, 2017. Said Agreement covers Jefferson County’s and Agency’s contributions to State’s ‘US97: Terrebonne/Lower Bridge Way Corridor Refinement Plan’ performed in connection with State’s ‘US97: Lower Bridge Way – NW 10<sup>th</sup> Street (Terrebonne)’ project.
10. As part of the obligations associated with Agreement No. 31810, Agency paid to State and State received from Agency \$130,000 on February 8, 2018; and Jefferson County paid to State and State received from Jefferson County \$20,000 on February 12, 2018.

**b. Terms of Agreement, Paragraph 3 shall hereinafter be renumbered as Paragraph 7.**

**c. Insert new Terms of Agreement, Paragraphs 3, 4, 5 and 6 to read as follows:**

- 3. Parties agree that upon completion of the Project, State and Agency jurisdictions shall be approximately as shown on Exhibit B, attached hereto, and by this reference made a part hereof; and unless otherwise described this Agreement, said jurisdictions shall define the limits of the maintenance responsibilities and power cost responsibilities of the respective Parties.
- 4. Parties agree to work collaboratively and in good faith to execute any additional amendment(s) to this agreement, that may be necessary as the Project develops, including but not limited to Identifying each Party’s additional maintenance responsibilities, and power cost responsibilities for equipment installed relating to the Project.
- 5. Parties agree that \$1,493,000 of Agency’s contribution shall be allocated to Agency’s sanitary sewer and other project work to be designed and constructed by State on Agency’s behalf at Agency’s request in conjunction with State’s US97: Lower Bridge Way – NW 10<sup>th</sup> St (Terrebonne) Project.
- 6. Parties agree that Agency shall be responsible for any costs incurred above the \$1,493,000 allocated to Agency’s sanitary and other project work to be performed by State. Parties further agree that any increases in the cost of designing and constructing Agency’s sanitary sewer work shall be approved by the Parties and documented by a fully executed amendment to this Agreement.

**d. Term of Agreement, Paragraph 1, Pages 1 & 2, which reads:**

Under such authority, State and Agency agree to State evaluating, designing, and constructing safety improvements on US97 through Terrebonne from Lower Bridge Way to NW 10th Street, and local improvements on Deschutes County road system that include; Smith Rock Way, 11th Street, NW 10th Street, A Ave., B Ave., C Ave., F Ave., Central Ave., Barberry Drive, and Lower Bridge Way, hereinafter referred to as “Project.” The Project is shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.

**Shall be deleted in its entirety and replaced with the following:**

Under such authority, State and Agency agree to State evaluating, designing, and constructing safety improvements on US97 through Terrebonne from Lower Bridge Way to NW 10th Street, and on the Deschutes County Road system or within Agency jurisdiction that are within the Project limits and required to complete the Project, hereinafter referred to as “Project.” The Project is shown on

the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.

**e. Term of Agreement, Paragraph 2, Page 2, which reads:**

The Project will be financed at an estimated cost of \$30,150,000 in federal, state and local funds. Agency funding for this project shall be limited to \$10,130,000. The estimate for the total Project cost is subject to change. State shall be responsible for any nonparticipating costs, and Project costs beyond the estimate for scope identified in Exhibit A (Highway Improvements, ODOT).

**Shall be deleted in its entirety and replaced with the following:**

The Project will be financed at an estimated cost of \$39,079,000 in federal, state and local funds. Agency funding for this project shall be limited to \$11,623,000. The estimate for the total Project cost is subject to change. State shall be responsible for any nonparticipating costs, and Project costs beyond the estimate for scope identified in Exhibit A (Highway Improvements, ODOT).

**f. Agency Obligations, Paragraph 1, Page 2, which reads:**

Agency shall, upon receipt of a fully executed copy of this Agreement and upon a subsequent letter of request from State, forward to State an advance deposit or irrevocable letter of credit in the amount of \$10,000,000 for the Project, said amount being equal to the balance of the estimated total cost for the work performed by State at Agency’s request under State Obligations paragraph 1. Agency agrees to make deposits as needed upon request from the State. Depending on the timing of the portions of the project to which the advance deposit contributes, it may be requested by State prior to Preliminary Engineering, purchase of right-of-way, or approximately 4-6 weeks prior to Project bid opening.

**Shall be deleted in its entirety and replaced with the following:**

Agency shall upon receipt of a fully executed copy of this Amendment to the Agreement and upon a subsequent letter of request from State, forward to State an advance deposit or irrevocable letter of credit in the amount of \$9,293,000 for the project, said amount being equal to the estimated total cost for Agency’s proportionate share of the remaining phases of the project. Depending upon the timing of phases of the Project to which the advance deposit contributes, it may be requested by State approximately 4-6 weeks prior to Project bid opening.

**g. State Obligations, Paragraph 2, Page 4, which reads:**

State shall, upon execution of the agreement, forward to Agency a letter of request for an advanced deposit or irrevocable letter of credit in the amount of

\$10,000,000 for payment of the balance of the estimated cost for the work performed by State at Agency’s request under State Obligations paragraph 1.

**Shall be deleted in its entirety and replaced with the following:**

State shall, upon execution of this Amendment to the Agreement, forward to Agency a letter of request for an advance deposit or irrevocable letter of credit in the amount of \$9,293,000 for payment of Agency’s proportionate share of the project. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete project. Depending upon the timing of phases of the Project to which the advance deposit contributes, State may request deposit approximately 4-6 weeks prior to Project bid opening.

**h. State Obligations, Paragraph 2, Page 4, which reads:**

Upon completion of the project, State will refund or release to Agency any unused portion of Agency’s advance deposit which is in excess of the total Agency costs for the Project.

**Shall be deleted in its entirety and replaced with the following:**

Upon completion of the project, State shall either send to Agency a bill for the amount which, when added to Agency’s advance deposit, will equal 100 percent of the total Agency costs for the project, not to exceed \$11,623,000 or State will refund to Agency any portion of said advance deposit which is in excess of the total Agency costs for the project.

- 3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- 4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.
- 5. **Electronic Signatures.** The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted or exchanged via email are “Electronic Signatures” under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.



Deschutes County / Oregon Department of Transportation  
Agreement No. 73000-00004447-1

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2021-2024 Statewide Transportation Improvement Program (STIP), (Key #21162) that was adopted by the Oregon Transportation Commission on July 15, 2020 (or subsequently by amendment to the STIP).

SIGNATURE PAGE FOLLOWS

**DESCHUTES COUNTY**, by and through  
its elected officials

By \_\_\_\_\_  
Commission Chair

Date \_\_\_\_\_

By \_\_\_\_\_  
Commissioner

Date \_\_\_\_\_

By \_\_\_\_\_  
Commissioner

Date \_\_\_\_\_

**LEGAL REVIEW APPROVAL (If  
required in Agency’s process)**

By \_\_\_\_\_  
Agency Counsel

Date \_\_\_\_\_

**Agency Contact:**

Cody Smith  
County Engineer  
61150 SE 27<sup>th</sup> Street  
Bend, Oregon 97702  
(541) 322-7113  
[cody.smith@deschutes.org](mailto:cody.smith@deschutes.org)

**State Contact:**

Cari Charlton  
Resident Engineer – Consultant  
Projects  
63055 N. Highway 97, Bldg M  
Bend, Oregon 97703  
(541) 815-6831  
[Cari.charlton@odot.oregon.gov](mailto:Cari.charlton@odot.oregon.gov)

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Delivery and Operations Divisions  
Administrator

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
State Traffic Roadway Engineer

Date \_\_\_\_\_

By \_\_\_\_\_  
Region 4 Manager

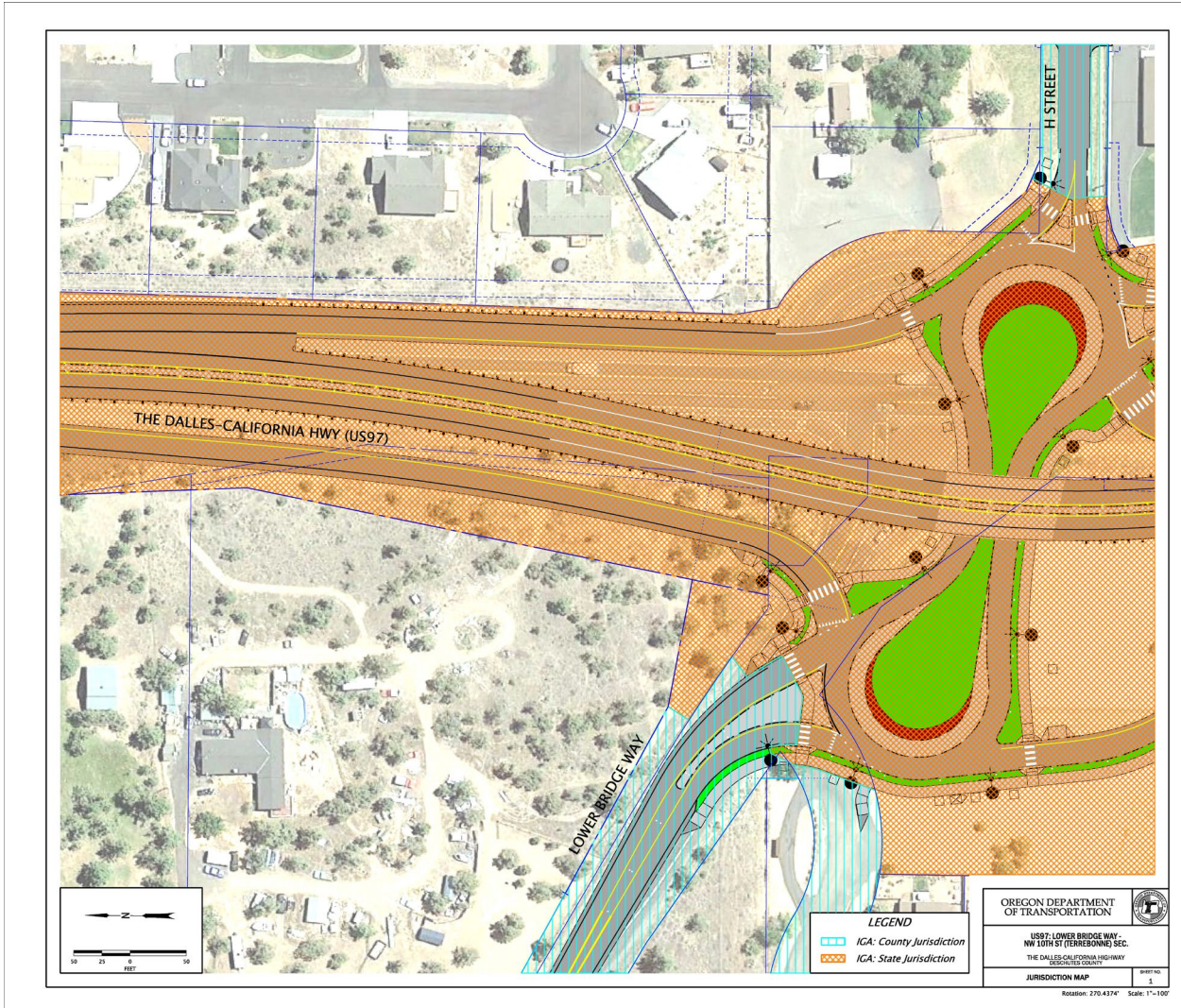
Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

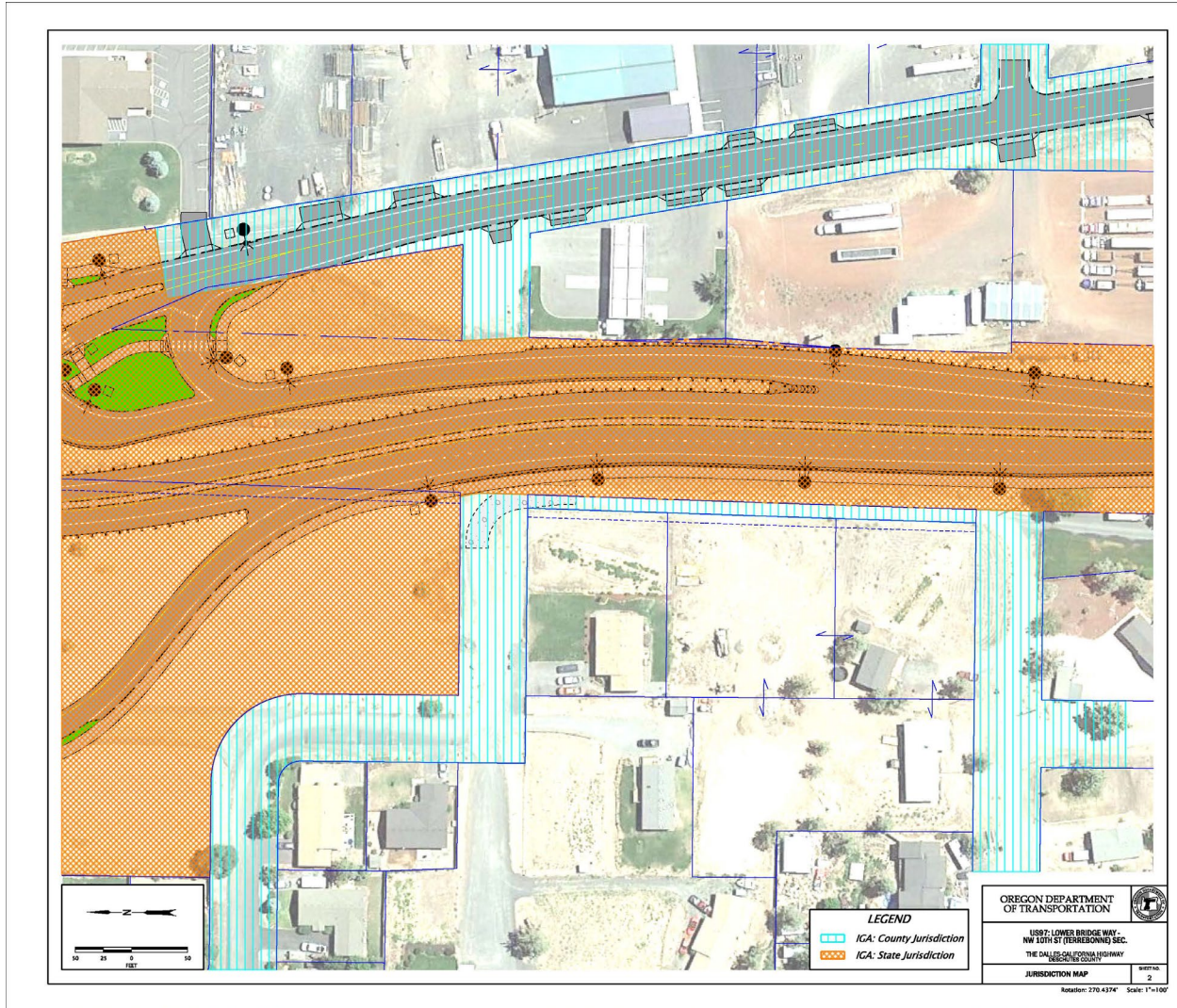
By \_\_\_\_\_  
Assistant Attorney General

Date: \_\_\_\_\_

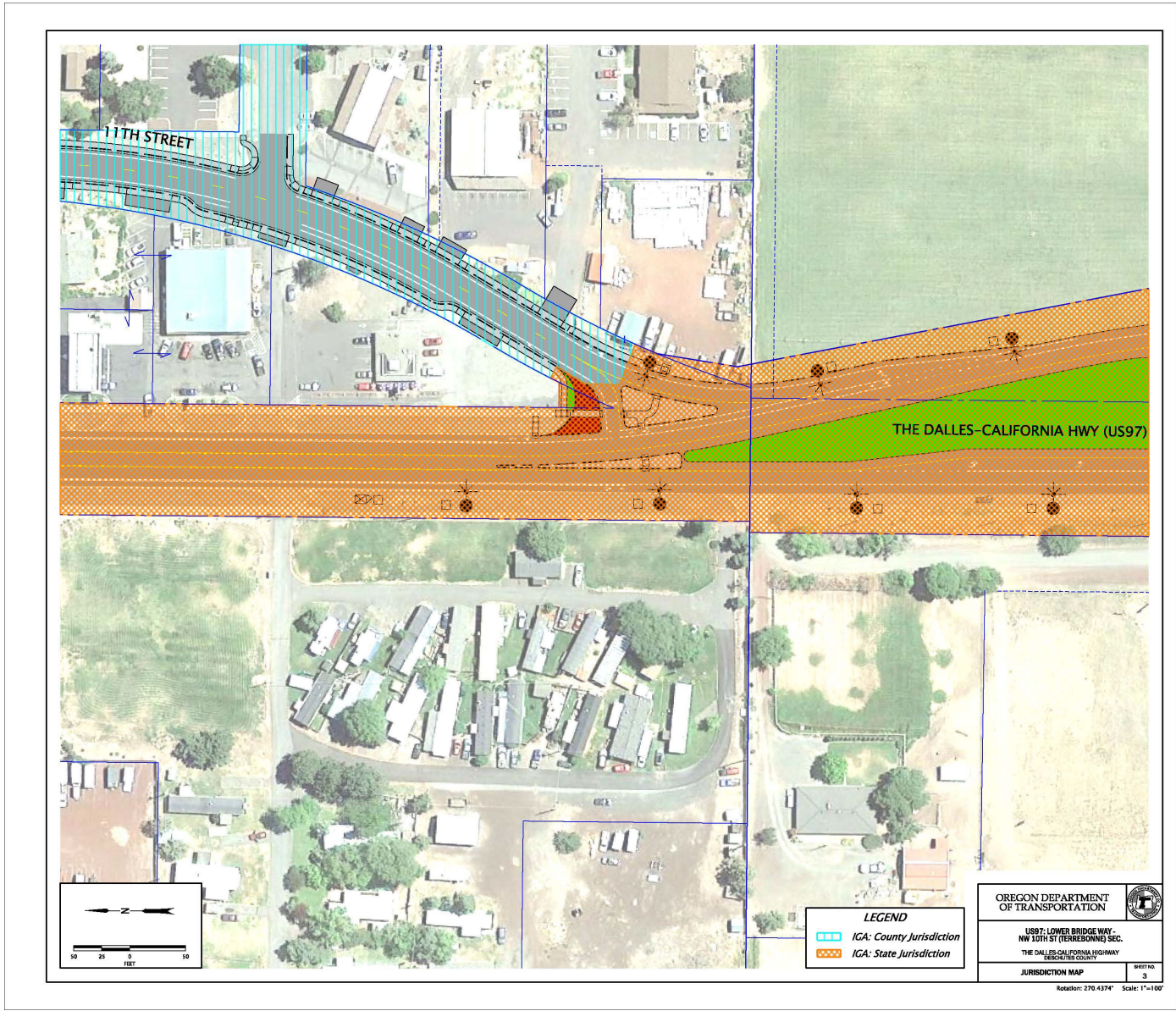
### EXHIBIT B Approximate Project Location Pt. 1



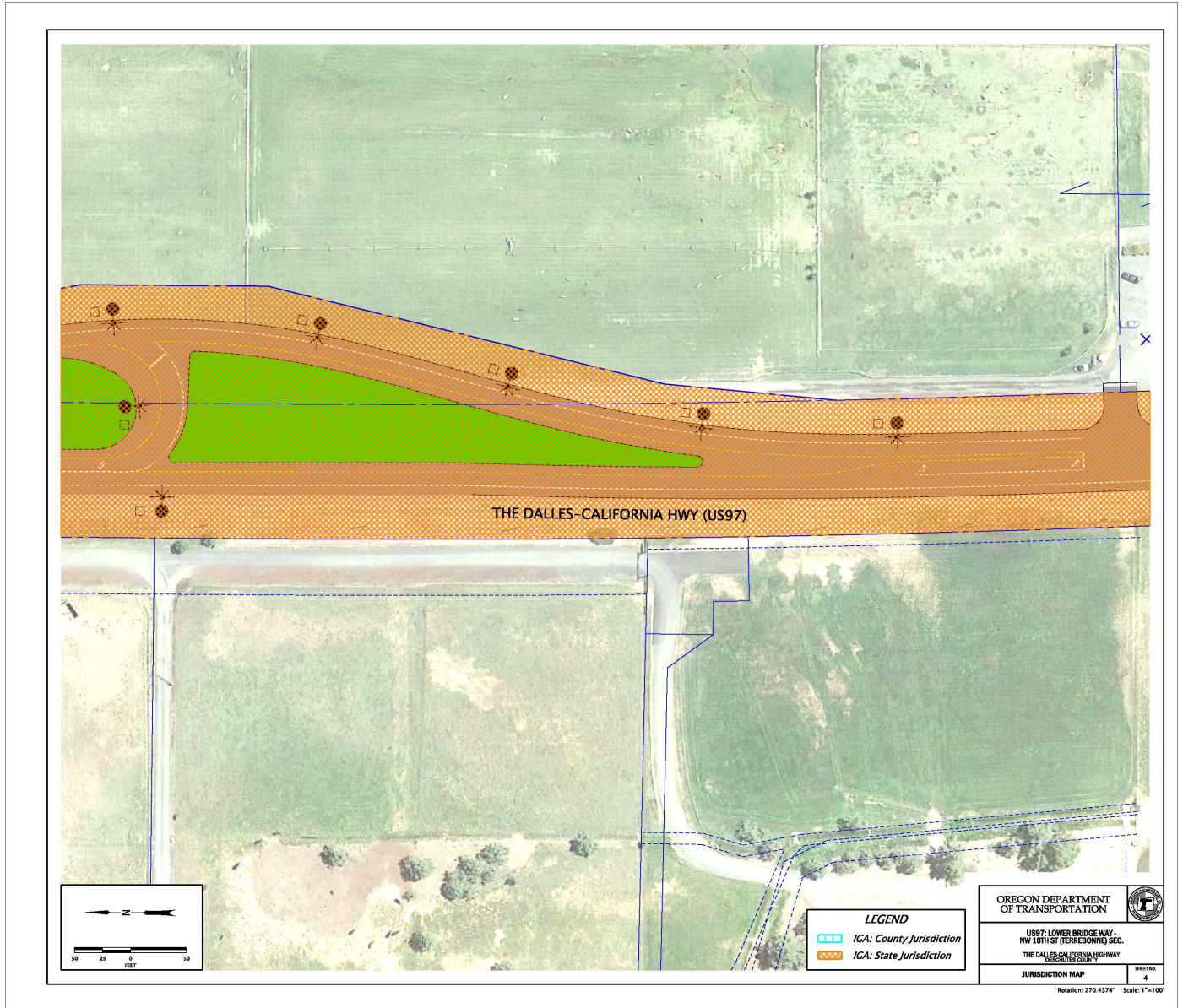
### EXHIBIT B Approximate Project Location Pt. 2



### EXHIBIT B Approximate Project Location Pt. 3



### EXHIBIT B Approximate Project Location Pt. 4





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** July 26, 2023

**SUBJECT:** COIC Grant Application Request for Broadband Action Team Funding

**RECOMMENDED MOTIONS:**

1. Approve COIC applying for State funds for the Broadband Action Team on the County's behalf; and
2. Approve a regional approach to the application should partners at Jefferson and Crook counties also agree.

**BACKGROUND AND POLICY IMPLICATIONS:**

COIC has been overseeing a consultant team in the development of a Strategic Broadband Needs Assessment and Action Plan for Deschutes County since early 2022. They have convened a Broadband Action Team (BAT) to oversee the plan development process and to ensure that all relevant partners understand and embrace the findings, and are well-positioned to support implementation. BAT includes representatives from Deschutes County, COIC, EDCO, Regional Solutions, Internet Service Providers, Business Oregon, utility providers, chambers of commerce, education partners, health partners, and cities. COIC has also maintained regular engagement with statewide entities such as the State of Oregon Broadband Office, LinkOregon, and Oregon Economic Development Districts (OEDD) to ensure that Central Oregon's priorities are understood by key partners and to align their work with best practices happening across the state. This plan will assist COIC in determining the optimal systems that will serve the existing and future connection demands into and out of Deschutes County. The consultants have delivered a final draft of the Needs Assessment and Action Plan and COIC is in the process of reviewing it and providing final input. COIC anticipates a formal presentation of the report and its findings at the BOCC meeting near the end of the summer.

The next steps for COIC and the BAT are to begin firming up partnerships, preliminary design and engineering, and identifying infrastructure funding opportunities for priority projects that were identified through this process. The state of Oregon is working on final rules and guidelines for the Broadband Technical Assistance Program (BTAP), which will support COIC moving into this next phase through funding by:

- Keeping a Broadband Action Team going to oversee efforts, engage partners, etc.;
- "Preliminary design/engineering" work that is required to apply for specific grants to develop/extend new infrastructure; and

- Grant writing (in partnership with private ISPs, stakeholders/communities, etc.)

COIC has had some preliminary conversations with partners at all three counties in the region about submitting a regional application with COIC as the main applicant and has received feedback that there is interest. While final rules are still pending, COIC has received preliminary feedback that there is a preference for collaborative/regional applications. Additionally, each county can apply for up to \$150,000 through the program, a regional application would allow for a maximum ask/award of \$450,000.

**BUDGET IMPACTS:**

No budget impact is anticipated.

**ATTENDANCE:**

- Tania Mahood, Deschutes County, IT Director
- Jen Patterson, Deschutes County, Strategic Initiatives Manager
- Scott Aycok, COIC, Community and Economic Development Director
- Shelby Knight, COIC, Resilience Planner





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** July 26, 2023

**SUBJECT:** Deliberations: Destination Resort Text Amendments

**RECOMMENDED MOTION:**

The Deschutes County Planning Commission recommends approval of file no. 247-22-000835-TA.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Board will deliberate in relation to a request for applicant-initiated legislative text amendments to Deschutes County's Destination Resort (DR) Combining Zone (File No. 247-22-000835-TA). The proposed amendments would add language from Oregon Revised Statute (ORS) 197.455(1)(a), which would limit residential uses to those necessary for the staff and management of the resort at any new destination resort allowed within 24 air miles of an urban growth boundary population of at least 100,000. The full record is located on the project webpage: <https://www.deschutescounty.gov/cd/page/247-22-000835-ta-destination-resort-text-amendment>

**BUDGET IMPACTS:**

N/A

**ATTENDANCE:**

Tarik Rawlings, Senior Transportation Planner



## MEMORANDUM

**TO:** Deschutes County Board of Commissioners (Board)

**FROM:** Tarik Rawlings, Senior Transportation Planner

**DATE:** July 19, 2023

**SUBJECT:** Deliberations – Destination Resort Text Amendments

On July 26, 2023, the Board of County Commissioners (Board) will conduct deliberations on an applicant-initiated legislative text amendment to Deschutes County's Destination Resort (DR) Combining Zone (file no. 247-22-000835-TA), following a public hearing that was held on July 12, 2023.

The record is available for inspection on the project website:

<https://www.deschutescounty.gov/cd/page/247-22-000835-ta-destination-resort-text-amendment>

### I. BACKGROUND

In October 2022, the applicant Central Oregon LandWatch (COLW), applied for a legislative amendment to Deschutes County's Destination Resort (DR) Combining Zone. The proposed amendments would add language from Oregon Revised Statute (ORS) 197.455(1)(a), which would limit residential uses to those necessary for the staff and management of the resort at any new Destination Resort allowed within 24 air miles of an urban growth boundary population of at least 100,000. This proposed amendment would only apply to newly proposed Destination Resorts and would not apply to existing or approved Destination Resorts. The applicable language from ORS 197.455(1)(a) is provided below:

*(1) A destination resort may be sited only on lands mapped as eligible for destination resort siting by the affected county. The county may not allow destination resorts approved pursuant to ORS 197.435 (Definitions for ORS 197.435 to 197.467) to 197.467 (Conservation easement to protect resource site) to be sited in any of the following areas:*

*(a) Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more unless residential uses are limited to those necessary for the staff and management of the resort.*

Staff submitted a 35-day Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development on January 11, 2023. Agency notice was sent to relevant

agency partners on January 18, 2023, and several agency comments were received. Notice of the proposal was sent to all property owners within Deschutes County who are within the DR Zone on January 23, 2023. The Notice explained the scope of the proposal, provided a project-specific website related to the application, and gave meeting information for the initial Planning Commission public hearing held on February 23, 2023<sup>1</sup>. The Planning Commission held a continued public hearing on March 9, 2023<sup>2</sup> and deliberated on the matter on March 23, 2023<sup>3</sup>. The Planning Commission ultimately recommended approval of the proposal with three (3) Commissioners voting in favor and one (1) Commissioner voting against the proposal (two (2) Commissioners recused themselves from deliberations). Following a Board work session on July 10, 2023<sup>4</sup> and public hearing on July 12, 2023<sup>5</sup>, the Board voted to keep the written record open until Friday July 14<sup>th</sup> at 5pm with deliberations scheduled for July 26, 2023.

## II. BOARD DELIBERATIONS

On July 26, 2023, the Board will deliberate on the proposed legislative text amendment request. If the Board finds that additional deliberations are necessary, the Board may schedule a future date for continued deliberations. If the Board finds no additional deliberations are necessary, the Board may then vote on the proposal.

The record is available for inspection at the Planning Division and at the following link: <https://www.deschutescounty.gov/cd/page/247-22-000835-ta-destination-resort-text-amendment>

### Board Decision Matrix

A more thorough review and discussion of the subject proposal's compliance with the applicable approval criteria and issues is provided in Attachment 1 - Board Decision Matrix, prepared in conjunction with this deliberation memorandum.

### Appendix – Proposed Text Modifications

Staff has included the four (4) proposed text modifications submitted on behalf of Caldera Springs Real Estate, Juniper Preserve (formerly known as Pronghorn Resort), Kenneth Katzaroff, and Garrett Chrostek as Attachment 2 attached to this memorandum for the Board's review.

## III. NEXT STEPS

If the Board determines that additional deliberations are necessary, staff will work with the Board to schedule a future meeting for continued deliberations. If the Board concludes their deliberations during the July 26, 2023 meeting, the Board may then vote on whether to approve the proposal. If the Board renders a vote during the July 26, 2023 meeting, staff will coordinate with the Board to

<sup>1</sup> <https://www.deschutescounty.gov/cd/page/247-22-000835-ta-destination-resort-text-amendment>

<sup>2</sup> <https://www.deschutes.org/bc-pc/page/planning-commission-24>

<sup>3</sup> <https://www.deschutes.org/bc-pc/page/planning-commission-28>

<sup>4</sup> <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-113>

<sup>5</sup> <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-114>

return for a future meeting during which a draft ordinance and relevant exhibits will be presented and a first reading of the ordinance initiated.

