



## BOARD OF COMMISSIONERS

### BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, APRIL 5, 2023

Barnes Sawyer Rooms - Deschutes Services Building

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

### AGENDA

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

Members of the public may view the meeting in real time via the public meeting portal at [www.deschutes.org/meetings](http://www.deschutes.org/meetings). To view the meeting via Zoom, see below.

**Citizen Input:** The public may comment on any topic that is not on the current agenda. *Comments and testimony regarding public hearings are allowed at the time of the public hearing.* Alternatively, comments may be submitted on any topic at any time by emailing [citizeninput@deschutes.org](mailto:citizeninput@deschutes.org) or leaving a voice message at 541-385-1734.

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

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

- To join the meeting from a computer, copy and paste this link: [bit.ly/3h3oqdD](https://bit.ly/3h3oqdD).
- To join by phone, call 253-215-8782 and enter webinar ID # 899 4635 9970 followed by the passcode 013510.
- If joining by a browser, use the raise hand icon to indicate you would like to provide public comment, if and when allowed. If using a phone, press \*6 to indicate you would like to speak and \*9 to unmute yourself when you are called on.



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

## CALL TO ORDER

## PLEDGE OF ALLEGIANCE

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

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

## CONSENT AGENDA

- [1.](#) Approval of Resolution No. 2023-017, converting 3.0 limited duration Health Services FTE to regular duration within the FY 2022-2023 Deschutes County Budget
- [2.](#) Approval of Document No. 2023-318, a Reimbursement Agreement with Avion Water Company for the Deschutes Market Road/Hamehook Road Intersection Improvement Project
- [3.](#) Approval of Chair Signature of Document No. 2023-351, Amendment No. 3 to Document No. 2015-052 with the Federal Highway Administration for the Fall Creek Bridge Replacement Project
4. Consideration of Board Signature on Letter of Thanks to David Huntley, and Letters Appointing Logan Clausen, Erin Gage Fitzpatrick, Carmen Madrid and Ruth Vernotico for service on the Deschutes County Public Health Advisory Board
5. Approval of minutes of the March 24, 2023 Legislative Update meeting
6. Approval of minutes of the March 20 2023 BOCC meeting

## ACTION ITEMS

- [7.](#) **9:10 AM** Proclamation: Child Abuse Prevention Month
- [8.](#) **9:20 AM** Proclamation: Fair Housing Month
- [9.](#) **9:30 AM** Public Hearing for a Plan Amendment and Zone Change to approximately 93 acres located east of Bend between Neff Road and Highway 20
- [10.](#) **10:30 AM** Public Hearing on 4 Peaks Music Festival 2024 Outdoor Mass Gathering Permit

- [11.](#) **11:10 AM** Request approval to apply for SAMHSA Treatment for Individuals Experiencing Homelessness grant
- [12.](#) **11:25 AM** Request approval to apply for OHA Mobile Health Unit grant
- [13.](#) **11:40 AM** Board Direction Regarding FY24 Fee Increases

## **LUNCH RECESS**

## **OTHER ITEMS**

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

## **EXECUTIVE SESSION**

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

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

## **ADJOURN**



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 5, 2023

**SUBJECT:** Approval of Resolution No. 2023-017, converting 3.0 limited duration Health Services FTE to regular duration within the FY 2022-2023 Deschutes County Budget

**RECOMMENDED MOTION:**

Move approval of Resolution No. 2023-017 converting 3.0 limited duration Health Services FTE to regular duration FTE within the FY 2022-2023 Deschutes County Budget.

**BACKGROUND AND POLICY IMPLICATIONS:**

Health Services presented to the Board of County Commissioners on March 22, 2023 regarding converting 3.0 limited duration Homeless Outreach Support Team FTE to regular duration FTE. Funding for the positions through June of 2026 has been identified by utilizing American Rescue Plan Act dollars.

**BUDGET IMPACTS:**

Total budget for time period January 2025 to June 2026 is \$519,619. This includes extending the date of expenditure of original ARPA Homeless Outreach Services allocation to June 2026, and increasing the ARPA allocation by \$337,619. The department recommends using ARPA Public Health Response Contingency (current balance is \$624,395) or ARPA Health Unintended Consequences Reserve (current balance is \$1,075,000). After June 2026, Health Services will fund the positions with other resources.

**ATTENDANCE:**

Daniel Emerson, Deschutes County Budget Manager

REVIEWED  
\_\_\_\_\_  
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY,  
OREGON

A Resolution Converting \*  
FTE Within the 2022-23 \* RESOLUTION NO. 2023-017  
Deschutes County Budget \*

WHEREAS, the Deschutes County Health Department presented to the Board of County Commissioners on March 22, 2023 with regards to converting 3.0 limited duration FTE to regular duration in assistance to the Homeless Outreach Support Team, utilizing American Rescue Plan Act funds through June of 2026, and

WHEREAS, Deschutes County Policy HR-1 requires that the creation of or increase in FTE outside the adopted budget be approved by the Board of County Commissioners; now, therefore,

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

Section 1. That the following FTE be extended:

Job Class	Position Number	Type	Duration if Limited Duration	FTE
Behavioral Health Specialist I	2993	Conversion to Regular Duration		
Behavioral Health Specialist I	2994	Conversion to Regular Duration		
Peer Support Specialist	2995	Conversion to Regular Duration		
<b>Total FTE</b>				

Section 2. That the Human Resources Director make the appropriate entries in the Deschutes County FTE Authorized Positions Roster to reflect the above FTE changes.

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

BOARD OF COUNTY COMMISSIONERS OF  
DESCHUTES COUNTY, OREGON

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

ATTEST:

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

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

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



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 5, 2023

SUBJECT: Approval of Document No. 2023-318, a Reimbursement Agreement with Avion Water Company for the Deschutes Market Road/Hamehook Road Intersection Improvement Project

RECOMMENDED MOTION: Move approval of Document No. 2023-318.

BACKGROUND AND POLICY IMPLICATIONS: The Notice of Intent to Award for the construction contract for the Deschutes Market Road/Hamehook Road Intersection Improvement project, Document No. 2023-059, was approved by the Board of County Commissioners at their March 8, 2023 meeting. During that meeting, Road Department staff informed the Board that the contract included relocation and replacement work for facilities owned by Avion Water Company ("Avion") and that it was mutually beneficial to have the Avion facilities relocated during construction of the County's project as part of the project. Further, Road Department staff informed the Board that this reimbursement agreement with Avion was forthcoming.

The total reimbursement amount under this agreement is \$301,585.00, which is comprised of a \$301,585.00 cash payment by Avion to the County upon completion of the work by the County's contractor, Bar Seven A Companies.

This action executes the proposed Agreement with Avion. The Agreement, including the Cost Summary, is attached.

BUDGET IMPACTS: A portion of the Deschutes Market Road/Hamehook Road Intersection Improvement project cost is budgeted in the Road Capital Improvement Plan (CIP) budget for Fiscal Year 2023. The remaining project cost will be included in the proposed Road CIP budget for Fiscal Year 2024. The cash payment by Avion is anticipated to be received in Fiscal Year 2024.

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

**AGREEMENT**  
**Avion Water Company Facilities**  
**Deschutes Market Road/Hamehook Road Intersection Improvement**

This Agreement is made and entered into by and between DESCHUTES COUNTY, a political subdivision of the State of Oregon (“County”) and AVION WATER COMPANY, INC., an Oregon corporation (“Avion”).

**RECITALS**

1. Deschutes Market Road and Hamehook Road are part of the County road system under the jurisdiction and control of County.
2. County is delivering the Deschutes Market Road/Hamehook Road Intersection Improvement project (“the Project”), which includes construction of a roundabout at the intersection of Deschutes Market Road with Hamehook Road.
3. Avion operates and maintains domestic water facilities as a public utility within the right of way of Deschutes Market Road and Hamehook Road.
4. Portions of Avion’s facilities within the limits of the Project must be relocated to accommodate the Project. Additionally, Avion desires to make facility improvements that will be advantageous for both parties to occur during construction of the Project.

**NOW THEREFORE**, it is agreed by and between the Parties hereto as follows:

**TERMS OF AGREEMENT**

1. The Parties agree that County will relocate the Avion facilities depicted in the attached Exhibit “A” as part of the Project.
2. The estimated cost of the Avion relocation work is \$301,585.00 as shown in the attached Exhibit “B”. Avion shall be responsible for all actual costs associated with the Avion relocation work.
3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project or December 31, 2024, whichever occurs sooner.

**AVION OBLIGATIONS**

1. Upon receipt of a fully executed copy of this Agreement and within 30 calendar days of receipt of a letter of request from County, Avion shall reimburse County for actual costs for the design and construction of Avion relocation work to be performed by County as part of the Project. Reimbursement shall be for all costs associated with



Avion work and shall include preliminary engineering costs borne by the County to date and actual costs of relocation construction work.

2. Avion's Project Manager is Tony Haines – Engineering Inspector, 60813 Parrell Road, Bend, OR 97702, 971-221-7600, [tony@avionwater.com](mailto:tony@avionwater.com), or assigned designee upon individual's absence. Avion shall notify County in writing of any contact information changes during the term of this Agreement.
3. To the extent allowed by the Oregon Constitution, and within the limits of the Oregon Tort Claims Act, Avion shall defend, indemnify, and save County, its officers, agents and employees harmless from any and all claims, actions, costs, judgments, damages and other expenses resulting from injury to any person (including injury resulting in death) or damage to property (including loss or destruction), of whatsoever nature, proximately caused by the negligence or other wrongful acts of Avion, its officers, agents and employees, pertaining to the Project, the services, or arising out of this Agreement.

### COUNTY OBLIGATIONS

1. County will relocate Avion facilities as depicted in the attached Exhibit "A" as Part of the Project.
2. Upon County completion of the Avion facility relocation work, County will provide letter of request for reimbursement to the Avion Project Manager.
3. County's Project Manager for this Project is Cody Smith – County Engineer/Assistant Road Department Director, 61150 SE 27<sup>th</sup> Street, Bend, OR 97702, (541) 322-7113, [cody.smith@deschutes.org](mailto:cody.smith@deschutes.org), or assigned designee upon individual's absence. County shall notify Avion in writing of any contact information changes during the term of this Agreement.

### GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties.
2. Either Party may terminate this Agreement effective upon delivery of written notice to the other Party under any of the following conditions:
  - a. If either Party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - b. If either Party 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 the other Party

fails to correct such failures within ten (10) days or such longer period as the Party may authorize.

- c. If either Party fails to provide payment of its share of the cost of the Projects.
  - d. If either Party fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow the Party, 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 significantly changed or either Party 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. The indemnification provisions of this Agreement are intended to allocate risk for the work between County and Avion. Nothing in this section is intended to confer any right to indemnity on any independent contractor retained by County or Avion to perform the work, or to waive any right of indemnity against a contractor under the terms of the contract or otherwise.
  5. This Agreement will be governed by and construed in accordance with laws of the State of Oregon. Each party shall perform its obligations under this Agreement in accordance with all applicable statutes, ordinances, rules and regulations.
  6. Any notice required to be given under this Agreement must be in writing and must be given by personal delivery or mail, except that any notice required by law must be given in the manner specified by such law.
  7. There will be a default under this Agreement if either party materially fails to comply with any provision of this Agreement within the time(s) herein, and fails to cure such noncompliance within thirty (30) days after the other party gives notice specifying the breach. In the event of a default, before either party may bring an action in any court concerning this Agreement, such party must first endeavor in good faith to resolve the issue through negotiation or mediation. If a default occurs and it is not resolved under through negotiation or mediation, the party injured by the default may elect to pursue any equitable or legal rights and remedies available under Oregon law.
  8. If any provision of this Agreement is determined to be invalid by any court with jurisdiction over this Agreement, such invalidity will not affect any other provision of this Agreement. Unless the invalid provision is essential to the purpose or

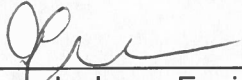
performance of this Agreement, this Agreement will be construed as if such invalid provision had never been included.

