



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS

9:00 AM, WEDNESDAY, AUGUST 24, 2022

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

(541) 388-6570 | www.deschutes.org

AGENDA

MEETING FORMAT: The Oregon legislature passed House Bill (HB) 2560, which requires that public meetings be accessible remotely, effective on January 1, 2022, with the exception of executive sessions. Public bodies must provide the public an opportunity to access and attend public meetings by phone, video, or other virtual means. Additionally, when in-person testimony, either oral or written is allowed at the meeting, then testimony must also be allowed electronically via, phone, video, email, or other electronic/virtual means.

Attendance/Participation options are described above. Members of the public may still view the BOCC meetings/hearings in real time via the Public Meeting Portal at www.deschutes.org/meetings

Citizen Input: Citizen Input is invited in order to provide the public with an opportunity to comment on any meeting topic that is not on the current agenda. Citizen Input is provided by submitting an email to: citizeninput@deschutes.org or by leaving a voice message at 541-385-1734. Citizen input received by noon on Tuesday will be included in the Citizen Input meeting record for topics that are not included on the Wednesday agenda.

Zoom Meeting Information: Staff and citizens that are presenting agenda items to the Board for consideration or who are planning to testify in a scheduled public hearing may participate via Zoom meeting. The Zoom meeting id and password will be included in either the public hearing materials or through a meeting invite once your agenda item has been included on the agenda. Upon entering the Zoom meeting, you will automatically be placed on hold and in the waiting room. Once you are ready to present your agenda item, you will be unmuted and placed in the spotlight for your presentation. If you are providing testimony during a hearing, you will be placed in the waiting room until the time of testimony, staff will announce your name and unmute your connection to be invited for testimony. Detailed instructions will be included in the public hearing materials and will be announced at the outset of the public hearing.

For Public Hearings, the link to the Zoom meeting will be posted in the Public Hearing Notice as well as posted on the Deschutes County website at <https://www.deschutes.org/bcc/page/public-hearing-notices>.

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 or you may leave a brief voicemail at 541.385.1734. To be timely, citizen input must be received by noon on Tuesday in order to be included in the meeting record.*

CONSENT AGENDA

- [1.](#) Consideration of Board Signature for Auction Order No. 2022-040, for the Deschutes County Surplus Property Auction
- [2.](#) Consideration of Board Signature for Order No. 2022-044, to Purchase Property Located at 221 NW Lafayette Avenue, Bend
- [3.](#) Consideration of Document No. 2022-688, an Intergovernmental Agreement with the Oregon Department of Transportation for the OR126:Redmond-Powell Butte Project
- [4.](#) Consideration of Resolution No. 2022-057, Initiating Vacation Proceedings for an Unused Portion of Fryrear Road

ACTION ITEMS

- [5.](#) 9:05 a.m. - Emergency Management Performance Grant
- [6.](#) 9:20 a.m. - Consideration of Board approval and Chair signature of document #2022-679, an Oregon Health Authority grant agreement for GenPMTO Training
- [7.](#) 9:30 a.m. - Public Hearing: Consideration of Board Signature of Document No. 2022-690, Oregon Department of Transportation (ODOT) Noise Variance
- [8.](#) 9:50 a.m. - Consideration of Document No. 2022-731, a Right of Way Services Agreement with the Oregon Department of Transportation for the US-97: Lower Bridge Way - NW 10th St (Terrebonne) Project
- [9.](#) 10 a.m. - PRESENTATION: Four Rivers Vector Control District Annual Work Program

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.

10. Executive Session under ORS 192.660 (2) (e) Real Property Negotiations

ADJOURN



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, please call (541) 617-4747.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: Wednesday, August 24, 2022

SUBJECT: Consideration of Board Signature for Auction Order No. 2022-040, for the Deschutes County Surplus Property Auction

RECOMMENDED MOTION:

Move approval of Board signature of Order No. 2022-040, for the Deschutes County Surplus Property Auction.

BACKGROUND AND POLICY IMPLICATIONS:

The attached list of 16 County-owned properties, in Order No. 2022-040, is proposed for inclusion in the 2022 Deschutes County Surplus Property Auction scheduled for Friday, October 7, 2022 at the Deschutes County Fairgrounds.

Property Management staff has worked with County Counsel, the Community Development Department –including Planning and Environmental Soils, the Road Department –including Survey and Engineering, the County Forester, Finance Department, Tax Office, Assessor’s Office, and the Sheriff’s Office to evaluate the list of initial properties and prepare documents associated with the sale.

In order to establish the property values, Property Management engages the services of an experienced licensed real estate broker. The broker provides a ‘Broker Opinion of Value’ for each property and these values are typically reduced to 80% to establish the minimum bids for the purpose of the auction. These amounts are noted as the minimum bids on Exhibit A. If all properties sell at the established minimum bid, the proceeds of the sale would be \$1,059,920.00. Note that properties may be removed from the auction list at any time.

Most properties sold at auction sell above the minimum bid, thus generating additional sale proceeds. If not all properties sell at auction, those properties that do not sell may be available for purchase on a first come first served basis as provided by ORS.

Standard operating procedure and as done in the past, Deschutes County will offer financing for properties sold for \$20,000 or more at an interest rate of 6.50% amortized

over a 10-year term. Properties that sell for less than \$20,000 are required to be paid in full the day of the auction by cash/cashier's check.

BUDGET IMPACTS:

If the properties sell at the established minimum bid, the proceeds of the sale will be \$1,059,920.00. Properties that do not sell at auction will be available for sale on a first come first served basis at the minimum bid price, or possibly a lower amount as authorized by ORS. As provided by ORS 275, the sale's proceeds reimburse the County for the management and carrying costs associated with foreclosed properties with the remaining proceeds distributed to the applicable taxing districts.

ATTENDANCE:

Kristie Bollinger, Property Manager

REVIEWED
LEGAL COUNSEL

08/24/2022 Item #1.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order for the Sale of Certain Real *
Property Acquired by Deschutes County * ORDER NO. 2022-040

WHEREAS, Deschutes County has acquired title to certain real property, described in Exhibit "A," attached and incorporated by this reference, pursuant to real property tax foreclosure proceedings on file in the Circuit Court of the State of Oregon for Deschutes County and by other means, and

WHEREAS, foreclosure proceedings are completed, and tax deeds in the regular form have been executed by the Deschutes County Tax Collector and recorded in the Deed Records of Deschutes County pursuant to Oregon Revised Statute (ORS) 312.200 with respect to real properties acquired by tax foreclosure, and

WHEREAS, ORS 271.310 and 275.110 authorize the sale by the Board of County Commissioners of the real property acquired through real property tax foreclosure and other means, and

WHEREAS, the real property described in Exhibit "A," attached is not needed for County purposes and, thus, surplus, and

WHEREAS, it is in the best interests of the County to sell the real property described in Exhibit "A", and that the minimum price set forth after the description of each parcel shall be the minimum price for said sale; now, therefore,

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

Section 1. That the Deschutes County Sheriff hereby is authorized and directed, pursuant to ORS 275.120, to offer for sale the property described in Exhibit "A", attached hereto and by this reference incorporated herein, to the highest and best Bidders, for cash, cashier's check or terms, or combination thereof, as determined by the Board of County Commissioners pursuant to ORS 275.190, but not less than the minimum bid hereby fixed, and other fees as applicable.

Section 2. That said sale is to be made at the Deschutes County Fairgrounds, 3800 SW Airport Way, Redmond, Oregon, 97756, beginning at 10:00 a.m. on Friday, October 7, 2022, and remaining open until 2:00 p.m. to allow for Bidders to submit the appropriate purchase payment. COVID-19 precautions will be in place; check the County website for applicable procedures.

Section 3. That on the sale date, Bidders with the provisionally accepted high bid may leave the premises to obtain cash or cashier's checks but must return to the Deschutes County Fairgrounds prior to 2:00 p.m., with no Bidder admittance allowed after 2:00 p.m..

Section 4. That all sales shall be deemed conditional until such time as the Board of County Commissioners formally accepts or rejects said sale.

Section 5. That, if the Sheriff is unsuccessful in selling any real property listed in Exhibit "A" at said sale, said real property may be sold at private sale pursuant to ORS 275.200.

Section 6. That the Deschutes County Property Manager is authorized to take those actions reasonably calculated to efficiently and successfully conduct the aforementioned land sale, including deviation from or modification of sale procedures and removing properties from the sale, when, in the opinion of the Property Manager, said deviations or modifications are justified and in accordance with the applicable ORS.

Section 7. That the Deschutes County Property Manager or the County Administrator is authorized and ordered to sign the Seller's Disclosure Statements and the Sales and Purchase Agreements for the County owned property to be sold at the October 7, 2022 public auction.

Section 8. That the sample promissory note and trust deed attached as Exhibit "B" and incorporated by this reference, shall be the documents authorized for sale of the properties eligible for County financing as identified in Exhibit "A".

Dated this _____ day of _____, 2022

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

ANTHONY DEBONE, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

EXHIBIT "A"

NOTICE OF SALE

By virtue of Order No. 2022-040 adopted by the Board of County Commissioners of Deschutes County, Oregon, on August 24, 2022, authorizing the sale of real property under ORS 271.310 and 275.110, notice is hereby given that, on October 7, 2022, at 10:00 a.m. at the Deschutes County Fairgrounds, located at 3800 SW Airport Way, Redmond 97756, Oregon, the Sheriff or his designee shall proceed to sell, at public auction to the highest and best bidder, for cash, cashier's check or terms, or combination thereof, the right and title to and interest for Deschutes County in the real property listed below:

Parcel ID 2022-01
Assessor Account 123038
Assessor Market Value \$50,720
Map and Taxlot 151315BA05200
Acres 0.55
Zoning MULW (MIXED USE LIVE/WORK - REDMOND UGB)
Property Address NO SITUS ADDRESS, Redmond, OR 97756
Minimum Bid \$86,240
Comments Unimproved property; legal lot of record. Located in Casper Mobile Acres Plat. Contact the City of Redmond's Community Development Planning Division with inquires and questions related to allowed uses and development.

Parcel ID 2022-02
Assessor Account 123037
Assessor Market Value \$50,720
Map and Taxlot 151315BA05300
Acres 0.52
Zoning MULW (MIXED USE LIVE/WORK - REDMOND UGB)
Property Address No SITUS ADDRESS, Redmond, OR 97756
Minimum Bid \$72,480
Comments Unimproved property; legal lot of record. Located in Casper Mobile Acres Plat. Contact the City of Redmond's Community Development Planning Division with inquires and questions related to allowed uses and development.

Parcel ID 2022-03
Assessor Account 123098
Assessor Market Value \$95,120
Map and Taxlot 151315BA11400
Acres 0.37
Zoning MULW (MIXED USE LIVE/WORK - REDMOND UGB)
Property Address No SITUS ADDRESS, Redmond, OR 97756
Minimum Bid \$41,920
Comments Unimproved property; legal lot of record. Located in Casper Mobile Acres Plat. Contact the City of Redmond's Community Development Planning Division with inquires and questions related to allowed uses and development.

Parcel ID 2022-04
Assessor Account 123097
Assessor Market Value \$149,000
Map and Taxlot 151315BA11500

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Acres 0.55
 Zoning MULW (MIXED USE LIVE/WORK - REDMOND UGB)
 Property Address No SITUS ADDRESS, Redmond, OR 97756
 Minimum Bid \$62,320
 Comments Unimproved property; legal lot of record status unknown. Legal access unknown. Located adjacent to Casper Mobile Acres Plat. Contact the City of Redmond's Community Development Planning Division with inquires and questions related to allowed uses and development.

Parcel ID 2022-05
 Assessor Account 108432
 Assessor Market Value \$13,180
 Map and Taxlot 1914250000600
 Acres 10.00
 Zoning EFUHR –Exclusive Farm Use –Horse Ridge Subzone, LM, SGHA-LOW, SMIA, WA
 Property Address 57890 FORT ROCK RD, Bend, OR 97701
 Minimum Bid \$19,520
 Comments Unimproved property. Legal lot of record status unknown. Wildland fire fuel treatment required as a condition of purchase. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquiries and questions related to allowed uses and development.

Parcel ID 2022-06
 Assessor Account 115509
 Assessor Market Value \$75,500
 Map and Taxlot 201012AB02200
 Acres 0.56
 Zoning Rural Residential (RR10), AS, LM, WA
 Property Address 17077 AZUSA RD, Bend, OR 97707
 Minimum Bid \$66,400
 Comments Unimproved property; legal lot of record. Located in the Deschutes River Recreation Homesites Inc. (BLKS 18-25) Plat. Majority of property located in high ground water area -development may not be permitted due to restriction on installing an onsite sanitary sewer system. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development.

Parcel ID 2022-07
 Assessor Account 115548
 Assessor Market Value \$75,500
 Map and Taxlot 201012AB03900
 Acres 0.57
 Zoning Rural Residential (RR10), AS, LM, WA
 Property Address 17075 BAKERSFIELD RD, Bend, OR 97707
 Minimum Bid \$66,400
 Comments Unimproved property; legal lot of record. Located in the Deschutes River Recreation Homesites Inc. (BLKS 18-25) Plat. Property located in high ground water area -development may not be permitted due to

EXHIBIT "A"

restriction on installing an onsite sanitary sewer system. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development.

Parcel ID 2022-08
 Assessor Account 115599
 Assessor Market Value \$75,500
 Map and Taxlot 201012AD01400
 Acres 0.57
 Zoning Rural Residential (RR10), AS, WA
 Property Address 17113 COVINA RD, Bend, OR 97707
 Minimum Bid \$66,400
 Comments Unimproved property; legal lot of record. Located in the Deschutes River Recreation Homesites Inc. (BLKS 18-25) Plat. Property located in high ground water area -development may not be permitted due to restriction on installing an onsite sanitary sewer system. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development.

Parcel ID 2022-09
 Assessor Account 115851
 Assessor Market Value \$75,500
 Map and Taxlot 201012C003700
 Acres 0.49
 Zoning Rural Residential (RR10), AS, WA
 Property Address 16936 FONTANA RD, Bend, OR 97707
 Minimum Bid \$66,400
 Comments Unimproved property; legal lot of record. Located in the Deschutes River Recreation Homesites Inc. Unit 4 Plat. Property located in high ground water area -development may not be permitted due to restriction on installing an onsite sanitary sewer system. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development.

Parcel ID 2022-10
 Assessor Account 115918
 Assessor Market Value \$75,500
 Map and Taxlot 201012C011100
 Acres 0.48
 Zoning Rural Residential (RR10), AS, WA
 Property Address NO SITUS ADDRESS, Bend, OR 97707
 Minimum Bid \$66,400
 Comments Unimproved property; legal lot of record. Located in Deschutes River Recreation Homesites Inc. Unit 5 Plat. Wildland fire fuel treatment required as a condition of purchase. Property located in high ground water area -development may not be permitted due to restriction on installing an onsite sanitary sewer system. Contact Deschutes County Community Development Planning Division and

EXHIBIT "A"

Environmental Soils Division with inquires and questions related to uses and development.