**ATTACHMENTS:**

1. Board Decision Matrix
2. Appendix – Proposed Text Modifications

**BOCC DECISION MATRIX**

**COLW Destination Resort TEXT AMENDMENT**  
**Land Use File No. 247-22-000835-TA**

	Issue Area	Applicable Approval Criterion	Applicant and Oppositional Responses	Planning Commission / Legal Counsel	Staff Comment
1	Is the proposed Text Amendment unlawful under ORS 197.455 such that amendment of the County's Comprehensive Plan's designation resort for resort overlay mapping first required?	The opposition asserts that destination resort mapping is part of the County's Comprehensive Plan and may only be amended through a Plan Amendment. Opposition cites ORS 197.455(1-2) and the map amendment process outlined under ORS 197.610-625 as basis for denial of the subject application. The Applicant cites case law at <i>Central Oregon LandWatch v. Deschutes County (2012)</i> as reasoning for why a Plan Amendment is not required for the subject application.	<p><u>The Applicant</u> asserts that ORS 197.455(1)(a) only allows for its implementation through a Text Amendment process and that ORS 197.455(1)(a) does not wholly prohibit all destination resorts. A Map/Plan Amendment would only be necessary if the implementing language of ORS 197.455(1)(a) explicitly prohibited destination resorts within the identified 24-airmile radius.</p> <p><u>Oppositional comments</u> assert that destination resort mapping is part of the County's Comprehensive Plan and may only be amended through a Plan Amendment. Opposition cites ORS 197.455(1-2) and the map amendment process outlined under ORS 197.610-625 as basis for rejecting the proposed amendment.</p>	<p>The Deschutes County Planning Commission did not raise the issue of whether a Map/Plan Amendment is required for the subject application and ultimately recommended approval of the proposal.</p> <p>Deschutes County Legal Counsel has offered that all DR-mapped properties in the County will retain their authority to potentially develop a new destination resort, provided the development limitations outlined in ORS 197.455(1)(a) apply. LUBA's rulings in LUBA No. 2020-095 (<i>Gould v. Deschutes County</i>) and LUBA No. 2022-013 (<i>Gould v. Deschutes County</i>) do not require the County to first adopt new or amended DR overlay maps.</p>	<p>The Board must determine whether the subject application requires a Map/Plan Amendment to lawfully address ORS 197.455.</p> <p>If the Board agrees with the Applicant's response, they may make findings that the subject application does not require a Map/Plan Amendment in order to comply with ORS 197.455.</p> <p>If the Board disagrees with the Applicant, they may find that a Map/Plan amendment is required and that the proposed Text Amendment is unlawful under ORS 197.455.</p> <p>If the Board finds that no Map/Plan Amendment is required for the subject proposal, the Board may proceed to the next item in this decision matrix.</p> <p>If the Board determines that a Map/Plan Amendment is required for the subject proposal, they may reject the proposed amendment for being unlawful under ORS 197.455. The applicant or other interested parties may consider submitting an application for Map/Plan Amendment pursuant to ORS 197.455(2) in the next 30-month cycle for consideration by the Board.</p>

## COLW Destination Resort TEXT AMENDMENT

### Land Use File No. 247-22-000835-TA

	Issue Area	Applicable Approval Criterion	Applicant and Oppositional Responses	Planning Commission / Legal Counsel	Staff Comment
2	Does the Board wish to include recommended language modifications in the amendment responsive to economic concerns from Destination Resort representatives?	ORS 197.455(1)(a)	<p>Staff has received multiple public comments containing proposed language modifications to the subject Text Amendment from representatives of various existing Destination Resorts within Deschutes County. Staff has included these comments as Attachment 2 to the Board’s deliberation memo for consideration.</p> <p><u>The Applicant</u> does not believe any proposed text modifications are necessary and supports approval of their original proposed language.</p>	<p>Deschutes County Legal Counsel, in coordination with staff, has found no issues with the proposed text modifications submitted by existing Destination Resort representatives, as well as Kenneth Katzaroff and Garrett Chrostek, responsive to economic concerns or their compliance with ORS 197.455(1)(a).</p> <p>If the Board elects to include language modifications to the proposal, staff and Legal Counsel recommend utilizing the language proposed by Caldera Springs Real Estate based on its specificity and compliance with ORS 197.455(1)(a).</p> <p><u>The Caldera Springs Real Estate proposed text modification includes the following language:</u></p> <p><i>“Within 24 air miles of an urban growth boundary with an existing population of at least 100,000 or more, residential uses are limited to those necessary for the staff and management of the resort, provided that this provision shall apply only to newly proposed resorts seeking Conceptual Master Plan approval under DCC 18.113.050 or expansion proposals of existing developments under DCC 18.113.025.”</i></p>	<p>The Board must determine whether they wish to include recommended language modifications in the amendment responsive to economic concerns from Destination Resort representatives. Staff and County Legal Counsel offer that, of the proposed text modifications submitted to record containing specific example language, the Caldera Springs Real Estate text modification has been reviewed by the Applicant with minimal counter-edits. If the Board elects to include language modifications to the proposal, staff and Legal Counsel recommend utilizing the language proposed by Caldera Springs Real Estate based on its specificity and compliance with ORS 197.455(1)(a).</p> <p>If the Board elects to approve the subject application, the Board must determine whether the proposed text should be modified.</p> <p>If the Board agrees with the proposed text modification submitted on behalf of Caldera Springs Real Estate or other proposed text modifications included in record, they may adopt that modified text as the subject Text Amendment.</p> <p>If the Board disagrees with the proposed text modification submitted on behalf of Caldera Springs Real Estate or other Destination Resorts, they may adopt the Applicant’s original proposed text.</p> <p>If the Board disagrees with the proposed text modification submitted on behalf of Caldera Springs Real Estate, and the other proposed text modifications in record, and the Applicant’s original proposed language, they may reject the proposed amendment.</p>



## ATTACHMENT 2 - APPENDIX

On July 26, 2023, the Board of County Commissioners (Board) will conduct deliberations on an applicant-initiated legislative text amendment to Deschutes County's Destination Resort (DR) Combining Zone (file no. 247-22-000835-TA), following a public hearing that was held on July 12, 2023.

In response to the four (4) total proposed text modifications submitted to record on behalf of Caldera Springs Real Estate, Juniper Preserve, Kenneth Katzaroff, and Garrett Chrostek, staff has provided a collection of the proposed texts within this Appendix as a single reference. These comments and text proposals are responsive to the economic concerns of the existing Destination Resorts in Deschutes County and seek to provide clarification around how the proposed amendment would apply to new resort proposals.

If the Board elects to include language modifications to the proposal, County staff and legal counsel recommend utilizing the language proposed by Caldera Springs Real Estate based on its specificity and compliance with ORS 197.455(1)(a). Additionally, Garrett Chrostek has indicated that he sees no issues with the language proposed by Caldera Springs Real Estate should the Board opt to incorporate their proposed text modification.

### I. Caldera Springs Real Estate – Steve Hultberg (July 11, 2023)

*"Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more, residential uses are limited to those necessary for the staff and management of the resort, provided that this provision shall apply only to newly proposed resorts seeking Conceptual Master Plan approval under DCC 18.113.050 or expansion proposals of existing developments under DCC 18.113.025."*

### II. Garrett Chrostek (July 12, 2023)

*"I wanted to advocate for some clarifying edits to the above referenced text amendment. I think it is very awkward and confusing to insert the proposed language into Section 18.113.030 and 19.106.030 if the intent is to be narrowly focused on new resorts. A better approach is to include language in Sections 18.113.070 and 19.106.070 that essentially makes the limitation a mandatory condition of approval for new resort approvals."*

### III. Kenneth Katzaroff (March 14, 2023)

*"J. Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more, except for destination resorts with conceptual master plan approval as of the [date of*

*adoption], new residential uses are limited to those necessary for staff and management of the resort."*

**IV. Juniper Preserve (formerly Pronghorn Resort) – Alex Berger/Corinne Celko (February 13, 2023)**

*"Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more, residential uses are limited to those necessary for the staff and management of the resort, provided that this provision applies only to new proposed destination resorts and not to existing developments approved as destination resorts."*





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** July 26, 2023

**SUBJECT:** 10-year Ground Lease with City of Redmond

**RECOMMENDED MOTION:**

Move approval of Document Number 2023-636, Ground Lease with City of Redmond

**BACKGROUND AND POLICY IMPLICATIONS:**

In the Fall of 2021, the Board of County Commissioners reserved ten acres (which later increased to twelve acres) of County-owned property in East Redmond for third-party development of Oasis Village (OV) and like projects to help support those in the community experiencing homelessness. The OV project will span approximately two acres and will initially consist of 15 shelter units with future expansion up to 40 units. The remaining acres are still in the visioning process, but it is anticipated the area will be developed for managed vehicle camping.

The County and the City of Redmond (City) have agreed to enter into a 10-year Ground Lease for the development of the 12 acres. Earlier this year the City received \$975,000 in State funding to assist with utility infrastructure to extend water, sewer, and electrical under Highway 126 to the 12 acres at an estimated cost of \$525,000. The remaining \$450,000 is allocated to construct a community building with restrooms, showers, laundry, kitchen, common room, and meeting space. Previously, the County granted the non-profit entity Oasis Village \$32,050 of ARPA funds to support a contract with Rogue Retreat to assess the needs of and capacity for serving those experiencing homelessness in Redmond. Further, the County also allocated \$367,500 in ARPA funds for construction costs specific to OV, and assisted with a grant application, which resulted in \$350,000 in State funding.

The terms of the Ground Lease include:

- 10-year initial term to lease +/- 12-acres of County-owned property in East Redmond with 10-year extension options upon mutual agreement
- Zero consideration lease
- City's commitment to providing utility infrastructure to service the 12-acres and the development of the community building

- The City's commitment to utilize the 12-acres for initiatives specific to homelessness;
- The City's intent to sublease the 12-acres to community services provider(s) that specialize in houseless projects and services; and
- The City's intent to work with sub-lessee(s) to raise additional capital funds.

It is anticipated that the initial phase of the Oasis Village project will open early January 2024.

**BUDGET IMPACTS:**

\$367,500 in allocated ARPA funds, plus an additional \$32,050 in ARPA funds previously expended.

**ATTENDANCE:**

Kristie Bollinger, Property Manager  
Cat Zwicker, Redmond City Councilor  
Keith Witcosky, Redmond City Manager  
Keith Leitz, Redmond City Attorney

REVIEWED  
LEGAL COUNSEL

**GROUND LEASE AGREEMENT**

THIS GROUND LEASE AGREEMENT (“Agreement”) is made as of the date of the last signature affixed hereto (“Commencement Date”) by and between **DESCHUTES COUNTY**, a political subdivision of the State of Oregon (“Lessor”), and **THE CITY OF REDMOND** an Oregon municipal corporation, hereinafter referred to as (“Lessee”). Lessor and Lessee are referred to herein as “Party” or “Parties.”

**A. RECITALS**

1. Lessor owns certain real property located at 1002 NE 17<sup>th</sup> Street, Redmond, OR, 97756. It contains +/- 1,750-acres as shown on Exhibit A, attached hereto and incorporated herein by reference. (“Property”).
2. Lessee is a municipal corporation who owns and operates certain municipal utilities (sewer and water) that will be used to provide services to the Property.
3. Subject to the terms and conditions of this Agreement, the Parties desire to enter into this Agreement to lease a portion of the Property containing +/- 12-acres, more or less, as described on Exhibit B1 and as shown on Exhibit B2 and also described in Exhibit C1 and shown on Exhibit C2, attached hereto and incorporated herein by reference (“Site”).
4. Lessor agrees to lease to Lessee the Site.
5. Lessee agrees to provide infrastructure and utilities to the Site as outlined below. A series of infrastructure improvements will be required to serve the East Redmond Campus (ERC) and allow it to be operational. The project recently received \$975,000 in state funding through Central Oregon Intergovernmental Council for the project. The Lessee and Sublessee(s) plan to raise additional capital for the project. :
  - a. Utilities (water, sewer, and electrical) under Highway 126 and to the ERC for provision of homelessness services. In addition to serving the first 2-acres, utilities will allow future homeless services to be provided on the adjoining 10 acres of the Site (currently projected to serve as a managed vehicle camping area operated by Mountain View Community Development). This project has a current estimate of approximately \$525,000.
  - b. Community Building comprised of restrooms, showers, laundry, kitchen, common room, meeting space, etc. to support a village of up to 40 shelters. In the first years of operation, the community building will also be able to offer space for other homelessness services operating at the ERC. This project has a current estimate of approximately \$450,000.
  - c. If the actual cost exceeds the \$975,000 estimate, Lessee or Sublessee agrees to pay the full cost of the above improvements, subject to the following:
    - i. Lessee shall retain full control of the Utilities and Community Building project(s) scope and authority, and value engineering decisions.

- ii. Prior to construction, if the RFP estimate(s) exceeds the City Engineer's estimate, the Lessee retains the option to terminate the lease.
- 6. The ERC will initially consist of 15 or more individual shelter units and supportive structures. Shelters will house one to two individuals for an expected occupancy of 20 people. It is intended that a full-time director will oversee the Shelters and offer onsite case management and peer support. Staff will be supported by trained volunteers, partner service agencies, and an advisory group of residents.

#### B. WITNESSETH

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. **TERM.** The initial term of this Agreement shall be effective as of the date of the last signature affixed hereto ("Effective Date"), and shall expire **June 30, 2033**, unless sooner terminated in accordance with this Agreement, including that either party may terminate this Lease for any reason or no reason, with one hundred eighty (180) days in advance of term expiration and as further described and provided in Section B.20 of this Agreement.
  - 1.1 Upon no less than one hundred eighty (180) days, Lessee may submit a request in writing to Lessor to extend the Agreement. Any extension must be agreed upon by both parties in writing.
  - 1.2 In the event the Lessee requests that the Lessor transfer (whether directly, indirectly, voluntarily, involuntarily, or by operation of law) all or any part of the Site to Mountain View Community Development, Lessee agrees to cooperate in an orderly termination of the Lease and transfer of the Site to Mountain View Community Development.
  - 1.3 In the event Lessor intends to transfer (whether directly, indirectly, voluntarily, involuntarily, or by operation of law) all or any part of Lessor's interest in the Site, other than as included in B1.2, Lessee will have a right of first refusal to provide a qualifying offer to purchase the Site.
2. **RENT.** Except as otherwise provided elsewhere in this Agreement, in recognition of the public benefit rendered by Lessee's activities, the annual lease rate is zero (\$00.00) for the term of this Agreement.
3. **POSSESSION.** Lessee's right to exclusive possession of the Site and obligations under the Agreement shall commence as of the Effective Date of this Agreement, except as otherwise provided herein. Lessee shall have all rights associated with possession of the Site, including the right to control, limit, revoke or restrict access to the Site.

4. CONDITION OF PROPERTY AND SITE. Lessor has made no warranties or representations regarding the condition of the Property or Site, including, without limitation, the sustainability of the Property or Site for intended uses, except as may be expressly set forth herein. Lessor has no obligation to repair, alter, and/or construct any improvements on the Property. Lessee has inspected and accepts the Site in its "AS IS" condition upon taking possession, except as otherwise expressly set forth herein. Lessor will have no liability to Lessee, and Lessee will have no claim against Lessor, for any damage or injury or loss of use caused by the condition of the Property or Site, except as expressly set forth herein. Lessee is solely responsible for thoroughly inspecting the Site and ensuring that it is in compliance with all Legal Requirements (as defined below), except as expressly set forth herein.
5. PERMITTED USE. Site shall be used for homeless services as described in Section A, subsections 5 and 6 above.
6. RESTRICTIONS ON USE. In terms of use of the Site, Lessee shall:
  - 6.1 Maintain improvements, structures and fences on the Site, if any, to standards of repair and safety reasonably acceptable to Lessor.
  - 6.2 Except as undertaken in the ordinary course of conducting its Permitted Use and in compliance with applicable local, state and federal law, refrain from the disposal, spilling or discharging of any oil, gasoline, diesel fuel, chemicals, or other pollutants on the or Site. In the event of such spills, Lessee shall undertake any and all necessary actions to contain and remove from the Property or Site as provided by law.
  - 6.3 Conform to all applicable Legal Requirements of any public authority affecting the Site and Lessee's specific use of Site, and correct at Lessee's own expense any failure of compliance created by Lessee or by reason of Lessee's specific use of the Site, except as expressly set forth in this Agreement. For purposes of this Agreement, the term "Legal Requirement(s)" means any and all rules, regulations, covenants, conditions, restrictions, easements, declarations, laws, statutes, liens, ordinances, orders, codes, rules, and regulations applicable to the Property and/or Lessee's specific use thereof of the Site, including, without limitation, the Americans with Disabilities Act of 1990, as amended (and the rules and regulations promulgated thereunder), all as now in force and/or which may hereafter be amended, modified, enacted, or promulgated.
  - 6.4 Refrain from any use which would create a nuisance either on the Property or Site or offsite or damage the Property or Site, including but not limited to, creating offensive odors, excessive dust or noise on the Property or Site or maintaining a fire on the Property or Site. Nothing herein shall be construed to prohibit normal activities necessary to utilize the Site for its Permitted Use.
  - 6.5 Refrain from making any unlawful use of said Property or Site.

7. LESSEE'S OBLIGATIONS. The following shall be the responsibility of the Lessee at Lessee's sole cost:

7.1 Arrangement for and deliver to the Site, as necessary, of all water, sanitary sewer, gas, electrical, and other utility services deemed necessary by Lessee.

7.2 Structural repairs and maintenance of any screening, fences, buildings, water, sanitary sewer, gas and electrical services, and other utility services to the Site, as deemed necessary by Lessee.

7.2.1 Lessee at its sole discretion may require subsequent sub-lessee perform structural repairs and maintenance as described in Section 7.2. If sub-lessee fails to perform structural repairs and maintenance, Lessee shall provide said work.

7.3 All repairs necessitated by the activities or negligence of Lessee, its agents, employees, volunteers, sublessees or invitees on or in connection with the Property or Site.

7.4 All repairs or alterations required under Lessee's obligation to comply with Legal Requirements and regulations as set forth in "Restrictions on Use" above.

7.5 All landscape maintenance to ensure vegetation remains tidy and viable, including replacement of any plantings as necessary as well as all irrigation repairs and maintenance to help ensure landscape viability.

7.5.1 Lessee at its sole discretion may require subsequent sub-lessee to perform landscape maintenance as described in Section 7.5. If sub-lessee fails to perform landscape maintenance, Lessee shall provide said work.

7.6 All ad valorem tax and other real property assessments, bonds, levies or the like for the leased Site except as for provided and further described in Section B.8.

7.6.1 If applicable, Lessee at its sole discretion may require subsequent sub-lessee to pay any ad valorem tax or other assessments as described in Section 7.6. If sub-lessee fails to pay any ad valorem tax or other assessments, Lessee shall pay said ad valorem taxes or other assessments.

7.7 All taxes and assessments upon Lessee's personal property located on the Site.

7.8 The cost of any property and liability insurance maintained by Lessee as outlined in Section B.16 of this Agreement.

7.9 All utility charges associated with the operation for the Permitted Use of the Site, including but not limited to electricity, natural gas, water, sanitary sewer, and other such services as necessary.

7.10 All other costs, operations, or future improvements deemed necessary by Lessee associated with the Permitted Use of the Site.

- 8. TAXES AND ASSESSMENTS. After execution of this Agreement, Lessee shall apply within fifteen (15) days for a property tax exemption status based on Lessee’s nonprofit status. If the property tax exemption application is denied and the taxing authority assesses real property tax and assessments for the Property, Site or Site Improvements, Lessee shall pay before delinquency, all assessments and levies against the portion of the Property and Lessee may invoice the County annually for the amount equal to the assessment. Lessee shall pay before delinquent, all personal property taxes on Lessee’s fixtures, equipment, inventory and other personal property in or about the portion of the Property subject to taxation.
- 9. INSPECTION OF SITE. During the term of this Agreement, Lessor shall have the right to inspect the Site in the Lessee's presence with reasonable notice by Lessor.
- 10. REPAIRS. Lessee accepts the Site in its "AS IS" condition, except as expressly set forth herein. Lessee will at all times keep the Site in good condition consistent with the condition of the Site on the Effective Date and make all repairs during the term of the Agreement necessary to maintain the Site in good condition.
- 11. MUTUAL INDEMNIFICATION. The following indemnification provisions shall apply to the parties:

11.1 Except to the extent caused by the gross negligence or willful misconduct of Lessor, Lessee will indemnify, defend, and hold Lessor and Lessor’s current and future elected officials, officers, employees, contractors, agents and volunteers (collectively, “Lessor’s Agents”) harmless for, from, and against any and all claims, losses, damages, and/or liabilities arising out of or related to, whether directly or indirectly, the following: (a) any negligence or misconduct of Lessee and/or Lessee’s members, managers, officers, employees, agents, contractors, sublessees, and volunteers (collectively, “Lessee’s Agents”) on or at the Site; (b) any condition of the Site (including, without limitation, any improvements constructed thereon) that is caused solely by Lessee and/or Lessee’s Agents while the Site is in the possession or under the control of Lessee; and/or (c) Lessee’s breach and/or failure to perform any Lessee obligation, covenant, representation, and/or warranty under this Agreement. Lessee’s indemnification obligations under this Section B.11.1 will survive the expiration or termination of this Agreement.

11.2 Except to the extent caused by the gross negligence or willful misconduct of Lessee, Lessor will indemnify, defend, and hold Lessee and Lessee’s current and future elected officials, officers, employees, contractors, agents and volunteers (collectively, “Lessee’s Agents”) harmless for, from, and against any and all claims, losses, damages, and/or liabilities arising out of or related to, whether directly or indirectly, the following: (a) any negligence or misconduct of Lessor and/or Lessor’s members, managers, officers, employees, agents, contractors and volunteers (collectively, “Lessor’s Agents”) on or at the Property; (b) any condition of the Site (including, without limitation, any improvements constructed thereon) that is caused

solely by Lessor and/or Lessor's Agents while the Site is in the possession or under the control of Lessee; and/or (c) Lessor's breach and/or failure to perform any Lessor obligation, covenant, representation, and/or warranty under this Agreement. Lessor's indemnification obligations under this Section B.11.2 will survive the expiration or termination of this Agreement.

12. PARTIAL TAKING. If a portion of the Site is condemned and Section B.12 TOTAL TAKING does not apply, the Agreement shall continue on the following terms:

12.1 Lessor shall be entitled to all of the proceeds of condemnation and Lessee shall have no claim against Lessor as a result of the condemnation.

12.2 Lessor shall proceed as soon as reasonably possible to make such repairs and alterations to the Site as reasonably practicable to return the Site to its condition existing at the time of the condemnation, but in no event shall Lessor be liable for repairs in excess of condemnation proceeds awarded to and received by Lessor. The Lessor may, but shall not be required to, perform alterations prior to the actual taking after the portion to be taken has been finally determined. Rent shall be abated to the extent the Site is untenable during the period of alteration and repair.

12.3 After the date on which title vests in the condemning authority or an earlier date on which alterations or repairs are commenced by Lessor to restore the balance of the Site in anticipation of taking, the rent, if applicable, shall be reduced commensurately with the reduction in value of the leased Site as an economic unit on account of the partial taking. If the parties are unable to agree upon the amount of the reduction of rent, the amount shall be determined by arbitration.

12.4 If a portion of the Lessor's Property not included in the leased Site is taken and severance damages are awarded on account of the leased Site, or an award is made for detriment to the leased Site as a result of change of grade of adjacent streets or other activity by a public body not involving a physical taking of any portion of the land, this shall be regarded as a partial condemnation of which subparagraphs (A) and (C) of "Partial Taking" above apply, and the rent, if applicable, shall be reduced to the extent of diminution of value of the Site as though a portion had been physically taken.

13. TOTAL TAKING. If a condemning authority takes all of the Site or a portion sufficient to render the Site reasonably unsuitable for the use which the Lessee was then making of the Site, the Agreement shall terminate as of the date the title vests in the condemning authority. Lessor shall be entitled to all of the proceeds of condemnation and the Lessee shall have no claim against Lessor as a result of the condemnation.

14. SALE IN LIEU OF CONDEMNATION - DEDICATION TO THE PUBLIC. Sale of all or part of the Site to a purchaser with the power of eminent domain in the face of a threat or probability of the exercise of the power shall be treated for the purpose of this Section B.14 as a taking by condemnation. Dedication to the public, sale, or transfer of all or a portion of the Site to the State of Oregon, its political subdivisions or United States of America, shall be treated as a Total Taking or Partial Taking, as applicable.



15. LIENS.

15.1 Except with respect to activities for which the Lessor is responsible, the Lessee shall pay as due all claims for work done on and for services rendered or material furnished to the Site and shall keep the Property free from any liens.

15.2 Lessee may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Lessor's Property interests are not jeopardized. If a lien is filed as a result of nonpayment, Lessee shall, within thirty (30) days after knowledge of the filing, secure the discharge of the lien or deposit with Lessor cash or a sufficient corporate surety bond or other surety satisfactory to Lessor in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under a lien.

15.3 If Lessee fails to pay any such claims or to discharge any lien, or bond over any such lien, within thirty (30) days after written notice of such lien, Lessee shall remedy any lien. If Lessee fails to remedy any liens, Lessee will be in default and such default may be remedied or exercised in accordance to Section B.18.

16. INSURANCE.

16.1 Lessee shall keep the Site improvements and personal property of the Lessee insured at its own expense against fire and other risks covered by a standard fire insurance policy with an endorsement for extended coverage. The Lessor shall not be responsible for and shall not provide fire or extended coverage on the Site improvements or personal property of the Lessee. All insurance policies shall be written on an occurrence basis and be in effect for the term of this Agreement. Policies written on a "claims made" basis must be approved and authorized by Deschutes County Risk Management.

Claims Made Policy  
(check only if applicable)  Approved by County  Not Approved by County

16.2 Liability Insurance: Lessee shall procure and during the term of the Agreement shall continue to carry and maintain commercial general liability insurance including fire legal liability and automobile liability insurance at Lessee's cost issued by a responsible company with limits of not less than \$1,000,000 for each occurrence and \$2,000,000 in the aggregate for commercial general liability insurance and \$1,000,000 combined single limit for automobile liability insurance. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of this Agreement. Such insurance shall protect Lessee against the claims of Lessor on account of the obligations assumed by Lessee under this Agreement, and shall name, as additional insureds, Lessor and its elected officials, officers, agents, and employees. It is an affirmative obligation on the Lessee to advise the Lessor within ten (10) business days of any substantive change of any insurance policy or endorsement set out herein, and failure to do so may be construed to be a breach of this Agreement. If the insurance is canceled or terminated prior to termination of the Agreement, Lessee shall provide a new policy with the same terms. Lessee agrees

to maintain continuous, uninterrupted coverage for the duration of the Agreement.

16.2.1 Certificates evidencing such insurance and bearing endorsements requiring 30 days' written notice to Landlord prior to any change or cancellation shall be furnished to Lessor prior to Lessee's occupancy of the Site. Lessee shall maintain, on file with Lessor, a certificate of insurance certifying the coverage required as outlined. The adequacy of the insurance shall be subject to the approval of the Lessor's Risk Manager or Attorney. Failure to maintain liability insurance required by this paragraph shall be cause for immediate termination of this Agreement by Lessor.

16.3 Workers' Compensation Insurance: If Lessee is a subject employer under the Oregon Workers' Compensation law, it shall comply with ORS 656.017, by providing workers' compensation coverage for all its subject workers for the duration of this Agreement. The employer's liability limits shall have minimum limits of \$500,000 each accident; \$500,000 for disease, each employee and \$500,000 disease, policy limits.

16.3.1 The policy coverage shall include a waiver of subrogation in Deschutes County's favor. A certificate of insurance, or copy thereof, shall be attached to this Agreement, if applicable, and shall be incorporated herein and made a term and part of this Agreement. The adequacy of the insurance shall be subject to the approval of Lessor's Risk Manager or Attorney.

16.3.2 In the event the Lessee's workers compensation insurance coverage is due to expire during the term of this Agreement, the Lessee agrees to timely renew its insurance, either as a carrier-insured employer or a self-insured employer, as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration, and the Lessee agrees to provide the Lessor such further certification of workers' compensation insurance as renewals of said insurance occur.

16.4 Subrogation: Neither party shall be liable to the other (or to the other's successors or assigns) for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended coverage endorsement, and in the event of insured loss, neither Party's insurance company shall have a subrogated claim against the other. This waiver shall be valid only if the insurance policy in question expressly permits waiver of subrogation or if the insurance company agrees in writing that such a waiver will not affect coverage under the policies. Each Party agrees to use best efforts to obtain such an agreement from its insurer, if the policy does not expressly permit a waiver of subrogation.

17. ASSIGNMENT AND SUBLEASE. Lessee will not sell, assign, mortgage, sublet, lien, convey, encumber, and/or otherwise transfer (whether directly, indirectly, voluntarily, involuntarily, or by operation of law) all or any part of Lessee's interest in this Agreement and/or in the Site (collectively, "Transfer") without Lessor's prior written consent. Notwithstanding anything to the contrary set forth in this Agreement, Lessee shall have the right to assign or transfer its interest in this Agreement to any affiliate of Lessee or

subsidiary of Lessee's ultimate parent, without Lessor's consent but with written notice to Lessor. Upon any approved Transfer, (a) the terms and conditions of this Agreement will in no way be deemed to have been waived or modified, (b) consent will not be deemed consent to any further Transfer, (c) the acceptance of Rent by Lessor from any other person will not be deemed to be a waiver by Lessor of any provision of this Agreement, and (d) no Transfer relating to this Agreement, whether with or without Lessor's consent, will modify, relieve, or eliminate any liability or obligations Lessee or any guarantor of this Agreement may have under this Agreement. Any Transfer which does not comply with this Agreement will be void and will constitute a breach of this Agreement.

17.1 Parties recognize Lessee will sublet or sublease all or a portion of the Site for the purposes outlined in Section A, subsections 5 and 6 above. Parties further recognize Lessee's intent to sublet or sublease all or a portion of the Site to a third party(s) for the purpose(s) of constructing and/or operating individual shelter units, supportive structures, recreational and vehicle camping, congregate shelter space, and/or other shelter options to provide housing options. Lessor consents to Lessee's sublet or sublease for the purpose(s) contained in Section B.17.1 of this Agreement.

18. DEFAULT. Each of the following will constitute an "Event of Default" and a breach of this Agreement:

18.1 Failure of Lessee to pay taxes or assessments as applicable, utilities or any other charge. If Lessor is notified of any such amounts related to the Site or Lessee's operations specific to the Site, said amounts must be paid by Lessee within ten (10) business days after written notice from Lessor.

18.2 Failure of Lessee to perform or comply with any term, condition, and/or covenant or fulfill any obligation of the Agreement (other than the payment of rent or other charge, cost, and/or expense) within thirty (30) days after written notice is received by Lessee from Lessor specifying the nature of the default with reasonable particularity. If the failure is in such a nature that it cannot be completely remedied within the thirty (30) day period, the failure will not be a default if Lessee begins correction of the failure within the thirty (30) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable, so long as a full cure of said default is made within ninety (90) days of the original written notice.

18.3 Attachment, execution, levy, and/or other seizure by legal process of any right or interest of Lessee under this Agreement if not released within thirty (30) days.

18.4 Lessee becomes insolvent within the meaning of the United States Bankruptcy Code, as amended from time to time; an assignment by Lessee for the benefit of creditors; the filing by Lessee of a voluntary petition in bankruptcy; an adjudication that Lessee is bankrupt or the appointment of a receiver of the properties of Lessee; the filing of any involuntary petition of bankruptcy and failure of Lessee to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of Lessee to secure discharge of the attachment or release of the levy of execution within ten (10) days.

## 19. REMEDIES ON DEFAULT.

19.1 Upon the happening of an Event of Default, the Agreement may be terminated at the option of the Lessor or Lessee by notice in writing to Lessee or Lessor. The notice may be given at any time after any grace period for default given under Section B.20. All of Lessee's rights in relation to the Site and in all improvements on the Site will terminate as of the date of termination and/or expiration. Promptly after such notice, unless agreed upon by the Parties in writing, Lessee will surrender and vacate the Site and all improvements in good condition. Lessor may reenter and take possession of the Site and of all improvements and eject some or all parties in possession except any sub-lessee qualifying under any non-disturbance agreement by Lessor. Lessor and Lessee will have all rights and remedies available to Lessor and Lessee under this Agreement, at law, and in equity. Termination under this Section will not relieve Lessee from the payment of any sum then due to Lessor or from any claim for damages previously accrued or then accruing against Lessee. Termination under this Section will not relieve Lessor from the payment of any sum then due to Lessee or from any claim for damages previously accrued or then accruing against Lessor. If the Site is abandoned by Lessee in connection with a default, termination shall be automatic and without notice.

19.2 In the event Lessor terminates this Lease, the Lessor, or those having the Lessor's estate in the Site, lawfully at its option, may enter into and upon said demised Site and every part thereof, and repossess the same of Lessor's former estate, and expel said Lessee and those claiming by and through or under Lessee, and remove Lessee's effects at Lessee's expense, forcibly if necessary, and store the same, without being deemed guilty of trespass and without prejudice to any remedy which otherwise might be used for arrears of rent or preceding breach of covenant. If Lessor terminates the Agreement, Lessor will be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of this Agreement, and in addition to any other damages recoverable by Lessor, the reasonable costs of reentry and reletting including, without limitation, the cost of any clean-up, refurbishing, removal of Lessee's property and fixtures, and/or any other expense occasioned by Lessee's failure to quit the Site upon termination and to leave the Site in the required condition, including, without limitation, any remodeling costs, attorney fees, court costs, broker commissions, and advertising costs.

19.3 The foregoing remedies shall be in addition to, and shall not exclude, any other remedy available to Lessor under applicable law.

## 20. TERMINATION AND SURRENDER.

20.1 Upon expiration, abandonment, termination, revocation or cancellation of this Agreement, the Lessee shall surrender the Site to Lessor in the same condition as the Site was on the date of possession, except, that nothing in this Agreement shall be construed as to relieve Lessee of Lessee's affirmative obligation to surrender said Site in a condition which complies with all Legal Requirements. Upon Lessor's written approval, Lessee may leave Site improvements authorized by any land use permit. Lessee's obligation to observe and perform this covenant shall survive the expiration or the termination of the Agreement.

20.2 Termination on Default. In the event of a default, the Agreement may be terminated at the option of the non-defaulting Party by notice in writing to the other(s). The non-defaulting Party(s) shall be entitled to any remedies available to that Party under applicable law.

20.3 Termination (Convenience) of Agreement. It is the intent of the Parties hereto that the Site shall be used during said term as outlined in Section A. Notwithstanding this intent, Parties have the right to terminate this Agreement at any time upon giving the other Parties one hundred eighty (180) days written notice and in accordance with Section B.22 of this Agreement.

21. PERSONAL PROPERTY.

21.1 All personal property placed upon the leased Site during the term of this Agreement by Lessee shall remain the property of Lessee except as otherwise provided herein.

21.2 Unless agreed upon in writing by the Parties, upon abandonment, expiration, termination, revocation, or cancellation of this Agreement, Lessee shall remove from the Site all site improvements and personal property of Lessee on or prior to the date of such termination. If Lessee fails to remove all or part of such personal property on the expiration or termination of this Agreement then all such personal property shall become the property of Lessor.

22. NOTICES. Any notice by Lessee to Lessor or Lessor to Lessee must be mailed first class by the United States Postal Service (USPS), postage prepaid, addressed to the other at the address given below or at such other address as either may designate by written notice. Notice shall be deemed effective three (3) calendar days following posting at a USPS location as herein described.