- 9. No condition or breach of this Agreement will be deemed waived unless such waiver is in writing and signed by the Party waiving its rights. Any waiver of a condition or a breach by either party will not constitute waiver of any other different or subsequent breach.
  
- 10. 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.
  
- 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 final and complete agreement of the parties concerning the project and supersedes all prior and existing written or oral understandings except as otherwise continued in effect by the terms of this agreement. No modification of this Agreement will be valid unless it is in writing and signed by the Parties.

**(SIGNATURE PAGE TO FOLLOW)**

**AVION WATER COMPANY, INC.**

**DESCHUTES COUNTY**

By:   
Adam Jackson, Engineer

By: \_\_\_\_\_  
Anthony DeBone, Chair

Date: 3/23/23

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

By: \_\_\_\_\_  
Patti Adair, Vice Chair

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

By: \_\_\_\_\_  
Phil Chang, Commissioner

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

**REVIEWED AS TO FORM**

By: \_\_\_\_\_  
County Legal Counsel

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

# DESCHUTES MARKET ROAD / HAMEHOOK ROAD INTERSECTION IMPROVEMENT

## 100% DESIGN SUBMITTAL

DESCHUTES COUNTY, OREGON

JANUARY, 2023



**VICINITY MAP**  
SCALE: 1" = 2000'

### APPROVALS

DESCHUTES COUNTY ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_

#### OWNER & CLIENT:

DESCHUTES COUNTY  
CONTACT: CODY SMITH, PE  
61150 SE 27TH STREET  
BEND, OR 97702  
(541) 322-7113

#### CIVIL ENGINEER & LAND SURVEYOR:

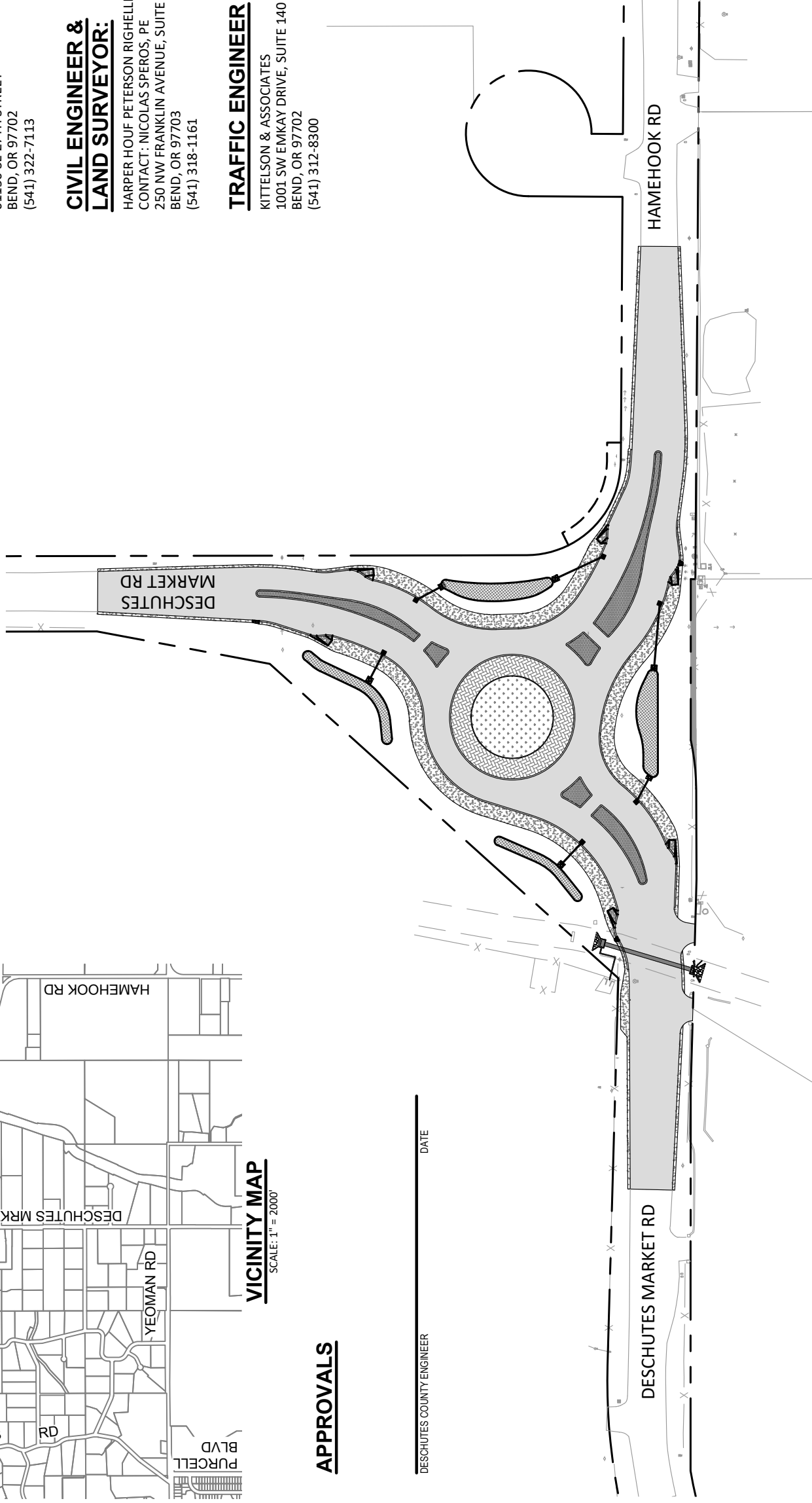
HARPER HOUF PETERSON RIGHELLIS INC.  
CONTACT: NICOLAS SPEROS, PE  
250 NW FRANKLIN AVENUE, SUITE 404  
BEND, OR 97703  
(541) 318-1161

#### TRAFFIC ENGINEER

KITTELSON & ASSOCIATES  
1001 SW EMKAY DRIVE, SUITE 140  
BEND, OR 97702  
(541) 312-8300

#### LEGEND:

---	RIGHT-OF-WAY LINE
---	CENTER LINE
---	EASEMENT LINE
---	(E) TAX LOT LINE
---	(E) CONTOUR LINE
---	(P) CONTOUR LINE
---	(E) WATER LINE
---	(P) WATER LINE
---	(E) IRRIGATION LINE
---	(E) OVERHEAD WIRE
---	(E) UNDERGROUND ELEC
---	(E) FIBER OPTIC LINE
---	(E) TELEPHONE LINE
---	(E) FENCE LINE
---	(P) FENCE LINE
---	(P) STORM PIPE
---	(P) CATCH BASIN
---	(E) WATER METER
---	(E) WATER VALVE
---	(P) WATER VALVE
---	(E) IRRIGATION VALVE
---	(E) FIRE HYDRANT
---	(E) WATER BOX
---	(E) IRRIGATION BOX
---	(E) WATER MANHOLE
---	(E) TELECOM MANHOLE
---	(E) WATER VAULT
---	(E) TELECOM VAULT
---	(E) POWER VAULT
---	(E) POWER METER
---	(E) POWER RISER
---	(E) TELECOM RISER
---	(E) FIBER OPTIC RISER
---	(E) SIGN & POST
---	(E) POWER POLE
---	(E) MAILBOX
---	(E) BOULDER