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| Parcel ID | 2022-11 |
| Assessor Account | 116121 |
| Assessor Market Value | \$94,500 |
| Map and Taxlot | 201012D006000 |
| Acres | 0.72 |
| Zoning | Rural Residential (RR10), AS, WA |
| Property Address | 56545 SOLAR DR, Bend, OR 97707 |
| Minimum Bid | \$120,000 |
| Comments | Unimproved property; legal lot of record; Located in the Deschutes River Recreation Homesites Inc. Unit 4 Plat. High ground water area -development may not be permitted due to restriction on installing an onsite sanitary sewer system. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development. |

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| Parcel ID | 2022-12 |
| Assessor Account | 138687 |
| Assessor Market Value | \$13,290 |
| Map and Taxlot | 211001A000100 |
| Acres | 0.97 |
| Zoning | Rural Residential (RR10), WA |
| Property Address | 54754 POWELL LN, Bend, OR 97707 |
| Minimum Bid | \$59,440 |
| Comments | Unimproved property; legal lot of record. Located in the Deschutes River Recreation Homesites Inc. Unit 8 Part III Plat. Wildland fire fuel treatment required as a condition of purchase. Property located in high ground water area -development may not be permitted due to restriction on installing an onsite sanitary sewer system. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development. |

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| Parcel ID | 2022-13 |
| Assessor Account | 126609 |
| Assessor Market Value | \$12,920 |
| Map and Taxlot | 211003A008800 |
| Acres | 0.32 |
| Zoning | Rural Residential (RR10), LM, WA |
| Property Address | NO SITUS ADDRESS, Bend, OR 97701 |
| Minimum Bid | \$32,160 |
| Comments | Unimproved property; legal lot of record. Located in the Deschutes River Recreation Homesites Inc. Unit 6 Park II Plat. Wildland fire fuel treatment required as a condition of purchase. Property located in high ground water area -development may not be permitted due to restriction on installing an onsite sanitary sewer system. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development. |

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| Parcel ID | 2022-14 |
| Assessor Account | 127297 |
| Assessor Market Value | \$48,290 |
| Map and Taxlot | 211026B001200 |
| Acres | 1.05 |
| Zoning | Rural Residential (RR10), WA |
| Property Address | NO SITUS ADDRESS, La Pine, 97739 |
| Minimum Bid | \$70,400 |
| Comments | Unimproved property; legal lot of record. Located in the Lazy River South Second Addition Plat. Wildland fire fuel treatment required as a condition of purchase. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development. |

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| Parcel ID | 2022-15 |
| Assessor Account | 140736 |
| Assessor Market Value | \$119,020 |
| Map and Taxlot | 211032A003500 |
| Acres | 1.23 |
| Zoning | Rural Residential (RR10), WA |
| Property Address | 52727 RAINBOW DR, La Pine, OR 97739 |
| Minimum Bid | \$87,440 |
| Comments | Manufactured home. Legal lot of record. Located in the Forest View Plat. Wildland fire fuel treatment required as a condition of purchase. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development. |

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| Parcel ID | 2022-16 |
| Assessor Account | 140735 |
| Assessor Market Value | \$32,910 |
| Map and Taxlot | 211032A003600 |
| Acres | 1.05 |
| Zoning | Rural Residential (RR10), WA |
| Property Address | 52745 RAINBOW DR, LA Pine, OR 97739 |
| Minimum Bid | \$76,000 |
| Comments | Unimproved property; legal lot of record. Located in the Forest View Plat. Wildland fire fuel treatment required as a condition of purchase. Contact Deschutes County Community Development Planning Division and Environmental Soils Division with inquires and questions related to uses and development. |

1) All prospective Bidders shall register prior to or on the day of the sale. Registrations on the day of sale must be completed and received, as noted below, prior to start of the auction. The registration form to be available at www.deschutes.org. Registration shall be submitted by one of the following options: a) Email to Kristie.Bollinger@deschutescounty.gov b) Fax to 541-317-3168, c) Mail to Deschutes County Property Management; P.O. Box 6005; Bend, OR 97708-6005, d) or in person between Monday, October 3, 2022 through Thursday, October 6, 2022, during the hours of 9:00 a.m. and 12:00 p.m. at 14 NW Kearney Avenue in Bend, Oregon. After 12:00 p.m. (NOON) on Thursday, October 6, 2022, all filled out registrations should be brought in person to the auction location and have registration form completed and check-in done prior to auction start time of 10:00 a.m. Bidder must provide a completed

EXHIBIT "A"

registration form, which includes bidder's legal name, physical address, mailing address, telephone number, how to take title, and signatures. Bidders must provide an acceptable picture I.D. on the day of the auction, prior to 10:00 a.m. and prior to bidding.

2) **ALL PARCELS ARE SOLD AS IS.** Potential Bidders should thoroughly investigate all aspects of a property prior to bidding. Deschutes County has not surveyed the aforementioned real properties and makes no representation as to boundaries, encroachments or encumbrances. Deschutes County does not guarantee or warrant that any parcel is buildable, able to obtain title insurance, suitable for septic system, has legal access, is vacant or is usable for any particular purpose. The County shall not warrant or defend the fee simple title of real property offered for sale to be free of defects or encumbrances, but will only sell and convey such interest as the County acquired by foreclosure or other means and holds at the time of sale. Furthermore, conveyance is subject to all valid, recorded easements, road right-of-way dedications, the right of any municipal corporation to purchase such property pursuant to State law, and subject to the right of the Board of County Commissioners to reject any and all bids.

3) The highest offer for any parcel that is equal to or exceeds the minimum bid price shall be conditionally accepted as of the close of bidding for that parcel. Upon conditional acceptance of an offer at the time of the sale, the sale as to that parcel shall be deemed closed. For properties where financing is available the following terms apply: either equal payments over 10 years (120 payments) with a fixed interest rate of Six and One Half Percent (6.50%) –or- down payment and second/final payment in 30 days; both with a nonrefundable cash down payment of not less than 20% of the purchase price, secured by a promissory note and trust deed. Copies of the complete contract terms may be found at www.deschutes.org or a copy will be provided at \$0.25 per page upon request to the County Property Manager listed above, by September 30, 2022. On the sale date, Bidders with the provisionally accepted high bid may leave the premises to obtain cash or cashier's checks but must return to the Deschutes County Fairgrounds prior to 2:00 p.m. on auction day. No admittance after 2:00 p.m. will be allowed.

4) Cash is defined as all legal U.S. currency. Cashier's checks must be payable to Deschutes County Sheriff's Office, and cashier's checks must be drawn on a financial institution that is authorized to do business under the laws of Oregon or the United States and recognized as such by Deschutes County. If any part of the purchase price is paid with a cashier's check the Purchaser (winning Bidder) will be given a receipt in lieu of a certificate of sale until verification from the financial institution that final settlement has been made on the cashier's check. Upon receiving such verification, the Purchaser will receive a Certificate of Sale. If any part of the purchase price is paid through the contract for terms, the Purchaser will be provided a Certificate of Sale that includes the terms and will be required to sign a promissory note for which a trust deed will be recorded. Regardless of method of purchase, upon receipt of Certificate of Sale, the Certificate of Sale must be recorded with the Deschutes County Clerk at the sole cost of the Purchaser.

5) **SOME PROPERTY WILL BE SOLD SUBJECT TO BUYER AGREEING TO MITIGATE WILDFIRE FUELS.**

6) **SOME PROPERTY MAY BE SOLD SUBJECT TO BUYER AGREEING THAT a) SUCH PROPERTY IS UNDEVELOPABLE DUE TO THE INABILITY TO CONSTRUCT AN ON-SITE SANITARY SEWER SYSTEM, b) AND/OR THAT THE SUBJECT PROPERTY IS NOT A LEGAL LOT OF RECORD, c) AND/OR LEGAL ACCESS TO SUBJECT PROPERTY IS UNKNOWN, d) AND/OR TITLE INSURANCE MAY NOT BE OBTAINABLE.**

7) An example of the Wildland Fire Fuel Treatment Agreement is available for review on the Deschutes County website (www.deschutes.org) and at the office of Deschutes County Property Management, 14 NW Kearney Avenue, Bend, Oregon.

EXHIBIT "A"

8) **For information on the property auction, contact Deschutes County Property Management at 541-385-1414.** Additionally, Deschutes County reserves the right to remove any property from the auction list at or before the auction. The Board of County Commissioners may authorize the sale of any real property not sold at this auction to be sold by private sale pursuant to ORS 275.200.

9) Deschutes County encourages persons with disabilities to participate in all programs and activities. To request information in an alternative format, please call 541-385-1749 or 541-330-4631.

SHANE NELSON
Deschutes County Sheriff

By

_____, Civil Technician

Published in Bend Bulletin
Date of First and Successive Publications:

275.120 Sheriff's notice of sale. (1) Upon receipt of a certified copy of the order referred to in ORS 275.110, the sheriff shall publish a notice of the sale of such property in a newspaper of general circulation, printed and published in the county where the land is situated, once each week for four consecutive weeks prior to such sale.

EXHIBIT "B"

REVIEWED

LEGAL COUNSEL

NOTE

PARTIES:

Promisor: «BUYERFIRSTNAME» «BUYERMIDDLENAME» «BUYERLASTNAME»
«BuyerAddress1»
«BuyerCityStateZip»

Promisee: **DESCHUTES COUNTY**, a political subdivision of the State of Oregon
Finance Department
PO Box 6005
Bend, Oregon 97708-6005

1) FOR VALUE RECEIVED, Promisor promises to pay Promisee, at Promisee's order, the purchase price, which consists of the principal sum of this note plus the twenty percent (20%) previously paid to Promisee as a down payment, for the real property commonly known as («SitusAddress») and legally described as:

«LegalDescription»

2) in the principal sum of «AmountFinanced» with interest on the unpaid principal balance from the designated closing date or the date of closing, until paid, at the rate of Six and One Half Percent (6.50%) per annum. Principal and interest shall be payable to Deschutes County Treasurer, Finance Department, PO Box 6005, Bend, Oregon 97708-6005, or such other place as Promisee may designate, in consecutive monthly installments of _____/100 DOLLARS (\$_____), on the 1st day of each month beginning December 1, 2022. Such monthly installments shall continue until the entire indebtedness evidenced by this Note is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on November 1, 2031. Promisee acknowledges receipt of a down payment in the amount of «DownPayment».

3) If any monthly installment under this Note is not paid when due and remains unpaid after a date specified by a notice to Promisor, the entire principal amount outstanding and accrued interest thereon shall at once become due and payable at the option of Promisee. The date specified shall not be less than thirty days (30) from the date such notice is mailed. Promisee may exercise this option to accelerate during any default by Promisor regardless of any prior forbearance.

4) Promisor shall pay to Promisee a late charge of five percent (5%) of any monthly installment not received by Promisee within ten (10) days after the installment is due. Such late charge shall be paid on demand and Promisee may add such late charge to the principal balance of the Note.

5) Promisor may prepay the principal amount outstanding in whole or in part without penalty. Promisee may require that any partial prepayments (i) be made on the date monthly installments are due and (ii) be in the amount of that part of one or more monthly installments which would be applicable to principal. Any partial prepayment shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent monthly installments or change the amount of such installments, unless Promisee shall otherwise agree in writing.

6) All persons liable either now or hereafter for payment of this Note severally waive

EXHIBIT "B"

presentment, demand for payment and notice of nonpayment. This Note shall be the joint and several obligation of all persons liable for payment of this Note, and shall be binding upon them and their successors and assigns.

7) Any notice to Promisor provided for in this Note shall be given by mailing such notice by certified mail addressed to Promisor at the address set forth under Promisor's name, or to such other address as Promisor may designate by notice to Promisee. Any notice to Promisee shall be given by mailing such notice by certified mail, return receipt requested, to Promisee at the address set forth under Promisee's name, or at such other address as may have been designated by notice to Promisor.

8) This obligation is secured by a real estate Trust Deed, Deschutes County Document Number _____, with power of sale, of even date herewith, and is subject to all of the terms and conditions of such Trust Deed.

9) If this Note is placed in the hands of an attorney, Promisor agrees to pay the reasonable fee and expenses of such attorney even though no suit or action is instituted or no sale of the property has been directed under the terms of the real estate Trust Deed securing this obligation. Such fees, expenses and costs may, at Promisee's option, be added to the principal balance of this Note.

10) Failure to exercise any option to declare default or accelerate the balance due hereon shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. Modification of the terms of payment of this Note made at the request of any person liable thereof shall not impair such person's liability or the liability of any other person now or hereafter liable for the payment hereof.

11) In the event that a building permit or a manufactured home placement permit is issued on the premises identified in the Trust Deed, this Note immediately becomes due and payable.

12) Promisor acknowledges that based upon Promisor's own inspection and investigation, Promisor is satisfied that the premises identified in the Trust Deed do not now contain any amounts of hazardous, toxic, radioactive or other substances for which a property owner or operator may be liable under state or federal environmental pollution or health and safety laws.

13) Accordingly, Promisor agrees that, as between Promisee and Promisor, Promisor will assume responsibility and liability and shall indemnify Promisee for any release or discharge of hazardous, toxic, radioactive or other dangerous substances regulated under state or federal pollution control laws found hereafter on, in or about the premises identified in the Trust Deed.

NOTICE TO THE PROMISOR

DO NOT SIGN THIS NOTE BEFORE YOU READ IT. THIS NOTE AUTHORIZES THE PROMISEE TO REFUSE TO ACCEPT PARTIAL PREPAYMENTS WHICH ARE NOT TENDERED ON THE DATE MONTHLY INSTALLMENTS ARE DUE AND WHICH ARE NOT IN THE AMOUNT OF THAT PART OF ONE OR MORE INSTALLMENTS WHICH WOULD BE APPLICABLE TO PRINCIPAL. CAUTION: READ BEFORE SIGNING.

EXHIBIT "B"

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

PROMISOR:

_____ Date: _____


STATE OF OREGON)
) ss.
County of Deschutes)

This instrument was signed before me on _____, 2022,

By _____.

My Commission Expires:
Notary Public for Oregon

BC NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.



| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| <p>TRUST DEED</p> <hr/> <p>Grantor's Name and Address</p> <hr/> <p>Trustee's Name and Address</p> <hr/> <p>Beneficiary's Name and Address</p> <hr/> <p>After recording, return to (Name and Address):</p> <hr/> | <p>Exhibit B</p> <p>Trust Deed example (2 pages)</p> <p>SPACE RESERVED FOR RECORDER'S USE</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|

THIS TRUST DEED, made on _____, between _____, as Grantor, _____, as Trustee, and _____, as Beneficiary, WITNESSETH: That Grantor irrevocably grants, bargains, sells and conveys to trustee, in trust, with power of sale, the property in _____ County, Oregon, described as follows (*legal description of property*):

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in any way now or hereafter appertaining, and the rents, issues and profits thereof, and all fixtures now or hereafter attached to or used in connection with the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of _____ Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest, if not sooner paid, to be due and payable on _____.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the note becomes due and payable. Should the grantor either agree to, attempt to, or actually sell, convey, or assign all (or any part) of the property, or all (or any part) of grantor's interest in it without first obtaining the written consent or approval of the beneficiary, then, at the beneficiary's option*, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable. The execution by grantor of an earnest money agreement** does not constitute a sale, conveyance or assignment.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement thereon; and not to commit or permit any waste of the property.
2. To complete or restore promptly and in good and habitable condition any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.
3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require, and to pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.
4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the property against loss or damage by fire and other hazards, as the beneficiary may from time to time require, in an amount not less than \$ _____, written by one or more companies acceptable to the beneficiary, with loss payable to the latter. All policies of insurance shall be delivered to the beneficiary as soon as issued. If the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
5. To keep the property free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the property before any part of such taxes, assessments and other charges becomes past due or delinquent and promptly deliver receipts therefor to beneficiary. Should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof. For such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described. All such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and shall constitute a breach of this trust deed.
6. To pay all costs, fees and expenses of this trust, including the cost of title search, as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation, and trustee and attorney fees actually incurred.
7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed or any suit or action related to this instrument, including but not limited to its validity and/or enforceability, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney fees. The amount of attorney fees mentioned in this paragraph in all cases shall be fixed by the trial court, and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney fees on such appeal.

It is mutually agreed that:
 8. In the event that any portion or all of the property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking which are in excess of the amount required to pay all reasonable costs, expenses and attorney fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby. Grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation promptly upon beneficiary's request.

(CONTINUED)

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.
 *WARNING: 12 USC 1701j-3 regulates and may prohibit exercise of this option.
 **The publisher suggests that such an agreement address the issue of obtaining beneficiary's consent in complete detail.

Exhibit B
Trust Deed example (2 pages)

08/24/2022 Item #1.



9. At any time, and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may (a) consent to the making of any map or plat of the property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; or (d) reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may, at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney fees, upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of the property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder, or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby or in grantor's performance of any agreement hereunder, time being of the essence with respect to such payment and/or performance, the beneficiary may declare all sums secured hereby immediately due and payable. In such event, the beneficiary may elect to proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured hereby whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.752 to 86.815.

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trustee conducts the sale, the grantor or any other person so privileged by ORS 86.778 may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed, together with trustee and attorney fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which the sale may be postponed as provided by law. The trustee may sell the property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of: (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney; (2) to the obligation secured by the trust deed; (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority; and (4) the surplus, if any, to the grantor, or to any successor in interest entitled to such surplus.

16. Beneficiary may, from time to time, appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary, which, when recorded in the mortgage records of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

The grantor covenants to and agrees with the beneficiary and the beneficiary's successors in interest that the grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title thereto, except as may be set forth in any addendum or exhibit attached hereto, and that the grantor will warrant and forever defend the same against all persons whomsoever.

WARNING: Unless grantor provides beneficiary with evidence of insurance coverage as required by the contract or loan agreement between them, beneficiary may purchase insurance at grantor's expense to protect beneficiary's interest. This insurance may, but need not, also protect grantor's interest. If the collateral becomes damaged, the coverage purchased by beneficiary may not pay any claim made by or against grantor. Grantor may later cancel the coverage by providing evidence that grantor has obtained property coverage elsewhere. Grantor is responsible for the cost of any insurance coverage purchased by beneficiary, which cost may be added to grantor's contract or loan balance. If it is so added, the interest rate on the underlying contract or loan will apply to it. The effective date of coverage may be the date grantor's prior coverage lapsed or the date grantor failed to provide proof of coverage. The coverage beneficiary purchases may be considerably more expensive than insurance grantor might otherwise obtain alone and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are (choose one):*

- (a) primarily for grantor's personal, family or household purposes (see Important Notice below).
(b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes.

This deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein.