LESSOR:  
Deschutes County  
Attention: Property Manager  
P.O. Box 6005  
Bend, Oregon 97708-6005

Physical: 14 NW Kearney  
Bend OR 97703  
541-385-1414 Office  
541-317-3168 Fax  
Kristie.Bollinger@deschutes.org

LESSEE:  
City of Redmond  
Attn: City Manager  
411 SW 9<sup>th</sup> Street  
Redmond, Oregon 97753

541-923-7710 Office  
Admin@RedmondOregon.gov

23. NONWAIVER. Waiver by either party of strict performance of any provision of this Agreement shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

24. PARTNERSHIP. Lessor is not by virtue of this Agreement a partner or joint venture with Lessee in connection with activities carried on under this Agreement, and shall have no obligation with respect to Lessee's debts or any other liabilities of each and every nature.

25. LESSEE NOT AN AGENT OF LESSOR. It is agreed by and between the Parties that Lessee is not carrying out a function on behalf of the Lessor, and that Lessor does not have the right of direction or control of Lessee's operation under this Agreement or to exercise any control over the activities of Lessee.
26. LAND USE PERMIT. This Agreement does not constitute a land use permit, nor does acceptance of this Agreement by Lessor constitute approval of any legislative or quasi-judicial action required as a condition precedent to use of the land for the intended purpose.
27. LESSOR'S RIGHT TO CURE DEFAULTS. If Lessee fails to perform any obligations under this Agreement, Lessor shall have the option, but not the obligation, to do so after thirty (30) days' written notice to the Lessee. All of Lessor's actual and reasonable expenditures to correct the default shall be reimbursed by Lessee on demand with interest at the rate of nine percent (9%) per annum from the date of expenditure by Lessor. In the event that Lessee, upon using Lessee's best efforts, is unable to obtain all required land use permits, Lessee may terminate this Agreement upon written notice to Lessor. Lessee shall remain liable to Lessor following termination for all unpaid lease payments, charges and damages due prior to termination and any damages, expenses, costs or losses suffered by Lessor due to Lessee's termination of this Agreement.
28. NON-DISCRIMINATION: No person shall be subject to discrimination in the receipt of any services or benefits made possible by, or resulting from this Agreement on the grounds of sex, race, color, religion, creed, marital status, age, national origin, or disability. Any violation of this provision may be considered a material breach of this Agreement and grounds for termination by Lessor.
29. TIME IS OF THE ESSENCE. Time is of the essence of each and every provision of this Agreement.
30. SEVERABILITY. The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be void, invalid or unenforceable, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be void, invalid or unenforceable.
31. AUTHORITY. Lessee covenants that it possesses the legal authority to bind its principals to the terms, provisions and obligations contained within this Agreement. If it is determined that Lessee does not have authority to enter into this Agreement, Lessor may terminate this Agreement by providing written notice to Lessee.
32. MEDIATION and ARBITRATION.

32.1 Mediation. Before any party to this Agreement initiates Arbitration and/or litigation in Circuit Court, the parties must first attempt non-binding mediation. The parties shall split the cost of the mediator. If the parties are unable to agree on selection of the mediator, then the Director at Central Oregon Mediation shall choose. The mediation shall last no more than four (4) hours in duration.

32.2 Disputes for Arbitration. If any dispute arises between the Parties and the dispute cannot be resolved, the Parties shall submit the same to binding arbitration. If the Parties are unable to agree upon an arbitrator, then either party may apply to the presiding judge of Deschutes County to appoint the required arbitrator.

32.3 Procedure for Arbitration. The arbitration shall proceed according to the Oregon statutes governing arbitration, and the award of the arbitrator shall have the effect therein provided. The arbitration shall take place in Deschutes County. Common costs of the arbitration shall be shared equally by the Parties, but each Party shall pay its own attorney fees incurred in connection with the arbitration.

33. ENTIRE AGREEMENT. This Agreement and attached Exhibits, if any, constitute the entire agreement between the Parties concerning the subject matter of the Agreement and supersede any and all prior or contemporaneous negotiations and/or agreements between the Parties, whether written or oral, concerning the subject matter of this Agreement which are not fully expressed herein. This Agreement may not be modified or amended except by a writing signed by all Parties to this Agreement.

34. LESSOR DEFAULT. No act or omission of Lessor will be considered a default under this Agreement until Lessor has received thirty (30) days' prior written notice from Lessee specifying the nature of the default with reasonable particularity. Commencing from Lessor's receipt of such default notice, Lessor will have thirty (30) days to cure or remedy the default before Lessor will be deemed in default of this Agreement; provided, however, that if the default is of such a nature that it cannot be completely remedied or cured within the twenty-day cure period, there will not be a default by Lessor under this Agreement if Lessor begins correction of the default within the thirty-day cure period and thereafter proceeds with reasonable diligence to effect the remedy as soon as practical.

35. INTERPRETATION. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

36. SEVERABILITY/SURVIVAL. If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of liability, indemnity and conflicts of interest shall survive the termination or expiration of this Agreement for any cause.

[SIGNATURE PAGES FOLLOW]

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be effective for all purposes as of the Effective Date.

**LESSOR:**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

\_\_\_\_\_  
ANTHONY DEBONE, Chair

\_\_\_\_\_  
PATTI ADAIR, Vice-Chair

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
PHIL CHANG, Commissioner

STATE OF OREGON                    )  
  ) ss.  
County of Deschutes                )

Before me, a Notary Public, personally appeared ANTHONY DEBONE, PATTI ADAIR, and PHIL CHANG, the above-named Board of County Commissioners of Deschutes County, Oregon and acknowledged the foregoing instrument on behalf of Deschutes County, Oregon.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Notary Public for Oregon   My Commission Expires: \_\_\_\_\_



**LESSEE:**

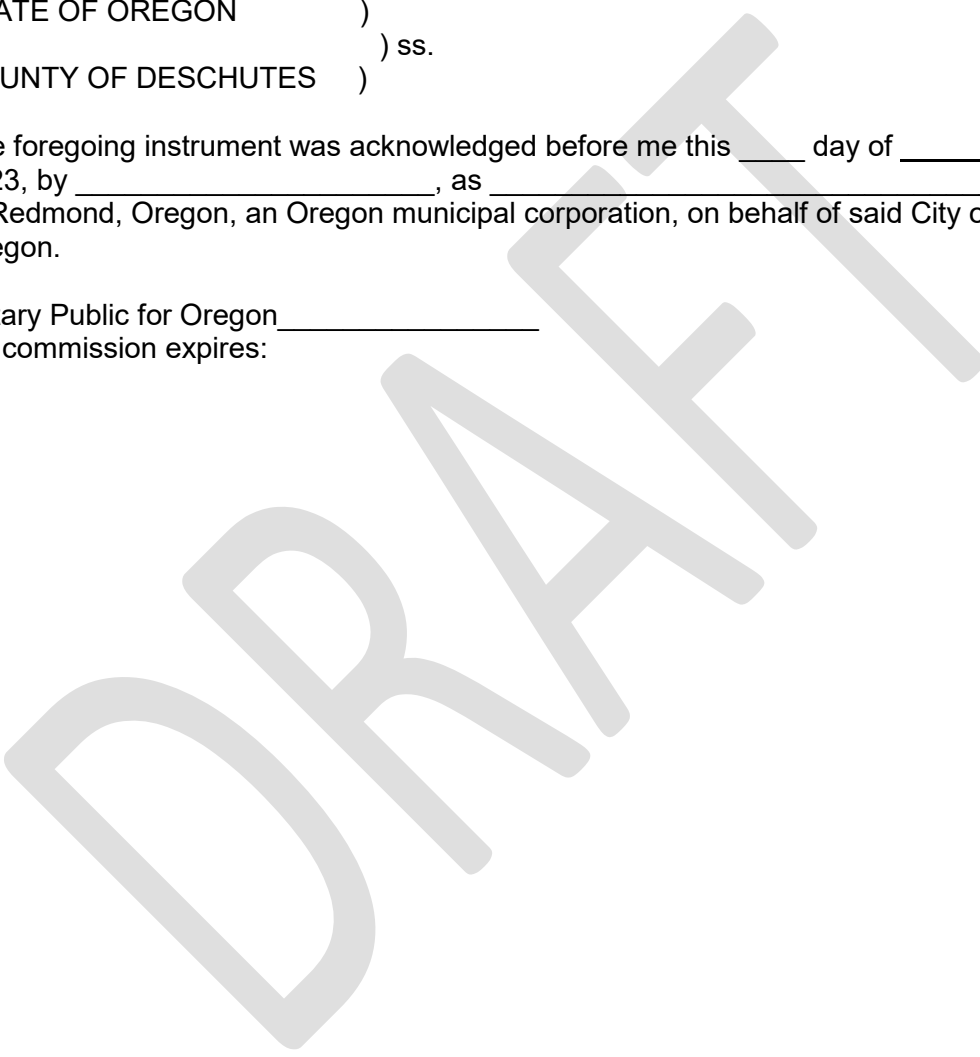
DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023 City of Redmond, Oregon

\_\_\_\_\_  
Keith Witcosky, City Manager

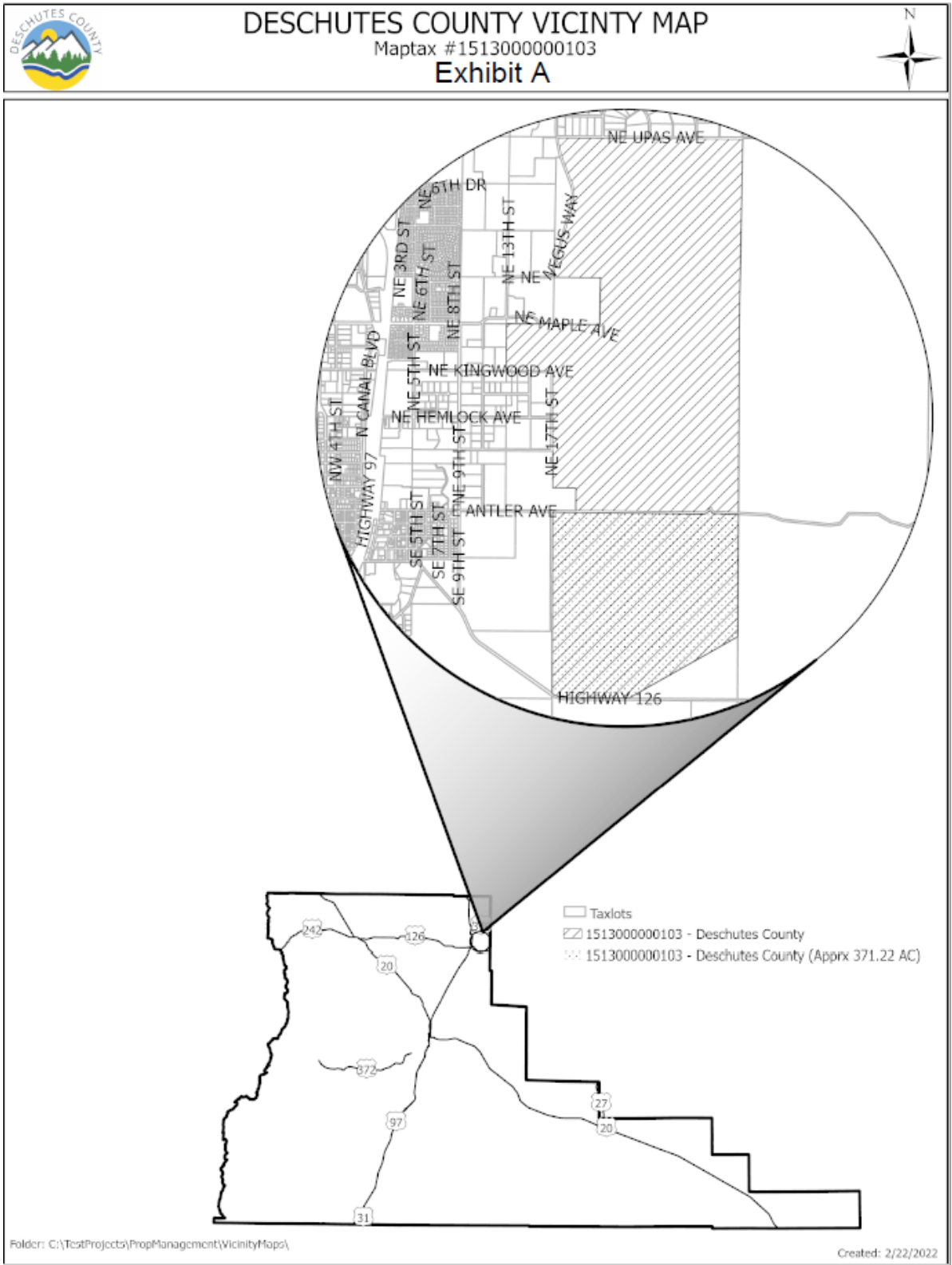
STATE OF OREGON            )  
  ) ss.  
COUNTY OF DESCHUTES    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, as \_\_\_\_\_ of City of Redmond, Oregon, an Oregon municipal corporation, on behalf of said City of Redmond, Oregon.

Notary Public for Oregon \_\_\_\_\_  
My commission expires: \_\_\_\_\_



**EXHIBIT A**  
Overall TaxLot



**EXHIBIT B1**  
Site Description

**EXHIBIT B1**

A portion of Parcel 2 of Partition Plat 2022-17, located in the Southwest One-Quarter of the Southwest One-Quarter of Section 14, Township 15 South, Range 13 East, Willamette Meridian, City of Redmond, Deschutes County, Oregon, being more particularly described as follows:

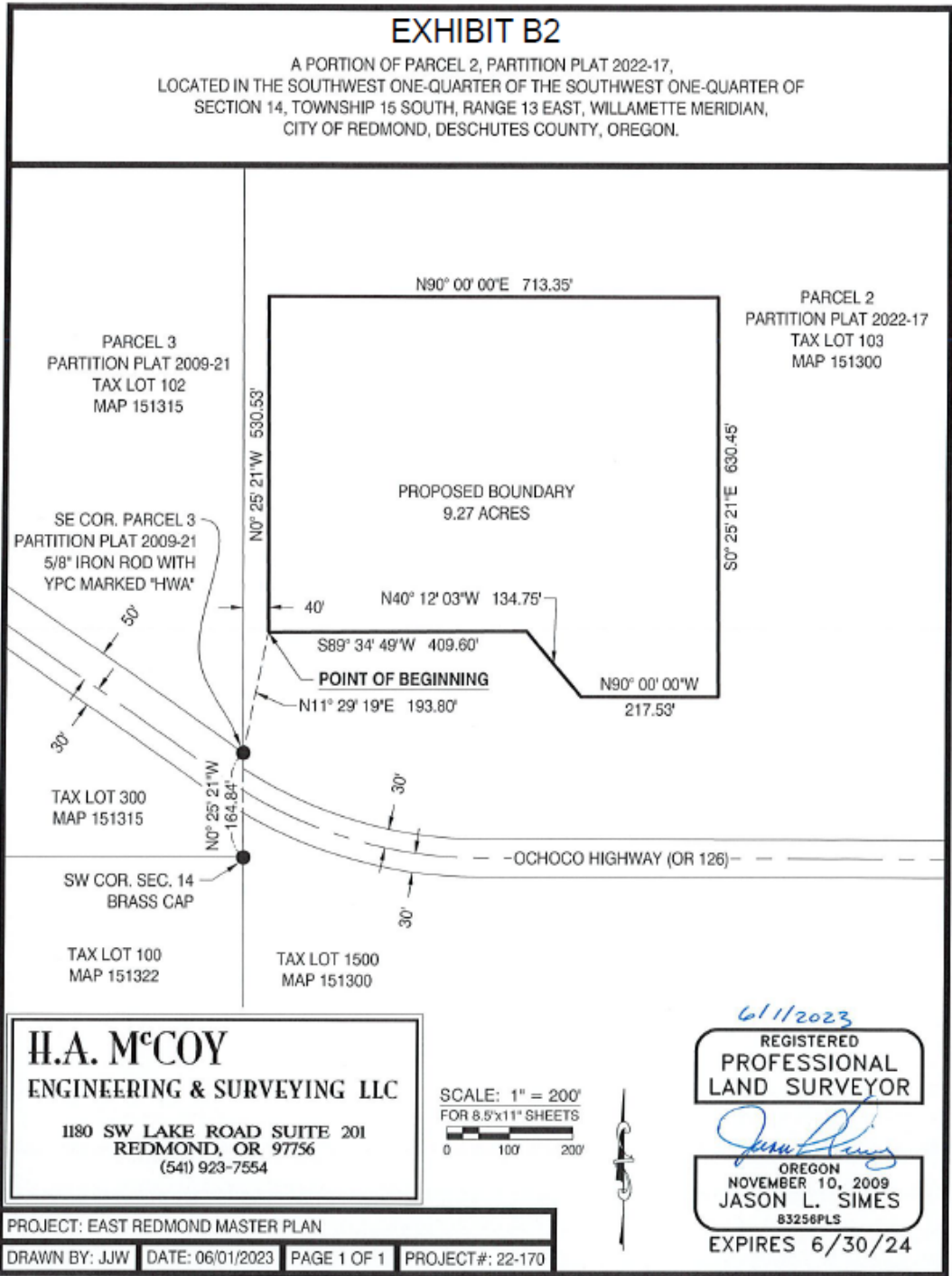
Commencing at a brass cap at the Southwest corner of said Section 14; Thence along the West line of said Section 14 North 0°25'21" West 164.84 feet to a 5/8" iron rod with a yellow plastic cap marked "HWA" at the Southeast corner of Parcel 3 of Partition Plat 2009-21 and the West line of said Parcel 2 of Partition Plat 2022-17; Thence North 11°29'19" East 193.80 feet to the **TRUE POINT OF BEGINNING**; Thence parallel with and 40 feet Easterly of said West line of Section 14 North 0°25'21" West 530.53 feet; Thence North 90°00'00" East 713.35 feet; Thence South 0°25'21" East 630.45 feet; Thence North 90°00'00" West 217.53 feet; Thence North 40°12'03" West 134.75 feet; Thence South 89°34'49" West 409.60 feet to the **TRUE POINT OF BEGINNING**.

The Basis of Bearings is North 0°25'21" West along the West line of Section 14.

The above described land contains 9.27 acres, more or less.



### EXHIBIT B2 Site Depiction



**EXHIBIT C1**  
Site Description

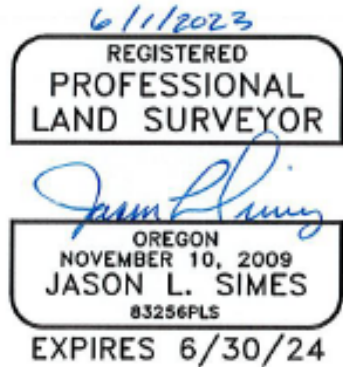
**EXHIBIT C1**

A portion of Parcel 2 of Partition Plat 2022-17, located in the Southwest One-Quarter of the Southwest One-Quarter of Section 14, Township 15 South, Range 13 East, Willamette Meridian, City of Redmond, Deschutes County, Oregon, being more particularly described as follows:

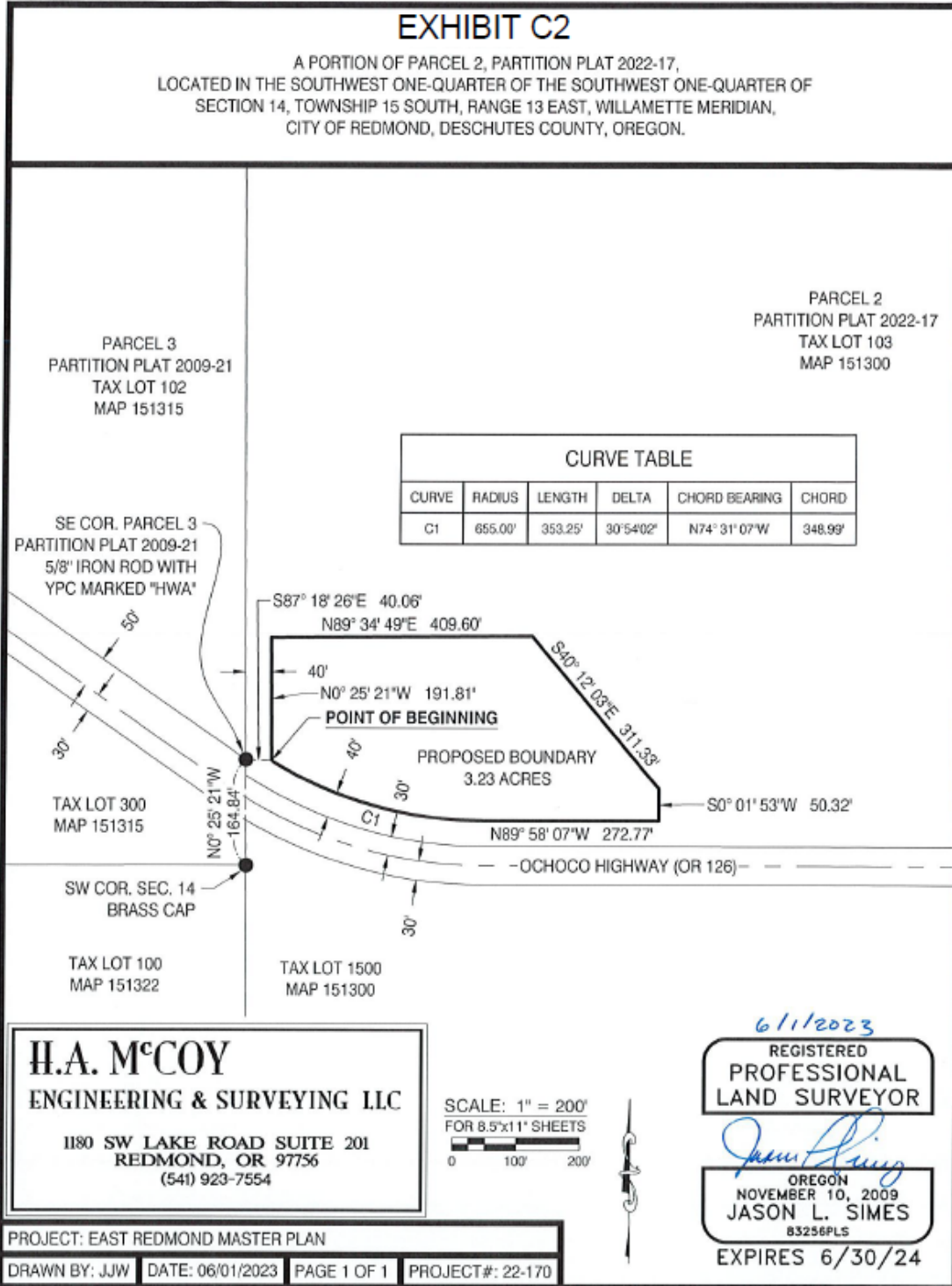
Commencing at a brass cap at the Southwest corner of said Section 14; Thence along the West line of said Section 14 North 0°25'21" West 164.84 feet to a 5/8" iron rod with a yellow plastic cap marked "HWA" at the Southeast corner of Parcel 3 of Partition Plat 2009-21 and the West line of said Parcel 2 of Partition Plat 2022-17; Thence South 87°18'26" East 40.06 feet to the **TRUE POINT OF BEGINNING**; Thence parallel with and 40 feet Easterly of said West line of Section 14 North 0°25'21" West 191.81 feet; Thence North 89°34'49" East 409.60 feet; Thence South 40°12'03" East 311.33 feet; Thence South 0°01'53" West 50.32 feet; Thence parallel with and 40 feet Northerly of the North right of way line of the Ochoco Highway the following courses: North 89°58'07" West 272.77 feet; On a curve to the right with a radius of 655.00 feet, a length of 353.25 feet, a central angle of 30°54'02", and a chord that bears North 74°31'07" West 348.99 feet to the **TRUE POINT OF BEGINNING**.

The Basis of Bearings is North 0°25'21" West along the West line of Section 14.

The above described land contains 3.23 acres, more or less.



**EXHIBIT C2**  
Site Depiction





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** July 26, 2023

**SUBJECT:** Bend Downtown Campus Parking Project

**RECOMMENDED MOTION:**

Move to direct staff to proceed with Phase 2 of the Downtown Bend Campus Parking Project as presented.

**BACKGROUND AND POLICY IMPLICATIONS:**

Staff and project consultants will report to the Board on the proposed projects and updated work plan that have developed out of the preliminary parking analysis conducted during Phase 1 of the project. Those preliminary findings were presented to the Board in December of 2022.

Based on Board direction and in response to the preliminary parking analysis prepared as part of Phase 1, the project team further developed four related tasks for Phase 2 of the project:

1. Campus Signage
2. Parking Management
3. Accessible Routes and Parking Improvements
4. Campus Traffic Demand Management (TDM) Options and Strategies

A full scope of work for each task for Phase 2, has now been developed including four specific conceptual plans for Task 3. The team will present these proposed tasks and conceptual plans.

Through the FY 24 budget process, funds were allocated for the downtown parking improvement project. The team seeks Board direction to proceed with the tasks outlined above as presented. If so directed, the staff will return in two weeks for approval of the full design contract.

**ATTENDANCE:**

Nicolas Speros, HHPR  
 Joe Bessman, Transight Consulting  
 Henry Alaman, Otak CPM  
 Eric Nielsen, Capital Improvement Manager  
 Lee Randall, Facilities Director

# Deschutes County Facilities

# Deschutes County

## Downtown Campus Parking Update



July 26, 2023



# Agenda



- **Phase 1: Work to Date**
- **Proposed Phase 2 Projects**
- **Next Steps**
- **Questions and Discussion**



# Phase 1: Work to Date

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# Purpose of Parking Study



## **Assess current parking demands**

How well is the campus parking serving staff and visitors?

## **Consider future campus needs**

Assess needs associated with expanded courthouse

Identify area specific constraints and opportunities



# Campus Boundary

## NORTH OF LAFAYETTE



## SOUTH OF LAFAYETTE



# Phase 1: Information Gathering

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## Step 1: Literature Review & Staff Surveys

Reviewed prior campus studies and conducted outreach to County staff to understand current trends and needs



## Step 2: Parking Inventories

Reviewed and inventoried the current County parking systems and configuration and determined available parking supply



## Step 3: Drone Surveys

Obtained drone surveys of the campus throughout a typical midweek day and assessed current parking demands



# Recap: Phase 1 Findings

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- **Current campus parking supply with better internal efficiency measures can support planned courthouse expansion**
  - Parking allocations should be adjusted to reflect campus access priorities (Visitor, Staff, Fleet)
  - Interconnect parking areas and buildings
- **Opportunities to improve campus access and wayfinding**



# Parking Summary

**Total Parking: 788**

**Off-Street Parking: 690**

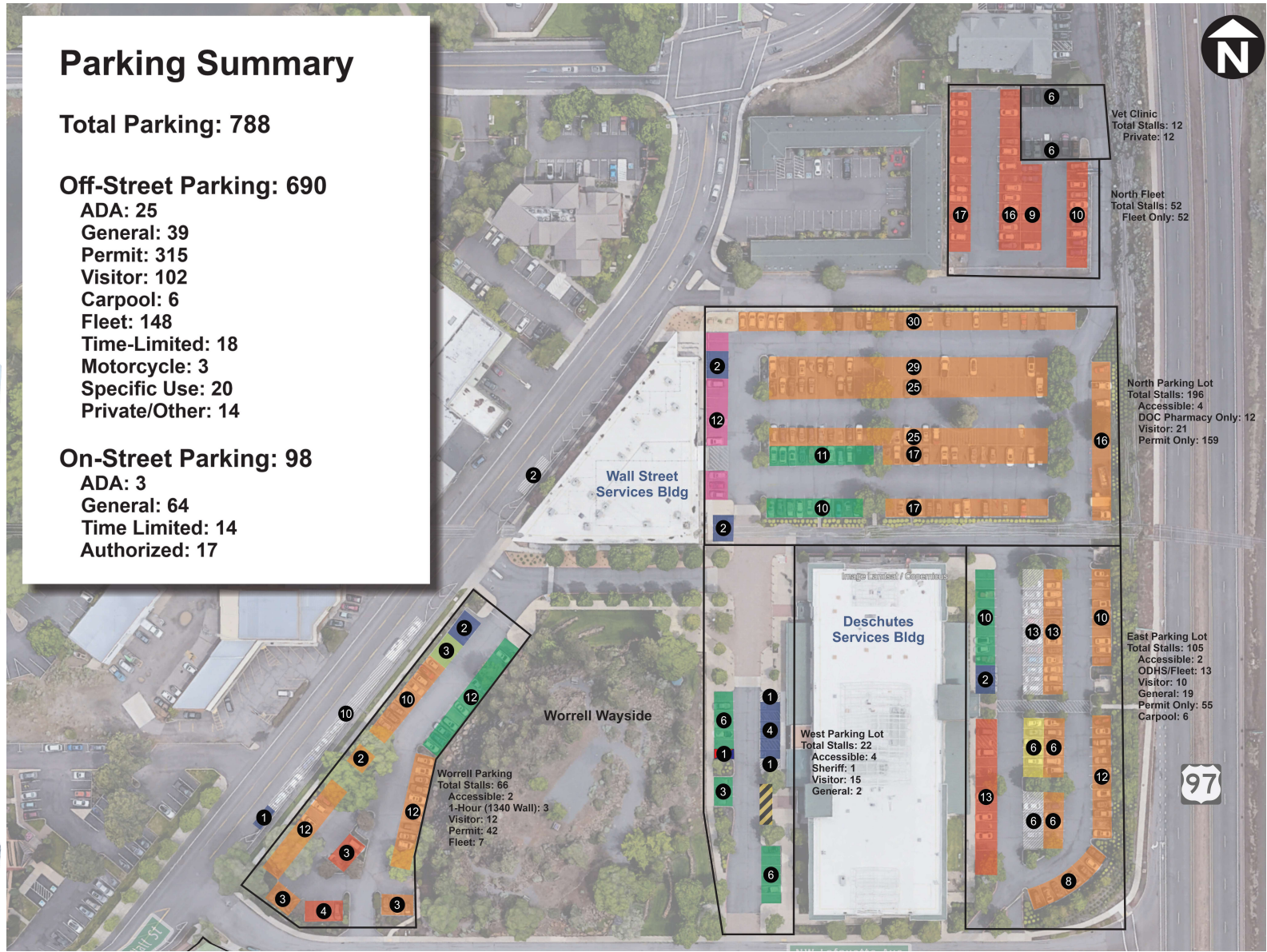
- ADA: 25
- General: 39
- Permit: 315
- Visitor: 102
- Carpool: 6
- Fleet: 148
- Time-Limited: 18
- Motorcycle: 3
- Specific Use: 20
- Private/Other: 14

**On-Street Parking: 98**

- ADA: 3
- General: 64
- Time Limited: 14
- Authorized: 17

- RESERVED PARKING
- NO PARKING CHILD WELFARE LOADING ZONE
- PATIENT PARKING ONLY
- Visitor Parking Only
- CARPOOL PARKING
- Reserved Parking Only
- 1340 NW Wall Street 1 Hour Parking Only
- Permit Parking

- Maintenance Vehicle Parking Only
- Veterans' Parking Only
- FREE 2 HOUR CUSTOMER PARKING
- 15 MIN LOADING ONLY
- Loading Zone
- NO PARKING 6:00 AM TO 6:00 PM EXCEPT AUTHORIZED EXCEPT WEEKENDS



# Recap: Phase 1 Next Steps

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- 1. Conduct campus signage review to ensure messaging is clear and intuitive**
- 2. Ensure accessible routes and wayfinding are provided for staff and visitors**
- 3. Parking management recommendations to ensure parking is prioritized for campus visitors**
- 4. Explore Transportation Demand Management options and strategies (multimodal, remote, etc.)**





# Phase 2: Proposed Project Plan

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# Phase 2 Task Summary:



1. Campus Signage
2. Parking Management
3. Accessible Routes and Parking Improvements
4. Campus Traffic Demand Management (TDM) Options and Strategies



# Task 1: Campus Signage

- **Reduce categories of parking signage to increase parking flexibility**
  - Simplify the parking categories (14) and integrate recommendations with parking management and County policy.
  - Integrate campus wayfinding signage with parking signage.
  - Provide proposed revised parking policy to BOCC for review.
- **Deliverable: Provide recommendation for campus parking signage**



## Task 2 : Parking Management

- **Prioritize parking for 1) visitors, 2) employees, and then 3) fleet vehicles per current policies**
  - Optimize use of the 148 dedicated fleet stalls
  - Consider designated fleet areas to support future alternative fuel technologies
  - Provide revised parking policy for BOCC consideration
- **Deliverable: Provide recommendations for parking management strategies**



## Task 3: Accessible Routes & Parking Improvements

- **Improve the connectivity, safety, and access between the parking areas and building entrances.**
- **Projects identified are:**
  1. 221 Lafayette Avenue Parking Lot
  2. Wall Street Parking Lot
  3. Deschutes Services Building Accessible Routes
  4. Mike Maier Building Parking Lot
- **Deliverable: Proceed to design and construction for approved projects**