**PROJECT MAP**  
SCALE: 1" = 100'

**100% SUBMITTAL**



DATE	NO.	DESCRIPTION
01.30.2023	NS	DESIGN
	MD	DRAWN
	MD	DESIGNED

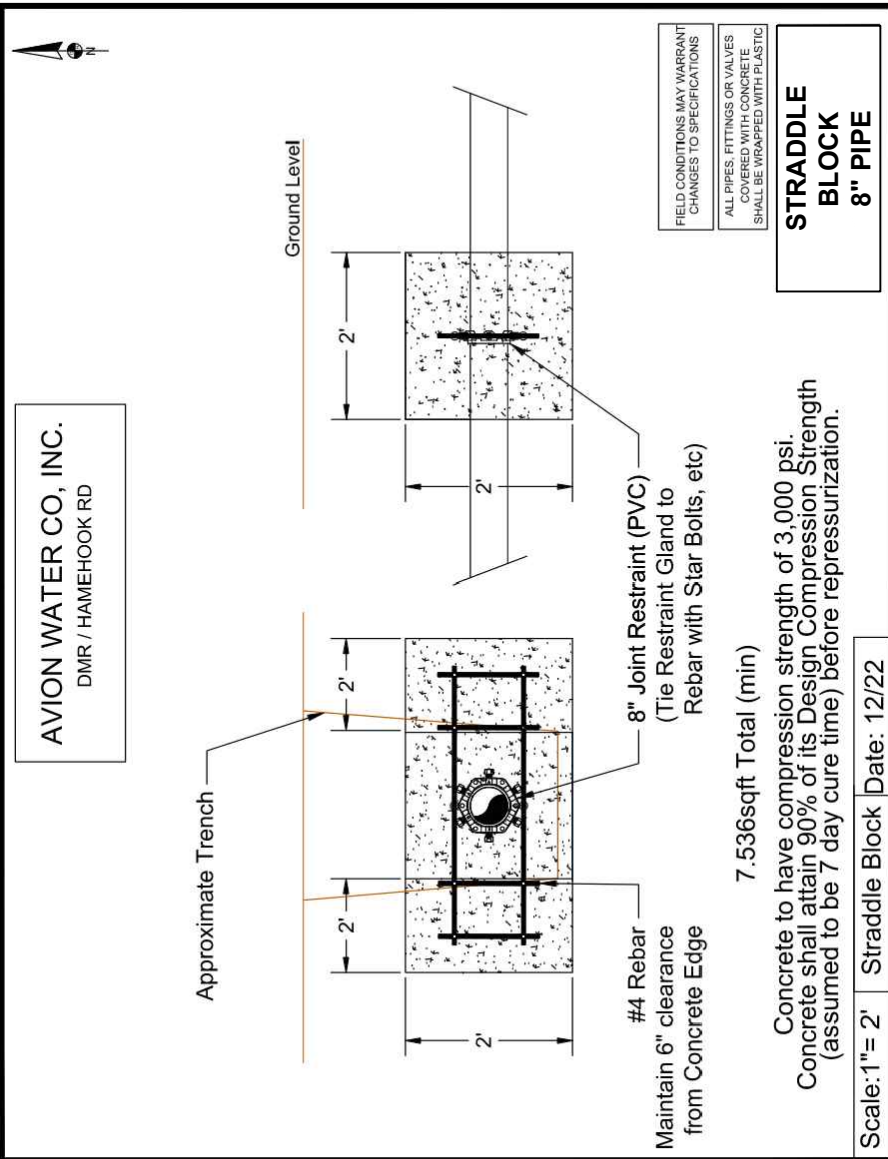
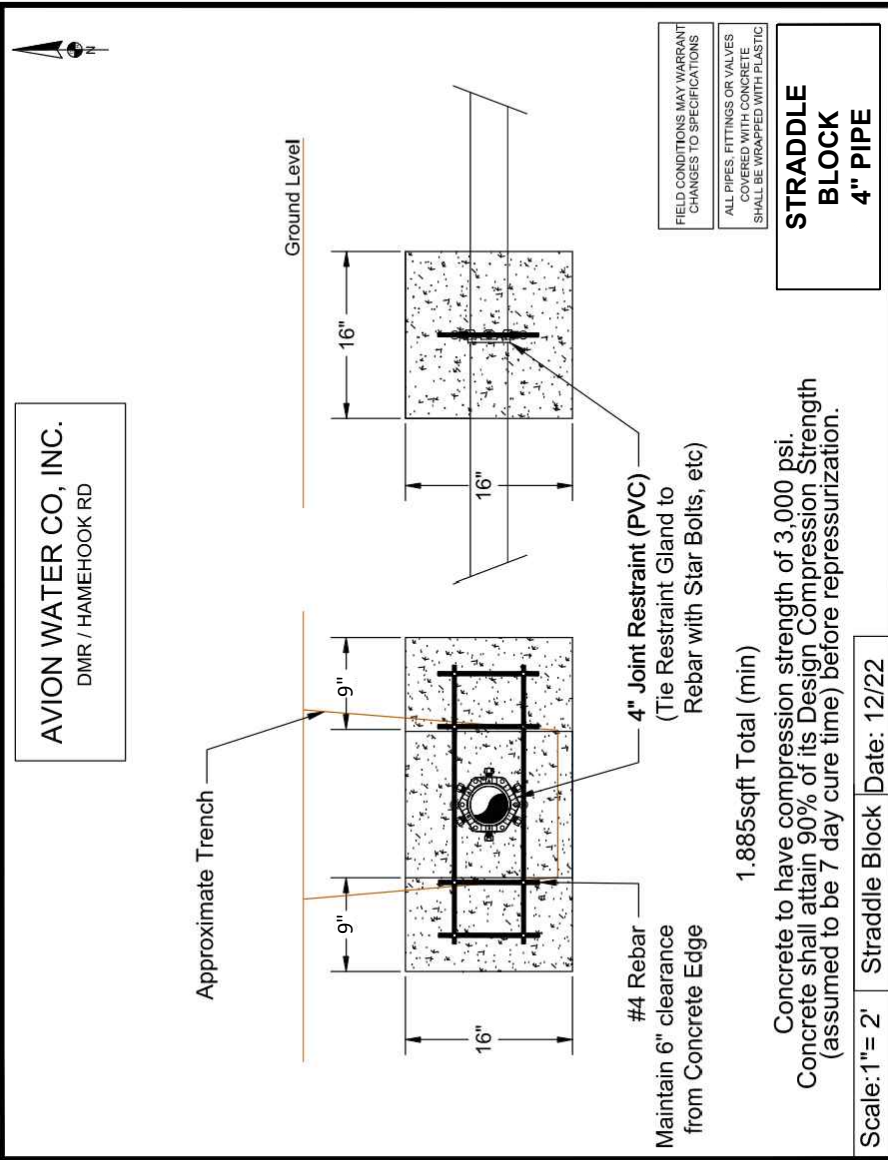
**HHPR** Harper Houf Peterson Righellis Inc.  
ENGINEERS + PLANNERS  
LANDSCAPE ARCHITECTS + SURVEYORS  
250 NW Franklin Ave., Suite 404, Bend, OR 97703  
phone: 541.318.1161 www.hhpr.com fax: 541.318.1141

COVER SHEET  
**DESCHUTES MARKET RD / HAMEHOOK RD INTERSECTION IMPROVEMENT**  
DESCHUTES COUNTY, OREGON

**REGISTERED PROFESSIONAL ENGINEER**  
NICOLAS G. SPEROS  
OREGON  
MAY 15, 2019  
EXPIRES: 06/30/24

**C0.0**

SHEET NO.  
DC0-02

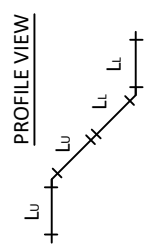


RESTRAINED LENGTH FOR DUCTILE IRON PIPE	
HORIZONTAL BENDS	MIN. RESTRAINED LENGTH FROM END OF BEND
3" - 45°	5'
4" - 45°	7'
4" - 90°	15'
8" - 90°	27'
12" - 11.25°	4'
12" - 22.5°	8'

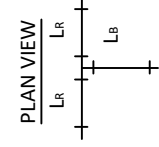
RESTRAINED LENGTH FOR DUCTILE IRON PIPE	
REDUCERS	MIN RESTRAINED LENGTH
8" x 3"	50'
8" x 4"	45'
12" x 4"	76'

RESTRAINED LENGTH FOR DUCTILE IRON PIPE	
DEAD ENDS	MIN RESTRAINED LENGTH
12"	87'

RESTRAINED LENGTH FOR DUCTILE IRON PIPE		
VERTICAL BENDS	MIN RESTRAINED LENGTH UPPER SIDE (LU)	MIN RESTRAINED LENGTH LOWER SIDE (LL)
12" - 45°	37'	8'



RESTRAINED LENGTH FOR DUCTILE IRON PIPE		
TEES	MIN RESTRAINED LENGTH ALONG RUN (LR)**	MIN RESTRAINED LENGTH ALONG BRANCH (LB)
12" x 4"	2'	2'
12" x 8"	6'	13'
12" x 12"	12'	22'



\*\* LENGTH ALONG RUN FROM TEE SHALL EXTEND THE MINIMUM SPECIFIED IN THE TABLE IN EACH DIRECTION FROM THE TEE AND SHALL BE SOLID PIPE WITHOUT JOINTS, FITTING, ETC.

AVION WATER CO, INC.  
DMR / HAMEHOOK RD

AVION WATER CO, INC.  
DMR / HAMEHOOK RD



DESIGNED:	MD	
DRAWN:	MD	
CHECKED:	NS	
DATE:	01.30.2023	
DATE	NO.	DESCRIPTION

**Harper Houf Peterson**  
**Righellis Inc.**  
ENGINEERS + PLANNERS  
LANDSCAPE ARCHITECTS + SURVEYORS  
250 NW Franklin Ave., Suite 404, Bend, OR 97703  
phone: 541.318.1161 www.bhpr.com fax: 541.318.1141