In construing this instrument, where the context so requires, the singular includes the plural, and all grammatical changes shall be made so that this instrument shall apply equally to businesses, other entities and to individuals.

IN WITNESS WHEREOF, grantor has executed this instrument the date stated above; any signature on behalf of a business or other entity is made with the authority of that entity.

*IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is inapplicable. If warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures. If compliance with the Act is not required, disregard this notice.

STATE OF OREGON, County of _____) ss.

This record was acknowledged before me on _____

by _____

This record was acknowledged before me on _____

by _____

as _____

of _____

Notary Public for Oregon

My commission expires _____

REQUEST FOR FULL RECONVEYANCE (To be used only when obligations have been paid.)

TO: _____ Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by the trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of the trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by the trust deed (which are delivered to you herewith together with the trust deed) and to reconvey, without warranty, to the parties designated by the terms of the trust deed, the estate now held by you under the same. Mail the reconveyance and documents to _____

DATED _____

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both should be delivered to the trustee for cancellation before reconveyance is made.

Beneficiary



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: Wednesday, August 24, 2022

SUBJECT: Consideration of Board Signature for Order No. 2022-044, to Purchase Property Located at 221 NW Lafayette Avenue, Bend

RECOMMENDED MOTION:

Move approval of Board signature of Order No. 2022-044, to Purchase Property Located at 221 NW Lafayette Avenue, Bend

BACKGROUND AND POLICY IMPLICATIONS:

In April 2022, Lawrence Erwin approached the County about purchasing property owned by Mr. Erwin located at 221 NW Lafayette. At that time, Mr. Erwin and the County agreed to a third-party appraisal, which was completed in May 2022, and valued the property at \$575,000. The parties agreed to use the appraised value of \$575,000 as the sales/purchase price. In May 2022, your Board authorized the County's Property Manager to execute a Purchase and Sale Agreement with Mr. Erwin to purchase said property.

The property is 0.10-acres, which includes 5-parking spaces and a +/- 768 square feet structure with an unfinished half basement. The structure was constructed as a single-family home in 1935 and converted to office space in 1997. The interior includes 1-office, reception area, 1-conference room, and 1-restroom with shower.

As part of the due diligence process, Property Management and Facilities worked collaboratively to complete third-party and in-house inspections. The property is in good working order and no major issues were identified.

Additionally, Property Management inquired with City of Bend Engineering about whether vacating the adjacent alleyways; to the west (running north and south), and to the south (running east and west) would be feasible. Though the City is unable to provide a definitive answer outside the application process, it is highly likely the alleyway to the west could be vacated as part of a redevelopment plan, which would ultimately expand the property footprint. There is a possibility the alleyway to the south may be vacated, however, it may not be advantageous because franchised utilities are located in this area.

Potential short-term uses could include flex space for staff or other programs as identified, for examples. Mid to longer range use may include redevelopment for additional downtown parking or other uses to be determined. There also may be an opportunity to remove the structure in whole from the site. Ultimately, the use of this property will be determined through the downtown campus master planning effort that will launch in the near future.

Closing will occur early September 2022.

BUDGET IMPACTS:

Property purchase of \$575,000.

ATTENDANCE:

Kristie Bollinger, Property Manager

REVIEWED

LEGAL COUNSEL

08/24/2022 Item #2.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Designating the Deschutes County
Property Manager, Kristie Bollinger as the
Deschutes County Representative to Sign
Documentation for the Purchase and Acceptance
of Property Located at 221 NW Lafayette Avenue,
Bend, Oregon 97703

*
*
*
*

ORDER NO. 2022-044

WHEREAS, the Board of County Commissioners of Deschutes County has authorized the purchase of property located at 221 NW Lafayette Avenue, Bend, Oregon, 97703 from Lawrence W. Erwin (Seller); and

WHEREAS, Deschutes County entered into a Purchase and Sale Agreement with Seller on July 13, 2022 to purchase the property in the amount of Five Hundred Seventy Five Thousand (\$575,000) Dollars, subject to a due diligence period scheduled to expire August 22, 2022; and

WHEREAS, currently the transaction is scheduled to close early September 2022, and at the time of closing, the documents necessary to conclude the transaction need to be signed on behalf of Deschutes County as the purchaser; now, THEREFORE,

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

Section 1. The Deschutes County Property Manager, Kristie Bollinger is designated as the Deschutes County representative to sign the necessary documents for the purchase and acceptance of property located at 221 NW Lafayette Avenue, Bend, Oregon, 97703.

SIGNATURES ON FOLLOWING PAGE

Dated this _____ of _____, 2022

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

ANTHONY DEBONE, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

221 NW Lafayette Avenue, Bend

171232AC02900

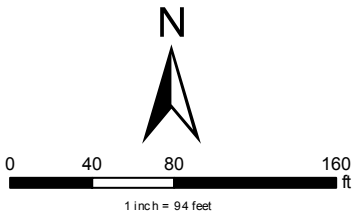


221 NW Lafayette Avenue, Bend
0.10-acres; +/- 768 sf structure

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Deschutes County GIS



Date: 8/17/2022





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 24, 2022

SUBJECT: Consideration of Document No. 2022-688, an Intergovernmental Agreement with the Oregon Department of Transportation for the OR126:Redmond-Powell Butte Project

RECOMMENDED MOTION: Move approval of Document No. 2022-688.

BACKGROUND AND POLICY IMPLICATIONS:

The Oregon Department of Transportation is delivering the OR126: Redmond-Powell Butte project. The project limits are between US97 in Redmond and Powell Butte Highway in Crook County. The project scope of work will include:

- Paving
• Pedestrian improvements in Redmond
• Installation of a new Cascades East Transit (CET) transit stop on OR126 in Redmond
• Installation of a traffic camera at OR126 and Powell Butte Highway.
• Signage and striping improvements

The project work will require ODOT and their construction contractor to enter onto the right of way for SE Sherman Road, a Deschutes County road, for the installation of temporary traffic control devices and other work; this agreement will authorize ODOT and their construction contractor to enter onto the County right of way. Deschutes County is not contributing funding to the project.

BUDGET IMPACTS: None

ATTENDANCE: Cody Smith, County Engineer/Assistant Director, Road Department

INTERGOVERNMENTAL AGREEMENT
OR126: Redmond – Powell Butte (K20167)
Crook County / Deschutes County

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as “ODOT” or “State;” and Crook County, acting by and through its elected officials, hereinafter referred to as “Crook County;” and Deschutes County, acting by and through its elected officials, hereinafter referred to as “Deschutes County;” all herein referred to individually or collectively as “Party” or “Parties.”

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. State’s OR126: Redmond – Powell Butte project (Key No. 20167) is a 3R pavement preservation project that also contains some pedestrian enhancements. OR126 from the US97 intersection east to Powell Butte Highway will be repaved. The western most project limits are within the City of Redmond and will also receive ADA curb ramp upgrades, sidewalk infill, storm water improvements, shoulder widening to facilitate bike lane construction and improved pedestrian crossing(s) in the urban section of the project from US97 to SE Evergreen Ave. There will be a Cascades East Transit (CET) transit stop installed for westbound traveling buses stopping on OR126 just west of NE Warsaw Ave. Signing and striping will also be upgraded throughout the project and a new ITS camera will be installed at the intersection of OR 126 and Powell Butte Highway. Advance intersection warning signs will be installed at the OR126 and Powell Butte Highway intersection.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, Parties agree to allow State to access Deschutes County and Crook County’s road system for the purpose of field work, project construction, traffic control signing, and staging for the portion of State’s OR126: Redmond – Powell Butte project within their respective jurisdictions, hereinafter referred to as “Project.”
2. State shall provide traffic control plans including detours and closures, if applicable, to Crook County and Deschutes County for review and approval prior to the commencement of Project construction.

Deschutes County, Crook County, and ODOT
Agreement No. 73000-00006098

- 3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.

CROOK COUNTY OBLIGATIONS

- 1. Crook County grants State the right to enter onto Crook County property for the performance of State’s duties as set forth in this Agreement.
- 2. Crook County shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Crook County expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- 3. Crook County shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
- 4. All employers, including Crook County, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers’ Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Crook County shall ensure that each of its contractors complies with these requirements.
- 5. Crook County certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Crook County, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Crook County.
- 6. Crook County’s Project Manager for this Project is Robert O’Neal, Road Master, 300 NE 3rd Street, Prineville, OR 97754, 541-447-4644, Bob.Oneal@co.crook.or.us) or assigned designee upon individual’s absence. Crook County shall notify the other Party in writing of any contact information changes during the term of this Agreement.

DESCHUTES COUNTY OBLIGATIONS

Deschutes County, Crook County, and ODOT
Agreement No. 73000-00006098

1. Deschutes County grants State the right to enter onto Deschutes County property for the performance of State's duties as set forth in this Agreement.
2. Deschutes County shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Deschutes County expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
3. Deschutes County shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
4. All employers, including Deschutes County, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Deschutes County shall ensure that each of its contractors complies with these requirements.
5. Deschutes County acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Deschutes County which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment (or completion of Project -- if applicable.) Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
6. Deschutes County certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Deschutes County, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Deschutes County.
7. Deschutes County's Project Manager for this Project is Cody Smith, County Engineer, 61150 NE 27th St, Bend, OR 97702, (541) 322-7113, Cody.Smith@deschutes.org, or assigned designee upon individual's absence. Deschutes County shall notify the other Party in writing of any contact information changes during the term of this Agreement.

Deschutes County, Crook County, and ODOT
Agreement No. 73000-00006098

STATE OBLIGATIONS

- 1. State shall access Crook County and Deschutes County Right of Way and jurisdiction for the purpose of completing the work as identified in the TERMS OF AGREEMENT, Paragraph 1 above.
- 2. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
- 3. State's Project Manager for this Project is Cari Charlton, Resident Engineer – Consultant Projects, 63055 N. Highway 97, Building M, Bend, Oregon, 97703, (541) 815-6831, cari.charlton@odot.oregon.gov, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

- 1. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
- 2. State may terminate this Agreement effective upon delivery of written notice to Crook County and Deschutes County, or at such later date as may be established by State, under any of the following conditions:
 - a. If Crook County and/or Deschutes County fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Crook County and/or Deschutes County fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If Crook County and/or Deschutes County fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.

Deschutes County, Crook County, and ODOT Agreement No. 73000-00006098

3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

4. Americans with Disabilities Act Compliance:

a. When the Project scope includes work on sidewalks, curb ramps, or pedestrian-activated signals or triggers an obligation to address curb ramps or pedestrian signals, the Parties shall:

i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;

ii. Follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;

iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>; and

b. Crook County and Deschutes County shall ensure that any portions of the Project under their respective maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Crook County and Deschutes County ensuring that:

i. Pedestrian access is maintained as required by the ADA,

ii. Any complaints received by Crook County and Deschutes County identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,

iii. Crook County and Deschutes County, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,

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- iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
 - c. Maintenance obligations in this section shall survive termination of this Agreement.
- 5. 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 ("Third Party Claim") against State or Crook County and Deschutes County with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. 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 a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
- 6. With respect to a Third Party Claim for which State is jointly liable with Crook County and Deschutes County (or would be if joined in the Third Party Claim), State 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 Crook County and Deschutes County in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Crook County and Deschutes County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Crook County and Deschutes County 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. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
- 7. With respect to a Third Party Claim for which Crook County and Deschutes County is jointly liable with State (or would be if joined in the Third Party Claim), Crook County and Deschutes County 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 State in such proportion as is appropriate to reflect the relative fault of Crook County and Deschutes County on the one hand and of State on the other hand in connection with the events which resulted in such

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expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Crook County and Deschutes County on the one hand and of State 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. Crook County and Deschutes County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

- 8. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- 9. As federal funds are involved in this Agreement, EXHIBITS B and C are attached hereto and by this reference made a part hereof, and are hereby certified to by Crook County and Deschutes County representative.
- 10. Crook County and Deschutes County, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Crook County and Deschutes County's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Crook County and Deschutes County's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Crook County and Deschutes County, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- 11. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- 12. This Agreement and attached exhibits 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, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

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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 #20167) that was adopted by the Oregon Transportation Commission on July 16, 2020 (or subsequently by amendment to the STIP).

SIGNATURE PAGE TO FOLLOW

Deschutes County, Crook County, and ODOT Agreement No. 73000-00006098

CROOK COUNTY, by and through its elected officials

By _____
Seth Crawford, County Judge

Date _____

By _____
Jerry Brummer, County Commissioner

Date _____

By _____
Brian Barnie, County Commissioner

Date _____

LEGAL REVIEW APPROVAL (If required in Crook County's process)

By _____
Crook County's Counsel

Date _____

DESCHUTES COUNTY, by and through its elected officials

By _____

Date _____

By _____

Date _____

LEGAL REVIEW APPROVAL (If required Deschutes County's process)

By _____
Deschutes County's Counsel

Date _____

STATE OF OREGON, by and through its Department of Transportation

By _____
Region 4 Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By n/a _____
Assistant Attorney General (If Over \$150,000)

Date _____

Crook County Contact:

Robert O'Neal, Road Master 300 NE 3rd Street, Prineville, OR 97754
(541) 447-4644
Bob.Oneal@co.crook.or.us

Deschutes County Contact:

Cody Smith, County Engineer
61150 NE 27th St, Bend, OR 97702,
(541) 322-7113
Cody.Smith@deschutes.org

State Contact:

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

Deschutes County, Crook County, and ODOT
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For purposes of Exhibits B and C, references to Department shall mean State, references to Contractor shall mean Crook County and Deschutes County and references to Contract shall mean Agreement.

**EXHIBIT B
CONTRACTOR CERTIFICATION**

Contractor certifies by signing this Contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Contractor) to solicit or secure this Contract,
- (b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Contractor), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the Contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

DEPARTMENT OFFICIAL CERTIFICATION

Department official likewise certifies by signing this Contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this Contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

EXHIBIT C

Federal Provisions
Oregon Department of Transportation

CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION
Contractor certifies by signing this Contract that to the best of its knowledge and belief, it and its principals:

Agency/State Agreement No.

- 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or Crook County and Deschutes County;
- 2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;
- 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- 4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating Crook County and Deschutes County, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

EXCEPTIONS:

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this Contract, the Contractor is deemed to have signed this certification.

II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION,

AND OTHER RESPONSIBILITY MATTERS- PRIMARY COVERED TRANSACTIONS

- 1. By signing this Contract, the Contractor is providing the certification set out below.
- 2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Department determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
- 3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.
- 4. The Contractor shall provide immediate written notice to the Department if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-2710) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- 6. The Contractor agrees by entering into this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or Crook County and Deschutes County entering into this transaction.

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- 7. The Contractor further agrees by entering into this Contract that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.
- 9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and

Voluntary Exclusion--Lower Tier Covered Transactions

Instructions for Certification

- 1. By signing and submitting this Contract, the prospective lower tier participant is providing the certification set out below.
- 2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or Crook County and Deschutes County with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- 3. The prospective lower tier participant shall provide immediate written notice to the person to which this Contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Contract is submitted for assistance in obtaining a copy of those regulations.
- 5. The prospective lower tier participant agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or Crook County and Deschutes County with which this transaction originated.

Deschutes County, Crook County, and ODOT Agreement No. 73000-00006098

- 6. The prospective lower tier participant further agrees by submitting this Contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
- 8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or Crook County and Deschutes County with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by entering into this Contract, that neither it nor its principals is presently debarred, suspended,

proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or Crook County and Deschutes County.

- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

IV. EMPLOYMENT

- 1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractors, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranting, Department shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- 2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the Contract, any professional or technical personnel who are or have been at any time during the period of this Contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
- 3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be entitled to rely on the accuracy, competence, and completeness of Contractor's services.

V. NONDISCRIMINATION

During the performance of this Contract, Contractor, for himself, his assignees and

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successors in interest, hereinafter referred to as Contractor, agrees as follows:

- 1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this Contract. Contractor, with regard to the work performed after award and prior to completion of the Contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the Contract covers a program set forth in Appendix B of the Regulations.
- 2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
- 3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this Contract, Contractor agrees as follows:
 - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during

employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.

- b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
- 4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.
- 5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the Contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
 - b. Cancellation, termination or suspension of the agreement in whole or in part.
- 6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto.

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Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither Department nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Department deems appropriate.

VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this Contract.

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

Records and Reports. Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials from the DBEs identified to meet Contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the Contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Department.

DBE POLICY STATEMENT

DBE Policy. It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this Contract.

Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

Required Statement For USDOT Financial Assistance Agreement. If as a condition of assistance the Crook County and Deschutes County has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Crook County and Deschutes County agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

DBE Definition. Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

DBE Obligations. The Department and its Contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that

CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL 0 %

By signing this Contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Contract for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

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VII. LOBBYING

REQUIREMENT CONTACT OFFICE OF
CIVIL RIGHTS AT (503)986-4354.