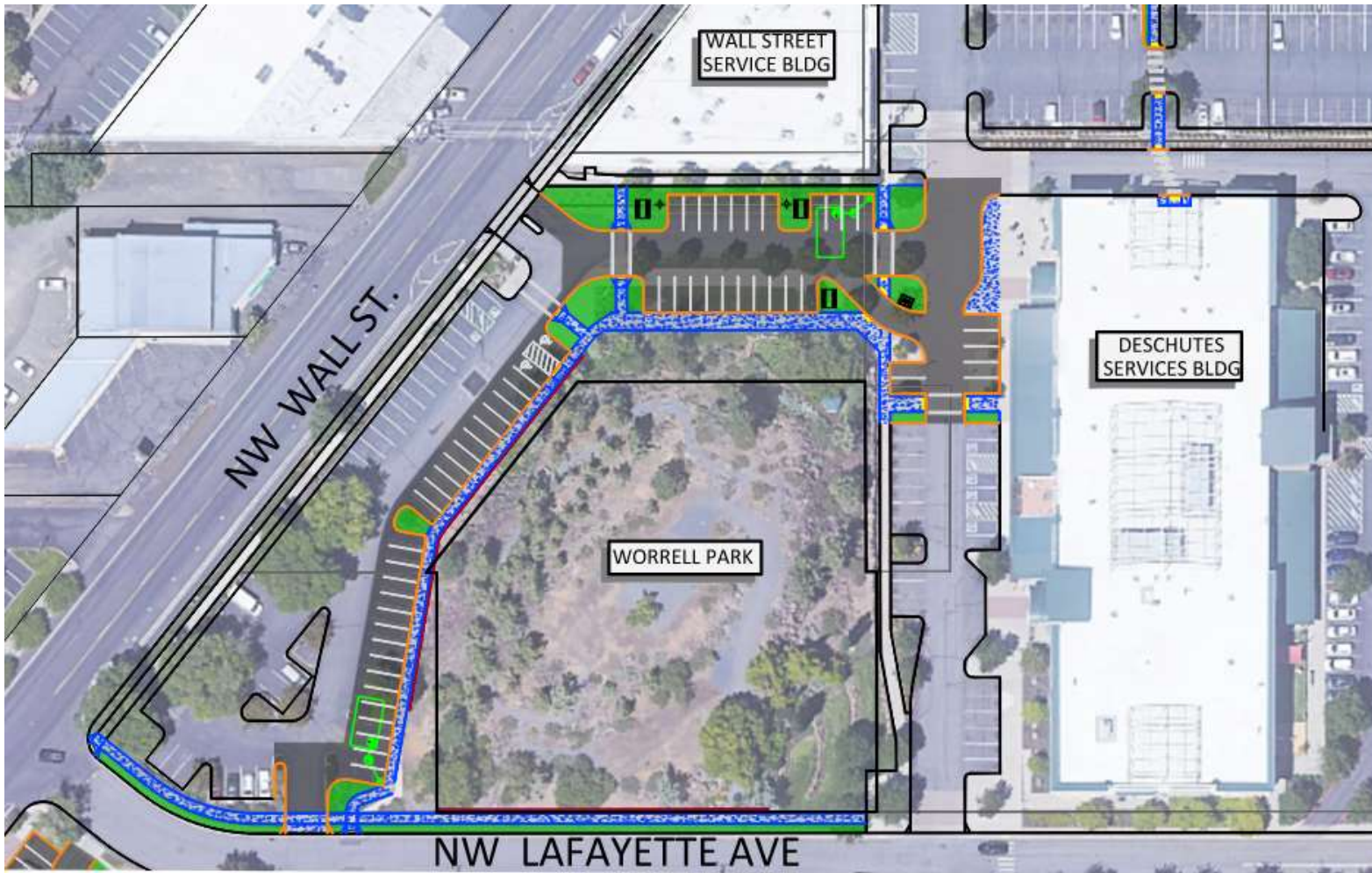




## 221 Lafayette Avenue Parking Lot

- Support courthouse expansion construction with additional laydown area and parking
- Future staff or fleet parking





# Wall Street Parking Lot

- Support courthouse expansion construction with additional parking
- Improve visitor access to services
- Provide pedestrian safety and accessibility improvements at Lafayette Avenue



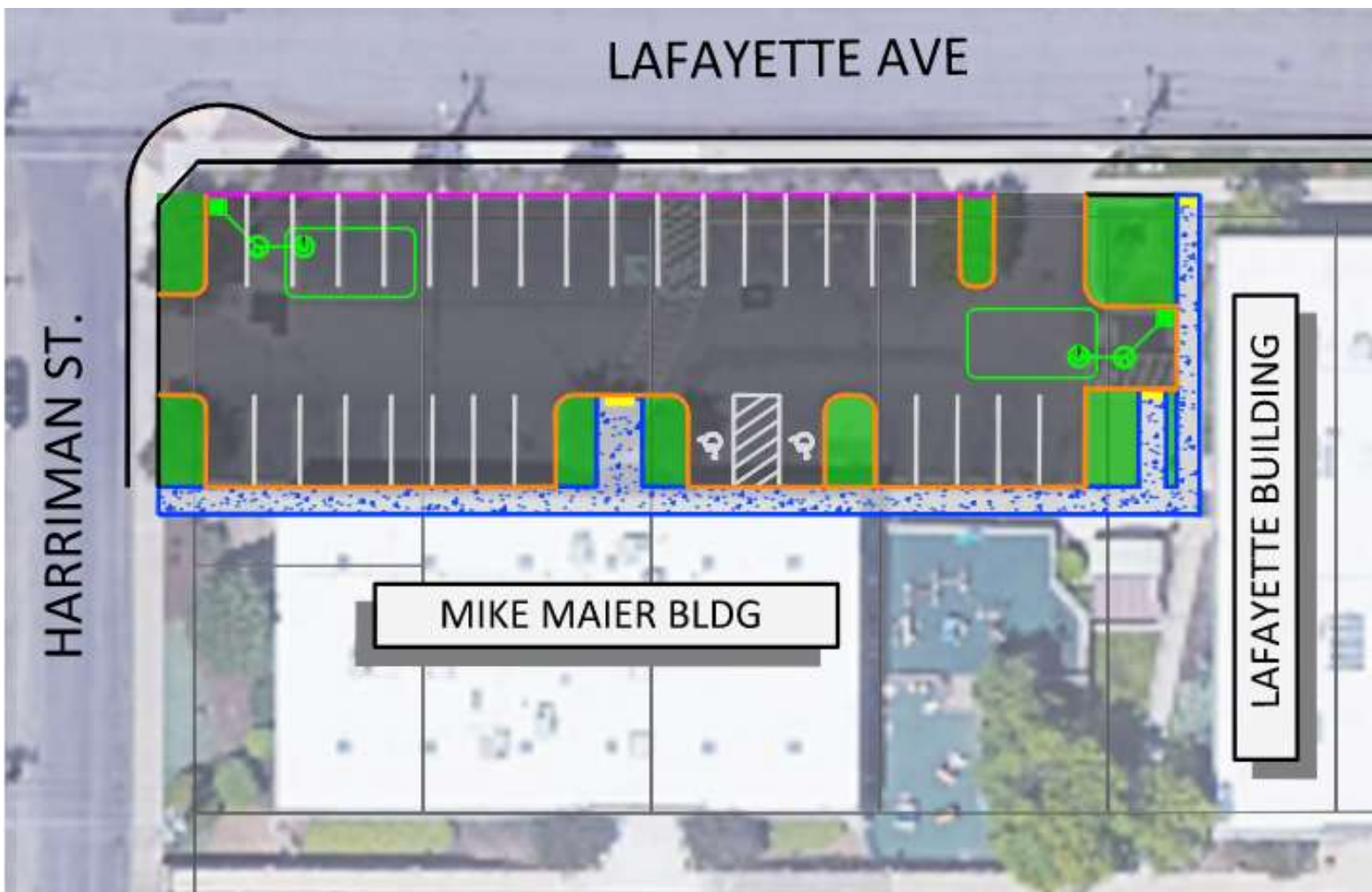


# Deschutes Services Building Parking Lot

- Improve accessibility to north DSB lot
- Extend sidewalks along Norton Avenue
- Connect DSB to fleet lot







## Mike Maier Building Parking Lot

- Improve accessibility
- Replace storm water infrastructure
- Replace aging asphalt and concrete



## Task 3: Summary (continued)

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- **Two proposed projects budgeted for FY 24:**
  1. 221 Lafayette Avenue Parking Lot – additional parking
  2. Wall Street Parking Lot – safety, accessibility and circulation improvements
- **Support the courthouse expansion and improve safety and accessibility**
- **Deliverable:** develop projects from concept plans to detailed design, permitting and construction documents.



## Task 4 : Campus TDM Options and Strategies

- **Explore options to improve campus access:**
  - Review bicycle parking, transit access, and other strategies that could reduce vehicular parking demands within the campus.
- **Coordinate with City of Bend and Cascades East Transit**
- **Deliverable:** Summarize recommendations for BOCC consideration to improve multimodal campus access



# Phase 2 Deliverables Summary:

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- 1. Provide recommendation for campus parking signage**
- 2. Provide recommendations for parking management strategies**
- 3. Accessible routes and parking improvements: proceed to design and construction for approved projects**
- 4. Provide recommendations to improve multimodal campus access**



# Next Steps:

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- **Return to BOCC in two weeks to execute contract amendment with HHPR**
- **Develop recommendations for signage, parking management and TDM strategies**
- **Continue project development from concepts through construction for accessibility and safety improvements**
- **Communicate with downtown Bend partners and stakeholders**



# Questions?

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## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** July 26, 2023

**SUBJECT:** Subrecipient Agreement with Central Oregon Intergovernmental Council for Emergency Housing Funds from Governor's Executive Order 23-02

**RECOMMENDED MOTION:**

Move approval of Chair signature of Document No. 2023-690, a subrecipient agreement with the Central Oregon Intergovernmental Council for State emergency housing funds.

**BACKGROUND AND POLICY IMPLICATIONS:**

Adult P&P received approval from the Board on May 17, 2023 to apply for funding made possible through Oregon Emergency Order 23-02 to create short-term shelter and longer-term housing options through public-private partnership for up to 24 individuals within this population annually. Adult P&P's project proposal was approved on May 31, 2023. We have received COIC's proposed Intergovernmental Agreement (Doc 2023-690) and seek Board approval and signature.

Adult P&P was awarded \$ 1,078,518 to purchase through a private provider a multi-purpose, 5+ bedroom property in Deschutes County to both rehouse and to shelter individuals who have conditions that restrict their proximity to minors and/or are required to register as a sexual offender. Funds would be primarily passed through to the private provider for one-time costs, such as acquisition of the property, renovations, start-up costs, etc.

Adult P&P will select a provider through a competitive Request for Qualified Applicants process, and provide assistance to the provider in locating an appropriate and acceptable property, and developing program protocols, criteria and requirements. The provider would purchase the property and manage the program with an on-site housing manager. The provider will hold the deed and title, be responsible for maintenance and repair, and may utilize equity from the purchase for operational costs or property maintenance. Clients served through the housing portion of the program will pay rent directly to the provider. Adult P&P will provide administrative support, manage the pass-through grant

funds, and provide support to the provider with P&P Officer home visits at the property and case management with the housing manager.

Many challenging contingencies and requirements will need to be met for the program to succeed. Opportunities for public input may be required and/or taken given the nature of the population to be served. Time is of the essence\*. At this time, funding must be spent no later than January 10, 2024.

**BUDGET IMPACTS:**

\$1,078,518 grant. Majority of funds will be passed through to a community organization/provider.

**ATTENDANCE:**

Trevor Stephens, Community Justice Business Manager  
Tanner Wark, Deputy Director Deschutes County Adult Parole and Probation  
Nicoli Brower, Administrative Analyst Adult Parole and Probation





## ADULT PAROLE & PROBATION

### **Proposal for Public-Private Partnership for Shelter and Housing P&P Clients Document # 2023-690 IGA with COIC for Emergency Housing Grant**

#### **Summary**

Adult Parole & Probation (Adult P&P) consistently supervises 25-30 men who do not qualify for high barrier, treatment and other subsidized housing or shelter supports due to the nature of their supervision conditions, which either prohibit their proximity to minors, or require them to register as sexual offenders. This population experiences chronic and acute homelessness. This in turn exacerbates their real and perceived public safety risk as it makes clients hard for P&P Officers to locate and support. Clients also tend to be perpetually reliant on expensive emergency public safety and health resources.

In the past Adult P&P has accessed county- or privately-provided facilities for this priority public safety population, but has had no dedicated facility since 2019. Instead P&P Officers rely on expensive short-term motel stays for individuals being released from prison without alternative approved housing. When motel stays become prohibitively expensive, clients remain homeless and staff constantly troubleshoot emergencies and risks therein, and work with varying degrees of success with local shelter providers to create safety protocols for when this population has incidental contact with co-located families and people under 18.

Seeking options, Adult P&P received approval from the Board on May 17, 2023 to apply for funding made possible through Oregon Emergency Order 23-02 to create short-term shelter and longer-term housing options through public-private partnership for up to 24 individuals within this population annually. **Adult P&P's project proposal was approved on May 31, 2023.** We have received COIC's proposed Intergovernmental Agreement (Doc 2023-690) and seek Board input at this stage of program development. Many challenging contingencies and requirements will need to be met for the program to succeed. Opportunities for public input may be required and/or taken given the nature of the population to be served. Time is of the essence\*. At this time, funding must be spent no later than January 10, 2024.

#### **Program Scope and Expected Contingencies and Requirements**

Adult P&P was awarded \$ 1,078,518 to purchase through a private provider a multi-purpose, 5+ bedroom property in Deschutes County to both rehouse and to shelter individuals who have conditions that restrict their proximity to minors and/or are required to register as a sexual offender. Funds would be primarily passed through to the private provider for one-time costs, such as acquisition of the property, renovations, start-up costs, etc.

Adult P&P will select a provider through a competitive Request for Qualified Applicants process, and provide assistance to the provider in locating an appropriate and acceptable property, and developing program protocols, criteria and requirements. The provider would purchase the property and manage the program with an on-site housing manager. The provider will hold the deed and title, be responsible for maintenance and repair, and may utilize equity from the purchase for operational costs or property maintenance. Clients served through the housing portion of the program will pay rent directly to the

provider. Adult P&P will provide administrative support, manage the pass-through grant funds, and provide support to the provider with P&P Officer home visits at the property and case management with the housing manager.

### **Contingencies and requirements**

*Private ownership.* Adult P&P envisions that EO 23-02 funding is sufficient for 100% of residential purchase as well as initial start-up and operating costs. Further, providing 100% of purchase funding should enable the provider to leverage equity to fund operational costs, as well as any rental income from housing units (rooms) within the property Adult P&P does not want the county to own or operate the unit, and outside of short-term individual client subsidy does not have existing budget to provide significant support for ongoing operations. Grant requirements require the purchased property be used for at least 10 years for the purpose of shelter and housing, creating opportunity for this to remain a long term resource for the county without requiring significant financial liability from the county.

*No new FTE.* Adult P&P will issue a Request for Qualified Applicants (RFQA), pending Board of County Commissioners approval and signature of the COIC/County IGA for this purpose, and of RFQA criteria, and support the provider in locating an appropriate facility, creating program design, and managing residents. Project funding does not include any additional county FTE, but supports existing FTE to plan and coordinate project start up July to December 2023.

*RFQA criteria* includes the grant requirement that the shelter bed aspect of the program is offered as a *low barrier option*. For the shelter program, clients must be considered for acceptance without preconditions such as sobriety, compliance with treatment plan, no pets, or agreement to participate in specific programs, activities, or classes. The program may still establish and enforce house rules which will include things like no drug or alcohol or their use on property, or violent or disruptive behavior within or around the property, etc. Clients will still need to abide by their supervision conditions. We will seek technical assistance from the grant funders to create this balance. We must also ensure adherence to Fair Housing laws and will work with legal for guidance on this.

*Unique site requirements.* The nature of the target population's criminal history and supervision requirements require strict attention and adherence to site location criteria\*\*. The Board may have additional criteria to be issued. It is possible that criteria will preclude properties located within city limits, or any clearly defined neighborhood or tract that might create public concern.

*Public concern.* In addition to site location restrictions, we anticipate the need to create structured opportunity to communicate or take comment from members of the public who may be located near any proposed property. We will follow required ORS on this topic\*\*\*. The Board may have additional criteria or requests on this matter, including notification protocols for when any public safety threat or incident or perceived threat or incident arises.

*Provider expertise in this program area.* It is imperative that Adult P&P select a qualified provider who has experience in property acquisition and services designed for supported shelter and/or housing management with individuals who are involved with community supervision. Providers also need to be experienced with data management specific to working with homeless populations. We are fortunate to have compiled a list of eight programs and/or individuals with this type of experience here in Deschutes County or with experience with this exact population in Lane and Clackamas counties. We expect to receive a healthy response to our anticipated Request for Qualified Applicants, and know that we must find a strong candidate in order to move forward with the project.

### **Appendices**

*\*Expedited timeframe.* This somewhat complex program must be expedited to meet grant requirements. This is the following timeframe we have shared with the MAC and believe is possible:

- July 2023: Adult P&P meet with Board of County Commissioners to apprise of grant award, scope of work, contingencies and requirements and expected process.
- July 2023: BOCC provides approval to move forward with grant, approves IGA with COIC and Request for Qualified Applicants (RFQA).
- August 2023: Adult P&P design and release a RFQA with 30-day timeframe.
- September 2023: County selects RFQA provider.
- November 2023: Adult P&P works with selected provider to find suitable location for property.
- November 2023: Adult P&P works with selected provider to create operations plan.
- December 2023: Selected provider purchases property.
- January 2024: First client moved into property by January 10.

\*\* ORS Sex Offender Residence Requirements

**144.641 Definitions.** As used in this section and ORS 144.642, 144.644 and 144.646:

- (1) "Dwelling" has the meaning given that term in ORS 469B.100.
- (2) "Dwelling" does not include a residential treatment facility or a halfway house.
- (3) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.
- (4) "Locations where children are the primary occupants or users" includes, but is not limited to, public and private elementary and secondary schools and licensed childcare centers.
- (5) "Sex offender" means:
  - (a) A sexually violent dangerous offender as defined in ORS 137.765; or
  - (b) A level three sex offender under ORS 163A.100 (3).
- (6) "Transitional housing" means housing intended to be occupied by a sex offender for 45 days or less immediately after release from incarceration. [2001 c.365 §1; 2005 c.576 §4; 2013 c.708 §11; 2015 c.820 §§16,23; 2017 c.442 §18; 2019 c.430 §§4,8]

**Note:** 144.641 to 144.646 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**144.642 Criteria for determining residence; Department of Corrections; rules; matrix.** (1) The Department of Corrections, in consultation with the State Board of Parole and Post-Prison Supervision and community corrections agencies, shall adopt rules establishing criteria to be considered in determining the permanent residence requirements for a sex offender released on post-prison supervision or parole. Transitional housing is not subject to permanent residence requirements. The department shall include in the rules:

- (a) A general prohibition against allowing a sex offender to reside near locations where children are the primary occupants or users;
- (b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this subsection are authorized;
- (c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS 144.102 (4)(b)(M); and
- (d) A process that allows communities and community corrections agencies that would be affected by a decision about the location of a sex offender's residence to be informed of the decision making process before the offender is released.

(2) Based upon the rules adopted under subsection (1) of this section, the department shall develop a decision matrix to be used in determining the permanent residence requirements for a sex offender. [2001 c.365 §2; 2005 c.576 §5; 2011 c.258 §3]

**Note:** See note under 144.641.

**144.644 Criteria for determining residence; State Board of Parole and Post-Prison Supervision; rules; matrix.** (1) The State Board of Parole and Post-Prison Supervision, in consultation with the Department of Corrections and community corrections agencies, shall adopt rules establishing criteria to be considered:

(a) In reviewing the proposed residence of a sex offender in a release plan under ORS 144.096 or a parole plan under ORS 144.125; and

(b) In determining the residence of a sex offender in a release plan under ORS 144.096, as a condition of post-prison supervision under ORS 144.102 or as a condition of parole under ORS 144.270.

(2) The board shall include in the rules:

(a) A general prohibition against allowing a sex offender to reside near locations where children are the primary occupants or users;

(b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this subsection are authorized;

(c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS 144.102 (4)(b)(M); and

(d) A process that allows communities and community corrections agencies that would be affected by a decision about the location of a sex offender's residence to be informed of the decision making process before the offender is released.

(3) Based upon the rules adopted under subsections (1) and (2) of this section, the board shall develop a decision matrix to be used in determining the specific residence for a sex offender. [2001 c.365 §3; 2005 c.576 §6; 2011 c.258 §4]

**Note:** See note under 144.641.

**144.646 Use of rules and matrix by community corrections agency.** When a community corrections agency reviews a proposed release plan for a sex offender, the agency shall follow the rules adopted by and utilize the decision matrix developed by the Department of Corrections under ORS 144.642 in making decisions about the permanent residence of the sex offender. [2001 c.365 §4]

**Note:** See note under 144.641.

\*\*\* Sex Offender Notification requirements and/or options from Oregon Sex Offender Registration Requirements (PDF)

### **Predatory Sex Offenders and Notification**

An agency can determine an offender to be predatory if the offender exhibits characteristics showing a tendency to victimize or injure others and has been convicted of Rape, Sodomy, Sexual Penetration, or Sexual Abuse in any degree or any attempts to commit those crimes. A risk assessment scale approved by the DOC must be used for determining whether an individual is to be classified as a predatory sex offender. Once an offender is designated as predatory, the supervising agency may notify anyone the agency deems appropriate that the offender is a predatory sex offender.

For offenders not under supervision, law enforcement may conduct community notification if the offender was:

- Designated as predatory, and notification was conducted while under supervision, and
- The offender was under a high level of supervision, just prior to termination of supervision, or a police agency determines the person is a predatory sex offender and the person was not designated predatory because he or she was not under supervision in Oregon or for any other reason

### **Public Release of Sex Offender Information**

The Oregon State Police operates a sex offender information telephone line through which the public can obtain information about specific offenders or information on offenders who live within a given area. For offenders who are on supervision for their sex crimes, the caller is referred to the supervising agency for information about the offender. A law enforcement agency may release any information necessary to protect the public from offenders who are not on supervision; victim information is not released.

**SUBRECIPIENT AGREEMENT**

This Subrecipient Agreement (this “Agreement”) by and between Central Oregon Intergovernmental Council, an Oregon entity organized under ORS Chapter 190 (“COIC”) and Deschutes County Adult Parole and Probation, a political subdivision of the State of Oregon, is entered into this 27<sup>th</sup> of June 2023 and made effective upon full execution.

**BACKGROUND**

The Parties acknowledge the following background related to this agreement:

On January 10,2023, Governor Tina Kotek issued Executive Order 23-02 (the “EO”), which declared a state of emergency due to homelessness. The EO is necessary to rapidly expanding the State’s low-barrier shelter capacity, to rehouse people experiencing unsheltered homelessness, and to prevent homelessness to the greatest extent possible. All executive state agencies are authorized, upon further direction from Governor Kotek and the Governor’s office, to take any actions authorized under the provisions set forth in ORS 401.168 through ORS 401.192. The EO took immediate effect and remains in effect until January 10, 2024, unless extended or terminated earlier by the Governor.

During the 2023 Session of the Oregon Legislature, the Housing and Community Services Department (“OHCS”) was awarded funding from House Bill 5019, subject to passage and approval. OHCS was appropriated funding for both the Biennium ending on June 30, 2023, and the Biennium beginning on July 1, 2023. OHCS will grant funding from this bill through a variety of agreements to further the objectives of Executive Order 23-02, including by granting funds under this Agreement.

Further details on the state of emergency in Oregon can be found at:

<https://www.oregon.gov/oem/Pages/housing-emergency-executive-orders.aspx>  
<https://www.coic.org/eo2302/>

**AGREEMENT**

By execution of this Agreement, Subrecipient agrees to perform the Services (as defined in Schedule 1.1, *aka* Scope of Work) in accordance with the terms and conditions contained in this Agreement.

WHEREAS COIC has applied for and received funds from the State of Oregon, acting by and through its Housing and Community Services Department, under EO 23-02; and

WHEREAS COIC wishes to engage the Subrecipient to assist in utilizing such funds.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**1. Services**

1.1 Subrecipient shall provide all services and materials as specified in Schedule 1.1 (and any other necessary or appropriate tasks and/or services customarily provided by subrecipient in connection with its performance of those tasks and/or services as described in Schedule 1.1) (collectively, the “services”).

- 1.2 Related to its obligations stated throughout this Section 1, Subrecipient agrees to be bound to timely achieve the goals assigned to it that are stated in the agreement between the State of Oregon and COIC, attached hereto as Exhibit C.
- 1.3 **Standards.** Subrecipient will (i) consult with and advise COIC on all matters concerning the Services reasonably requested by COIC, (ii) devote such time and attention to the performance appropriate for the expeditious and prudent performance of the Services in accordance with Section 1.1, (iii) perform the Services to the best of Subrecipients ability, and (iv) according to industry standards. (*See also* Section 5.1, below)
- 1.4 **Schedule of Services.** Subrecipient will perform the Services in accordance with the schedule described in Section 1.2. Subrecipient's timely performance of each and every subrecipient obligation under this Agreement, including, without limitation, subrecipient performance of the Services, is of the essence.
- 1.5 **Quantity of Work throughout Contract.** The goals, objectives, services, and quantities specified within this contract are requirements for this funding. COIC retains the right to revise the goals, objective, services, and quantities, and thereby the contract amount as goals and/or objectives change subject to an equitable adjustment in the scope of work, fees, and schedule for completion. COIC shall give Subrecipient 30-day notice of any such change.
- 1.6 **Effective Date and Duration.** The effective date of this agreement is May 31, 2023 ("Effective Date") and shall remain in effect until and including January 10, 2024 ("Expiration Date") unless terminated or extended as provided in this Agreement. Expenses incurred between January 10, 2023, and the Expiration Date are allowable expenses for grant funds reimbursement, so long as the expenses are incurred pursuant to the performance of the Scope of Work set forth in Schedule 1.1.

## 2. COMPENSATION

- 2.1 COIC will pass through to the Subrecipient no more than \$1,078,518 in EO funds for eligible incurred costs and expenses as applicable to the Scope of Work set forth in Schedule 1.1. At its sole discretion and for good cause, COIC may disburse to Subrecipient up to 100% of the total contract price in advance of, or before the completion of performance by Subrecipient of its obligations herein.
- 2.2 **No Benefits.** COIC will not provide any benefits to Subrecipient, and Subrecipient will be solely responsible for obtaining Subrecipient's own benefits, including, without limitation, insurance, medical reimbursement, and retirement plans.
- 2.3 **No Reimbursement of Expenses.** Expenses incurred by Subrecipient and not included in Section 2.1 in connection with the performance of the Services will not be reimbursed by COIC.
- 2.4 **Availability of Funds.** COIC's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon COIC receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow COIC, in the exercise of its reasonable administrative discretion, to meet its obligations under this

Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities, or monetary obligations of COIC.

## 2.5 Expenditure Restrictions

The following additional expenditure restrictions apply to the Subrecipient Budget as found in Schedule 2.1

2.5.1 **Expenditure Period.** The period of performance – the time during which expenditures may be incurred – is January 10<sup>th</sup>, 2023, through January 10<sup>th</sup>, 2024, unless otherwise extended at COIC’s discretion.

2.5.2 **Cost Reimbursement.** This agreement is based on a partial up-front advance and the remainder cost-reimbursement method of payment.

**2.6 Expenditure Considerations.** On full execution of the Agreement, the amount of \$1,078,518.00 will be made available based on Schedule 2.1 Section B for expenditures having had occurred between the period of January 10, 2023, and June 30, 2023. After July 1, 2023, and following expenditure of any initial funding, the remaining Grant Funds will be available for Authorized Expenses incurred from July 1, 2023, to January 10, 2024, based on Schedule 2.1. The total Grant Funds amount will equal the initial funding amount available prior to June 30, 2023, plus the funding amount available for expenditures following July 1, 2023.

**2.7 Budget Line Flexibility.** Budget Line Flexibility applies separately to each fund shown within the budget. Any requested exceptions to the following limitations require prior approval and budget modification or waiver:

2.7.1 Expenditures by Fund may not exceed Fund budget total(s).

2.7.2 No single personnel line item may be over-expended.

2.7.3 Over-expenditure of indirect costs are not allowable.

2.7.4 Expenditures by cost category (ex. Personnel, operating costs, participant costs) may not exceed cost category budget totals.

2.7.5 With the exception of personnel, indirect and support services, which cannot go over budget with approval and budget modification, line items within a cost category (ex. Operating costs, participant costs) may be over or under budget as long as the category in total does not exceed budget.

**2.8** Any grant funds disbursed to Subrecipient under this Agreement that exceeded the amount to which Subrecipient is entitled or are expended in violation or contravention of one or more of the provisions of this Agreement, or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to COIC unless otherwise agreed to by COIC in writing.

## 3. RELATIONSHIP

**3.1 Taxes.** COIC will not withhold any taxes from any payments made to Subrecipient, and Subrecipient will be solely responsible for paying all taxes arising out of or resulting from Subrecipient's performance of the Services, including, without limitation, income, social security, workers' compensation, and employment insurance taxes.



- 3.2 Licenses.** Subrecipient will be solely responsible for obtaining any and all licenses, approvals, and/or certificates necessary or appropriate to perform the Services.
- 3.3 No Agency Relationship.** The agreement does not create an agency relationship between COIC and Subrecipient and does not establish a joint venture or partnership between COIC and Subrecipient. Subrecipient does not have any authority to bind COIC or represent to any person that Subrecipient is an agent of COIC.
- 3.4 Oregon Public Contract Provisions.** The contract is subject to the Oregon Public Contract Provisions in Exhibit B. These provisions are updated periodically, and new applicable provisions shall be applied.
- 3.5** In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Schedule 1.1, Schedule 1.2, Schedule 2.1, this Agreement without Exhibits, Exhibit A, Exhibit B and Exhibit C.
- 4. REPRESENTATIONS AND WARRANTIES.**
- In addition to any other Subrecipient representation or warranty made in this Agreement, Subrecipient represents and warrants to COIC as follows:
- 4.1 Authority and Binding Obligation.** Subrecipient is duly organized, validly existing, and in good standing under applicable Oregon law. Subrecipient has full power and authority to sign and deliver this agreement and to perform all of Subrecipient's obligations under this Agreement. This agreement is the legal, valid, and binding obligation of Subrecipient, enforceable against Subrecipient in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.
- 4.2 No Conflicts.** The signing and delivery of this Agreement by Subrecipient and the performance by Subrecipient of all of Subrecipient's obligations under this Agreement will not (i) breach any agreement to which Subrecipient is a party, or give any person the right to accelerate any obligation of Subrecipient, (ii) violate any law, judgement, or order to which Subrecipient is subject, or (iii) require the consent, authorization, or approval of any person, including, without limitation, any governmental body.
- 4.3 Licenses.** Prior to Subrecipient's execution of this Agreement, Subrecipient obtained any and all licenses, approvals, and/or certificates necessary or appropriate to perform the Services.
- 5. COVENANTS**
- 5.1 Quality of Service.** Subrecipient will perform Services in accordance with industry standards and to the standard of care that other similar professionals would perform the same work, in the same locality, at the same time, and under the same conditions. Subrecipient will proceed diligently, without delay, in good faith, in a professional manner, and in accordance with this Agreement.

**5.2 Insurance.** Subrecipient will refer to Exhibit A, attached and incorporated herein, for insurance specifications. Subrecipient's program of self-insurance may be used to meet the insurance requirements of Exhibit A.

**5.3 Workers' Compensation Insurance.** Subrecipient will comply with Workers' Compensation Insurance referenced in Exhibit A.

**5.4 Compliance with Laws.** Subrecipient will comply with any and all applicable federal, state, and local laws, regulations, and ordinances. Subrecipient will obtain and maintain any and all licenses, permits, registrations, and other governmental authorizations required to conduct Subrecipient's business and perform the Services.

**5.5 Indemnification.** Subrecipient will defend and indemnify COIC, and each present and future employee, director, officer, agent, board member, and authorized representative of COIC, for, from, and against any and all claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, reasonable attorneys' fees, resulting from or arising out of, whether directly or indirectly, (i) state or federal anti-trust violations, (ii) damages to person or property caused directly or indirectly by the intentional misconduct, recklessness or negligence of Subrecipient and/or Subrecipient's Representatives (as defined below), and/or (iii) Subrecipient's failure to pay any tax arising out of or resulting from the performance of the Services. Subrecipient's indemnification obligation provided herein will survive the termination of this agreement.

Subrecipient shall indemnify, defend, save and hold harmless State of Oregon and its officers, employees, and agents from and against all claims, actions, liabilities, damages, losses, or expenses, including attorney's fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or intentionally wrongful acts or omissions of the Subrecipient, or any of its officers, agents, employees, or subcontractors ("Claims")

Neither Subrecipient, nor subcontractor(s), nor any attorney engaged by Subrecipient or its subcontractors, shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that any part is prohibited from defending State or that any party is not adequately defending State's interests, or that an important government principle is at issue or that it is in the best interests of the State to do so. State reserves all rights to pursue claims it may have against Subrecipient if State elects to assume its own defense.