WATER DETAILS  
**DESCHUTES MARKET RD / HAMEHOOK RD INTERSECTION IMPROVEMENT**  
DESCHUTES COUNTY, OREGON

**100% SUBMITTAL**

**REGISTERED PROFESSIONAL**  
ENGINEER  
94,828  
OREGON  
MAY 15, 2019  
NICOLAS G. SPROS

SHEET NO.  
**C1.2**

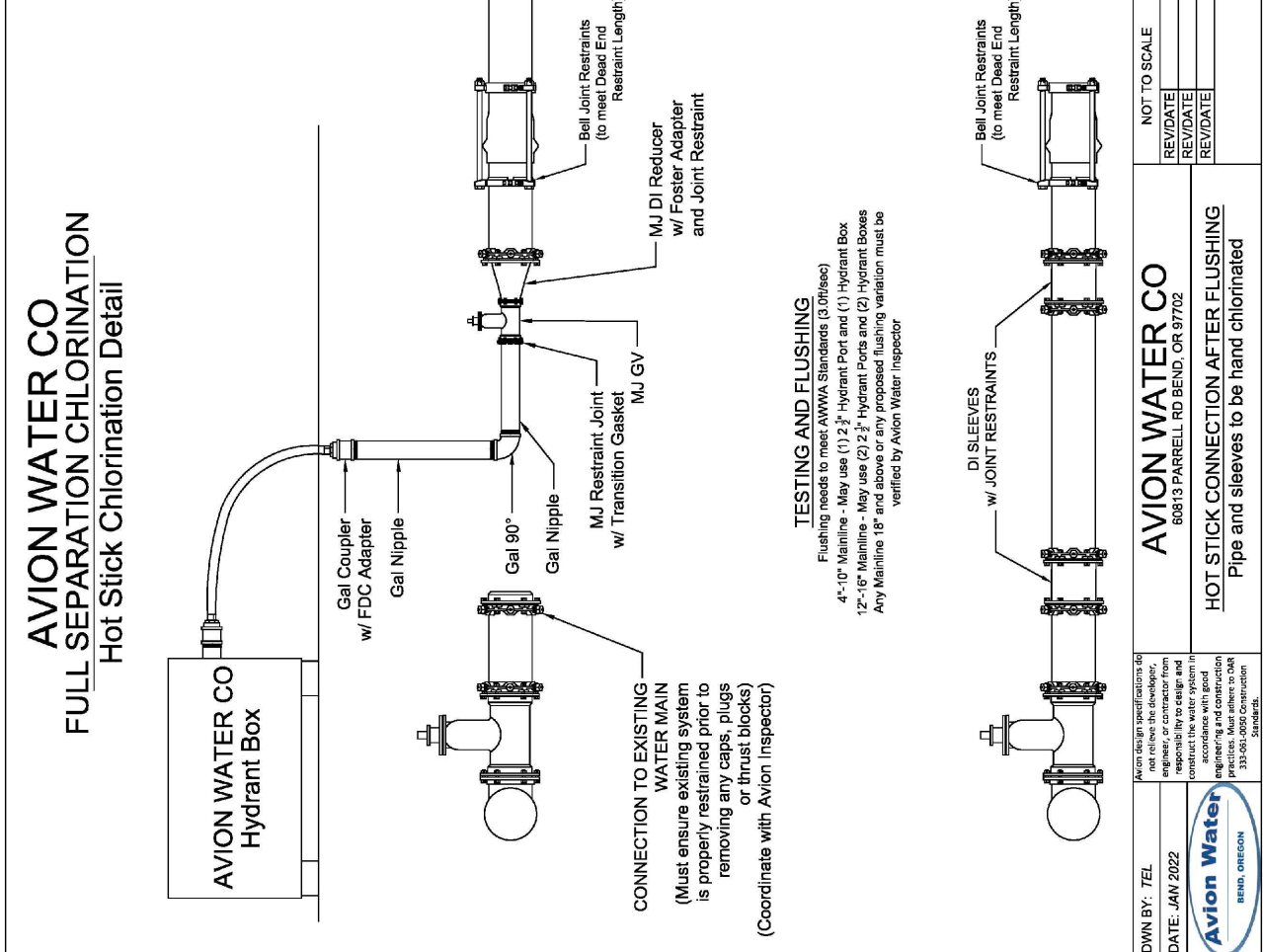
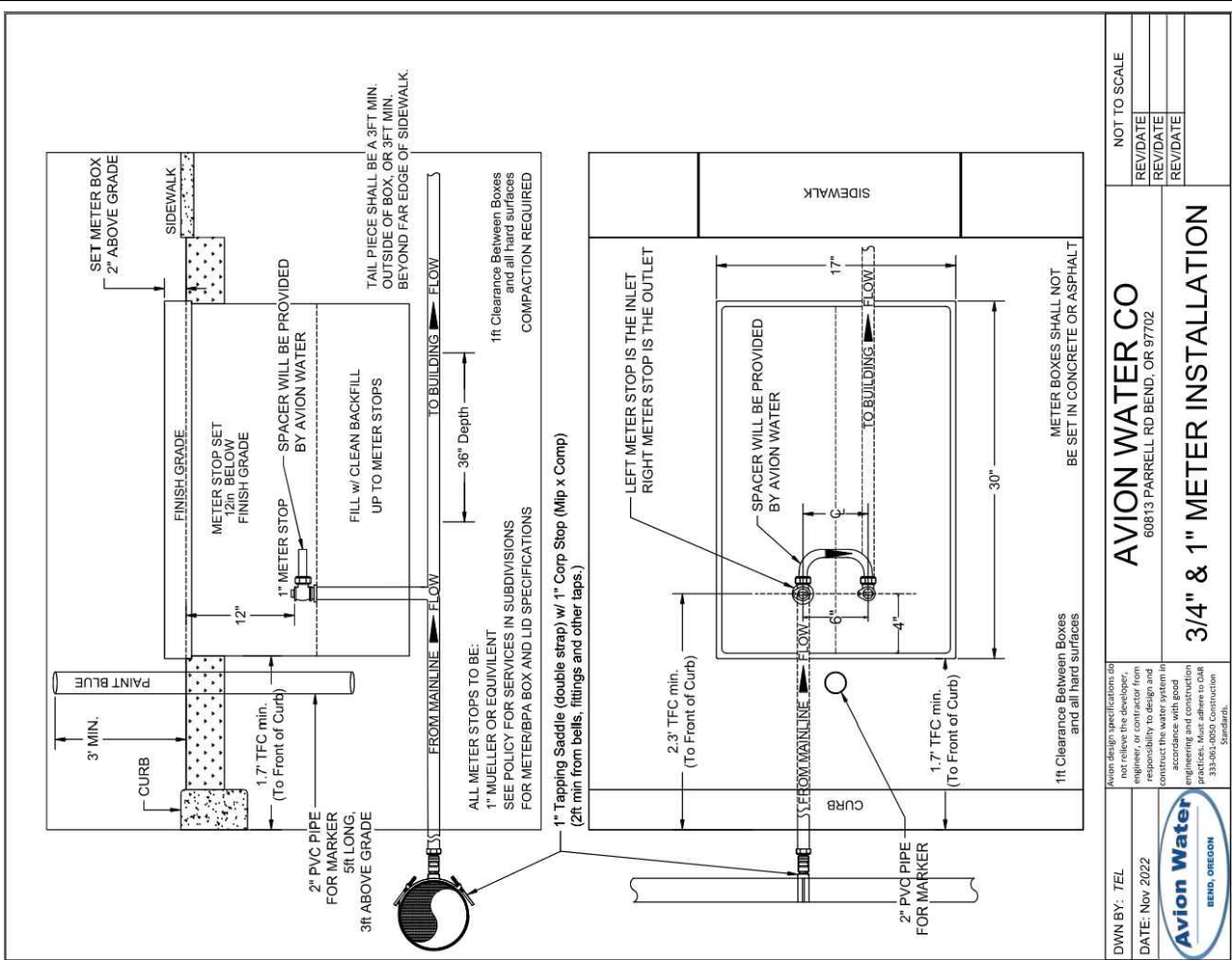
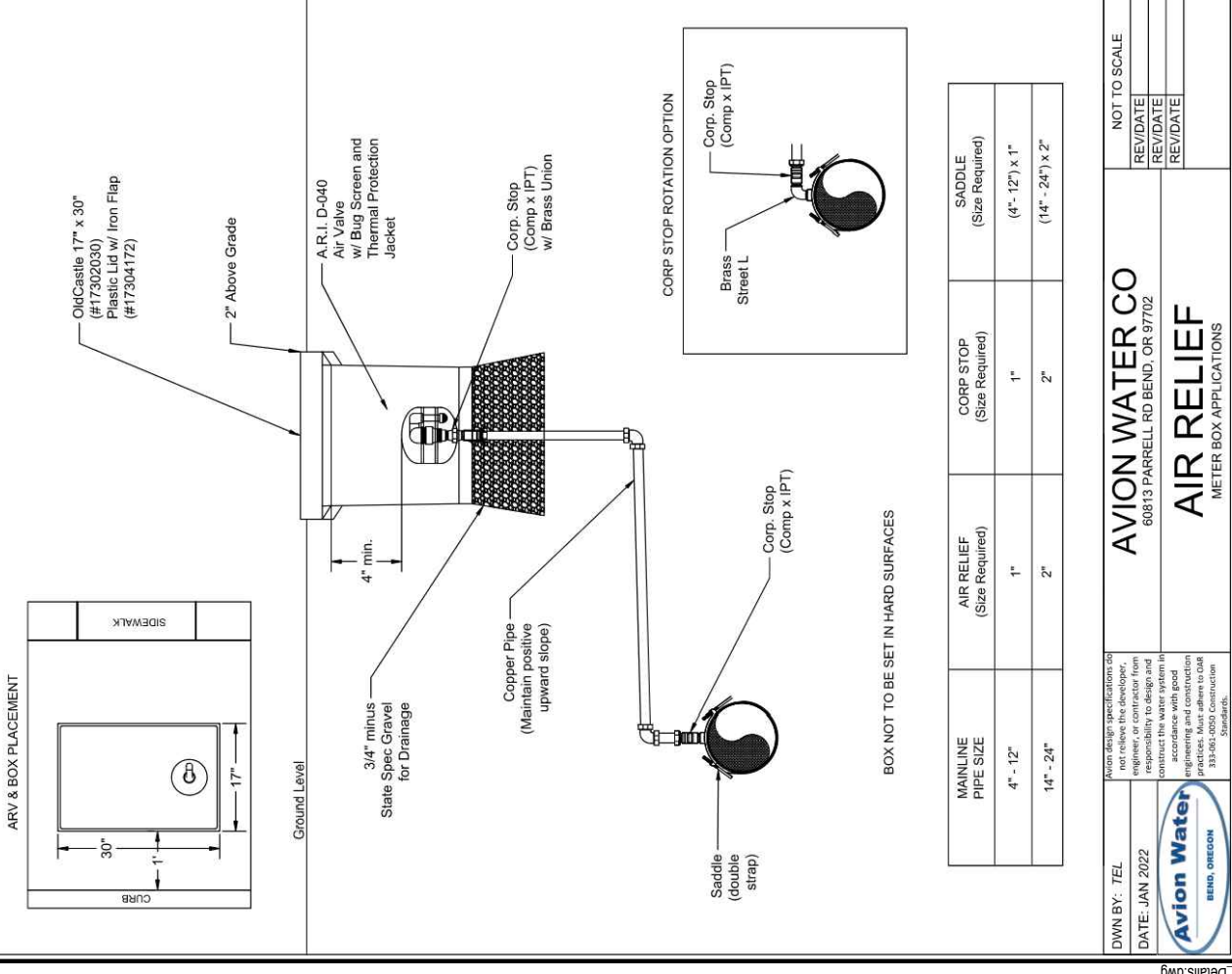
EXPIRES: 06/30/24

FIELD CONDITIONS MAY WARRANT CHANGES TO SPECIFICATIONS  
ALL PIPES, FITTINGS OR VALVES COVERED WITH CONCRETE SHALL BE WRAPPED WITH PLASTIC

**STRADDLE BLOCK 8" PIPE**

FIELD CONDITIONS MAY WARRANT CHANGES TO SPECIFICATIONS  
ALL PIPES, FITTINGS OR VALVES COVERED WITH CONCRETE SHALL BE WRAPPED WITH PLASTIC

**STRADDLE BLOCK 4" PIPE**



MAINLINE PIPE SIZE	AIR RELIEF (Size Required)	CORP STOP (Size Required)	SADDLE (Size Required)
4" - 12"	1"	1"	(4" - 12") x 1"
14" - 24"	2"	2"	(14" - 24") x 2"

Avion design specifications do not constitute a contract. The engineer, or contractor from whom the water system is constructed, is responsible for design and construction in accordance with good engineering practices. Must adhere to OAR 333-905-0050 Construction Standards.

**Avion Water**  
BEND, OREGON

DWN BY: TEL  
DATE: Nov. 2022

AVION WATER CO  
60813 PARRELL RD BEND, OR 97702

NOT TO SCALE

RE/DATE  
RE/DATE

3/4" & 1" METER INSTALLATION

REGISTERED PROFESSIONAL  
ENGINEER  
94,828  
OREGON  
MAY 15, 2019  
NICOLAS G. SPROS

EXPIRES: 06/30/24

SHEET NO.  
**C1.3**

DCO-02

Avion design specifications do not constitute a contract. The engineer, or contractor from whom the water system is constructed, is responsible for design and construction in accordance with good engineering practices. Must adhere to OAR 333-905-0050 Construction Standards.

**Avion Water**  
BEND, OREGON

DWN BY: TEL  
DATE: JAN 2022

AVION WATER CO  
60813 PARRELL RD BEND, OR 97702

NOT TO SCALE

RE/DATE  
RE/DATE

HOT STICK CONNECTION AFTER FLUSHING  
Pipe and sleeves to be hand chlorinated

DESIGNED: MD  
DRAWN: MD  
CHECKED: NS  
DATE: 01.30.2023

Avion design specifications do not constitute a contract. The engineer, or contractor from whom the water system is constructed, is responsible for design and construction in accordance with good engineering practices. Must adhere to OAR 333-905-0050 Construction Standards.

**Avion Water**  
BEND, OREGON

DWN BY: TEL  
DATE: JAN 2022

AVION WATER CO  
60813 PARRELL RD BEND, OR 97702

NOT TO SCALE

RE/DATE  
RE/DATE

AIR RELIEF  
METER BOX APPLICATIONS

DESCHUTES COUNTY  
LANDSCAPE ARCHITECTS + SURVEYORS  
ENGINEERS + PLANNERS  
250 NW Franklin Ave, Suite 404, Bend, OR 97703  
phone: 541.318.1161 www.bhpr.com fax: 541.318.1141

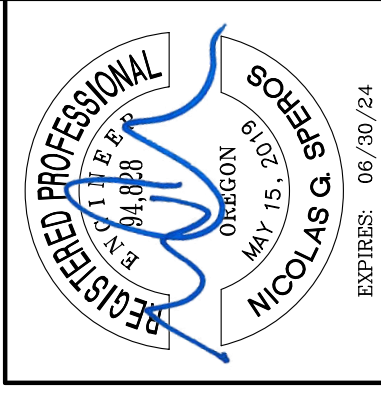
DESIGNED: MD  
DRAWN: MD  
CHECKED: NS  
DATE: 01.30.2023