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal Crook County and Deschutes County, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal Crook County and Deschutes County, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

FOR INQUIRY CONCERNING
DEPARTMENT'S DBE PROGRAM



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 24, 2022

SUBJECT: Consideration of Resolution No. 2022-057, Initiating Vacation Proceedings for an Unused Portion of Fryrear Road

RECOMMENDED MOTION:

Move approval of Resolution No. 2022-057.

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County Road Department has received a petition to vacate an unused portion of the public right of way for Fryrear Road (also identified as "W.F. Fryrear Road" and "the Fryrear Road" in certain public records). Chief Petitioner for the proposed vacation is Eric H. Vetterlein, General Partner, on behalf of Desert Springs Ranch Limited Partnership, owner of Tax Lots 2800 and 2801 on Assessor's Map 15-11-00.

The subject right of way was established on March 14, 1921 by Deschutes County order recorded as Deschutes County Commissioners Journal Volume 1, Pages 341 and 342, which established a 60-foot wide right of way.

The subject right of way exists across land owned by Desert Springs Ranch Limited Partnership, and portions of the right of way abut federal land managed by the Bureau of Land Management, Prineville District (BLM). No road improvements, utilities, or other improvements existing within the proposed vacation area. The as-constructed Fryrear Road exists to the east of the proposed vacation area across BLM-managed federal lands within a separate right of way granted under BLM Grant No. OR 51362, issued circa December 7, 1995. The BLM is not a petitioner for the proposed vacation.

Adoption of Resolution No. 2022-057 will initiate road vacation proceedings pursuant to ORS 368.341. A public hearing will be held during the regularly-scheduled Board of County Commissioners Meeting on Wednesday, September 14, 2022 to allow for interested parties to provide testimony regarding the proposed vacation.

BUDGET IMPACTS:

None. The Petitioners have paid the applicable vacation petition fee in the amount of \$1,600.00.

ATTENDANCE:

Cody Smith, County Engineer

REVIEWED

LEGAL COUNSEL

08/24/2022 Item #4.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

A Resolution Initiating the Vacation of a
Portion of Fryrear Road in Deschutes
County, Oregon, Describing the Property
Proposed to be Vacated, the Reasons for the
Vacation, and Requesting that the County
Road Official File a Report.

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RESOLUTION NO. 2022-057

WHEREAS, the owners of more than sixty percent of property abutting an unused portion of the right of way for Fryrear Road in Township 15S, Range 12E, Section 20, W.M., which was established by Deschutes County order recorded as Deschutes County Commissioners Journal Volume 1, Page 341 and is described in Exhibit "A" and depicted in Exhibit "B", attached hereto and by this reference incorporated herein, petitioned for the vacation of said road right of way; now, therefore,

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

Section 1. That it is the intent of the Board of County Commissioners of Deschutes County, Oregon, to vacate the unused right of way for a portion of Fryrear Road, as described in Exhibit "A" and depicted in Exhibit "B", because it appears that the right of way is no longer required for current or future public use.

Section 2. That the County Road Official shall file a Report with the Board of Commissioners, describing the ownership and uses of property subject to these vacation proceedings, and whether the vacation would be in the public interest.

Section 3. That a hearing before the Board of County Commissioners shall be held on Wednesday, September 14, 2022, at 9:00 a.m. in the Barnes and Sawyer Rooms of the Deschutes County Services Center, 1300 NW Wall Street, Bend, Oregon 97701, for consideration of information contained in the County Road official's report as well as any information that controverts or supports matters presented to the Board in the course of the vacation proceedings or that alleges any new matter relevant to the proceeding.

Dated this _____ day of _____, 2022.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

ATTEST:

ANTHONY DEBONE, Vice Chair

Recording Secretary

PHIL CHANG, Commissioner

EXHIBIT A

W.F. Fryrear Road Vacation

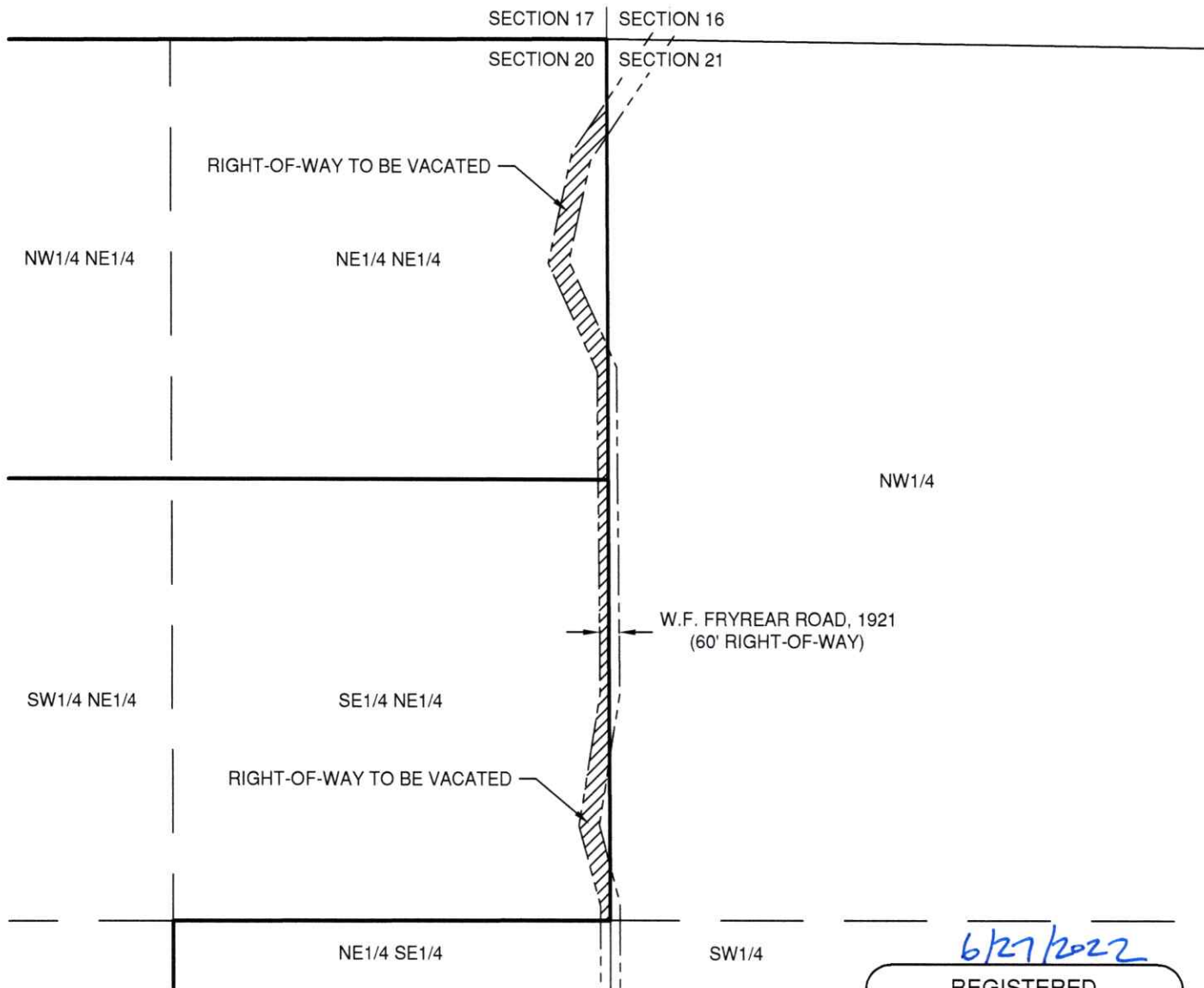
All of that certain right-of-way of the W.F. Fryrear Road established by Deschutes County in 1921 lying within the Northeast One-Quarter of the Northeast One-Quarter (NE1/4 NE1/4) and the Southeast One-Quarter of the Northeast One-Quarter (SE1/4 NE1/4) of Section 20, Township 15 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon.

See attached Exhibit B, entitled "W.F. Fryrear Road Vacation", which is made a part hereof.

6/27/2022
REGISTERED
PROFESSIONAL
LAND SURVEYOR
Christopher R. Munson
OREGON
MARCH 11, 2014
CHRISTOPHER R. MUNSON
80548PLS
RENEWS: 12/31/2022

EXHIBIT B W.F. FRYREAR ROAD VACATION

LOCATED IN A PORTION OF THE NE1/4 NE1/4 AND THE SE1/4 NE1/4
OF SECTION 20, TOWNSHIP 15 SOUTH, RANGE 11 EAST,
WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON



PREPARED BY:



Munson & Associates
civil engineers | land surveyors

845 NORTHEAST 11TH STREET
BEND, OREGON 97701



SCALE: 1" = 500'
DATE: 6/27/2022
W.O.#: 21-019

6/27/2022
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
MARCH 11, 2014
CHRISTOPHER R. MUNSON
80548PLS

RENEWS: 12/31/2022



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 24, 2022

SUBJECT: Emergency Management Performance Grant

RECOMMENDED MOTION:

Approval, with suggested motion: "I move to authorize the Deschutes County Sheriff's Office to submit an Emergency Management Performance Grant application to support Deschutes County's comprehensive emergency management program."

BACKGROUND AND POLICY IMPLICATIONS:

The Sheriff's Office will utilize the Emergency Management Performance Grant (EMPG) to fund the county's emergency management program.

The Deschutes County Sheriff's Office will be allocated funds pursuant to a successful grant application to the Oregon Military Department, Office of Emergency Management. Deschutes County has not received final allocations, but has developed a budget based on expected allocations. The funds will be used to pay up to half of the program. The rest of the program (no less than 50%) will come from Sheriff's Office funds and other local, state and federal funds.

The Deschutes County Sheriff's Office Emergency Services Manager is delegated day-to-day operations of the Deschutes County Emergency Management Program and is responsible for all planning, coordination and oversight for the Emergency Services functions. These functions are mandated by Oregon Revised Statute and Deschutes County Code. An Emergency Services Coordinator assists in the implementation of the program, primarily assisting in planning and public education.

Emergency management includes preparedness, mitigation, response and recovery. The Emergency Services Manager addresses five specific areas: Emergency Operations, Exercises, Plans, Training and Public Education. Some of the activities required of the Emergency Services Manager include either creating or updating the county-wide Emergency Operations Plan (EOP), the Threats and Hazards Identification and Risk Assessment, and a Natural Hazard Mitigation

Plan. Additionally, the Emergency Services Manager must participate in certain training requirements, such as participating in an annual EMPG workshop and in a state level multi-year training and exercise plan workshop.

BUDGET IMPACTS:

Funding Agency: ***Federal Emergency Management Agency (FEMA) through the Oregon Office of Emergency Management (OEM).***

Due Date: *Application: September 4, 2022*

Amount: *Approximately \$112,151 (based on estimate for OEM)*

Matching Funds: *No less than the grant award.*

Duration: *July 1, 2022 through June 30, 2023*

ATTENDANCE:

Nathan Garibay



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 24, 2022

SUBJECT: Consideration of Board approval and Chair signature of document #2022-679, an Oregon Health Authority grant agreement for GenPMTO Training

RECOMMENDED MOTION:

Move approval of Chair signature of document #2022-679, an Oregon Health Authority grant agreement #165788-1

BACKGROUND AND POLICY IMPLICATIONS:

This amendment #1 to OHA #165788 provides \$143,000, to fund the training and certification of Behavioral Health Clinicians in Parent Management Training-Oregon Model (GenPMTO), and extends the termination date of the original agreement from June 30, 2022 to June 30, 2024. The new maximum not-to-exceed amount is \$286,000. The original grant funded training for five clinicians. The new funding will support training, including related personnel expenses, for an additional five clinicians.

GenPMTO is an evidence-based intervention that helps parents strengthen families at all levels (children, youth, parents, and couples). Training delivery options include in-person with each individual family, in-home delivery or telehealth, and multi-family group delivery. This training requires the technology of a web-based software tool provided by Implementation Sciences International, Inc. (ISII), a non-profit organization located in Eugene, Oregon that trains clinicians in GenPMTO through active training programs.

As a result of clinicians receiving this training and certification, the goals and objectives of this Grant Agreement are:

- a. Demonstrate positive child, youth and family outcomes of GenPMTO through data on reductions of child/youth externalizing behaviors at home and school or daycare, reduced symptoms of depression, and increased positive family communication;

- b. Demonstrate improvements in parent-adolescent relationships to prevent and reduce social, emotional, and behavioral problems including depression, anxiety, academic difficulties, alcohol and drug abuse, delinquency, and poor social skills; and
- c. Strengthen parenting skills (encouragement, limit setting, monitoring/supervision, problem solving, positive parent involvement) to prevent and slow problems which can develop throughout childhood and adolescence and carry into adulthood.

Quarterly reporting on delivery of GenPMTO training, certification, and implementation is required.

BUDGET IMPACTS:

\$143,000 revenue for the term July 1, 2022 through June 30, 2024. \$87,700 will fund wages and benefits, \$1,000 supplies, and \$40,000 for contracted services. Additionally, \$14,300 (10%) of indirect expenses are funded by this grant. A five year fiscal analysis is attached. If approved, a budget adjustment will be forthcoming.

ATTENDANCE:

Shannon Brister, Program Manager
Janice Garceau, Director Behavioral Health Division

DESCHUTES COUNTY DOCUMENT SUMMARY

(NOTE: This form is required to be submitted with ALL contracts and other agreements, regardless of whether the document is to be on a Board agenda or can be signed by the County Administrator or Department Director. If the document is to be on a Board agenda, the Agenda Request Form is also required. If this form is not included with the document, the document will be returned to the Department. Please submit documents to the Board Secretary for tracking purposes, and not directly to Legal Counsel, the County Administrator or the Commissioners. In addition to submitting this form with your documents, please submit this form electronically to the Board Secretary.)

Please complete all sections **above** the Official Review line.

Date: July 20, 2022

Department: Health Services, Behavioral Health

Contractor/Supplier/Consultant Name: Oregon Health Authority

Contractor Contact: Larry Briggs

Type of Document: Grant Agreement #165788-1

Goods and/or Services: This amendment #1 to OHA #165788 increases funding by \$143,000, to a new maximum not-to-exceed amount of \$286,000 and extends the termination date from June 30, 2022 to June 30, 2024.

Goals and Obejctives: The Intergovernmental Agreement (#165788) provides funding for Behavioral Health Clinicians to attend and be certified in Parent Management Training – Oregon Model (GenPMTO). GenPMTO is an evidence-based intervention that helps parents strengthen families at all levels (children, youth, parents, and couples). Training delivery options include in-person with each individual family, in-home delivery or telehealth, and multi-family group delivery. This training requires the technology of a web-based software tool provided by Implementation Sciences International, Inc. (ISII). This is a non-profit organization located in Eugene, Oregon that trains clinicians in GenPMTO through active training programs.

As a result of clinicians receiving this training and certification, the goals and objectives of this Grant Agreement are:

- a. Demonstrate positive child, youth and family outcomes of GenPMTO through data on reductions of child/youth externalizing behaviors at home and school or daycare, reduced symptoms of depression, and increased positive family communication;
- b. Demonstrate improvements in parent-adolescent relationships to prevent and reduce social, emotional, and behavioral problems including depression, anxiety, academic difficulties, alcohol and drug abuse, delinquency, and poor social skills; and
- c. Strengthen parenting skills (encouragement, limit setting, monitoring/supervision, problem solving, positive parent involvement) to prevent and slow problems which can develop throughout childhood and adolescence and carry into adulthood.

Quarterly reporting on delivery of GenPMTO training, certification, and implementation is required.

Agreement Start Date: September 01, 2020 **Ending Date:** June 30, 2024

Total Payment: Not-to-exceed amount increased by \$143,000 to \$286,000

Insurance Certificate Received (check box)
Insurance Expiration Date: N/A County is Contractor

Check all that apply:

- RFP, Solicitation or Bid Process
- Informal quotes (<\$150K)
- Exempt from RFP, Solicitation or Bid Process (specify – see DCC §2.37)

Funding Source: (Included in current budget? Yes No

If **No**, has budget amendment been submitted? Yes No

Is this a Grant Agreement providing revenue to the County? Yes No

If a new FTE will be hired with grant funds, confirm that Personnel has been notified that it is a grant-funded position so that this will be noted in the offer letter: Yes No

Contact information for the person responsible for grant compliance: Name:
Phone #:

Departmental Contact and Title: Shannon Brister-Raugust, Program Manager

Deputy Director Approval:

Acting Director Approval:

Signature: Janice Garceau
Janice Garceau (Aug 2, 2022 10:26 PDT)
Email: janice.garceau@deschutes.org
Title: Behavioral Health Director
Company: Deschutes County Health Services

Signature: Erik Kropp
Erik Kropp (Aug 2, 2022 16:30 PDT)
Email: erik.kropp@deschutes.org
Title: Interim Health Services Director
Company: Deschutes County

Distribution of Document: Grace Justice Evans at Health Services.