## **6. DOCUMENTATION AND RECORD KEEPING**

**6.1 Records.** The Subrecipient shall maintain complete and accurate records concerning all services performed. Subrecipient shall establish and maintain records sufficient to enable COIC to (i) determine whether the Subrecipient has complied with this agreement, applicable local, State, and Federal statutes and regulations and the terms and conditions of the funding and (ii) satisfy recordkeeping requirements applicable to the Subrecipient.

**6.2 Access and Retention.** Subrecipients records concerning the Services, including, without limitation, Subrecipients time and billing records, will be made available to COIC for inspection, copying, and/or audit immediately upon COIC's request. The Subrecipient shall allow COIC, and other authorized representatives of the state and federal government, access to any books, documents, papers, and records of the Subrecipient that are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. All such records and all other records pertinent to this Agreement and work undertaken under this Agreement will be retained by the Subrecipient for a period of six years after final audit for the project unless a longer period is required to resolve audit findings or litigation. In such case, it will be requested for a longer period of retention.

**6.3 Remedies.** With or without inspecting or auditing Subrecipient's records, documents, etc. as provided for in subsection 6.2 and with or without first terminating this agreement, if COIC determines that Subrecipient has misused, misapplied, or misappropriated funds disbursed to it under this agreement, Subrecipient, upon COIC's demand to do so, shall immediately return to COIC any or all funds disbursed under this agreement.

## 7. WARRANTY

**7.1** Subrecipient warrants to COIC that the Services will be performed by qualified personnel, in a professional manner, and in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice to the Subrecipient and by mutual agreement between the Parties, the Subrecipient, without additional compensation, will correct those services not meeting such a standard.

## 8. CONFIDENTIALITY AND NONDISCLOSURE.

**8.1 Maintain Confidential Information.** During the term of this Agreement, and at all times thereafter, Subrecipient will maintain all Confidential Information (as defined below) in the strictest confidence and will not directly or indirectly use, communicate, and/or disclose any Confidential Information to any person without COIC's prior written consent, except that Subrecipient may (i) use Confidential Information to perform Subrecipient's duties, (ii) disclose Confidential Information on a need-to-know basis to Subrecipient's Representatives who are informed by Subrecipient of the confidential nature the Confidential Information and the obligations of Subrecipient under the Nondisclosure Provisions (as defined below), and/or (iii) communicate or disclose Confidential Information in accordance with a judicial or other governmental order, but only if Subrecipient promptly notifies COIC of the order and complies with any applicable protective or similar order. Subrecipient will cause Subrecipient's Representatives to comply with the Nondisclosure Provisions. COIC makes no representations or warranties, either express or implied, with respect to the accuracy or completeness of the Confidential Information. For purposes of this Agreement, the term "Subrecipient's Representatives" means Subrecipient's directors, officers, managers, members, shareholders, employees, contractors, agents, consultants, advisors, and authorized representatives; the term "Nondisclosure Provision(s)" means Sections 8.1-8.4 of this Agreement.

**8.2 Notification and Assistance.** Subrecipient will (i) promptly notify COIC of any unauthorized use, communication, and/or disclosure of any Confidential Information

and/or any Subrecipient breach of any Nondisclosure Provision, (ii) assist COIC in every way to retrieve any Confidential Information that was used, communicated, and/or disclosed by Subrecipient and/or Subrecipient's Representatives without COIC's specific prior written authorization, and (iii) exert Subrecipient's best efforts to mitigate the harm caused by the unauthorized use, communication, and/or disclosure of any Confidential Information. Upon the earlier of COIC's request or the termination of this Agreement, Subrecipient will immediately return to COIC any and all documents, instruments, and/or materials containing any Confidential Information accessed or received by Subrecipient, together with all copies and summaries of such Confidential Information. Notwithstanding anything contained in this Agreement to the contrary, this Agreement does not operate to transfer any ownership or other rights in or to the Confidential Information to Subrecipient or any other person.

**8.3 Equitable Relief.** Subrecipient acknowledges and agrees that the remedies available at law for any breach of the Nondisclosure Provisions by Subrecipient will, by their nature, be inadequate. Accordingly, COIC may obtain injunctive relief or other equitable relief to restrain a breach or threatened breach of the Nondisclosure Provisions or specifically to enforce the Nondisclosure Provisions, without proving that any monetary damages have been sustained.

**8.4 Confidential Information - Defined.** For purposes of this Agreement, the term "Confidential Information" means any and all information relating to COIC (in whatever form) that is received or assessed by Subrecipient, including, without limitation, trade secrets (as defined in ORS 646.461, as amended), business models, marketing and advertising plans, financial and technical information, computer software, customer and supplier lists, marketing plans, know-how, information concerning COIC's operations or clients, records, ideas, designs, drawings, specifications, techniques, programs, systems, processes, information derived from reports, investigations, research, work in progress, codes, marketing and sales programs, cost summaries, pricing formula, contract analyses, projections, confidential filings with any state or federal agency, and all other concepts, methods of doing business, ideas, materials, and information

## 9. TERMINATION

**9.1 Termination of Agreement. Termination of Agreement.** This Agreement may be terminated at any time by the mutual written agreement of COIC and Subrecipient. In the alternative, either party herein may terminate this agreement without cause upon delivery to the other party of not less than thirty (30) days written notice.

**9.2 Immediate Termination for Cause.** Notwithstanding anything contained in this Agreement to the contrary, COIC may terminate this Agreement immediately upon notice to Subrecipient upon the occurrence of any of the following events: (i) Subrecipient engages in any form of dishonesty or conduct involving moral turpitude related to Subrecipient's independent contractor relationship with COIC or that otherwise reflects adversely on the reputation or operations of COIC; (ii) Subrecipient fails to comply with any applicable federal, state, or local law, regulation, or ordinance; (iii) problems occur in connection with Subrecipient's performance of the Services due to Subrecipient's breach of its obligations under this Agreement; (iv) Subrecipient breaches or otherwise fails to

perform any Subrecipient representation, warranty, covenant, and/or obligation contained in this Agreement; and/or COIC determines that Subrecipient has misused, misapplied or misappropriated funds disbursed to it under this agreement.

**9.3 Consequences of Termination.** Upon termination of this Agreement as set forth in Section 9.2, COIC will not be obligated to reimburse or pay Subrecipient for any continuing contractual commitments to others or for penalties or damages arising from the cancellation of such contractual commitments. Within a reasonable period of time after termination of this Agreement (but in no event greater than ten (10) days after termination), Subrecipient will deliver all materials and documentation, including raw or tabulated data and work in progress, to COIC. Termination of this Agreement by COIC will not constitute a waiver or termination of any rights, claims, and/or causes of action COIC may have against Subrecipient. COIC will pay Subrecipient for services (referenced in Schedule 2.1) performed up to termination, upon detailed invoicing from Subrecipient to COIC. If previous amounts paid to Subrecipient exceed the amount due to Subrecipient under this Agreement, Subrecipient shall promptly pay any excess to COIC.

**9.4 Remedies.** If a party fails to perform any of its terms, covenants, conditions, or obligations under this Agreement, the non-defaulting party may, in addition to any other remedy provided to the non-defaulting party under this Agreement, pursue any and all remedies available to the non-defaulting party at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.

9.4.1 Neither Party shall be liable for any indirect, incidental, consequential, or special damages under this Agreement or for any damages of any sort arising solely from the termination of this Agreement in accordance with its terms.

9.4.2 Subrecipient shall not incur obligations or liabilities after Subrecipient receives proper Notice of termination.

**9.5 Default.** Subrecipient will be in default under this Agreement upon occurrence of any of the following events:

9.5.1 Subrecipient fails to perform, observe, or discharge any of its covenants, agreement, or obligations under this Agreement, including, but not limited to failure to perform Grant Activities or satisfy performance measures as set forth in Schedule 1.1 and such failure is not remedied within thirty (30) days following notice from COIC specifying such failure; or

9.5.2 Any representation, warranty, or statement made by Subrecipient in this Agreement or in any documents or reports submitted by Subrecipient in connection with this Agreement, concerning the expenditure of Grant Funds or Subrecipient's performance of any of its obligations under this Agreement, is untrue in any material respect when made; or

9.5.3 Subrecipient fails to incur expenses, or to satisfy performance measures, at a rate or in a manner that would result in complete expenditure of Grant Funds in accordance with this Agreement, or successful completion of all performance measures under this Agreement, on or before January 10, 2024, as determined by COIC in its sole discretion.

**9.6 Default Remedies.** In the event Subrecipient is in default under Section 9.5, COIC may, at its option, pursue any or all of the remedies available under this Agreement and at law or in equity, including, but not limited to: (i) termination of this Agreement under Section 9, (b) reducing, withholding or recovering payment of Grant Funds for activities that Recipient has failed to perform in accordance with this Agreement, (c) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (d) exercise of its right of recover of overpayments under Section 2 and Section 6 of this Agreement or setoff, or both.

**9.7 Notice of Default.** Prior to any termination of this Agreement by COIC pursuant to Section 9, COIC will provide Subrecipient with a written notice of such default and will include in such notice an offer to meet with the senior manager of Subrecipient who has primary responsibility for oversight of the Grant Activities to provide Subrecipient an opportunity to explain the reasons for the default and to present a proposal for curing the default within a time period that is acceptable to COIC. Subrecipient shall have 10 days to accept such offer. If Subrecipient does not accept such offer within such 10-day period, COIC may terminate this Agreement upon 10 days' written notice as provided in Section 9.1 or exercise any other remedies available to COIC under this Agreement unless Subrecipient has fully cured such default prior to the expiration of such 10-day notice period. If Subrecipient accepts such offer, the meeting must be held within 14 days of such acceptance or at such other time as agreed by COIC. Following the meeting, COIC shall make a determination, in its reasonable discretion, of whether to accept Subrecipient's proposal, with such modifications as are mutually acceptable to the Parties and shall give written notice of such determination to Subrecipient. If COIC's written notice states that COIC does not agree to such proposal, or if COIC accepts such proposal but Subrecipient does not satisfy the terms of the proposal, COIC may terminate this Agreement upon 10 days of written notice as provided in Section 9.1 or exercise any other remedies available to COIC under this Agreement unless Subrecipient has fully cured such default prior to the expiration of such 10-day notice period.

## 10. MISCELLANEOUS

**10.1 Severability.** Each provision contained in this agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein.

**10.2 Notices.** Unless otherwise specified in this Agreement, any Notice required under this Agreement must be in writing. Any notice will be deemed given when personally delivered or delivered by facsimile transmission (with electronic confirmation of delivery), or will be deemed given three business days following delivery of the notice by U.S. mail, postage prepaid, by the applicable party to the address of the other party shown below (or any other address that a party may designate by notice to the other party), unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed delivered on the next following business day.

**To COIC:**

Central Oregon Intergovernmental Council  
Attn: Contracts  
1250 NE Bear Creek Road  
Bend, OR 97701  
[contracts@coic.org](mailto:contracts@coic.org)

**To Subrecipient:**

Trevor Stephens  
63360 NW Britta St. #2  
Bend, OR 97701  
[Trevor.Stephens@deschutes.org](mailto:Trevor.Stephens@deschutes.org)

- 10.3 Waiver.** No provision of this Agreement may be modified, waived, or discharged unless such waiver, modification, or discharge is agreed to in writing by COIC and Subrecipient. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement will be deemed a waiver of other provisions or conditions hereof.
- 10.4 Entire Agreement.** This Agreement contains the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement and contains all of the terms and conditions of the Parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. Subrecipient has not relied on any promises, statements, representations, or warranties except as set forth expressly in this Agreement.
- 10.5 Assignment and Binding Effect.** Subrecipient will not assign any of Subrecipient's rights or obligations under this Agreement to any person without the prior written consent of COIC, which consent COIC may withhold in its sole discretion. Subject to the above-stated limitations on Subrecipient's assignment of any of Subrecipient's rights or obligations under this Agreement, this Agreement will be binding on the Parties and their respective heirs, executors, administrators, successors, and permitted assigns and will inure to their benefit.
- 10.6 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, and venue for any action concerning this Agreement will lie in Deschutes County, Oregon.
- 10.7 Amendment.** The Agreement may be amended only by a written agreement signed by each party.
- 10.8 Further Assurances.** At any time upon the request of COIC, Subrecipient will execute all documents or instruments and will perform all lawful acts COIC considers necessary or appropriate to secure its rights hereunder and carry out the intent of this Agreement.
- 10.9 Additional Provision and Attachments.** All exhibits, schedules, instruments, and other documents referenced in this Agreement are part of this Agreement. All capitalized terms contained in such exhibits, schedules, instruments, and documents not otherwise defined therein will have the respective meanings assigned to them in this Agreement.

**10.10 Attorney Fees.** In the event litigation or arbitration is instituted to enforce or determine the Parties' rights or duties arising out of the terms of this Agreement, the prevailing party will recover from the losing party reasonable attorney fees incurred in such proceeding to the extent permitted by the judge or arbitrator, in arbitration, at trial, on appeal, or in any bankruptcy proceedings.

**10.11 Binding Arbitration.** In the event any claim, dispute, or controversy arising out of or related to this Agreement occurs (a "Dispute"), COIC and Subrecipient will exert their best efforts to seek a fair and prompt negotiated resolution of the Dispute and will meet at least once to discuss and seek a resolution of the Dispute. If the Dispute is not resolved by negotiated resolution, the Dispute will be settled by arbitration before a single arbitrator in Bend, Oregon. If the Parties agree on an arbitrator, the arbitration will be held before the arbitrator selected by the Parties. If the Parties do not agree on an arbitrator, each party will designate an arbitrator and the arbitration will be held before a third arbitrator selected by the designated arbitrators. Each arbitrator will be an attorney knowledgeable in the area of business law. The arbitration will be conducted in accordance with the then-current rules of the Arbitration Service of Portland, Inc. The resolution of any controversy or claim as determined by the arbitrator will be binding on the Parties and judgment upon the award rendered may be entered in any court having jurisdiction. A party may seek from a court an order to compel arbitration, or any other interim relief or provisional remedies, pending an arbitrator's resolution of any controversy or claim. The prevailing party in the arbitration will be entitled to recover from the other party all expenses incurred in connection with the arbitration, including reasonable attorneys' fees.

**10.12 Person and Interpretation.** For purposes of this Agreement, the term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. All pronouns contained herein, and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular, or plural, as the identity of the Parties may require. The singular includes the plural, and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting.

**10.13 Signatures.** This Agreement may be signed in counterparts. A fax or email transmission of a signature page will be considered an original signature page. At the request of a party, the other party will confirm a fax or email transmitted signature page by delivering an original signature page to the requesting party.



07/26/2023 Item #13.

Agreement EO 23-02 011

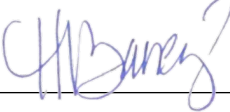
**IN WITNESS WHEREOF**, the undersigned have caused this Agreement to be executed as of the date first written above but effective as the effective date.

**COIC:**

**Subrecipient:**

Central Oregon Intergovernmental Council  
an Oregon entity organized under ORS Chapter 190

Deschutes County Adult Parole and Probation  
a political subdivision of the State of Oregon

Signature:  \_\_\_\_\_

Signature: \_\_\_\_\_

By: Tammy Baney

By:

Its: Executive Director

Its:

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Schedule 1.1Scope of Work  
Description of Services

1. **See attached pdf.** Subrecipient EO 23-02 Funding Application.
2. **Reporting Requirements.**
  - a. **Shelter Bed Capacity Reporting.** If subrecipient uses funds under this Agreement to add new shelter bed capacity, a narrative update must be provided to COIC by the 15<sup>th</sup> day of the month following the period billing, but no less frequently than monthly. Narrative update shall include milestones, success measures, outcomes, obstacles, and impacts of the project. Reporting required for all periods in which shelter bed capacity is being added.
  - b. **Homeless Management Information System.** Subrecipient must enter all appropriate and necessary data into Homeless Management Information System (“HMIS”) at the time of client intake, if applicable, or at such other times required, or require subcontractors providing the Services for which funding has been provided under this Agreement to enter. Exceptions are only allowed with prior written approval provided from State via COIC.
  - c. **Data Collection and Evaluation.** Subrecipient, or subcontractors providing the Services for which funding has been provided under this Agreement, are required to report client-level data, such as the number of persons served and their demographic information, in a Homeless Management Information System (HMIS). HMIS is an electronic data collection system that facilitates the collection of information on persons who are homeless or at risk of becoming homeless and is managed and operated locally. Subrecipients are required to review this Agreement and ensure data standards are implemented in HMIS specifically for participants as applicable to the EO and this funding. Data requirement specifics shall be made available to Subrecipients upon request.
  - d. **Additional Reporting.** Subrecipient shall provide additional reports and shall cooperatively attend meetings as reasonably requested by COIC or State.

## Project Contact Name:

Enter the name of the individual responsible for responding to questions about the application.

Trevor Stephens

## Organization:

Enter the name of the organization submitting the supplication.

Deschutes County Adult Parole and Probation and Community Treatment Provider or Housing Provider

## Contact Email:

Enter the email address of the individual responsible for responding to questions about the application.

Trevor.Stephens@deschutes.org

## Contact Phone Number:

Enter the phone number of the individual responsible for responding to questions about the application.

+15413308261

## Entity Type:

Please select your organization's entity type.

Government

## State Where Registered:

Where is your legal entity registered?

Oregon

## HMIS:

Your organization will contribute information to the Homeless Management Information System

true

### Universal Data Elements:

Your organization agrees to input all of the [Universal Data Elements](#) for each client involved in your program

true

### Low Barrier:

Your organization agrees to abide by low-barrier principles for its clients. *Low Barrier means a program that does not require any of the following for a client to participate in one of the programs: (i) criminal background checks, (ii) credit checks or income verification, (iii) program participation, (iv) sobriety, or (v) identification. Low Barrier programs may enforce safety requirements for self, staff, place, and/or others.*

true

### Client-Centered, Housing First:

Your organization agrees to provide client-centered, housing-first case management supports. A client-centered case management approach ensures that the person who has experienced homelessness has a major say in identifying goals and service needs, and that there is shared accountability. Case management must focus on housing assessment, placement and housing stability.

true

### Provide Information and Report:

In order to assist COIC in meeting the State’s Reporting Requirements, you agree to supply COIC with any and all requested information related to meeting contractual obligations under EO 23-02. *Reporting expectations can be found on page 20 of the State’s draft contract language:*  
<https://www.coic.org/wp-content/uploads/2023/03/EO-23-02-Grant-Template-Final-2023-03-21.docx>

true

### Project Complete by 1/10/2024:

The deadline to have a project up and running is January 10, 2024. Your organization agrees that the project will be complete and operating at full capacity by January 10<sup>th</sup>, 2024.

true

### Project Goal:

Select the goal your project will address.

Creating 111 New Shelter Beds

## Project Overview:

Please provide an overview of your proposed project and explain how your project will make and measure impact towards the goal by January 10<sup>th</sup>, 2024. Go into as much detail as possible to explain your full project concept. Please include a section that specifically explains how your project will make a measurable impact toward one of the two goals above.

Deschutes County, in partnership with a private entity/or local non-profit housing provider, is proposing to acquire a residential 4+ bedroom home located in Deschutes County to rehouse two single-households from unsheltered homelessness, and add eight new shelter beds for people 18 and over who identify as males and who are on Deschutes County Parole & Probation community supervision for conditions that restrict proximity to minors and/or require sexual offense registration. The project will prioritize men who identify as Black, Indigenous, Latinx, Asian and People of Color and men who are medically vulnerable or veterans. This project will serve up to two rehoused individuals and eight transitional shelter individuals at any time, approximately 24 individuals per year.

Individuals in our proposed population are amongst the most vulnerable Oregonians experiencing homelessness, as they face lifelong barriers and restrictions to where they are legally and socially permitted to reside, work or socialize, whether they are completed with obligations to repair harm they have caused or are still on supervision. In addition to the detrimental impact on individuals themselves, continual ostracization and inability to reintegrate into their communities creates a much higher risk to reoffend or require continued use of public safety and public health system resources. Vulnerability and risk only increases when individuals are also members of marginalized populations such as being Black, Indigenous, Latinx, Asian and People of Color (BILAPOC) or medically vulnerable. No one is safe when individuals with restrictive conditions based on prior criminal history are left with no options but homelessness.

The need in Deschutes County is clear. There are approximately 180 individuals on supervision in Deschutes County with conditions that restrict proximity to minors and/or require sexual offense registration, 98% of whom identify as male. Approximately 8% identify as Black, Indigenous, Latinx, Asian and People of Color. Currently approximately 12% of white men and 14% of BILAPOC men are homeless; 5% of white men and 29% of BILAPOC men are in jail; and 4% of white men and 7% of BILAPOC men are in transitional housing. These are higher rates than men on supervision with less restrictive conditions. Deschutes County is an expensive and limited rental or ownership market, and with eligibility restrictions for most supported shelter or housing options, clients with this type of supervision are disproportionately low-income and without pro-social and supportive personal networks to rely on. This population also faces marginalization when it comes to general low barrier shelter services that exist, given public safety concerns based on restrictions with minors. On average 25-35 clients at any time are camping, sleeping in trailers on public land, utilizing low-barrier shelters if no minors are present, or in a constant state of emergency trying to figure out where they will stay each night.

This project is a public/private/non-profit partnership that adds shelter beds and housing units to address these needs. Deschutes County if awarded these funds will work with one of our contracted private treatment providers or one of our contracted community housing/shelter providers to locate and

acquire one residential home with 4+ bedrooms in Deschutes County to provide up to eight low barrier shelter beds in two of the rooms, and low barrier two housing units (single occupancy bedroom with locked door and lease or rental agreement) to rehouse currently homeless individuals on supervision with Deschutes County Parole & Probation with conditions that restrict proximity to minors and/or require sexual offense registration. We have several providers we work with contractual and have one provider in particular who has expressed interest in this project. We are still working out details but if awarded the funds we will either work with a private treatment provider or one of our local non-profit contractual providers. The provider will develop the program in partnership with Deschutes County, hire and provide staff that will serve in house management capacity. Both the provider and Deschutes County will provide operation support up-to some level of case management. Deschutes County administrative staff will provide administrative and sub contractual oversight and program evaluation, Parole & Probation Officers will refer eligible individuals, work in partnership with provider and assist with case management and supervision based on each individual’s supervision plan and needs. Together we seek to mitigate emergency and urgent sheltering needs of this population, provide options for long-term housing in a safe and supportive environment, and offer robust case management and service opportunities for residents as they complete their community supervision requirements and get back on their feet, rebuild lives and become productive community members.

Shelter bed case management and services include:

Stability (1 to 90 days): Individuals who have independent housing options and acceptable personal networks in the near-term but require short-term shelter while those plans are finalized

Transition (1-180 days): Individuals transitioning to community from prison/jail with no current independent and acceptable shelter options, but who have an ultimate plan/capability for independent housing or acceptable personal networks.

Case management opportunities available as needed and desired include readiness, short-term goal setting, housing plans, and treatment readiness if necessary.

Housing case management and services include:

Individuals with limited income insufficient for private rental or housing market and no independent or acceptable other shelter options or personal networks who may require long-term residence.

Case management opportunities available as needed and desired include independent living, housing or other benefits coordination.

## Number of Clients or Units:

Enter the number of clients your project will serve/units your project will make available. This question helps us ensure we meet the goals of the funding allocation.

24

### Detailed Project Budget:

Submit a detailed project budget that outlines your expected costs through the grant term. Please be sure to include funding from outside sources if it will be utilized.

[https://api.typeform.com/responses/files/f9add465f7cd9066deef0bbf0b74431c0b14b2781ba2acf00c313b164aec5198/Parole Probation EO 23 02 Budget TS 05 08 2023.xlsx](https://api.typeform.com/responses/files/f9add465f7cd9066deef0bbf0b74431c0b14b2781ba2acf00c313b164aec5198/Parole_Probation_EO_23_02_Budget_TS_05_08_2023.xlsx)

### Maximum Amount of Funding Requested:

*Enter your funding request for this opportunity here.*

1078518

### Budget Contingency:

*We can't guarantee that all applicants will be granted their full funding request. Can your project be scaled down if your full request cannot be awarded? If so, please describe what parts of your request are able to be scaled down, if any.*

Yes, we could scale down our acquisition request, and either purchase a smaller residential single-family home or seek a mortgage loan to offset the difference.

### Grant Experience:

*Does your organization have experience with government grants? If yes, please provide details about your grant experience.*

Deschutes County is one of the largest employers in the county with a well-regarded Finance department providing robust support of departments who pursue, are granted and implement state and federal grants. Additionally, Parole & Probation's budget (approximately \$9M annually) is approximately 85% funded with 4-8 state grants at any time, all of which are regulated through Intergovernmental Agreements. We have sufficient administrative focused staff who manage the multiple types, timeframes and requirements for financial, evaluation, operational and administrative monitoring and reporting. We have multiple services contracts that guide program and service delivery by community-based organizations where the funding source is government grants. We have never been sanctioned or required to return funds or correct reporting. We will bring the highest quality and standards to implementing, monitoring and reporting Emergency Order funding if our project is awarded. Additionally, we have sought and will continue to seek assistance and coordination with Deschutes County's Coordinated Houseless Response Office (CHRO) to ensure compliance and adherence with best practices in all elements of this grant. The CHRO has committed to provide ongoing technical assistance for our team to ensure continued success through implementation and completion.

### Financial Reporting:

We want to ensure that you are prepared to satisfy the financial reporting requirements of this funding opportunity. Please explain how you will meet the financial reporting requirements.

The Deschutes County Finance department which ultimately supports and maintains standards at all departmental levels, maintains the highest quality of financial and regulatory audits and has been recognized as such in the state of Oregon for decades. The Parole and Probation budget is approved through the county’s annual budget process. We provide monthly financial statements to the Finance department which provides review and forwards for county administration and elected official review. The county uses an integrated financial information system with appropriate controls and checks and balances for all revenue and expense processes. Community-based or private partners entering into financial agreements are paid as vendors set up and monitored within the financial system with several layers of oversight and balance. Deschutes County Parole and Probation has an administrative team that can provide the support necessary to meeting the reporting requirements both internally and in partnership with the selected provider.

### Additional Funding:

*Is your project intended to be solely funded through Executive Order funding, or will you seek/have you sought funding elsewhere?*

We have secured funding from elsewhere.

### Additional Funding Secured:

If you have secured other funding, how much additional funding has been secured?

Our project matches operational funding (\$30,618.50) from existing public sources already secured by Deschutes County Parole and Probation. These funds will contribute to the fiscal year remainder after January 10th, and ongoing in future fiscal operating years.

### Project Sustainability:

We are hopeful that projects awarded under this one-time funding opportunity will maintain operations after January 10th, 2024. Please tell us your plan for sustaining operations after this funding has expired.

After January 10, 2024, Parole & Probation will continue to provide the parole and probation officer staff time and the analyst staff time.

Adult Parole and Probation will contract with a provider for the house management role. Funding for this plus operations of the house will be covered by Parole and Probation through department of corrections funding, grants, housing subsidies, available county funding, and well as rental/lease agreements for the individuals occupying the two housing units

We also receive regular Department of Corrections funding to support clients on supervision and



transitioning out of prison. We would continue to seek these funding streams and prioritize this population if we had the stable resource.

## Client Eligibility:

Explain how you will implement client eligibility requirements. For instance, this funding is intended to support low-barrier beds; explain how you will ensure low-barrier principles are centered in your program offerings. As another example, list the criteria clients must meet to be eligible for the program

As a program that specifically serves those with criminal backgrounds, we will center low-barrier principles throughout. Individuals on supervision will have individualized obligations and/or restrictions that will be monitored by their Parole & Probation Officer/s. These may include conditions that require sobriety or participation in a treatment program for that individual. No credit checks, identification or other requirements exist.

Eligibility criteria are:

1. People identifying as male who are 18+ and on community supervision with the Deschutes County Parole & Probation department with conditions associated with criminal convictions that (1) restrict proximity to minors; or (2) require them to register with the state of Oregon as sexual offenders.

Prioritization criteria are (in order):

1. BILAPOC
2. Medically vulnerable
3. Veteran

## Coordinated Entry:

Explain how you envision sourcing clients from [Coordinated Entry](#) in your program. Maximizing the number of providers utilizing Coordinated Entry is recognized as a Best Practice, and projects that prioritize clients from Coordinated Entry will receive priority in funding decisions.

We will provide our program eligibility and prioritization to the Coordinated Entry System (CES) lead at NeighborImpact for upload as a program in CES. While the program's single eligibility criteria will likely mean that referrals come from and go to Parole & Probation, we will utilize CES to assist with consistent and equitable application of prioritization and vulnerability principles, and system-wide data performance metrics.

## Impact on Disproportionately Affected Populations:

Early in the MAC process, the group identified subpopulations that are disproportionately more likely to experience unsheltered homelessness in Central Oregon. Please tell us if your project will impact any of these subpopulations.

BIPOC, Medically Vulnerable, Veterans

## Targeting Subpopulations:

If your project will specifically impact one or more identified subpopulations, explain how exactly you will target that subpopulation and what steps you will take to ensure that the services provided are relevant, appropriate, and aligned with the desired outcome. Consider things like - staff hiring, training, outreach, program evaluation, and provision of culturally responsive services

BILAPOC individuals are our first prioritization population. BILAPOC individuals on supervision with conditions described in our program experience disproportionate homelessness and jail compared to their white counterparts. For this reason, they are our first priority subpopulation.

Medically vulnerably individuals are the second priority subpopulation for our program. Conditions described in our program are often lifelong, meaning that our eligible population has a disproportionate number of aging men, which increases risk for medical vulnerability. Unsheltered homelessness also increases risk for morbidity and mortality, and individuals with high rates of institutionalization and homelessness frequently experience worse health outcomes compared to their counterparts.

Veterans are the third priority subpopulation for our program. Veterans are more likely to experience unique trauma-related disorders and barriers than other populations.

This program serves only people who identify as male and are on community supervision with the Deschutes County Parole & Probation department with conditions associated with criminal convictions that (1) restrict proximity to minors; or (2) require them to register with the State of Oregon as sexual offenders. As such, the Department of Parole & Probation will be intimately involved in program development and implementation from the administrative and evaluation staff, to caseload carrying Parole & Probation Officers and supervisors. Parole & Probation has caseload specific officers and expertise in assessment, treatment and services provision for individuals on supervision for the types of offenses that lead to the conditions described in this program. We see firsthand the impact of conditions that prevent rehabilitation and reintegration, and are eager to collaborate and provide this vital public safety resource.

Our partner will be an established substance use disorder treatment and sober housing provider in our region, or a nonprofit housing/shelter provider. They will be subject matter experts and caring, compassionate providers of services for individuals involved with community supervision. While working with the subpopulation described in this grant will be new for them, their administrative and treatment staff are well trained in best practices working with justice-involved individuals. Our contracted providers will have experience in property ownership and management and be well-versed in the safety and security, structure and support needed to provide compassionate, supportive residential environments for justice-involved individuals.

## Region Served:

*This question helps us keep track of the regions in Central Oregon that are served through the funding. What region(s) will you serve?*

Bend, Redmond, Sisters, La Pine, Rural Deschutes County (outside City limits)

## Partnerships:

*We encourage partnerships to ensure the greatest impact. Please let us know who your project will partner with and what services they will provide. Explain if your partnerships are established (MOUs, IGAs, Contracts, etc) or still being discussed*

The primary partners for this project will be one of our contracted local private Treatment providers or contracted housing/shelter providers, but we have multiple established partnerships through contract, MOU or other written agreement to assist us in providing best practices for the population described in this proposal. Contracts for this project are still being discussed, but will be in place prior to acquisition and start up. We have yet to determine if the county or the provider will acquire the property. The provider will operate the program/operations piece with support from Deschutes County. Operations will include house- and case-management services to include housing and employment navigation, health and treatment connections and support, and barrier-identification and removal. Operations will also include safety and security, house rules and management, and coordination with Parole & Probation Officers working with shelter and housing residents.

In addition to whichever provider we team with we also have multiple established partners we will work with to ensure program success. These include Maritza Encinas, with whom we have a services contract to provide sexual offense treatment and who provides most of the treatment that many eligible individuals will currently be in as part of their supervision conditions. We frequently work with and have existing contracts with Turning Points Recovery Services and Pfeifer & Associates, which provide other substance use disorder treatment providers. Many people with the supervision conditions described in this program have substance use disorder treatment needs in addition to other conditions. Over the past year, we have developed a close working relationship with Lighthouse Navigation Center, a low barrier shelter that will from time to time admit minors. As one of the few resources for people experiencing homelessness who have the supervision conditions described here we have worked closely and developed a written protocol to notify and manage safety risks when both minors and Parole & Probation clients are present in the facility. Shepherd’s House which is the parent organization for Lighthouse Navigation Center, also operates a faith-based housing and program for people with the supervision conditions described here. We will continue to work with them as subject matter experts and partners in providing compassionate care that understands the unique accountability and public safety considerations of the population.

Finally, we have consulted closely with the Deschutes County Coordinated Houseless Response Office (CHRO) in pursuit of solutions to the needs identified in this proposal. Should we be granted funding for this program, we will continue to seek advice and assistance from the office to ensure we join best practices in the shelter and housing field with that of the sexual offense supervision field.