R E V I S I O N S

DATE NO. DESCRIPTION

100% SUBMITTAL

WATER DETAILS  
**DESCHUTES MARKET RD / HAMEHOOK RD INTERSECTION IMPROVEMENT**  
DESCHUTES COUNTY, OREGON



**WATER MAIN NOTES:**

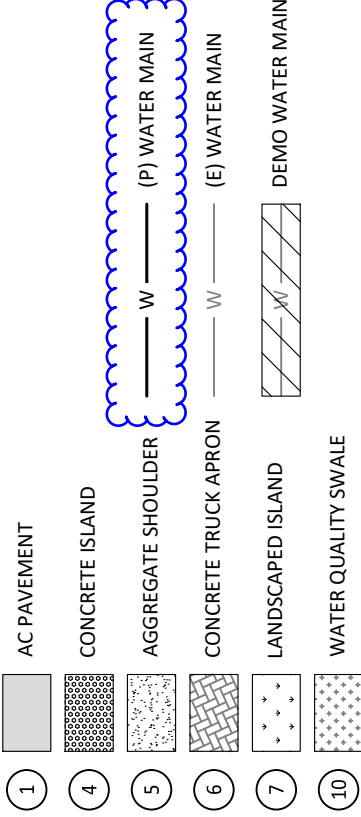
1. CONSTRUCT 12" D.I. WATER PIPE. SEE PLAN FOR LENGTH.
2. CONSTRUCT 8" D.I. WATER PIPE. SEE PLAN FOR LENGTH.
3. CONSTRUCT 4" D.I. WATER PIPE. SEE PLAN FOR LENGTH.
4. DEMO AND REMOVE EXISTING WATER PIPE.
5. STA 5+94.48, 16.1' L (DESCHUTES MARKET RD) CONNECT TO EXISTING 4" WATER MAIN. CUT EXISTING 4" WATER MAIN; INSTALL 1 - 4" 90° BEND<sup>3</sup>; 1 - 4" STRADDLE BLOCK<sup>2</sup> WEST OF CONNECTION.
6. STA 5+94.48, 2.0' R (DESCHUTES MARKET RD) INSTALL 1 - 12" x 4" TEE<sup>3</sup>; 1 - 12" G.V. ASSEMBLY ON WEST LEG; 1 - 4" G.V. ASSEMBLY ON NORTH LEG; PLUG AT WEST END FOR FUTURE EXTENSION WEST.
7. STA 7+44.47, 2.0' R (DESCHUTES MARKET RD) INSTALL 1 - 12" x 8" TEE<sup>3</sup>; 1 - 8" G.V. ASSEMBLY ON SOUTH LEG.
8. STA 7+44.15, 23.1' R (DESCHUTES MARKET RD) INSTALL 1 - 8" x 3" REDUCER<sup>3</sup>; 2 - 3" 45° BENDS<sup>3</sup>; 7 LF 3" D.I. WATER PIPE; CONNECT TO EXISTING 3" WATER SERVICE AT STA 7+47.54; 28.2' R (CONTRACTOR TO VERIFY LOCATION OF EXISTING SERVICE)
9. STA 7+49.43, 2.2' R (DESCHUTES MARKET RD) DEFLECT AS NECESSARY. DO NOT EXCEED MANUFACTURER SPECS
10. STA 7+55.99, 2.3' R (DESCHUTES MARKET RD) STA 7+89.27, 5.7' R (DESCHUTES MARKET RD) INSTALL 1 - AIR RELIEF VALVE<sup>2</sup>; 2 - 12" 45° VERTICAL BENDS; REMOVE 12" PLUG; CONNECT TO EXISTING 12" WATER MAIN. EXISTING WATER MAIN INSTALLED DURING COID CANAL CROSSING IMPROVEMENTS. CONNECT TO EXISTING 12" WATER MAIN; ABANDON EXISTING 4" WATER PIPE.
11. STA 8+35.44, 18.5' R (DESCHUTES MARKET RD) STA 8+79.68, 56.1' R (DESCHUTES MARKET RD) INSTALL 1 - 12" 11.25° BEND<sup>3</sup>
12. STA 9+50.05, 133.3' R (DESCHUTES MARKET RD) = STA 3+21.97, 56.9' R (HAMEHOOK RD) INSTALL 1 - 12" TEE<sup>3</sup>; 3 - 12" G.V. ASSEMBLIES; SEE SHEET C4.1 FOR CONTINUATION NORTH. SEE SHEET C4.2 FOR CONTINUATION EAST.

**CONSTRUCTION NOTES:**

1. CONSTRUCT AC PAVEMENT SECTION PER TYPICAL SECTION DETAILS ON SHEET C1.0. DEPTH VARIES.
2. CONSTRUCT LOW-PROFILE MOUNTABLE CONCRETE CURB PER DETAIL ON SHEET C1.1. \*NOTE: TRUCK APRON, 0" LIP.
3. CONSTRUCT HIGH-STRENGTH CONCRETE CURB PER DETAIL ON SHEET C1.1.
4. CONSTRUCT CONCRETE SPLITTER ISLAND PER DETAIL ON SHEET C1.1. SEE SHEET C6.1 FOR DETAILED GRADING PLAN.
5. CONSTRUCT AGGREGATE SHOULDER PER TYPICAL SECTION DETAILS ON SHEET C1.0. WIDTH NOTED ON PLAN.
6. CONSTRUCT 8" STAMPED CONCRETE MOUNTABLE TRUCK APRON PER TYPICAL SECTION DETAIL ON SHEET C1.0.
7. CONSTRUCT LANDSCAPED CENTER ISLAND. SEE SHEET L1.0 FOR LANDSCAPING PLAN.
8. PROPOSED CATCH BASIN. SEE SHEETS C4.3-C4.5 FOR MORE INFORMATION.
9. CONSTRUCT CONCRETE BICYCLE RAMP PER DETAIL ON SHEET C1.1. SEE SHEETS 6.1-6.3 FOR DETAILED GRADING PLAN.
10. CONSTRUCT WATER QUALITY DRAINAGE SWALE PER DETAIL ON SHEET C1.1. SEE SHEET C5.0 FOR MORE INFORMATION.
11. CONSTRUCT AC DRIVEWAY APRON. SEE SHEET C6.1 FOR DETAILED GRADING PLAN.
12. CONSTRUCT BARBED WIRE FENCE PER DETAIL ON SHEET C1.1. STA 7+73.00 TO STA 10+00.00
13. CONSTRUCT CURB CUT AT LOWPOINT PER DETAIL ON SHEET C1.1.

**NOTES:**

1. ALL WATER IMPROVEMENTS TO BE CONSTRUCTED PER AVION WATER COMPANY STANDARDS AND SPECIFICATIONS. CONTRACTOR TO COORDINATE WATER MAIN SHUT-OFF WITH AVION WATER COMPANY.
2. SEE SHEETS C1.2 & C1.3 FOR DETAILS.
3. RESTRAIN FITTINGS PER TABLE ON SHEET C1.2.



**100% SUBMITTAL**

**Harper Houf Peterson Righellis Inc.**  
 ENGINEERS + PLANNERS  
 LANDSCAPE ARCHITECTS + SURVEYORS  
 250 NW Franklin Ave., Suite 404, Bend, OR 97703  
 phone: 541.318.1161 www.hhpr.com fax: 541.318.1141

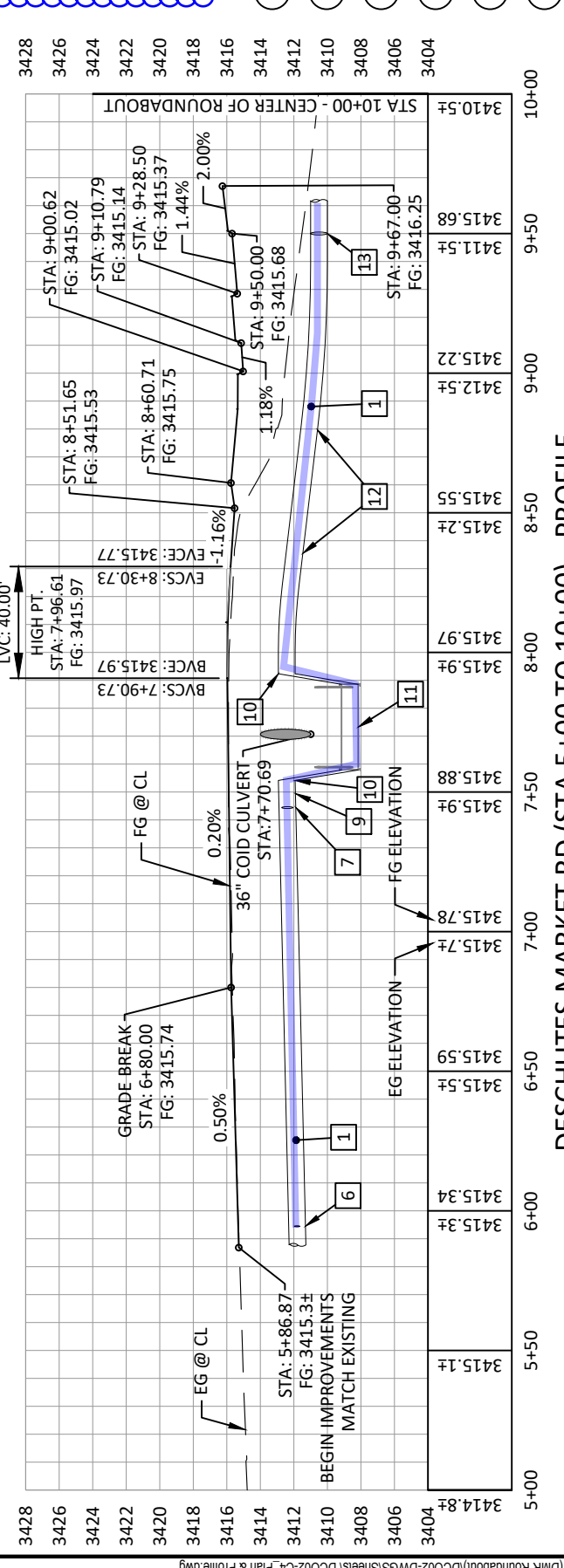
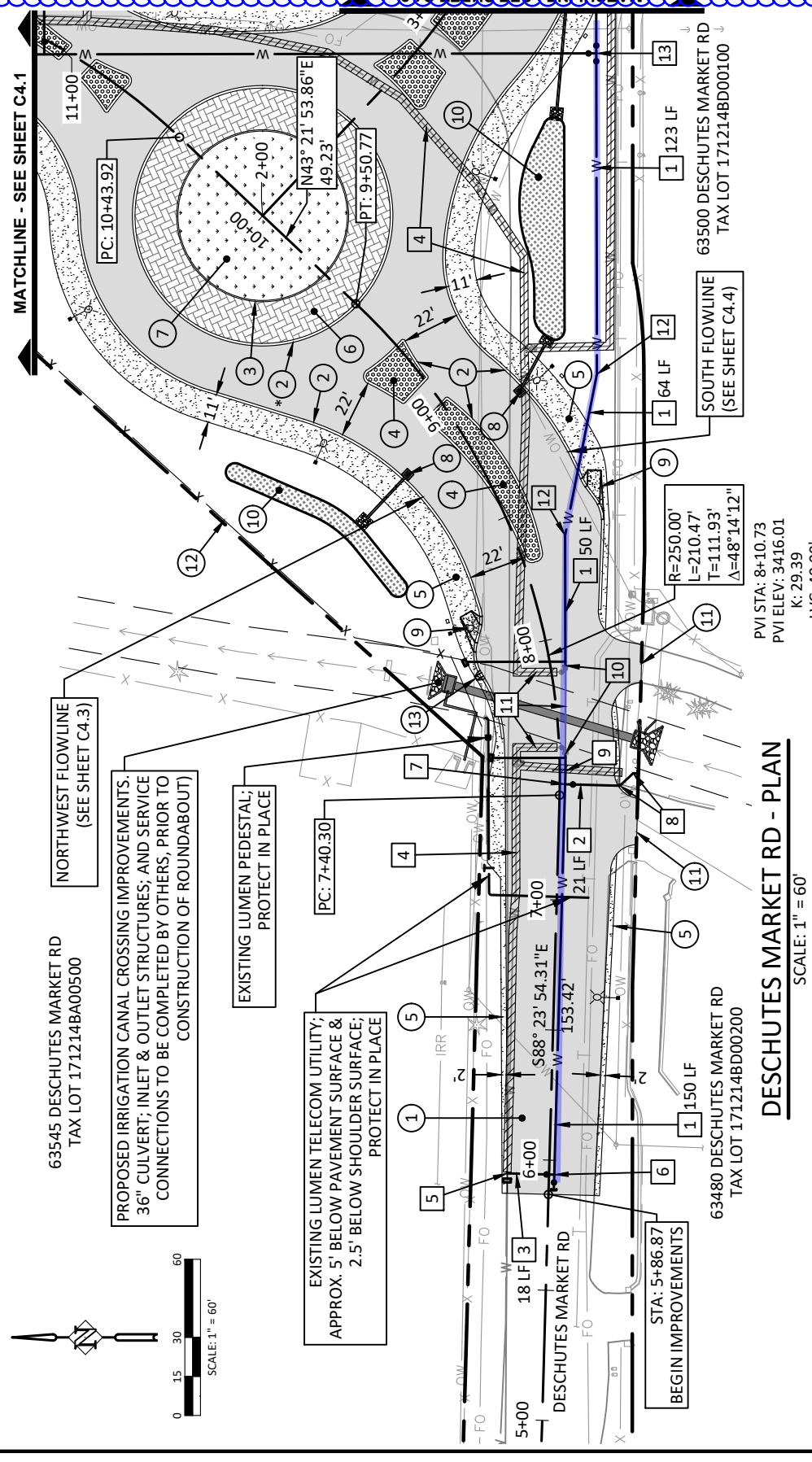
DESIGNED:	MD
DRAWN:	MD
CHECKED:	NS
DATE:	01.30.2023