Official Review:

County Signature Required (check one): BOCC Department Director (if <\$50K)
 Administrator (if >\$50K but <\$150K; if >\$150K, BOCC Order No. _____)

Legal Review _____ Date _____

Document Number: 2022-679



Grant Agreement Number 165788

AMENDMENT TO STATE OF OREGON INTERGOVERNMENTAL GRANT AGREEMENT

In compliance with the Americans with Disabilities Act, this document is available in alternate formats such as Braille, large print, audio recordings, Web-based communications and other electronic formats. To request an alternate format, please send an e-mail to dhs-oha.publicationrequest@state.or.us or call 503-378-3486 (voice) or 503-378-3523 (TTY) to arrange for the alternative format.

This is amendment number **01** to Grant Agreement Number **165788** between the State of Oregon, acting by and through its Oregon Health Authority, hereinafter referred to as “OHA” and

Deschutes County,
Acting by and through its Health Services
2577 NE Courtney Drive
Bend, Oregon 97701
Attention: Dr. George Conway, MD Health Services Director
Telephone: (541) 322-7502
E-mail address: george.conway@deschutes.org

hereinafter referred to as “Recipient”.

1. This amendment shall become effective on **June 30, 2022** provided it is (i) approved in writing by the Oregon Department of Justice, and (ii) when required, approved in writing by the Oregon Department of Administrative Services, and (iii) is signed by all parties, regardless of the date of the parties’ signatures.
2. The Agreement is hereby amended as follows:
 - a. “Section 1 “Effective Date and Duration” is hereby amended to change the expiration date from **June 30, 2022** to **June 30, 2024**.
 - b. Section 3 “Grant Disbursement Generally” is hereby amended to increase by **\$143,000.00** the current maximum not-to-exceed amount of **\$143,000.00** to a new maximum not-to-exceed amount of **\$286,000.00**.
 - c. Effective July 1, 2022, Exhibit A Part 1 “Program Description” is deleted and hereby replaced with the attached Exhibit A Part 1, “Program Description”. Attachment 1 “Minimum Required Equipment List” shall remain in effect.
 - d. Effective July 1, 2022, Attachment 2 “Certification Requirements Information for Generation PMTO Candidates” is deleted and hereby replaced with the Attachment 2 “Certification Requirements Information for Generation PMTO Candidates”.
 - e. Exhibit A Part 2 “Payment and Financial Reporting is deleted and hereby replaced with

the attached Exhibit A Part 2 "Payment and Financial Reporting".

- 3. Except as expressly amended above, all other terms and conditions of the original Agreement and any previous amendments are still in full force and effect.
- 4. **Recipient Data and Certification.** Recipient shall provide the information set forth below.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Recipient Name (exactly as filed with the IRS): Deschutes County Oregon

Street address: 1300 NW Wall Street

City, state, zip code: Bend, OR 97703

Email address: shannon.brister@deschutes.org; cc: grace.evans@deschutes.org

Telephone: () 541-322-7500 Facsimile: () 541-322-7565

Recipient Proof of Insurance. Recipient shall provide the following information upon submission of the signed Agreement Amendment. All insurance listed herein and required by Exhibit C of the original Agreement, must be in effect prior to Agreement execution.

Workers' Compensation Insurance Company:

Policy #: Self-Insured Expiration Date: N/A

RECIPIENT, BY EXECUTION OF THIS AMENDMENT, HEREBY ACKNOWLEDGES THAT RECIPIENT HAS READ THIS AMENDMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

5. Signatures.

**Deschutes County,
Acting by and through its Health Services
By:**

Authorized Signature

Printed Name

Title

Date

**State of Oregon acting by and through its Oregon Health Authority
By:**

Authorized Signature

Printed Name

Title

Date

**Approved by: Director, OHA Health Systems Division
By:**

Authorized Signature

Printed Name

Title

Date

Approved for Legal Sufficiency:

Via e-mail by Patrick Rieder, Assistant Attorney General, on June 23, 2022; email in agreement file.
Department of Justice Date

EXHIBIT A

Part 1

Program Description

1. Goals and Objectives.

As a result of clinicians receiving this training and certification, the Goals and Objectives of this Agreement are to:

- a. Demonstrate positive child, youth, and family outcomes of GenPMTO through data on reductions of child/youth externalizing behaviors at home and school or daycare, reduced symptoms of depression, and increased positive family communication;
- b. Demonstrate improvements in parent-adolescent relationships to prevent and reduce social, emotional, and behavioral problems including depression, anxiety, academic difficulties, alcohol and drug abuse, delinquency, and poor social skills; and
- c. Strengthen parenting skills (encouragement, limit setting, monitoring/supervision, problem solving, positive parent involvement) to prevent and slow problems which can develop throughout childhood and adolescence and carry into adulthood.

2. Definitions.

For purposes of this Agreement, the terms below shall have the following meanings:

- a. **Authorized Generation PMTO Trainer** means a person who is certified by ISII to train clinicians to certification through best-practice workshops, coaching, and Fidelity rating.
- b. **Eyberg Child Behavior Inventory (ECBI)** is a comprehensive, behaviorally specific, parent-rating scale that assesses the current frequency and severity of disruptive behaviors. This is a requirement of Fidelity GenPMTO implementation. <https://www.parinc.com/Products/Pkey/97>
- c. **Fidelity** is the extent to which delivery of an intervention adheres to the protocol or program model originally developed and supported by research.
- d. **Generation PMTO (GenPMTO)** also referred to as the Parent Management Training - Oregon Model, is an evidence-based intervention that helps parents strengthen families at all levels (children, youth, parents, and couples). Delivery options include in-person with each individual family, including in-home delivery or telehealth, and multi-family group delivery.

- e. **Implementation Sciences International, Inc. (ISII)** is a non-profit organization located in Eugene, Oregon that trains clinicians in GenPMTO through active training programs. Website url: www.generationpmto.org
- f. **ISII Portal** is the web-based software tool used in training clinicians. The ISII Portal can be found at: <https://isii.pmtoportal.org/>
- (1) Clinicians or organization staff enter family demographic information about each family (e.g., ages, number of family members, members' relationship to child/children);
 - (2) Clinicians complete session forms and upload videos of family sessions to portal;
 - (3) ISII coaches review video recordings and provide feedback for clinicians;
 - (4) Fidelity scores are recorded in portal; and
 - (5) Data is used to track clinicians' progress toward certification.
- g. **Key Person(s)** means the person or persons on Recipient's staff, including any subcontractors, assigned to perform the Grant Activities identified in this Agreement.
- h. **Qualified Mental Health Associate (QMHA)** means a person delivering services under the direct supervision of a QMHP who meets the minimum qualifications as authorized by the LMHA, or designee, and specified in OAR309-019-0125 (9).
- i. **Qualified Mental Health Professional (QMHP)** means a Licensed Medical Professional or any other person meeting the minimum qualifications as authorized by the LMHA, or designee, and specified in 309-019-0125 (10).
- j. **National Provider Number (NPI)** is a Health Insurance Portability and Accountability Act (HIPAA) Administrative Simplification Standard. The NPI is a unique identification number for covered health care providers. Information can be found at: <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/NationalProvIdentStand/>
- k. **Strengths and Difficulties Questionnaire (SDQ)** is a standardized and validated behavioral health screening questionnaire to be used with children 2 through 17 years. The SDQ can be used for screening, clinical assessment, and outcome evaluation. SDQ is available through <https://youthinmind.com/>
- l. **Treatment Completion in GenPMTO** is a minimum of 6 sessions (through introduction to limit setting) completed and a reduction of symptoms or problem behaviors on standardized measures from first session to consider a GenPMTO family as having "completed treatment".

3. Grant Activities.

Recipient will:

- a. Sub-contract with ISII, in accordance with Exhibit B.15, for 10 days of face-to-face trainings for staff members whose primary employment duties are direct client

behavioral health services.

- (1)** Sequence of training sessions, recruitment of parents, and start of GenPMTO sessions will be accomplished according to the schedule specified by the ISII Director of Implementation and Training to ensure the full benefit of trainings and adherence to the model.
 - (2)** Training sessions may include basic training for staff previously unfamiliar with GenPMTO, advanced trainings for staff who are certified in GenPMTO (examples include: becoming coaches, trainers, or fidelity monitors), or becoming trained in the group version of GenPMTO called Parenting Through Change.
 - (3)** Clinicians must be provided adequate time to prepare and debrief cases and review feedback by ISII coaches on a regular basis to support upcoming sessions.
 - (4)** Basic GenPMTO trainings will consist of one 4-day workshop, two 3-day workshops, and 24 consultation sessions via teleconferencing technology or live for 1- hour, twice a month, for 12 months.
 - (5)** Advanced GenPMTO training and consultation hours will be determined in accordance with the ISII Implementation and Training requirements.
 - (6)** Recipient must be willing to provide clinicians attending workshops with adequate support and coverage of their caseload and related duties to minimize distractions (e.g., texting, email, phone calls, etc.) during training activities.
- b.** Purchase and provide all equipment necessary for each trainee to record and upload practice and live sessions of GenPMTO skills by the first week of GenPMTO basic training, and for on-going certification documentation. (See Attachment 1 - Minimum Required Equipment List)
 - c.** Purchase and distribute to trainees, all training manuals, clinician notebooks, and parent manuals required by GenPMTO training protocols.
 - d.** Purchase and make readily available, Eyberg Child Behavior Inventory (ECBI) assessment and the Strengths and Difficulties Questionnaire (SDQ) tools in quantities needed to gather data at the start of treatment, mid-treatment, and at the end of treatment or when family leaves GenPMTO services.
 - e.** Provide appropriate teleconferencing equipment, maintenance of equipment, and advice as needed or as requested to each site regarding set up, internet requirements, and how to make use of the teleconferencing equipment to facilitate on-going consultation sessions for 12 or more months.
 - f.** Ensure that trainees complete Certification Requirements within 20 months after the first week of Basic GenPMTO training. At least 75% of those who start the training must become certified, and are required to include the pre/post treatment outcomes using the model in the required reports to OHA. (Attachment 2 – Certification Requirements)

- g.** Serve ethnically diverse families in the same proportion as is represented in the county using GenPMTO services.
- h.** Ensure access to enough clients that GenPMTO trainers can review videos monthly for each trainee to confirm the use of the core competency skills toward meeting certification requirements.
- i.** Establish and maintain information pertinent to Fidelity reviews including:
 - (1)** Evidence documented in the Electronic Health Records (EHR) of individuals and in reports to OHA of data-driven treatment decisions and the development of performance expectations using the ECBI, the age-appropriate versions of the SDQ, and documentation of session by session adherence to GenPMTO protocols.
 - (2)** Ensure reports to OHA from ISII regarding participation in training and consultation participation and progress towards certification as follows:
 - (a)** Clinician workshop attendance;
 - (b)** Number of GenPMTO families receiving services during training (i.e., families entered into ISII portal);
 - (c)** Number of GenPMTO families who completed services (i.e., as reported in the ISII portal);
 - (d)** Compliance with uploading video recordings and completing session forms;
 - (e)** Number of consultation sessions provided to each OHA funded GenPMTO site and number of clinicians in attendance; and
 - (f)** Fidelity summary for each clinician.

4. Key Persons.

Recipient shall assign the following Key Persons to support and monitor the GenPMTO trainees' progress towards certification and fidelity implementation:

- a. Amy Richardson
- b. Shannon Brister

* If due to unforeseen circumstances, such as medical leave, a Key Person is unable to participate in GenPMTO leadership meetings, trainee support and monitoring activities, Recipient shall ensure that another Key person is assigned for these duties.

5. Reporting Requirements.

Prepare and electronically submit to OHA at: amhcontract.administrator@state.or.us, written quarterly reports on the delivery of GenPMTO training, certification, and implementation, no later than 45 calendar days following the end of each subject quarter for which payment is made through this Agreement. Reports must be prepared using forms and procedures prescribed by OHA. Reports, which will be provided by OHA, shall include the following:

- a. GenPMTO Data July1, 2022 through June 30, 2024 Excel Form.
- b. GenPMTO Quarterly Report Face Sheet.

EXHIBIT A**Part 2
Payment and Financial Reporting****1. Grant Funding Disbursement.**

- a. Recipient shall invoice and OHA will pay 8 equal quarterly payments of \$17,875 upon receipt of the quarterly reporting and invoices described below for a not to exceed amount of \$143,000.00.
- b. Recipient shall send all invoices to OHA email box at amhcontract.administrator@dhsosha.state.or.us or to any other address as OHA may indicate in writing to Recipient, in a format prescribed by OHA.
- c. Recipient shall prepare and submit to OHA, written quarterly invoices, within 45 calendar days following the end of each calendar quarter throughout the term of the Agreement for the previous quarterly period, or portion thereof as reflected in the following table:

| Quarter | Due Date |
|-------------------------|-------------|
| July 1 – September 30 | November 14 |
| October 1 – December 31 | February 14 |
| January 1 – March 30 | May 14 |
| April 1 – June 30 | August 14 |

- d. Recipient shall, upon request, revise and resubmit reports and invoices to OHA's satisfaction.
- e. OHA is not obligated to provide payment for any invoice received more than 60 days after the date of the expiration or termination of this Agreement, whichever is earlier.
- f. Recipient's claims to OHA for overdue payments on invoices are subject to ORS 293.462.

2. Travel and Other Expenses.

OHA will not reimburse Recipient separately for any travel or other expenses under this Agreement.

ATTACHMENT 2**Certification Requirements Information for GenerationPMTO
Candidates
Created 2009 by MSF, LAR, MS**

1. Advancement to GenerationPMTO Certification Candidacy
 - a. Based on obtaining timely feedback (from ISII mentors and coaches) and effective incorporation of feedback;
 - b. Must have at least 3 PMTO training families with feedback;
 - c. After receiving approximately 12 feedbacks from sessions with the 3 training families;
 - d. Completion of self-assessment interview; and
 - e. ISII invites candidates and informs them when they are advanced to certification candidacy.
2. Certification families must be a minimum of 2 or more new families (not training families).
3. Candidates send 4 full Certification Family sessions to ISII. Sessions are likely to contain material other than topics under review. The topics are:
 - a. Introducing Encouragement (introduce/present incentive chart or token system)
 - b. Introducing Discipline (introduce/present time out or work chores)
 - c. Troubleshooting Encouragement
 - d. Troubleshooting Discipline
4. Consider the following criteria when submitting certification sessions:
 - a. Candidates can troubleshoot the same or different encouragement topic and the same or different discipline topic. For example, if introducing an incentive chart for one session, one may troubleshoot a token system in the other session.
 - b. The 2 sessions on Encouragement must be from different families. The 2 sessions on Discipline must be from different families (e.g., if Introducing Encouragement is from the D family, Troubleshooting Encouragement must be from the E family).
 - c. It is acceptable to submit Introducing sessions for the same family (e.g., introducing encouragement and introducing discipline from the D family).
 - d. Certification sessions will be viewed for a maximum of 60 minutes, beginning with the start of the session. (If translation is required, sessions will be translated for a maximum of 60 minutes.)
 - e. Session information forms must accompany each certification session, and case introduction forms must be submitted for each certification family, as applicable.
 - f. Informed consent must be obtained for each person who appears in the session.
5. Session information forms will be rated for the candidate's ability to succinctly evaluate:
 - a. Plan for the session;
 - b. What went well and why;

- c. What were the challenges;
 - d. If the candidate could do the session over, what would they do differently; and
 - e. Context for the session that may or may not be related to resistance issues.
6. If a session does not receive a passing score (mean of 6.0 on Fidelity of Implementation Rating System (FIMP) dimensions or a score of 3.0 or lower on any FIMP dimension; i.e., no score in the “Needs Work” range), the candidate will be invited to submit an additional certification session of the same content. Candidates will receive a summary of strengths and areas to improve for each session that does not receive a passing score.
 7. Candidates will receive a summary of strengths and considerations for each of the certification sessions that receives a passing score.
 8. Certifiers take the following into consideration in making ratings:

- a. Introducing Encouragement Systems

Token System

- Include raps with the concept of teaching new behavior through encouragement.
- Identify as a system of encouragement.
- Identify and demonstrate specific behavior(s) that earn tokens.
- Practice through Role-Play (RP)
- Identify incentives that may back up tokens.
- Explanation to the child (if parents will start using the system that week).
- Home Practice Assignment (HPA) is related to the system.

Incentive Chart

- Include raps with the concept of teaching new behavior through encouragement.
- Identify as a system of encouragement.
- Goal behaviors for a daily IC are identified and 1 selected.
- Goal behavior is broken into small steps.
- Daily Rewards are identified.
- Explanation to the child (if parents will start using the system that week).
- HPA is related to the system.