## Prior Project Experience:

Please explain your organization’s experience with what has been proposed in your application. If your experience in an area is limited, please speak to other relevant experience that shows your ability to

execute your proposed project effectively. This could be lived experience, experience utilizing a program, or experience creating similar programs in other areas.

Deschutes County Parole & Probation has experience with the specific population and working with the private sector and community-based providers on the types of services described in this proposal, as well as lengthy experience contracting with substance use treatment and/or transitional housing in the community, both formal and informal.

Previously the owners of the former Tom Tom motel on Highway 97 in Bend offered and for approximately five (5) years found a sustainable manner to offer their location as a safe and welcoming residential option for men on community supervision with Deschutes County Parole & Probation with conditions that restrict proximity to minors and/or require sexual offense registration with the state of Oregon. From there, we developed a very informal but close partnership and an opportune learning experience for us, and sustainable housing for the vulnerable population we described for a good period of time.

Lessons learned include how to understand, mitigate and set residents up for success in relation to the unique public safety needs and risks associated with the population; the preferred level of house and case management that would be beneficial to create safe and productive residential communities; and the absolute crucial need for close communication and collaboration between Parole & Probation and house managers.

We also learned that that level of commitment and attention required to provide adequate support and safety and security is more than an informal agreement can provide. This informs our desire for the program model we propose here, where a house manager is paid to provide professional level oversight, support a partnership with Parole & Probation.

Additionally, Parole & Probation has multi-thousand dollar contracts with a variety of structured transitional or shelter resources in the county, including Bethlehem Inn, Turning Points Recovery Services, Pfeifer & Associates, private Oxford houses etc. We have administrative expertise, established referral process and other support in assisting Parole & Probation Officers to connect their clients with shelter and housing needs. We will not be recreating brand new systems or structures to start up and assist with operating the program described in this proposal. We are ready to plan and implement if our program is funded.

## Expected Challenges:

We know that this project will not be easy. Please explain areas you are expecting challenges with your project and explain your plan(s) for overcoming expected challenges.

Expected challenges for our project relate only to property acquisition:

Location restrictions due conditions of supervision of the eligible population. The County and the provider will work with specialty realtor assistance, and lean upon its expertise in citing other treatment or transitional residential homes.

Housing market in Deschutes County. Deschutes County and the provider will work with specialty realtor assistance and be flexible in finding affordable areas of the county to pursue.

Neighborhood and community safety concerns. The selected provider will have experience in siting and managing safety concerns of neighbors and community based other treatment or transitional home development. We will also seek to locate a property that is distant from close neighborhoods. As the property will need to be more than 1,000 feet of schools, daycare facilities or parks it is likely that the neighborhood will be sparse and/or remote. We will create a clear safety plan, including installation of security systems on the property itself and share information as needed and productive with any neighbors.

Resident safety concerns. People on community supervision with the conditions described in this program face real safety threats that arise from being identified as “sex offenders.” We will need to balance the public’s right to notification where applicable, public safety risk, and risk to safety of residents themselves. Careful and mutual planning will need to occur with the provider and the county.

## Success Measures, Outcomes, and Impacts:

Explain what success will look like, for you, in your project.

House purchased by September 2023

Operations Plan completed by September 2023

First residents move in October 1, 2023

Eight individuals sheltered by November 1, 2023

Two formerly unhoused individuals rehoused by November 1, 2023

75% of sheltered individuals transition to next level of housing stability when they depart

85% of residents remain crime free while receiving services

50% of operations costs covered by rental income or other self-sustaining revenue by March 1, 2024

Meet all program compliance requirements, outcomes, and reporting

Contribute to COIC's 'lessons learned' report to the State

## Relevant Milestones:

Please review the list of milestones and system improvements actions starting on page 15 of the following document and explain how your project will help contribute to their success:

<https://www.coic.org/wp-content/uploads/2023/04/EO-23-02-Submission-2023-03-31.pdf>

In addition to the milestones identified above, our program will:

March 2023: Establish regional priorities and barriers to achieving those priorities.

Our program will support learning on priority populations, siting specialized population programs; public-private partnerships that join public service and market practices amongst others.

April 2023: Deal-making/Partnership Brokering among organizations with complimentary programs

May 2023: Work with CHRO to develop and submit application narratives and budget; prepare for receipt of awarded funds.

We seek to maximize the role of the private or nonprofit markets in creating mutually beneficial revenue streams that can support housing costs of our population. Based on challenges with location siting or operational costs we seek to help learn and create synergies where possible.

### Additional Help:

Are you interested in receiving technical assistance help with program implementation, reporting, fiscal administration, etc.?

true

### Help Requested:

How would you like us to help you?

Role of Parole & Probation in working with private entity for property acquisition oversight

Ensuring best practices in federal and state housing regulations and field while we also ensure best practice in community supervision field with this population.

Continued technical assistance received from CHRO, in conjunction with COIC and the State.

Schedule 1.2

## Schedule of Services

Subrecipient will perform the Services in accordance to the following schedule:

- RFP/Bid Processed Designed and Ready to Launch by Middle of August at latest.
- 30 Day RFP/BID process.
- Provider selected by end of September.
- October and November 2023 find and site location.
- Purchase home by end December 2023.
- Operations Plan completed by November 2023.
- Revise operation plan based on location.
- First residents move in January 1, 2023.
- Six to Eight individuals sheltered by January 1, 2023.
- Two to four formerly unhoused individuals rehoused by January 10, 2023.

## Schedule 2.1

### Compensation and Reporting

COIC will pay Subrecipient in accordance with the following compensation schedule:

#### 1. Compensation.

##### A. Monthly Invoice

- a. Subrecipient will submit monthly invoices to COIC concerning the Services performed by Subrecipient during the immediately preceding month (each an "Invoice"). Each Invoice will contain the following information as applicable to the project:
  - i. a summary of the Services performed by Subrecipient;
  - ii. the number of hours each person spent to perform the Services;
  - iii. the applicable hourly billing rates;
  - iv. related invoices from vendors and subcontractors; and
  - v. any other information reasonably requested by COIC.

COIC will pay the amount due under each Invoice within thirty (30) days after COIC has reviewed and approved the applicable Invoice. No compensation will be paid by COIC for any portion of the Services not performed. COIC's payment will be accepted by Subrecipient as full compensation for performing the Services to which the applicable Invoice relates.

##### B. Disbursements Generally

- a. COIC shall disburse the Grant Funds upon receipt and acceptance of Grantee's disbursement request according to the following schedule:
  - i. \$900,000 of Grant Funds available upon execution of this Agreement for acquisition.
  - ii. Remainder of Grant Funds may be requested monthly for reimbursement of project costs.

##### C. Advancement of Funds

- a. For Subrecipients requesting cash advances, the Subrecipient must submit advance payment request to cover projected costs incurred within a reasonable time period. Subrecipient will provide a reporting of actual expenditures – separated by line item and fund source – each month, within 15 days of month end. Subsequent advances may be adjusted to reflect reconciliation of prior month advances to actual expenditures. Subrecipient may request advancement of funds for personnel and payroll related expenses to cover up to a one-month period.

#### 2. Financial Billing Requirements

- a. **Billing Due Dates.** Subrecipient shall submit to COIC's Fiscal Contact all contract billings by the 15<sup>th</sup> day of the month following the period billing, but no less frequently than monthly. Subrecipient shall submit billing workbooks and cash request forms as created and provided by COIC for monthly and final billings, including all required signatures. The payment request shall include a reporting of actual expenditures – separated by line items and fund source.



- b. Final Billing for Close-Out.** All Contract billings shall be submitted by 30 days after end of contract. This will constitute the final contract billing request for the Contract. No charges submitted more than 30 days after end of contract will be reimbursed. COIC may, at its discretion, withhold payment of the final invoice until all close-out requirements have been met in accordance with the agreement.
  
- 3. See Attached PDF.** Subrecipient Budget

**Organization Name:** Deschutes County Parole & Probation

**Project Name:**

CASH REVENUE	TOTAL ANNUAL BUDGET	THIS EO 23-02 REQUEST	SECURED FROM OTHER SOURCES
Private Contributions (Individual and Business)	-	-	-
Private Foundation Funding	-	-	-
Government Funding	900,000.00	900,000.00	-
Earned Revenue	-	-	-
Other (please list):	-	-	-
<b>TOTAL CASH REVENUE:</b>	<b>900,000.00</b>	<b>900,000.00</b>	<b>-</b>

**TOTAL CASH EXPENSES**

**Personnel:**

Salaries	-	-	-
Associated Payroll Expenses (e.g. benefits, taxes, workers compensation, etc.)	-	-	-
<b>Personnel subtotal:</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Non-Personnel Operating Expenses:**

(e.g. supplies, program expenses, rent, utilities, professional services, etc.)

	-	-	-
	-	-	-
	-	-	-
	-	-	-
	-	-	-
	-	-	-
<b>Non-Personnel subtotal:</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Fiscal Sponsor Fee (if applicable):**

-	-	-
---	---	---

**Capital Expenses:**

(e.g. construction/renovation costs, durable equipment, land acquisition, etc.)

Property Acquisition	850,000.00	850,000.00	-
Furniture and Fixtures	30,000.00	30,000.00	-
Security System	20,000.00	20,000.00	-
	-	-	-
<b>Capital Expense subtotal:</b>	<b>900,000.00</b>	<b>900,000.00</b>	<b>-</b>

**TOTAL CASH EXPENSES:**

<b>900,000.00</b>	<b>900,000.00</b>	<b>-</b>
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**NET CASH REVENUE/EXPENSE:**

-	-	-
---	---	---

**In-Kind Contributions (if applicable):**

(e.g. value of volunteer hours, supplies/materials, donated services, etc.)

	-	-	-
	-	-	-
	-	-	-
	-	-	-
	-	-	-
<b>In-Kind Contribution subtotal:</b>	<b>-</b>	<b>-</b>	<b>-</b>

**In-Kind Expenses (if applicable):**

(e.g. value of volunteer hours, supplies/materials, donated services, etc.)

	-	-	-
	-	-	-
	-	-	-
	-	-	-
	-	-	-
<b>In-Kind Expense subtotal:</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Organization Name:** Deschutes County Parole & Probation  
**Project Name:**

CASH REVENUE	TOTAL ANNUAL BUDGET	THIS EO 23-02 REQUEST	SECURED FROM OTHER SOURCES
Private Contributions (Individual and Business)	-	-	0
Private Foundation Funding	-	-	0
Government Funding	209,136.50	178,518.00	30618.5
Earned Revenue	-	-	0
Other (please list):	-	-	0
<b>TOTAL CASH REVENUE:</b>	<b>209,136.50</b>	<b>178,518.00</b>	<b>30618.5</b>

**TOTAL CASH EXPENSES**

**Personnel:**

Salaries - 1 FTE House Manager; .15 Parole and Probation Officer .25 FTE Parole & Probation Analyst; .25 Parole & Probation Operations and Business Manager (only needed for first 6 months for acquisition and program development) (includes all Fringe Benefits).	185,136.50	157,518.00	27618.5
Associated Payroll Expenses (e.g. benefits, taxes, workers compensation, etc)	-	-	0
<b>Personnel subtotal:</b>	<b>185,136.50</b>	<b>157,518.00</b>	<b>27618.5</b>

**Non-Personnel Operating Expenses:**

(e.g. supplies, program expenses, rent, utilities, professional services, etc.)

Insurance (one time yearly fee, pay upfront)	6,000.00	6,000.00	0
Utilities	6,000.00	3,000.00	3000
Supplies (buy enough supplies during grant period to last for 1st year)	6,000.00	6,000.00	0
Maintenance/Repairs	6,000.00	6,000.00	0
Mileage	-	-	0
	-	-	0
	-	-	0
<b>Non-Personnel subtotal:</b>	<b>24,000.00</b>	<b>21,000.00</b>	<b>3000</b>

**Fiscal Sponsor Fee (if applicable):**

-	-	0
---	---	---

**Capital Expenses:**

(e.g. construction/rennovation costs, durable equipment, land acquisition, etc.)

	-	-	0
	-	-	0
	-	-	0
	-	-	0
	-	-	0
<b>Capital Expense subtotal:</b>	<b>-</b>	<b>-</b>	<b>0</b>

**TOTAL CASH EXPENSES:**

<b>209,136.50</b>	<b>178,518.00</b>	<b>30618.5</b>
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**NET CASH REVENUE/EXPENSE:**

-	-	0
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**In-Kind Contributions (if applicable):**

(e.g. value of volunteer hours, supplies/materials, donated services, etc.)

	-	-	0
	-	-	0
	-	-	0
	-	-	0
	-	-	0
<b>In-Kind Contribution subtotal:</b>	<b>-</b>	<b>-</b>	<b>0</b>

**In-Kind Expenses (if applicable):**

(e.g. value of volunteer hours, supplies/materials, donated services, etc.)

	-	-	0
	-	-	0
	-	-	0
	-	-	0
	-	-	0
	-	-	0
<b>In-Kind Expense subtotal:</b>	<b>-</b>	<b>-</b>	<b>0</b>

**EXHIBIT A****Contractor Insurance Requirements****GENERAL.**

Contractor (including its subcontractors, agents, etc.) shall i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION, and CERTIFICATES OF INSURANCE before performance under the contract commences, and ii) maintain the insurance in full force, through annually renewing policies, throughout the duration of the contract. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are reasonably acceptable to State. Contractor shall not start work described herein until the insurance is in full force.

**TYPES AND AMOUNTS.**

i. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers liability insurance with coverage limits of not less than \$500,000 per accident, \$500,000 policy limit for bodily injury by disease and \$500,000 each employee for bodily injury by disease must be included.

ii. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are reasonably satisfactory to State. This insurance shall include personal injury liability, products, and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by State:

Bodily Injury, Death and Property Damage: \$2,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence), \$4,000,000 General Aggregate and \$2,000,000 Products/Completed Operations Aggregate.

iii. **AUTOMOBILE Liability Insurance:** Automobile Liability. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by State: Bodily Injury, Death, and Property Damage:

\$2,000,000 per accident (for all claimants for claims arising out of a single accident or occurrence).

iv. **PROFESSIONAL LIABILITY INSURANCE.** Professional liability insurance with limits of not less than \$1,000,000 per claim, and \$2,000,000 in the aggregate.

**ADDITIONAL INSURED.** The Commercial General Liability Insurance, Automobile Liability and any Umbrella/Excess Liability insurance must include the Central Oregon Intergovernmental Council, its

officers, employees, and agents as Additional Insureds but only with respect to the contractor's activities to be performed under this Agreement. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Agreement, for a minimum of 24 months following the later of: (i) the Contractor's completion and COIC's acceptance of all Services required under this Agreement or, (ii) the expiration of all warranty periods provided under this Agreement. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain "tail" coverage and if the maximum time "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor may request and COIC may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If COIC approval is granted, the Contractor shall maintain "tail" coverage for the maximum period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR NON-RENEWAL. Contractor or its insurer must provide 30 days' written notice to COIC before cancellation of or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. Contractor shall provide COIC a certificate(s) of insurance for all required insurance before the Contractor performs under the Contract. The certificate(s) or an attached endorsement must specify all entities and individuals who are endorsed on the policy as Additional Insured.

## Exhibit B Oregon Public Contract Provisions

1.DELIVERY: Deliveries will be F.O.B destination. Contractor shall pay all transportation and handling charges. Contractor is responsible and liable for loss or damage until final inspection and acceptance of the Goods. Contractor remains liable for latent defects, fraud, and warranties.

2.INSPECTIONS: Agency may inspect and test the Goods and related Services (collectively, Goods). Agency may reject non-conforming Goods and require Contractor to correct them without charge or deliver them at a reduced price, as negotiated. If Contractor does not cure any defects within a reasonable time, Agency may reject the Goods and cancel the PO in whole or in part. This paragraph does not affect or limit Agency's rights, including its rights under the Uniform Commercial Code, ORS chapter 72 (UCC).

3.PAYMENT: Agency shall pay Contractor within 30 days from (i) the date the Goods are delivered and accepted or (ii) the date the invoice is received, whichever is later. If Agency fails to pay within 45 days of such date, Contractor may assess overdue account charges up to a rate of 2/3% per month (8% APR) or the maximum rate allowed by law on the outstanding balance.

4.STATE PAYMENT OF CONTRACTOR CLAIMS: If Contractor does not pay promptly any claim that is due for Goods or Services furnished to the Contractor by any subcontractor in connection with this PO, the State may pay such claim and charge that payment against any payment due to the Contractor under this PO. The State's payment of a claim does not relieve the Contractor or its surety, if any, from their obligations for any unpaid claims.

5.REPRESENTATIONS AND WARRANTIES: Contractor represents and warrants that: (a) the Goods are new, current, and fully warranted by the manufacturer; (b) Delivered Goods will comply with specifications and be free from defects in labor, material and manufacture; (c) Contractor shall comply with the tax laws of this state and all political subdivisions; and (d) Contractor has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State. All UCC implied and expressed warranties are incorporated in this PO. Contractor shall transfer all warranties to the State.

6.TERMINATION: (i) The Parties may terminate this PO by mutual agreement. (ii) Agency may terminate this PO at any time with written notice to Contractor. Upon receipt of the written notice, Contractor shall stop performance, and Agency shall pay Contractor for Goods delivered and accepted. (iii) Agency may terminate this PO at any time if Agency fails to receive funding, appropriations, or other expenditure authority. (iv) If Contractor breaches any PO provision, including the representations and warranties related to liquidated and delinquent debt, or is declared insolvent, Agency may terminate this PO for cause with written notice to Contractor, and Contractor shall be liable for all incidental and consequential damages resulting from its breach, including all damages as provided in the UCC.

Failure to comply with the tax laws of this state or any political subdivision or violation of Contractor's warranties related to compliance with the tax laws of this state and any political subdivision of this state also constitutes a material breach of this PO. Any violation entitles Agency to terminate this PO, to pursue and recover any and all damages that arise from the breach and the termination of this PO, and to pursue any or all of the remedies available under this PO, at law, or in equity, including but not limited to: termination of this PO in whole or in part; collection by administrative offset or garnishment, if applicable, or withholding amounts otherwise due and owing to Contractor without penalty.

7.HOLD HARMLESS: *Contractor shall indemnify, defend, and hold harmless the State and its agencies, their divisions, officers, employees, and agents, from all claims, suits or actions of any nature arising out of or related to the intentional misconduct, recklessness or negligent activities of Contractor, its officers, subcontractors, agents, or employees under this PO.*

8.GOVERNING LAW, JURISDICTION, VENUE: This PO is governed by Oregon law, without resort to any other jurisdiction's laws. Any claim, action, suit, or proceeding between the State and the Contractor that relates to this PO (Claim) must be heard exclusively in the Circuit Court of Marion County for the State of Oregon. If the Claim must be brought in a federal forum, then it must be heard exclusively in the US District Court for the District of Oregon. Contractor consents to the *in personam* jurisdiction of these courts. *Neither this Section nor any other provision of this PO is a waiver by the State of any form of defense, sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the US Constitution, or other immunity, from any Claim or consent to the jurisdiction of any court.*

9.FORCE MAJEURE: Neither party is responsible for delay or default caused by an event beyond its reasonable control. Agency may terminate this PO without liability to

Contractor upon written notice after determining the delay or default reasonably prevents performance of this PO.

10.ASSIGNMENT/SUBCONTRACT/SUCCESSORS: Contractor shall not assign, transfer, or subcontract rights (Subcontract) or delegate responsibilities under this PO in whole or in part, without the prior written approval of Agency. This PO's provisions are binding upon and inure to the benefit of the Parties to the PO and their respective successors and assigns.

11.ACCESS TO RECORDS: Contractor shall maintain all accounting records relating to this PO according to GAAP and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant the State and its agencies, the Secretary of State Audits Division, the federal government, and their duly authorized representatives, access to the Records, including reviewing, auditing, copying, and making transcripts.

12.COMPLIANCE WITH APPLICABLE LAWS: Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as amended (Rules), including: (i) Titles VI and VII of Civil Rights Act of 1964; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990; (iv) Executive Order 11246; (v) The Age Discrimination in Employment Act of 1967, and the Age Discrimination Act of 1975; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974; (vii) ORS Chapter 659; (viii) ORS 279B.020, , and 279B.270; (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; (x) all federal and state laws governing the handling, processing, packaging, storage, labeling, and delivery of food products; and (xi) all regulations and administrative rules established pursuant to the foregoing laws. Agency's performance is conditioned upon Contractor's compliance with, 279B.220, 279B.225, 279B.230, and 279B.235, as applicable. All applicable Rules are incorporated by reference in this PO.

13.WORKERS' COMPENSATION: Contractor shall comply with ORS

656.017 and provide the required workers' compensation coverage, unless exempt under ORS 656.126(2). Contractor shall ensure that its Subcontractors, if any, comply with these requirements.

14.SAFETY AND HEALTH REQUIREMENTS: Contractor represents and warrants that the Goods comply with all federal and Oregon safety and health requirements.

15.MATERIAL SAFETY DATA SHEET: Contractor shall provide Agency with a Material Safety Data Sheet for any Goods which may release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use (OAR 437- 002-0360 and 29 CFR 1910.1020). Contractor shall label, tag or mark such Goods.

16.RECYCLABLE PRODUCTS: Unless otherwise required, Contractor shall use recycled and recyclable products to the maximum extent economically feasible in the performance of the PO. These products shall include recycled paper, recycled PETE products, other recycled products (ORS 279A.010(1)(gg),(hh),(ii)), and other recycled plastic resin products.

17.AMENDMENTS: All amendments to this PO must be in writing, signed by Agency.

18.SEVERABILITY: If a court of competent jurisdiction declares any provision of this PO to be invalid, the other provisions and the rights and obligations of the Parties remain in effect.

19.WAIVER: Agency's failure to enforce any provision of this PO is not a waiver or relinquishment by Agency of its rights to such performance in the future or to enforce any other provisions.

20.AWARD TO FOREIGN CONTRACTOR: If Contractor is not registered to do business or has no office in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this PO. Agency may withhold final payment under this PO until Contractor has met this requirement.

21.TAX CERTIFICATION: Contractor hereby certifies under penalty of perjury: (a) the number shown on this form is the correct Federal Employer Identification Number; (b) it is not subject to backup withholding because (i) it is exempt from backup withholding, (ii) it has not been notified by the IRS that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that it is no longer subject to backup withholding; and (c) it is not in violation of any Oregon tax laws.

**Exhibit C**

- 1. **See Attached PDF.** State of Emergency Due to Homelessness Agreement No. OR-503
- 2. **See Attached PDF.** Central Oregon Executive Order 23-02 Community Plan Overview.

## Grant Agreement

### State of Emergency Due to Homelessness

This Agreement (this “Agreement”) is by and between the State of Oregon (“State”), acting by and through its Housing and Community Services Department (“Agency”), and Central Oregon Intergovernmental Council (“Recipient”), each individually a “Party,” and collectively the “Parties.”

#### 1. Effective Date and Duration

This Agreement shall become effective upon full execution by the Parties and, if required, approval by the Oregon Department of Justice, and shall expire on January 10, 2024, unless extended or terminated or sooner under the provisions identified within this Agreement. Expiration or termination of this Agreement will not prejudice Agency’s right to exercise remedies under this Agreement with respect to any breach that has occurred prior to expiration or termination.

#### 2. Background and Definitions

The Parties acknowledge the following background related to this Agreement:

- a. On January 10, 2023, Governor Tina Kotek issued Executive Order 23-02 (the “EO”), which declared a state of emergency due to homelessness. The EO is necessary to rapidly expand the State’s low-barrier shelter capacity, to rehouse people experiencing unsheltered homelessness, and to prevent homelessness to the greatest extent possible. All executive state agencies are authorized, upon further direction from Governor Kotek and the Governor’s office, to take any actions authorized under the provisions set forth in ORS 401.168 through ORS 401.192. The EO took immediate effect and remains in effect until January 10, 2024, unless extended or terminated earlier by the Governor.
- b. During the 2023 Session of the Oregon Legislature, Agency was awarded funding from House Bill 5019, subject to passage and approval. Agency was appropriated funding for both the Biennium ending on June 30, 2023, and the Biennium beginning on July 1, 2023. Agency will grant funding from this bill through a variety of agreements to further the objectives of Executive Order 23-02, including by granting funds under this Agreement.
- c. All references to “days” in this Agreement shall mean calendar days.

#### 3. Consideration

Agency agrees to pay Recipient, from available and authorized funds, the amount of actual expenses incurred by Recipient in performing the grant activities referenced below in Section 4 of this Agreement (“Authorized Expenses”), but not to exceed \$13,874,565.00 (the “Grant Funds”), as follows:

**3.1** On full execution of this Agreement by the Parties and, when required, approval by the Oregon Department of Justice, Agency will issue a Notice of Allocation (“NOA”) to Recipient,



pursuant to which Recipient will submit a request for funds and Agency will make a lump-sum payment to Recipient in the amount of \$3,661,343.54 (the “Initial Payment”), which Recipient will expend in accordance with the NOA. Recipient may use such funds to reimburse Authorized Expenses that were incurred by Recipient at any time during the period from January 10, 2023 to January 10, 2024 (the “Performance Period”).

**3.2** After July 1, 2023, and following expenditure of the Initial Payment by Recipient and submission to Agency of a report detailing such expenditures in such form as is satisfactory to or required by Agency, Agency will reimburse Recipient for additional Authorized Expenses up to the amount of \$10,213,221.46 (the “Additional Allotment”), following receipt of requests by Recipient for such reimbursement. The total Grant Funds amount will equal the Initial Payment amount plus the Additional Allotment amount. Funds from the Additional Allotment will only be used to reimburse Authorized Expenses incurred from July 1, 2023 until the end of the Performance Period (January 10, 2024). Each such reimbursement request will be made following, and in accordance with, a NOA issued by Agency to Recipient, including, but not limited to any allocation of Grant Funds in the applicable NOA to specific expense categories. Recipient will submit requests for reimbursement under this Section 3.2 at least quarterly and in such form and manner as is satisfactory to or required by Agency. Agency and Recipient may, by mutual agreement, modify or terminate a NOA at any time. In the event of a conflict between any NOA and the terms of this Agreement, including, but not limited to the not-to-exceed amount set forth under this Agreement, the terms of this Agreement will prevail.

#### **4. Grant Activities**

Recipient will use Grant Funds to conduct the grant activities set forth in Exhibit A (the “Grant Activities”), which is attached to and incorporated into this Agreement. Recipient’s receipt of Grant Funds is conditioned on Recipient’s compliance with Exhibit A, including, but not limited to any performance measures set forth in Exhibit A.

#### **5. Authorized Representatives**

##### **5.1** Agency’s Authorized Representative is:

Mike Savara  
725 Summer Street NE, Suite B  
Salem, OR 97301  
[Mike.Savara@hcs.oregon.gov](mailto:Mike.Savara@hcs.oregon.gov)

##### **5.2** Recipient’s Authorized Representative is:

Scott Aycock  
1250 NE Bear Creek Rd  
Bend, OR 97701  
[scotta@coic.org](mailto:scotta@coic.org)

**5.3** A Party may designate a new Authorized Representative by written notice to the other Party.

## 6. Online Systems

- 6.1** Recipient and its subrecipients must enter all appropriate and necessary data into OPUS (a web-based application developed by Agency), Homeless Management Information System (HMIS), Procorem or any other Agency-approved system designated by Agency (collectively, the “Sites”) at the time of client intake, if applicable, or at such other times required by Agency. Exceptions are only allowed with prior written approval by Agency.
- 6.2** As a condition of use of the Sites, Recipient and its subrecipients (collectively, “User”) agree to all terms and conditions contained in this Agreement, notices on the Sites, or other directives by Agency regarding use of the Sites. User agrees to not use the Sites for any unlawful purpose. Agency reserves the right, in its sole discretion, to update or revise the terms and conditions for use of the Sites.
- 6.3** Use of the Sites for additional reported “local” program data is at the Recipient’s and subrecipients’ own risk. Agency will not modify or otherwise create any screen, report, or tool in the Sites to meet needs related to this local data.
- 6.4** Recipient hereby grants and will require and cause any subrecipient to grant Agency the right to reproduce, use, display, adapt, modify, distribute, and promote the content on the Sites in any form and disclose, to the extent permitted by law, any or all of the information or data furnished to or received by Agency directly or indirectly resulting from this Agreement. Recipient also shall use and shall require and cause its subrecipients to use appropriate client release forms and privacy policy forms in connection with obtaining and transmitting client data.
- 6.5** Recipient understands and agrees, and shall require its subrecipients to agree, that all materials, information, software, products, and services included in or available through the Sites (the “Content”) are provided “as is” and “as available” for use. The Content is provided without warranties of any kind, either express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, or non-infringement. Agency does not represent or warrant that: (1) the Content is accurate, reliable, or correct; (2) the Sites will be available at any particular time or location; (3) any defects or errors in the Content will be corrected; or (4) the Content is free of viruses or other harmful components. Use of the Sites is solely at the User’s risk. User hereby accepts the risk of its use of the Sites, and of the use of the Sites by its subrecipients.
- 6.6** Recipient agrees that under no circumstances will Agency be liable for any direct, indirect, punitive, incidental, special, or consequential damages that result from the use of, or inability to use the Sites. This limitation applies whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if Agency has been informed of the possibility of such damage.

## 7. Headings

The headings or captions in this Agreement are for convenience only and in no way define, limit, or describe the intent of any provisions of this Agreement.

## **8. Amendments**

The terms of this Agreement shall not be modified, supplemented, or amended in any manner whatsoever, except in writing by Agency.

## **9. Nonexclusive Remedies Related to Funding**

Agency may withhold any and all undisbursed Grant Funds from Recipient if Agency, in its sole discretion, determines that Recipient has failed to timely satisfy any material obligation arising under this Agreement or otherwise. Recipient's material obligations include, but are not limited to, providing complete, accurate and timely reports satisfactory to Agency about Recipient's performance under this Agreement as well as timely satisfying all Agreement obligations relating to any Grant Funds.

If Grant Funds are not obligated for reimbursement by Recipient in a timely manner as determined by Agency in its sole discretion, Agency may reduce Recipient's funding as it determines to be appropriate in its sole discretion and redistribute such Grant Funds to other parties or retain such Grant Funds for other use. This remedy is in addition to any other remedies available to Agency under this Agreement or otherwise.

## **10. Independent Contractor Relationship**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that neither Recipient, nor any of its directors, officers, employees or agents, is an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

## **11. Access to Records**

Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that Agency and the Oregon Secretary of State's Office and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to the foregoing minimum records retention requirement, Recipient shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

## **12. Compliance with Law**

In connection with their activities under this Agreement, the Parties shall comply with all applicable law.

### **13. Contribution**

**13.1** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a “Third Party Claim”) against a Party (the “Notified Party”) with respect to which the other Party (the “Other Party”) may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party’s contribution obligation under this Section 13 with respect to the Third Party Claim.

**13.2** With respect to a Third Party Claim for which Agency is jointly liable with Recipient (or would be if joined in the Third Party Claim ), Agency shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of Recipient on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. Agency’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

**13.3** With respect to a Third Party Claim for which Recipient is jointly liable with Agency (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines, or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties’ relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines, or settlement amounts. Recipient’s contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

**13.4** Recipient shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (“Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys’ fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient’s contractor or any of the officers, agents, employees or subcontractors of the contractor (“Claims”). It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims. Any defense obligations to Indemnatee are subject to compliance with applicable provisions of ORS chapter 180.

#### **14. Recipient Default**

Recipient will be in default under this Agreement upon the occurrence of any of the following events:

**14.1** Recipient fails to perform, observe, or discharge any of its covenants, agreements, or obligations under this Agreement, including, but not limited to failure to perform Grant Activities or satisfy performance measures as set forth in Exhibit A and such failure is not remedied within thirty (30) days following notice from Agency to Recipient specifying such failure; or

**14.2** Any representation, warranty or statement made by Recipient in this Agreement or in any documents or reports submitted by Recipient in connection with this Agreement, concerning the expenditure of Grant Funds or Recipient’s performance of any of its obligations under this Agreement, is untrue in any material respect when made; or

**14.3** Recipient fails to incur expenses, or to satisfy performance measures, at a rate or in a manner that would result in complete expenditure of the Grant Funds in accordance with this Agreement, or successful completion of all performance measures under this Agreement, on or before January 10, 2024, as determined by Agency in its sole discretion.

#### **15. Agency Default**

Agency will be in default under this Agreement if Agency fails to perform, observe, or discharge any of its covenants, agreements, or obligations under this Agreement.

#### **16. Remedies**

**16.1** In the event Recipient is in default under Section 14, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 18, (b) reducing, withholding or recovering payment of Grant Funds for activities that Recipient has failed to

perform in accordance with this Agreement, (c) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (d) exercise of its right of recovery of overpayments under Section 17 of this Agreement or setoff, or both.