**DESCHUTES MARKET RD / HAMEHOOK RD INTERSECTION IMPROVEMENT**  
 PLAN & PROFILE - WEST LEG  
 DESCHUTES COUNTY, OREGON

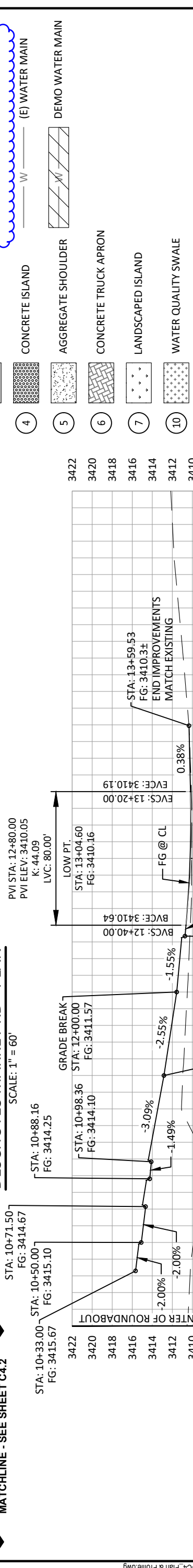
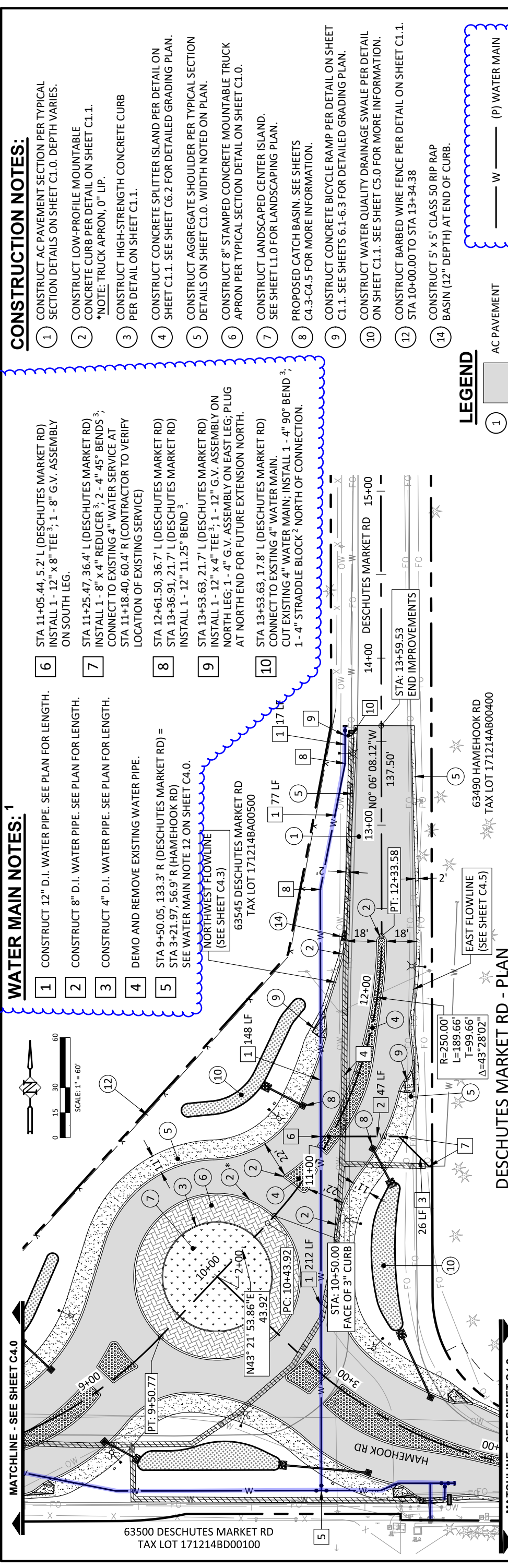
**C4.0**

DCO-02



P:\103-Bend\DCO (Deschutes County)\DCO-02 (DMR Roundabout)\DCO02-DWG(Sheets)\DCO02-C4\_Plan & Profile.dwg





**CONSTRUCTION NOTES:**

1. CONSTRUCT AC PAVEMENT SECTION PER TYPICAL SECTION DETAILS ON SHEET C1.0. DEPTH VARIES.
2. CONSTRUCT LOW-PROFILE MOUNTABLE CONCRETE CURB PER DETAIL ON SHEET C1.1. \*NOTE: TRUCK APRON, 0" LIP.
3. CONSTRUCT HIGH-STRENGTH CONCRETE CURB PER DETAIL ON SHEET C1.1.
4. CONSTRUCT CONCRETE SPLITTER ISLAND PER DETAIL ON SHEET C1.1. SEE SHEET C6.2 FOR DETAILED GRADING PLAN.
5. CONSTRUCT AGGREGATE SHOULDER PER TYPICAL SECTION DETAILS ON SHEET C1.0. WIDTH NOTED ON PLAN.
6. CONSTRUCT 8" STAMPED CONCRETE MOUNTABLE TRUCK APRON PER TYPICAL SECTION DETAIL ON SHEET C1.0.
7. CONSTRUCT LANDSCAPED CENTER ISLAND. SEE SHEET L1.0 FOR LANDSCAPING PLAN.
8. PROPOSED CATCH BASIN. SEE SHEETS C4.3-C4.5 FOR MORE INFORMATION.
9. CONSTRUCT CONCRETE BICYCLE RAMP PER DETAIL ON SHEET C1.1. SEE SHEETS 6.1-6.3 FOR DETAILED GRADING PLAN.
10. CONSTRUCT WATER QUALITY DRAINAGE SWALE PER DETAIL ON SHEET C1.1. SEE SHEET C5.0 FOR MORE INFORMATION.
12. CONSTRUCT BARBED WIRE FENCE PER DETAIL ON SHEET C1.1. STA 10+00.00 TO STA 13+34.38
14. CONSTRUCT 5' x 5' CLASS 50 RIP RAP BASIN (12" DEPTH) AT END OF CURB.

**WATER MAIN NOTES:**

1. CONSTRUCT 12" D.I. WATER PIPE. SEE PLAN FOR LENGTH.
2. CONSTRUCT 8" D.I. WATER PIPE. SEE PLAN FOR LENGTH.
3. CONSTRUCT 4" D.I. WATER PIPE. SEE PLAN FOR LENGTH.
4. DEMO AND REMOVE EXISTING WATER PIPE.
5. STA 9+50.05, 133.3' R (DESCHUTES MARKET RD) = STA 3+21.97, 56.9' R (HAMEHOOK RD) SEE WATER MAIN NOTE 12 ON SHEET C4.0.
6. STA 11+05.44, 5.2' L (DESCHUTES MARKET RD) INSTALL 1 - 12" x 8" TEE<sup>3</sup>, 1 - 8" G.V. ASSEMBLY ON SOUTH LEG.
7. STA 11+25.47, 36.4' L (DESCHUTES MARKET RD) INSTALL 1 - 8" x 4" REDUCER<sup>3</sup>, 2 - 4" 45° BENDS<sup>3</sup>, CONNECT TO EXISTING 4" WATER SERVICE AT STA 11+18.40, 60.4' R (CONTRACTOR TO VERIFY LOCATION OF EXISTING SERVICE)
8. STA 12+61.50, 36.7' L (DESCHUTES MARKET RD) STA 13+36.91, 21.7' L (DESCHUTES MARKET RD) INSTALL 1 - 12" 11.25° BEND<sup>3</sup>.
9. STA 13+53.63, 21.7' L (DESCHUTES MARKET RD) INSTALL 1 - 12" x 4" TEE<sup>3</sup>, 1 - 12" G.V. ASSEMBLY ON NORTH LEG; 1 - 4" G.V. ASSEMBLY ON EAST LEG; PLUG AT NORTH END FOR FUTURE EXTENSION NORTH.
10. STA 13+53.63, 17.8' L (DESCHUTES MARKET RD) CONNECT TO EXISTING 4" WATER MAIN; INSTALL 1 - 4" 90° BEND<sup>3</sup>; CUT EXISTING 4" WATER MAIN; INSTALL 1 - 4" 90° BEND<sup>3</sup>; 1 - 4" STRADDLE BLOCK<sup>2</sup> NORTH OF CONNECTION.

**LEGEND**

- 1 AC PAVEMENT
- 4 CONCRETE ISLAND
- 5 AGGREGATE SHOULDER
- 6 CONCRETE TRUCK APRON
- 7 LANDSCAPED ISLAND
- 10 WATER QUALITY SWALE
- (P) WATER MAIN
- (E) WATER MAIN
- DEMO WATER MAIN

NOTES:  
 1. ALL WATER IMPROVEMENTS TO BE CONSTRUCTED PER AVION WATER COMPANY STANDARDS AND SPECIFICATIONS. CONTRACTOR TO COORDINATE WATER MAIN SHUT-OFF WITH AVION WATER COMPANY.  
 2. SEE SHEETS C1.2 & C1.3 FOR DETAILS.  
 3. RESTRAIN FITTINGS PER TABLE ON SHEET C1.2.