- b. Introducing Limit Setting (Time Out, Work Chores)

Limit

- Include raps about the concept of decreasing negative behavior with negative consequences.
- Qualities included in a negative consequence:
 - Mild
 - Short
 - Immediate
 - Unemotional

- Do-able
 - Other
 - Provide transition from encouragement to limit setting.
 - Include raps regarding balancing negative consequences with encouragement.
 - Identify behaviors that warrant negative consequence.
 - Practice applying the consequence.
 - Follow correct procedural steps for Time Out (TO) or Work Chores (see manual).
 - Identify privileges to remove.
 - Explanation to the child (if parents plan to start using limit setting that week).
 - Include as many steps as possible, or as time allows.
 - HPA assignment is related to progress (i.e., never give to start TO or Work Chores until parents are ready).
- c. Troubleshooting
- Represents a return to the topic, reviewing its use, and making adjustments as necessary.
 - RP, eliciting goal behavior, brainstorming, and the questioning process are integral parts of troubleshooting.
 - Review of content is integral.
 - Includes activity to assess skills.
 - Includes practice to refine skills.
 - HPA includes trying out of the new revision.
- d. General
- Certification session content needs to be covered in at least half of the session (30 minutes).
 - Structure of a session (e.g., beginning, middle and end) should include:
 - Debriefing the HPA and its relevance to forward movement;
 - Introducing the topic;
 - Assessing skill level and filling in the gaps with RP and/or other active teaching methods;
 - Rationales' underlying principles;
 - Assigning clear HPA that is suitable to family's progress; and
 - Other relevant strategies to successfully teach the content identified for the certification session.
 - Refer to Workshop Manual (e.g., A Course in the Basic PMTO Model)

Confidential
CONTRACTOR TAX IDENTIFICATION INFORMATION
For Accounting Purposes Only

The State of Oregon requires contractors to provide their Federal Employer Identification Number (FEIN) or Social Security Number (SSN). This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(2). Social Security numbers provided pursuant to this section will be used for the administration of state, federal and local tax laws. The State of Oregon may report this information to the Internal Revenue Service (IRS). Contractors must keep this information current at all times. Contractors are required to notify the State of Oregon contract administrator within 10 business days if this information changes. The State of Oregon reserves the right to ask contractors to update this information at any time during the document term.

Document number: 165788-1

Legal name (tax filing): Deschutes County Oregon

DBA name: Deschutes County Health Services

Billing address: 2577 NE Courtney Drive

City: Bend **State:** OR **Zip:** 97701

Phone: 541-322-7500

FEIN: 93-6002292

- OR -

SSN: _____

Please attach this completed form with your signed document(s) and return to the contract specialist via email.

Certificate Of Completion

Envelope Id: 9456049E8B064163BF56508CA67648B2

Status: Sent

Subject: 165788-1 Deschutes County

Source Envelope:

Document Pages: 12

Signatures: 0

Envelope Originator:

Certificate Pages: 5

Initials: 0

Larry Briggs

AutoNav: Enabled

LARRY.O.BRIGGS@dhsaha.state.or.us

Envelopeld Stamping: Enabled

IP Address: 209.112.106.2

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Record Tracking

Status: Original

Holder: Larry Briggs

Location: DocuSign

6/28/2022 3:16:28 PM

LARRY.O.BRIGGS@dhsaha.state.or.us

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: Carahsoft OBO Oregon Health Authority - CLM Location: DocuSign

Signer Events**Signature****Timestamp**Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Jon Collins

JON.C.COLLINS@dhsaha.state.or.us

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Margie Stanton

MARGIE.C.STANTON@dhsaha.state.or.us

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Accepted: 5/26/2020 8:11:14 AM

ID: 20e5e982-b92b-49ae-b319-83ecdb2ac0b5

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp**

Grace Evans

grace.evans@deschutes.org

Contract Specialist

Deschutes County Health Services

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Accepted: 9/22/2021 9:13:25 AM

ID: 1c2f1b1a-bce9-4e77-a9ac-00927d21eb03

Sent: 6/28/2022 3:22:22 PM

Resent: 7/20/2022 10:14:59 AM

Viewed: 7/20/2022 12:59:48 PM

Intermediary Delivery Events**Status****Timestamp****Certified Delivery Events****Status****Timestamp**

| Carbon Copy Events | Status | Timestamp |
|--------------------|--------|-----------|
|--------------------|--------|-----------|

amhcontract.administrator@dhsoba.state.or.us
amhcontract.administrator@dhsoba.state.or.us
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Sheryl Derting
SHERYL.L.DERTING@dhsoba.state.or.us
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

| Witness Events | Signature | Timestamp |
|----------------|-----------|-----------|
|----------------|-----------|-----------|

| Notary Events | Signature | Timestamp |
|---------------|-----------|-----------|
|---------------|-----------|-----------|

| Envelope Summary Events | Status | Timestamps |
|-------------------------|--------|------------|
|-------------------------|--------|------------|

| | | |
|---------------|------------------|----------------------|
| Envelope Sent | Hashed/Encrypted | 6/28/2022 3:22:23 PM |
|---------------|------------------|----------------------|

| Payment Events | Status | Timestamps |
|----------------|--------|------------|
|----------------|--------|------------|

| Electronic Record and Signature Disclosure |
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|--------------------------------------------|

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Carahsoft OBO Oregon Health Authority - CLM (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

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Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO Oregon Health Authority - CLM:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: mick.j.mitchell@dhsoha.state.or.us

To advise Carahsoft OBO Oregon Health Authority - CLM of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at mick.j.mitchell@dhsoha.state.or.us and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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ii. send us an email to mick.j.mitchell@dhsosha.state.or.us and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

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- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Carahsoft OBO Oregon Health Authority - CLM as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Carahsoft OBO Oregon Health Authority - CLM during the course of your relationship with Carahsoft OBO Oregon Health Authority - CLM.

Analysis performed on a fiscal year

Fiscal Years 2023 - 2027, 7/1/22 - 6/30/2027

| | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 | TOTAL |
|---------------------|-----------|-----------|---------|---------|---------|------------|
| RESOURCES | | | | | | |
| State Miscellaneous | \$ 71,500 | \$ 71,500 | | | | \$ 143,000 |
| GenPMTO | | | | | | \$ - |
| IGA 165788-1 | | | | | | \$ - |
| | | | | | | \$ - |
| | \$ 71,500 | \$ 71,500 | \$ - | \$ - | \$ - | \$ 143,000 |
| | | | | | | |
| REQUIREMENTS | | | | | | |
| Wages & Benefits | \$ 23,850 | \$ 63,850 | | | | \$ 87,700 |
| Travel | | | | | | \$ - |
| Supplies | \$ 500 | \$ 500 | | | | \$ 1,000 |
| Capital Outlay | | | | | | \$ - |
| Contracted Services | \$ 40,000 | | | | | \$ 40,000 |
| | | | | | | |
| Total Indirect - | \$ 7,150 | \$ 7,150 | \$ - | \$ - | \$ - | \$ 14,300 |
| Total Costs | \$ 71,500 | \$ 71,500 | \$ - | \$ - | \$ - | \$ 143,000 |





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 24, 2022

SUBJECT: Consideration of Board Signature of Document No. 2022-690, Oregon Department of Transportation (ODOT) Noise Variance

RECOMMENDED MOTION: Move approval of Document No 2022-690.

BACKGROUND AND POLICY IMPLICATIONS:

The applicant requests approval of a noise permit to allow nighttime geotechnical drilling for proposed interchange retaining walls. The project will include:

- 1. Pavement coring;
2. Geotechnical drilling using a CME 75 Drill Rig; and
3. Soil sampling using an auto hammer and SPT sampler

Proposed location of work is on US Highway 97 from milepost (MP) 115.3 to MP 115.6, within the Unincorporated Community of Terrebonne, (see attached Location Map). Construction activities are expected to begin September 19, 2022, with a completion date of September 23, 2022. Construction is anticipated to begin at the south end of the project limits and proceed north towards the intersection of US 97 and Lower Bridge Way. Nighttime construction will occur from 10:00 p.m. to 7:00 a.m.

A public hearing will be conducted on the proposed noise variance. Members of the public may listen, view, and/or participate in this hearing using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link:

https://us02web.zoom.us/j/83681377176?pwd=YWVlOHFaT3VyNUd2eHphanU4Y2lrUT09.

Using this option may require you to download the Zoom app to your device. Alternatively members of the public can participate in person in the Barnes and Sawyer Rooms of the Deschutes Services Center, 1300 NW Wall Street, Bend.

BUDGET IMPACTS: None

ATTENDANCE: Rachel Vickers, Associate Planner

REVIEWED

LEGAL COUNSEL

08/24/2022 Item #7.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

NOISE PERMIT

PURSUANT TO DESCHUTES COUNTY CODE (DCC) CHAPTER 8.08

LOCATION: US Highway 97 from milepost (MP) 115.3 to MP 115.6, within the Unincorporated Community of Terrebonne, (see attached Location Map).

FILE NUMBER: 247-22-000555-V

OWNER: Oregon Department of Transportation (ODOT)

PHONE: (541) 388-6180

PROJECT DESCRIPTION: The applicant requests approval of a noise permit to allow nighttime geotechnical drilling for proposed interchange retaining walls. The project will include:

- 1. Pavement coring;
- 2. Geotechnical drilling using a CME 75 Drill Rig; and
- 3. Soil sampling using an auto hammer and SPT sampler

DATES AND TIMES OF PROJECT: Construction activities are expected to begin September 19, 2022, with a completion date of September 23, 2022. Construction is anticipated to begin at the south end of the project limits and proceed north towards the intersection of US 97 and Lower Bridge Way. Nighttime construction will occur from 10:00 p.m. to 7:00 a.m.

FINDINGS: The Board of County Commissioners (“Board”) finds that a public necessity exists for granting this permit for construction hours between 10:00 p.m. and 7:00 a.m. The Board bases the findings on evidence in the record and testimony at the hearing. These findings include:

- 1. A need to increase safety and reduce crash rates by separating US 97 and Lower Bridge Way;
- 2. Improve safety for workers by completing work during periods of lowest traffic volume; and
- 3. A desire to conduct construction from 10:00 p.m. to 7:00 a.m. to minimize traffic delays, decrease the risk of construction related accidents on US Highway 97, and comply with freight mobility agreements.

CONDITIONS OF APPROVAL:

1. Construction activities may be conducted beginning September 19, 2022.
2. Fifteen days prior to commencing any construction activities, the Owner shall notify all property owners who testified at the public hearing for this permit of the dates and times the construction activities will occur.
3. This permit expires September 23, 2022.
4. THE APPROVED PERMIT SHALL BE RETAINED ON-SITE UNTIL THE PROJECT IS COMPLETE.
5. BY ACCEPTANCE OF THIS PERMIT, OWNER/OPERATOR CONSENT TO ALLOW BOTH COUNTY CODE ENFORCEMENT AND LAW ENFORCEMENT PERSONNEL TO COME ON THE PREMISES FOR WHICH THE PERMIT HAD BEEN GRANTED FOR THE PURPOSE OF INSPECTION AND ENFORCEMENT OF THE TERMS AND CONDITIONS OF THE PERMIT AND DCC 8.08, AND ANY OTHER APPLICABLE LAWS OR ORDINANCES.

Dated this _____ of _____, 2022

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

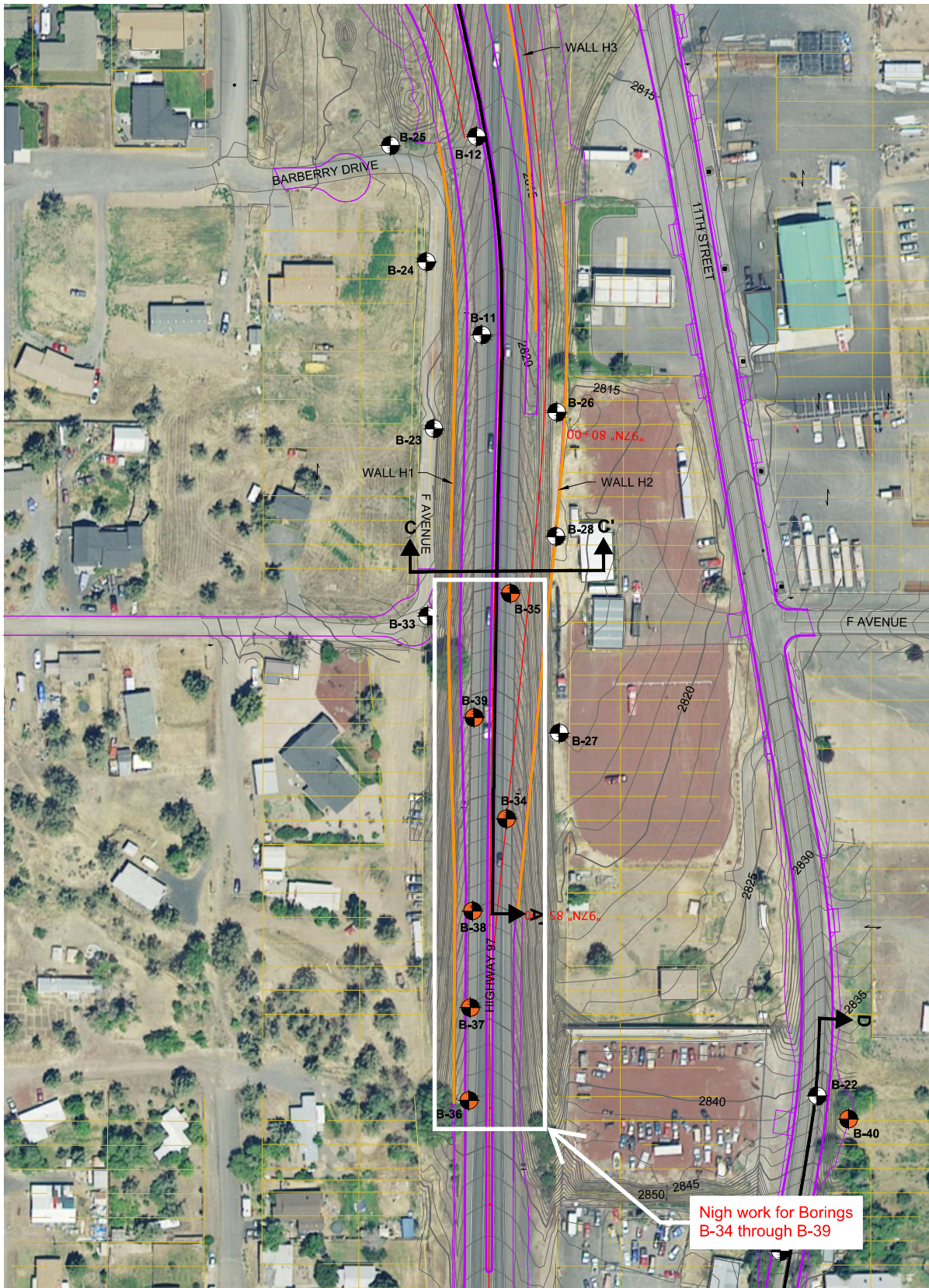
ANTHONY DEBONE, Vice Chair

ATTEST:

Recording Secretary

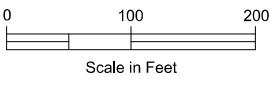
PHIL CHANG, Commissioner

Exhibit A: Location Map



LEGEND

- B-01** Designation and Approximate Location of Boring
- INF-01** Designation and Approximate Location of Infiltration Test
- A** Location and Designation of Interpretive Subsurface Profile or Cross Section
- Proposed Retaining Wall
- B-17** Designation and Location of Proposed Boring



- NOTES**
1. Aerial imagery downloaded from ProjectWise on June 1, 2020.
 2. Base map, including locations of B-01 through B-16, from drawing S_K21162_e_bas_01.dgn, downloaded from ProjectWise on June 1, 2020.
 3. Proposed features from files downloaded from ProjectWise on March 8, 2022.

US97: Lower Bridge Way - NW 10th St. (Terrebonne) Sec. Deschutes County, Oregon

SITE AND EXPLORATION PLAN

March 2022 102804
 SHANNON & WILSON, INC. Geotechnical and Environmental Consultants
FIG. 2

FIG. 2
Sheet 2 of 4



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 24, 2022

SUBJECT: Consideration of Document No. 2022-731, a Right of Way Services Agreement with the Oregon Department of Transportation for the US97: Lower Bridge Way-NW 10th St (Terrebonne) Project

RECOMMENDED MOTION: Move approval of Document No. 2022-731.

BACKGROUND AND POLICY IMPLICATIONS: The US97: Lower Bridge Way-NW 10th St (Terrebonne) project is currently in the Preliminary Engineering phase, with the Right of Way phase anticipated to begin in Fall 2022 and the Construction phase anticipated to begin in late 2023. The right of way impacts for the project are still being determined by the project design team.