All of the above remedies in this Section 16.1 are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

**16.2** Prior to any termination of this Agreement by Agency pursuant to Section 18.2.3, Agency will provide Recipient with a written notice of such default and will include in such notice an offer to meet with the senior manager of Recipient who has primary responsibility for oversight of the Grant Activities to provide Recipient an opportunity to explain the reasons for the default and to present a proposal for curing the default within a time period that is acceptable to Agency. Recipient shall have 5 days to accept such offer. If Recipient does not accept such offer within such 5-day period, Agency may terminate this Agreement upon 10 days' written notice as provided in Section 18.2.3 or exercise any other remedies available to Agency under this Agreement unless Recipient has fully cured such default prior to the expiration of such 10-day notice period. If Recipient accepts such offer, the meeting must be held within 14 days of such acceptance or at such other time as agreed by Agency. Following the meeting, Agency shall make a determination, in its reasonable discretion, of whether to accept Recipient's proposal, with such modifications as are mutually acceptable to the Parties, and shall give written notice of such determination to Recipient. If Agency's written notice states that Agency does not agree to such proposal, or if Agency accepts such proposal but Recipient does not satisfy the terms of the proposal, Agency may terminate this Agreement upon 10 days written notice as provided in Section 18.2.3 or exercise any other remedies available to Agency under this Agreement unless Recipient has fully cured such default prior to the expiration of such 10-day notice period.

**16.3** In the event Agency is in default under Section 15 and whether or not Recipient elects to exercise its right to terminate this Agreement under Section 18, or in the event Agency terminates this Agreement under Sections 18.2.1, 18.2.2, or 18.2.4, Recipient's sole remedy will be a claim for reimbursement of expenses incurred in accordance with this Agreement, less any claims Agency has against Recipient. In no event will Agency be liable to Recipient for any expenses related to termination of this Agreement or for anticipated profits or loss. If previous amounts paid to Recipient exceed the amount due to Recipient under this Section 16.2, Recipient shall promptly pay any excess to Agency.

## **17. Recovery of Overpayments; Withholding of Funds**

**17.1** If payments to Recipient under this Agreement, or any other agreement between Agency and Recipient, exceed the amount to which Recipient is entitled, Agency may, after notifying Recipient in writing, withhold from payments due Recipient under this Agreement, such

amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

**17.2** Agency may withhold any and all undisbursed Grant Funds from Recipient if Agency determines, in its sole discretion, that Recipient has failed to timely satisfy any material obligation arising under this Agreement, including, but not limited to providing complete, accurate, and timely reports in a form satisfactory to Agency, or if Agency determines that the rate or scale of requests for Grant Funds in any expenditure category materially deviates from an applicable NOA or is unsubstantiated by related documentation.

## **18. Termination**

**18.1** This Agreement may be terminated at any time by mutual written consent of the Parties.

**18.2** Agency may terminate this Agreement as follows:

**18.2.1** Immediately upon written notice to Recipient, if Agency fails to receive funding, appropriations, limitations, or other expenditure authority at levels sufficient, in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;

**18.2.2** Immediately upon written notice to Recipient, if federal or state laws, rules, regulations, or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;

**18.2.3** If Recipient is in default under this Agreement and such default remains uncured for a period of 10 days following completion of the process outlined in Section 16.2 ; or

**18.2.4** As otherwise expressly provided in this Agreement.

**18.3** Recipient may terminate this Agreement immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice to Agency.

**18.4** Upon receiving a notice of termination of this Agreement, Recipient will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice.

## **19. Insurance**

**19.1** Recipient shall insure, or self-insure, and be independently responsible for the risk of its own liability for claims within the scope of the Oregon Tort Claims Act (ORS 30.260 through 30.300).

**19.2** Recipient shall require its first-tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to obtain the insurance specified in Exhibit C.

**20. Availability of Funds**

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities, or monetary obligations of Agency.

**21. Governing Law**

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Oregon, without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "claim") between Recipient and Agency or the State of Oregon that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon, provided that in the event that a claim must be brought in a federal forum, the claim shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Recipient consents to the exclusive jurisdiction of such courts. Nothing in this Agreement constitutes consent by the State of Oregon to the jurisdiction of any court or a waiver by the State of Oregon of any defense or immunity, including, but not limited to sovereign immunity and immunity under the Eleventh Amendment to the United States Constitution.

**22. Notice.**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid certified or registered mail, with return receipt, to a Party's Authorized Representative at the physical address or email address set forth in Section 5 of this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 22. Any notice so addressed and mailed becomes effective five days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation of delivery, either by return email or by demonstrating through other technological means that the email has been delivered to the Recipient's email address.

**23. Survival**

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than those rights and obligations that by their express terms survive termination of this Agreement or would reasonably be expected to survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

**24. Intended Beneficiaries**

Agency and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.



**25. Assignment**

Recipient may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Recipient to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Recipient's assignment or transfer of its interest in this Agreement will not relieve Recipient of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

**26. Subcontracts**

Recipient shall notify Agency prior to entering into any subcontracts for any of the activities required of Recipient under this Agreement. Agency's receipt of notice of any subcontract will not relieve Recipient of any of its duties or obligations under this Agreement. For purposes of this Agreement, including, but not limited to any exhibits incorporated into this Agreement, "subcontract" means any agreement pursuant to which Recipient compensates another party to carry out any activities under this Agreement, whether by contract for goods or services, grant agreement, or otherwise. For avoidance of doubt, the term "subcontractor" includes any subgrantee or subrecipient to which Recipient awards any funds received by Recipient under this Agreement.

**27. Merger; Waiver**

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by the applicable Party. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

**28. Counterparts**

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

[The remainder of this page intentionally left blank.]

**29. Signatures**

**Oregon Housing & Community Services**

DocuSigned by:  
*Sandra Flickinger*  
4641B20D2A0B40F...

**Signature**

Sandra Flickinger, Desig Proc Officer

**Printed Name & Title**

4/21/2023

**Date**

**Central Oregon Intergovernmental Council**

DocuSigned by:  
*Scott Aycock*  
779C985BA4A1459...

**Signature**

Scott Aycock, CED Director

**Printed Name & Title**

4/20/2023

**Date**

## Exhibit A

### Grant Activities

#### 1. Description.

On January 10, 2023, Governor Tina Kotek declared a homelessness state of emergency in response to the 80% rise in unsheltered homelessness in emergency areas since 2017. The Governor directed state agencies to prioritize efforts to reduce homelessness and established a statewide housing production advisory council. In addition to these efforts on the part of the state government, Agency will play a major role in the delivery of the Governor's early investment package that was awarded through House Bill (HB) 5019 during the 2023 Session of the Oregon Legislature. Most of these resources will be delivered to local emergency response regional planning bodies, including Continuums of Care ("CoC") within the areas that are included within the emergency declaration as determined by Agency. Agency will support communities in deploying these funds, including, but not limited to support pursuant to this Agreement, in a coordinated effort to accomplish the following statewide objectives:

1. Prevent homelessness for 8,750 households statewide;
2. Increase shelter capacity, quality, and utilization in emergency areas by 600 beds; and
3. Rehouse at least 1,200 households experiencing unsheltered homelessness in emergency areas.

Agency is deploying Grant Funds pursuant to a Homelessness Emergency Response Program designed to accomplish objectives 2 and 3 identified above (the "Program"). Objective 1 identified above will be accomplished through other agreements.

#### 2. Grant Activities.

- A. Regional Unsheltered Homelessness Emergency Response Plan.** Prior to eligibility for funding, Recipient submitted a Regional Unsheltered Homelessness Emergency Response Plan ("Plan") to Agency that specifies, among other things: current local, state, federal, and other resources allocated to emergency shelter services, rehousing services, and housing stabilization services; and current service levels and gaps in services and resources in emergency response areas specifically impacting people experiencing unsheltered homelessness. The Plan is attached to and incorporated into this Agreement as Exhibit B and, together with this Exhibit A, defines the scope of grant activities ("Grant Activities") authorized for the purposes of this Agreement.
- B. Compliance with Agreement.** Recipient shall and shall cause and require by written agreement that its subcontractors comply with and perform all Grant Activities in accordance with the terms of this Agreement, including but not limited to all exhibits to this Agreement. The provisions of this Section 2 are supplemental to and do not limit the obligations of Recipient or its subcontractors arising under any other provision of this Agreement.

- C. Housing Focused.** All activities conducted under this Agreement must be Housing Focused. “Housing Focused” activities are defined as activities that seek to lower barriers for people experiencing homelessness or housing instability. Activities conducted under this Agreement may not screen participants out solely on the basis of certain behavioral, psychological, physiological, citizenship or immigration status or economic preconditions. Housing Focused services must ensure that the safety and support of both staff and clients are paramount. This is accomplished through a focus on ensuring safety by managing behaviors that pose a risk to health and safety rather than implementing blanket exclusions based on a past diagnosis or current behavioral health symptoms that do not pose a direct risk to community safety. Furthermore, Recipient must actively coordinate services and supports for helping people exit homelessness and make efforts to reduce the barriers to re-housing individuals and families in their community.
- D. No Supplanting of Other Funds.** Recipient may not use funds under this Agreement to supplant other funds available for the same purpose. Furthermore, Recipient agrees that during the term of this Agreement, the funding available for homeless services from sources other than this Agreement will not be reduced from the levels outlined in the Plan, and that in the event of any such reduction, Agency may exercise any of the remedies available to it under this Agreement or at law or in equity. Recipient also agrees to comply with reporting requirements as outlined in Section 3 of this Exhibit A (Program Specific Reporting) to demonstrate the levels of funding from other sources as outlined in the Plan are sustained throughout the term of this Agreement and that no reductions to such funding are made. Failure by Recipient to comply with this Section 2(D) is a material breach of this Agreement, and entitles Agency to exercise any remedies available to it under this Agreement or at law or in equity.
- E. Client Evaluation.** Recipient shall conduct an initial evaluation of clients in accordance with local CoC requirements applicable at the time of client evaluation. For the purposes of client eligibility, Recipient must determine which category of housing status each household meets. Eligibility based on housing status shall be determined based upon the initial engagement with the client.

The eligibility categories are as follows:

**Category 1: Literally Homeless**—Individual or family that lacks a fixed, regular, and adequate nighttime residence, meaning:

- Living in a primary nighttime residence that is a public or private place not designed for human habitation (including, but not limited to, a car, park, abandoned building, bus or train station, airport or camping ground);
- Living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional shelter, and hotels or motels paid for by charitable organizations or by federal, state or local government programs); or

- Exiting an institution where the individual or family has resided for 90 days or less AND who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

**Category 2: Imminent Risk of Homelessness**—Individual or family that will lose their primary nighttime residence provided that:

- The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
- No subsequent residence has been identified; AND
- The individual or family lacks the resources or support networks (e.g., family, friends, faith-based or other social networks) needed to obtain other permanent housing.

**Category 3: Homeless Under Other Federal Statutes**—Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under another category, (literally homeless, imminent risk of homelessness or fleeing/attempting to flee domestic violence) but who:

- Are defined as homeless under other listed federal statutes;
- Have not had a lease, ownership interest, or occupancy agreement in permanent housing during the 60 days prior to the Program assistance eligibility determination;
- Have experienced persistent instability as measured by two moves or more during the preceding 60 days; AND
- Can be expected to continue in such status for an extended period of time due to special needs or barriers.

**Category 4: Fleeing/Attempting to Flee Domestic Violence**—Individual or family that:

- Is fleeing, or is attempting to flee, domestic violence;
- Has no other safe residence; AND
- Lacks the resources or support networks to obtain other permanent housing.

**Category 5: Unstably Housed**—Individual or family that:

- Is at risk of losing their housing, and does not otherwise qualify as homeless under Categories 1-4 listed above, provided that:
- Has been notified to vacate current residence or otherwise demonstrate high risk of losing current housing; AND

- Lack the resources or support networks to obtain other permanent housing.

**Category 6: Unsheltered Homelessness**—Individual or family that is living in a primary nighttime residence that is a public or private place not designed for human habitation (including, but not limited to, a car, park, abandoned building, bus or train station, airport or camping ground).

Client eligibility criteria for each of the above categories are as follows:

- Rapid Re-housing Client Eligibility Criteria:
  - Household must meet the following Housing Status Criteria at time of initial engagement:
    - **Category 6: Unsheltered Homelessness**
- Shelter and Street Outreach Client Eligibility Criteria:
  - Household must meet the following Housing Status Criteria:
    - **Category 1: Literally Homeless**
    - **Category 2: Imminent Risk of Homelessness**
    - **Category 3: Homeless Under Other Federal Statutes**
    - **Category 4: Fleeing/Attempting to Flee Domestic Violence**
    - **Category 6: Unsheltered Homelessness**
- Grant Funds under this Agreement are not allowed to be used for households meeting Category 5, Unstably Housed. Prevention funding will be deployed to local communities through other agreements.

**F. Low Barrier Shelter Requirement.** Funding under this Agreement for shelter acquisition, operation and construction must only be utilized to create new shelter bed capacity that meets the following definition of Low Barrier Shelter:

Low Barrier Shelters: Low and no barrier policies allow homeless individuals and households to access shelter, housing, and services without preconditions such as sobriety, compliance with treatment plan, no pets, or agreement to participate in specific programs, activities, or classes. These policies allow those most in need to have access to shelter and housing. These additional emergency shelter beds must be low barrier, focus on assessment and triage, and intentionally link to permanent housing resources so that people move through to housing quickly. Recipient may request

technical assistance from the Agency to modify shelter policies to meet this definition.

In order to meet minimum standards as a Low Barrier shelter, the following three conditions must be met:

- Sobriety\* and treatment are voluntary;
- No required documentation of identification, custody, citizenship, or gender. Furthermore, shelters must meet the Department of Housing and Urban Development's Equal Access Rule, 81 FR 64763, to ensure services are available to all individuals and families regardless of sexual orientation, gender identity, or marital status; and
- Shelter accommodates pets and belongings.

\*Note: Low-barrier shelters may establish requirements that limit the use of drugs and alcohol in common or shared areas of the facility. In addition, facilities may establish behavioral expectations that limit disruptive or violent behavior resulting from intoxication. However, the requirement to abstain completely from alcohol or drug use is not a component of low-barrier shelters.

Furthermore, Agency is recommending the adoption of the following best practices as key indicators of a successful Low Barrier Shelter:

- Shelter has minimal expectations or requirements of people seeking shelter;
- Shelter focuses on addressing disruptive or dangerous behaviors rather than compliance to rules or case plans;
- Shelter welcomes self-defined family and kinship groups to seek shelter together;
- Shelter can identify financial resources that can support the adoption of low barrier policies and practices and supports extended or flexible hours and adapted service-delivery models;
- Shelter accommodates pets and belongings;
- Shelter's intake process and housing navigation services coordinate closely with community-based outreach services and coordinated entry;
- Shelter creates flexible and predictable access for people seeking shelter;

- No charge to individuals or families for stays, meals, or services at the low barrier shelter; and
- Shelter does not exclude people with criminal convictions, poor credit, or eviction histories.

Recipient may fund shelters that require sobriety or drug and alcohol treatment services, but otherwise meet the definition of Low Barrier as outlined in this Agreement in order to provide access to the special needs of people who are in recovery from drugs and alcohol. For example, a facility that meets the definition of Alcohol and Drug Free Community housing as outlined in ORS 90.243 may qualify for funding. Such use of funds for shelters that require sobriety or drug and alcohol treatment services must be as outlined in the Plan (Exhibit B). Notwithstanding any other provision of this Agreement, no more than 30% of the shelter bed capacity created in each community under this Agreement is permitted to be subject to required sobriety or drug and alcohol treatment services.

**G. New Shelter Bed Requirement.** New shelter bed capacity is defined as beds that are added to a local region as a direct result of funding under this Agreement. Beds may be counted if the building requires rehabilitation prior to the shelter being operational or put into use, if needed. It also may include beds that are added to existing shelters through expansion. If a bed is not available in a local region due to lack of operational funding and has not been previously operational, Grant Funds may be used to bring the bed into active use and the bed would count as added shelter capacity for purposes of this Agreement. Shelter funds may not be used to supplant existing resources, consistent with Section 2(D) of this Exhibit A. Shelter beds may not be counted toward the goal of new shelter beds as outlined in this Agreement unless new beds are being added into an existing shelter or an entirely new shelter facility is brought online as a result of funding under this Agreement.

**H. Habitability Requirements.** Shelters, whether congregate or non-congregate, must meet habitability requirements that include minimum safety, sanitation, and privacy standards as outlined in 24 CFR § 576.403, regardless of whether 24 CFR § 576.403 independently applies to such shelters apart from this Agreement. Shelters must be structurally sound. Tents and other structures without hardened surfaces that do not meet these minimum standards are unallowable. Recipient must document habitability requirements for all shelters funded under this Agreement. Agency will provide technical assistance reasonably requested to ensure compliance with habitability requirements.

Shelter units may be in the form of Non-Congregate Free-Standing Units if they provide the following amenities:

- Heat
- Electricity
- The ability to close and lock a door
- Showers and restrooms onsite



- Hard-surface walls and roofing
- Food preparation facilities available onsite or with an action plan to provide meals to shelter residents

**I. Use of Grant Funds.** Consistent with the Plan as well as any applicable NOA, Grant Funds may be utilized for the following purposes:

- A. Acquisition, construction, conversion, or rehabilitation of shelters that increase the shelter bed capacity in accordance with the terms of this Agreement, including but not limited to Sections 2(F), 2(G) and 2(H) of this Exhibit A.
- i. **Acquisition** means acquiring property through purchase, donation, trade, or any other method for the purposes of utilization as an emergency shelter.
  - ii. **Conversion** means the process of changing or causing to change from one form to another; changing the function of a piece of property from one use to another.
  - iii. **Rehabilitation** means action taken to return a property to a useful state by means of repair, modification, or alteration.
- B. Shelter operations, services and supports for shelter beds that increase capacity as determined in accordance with the terms of this Agreement.
- C. Street outreach services, including housing navigation and placement services
- D. Sanitation services
- E. Rapid-rehousing services, including landlord incentives to secure available units, through block-leasing strategies or other means, for people exiting homelessness. Rental assistance commitments, when utilized under rapid-rehousing services, may be issued for up to a 12-month period of time after client move in and may also be issued in the form of an upfront payment to the landlord. Rental assistance commitments may include pre-paid costs to encourage landlord participation. Costs may also include paying for damages or past due housing debt to secure new units or resources. Supportive housing services may be provided for block-leased units and for households that are rehoused pursuant to this Agreement to ensure participants are able to stay securely housed and landlords are supported with various needs.

For all clients who are re-housed utilizing Grant Funds, Recipient is required to provide landlord with documentation showing that the landlord participated in the Program to ensure Agency can provide further guarantees of financial

assistance through the Landlord Guarantee Program. Agency shall provide templates that Recipient may use for this purpose.

- F. Administrative costs up to the limit outlined in the Plan (Exhibit B) including, but not limited to:
- i. Senior executive management personnel salaries and benefits (unless they are directly involved in Program operations), administrative staff travel costs;  
  
General services such as accounting, budget development, personnel, contracting, marketing, agency audit, agency insurance;
  - ii. Board expenses (excluding meals);
  - iv. Planning and implementation of MAC group infrastructure
  - v. Organization-wide membership fees and dues specific to the Program;
  - vi. General agency facilities costs (including those associated with executive positions), such as rent, depreciation expenses, and operation and maintenance (as part of the organization's direct or indirect cost allocation plan); and
  - vii. Equipment rental/purchase, insurance, utilities, and IT costs that are not specific to the Program but relate to the administration of the Recipient as a whole.

Recipient may also utilize Grant Funds to address the specific needs of various homeless subpopulations as set forth in the Plan. Targeting of funds must not violate the Fair Housing Act or other applicable anti-discrimination requirements.

### **3. Program Specific Reporting.**

Recipient shall and shall cause and require its subcontractors by written agreement to submit to Agency all reports as required in this Agreement. Recipient shall and shall cause and require its subcontractors by written agreement to ensure that data collection and reporting, which may include personally identifiable information, be conducted through the use of Agency-approved systems including HMIS or HMIS-Comparable systems for Victim Service Providers. Recipient shall utilize existing systems of Agency (OPUS for fiscal management, and HMIS for Program outcome management, Procorem for reporting submission) for all funding under this Agreement in accordance with applicable policies and procedures of Agency. Recipient shall provide service provider technical assistance to users in Recipient's region and may request additional assistance from Agency as needed.

Recipient may request a reporting deadline extension. An extension must be approved, in writing by Agency in Agency's sole discretion. Requests must be emailed to [HCS.REPORTING@hcs.oregon.gov](mailto:HCS.REPORTING@hcs.oregon.gov) prior to the submission deadline.

The following reports and other documents shall be submitted to Agency throughout the Performance Period and for any additional period as required to include all reportable activities performed during, the Performance Period and all other reportable information relating to the Performance Period:

- (1) Monthly disaggregated data using the SAP Business Objects (the HMIS reporting tool) System Query Report. Report is due 20 days following the end of each month and uploaded into Procorem. The System Query data may be submitted by the HMIS administrator for all OHCS funded HMIS Participating Agencies/Providers in the HMIS instance.
- (2) Monthly Housing Inventory (HIC) Bed/Unit Inventory updates must be 20 days following the end of each month. This can be reported using the HIC report in SAP Business Objects or an Excel spreadsheet of the CoC's Housing Inventory (complete), maintained outside of HMIS. Reports must be emailed to [HCS.REPORTING@HCS.oregon.gov](mailto:HCS.REPORTING@HCS.oregon.gov).
- (3) Quarterly Aggregated Activity Reports using the SAP Business Objects OHCS Quarterly Report are due 20 days following the end of each quarter. Reports must be emailed to [HCS.REPORTING@HCS.oregon.gov](mailto:HCS.REPORTING@HCS.oregon.gov). The Quarterly Aggregated Activity Report may be submitted by the HMIS administrator for all OHCS funded HMIS Participating Agencies/Providers in the HMIS instance.
- (4) Biannual System Performance Measure Reports (SPMs) for the CoC and for All-in funded projects (Reporting Group) are due 20 days following the end of each month. These are "canned" reports found in WellSky Community Services (ServicePoint) Report Module: System Performance Measures. Instructions on how to format and share these reports will be provided by Agency. Reports must be emailed to [HCS.REPORTING@HCS.oregon.gov](mailto:HCS.REPORTING@HCS.oregon.gov).
- (5) Requests for funds through the OPUS system must be submitted within 60 days of the end of each quarter. A final request for funds must be submitted for all fiscal year expenses within 60 days of each fiscal year end. Backup documentation for expenditures made from the Initial Payment must be submitted to Agency within 30 days of June 30, 2023. Backup documentation for expenditures made from the Additional Allotment must be submitted through Agency's OPUS system.
- (6) If Recipient uses funds under this Agreement to add new shelter bed capacity, Grantee must submit a narrative update in a manner prescribed by Agency within 20 days of the end of each month during which such new shelter bed capacity is being added.
- (7) Recipient shall provide additional reports and shall cooperatively attend meetings with Agency, as reasonably requested by Agency.

#### 4. Performance Measures

Recipient shall and shall cause and require its subcontractors by written agreement to conduct the Grant Activities in a manner consistent with the requirements of this Agreement and to achieve the following performance goals, as well as the performance goals that are outlined in the Plan:

- A. Increased housing stability as measured by the number of individuals who were successfully re-housed and who met eligibility criteria as outlined in this Agreement before the end of the performance period (January 10, 2024) unless otherwise stated.
- B. Increased shelter availability and utilization in boundary area of the Continuum of Care or identified sub-region as defined in the Plan as measured by a percentage increase in the number of new shelter beds as defined in this Agreement available and operational in the region referenced above by the end of the Performance Period (January 10, 2024), unless otherwise stated.

#### 5. Restrictive Covenants for Shelter Facilities

Recipient shall operate the shelter facilities acquired, converted, renovated or rehabilitated pursuant to the Grant Activities (the “Facilities”) and provide such related services as are required under the Grant Activities and other provisions of this Agreement for the restrictive use period as provided below (the “Restrictive Use Period”).

Recipient must place a Declaration of Restrictive Covenants on the Facilities restricting the use of the Facilities to provide the housing and services as described in this Agreement. The Declaration of Restrictive Covenants shall be in such form as required by Agency and shall be filed, at the Recipient’s expense, in the real property records of each county in which the Facilities are located. Notwithstanding any provision of this Agreement, the obligations set forth in the Declaration of Restrictive Covenants shall continue in full force and effect throughout the entire Restrictive Use Period and until the expiration of such obligations under the terms of the Declaration of Restrictive Covenants. Recipient acknowledges and agrees that such obligations will survive the expiration or termination of this Agreement. Recipient shall execute all other documents reasonably required by Agency in connection with the Declaration of Restrictive Covenants. Agency may waive any of the requirements pertaining to Facility restrictive covenants at its sole discretion.

##### **Restrictive Use Period**

The Restrictive Use Period for all Facilities that are acquired or constructed by Recipient through the use of Grant Funds is 10 years.

The Restrictive Use Periods for Facilities that are placed in service following rehabilitation or conversion of an existing structure are as set forth in the table below. The Restrictive Use Period runs from December 31 of the year the Facility is placed in service until December 31 of the final year of the Restrictive Use Period. Recipient must agree to certify compliance with this

requirement and submit that certification to Agency on an annual basis, or upon request of Agency, throughout the Restrictive Use Period.

Before Recipient uses any Grant Funds to construct, rehabilitate or convert a Facility to be located on leased property, Recipient shall request prior written approval of Agency. Agency may approve or disapprove of such use of Grant Funds in its sole discretion and any such Agency approval may include modifications to the Restrictive Use Period as determined by Agency in its sole discretion.

<b>Rehabilitation and Conversion Minimum Period of Use</b>		
<b>Type of Activity</b>	<b>Definition</b>	<b>Minimum Period of Use</b>
Minor Rehabilitation	The cost of the rehabilitation of an existing emergency shelter is 75% or less of the value of the building before rehabilitation*	3 Years
Major Rehabilitation	The cost of the rehabilitation of an existing emergency shelter exceeds 75% of the value of the building before rehabilitation*	10 Years
Minor Conversion	The cost of the conversion of a building to an emergency shelter is 75% or less of the value of the building after conversion*	3 Years
Major Conversion	The cost of the conversion of a building to an emergency shelter exceeds 75% of the value of the building after conversion*	10 Years

\* The value of each shelter building is the fair market value of the building, as determined by an independent real estate appraiser approved by Agency or by an Agency-approved process.

#### Transferring Property Ownership

Within the Restrictive Use Period, Recipient may not transfer, repurpose, sell, assign, bequeath, or dispose of any interest in the Facilities or the underlying real property to any person, entity or

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other assignee, without obtaining the prior written consent of Agency. Agency may condition any such consent on the agreement of the transferee to assume all obligations of Recipient under this Agreement for the duration of the Restrictive Use Period. The proposed use of any monies gained from the transaction must be pre-approved by Agency.

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**Exhibit B**  
**Regional Plan**

# Regional Planning Template and Funding Request



OR-503 (Central Oregon CoC)

## Contents:

- [Overview](#)
- [Process](#)
- [Data Collection](#)
- [Community Analysis](#)
- [Goal Setting](#)

## Overview

On January 10, 2023, Governor Tina Kotek declared a state of emergency in response to a 63% rise in homelessness since 2016. Oregon's Departments of Emergency Management (OEM) and Housing and Community Services (OHCS) have partnered to lead this work with the Office of the Governor.

The initial priority in this crisis is to target funding in a coordinated, three-prong effort to 1) **prevent homelessness** for at least 8,750 households statewide, 2) **increase shelter capacity** in emergency areas by 600 units, and 3) **rehouse** at least 1,200 **households** statewide this year.

The Oregon Housing and Community Services Department will deliver \$130,000,000 in funding to seven of Oregon's Continuums of Care (CoCs) deemed emergency areas. OEM and OHCS will lead this work and coordinate state agency support for local implementation. Over the course of the year, state partners will support regional and community partners in the emergency areas to:

### Phase 1: January-February

- Determine additional state funding opportunities for unsheltered homeless services
- Establish and begin managing MAC (multi-agency coordination) teams

### Phase 2: February-March

- Determine regional impact and needs
- Gather community priorities
- Project this year's progress and possibility
- Set goals and milestones
- Confirm draft regional plan

### Phase 3: March-April



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- Determine local capacity for approved plan
- Identify outstanding support and resource needs
- Develop local implementation plans

**Phase 4:** April-December

- Monitor systems improvement
- Iterate on regional plan and strategies

- Support continuous quality improvement

**Phase 5:** August-December

- Document lessons learned
- Determine regional impact for 2023 and 2024 needs
- Celebrate and build on successes for 2024 planning

This **Regional Planning Template and Funding Request** is the framework for Phase 2 and is designed to support regional planning and streamline the state’s funding process for homeless services under EO-23-02.

*Process*

In February 2023, OHCS and OEM will convene regional and local leaders to provide an overview of Phase 2: Regional Planning and Funding Requests. This document covers the three steps of Phase 2:

- 1) Data Collection
- 2) Community Analysis
- 3) Goal Setting

This document can be used as a guide throughout Phase 2 and as a repository for qualitative data and community decisions and plans. State partners have attached an editable spreadsheet to this document, which will serve to collect data and automate calculations and projections necessary to the planning and funding process. Phase 2 is outlined below with items captured in the spreadsheet noted with an \*.

Data Collection

- Partners\*
- Population\*
- Services\*

Community Analysis

- Stakeholder Engagement
- Data Review
- Impact Analysis

- Community Priorities
- Unmet Needs

Goal Setting

- Priority Strategies
- Projections\*
- Confirm Goals
- Milestones



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*Data Collection*

Early in this phase of work, MAC teams and CoCs are encouraged and can be supported in seeking input from people with lived expertise and/or experience of homelessness (people who have or who are currently experienced of homelessness). This input should be prioritized in discussion and decision-making. State agencies and technical assistance providers are available to support this coordination as needed upon request through MAC teams. The region's spreadsheet\* should be used to capture a comprehensive list of partners and expertise engaged in Phase 2.

The data collection work outlined below requires the accompanying spreadsheet where MAC teams will collect the data necessary to inform local projections, analysis, and priorities. Use of the spreadsheet is noted with an asterisk (\*) throughout this template.

*Partners*

MAC teams will work with Continuums of Care to identify key partners in regional and local strategic planning for unsheltered homeless services to inform stakeholder engagement from the beginning of the regional process. Given the critical systems operations and service provision already underway, communities may elect to have representatives to this process to share information for and with multiple stakeholders and coalitions.

The initial data and impact analysis\* offered by state partners should inform whether and which additional partners should be invited to the table, particularly those representing communities and subpopulations who are disproportionately impacted by unsheltered homelessness in each region.

During the data collection process in Phase 2, MAC teams and CoCs should prioritize community engagement efforts identify preexisting connections or plan for outreach to culturally specific service providers, identity- and interest-based community groups, community organizers, and other formal and informal representatives of disproportionately impacted groups across the region.

This engagement and partnership should be prioritized over the quantitative data outlined below in early in Phase 2 because their specific perspectives will significantly improve the efficacy of the community's strategies given the disparate impact of the crisis on their communities and their resulting expertise.

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### *Population*

State partners have documented\* each CoC’s 2022 Point-in-Time data as well as each CoC’s census data to better understand the impact of unsheltered homelessness at the subpopulation level in each region. Through the contracting process, MAC teams will be asked to coordinate HDX 2.0 access for state agencies to establish more accurate baselines and projections using annual rather than point-in-time data.

Subpopulation data is captured here based on the following publicly available demographic data for the general population as well as data specific to those experiencing homelessness: household makeup (individual/family), age or service (youth and veterans), and race and ethnicity. This initial data analysis\* is intended to highlight which subgroups in the region are at a disproportionately high risk of experiencing unsheltered homelessness. During Phase 2, there is no additional data input or quantitative data analysis required.

The region’s data and impact analysis should be shared with partners engaged in the regional planning and funding request process. As information is gathered about the specific challenges, opportunities, and efforts already underway, MAC teams will document and build on that information to inform the region’s priority strategies and goals.

### *Services*

All In is focused on three core components of our statewide response to unsheltered homelessness: rehousing people experiencing unsheltered homelessness, preventing unsheltered homelessness, and shelter.

MAC teams will gather and input data\* to capture the relevant types of services, units, availability, and costs across the region. This will include all federal, state, local, and philanthropic contributions and funding for shelter, rehousing, and targeted homelessness prevention.

As communities identify priority strategies for each of these three areas, partners will refer to this data to identify capacity restraints and opportunities to invest in additional capacity. State agencies will also use this data to better understand and support communities in navigating unstable funding streams during and preceding the COVID-19 pandemic.

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*Community Analysis**Part 1: Community Engagement and Data Review*

- 1) Please summarize your community engagement processes and the efforts made to ensure that the perspectives of people experiencing homelessness, frontline service providers, and groups at a high risk of experiencing homelessness inform regional priorities throughout Phase 2. Please list decision making processes and track community engagement efforts here as well.