REGISTERED PROFESSIONAL  
 ENGINEER  
 94,828  
 OREGON  
 MAY 15, 2019  
 NICOLAS G. SPEROS

SHEET NO.  
 C4.1  
 DC0-02

EXPIRES: 06/30/24

**100% SUBMITTAL**

PLAN & PROFILE - NORTH LEG

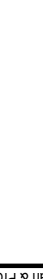
**DESCHUTES MARKET RD / HAMEHOOK RD INTERSECTION IMPROVEMENT**

DESCHUTES COUNTY, OREGON

DATE	NO.	DESCRIPTION
01.30.2023		

DESIGNED: MD  
 DRAWN: MD  
 CHECKED: NS  
 DATE: 01.30.2023

REVISIONS



Harper Houf Peterson  
 Righeillis Inc.  
 ENGINEERS & PLANNERS  
 LANDSCAPE ARCHITECTS & SURVEYORS  
 250 NW Franklin Ave., Suite 404, Bend, OR 97703  
 phone: 541.318.1161 www.hhpr.com fax: 541.318.1141

DESCHUTES MARKET RD (STA 10+00 TO 15+00)  
 SCALE: 1" = 60' (HORIZ.)  
 1" = 10' (VERT.)

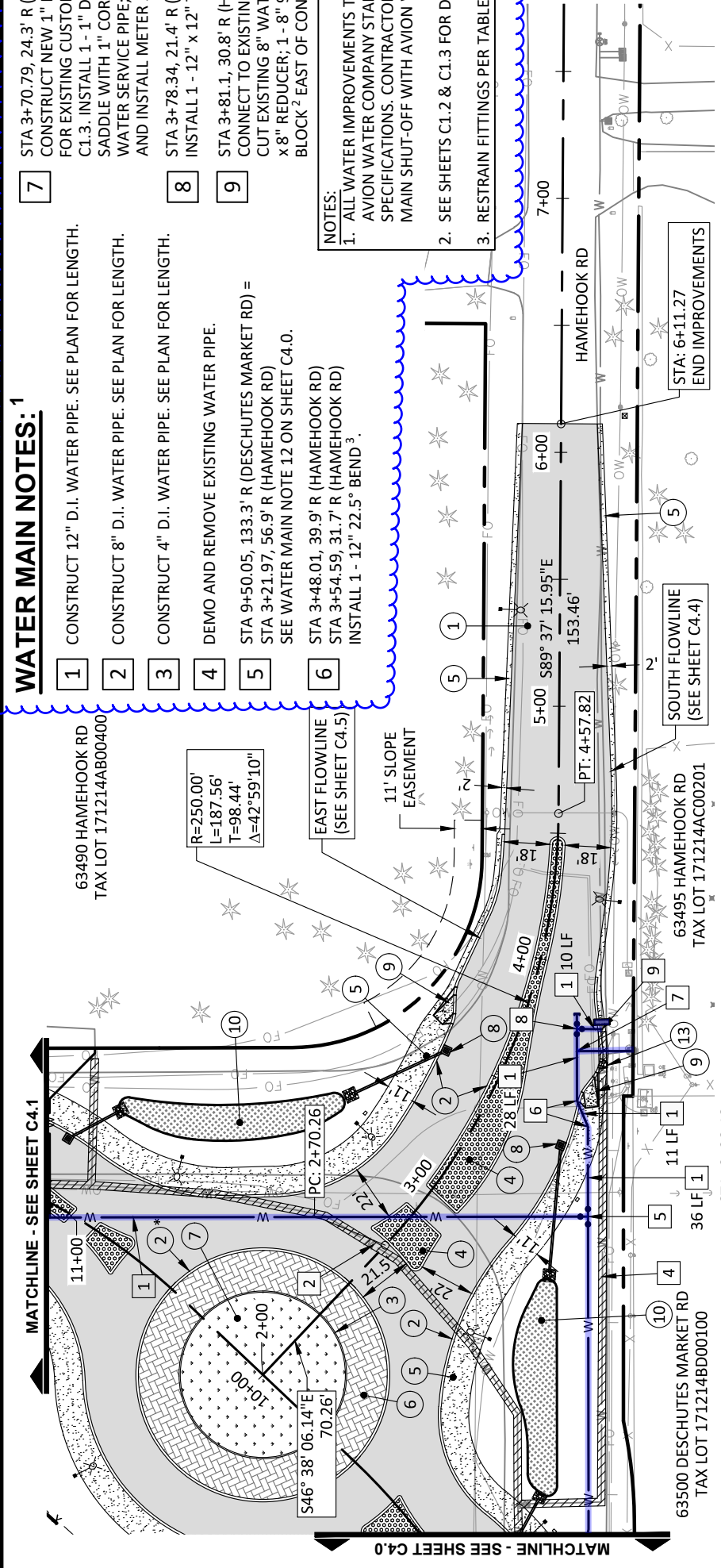
**WATER MAIN NOTES:**

- 1 CONSTRUCT 12" D.I. WATER PIPE. SEE PLAN FOR LENGTH.
- 2 CONSTRUCT 8" D.I. WATER PIPE. SEE PLAN FOR LENGTH.
- 3 CONSTRUCT 4" D.I. WATER PIPE. SEE PLAN FOR LENGTH.
- 4 DEMO AND REMOVE EXISTING WATER PIPE.
- 5 STA 9+50.05, 133.3' R (DESCHUTES MARKET RD) = STA 3+21.97, 56.9' R (HAMEHOOK RD) SEE WATER MAIN NOTE 12 ON SHEET C4.0.
- 6 STA 3+48.01, 39.9' R (HAMEHOOK RD) STA 3+54.59, 31.7' R (HAMEHOOK RD) INSTALL 1 - 12" 22.5" BEND 3.

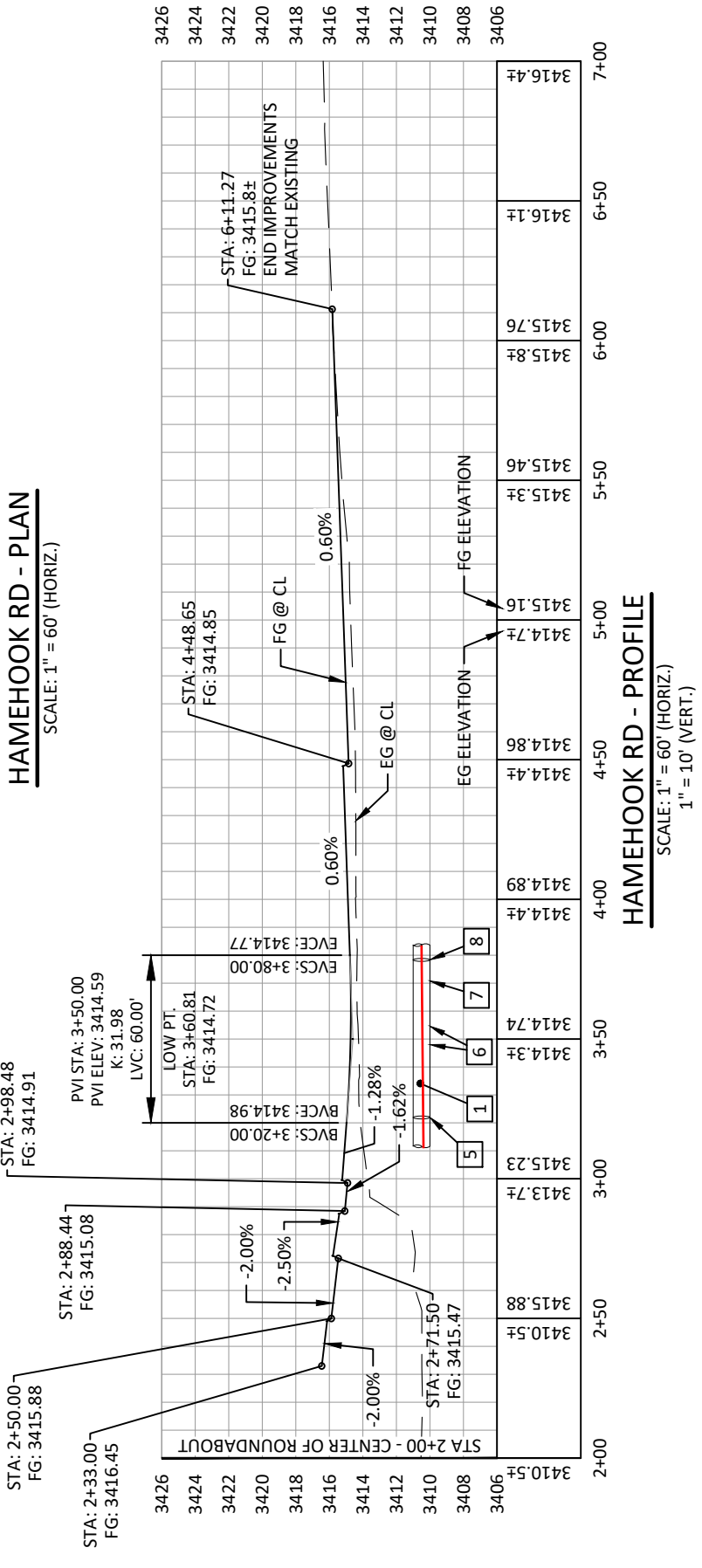
**CONSTRUCTION NOTES:**

- 1 CONSTRUCT AC PAVEMENT SECTION PER TYPICAL SECTION DETAILS ON SHEET C1.0. DEPTH VARIES.
- 2 CONSTRUCT LOW-PROFILE MOUNTABLE CONCRETE CURB PER DETAIL ON SHEET C1.1. \*NOTE: TRUCK APRON, 0" LIP.
- 3 CONSTRUCT HIGH-STRENGTH CONCRETE CURB PER DETAIL ON SHEET C1.1.
- 4 CONSTRUCT CONCRETE SPLITTER ISLAND PER DETAIL ON SHEET C1.1. SEE SHEET C6.3 FOR DETAILED GRADING PLAN.
- 5 CONSTRUCT AGGREGATE SHOULDER PER TYPICAL SECTION DETAILS ON SHEET C1.0. WIDTH NOTED ON PLAN.
- 6 CONSTRUCT 8" STAMPED CONCRETE MOUNTABLE TRUCK APRON PER TYPICAL SECTION DETAIL ON SHEET C1.0.
- 7 CONSTRUCT LANDSCAPED CENTER ISLAND. SEE SHEET L1.0 FOR LANDSCAPING PLAN.
- 8 PROPOSED CATCH BASIN. SEE SHEETS C4.3-C4.5 FOR MORE INFORMATION.
- 9 CONSTRUCT CONCRETE BICYCLE RAMP PER DETAIL ON SHEET C1.1. SEE SHEETS 6.1-6.3 FOR DETAILED GRADING PLAN.
- 10 CONSTRUCT WATER QUALITY DRAINAGE SWALE PER DETAIL ON SHEET C1.1. SEE SHEET C5.0 FOR MORE INFORMATION.
- 13 CONSTRUCT CURB CUT AT LOWPOINT PER DETAIL ON SHEET C1.1.

**NOTES:**  
 1. ALL WATER IMPROVEMENTS TO BE CONSTRUCTED PER AVION WATER COMPANY STANDARDS AND SPECIFICATIONS. CONTRACTOR TO COORDINATE WATER MAIN SHUT-OFF WITH AVION WATER COMPANY.  
 2. SEE SHEETS C1.2 & C1.3 FOR DETAILS.  
 3. RESTRAIN FITTINGS PER TABLE ON SHEET C1.2.