Under this agreement, the County is authorizing the Oregon Department of Transportation (ODOT) to conduct the necessary right of way acquisitions for project improvements on County roads within the project limits, including 11th Street, Smith Rock Way, Central Avenue, and C Avenue. The right of way acquisition areas for the County roads will be confirmed by a County resolution to be presented to the Board of County Commissioners for consideration upon completion of the proposed right of way map by the project design team.

BUDGET IMPACTS: None. The County's financial contribution to the project was established with a previous agreement (Document No. 2022-084).

ATTENDANCE: Cody Smith, County Engineer/Assistant Director, Road Department

Misc. Contracts and Agreements
No. PO-73000-00009842

A092-020122

**INTERGOVERNMENTAL AGREEMENT
FOR RIGHT OF WAY SERVICES**

US97: Lower Bridge Way - NW 10th St (Terrebonne) (K21162)

THIS AGREEMENT is made and entered into by and 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,” both herein referred to individually as “Party” and collectively as “Parties.”

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 283.110, 366.572 and 366.576, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.
2. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. Money so deposited shall be disbursed for the purpose for which it was deposited.
3. The Dalles - California Highway/US Route 97/Highway No. 004, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). Smith Rock Way, 11th Street, NW 10th Street, A Ave, B Ave, C Ave, F Ave, Central Ave, F Ave, Barberry Drive, and Lower Bridge Way are a part of the county road system under the jurisdiction and control of Agency.
4. STATE is responsible for delivering the US97: Lower Bridge Way - NW 10th St (Terrebonne) (K21162) project (“Project”) under Intergovernmental Agreement Number 73000-00004447 executed on June 17th, 2022 (“Project Agreement”) attached hereto as Exhibit C and by this reference made a part hereof.
5. This Agreement covers a subset of the work set forth in the Project Agreement; therefore, the Project Agreement describes the general scope and funding for the right of way activities carried out under this Agreement. This Agreement further defines the roles and responsibilities of the Parties regarding real property to be used as part of the right of way for the Project, and further refines the details of the scope and funding for these right of way activities
6. As of the Effective Date of this Agreement, there are no local public agencies (“LPAs”) certified to independently administer federal-aid projects for right of way services. State is ultimately responsible for the certification and oversight of all right of way activities under this Agreement.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, to accomplish the objectives in the Project Agreement, STATE agrees to perform the right of way Services shown in Exhibit A - Special Provisions (“Services”), attached hereto and by this reference made a part hereof.
2. The Parties agree to comply with the terms of this Agreement and the applicable terms of Project Agreement in performing the Services. In the event of a direct conflict, the terms of the Project Agreement will control over any conflicting provision in this Agreement.
3. Exhibits Attached and Incorporated.
 - a. This Agreement includes the following exhibits, each of which is attached and incorporated into this Agreement by reference as though fully set forth herein:
 - Exhibit A – Special Provisions
 - Exhibit B – Resolution Exercising The Power of Eminent Domain
 - Exhibit C - Project Agreement (Intergovernmental Agreement Number 73000-00004447)
4. This Agreement becomes effective on the date all required signatures are obtained (“Effective Date”). Services shall begin on or after the Effective Date and shall be completed no later than June 30, 2025, on which date this Agreement automatically expires unless extended by a fully executed amendment.
5. Both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended and implemented through Title 49, Part 24, ORS Chapter 35 and the ODOT Right of Way Manual, located at <https://www.oregon.gov/ODOT/ROW/Documents/ROW-Manual.pdf> and incorporated herein by this reference. Each Party will require its contractors and subcontractors, if any, to comply with this provision.
6. The funding and payment for the Services are set forth in the Project Agreement. This Agreement commits no additional funding for the Services.
 - a. Under no condition shall State's obligations under this Agreement exceed \$3,000,000.00, including all expenses, unless agreed upon by both Parties in writing in a fully executed amendment to this Agreement. This maximum is the amount programmed in the STIP for the right of way phase of the Project.
 - i. Agency agrees to reimburse State for all expenses, including salaries and other personnel expenses (OPE) of State employees performing Services, direct costs, costs of rental equipment used, travel expenses, and per-diem expenditures. Travel expenses shall be reimbursed in accordance with the current Oregon Department of

Administrative Services rates as contained in the Oregon Accounting Manual (OAM), which can be found at:

<https://www.oregon.gov/das/Financial/Acctng/Documents/40.10.00.pdf>.

STATE OBLIGATIONS

1. State shall perform the Services assigned to State in Exhibit A.
2. State’s right of way contact person for this Agreement is Caleb Stephens (Senior Right of Way Agent, 63055 N Highway 97 Bldg "M", Bend, OR 97703, 541-388-6431, caleb.c.stephens@odot.oregon.gov, or assigned designee upon individual’s absence. State shall notify the other Party in writing of any contact changes during the term of this Agreement.

AGENCY OBLIGATIONS

1. Agency shall perform the Services assigned to Agency in Exhibit A. All Services provided by Agency shall comply with ODOT’s Right of Way Manual in effect at the time the Services are performed.
2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency’s current appropriation or limitation of current budget. Agency is willing and able to finance its share of all costs and expenses incurred under this Agreement up to the maximum amount set forth in Terms of Agreement Paragraph 6.
3. Agency’s performance of Services.
 - a. In performing Services under this Agreement, Agency may utilize qualified individuals from Agency’s staff or the Staff of another local public agency, as described in the ODOT Right of Way Manual and approved by the State’s Region Right of Way Office.
 - b. Agency may also request State act as the lead contracting agency and deliver a consultant contract on behalf of Agency, using consultants from State’s Full Service Architectural and Engineering (A&E) Price Agreement 2 Tier Selection Process, as applicable. Tier 2 procurements must be requisitioned through State’s Local Agency Liaison (LAL) with solicitation process administered by State’s Procurement Office. Forms and procedures for Tier 2 process are located at: <https://www.oregon.gov/ODOT/Business/Procurement/FS/tier2guide.doc>
 - c. Agency’s needed right of way services may be performed by utilizing appraiser Services procured by Agency from State’s Qualified Appraiser List (online at: https://www.oregon.gov/ODOT/ROW/Documents/Appraisal_Qualified-Consultant-List.pdf) or other right of way related Services procured by Agency from any source of qualified contractors or consultants.

- d. Contractor selections under Agency Obligations, Paragraphs 3.c above may be based on price alone, price and qualifications, or qualifications alone followed by negotiation. **Federally funded procurements** carried out by Agency for right of way Services must be conducted under State's certification program for consultant selection and must comply with requirements in the [LPA A&E Requirements Guide](#), and must use the State's standard [A&E Contract Template for LPAs](#) which may be modified to include State-approved provisions required by Agency. **State and locally funded procurements** carried out by Agency must comply with applicable State rules and statutes for A&E "Related Services" (Agency may use its own contract document). The LPA A&E Requirements Guide and A&E Contract Template are available at: <https://www.oregon.gov/ODOT/Business/Procurement/Pages/LPA.aspx>.
4. If Agency intends to use Agency staff, staff of another local public agency, consultants (except for consultants on State's Qualified Appraiser List), or contractors to perform Services under this Agreement, Agency must receive prior written approval from State's Region Right of Way Office.
 5. Agency shall require its contractor(s) and subcontractor(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, Oregon Transportation Commission and its members, Oregon Department of Transportation and its officers, employees and agents 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 ("Claims"), to the extent such Claims are caused, or alleged to be caused, by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that State shall, in all instances, except to the extent Claims arise solely from the negligent or willful acts or omissions of State, be indemnified from and against all Claims caused or alleged to be caused by the contractor or subcontractor.
 6. Any such indemnification shall also provide that neither the Agency's contractor or subcontractor nor any attorney engaged by Agency's contractor or subcontractor shall defend any claim in the name of the State of Oregon 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 of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.
 7. Agency shall perform all Services under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the Services under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.

- 8. When Agency is performing Services under this Agreement, Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction.
- 9. Agency certifies and represents that all individuals signing this Agreement have been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
- 10. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
- 11. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the Services under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- 12. Agency shall upon State's request provide copies of any required documentation related to the Services as described in Exhibit A.
- 13. Agency's right of way contact person for this Agreement is Cody Smith, County Engineer, 61150 SE 27th Street, Bend, OR 97702, 541-322-7113, codysmith@deschutes.org, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS:

- 1. Termination.
 - a. This Agreement may be terminated by mutual written consent of both Parties.
 - b. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing, and delivered by certified mail or in person, under any of the following conditions:

- i. If either Party fails to provide Services called for by this Agreement within the time specified herein or any extension thereof.
 - ii. If either Party fails to perform any of the other provisions of this Agreement or so fails to pursue the Services as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may be authorized.
 - c. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - i. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - ii. If Agency fails to provide payment of its share of the cost of the Project.
 - iii. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Services under this Agreement is prohibited or State is prohibited from paying for such Services from the planned funding source.
 - d. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
2. All employers that employ subject workers who perform Services under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Both Parties shall ensure that each of its subcontractors complies with these requirements.
3. 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 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. 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 a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
4. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State 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 State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State 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. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

5. With respect to a Third Party Claim for which Agency is jointly liable with State (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 State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which 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 State 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, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
6. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
7. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
8. Agency and State are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or will be construed to give or provide, any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
9. The Parties hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, 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 the Agreement did not contain the particular term or provision held to be invalid.

10. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
11. This Agreement and attached exhibits 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, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.
12. Survival. All rights and obligations of the Parties under this Agreement will cease upon termination or expiration of this Agreement, other than the rights and obligations of the parties that by their nature or express terms survive termination or expiration of this Agreement.

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.

Signature Page to Follow

DESCHUTES COUNTY, by and through its
County Commissioners

By _____

Date _____

By _____

Date _____

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

By _____
Agency's Counsel

Date _____

Agency Contact:

Cody Smith - County Engineer
61150 SE 27th Street
Bend, OR 97702
541-322-7113
codysmith@deschutes.org

STATE OF OREGON, by and through
its Department of Transportation

By _____
Delivery & Operations Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
State Right of Way Manager

Date _____

By _____
Region 4 Right of Way Manager

Date _____

APPROVED

(If Litigation Services related to Condemnation are
to be done by State)

By _____
Chief Trial Counsel

Date _____

State Contact:

Caleb Stephens, Senior Right of Way Agent
63055 N Highway 97 Bldg "M"
Bend, OR 97703
541-388-6431
Caleb.c.stephens@odot.oregon.gov

Exhibit A
SPECIAL PROVISIONS
Right of Way Services

A. Preliminary Phase: State or Agency shall perform the Services outlined in this Section A during the preliminary right of way phase of the Project as identified below. When Services listed under this Section A are performed by Agency, Agency shall charge the Services as preliminary engineering expenditures.

1. STATE shall prepare preliminary cost estimates.
2. STATE shall make preliminary contacts with property owners.
3. STATE shall gather and prepare data for environmental documents.
4. STATE shall develop access and approach road list.
5. STATE shall help prepare field location and project data as defined in the Project Agreement.
6. Title. STATE shall provide preliminary title reports, if State determines they are needed, before negotiations for acquisition commence.
7. Legal Descriptions:
 - a. STATE shall prepare sufficient horizontal control, recovery and retracement surveys, vesting deeds, maps and other data so that legal descriptions can be written.
 - b. STATE shall prepare construction plans and cross-section information for the Project.
 - c. STATE shall write legal descriptions and prepare right of way maps. If the Agency acquires any right of way on a State highway, the property descriptions and right of way maps shall be based upon centerline stationing and shall be prepared in accordance with the current ODOT [Right of Way Engineering Manual](https://www.oregon.gov/ODOT/ETA/Documents_Geometronics/ROW-Eng-Manual.pdf), located at https://www.oregon.gov/ODOT/ETA/Documents_Geometronics/ROW-Eng-Manual.pdf and incorporated herein by reference. The preliminary and final versions of the property descriptions and right of way maps must be reviewed and approved by the State.
 - d. STATE shall specify the degree of title to be acquired (e.g., fee, easement), which must be determined in accordance with the current ODOT Right of Way Manual.
8. Hazmat:
 - a. STATE shall conduct a Level 1 Initial Site Assessment, according to State Guidance, within Project limits to detect presence of hazardous materials on any property purchase, excavation or disturbance of structures, as early in the Project design as possible, but at a minimum prior to property acquisition or approved design.

- b. STATE shall conduct a Level 2 Preliminary Site Investigation, according to ODOT's Hazmat Program Procedures Guidebook and other applicable requirements of the Oregon Department of Environmental Quality, of sufficient scope to confirm the presence of contamination, determine impacts to properties and develop special provisions and cost estimates, if the Level 1 Initial Site Assessment indicates the potential presence of contamination that could impact the properties. If contamination is found, State will promptly disclose the severity and extent of contamination to Agency and present a recommendation for remediation to Agency as set forth in ODOT's Right of Way Manual Section 6.330 paragraph 2.
- c. State shall attempt to have the property owner undertake any necessary remediation at the property owner's expense. Other options are set forth in ODOT's Right of Way Manual section 6.330 paragraph 2.b. If State undertakes any remediation on the site, State will be solely responsible for any liability that may arise from such remediation.

B. Right of Way Phase: State or Agency shall perform the Services outlined in this Section B during the acquisition right of way phase of the Project as identified below. When Services listed under this Section B are performed by Agency, Agency shall charge the Services as right of way expenditures.

1. Right of Way Acquisition:

- a. Right of Way Acquisition is the process of obtaining property necessary for the Project, from negotiation to possession of the property, using various sub-processes including, but not limited to, appraisal, negotiation, condemnation, relocation, title closing, and project related property management related to the potential exercise of eminent domain. The basic requirements for carrying out right of way acquisition for the Project are set forth in this Section B.
- b. When performing the right of way acquisition Services, State shall provide Agency with an annual status report of the Services.
- c. Title to properties acquired shall be in the name of State.
- e. The Agency delegates, and the State accepts, the Agency's authority pursuant to all relevant common law, statutes, ordinances, and other authorities, to acquire and condemn property on Agency's behalf for the Project, where such acquisition or condemnation is made necessary by the Project.
- f. The Agency shall adopt a resolution of intention and determination of necessity in accordance with ORS 35.235 and ORS 35.610, authorizing acquisition and condemnation ("Resolution"). Agency's Resolution shall be substantially in the form of Exhibit B, attached hereto and by this reference made a part hereof. If the Agency would like the Oregon Department of Justice (DOJ) to provide legal or litigation Services related to the condemnation work identified in this Agreement on Agency's behalf, DOJ must provide approval prior to performance of the Right of Way Services under this Agreement. To secure DOJ assistance, ODOT's Region Right of Way

Manager must submit a written request to DOJ's Chief Trial Counsel, the Agency must expressly and officially request and authorize DOJ representation for the condemnation on the Project, and the signature of DOJ's Chief Trial Counsel must be obtained on this Agreement.

2. Real Property and Title Insurance:

- a. State shall determine sufficiency of title (taking subject to). If the Agency acquires any right of way on a State highway, sufficiency of title (taking subject to) shall be determined in accordance with the current ODOT Right of Way Manual, and after obtaining State's concurrence. Agency shall clear any encumbrances necessary to conform to these requirements, obtain Title Insurance policies as required and provide the State copies of any title policies for the properties acquired.
- b. Agency shall accept conveyed property "as-is" and in accordance with ORS 93.808. State is not required to provide any additional Services to Agency, including but not limited to payment, documentation, platting, surveying, or remediation, beyond those specifically set forth in this Agreement.

3. Appraisal:

- a. State shall conduct the valuation process of properties to be acquired. If hazardous materials are located on the property, State shall use section 6.330, paragraph 2 in ODOT's Right of Way Manual.
- b. State shall perform the appraisal reviews to set just compensation.
- c. State shall recommend just compensation, based upon a review of the valuation by qualified personnel.

4. Negotiations:

- a. State shall tender all monetary offers to landowners in writing at the compensation level shown in the appraisal review. State shall have sole authority to negotiate and make all settlement offers. When settlements for property acquisitions are made for more or less than the approved just compensation amount, a justification is required. Said statement will include the consideration of any property trades, construction obligations and zoning or permit concessions. If State performs this function, it will provide the Agency with all pertinent letters, negotiation records and obligations incurred during the acquisition process.
- b. State and Agency shall determine a date for certification of right of way and agree to cosign the State's Right of Way Certification form. State and Agency agree possession of all right of way is complete prior to advertising for any construction contract, unless otherwise agreed to by Agency and State.

c. State agrees to file all Recommendations for Condemnation (Form 734-3311 and accompanying documents) with ODOT right of way headquarters, at least seventeen (17) weeks prior to the right of way certification date if negotiations have not been successful on those properties.

5. Relocation:

a. STATE shall perform any relocation assistance, make replacement housing computations, and do all things as required by applicable state and federal law necessary to relocate any persons displaced by the Project.

b. STATE shall determine all relocation benefits each property owner is eligible for and shall make all relocation and moving payments.

c. STATE shall facilitate the relocation appeal process.