The MAC Group has 24 members representing the following agencies across the tri-county region:

- Local jurisdictions (homelessness and EM staff)
  - Public housing authority
  - Community Action Agency
  - Local homelessness agencies
  - Rapid rehousing service providers
  - Shelter developer/operator
  - Behavioral Health Providers
  - Healthcare/Federally Qualified Health Center
  - Continuum of Care Leadership
- Encouraging MAC members to share the surveys within their networks. We've also encouraged MAC members to help channel feedback in a constructive way, by sharing information from meetings within their networks and soliciting feedback and elevating that to the broader MAC group.
  - Informal Vertical Feedback (similar to Lane County)

New website ([www.coic.org/EO2302/](http://www.coic.org/EO2302/)) –

- EO 23-02 language
- MAC roster
- Zoom links to attend MAC meetings, links to meeting materials, and recordings of MAC meetings
- Regional Planning Template
- All in Workbook
- Google Surveys
- Contact information for COIC Staff

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Google Surveys – sent to 700+ people throughout Central Oregon to capture information on Community Priorities and Goal Setting.

- Over 150 responses to Community Priorities Survey
- Over 35 responses to Project Concepts Survey

The MAC is also leveraging information collected in past outreach efforts, like information gleaned from the comprehensive Emergency Homelessness Task Force (Deschutes County) process in 2021, which you can learn more about here: <https://www.houselessindeschutes.org/>. The Emergency Homelessness Task Force informed a strategic plan, which can be found here: <https://www.houselessindeschutes.org/our-plan-to-solve-homelessness>. Redmond Service Providers, with partnership with Rogue Retreat, collected input from Service Providers in 2021, which was considered as well. The Continuum of Care does regular outreach and receives feedback from culturally and population-specific providers, which was considered in this process. The Oregon Homeless Youth Needs Assessment and System Modeling was also considered.

- 2) MAC teams and CoCs will seek input from disproportionately impacted groups and communities in an ongoing effort to develop a shared understanding of individual and regional challenges facing people experiencing unsheltered homelessness. Please add any additional qualitative or quantitative data or information that was shared to better understand the impact of unsheltered homelessness on their communities.

HMIS Data, State-provided PIT Data, McKinney-Vento Youth Homelessness Data, Census Data

Discussions with and feedback from subpopulation specific providers – J Bar J, COVO, Latino Community Association, Council on Aging

### *Part 2: Impact Analysis*

- 3) How many people experiencing unsheltered homelessness did your Continuum of Care region house in 2022?  
HMIS

111 people reported their last living situation was an unsheltered situation, before entered a program, and then moved into permanent housing.

36 head of households, who have experienced unsheltered homelessness became housed through an EHV.

29 of the head of households were housed through an EHV in 2022.

2 housed EHV holders who had experienced unsheltered homelessness returned to homelessness in 2022 and 2023.

- 4) Based on quantitative data and qualitative community input, these three groups have a disproportionately high risk of experiencing unsheltered homelessness:

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*Context: In 2022, our Continuum saw 1096 people engage with the homelessness response system who were experiencing unsheltered homelessness (living in a place not meant for habitation)*

- a. Subpopulation 1: BIPOC, specifically Black, Pacific Islander, and Indigenous peoples
  - b. Subpopulation 2: Medically-Vulnerable individuals
  - c. Subpopulation 3: LGBTQ+ Youth
- 5) What percentage of people experiencing unsheltered homelessness who exit to permanent housing, return to homelessness within 6 months?
- 6% (2022 System Performance Measures)
- 6) What percentage of people experiencing unsheltered homelessness who exit to permanent housing, return to homelessness within 6-12 months?
- 6% (2022 System Performance Measures)
- 7) On average, how many people experiencing unsheltered homelessness does your Continuum of Care region exit to permanent housing each month?
- 9 People
- 8) What culturally specific services are available and accessible to each of the three groups of people experiencing unsheltered homelessness in your Continuum of Care region?
- a. Subpopulation 1: Latino Community Association, Warm Springs Street Outreach and Emergency Shelter, Oregon Worker Relief Fund
  - b. Subpopulation 2: Central Oregon Council on Aging, Assisted Living Facilities, Mosaic Medical Community Health Workers
  - c. Subpopulation 3: J Bar J Youth Services
- 9) What specific services or supports are available for individuals in these groups to access and sustain mainstream (education, health care, Social Security, etc.) services and community connections once people are housed?
- a. Subpopulation 1: Latino Community Association, Warm Springs Navigation Center, The Father's Group, Mosaic Community Health Workers, Best Care, Oregon Human Development Corporation, NeighborImpact, Thrive
  - b. Subpopulation 2: Central Oregon Council on Aging, Assisted Living Facilities, Mosaic Community Health Workers, Thrive Central Oregon, Abilitree, NeighborImpact, Thrive
  - c. Subpopulation 3: J Bar J Youth Services, Deschutes County Mental Health Youth and Young Adults, FAN, Best Care, Rimrock, NeighborImpact, Thrive

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*Part 3: Community Priorities*

10) Please select **all** local needs that are immediate and major barriers to your Continuum of Care's efforts to support people experiencing unsheltered homelessness in regaining housing, safety, and stability. (25% or more of respondents selected the following answers as their top priorities)

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Housing Affordability                       | <input type="checkbox"/> Project-based rental assistance                 |
| <input checked="" type="checkbox"/> Emergency Shelter Shortage                  | <input checked="" type="checkbox"/> Housing Choice Vouchers              |
| <input checked="" type="checkbox"/> Street Outreach Services                    | <input type="checkbox"/> Targeted subsidies                              |
| <input checked="" type="checkbox"/> Affordable Housing Landlord Engagement      | <input checked="" type="checkbox"/> Rent buy-down                        |
| <input checked="" type="checkbox"/> Substance Use Disorder Care and Services    | <input type="checkbox"/> Family reunification transportation assistance  |
| <input checked="" type="checkbox"/> Mental Health Care and Services             | <input checked="" type="checkbox"/> Flexible emergency funding           |
| <input checked="" type="checkbox"/> Rapid Rehousing Projects                    | <input type="checkbox"/> Food security payments                          |
| <input checked="" type="checkbox"/> Service Providers – Organizational Capacity | <input type="checkbox"/> Marketing materials                             |
| <input checked="" type="checkbox"/> Service Providers – Staff/Salary            | <input checked="" type="checkbox"/> Operating costs                      |
| <input type="checkbox"/> Service Providers – Specific Expertise                 | <input type="checkbox"/> Other flexible forms of financial assistance    |
| <input checked="" type="checkbox"/> Medical Care                                | <input type="checkbox"/> Other renovations                               |
| <input checked="" type="checkbox"/> Skilled Nursing Facility Care               | <input checked="" type="checkbox"/> Peer support Services                |
| <input type="checkbox"/> Nursing Home Shortage                                  | <input type="checkbox"/> Planning and development                        |
| <input type="checkbox"/> Manufactured Housing                                   | <input checked="" type="checkbox"/> Project management                   |
| <input checked="" type="checkbox"/> Housing Development                         | <input type="checkbox"/> Repairing damages                               |
| <input type="checkbox"/> Flexible System Funding/Costs                          | <input type="checkbox"/> Room and board payments                         |
| <input type="checkbox"/> Cleaning or maintenance (e.g., hoarding prevention)    | <input checked="" type="checkbox"/> Security deposits                    |
| <input checked="" type="checkbox"/> Housing-focused Case Management             | <input checked="" type="checkbox"/> Service coordination and integration |
| <input checked="" type="checkbox"/> Housing problem-solving assistance          | <input type="checkbox"/> Signing bonuses                                 |
| <input checked="" type="checkbox"/> Conflict mediation Services                 | <input checked="" type="checkbox"/> Staffing                             |
| <input checked="" type="checkbox"/> Housing Navigation Services                 | <input type="checkbox"/> Transportation assistance                       |
| <input type="checkbox"/> Tenant-based rental assistance                         |  |

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11) For each of the three subpopulations identified above as **disproportionately likely** to experience unsheltered homelessness in your region, please identify which of these needs most significantly and specifically impact their ability to regain and retain housing.

- Subpopulation 1: BIPOC - Peer Support, Service Coordination/Integration, Housing Problem-Solving Assistance, Flexible Emergency Funding, Street Outreach, Housing Affordability
- Subpopulation 2: Medically Vulnerable - Medical Care, Skilled Nursing, Flexible Emergency Funding, Housing Affordability
- Subpopulation 3: LGBTQ+ Youth - Emergency Shelter Shortage, Rapid Rehousing, Street Outreach, Housing Affordability, Conflict Mediation Services, Peer Support, Housing Focused Case Management, Mental Health, Medical Care, Flexible Emergency Funding

12) Please list the region's five most urgent and critical (important but not immediately time sensitive) unmet needs, choosing from the selected list above.

1. Most Urgent: Housing Affordability (77.9% of Respondents)
2. Urgent and Critical: Mental Health Care and Services (68.8% of Respondents)
3. Time Sensitive and Very Important: Emergency Shelter Shortage (59.7% of Respondents)
4. Not Time Sensitive but Very Important: Substance Use Disorder Care and Services (55.8% of Respondents)
5. Important: Rapid Rehousing Projects (39.6% of Respondents)

### *Goal Setting*

Each region will determine priority strategies that will target its All In investments across its three goals. MAC teams and CoCs will rely on the data and community analysis above to inform which of these strategies to prioritize. MAC teams and CoCs may gather additional data to better understand what local capacity and limitations should guide these investments.

Based on the supports most needed and the services currently available in your region, please check **only** the boxes for the investment strategies that would **most benefit** your community's efforts to rehouse people experiencing unsheltered homelessness.



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Part 1: Strategies to prevent unsheltered homelessness

Technical assistance and support to integrate **housing problem-solving into street outreach.**

Offering **flexible housing-related funding for institution-involved families, youth, and single adults** who formerly exited or are currently exiting a publicly funded child welfare and foster care, juvenile and adult corrections, long-term care, health, and mental health and substance use treatment facility by providing flexible funding that to reduce housing instability. Eligible activities include:

- Housing-focused case management
- Service coordination and integration
- Targeted subsidies
- Flexible emergency funding
- Room and board payments
- Transportation assistance
- Food security payments
- Other flexible forms of financial assistance

Offering **flexible housing-related funding for older adults and people with disabilities** – including people with mental health conditions and/or substance use disorders –to reduce housing instability by providing access to housing-related home- and community-based services. Eligible activities include:

- Housing-focused case management
- Service coordination and integration
- Targeted subsidies

- Flexible emergency funding
- Room and board payments
- Transportation assistance
- Food security payments
- Other flexible forms of financial assistance

Funding **encampment-specific prevention and shelter diversion to permanent housing or family reunification** (if safe and appropriate) to prevent people that have been placed into permanent housing from losing their housing and falling back into unsheltered homelessness. Eligible activities include:

- Housing-focused outreach
- Housing-focused case management
- Family reunification transportation assistance
- Housing problem-solving assistance
- Flexible emergency funding

**Expand or establish geographically robust street outreach efforts** that provide access to the full menu of services available in your community. Eligible activities include:

- Service coordination and integration
- Harm reduction training
- Peer support
- Housing problem-solving assistance
- Conflict mediation
- Family reunification transportation assistance

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*Part 2: Strategies to increase shelter capacity for individuals and families experiencing unsheltered homelessness*

**Technical assistance and support to re-evaluate current emergency shelter rules** that may unnecessarily punish, divert, harm, or discourage people from staying in emergency shelter and seek unsheltered respite.

- Related soft costs
- Replacement reserve

**Expand non-congregate shelter** through acquisition and development through the following eligible activities:

- Acquisition of existing structure or vacant land
- Demolition costs
- Development hard costs
- Site improvements

**Expand emergency shelter bed capacity** through the following eligible activities:

- Major rehabilitation
- Conversion
- Other renovation

*Part 3: Strategies to rapidly rehouse individuals and families experiencing unsheltered homelessness*

Technical assistance and support to establish or strengthen your Continuum of Care region's **relationship with Public Housing Authorities** to coordinate on securing available voucher resources to rehouse individuals and families experiencing unsheltered homelessness.

Technical assistance and support to develop and implement an **encampment strategy** to focus rehousing efforts and reduce the number of encampments.

Technical assistance and support to examine, revise or strengthen your Continuum of Care region's **coordinated entry** prioritization policies and practices to rapid rehouse individuals and families experiencing unsheltered homelessness.

Expand or develop a **landlord incentive package** to establish a pool of units with reduced or eliminated tenancy screening criteria to rehouse people experiencing unsheltered homelessness. Eligible activities include:

- Planning and development
- Marketing materials
- Holding fees
- Signing bonuses
- Security deposits
- Rent buy-down

**Technical assistance and support to analyze your Continuum of Care region's funding portfolio** to identify braided funding opportunities to increase its capability to rapidly rehouse individuals and families experiencing unsheltered homelessness.

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Repairing damages

Develop and implement a **housing surge** and/or **housing fair**. Eligible activities include:

- Staffing
- Admin
- Project management
- Fiscal Agent
- Tenant-based rental assistance
- Housing-focused case management
- Third-party inspection services

Develop and implement a **master leasing program**. Eligible activities include:

- Staffing
- Admin
- Project management
- Fiscal Agent
- Project-based rental assistance
- Housing-focused case management
- Third-party inspection services
- Operating costs

### Goals

Please identify what goals your Continuum of Care is prepared to set and work toward this year for each area, assuming financial support from the state for implementing some or all the strategies marked above, as well as technical assistance and collaboration.

Quantify your goal to contribute towards this statewide effort and identify the number of households, beds, and/or people you will be able to serve with additional resources.

**Increase shelter capacity**

Our CoC Region will add a minimum  emergency shelter beds by this date: 1/9/2024.

**Rapidly rehouse**

Our CoC Region will rapidly rehouse  people experiencing unsheltered homelessness by this date: 1/9/2024.

<sup>2</sup>  
*Milestones*

Please provide a timeline of milestones your Continuum of Care region proposes to mark progress, evaluate strategies, and improve operations to achieve the identified above, contingent on funding, in partnership with OHCS and OEM.

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June	<ul style="list-style-type: none"> <li>• Quarterly Check in with MAC Executive Team to measure progress towards goals (HMIS adoption, Coordinated Entry Participation, Subpopulation specific impact, etc.)</li> <li>• MAC Refresh</li> <li>• If properties need to be acquired, acquisition has happened or the process of escrow.</li> <li>• Funded Projects/Programs have begun to serve clients. Case Management, Operations asst.</li> <li>• Develop master leasing program</li> <li>• Develop landlord incentive program and requirements.</li> <li>• Operations funding deployed and some Emergency shelters up and running.</li> <li>• Subcontractor procurement process determined, if necessary.</li> </ul>	<ul style="list-style-type: none"> <li>• MAC Meeting for Funded Agencies to discuss progress, successful strategies, and Barriers (monthly)</li> <li>• HMIS Data Quality Component (monthly)</li> <li>• Coordinated Entry &amp; By Name List Progress (monthly)</li> <li>• Case Manager Check ins (monthly)</li> <li>• Create landlord incentive program with landlord and agency feedback.</li> <li>• Create master leasing program with agency feedback.</li> <li>• Review opportunities, barriers and progress on meeting goals. Target agencies needing additional support or Technical assistance.</li> <li>• Funding Reserve Assessment</li> </ul>
July	<ul style="list-style-type: none"> <li>• Subcontractor contracts in place, if necessary.</li> <li>• Renovations to property have started, if necessary.</li> <li>• New programs participating in HMIS are trained and have begun to input data into the system.</li> <li>• Begin implementing both landlord incentive program and master leasing program.</li> </ul>	<ul style="list-style-type: none"> <li>• MAC Meeting for Funded Agencies to discuss progress, successful strategies, and Barriers (monthly)</li> <li>• HMIS Data Quality Component (monthly)</li> <li>• Coordinated Entry &amp; By Name List Progress (monthly)</li> <li>• Case Manager Check ins (monthly)</li> <li>• Funding Reserve Assessment</li> </ul>
August	<ul style="list-style-type: none"> <li>• MAC Refresh</li> <li>• Shelters that are planning to expand capacity are functional and serving clients</li> <li>• Halfway point... 4 months to go.                         <ul style="list-style-type: none"> <li>○ Prevention – 100/354 individuals</li> <li>○ Shelter – 30/81 beds</li> <li>○ Rehousing – 50/162 households</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• MAC Meeting for Funded Agencies to discuss progress, successful strategies, and Barriers (monthly)</li> <li>• HMIS Data Quality Component (monthly)</li> <li>• Coordinated Entry &amp; By Name List Progress (monthly)</li> <li>• Case Manager Check ins (monthly)</li> <li>• Funding Reserve Assessment</li> <li>• Larger scale assessment of what programs have been working and what programs need to pivot their approach.</li> </ul>

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September	<ul style="list-style-type: none"> <li>• Quarterly Check in with MAC Executive Team to measure progress towards goals</li> <li>• Ensure each community in Central Oregon has emergency cold weather sheltering options</li> <li>• Ensure newly funded shelter facilities are up and running</li> </ul>	<ul style="list-style-type: none"> <li>• MAC Meeting for Funded Agencies to discuss progress, successful strategies, and Barriers (monthly)</li> <li>• HMIS Data Quality Component (monthly)</li> <li>• Coordinated Entry &amp; By Name List Progress (monthly)</li> <li>• Case Manager Check ins (monthly)</li> <li>• Funding Reserve Assessment</li> </ul>
October	<ul style="list-style-type: none"> <li>• Assembling final reporting on goals met and projects complete</li> <li>• Assess future needs and resources</li> <li>• MAC Refresh</li> <li>• 2 months to go.                             <ul style="list-style-type: none"> <li>○ Prevention – 250/354 individuals</li> <li>○ Shelter – 70/81 beds</li> <li>○ Rehousing – 120/162 households</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• MAC Meeting for Funded Agencies to discuss progress, successful strategies, and Barriers (monthly)</li> <li>• HMIS Data Quality Component (monthly)</li> <li>• Coordinated Entry &amp; By Name List Progress (monthly)</li> <li>• Case Manager Check ins (monthly)</li> <li>• Funding Reserve Assessment</li> </ul>
November	<ul style="list-style-type: none"> <li>• Assembling final reporting on goals met and projects complete</li> <li>• Assess future needs and resources</li> <li>• Met goals set by state:                             <ul style="list-style-type: none"> <li>○ Prevention – 354/354 individuals</li> <li>○ Shelter – 81/81 beds</li> <li>○ Rehousing – 162/162 households</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• MAC Meeting for Funded Agencies to discuss progress, successful strategies, and Barriers (monthly)</li> <li>• HMIS Data Quality Component (monthly)</li> <li>• Coordinated Entry &amp; By Name List Progress (monthly)</li> <li>• Case Manager Check ins (monthly)</li> <li>• Funding Reserve Assessment</li> </ul>
December	<ul style="list-style-type: none"> <li>• Quarterly Check in with MAC Executive Team to measure progress towards goals</li> <li>• Assembling final reporting on goals met and projects complete</li> <li>• Assess future needs and resources</li> <li>• Lessons learned report</li> <li>• Assemble reporting for the state. Work with State on future funding.</li> <li>• Ensure we spend total amount and met goals established by the State.</li> <li>• Projects should be materially complete</li> </ul>	<ul style="list-style-type: none"> <li>• MAC Meeting for Funded Agencies to discuss progress, successful strategies, and Barriers (monthly)</li> <li>• Work with State agencies on sustainably funding programs and projects created by this funding opportunity</li> <li>• Work with State to assess All IN efforts when Initiative ends to determine best practices State wide, lessons learned and innovative ideas and concepts that worked or didn't.</li> </ul>

### Strategies to rehouse 162 unsheltered households

We expect this goal to be our most challenging to meet, and plan to utilize several strategies to meet the State's goals here as well. Acknowledging that Central Oregon has some of the lowest rental vacancy rates in the country, our region's main challenge is in the sheer lack of units to put people in. We are considering the following strategies at a high level to increase the impact of the region's rehousing programs:

- Master Leasing – Currently, housing navigators do not have a pool of master leased units to refer individuals to. Accordingly, there is a high administrative burden in having housing navigators scour the region for available housing. We hope that some of this executive order funding could be utilized to leverage a master lease agreement with a pool of units to increase the efficiency of the system.
- Landlord incentives
  - setting aside funding for rent buy downs,
  - renters insurance,
  - cash incentives,
  - damage repair reserves,
  - and training opportunities for property owners.
- Intensive Housing Focused Case Management to ensure that folks have the wrap around supports they need to remain stably housed.
- As mentioned in the shelter section above, we are designing the funding application to prioritize projects that address underlying disparities in the community. It will include specific questions on potential barriers to success, how projects support members of our community who are disproportionately likely to experience unsheltered homelessness, and how projects will leverage cross-sector partnerships to create the greatest impact.

The following rehousing concepts have been submitted in the project concepts survey (this is not intended to represent a list of approved or prioritized projects, Central Oregon has not officially opened up a funding application or selected sub recipients, yet):

- Purchasing apartment complex in Bend (42 units, acquisition and operating funding)
- Renovated motel in Bend (80 units, requires 5 year master lease)
- Medically Vulnerable Case Management
- Acquire Land and build tiny homes in Bend (10 units, requires acquisition and operating funding)
- Medically Vulnerable/Disabled Case Management
- Homesharing for Veterans (requires funding for renovations)
- Vehicle purchase for outreach in Redmond
- Build tiny homes for Veterans (7 units, capital funding request)
- Create landlord incentive fund
- Barrier Busting/Flexible funding to help get folks through the door
- Housing focused Case Management – moving folks from safe parking/camping into housing.

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**Current Services**

<i>Project Type</i>	<i>Units Available</i>	<i>Total Units</i>	<i>Avg. Cost Per Unit</i>
<i>Emergency Shelter Beds – Adult Only</i>	2	425	\$10,041
<i>Emergency Shelter Beds – Adults with Children</i>	2	68	\$32,164
<i>Emergency Shelter Beds - Youth</i>	0	9	\$63,875
<i>Transitional Housing</i>	2	88	\$44,694
<i>Joint Transitional Housing/Rapid Rehousing</i>	3	4	\$19,009
<i>Rapid Rehousing</i>	1	46	\$7,755
<i>Permanent Supportive Housing</i>	2	21	\$14,584
<i>Other Permanent Housing</i>	Unavailable	14	Unavailable
<i>Housing Choice Vouchers</i>	90	1344	\$7,016

<i>Service Type</i>	<i>Slots Available</i>	<i>Total Slots</i>	<i>Avg. Cost Per Service</i>
<i>Outreach</i>	2	1826	\$1,333
<i>Rental Assistance</i>	Unavailable	672	\$2,931
<i>Case Management</i>	2	186	\$929
<i>Landlord Engagement</i>	Unavailable	Unavailable	Unavailable
<i>Housing Navigation</i>	Unavailable	205	\$2,048

**Current Investments**

<i>Project Type</i>	<i>City</i>	<i>County</i>	<i>State</i>	<i>Federal</i>	<i>Private</i>	<i>Total</i>
<i>Emergency Shelter Beds – Adult Only</i>	\$3,020,000	\$100,000	\$489,060	\$68,094	\$27,500	\$3,704,654
<i>Emergency Shelter Beds – Adults with Children</i>			\$77,739	\$12,500	\$27,500	\$117,739
<i>Emergency Shelter Beds – Youth</i>		\$20,000	\$210,000	\$330,000	\$25,000	\$585,000
<i>Transitional Housing</i>	\$675,000		\$150,000	\$662,000	\$238,000	\$1,725,000

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<i>Joint Transitional Housing/Rapid Rehousing</i>				\$76,036		\$76,036
<i>Rapid Rehousing</i>	\$75,000		\$74,734	\$298,934		\$448,668
<i>Permanent Supportive Housing</i>			\$45,738	\$306,268		\$352,006
<i>Other Permanent Housing</i>						\$0
<i>Housing Choice Vouchers</i>				\$9,430,000		\$9,430,000
<b><i>Service Type</i></b>						\$0
<i>Outreach</i>	\$45,400		\$75,000	\$204,346	\$102,000	\$426,746
<i>Rental Assistance</i>			\$1,077,377	\$773,067	\$559,000	\$2,409,444
<i>Case Management</i>	\$50,000		\$150,000	\$175,000	\$308,900	\$683,900
<i>Landlord Engagement</i>				\$25,000		\$25,000
<i>Housing Navigation</i>				\$129,905		\$129,905
<b><i>Total Investments</i></b>	<b>\$3,865,400.00</b>	<b>\$120,000.00</b>	<b>\$2,349,647.80</b>	<b>\$12,491,150.00</b>	<b>\$1,287,900.00</b>	<b>\$20,114,097.80</b>



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**Exhibit C**  
**Insurance Requirements**

**Risk Assessment Insurance Summary**

**Service Procurement**

Summary Document to Assist with Insurance Requirement Template

This risk assessment insurance summary is based off of a risk assessment and is meant to be used as a guide. If a different conclusion is made, document the reasoning.

**COMMERCIAL GENERAL LIABILITY:**

Required

Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000 .

**AUTOMOBILE LIABILITY:**

Required  Not Required

Coverage shall be written on a combined single limit of not less than \$1,000,000 .

**PROFESSIONAL LIABILITY: (For Medical and Health Services)**

Required  Not Required

Coverage shall be written on an occurrence basis in an amount of not less than per claim. Annual aggregate limit shall not be less than .

**PROFESSIONAL LIABILITY: (For other than Medical & Health Services or IT Services)**

Required  Not Required

Coverage shall be written on an occurrence basis in an amount of not less than \$ 2,000,000 per claim. Annual aggregate limit shall not be less than \$ 4,000,000 .

**NETWORK SECURITY AND PRIVACY LIABILITY:**

Required  Not Required

Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per claim.

**POLLUTION LIABILITY:**

Required  Not Required

Coverage shall be written on an occurrence basis in an amount of not less than per occurrence. Annual aggregate limit shall not be less than .

**DIRECTORS AND OFFICERS:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \$2,000,000 .

**CRIME PROTECTION:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \$3,000,000 .

**PHYSICAL ABUSE AND SEXUAL MOLESTATION:**

Required  Not Required

Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$3,000,000 .

**MOTOR CARRIER AND CARGO:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \_\_\_\_\_ .

**DRONE / UNMANNED AIRCRAFT SYSTEMS (UAS) / UNMANNED AERIAL VEHICLE (UAV) LIABILITY:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \_\_\_\_\_ .

**AIRCRAFT LIABILITY:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \_\_\_\_\_ .

**AIR CARGO LIABILITY:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \_\_\_\_\_ .

**AIRCRAFT AERIAL APPLICATION LIABILITY:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \_\_\_\_\_ .

**GARAGE LIABILITY:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \_\_\_\_\_ .

**GARAGEKEEPERS LEGAL LIABILITY:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \_\_\_\_\_ .

**BAILEE'S:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \_\_\_\_\_ .

**MARINE PROTECTION LIABILITY:**

Required  Not Required

Coverage shall be written on a combined single limit in an amount of not less than \_\_\_\_\_ .

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## Risk Assessment Insurance Summary

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### Goods Procurement

Summary Document to Assist with Insurance Requirement Template

This risk assessment insurance summary is based off of a risk assessment and is meant to be used as a guide. If a different conclusion is made, document the reasoning.

**COMMERCIAL GENERAL LIABILITY:**

Required

Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence.

Annual aggregate limit shall not be less than \$2,000,000 .

**NOTES:**

# Central Oregon

## Executive Order 23-02 Community Plan overview



On Jan. 10, 2023, Governor Kotek signed Executive Order 23-02, declaring a state of emergency due to unsheltered homelessness in seven Continuum of Care regions across the state. The Governor chose the regions based on the 2022 Point-in-Time Count data, which showed an increase in unsheltered homelessness of 50% or greater since 2017.

In alignment with the emergency order, the Governor proposed House Bill 5019 to provide a down payment to achieve three actionable goals by Jan. 10, 2024:

### A whole-community approach

Oregon’s response to this crisis requires bold action and coordination between government agencies and service providers. That’s why Oregon created Multi Agency Coordination (MAC) Groups, which includes representatives from multiple sectors. Central Oregon Intergovernmental Council (COIC) leads the region’s MAC group. Their membership includes Central Oregon Veterans Outreach, Deschutes County Emergency Management, Crook County Emergency Management, Jefferson County Emergency Management, Deschutes County Coordinated Homeless Response Office, City of Redmond Housing Coordinator, Housing Works, Epic Property Management, LLC, NeighborImpact, Shepherd’s House, Redemption House, Deschutes County Behavioral Health, J Bar J Youth Services, Homeless Leadership Coalition, City of Bend, and Mosaic Community Health.

### Executive Order 23-02 Community Plan

The Central Oregon MAC group surveyed people throughout their region to capture information on community priorities and goal setting. They also analyzed information from recent efforts to understand the needs of people experiencing unsheltered homelessness within their community and used the information gathered to develop interventions they laid out in their community plan. The MAC group will review data and amend their plan throughout the year to ensure they meet their region’s goals.

### Comparison of unsheltered homelessness and overall population by race in Central Oregon

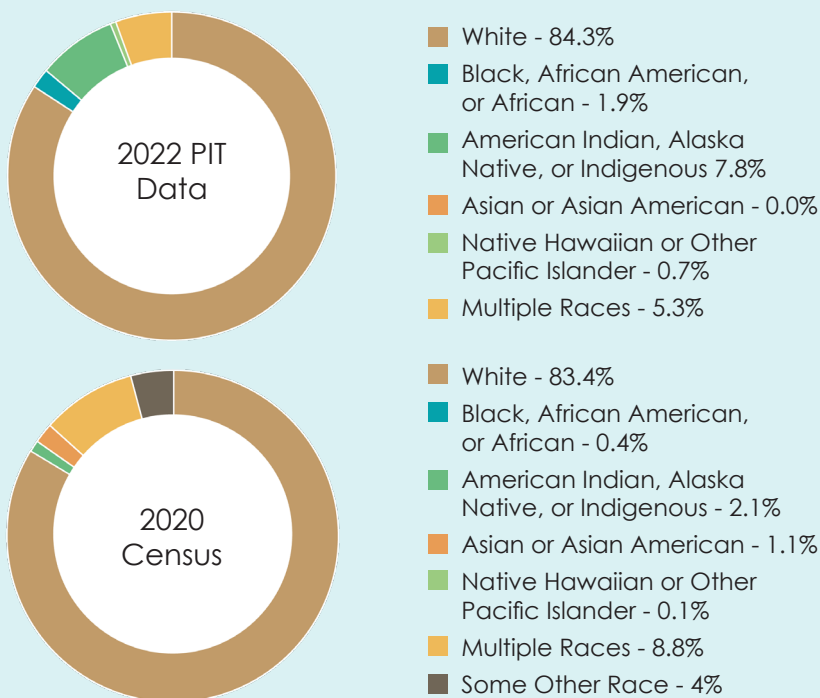
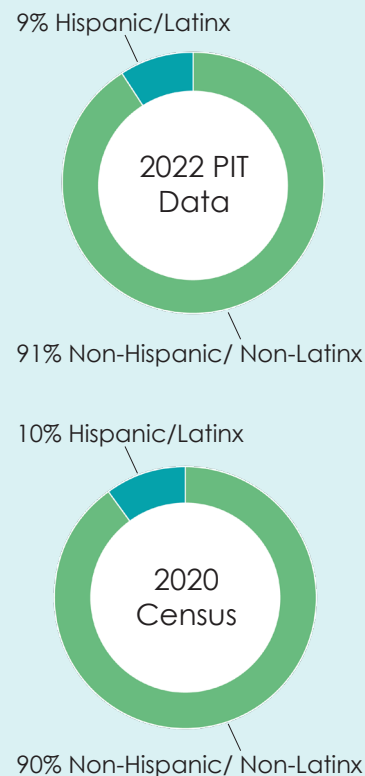


Figure A. Racial disparities within the unsheltered homeless populations in Central Oregon. In this region, 2.1% of all residents self-identify as American Indian, Alaska Native, or Indigenous, while 7.8% of the unsheltered homeless population self-identify that way. The Black, African American, or African population makes up 0.4% of all residents and 1.9% of the unsheltered homeless population. The Native Hawaiian or Other Pacific Islander population makes up 0.1% of all residents and 0.7% of the unsheltered homeless population. Additionally, one out of every 32 people who self identify as Native Hawaiian or Other Pacific Islander experience unsheltered homelessness, compared to one out of every 200 White residents.

### Comparison of unsheltered homelessness and overall population by ethnicity in Central Oregon



### Rehousing goal

Central Oregon plans to engage in a variety of solutions to resource 161 unsheltered populations. By collaborating with housing providers in the region, they also plan to establish and lease rental units to refer individuals to. Other interventions Central Oregon is considering include unit acquisition and operation, motel conversion, Veteran homesharing, and intensive housing-focused case management to ensure that folks have the wraparound services they need to remain stably housed. Central Oregon has designed their funding application to prioritize projects that address underlying disparities in the community.

Rehouse  
**161 unsheltered households**  
by Jan. 10, 2024

### Shelter bed goal

To meet their shelter bed goal, Central Oregon is considering several strategies, including site expansion and new site acquisition. Most of the region's current shelter is concentrated in Deschutes County, specifically Bend, and they intend to increase provider capacity in Crook and Jefferson Counties. Other strategies under consideration include medical respite beds for people to recover from illness or injury but are not ill enough to be in a hospital, congregate and non-congregate shelters for youth and families, and a youth-specific shelter in Redmond.

Add  
**111 low-barrier shelter beds**  
by Jan. 10, 2024