C. Closing Phase

1. State shall close all transactions. This includes drawing of deeds, releases and satisfactions necessary to clear title, obtaining signatures on release documents, and making all payments

2. Upon acceptance by State the conveyance documents shall be recorded.

D. Property Management

1. STATE shall take possession of all the acquired properties. There shall be no encroachments of buildings or other private improvements allowed upon the State highway right of way.

2. STATE shall dispose of all improvements and excess land consistent with applicable state, federal, and local laws and policies.

3. STATE shall conduct asbestos, lead paint and other hazardous materials surveys for all structures that will be demolished, renovated or otherwise disturbed. Asbestos surveys must be conducted by an AHERA (asbestos hazard emergency response act) certified inspector.

E. Condemnation

1. STATE may offer mediation if the STATE and property owners have reached an impasse.

2. STATE shall perform all administrative functions in preparation of the condemnation process, such as preparing final offer and complaint letters.

3. State shall perform all legal and litigation Services related to the condemnation process, including all settlement offers. Prior approval of this Agreement by DOJ and passage of an Agency Resolution are required as provided in Section B.1.e above.

4. When State performs legal or litigation Services related to the condemnation process, Agency acknowledges, agrees and undertakes to assure that no member of Agency's board or council, nor Agency's mayor, when such member or mayor is a practicing attorney, nor Agency's attorney(s), nor any member of the law firm of Agency's attorney(s), board or council member(s), or mayor, nor any other employee or representative of Agency licensed to practice law, will represent any party, except Agency, against the State of Oregon, its employees or contractors, in any matter arising from or related to the Project or the Services.

F. Transfer of Right of Way to State

When right of way is being acquired in Agency’s name, Agency agrees to transfer and State agrees to accept all right of way acquired on the State highway. Agency shall identify the existence of any hazardous materials on or in the property prior to the transfer. The specific method of conveyance will be determined by the Agency and the State at the time of transfer and shall be coordinated by the State’s Region Right of Way Manager. Agency agrees to provide the State all information and file documentation the State deems necessary to integrate the right of way into the State’s highway system. At a minimum, this includes: copies of all recorded conveyance documents used to vest title in the name of the Agency during the right of way acquisition process, and the Agency’s Final Report or Summary Report for each acquisition file that reflects the terms of the acquisition and all agreements with the property owner(s).

G. Transfer of Right of Way to Agency

When right of way is being acquired in State’s name, State agrees to transfer and Agency agrees to accept, at no additional cost to the State, all right of way acquired on the Agency’s facility, subject to concurrence from the Oregon Transportation Commission and FHWA at the time of the transfer. State shall identify the existence of any hazardous materials on or in the property prior to the transfer. The specific method of conveyance will be determined by the State and the Agency at the time of transfer and shall be coordinated by the State’s Region Right of Way Manager. If requested, State agrees to provide Agency information and file documentation associated with the transfer.

**EXHIBIT B
SAMPLE RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN
Right of Way Services**

This Exhibit is an example only and the completed resolution will be a separate document from the ROWSA. (Instructions, please delete before completing form)

Regions: This portion of the document is unlocked. The LPA should block and copy to incorporate this language into their own standard resolution form OR fill in an "attested to" line or signature line at the bottom and use this form.

WHEREAS (insert title of agency) may exercise the power of eminent domain pursuant to (Agency's charter) (statutes conferring authority) and the Law of the State of Oregon generally, when the exercise of such power is deemed necessary by the (insert title of agency)'s governing body to accomplish public purposes for which (insert title of agency) has responsibility;

WHEREAS (insert title of agency) has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public;

WHEREAS the project or projects known as (insert Project name) have been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, travel safeguarded; and

WHEREAS to accomplish the project or projects set forth above it is necessary to acquire the interests in the property described in "Exhibit A" attached to this Resolution and, by this reference incorporated herein; now, therefore,

BE IT HEREBY RESOLVED by (Agency's Council, Commission, or Board)

1. The foregoing statements of authority and need are, in fact, the case. The project or projects for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury;
2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A to this Resolution. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law;
3. ([Insert title of Agency]'s staff and [attorney/counsel] --OR-- (The Oregon Department of Transportation and the Attorney General) are authorized and requested to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any

court to decide matters determined above or determinable by the (Agency's Council, Commission, or Board).

4. (insert title of agency) expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

DATED this _____ day of _____, 20__

[insert signature blocks here]

Attachments: Exhibit A to Exhibit B to Agency Resolution Exercising the Power of Eminent Domain – Property Description

Exhibit A to Exhibit B - Agency Resolution Exercising the Power of Eminent Domain – Property Description

Continued from previous page. This Exhibit is an example only and the completed resolution will be a separate document from the ROWSA.

[insert property description]

Exhibit C



Misc. Contracts and Agreements
No. 73000-00004447

**INTERGOVERNMENTAL AGREEMENT
US97: Lower Bridge Way - NW 10th St (Terrebonne) (K21162)**

THIS AGREEMENT is made and entered into by and 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," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. The Dalles-California Highway/US Route 97/Highway No. 004 is part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC).
3. Smith Rock Way, 11th Street, NW 10th Street, A Ave., B Ave., C Ave., F Ave., Central Ave., F Ave., Barberry Drive, and Lower Bridge Way are part of the county road system under the jurisdiction and control of Deschutes County.
4. On May 30, 2017, the Parties and Jefferson County entered into a Cooperative Improvement Agreement (MCA031810) outlining Agency's contribution of \$130,000 and Jefferson County's contribution of \$20,000 toward the provision of administrative and staff support, and the performance of public relations and outreach related to state's US97: Lower Bridge Way Corridor Refinement Plan which was developed as part of the planning phase of State's US97: Lower Bridge Way - NW 10th St (Terrebonne) project (K21162). The purpose of the refinement plan was to develop improvement and management options to address the US 97 highway corridor through Terrebonne from Lower Bridge Way to NW 10th to be designed during the preliminary engineering and constructed during the construction phase of the State's US97: Lower Bridge Way - NW 10th St (Terrebonne) project (K21162).

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. 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

06-12-15

DC - 2022 - 084

Deschutes County / State of Oregon
Agreement No. 73000-00004447

"Project." The Project is shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.

- 2. 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).
- 3. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance (and power if applicable) responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed within ten (10) calendar years following the date of final execution of this Agreement by both Parties.

AGENCY OBLIGATIONS

- 1. 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 advanced 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 State. Depending upon the timing of 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
- 2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of the current biennial budget.
- 3. Agency shall be responsible for and perform all maintenance for improvements made on Agency's road system as part of the Project.
- 4. Agency grants State the right to enter onto Agency property for the performance of State's duties as set forth in this Agreement.
- 5. Agency agrees State will perform all right of way functions and shall enter into a separate Right of Way Services Agreement between Agency and State Right of Way, referencing this Agreement number.
- 6. Upon completion of the Project, State shall transfer by deed, and Agency shall accept, that property acquired by the State for the Agency and needed for the construction phases of the Project. The conveyance from State to Agency shall be free of costs or fees. Any property being conveyed shall be vested in Agency only so

Deschutes County / State of Oregon
Agreement No. 73000-00004447

long as used for public transportation purposes. If said property is no longer used for public transportation purposes, it shall automatically revert to State.

- 7. Agency shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from State.
- 8. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- 9. Agency acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the county.
- 10. Agency or its consultant shall acquire all necessary rights of way according to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the State Right of Way Manual. Certification of right of way acquisition work must be made by the Agency (or on behalf of its consultant) doing the work. If Agency acquires the right of way, they shall provide a letter from Agency's legal counsel certifying that 1) the right of way needed for the Project has been obtained and 2) right of way acquisition has been completed in accordance with the right of way requirements contained in this Agreement. The certification form shall be routed through the State's Region 4 Right of Way & Survey Manager, David Brown, 63055 N. Highway 97, Bend, Oregon 97703, (541) 388-6197, david.t.brown@odot.state.or.us for co-signature and possible audit. If Agency elects to have State perform right of way functions, a separate agreement shall be executed between Agency and State right of way, referencing this Agreement number.
- 11. Agency shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
- 12. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than

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\$500,000 must be included. Agency shall ensure that each of its contractors complies with these requirements.

- 13. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment (or completion of Project -- if applicable.) Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
- 14. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
- 15. Agency's Project Manager for this Project is Cody Smith, County Engineer, 61150 SE 27th Street, Bend, Oregon 97702, (541) 322-7113, cody.smith@deschutes.org, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

- 1. State shall perform the work described in Terms of Agreement, Paragraph 1.
- 2. 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 \$10,000,000.00 for payment of the balance of the estimated total cost for the work performed by State at Agency's request under State Obligations paragraph 1.
- 3. State agrees to work in good faith with Agency on managing scope beyond that which is listed in Exhibit A. State shall not add scope to the project without Agency approval, and without identifying funding responsibilities. In the event the Project cannot be constructed within the estimated budget, ODOT and Agency shall examine alternatives for a reduced Project scope and/or reevaluate funding obligations. If ODOT and Agency agree on changes to the Project scope or funding obligations, then the Parties shall enter into an amendment to this Agreement to reflect such changes. If such agreement cannot be reached, ODOT at its sole discretion may determine whether the Project scope must be modified to meet the Project budget or to commit additional funds to the Project.
- 4. 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.
- 5. State shall be responsible for 100 percent of the electrical energy costs associated with the Rectangle Rapid Flashing Beacons (RRFBs), illumination, or other traffic

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control devices installed as part of the project. State shall have power company send bills directly to State. State shall be responsible for and perform all maintenance for improvements made on State's highway system as part of the project.

- 6. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
- 7. State's Project Manager for this Project is Cari Charlton, Resident Engineer - Consultant Projects, 63055 N. Highway 97, Bldg M, Bend, Oregon 97703, (541) 815-6831, cari.charlton@odot.oregon.gov, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

- 1. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
- 2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
- 3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
- 4. **Americans with Disabilities Act Compliance:**

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- a. When the Project scope includes work on sidewalks, curb ramps, or pedestrian-activated signals, multiuse path, transit stop, on-street parking or triggers an obligation to address curb ramps or pedestrian signals, the Parties shall:
 - i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
 - iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>; and

- b. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and

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- v. Applicable permitting and regulatory actions are consistent with ADA requirements.
 - c. Maintenance obligations in this section shall survive termination of this Agreement.
5. 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 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. 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 a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
 6. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State 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 State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State 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. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
 7. With respect to a Third Party Claim for which Agency is jointly liable with State (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 State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which 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 State 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, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

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- 8. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- 9. As federal funds are involved in this Agreement, EXHIBITS B and C are attached hereto and by this reference made a part hereof, and are hereby certified to by Agency representative.
- 10. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- 11. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
- 12. This Agreement and attached exhibits 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, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

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).

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DESCHUTES COUNTY, by and through
its elected officials

By *Patto Adams*

Date 6/14/2022

By *[Signature]*

Date 13 JUN 22

By *[Signature]*

Date 6/14/22

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

By *[Signature]*

Agency's Counsel
Date 6-15-22

Agency Contact:

Cody Smith
County Engineer
61150 SE 27th Street
Bend, Oregon 97702
(541) 322-7113
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

STATE OF OREGON, by and through
its Department of Transportation

By *McGregor Lynde*
McGregor Lynde (Jun 17, 2022 16:56 PDT)

Delivery and Operations Division
Administrator

Date 06/17/2022

APPROVAL RECOMMENDED

By *Angela Karel*
Angela KAREL (Jun 17, 2022 15:57 PDT)

State Traffic Roadway Engineer

Date 06/17/2022

By *[Signature]*
Gary FARNSWORTH (Jun 17, 2022 13:08 PDT)

Region 4 Manager

Date 06/17/2022

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Serena D. Hewitt via email
Assistant Attorney General (If Over
\$150,000)

Date May 23, 2022

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EXHIBIT A



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EXHIBIT A - continued

Specific project components include:

Highway Improvements (ODOT):

- Construct a new full access diamond interchange with combined "dogbone" ramp terminals at US97/Lower Bridge Way intersection.
- Provide pavement preservation along US97 between the US97/Lower Bridge Way interchange and chicane at south end of project.
- Install a northbound chicane on US97 at the intersection of 11th Street and a southbound chicane at US97/ Lower Bridge Way interchange.
- Upgrade or install new ADA curb ramps along US97 and along local streets.
- Install a new enhanced pedestrian crossing on US97 at Central Ave and upgrade the existing crossing at US97 and B Ave.
- Extend 10th Street to the south along the west side of US97 and install left turn lanes at a new intersection opposite the Alpaca farm access.
- Upgrade and install signing and striping along all roadways.
- Install illumination in the vicinity of the new US97/Lower Bridge Way interchange.

Local Roadway Improvements (Deschutes County):

- Reconstruct 11th Street from new interchange to Central Ave. with 11' travel lanes and 5' shoulders.
- Reconstruct 11th Street from Central Ave. south to US97 with 11' travel lanes, 5' shoulder/bike lanes, curb tight sidewalks, ADA curb ramps at all intersections, and on-street parking along west side of street within available right of way.
- Widen Smith Rock Way from 11th Street to the Terrebonne Depot access with 11' travel lanes, 4' shoulder/bike lanes, and right of way tight sidewalks.
- Install transit stop on Central Ave. in conjunction with enhance pedestrian crossing at US97 and Central Ave.
- Upgrade and install signing and striping along all roadways.
- Install dry sewer lines within designated County roadways including 11th Street, B Ave., C Ave, Central Ave. and Smith Rock Way

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For purposes of Exhibits B and C, references to Department shall mean State, references to Contractor shall mean Agency and references to Contract shall mean Agreement.

**EXHIBIT B
CONTRACTOR CERTIFICATION**

Contractor certifies by signing this Contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Contractor) to solicit or secure this Contract,
- (b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Contractor), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the Contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

DEPARTMENT OFFICIAL CERTIFICATION

Department official likewise certifies by signing this Contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this Contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

EXHIBIT C

Federal Provisions
Oregon Department of Transportation

CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

Contractor certifies by signing this Contract that to the best of its knowledge and belief, it and its principals:

Agency/State Agreement No.

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

EXCEPTIONS:

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this Contract, the Contractor is deemed to have signed this certification.

II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION,

AND OTHER RESPONSIBILITY MATTERS-- PRIMARY COVERED TRANSACTIONS

1. By signing this Contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Department determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.
4. The Contractor shall provide immediate written notice to the Department if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-2710) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by entering into this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower

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tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.

- 7. The Contractor further agrees by entering into this Contract that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.
- 9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

III. ADDENDUM TO FORM FHWA-1273,
REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

Instructions for Certification

- 1. By signing and submitting this Contract, the prospective lower tier participant is providing the certification set out below.
- 2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- 3. The prospective lower tier participant shall provide immediate written notice to the person to which this Contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Contract is submitted for assistance in obtaining a copy of those regulations.
- 5. The prospective lower tier participant agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not

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knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

- 6. The prospective lower tier participant further agrees by submitting this Contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
- 8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by entering into this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

IV. EMPLOYMENT

- 1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractors, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranting, Department shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- 2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the Contract, any professional or technical personnel who are or have been at any time during the period of this Contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
- 3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a

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professional in the performance of such consulting services on work similar to that hereunder. Department shall be entitled to rely on the accuracy, competence, and completeness of Contractor's services.

V. NONDISCRIMINATION

During the performance of this Contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this Contract. Contractor, with regard to the work performed after award and prior to completion of the Contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the Contract covers a program set forth in Appendix B of the Regulations.
2. Solicitation for Subcontractors, Including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and regulations

relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.

3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this Contract, Contractor agrees as follows:
 - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.
 - b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.
5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of

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the Contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
 - b. Cancellation, termination or suspension of the agreement in whole or in part.
6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

VI. DISADVANTAGED BUSINESS
ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

DBE POLICY STATEMENT

DBE Policy. It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this Contract.

Required Statement For USDOT Financial Assistance Agreement. If as a

condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

DBE Obligations. The Department and its Contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither Department nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Department deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this Contract.

Records and Reports. Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials from the DBEs identified to meet Contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the Contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required

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after the DBE goal commitment is satisfactory to Department.

Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

DBE Definition. Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL 0 %

By signing this Contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Contract for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

VII. LOBBYING

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection

with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

**FOR INQUIRY CONCERNING
DEPARTMENT'S DBE
PROGRAM REQUIREMENT
CONTACT OFFICE OF CIVIL
RIGHTS AT (503)986-4354.**



BOARD OF
COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: Wednesday, August 24, 2022

SUBJECT: PRESENTATION: Four Rivers Vector Control District Annual Work Program

ATTENDANCE:

Chad Stubblefield, Manager – Four Rivers Vector Control District