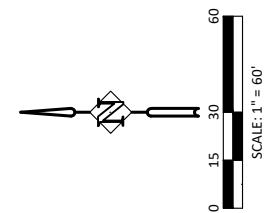
**HAMEHOOK RD - PLAN**  
 SCALE: 1" = 60' (HORIZ.)



**HAMEHOOK RD - PROFILE**  
 SCALE: 1" = 60' (HORIZ.)  
 1" = 10' (VERT.)

**LEGEND**

- 1 AC PAVEMENT
- 4 CONCRETE ISLAND
- 5 AGGREGATE SHOULDER
- 6 CONCRETE TRUCK APRON
- 7 LANDSCAPED ISLAND
- 10 WATER QUALITY SWALE
- W (P) WATER MAIN
- W (E) WATER MAIN
- DEMO WATER MAIN



**100% SUBMITTAL**

**Harper Houf Peterson**  
**Righellis Inc.**  
 ENGINEERS & PLANNERS  
 LANDSCAPE ARCHITECTS & SURVEYORS  
 250 NW Franklin Ave., Suite 404, Bend, OR 97703  
 phone: 541.318.1161 www.hhpr.com fax: 541.318.1141

DATE	NO.	DESCRIPTION
01.30.2023	NS	DESIGN
	MD	DRAWING
	MD	DRAWING



**DESCHUTES MARKET RD / HAMEHOOK RD INTERSECTION IMPROVEMENT**  
 DESCHUTES COUNTY, OREGON

PLAN & PROFILE - EAST LEG

**REGISTERED PROFESSIONAL**  
 ENGINEER  
 94,828  
 OREGON  
 MAY 15, 2019  
**NICOLAS G. SPROS**  
 SHEET NO.  
 EXPIRES: 06/30/24

**C4.2**  
 DC0-02

**DESCHUTES COUNTY: DESCHUTES MARKET RD-HAMEHOOK RD INTERSECTION IMPROVEMENT  
CONSTRUCTION COST SUMMARY - AVION WATER IMPROVEMENTS**

ITEM		UNIT	QUANTITY	UNIT PRICE	TOTAL
<b>Avion Water Improvements</b>					
056	12 Inch Potable Water Pipe, Fittings & Couplings w/ Restrained Joints and Class B Backfill	FOOT	955	\$ 234.00	\$ 223,470.00
057	8 Inch Potable Water Pipe, Fittings & Couplings w/ Restrained Joints and Class B Backfill	FOOT	68	\$ 212.00	\$ 14,416.00
058	4 Inch Potable Water Pipe, Fittings & Couplings w/ Restrained Joints and Class B Backfill	FOOT	48	\$ 226.00	\$ 10,848.00
059	3 Inch Potable Water Pipe, Fittings & Couplings w/ Restrained Joints and Class B Backfill	FOOT	7	\$ 341.00	\$ 2,387.00
060	1 Inch Combination Air Release / Air Vacuum Valve Assembly	EACH	2	\$ 1,963.00	\$ 3,926.00
061	1 Inch Tapping Sleeve and 1 Inch Valve Assembly	EACH	1	\$ 600.00	\$ 600.00
062	4 Inch Gate Valve	EACH	2	\$ 1,022.00	\$ 2,044.00
063	8 Inch Gate Valve	EACH	2	\$ 1,946.00	\$ 3,892.00
064	12 Inch Gate Valve	EACH	8	\$ 3,773.00	\$ 30,184.00
065	1 Inch Copper Water Service Line	FOOT	22	\$ 154.00	\$ 3,388.00
<b>SUBTOTAL CONSTRUCTION</b>					<b>\$ 295,155.00</b>

**ADDITIONAL COSTS:**

PRELIMINARY ENGINEERING <sup>1</sup>		\$	6,430.00
--------------------------------------	--	----	----------

**TOTAL REIMBURSABLE \$ 301,585.00**

NOTES:

1) PRELIMINARY ENGINEERING COSTS INCLUDE DESIGN CONSULTANT LABOR COSTS ASSOCIATED WITH INCORPORATING AVION IMPROVEMENTS.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: April 5, 2023

SUBJECT: Approval of Chair Signature of Document No. 2023-351, Amendment No. 3 to Document No. 2015-052 with the Federal Highway Administration for the Fall Creek Bridge Replacement Project

RECOMMENDED MOTION:

Move approval of Document No. 2023-351.

BACKGROUND AND POLICY IMPLICATIONS:

The County and the Federal Highway Administration (FHWA) entered into various project agreements for the Fall Creek Bridge Replacement project under the Federal Lands Access Program (FLAP). The project included replacement of Fall Creek Bridge on Cascade Lakes Highway by FHWA; construction of the project was completed in 2017. The following is a summary of the project agreements executed to date by the County and FHWA:

- 2013-474 - Match Agreement: Set County project match amount at \$126,783 (10.27% of original project estimate of \$1,234,500).
• 2014-424 - Memorandum of Agreement: Agreement that FHWA would deliver the project.
• 2015-052 - Funds Transfer Agreement: Agreement that County would provide revised contribution amount of \$224,480.
• 2016-616 - Funds Transfer Agreement Amendment No. 1: Amendment increasing County's contribution to \$257,937.50.
• 2019-188 - Funds Transfer Agreement Amendment No. 2: Amendment extended the contract completion date to December 31, 2022 to allow FHWA to complete project documentation and accounting

This Amendment No. 3 to the Funds Transfer Agreement extends the contract completion date to December 31, 2023 to allow FHWA to complete project documentation and accounting.

**BUDGET IMPACTS:**

None under this Amendment. Road Department staff anticipate that \$40,835.50 of the County's original match deposit will be returned to the County prior to December 31, 2023 due to cost savings on the project.

**ATTENDANCE:**

Cody Smith, County Engineer/Assistant Road Department Director



US Department of Transportation  
Federal Highway Administration

### Funds Transfer Agreement

Western Federal Lands Highway Division  
610 East Fifth Street  
Vancouver, WA 98661

November 18, 2022

Deschutes County

Providing Funding of \$0.00

Western Federal Lands Highway Division, FHWA Agreement #DTFH7015E00008 – Amendment 0003

**Project Number/Name:** OR PFH 46(13), Fall Creek Bridge Replacement

This agreement amendment is to document the change in expiration date. Deschutes County has provided through either electronic funds' transfer or by check, the total of \$257,937.50 to the Western Federal Lands Highway Division, FHWA for project work and/or a construction contract to eliminate load limits and debris accumulation on the Falls Creek Bridge on the Cascade Lakes Highway at MP 26.52.

The final cash match will be determined based on actual expenditures at the conclusion of project work. Matching cash funds in FHWA receipt may need to be supplemented, or returned, once actual expenditures are determined to meet the match requirements.

This agreement amendment extends the expiration date from December 31, 2022 to December 31,2023.

#### Fund Transfer Summary:

Phase	Form	Amount	Due	Received	FTA Number	Amend #	Comment
CN	Cash	\$224,480.00	1/1/2015	3/12/2015	DTFH7015E00008	Base	Match For CN,CE,CM
CN	Cash	\$33,457.50		11/17/2016	DTFH7015E00008	0001	Additional Match Funds
		\$0.00			DTFH7015E00008	0002	Extend period of performance
		\$0.00			DTFH7015E00008	0003	Extend period of performance
<b>Total:</b>		\$257,937.50					

The following is the Deschutes County's Finance Billing Information:	
UEI #	SVJRCF7JN519
Finance Contact	<u>Robert Tintle</u>
Finance Phone	<u>541-388-6559</u>
Finance E-mail	<u>Robert.tintle@deschutes.org</u>
Project Contact	<u>Cody Smith</u>
Project Contact Phone	<u>541-233-7113</u>
Project Contact E-mail	<u>Cody.smith@deschutes.org</u>
Street Address	61150 SE 27 <sup>th</sup> St, (Road Depart) 1300 NW Wall St, 2 <sup>nd</sup> Fl(Finance)
City, State, Zip	<u>Bend, OR 97701</u>

The following is Western Federal Lands Highway Division, FHWA's Finance Billing Information:	
UEI #	VEXVH31N33T1
DUNS#	<u>139768597</u>
Finance Contact	<u>Genise L. Dance</u>
Finance Phone	<u>360-619-7534</u>
Finance E-mail	<u>genise.dance@dot.gov</u>
Project Contact	<u>Miranda Lange</u>
Project Contact Phone	<u>360-619-7915</u>
Project Contact E-mail	<u>Miranda.lange@dot.gov</u>

**Expiration Date:** This Funds Transfer Agreement will expire on December 31,2023.

**Agreement Authority:** This agreement is entered into pursuant to the provisions of Title 23 U.S.C. 204.

The current authorized funding is **\$257,937.50**. In no case, shall **Deschutes County** or FHWA exceed this amount or extend the end date of the agreement without a mutually agreed upon written modification to this Agreement. All other terms and conditions remain unchanged.

\_\_\_\_\_  
Anthony DeBone, Deschutes County  
Commissioner, **Deschutes County**

Date

\_\_\_\_\_  
Namrata Battan, Contracting Officer  
**Western Federal Lands Highway Division, FHWA**

Date

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

A Proclamation Declaring April 2023 to be Child Abuse Prevention Month

PROCLAMATION

**WHEREAS**, there were over 4,800 reports of child abuse and neglect in Central Oregon last year; and

**WHEREAS**, we all have a responsibility, as individuals, neighbors, community members and citizens of Central Oregon to help create healthy, safe, nurturing experiences for children; and

**WHEREAS**, safe and healthy childhoods help produce confident and successful adults; and

**WHEREAS**, child abuse and neglect often occur when people find themselves in stressful situations, without community resources, and don't know how to cope; and

**WHEREAS**, the majority of child abuse and neglect cases stem from situations and conditions that are preventable with the support of an engaged community; and

**WHEREAS**, child abuse and neglect can be reduced by making sure that families have the support and access to services they need to raise their children in a healthy environment; and

**WHEREAS**; child abuse and neglect not only directly harm children, but the trauma can also increase the likelihood of criminal behavior, substance abuse, health problems such as heart disease and obesity, and poor academic outcomes; and

**WHEREAS**; effective prevention programs succeed because of partnerships among agencies, schools, faith communities, philanthropic and civic organizations, law enforcement agencies, and the business community;

**NOW, THEREFORE, BE IT RESOLVED** that the Deschutes County Board of Commissioners does hereby proclaim April 2023 to be Child Abuse Prevention Month in Deschutes County and we urge all citizens to work together to make sure every family has the support they need and deserve to raise their children in a healthy environment.

**DATED** this 5th Day of April 2023 by the Deschutes County Board of Commissioners.

\_\_\_\_\_  
Anthony DeBone, Chair

\_\_\_\_\_  
Patti Adair, Vice-Chair

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

ATTEST:

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





For Recording Stamp Only

BEFORE THE BOARD OF COMMISSIONERS OF DESCHUTES COUNTY, OREGON

**PROCLAMATION**  
**Declaring April 2023 as Fair Housing Month**

**WHEREAS**, The Fair Housing Act, enacted on April 11, 1968, enshrined into federal law the goal of eliminating racial segregation and ending housing discrimination in the United States; and

**WHEREAS**, The Fair Housing Act prohibits discrimination in housing based on race, color, religion, sex, familial status, national origin, and disability, and commits recipients of federal funding to affirmatively further fair housing in their communities; and

**WHEREAS**, Deschutes County is committed to the mission and intent of Congress to provide fair and equal housing opportunities for all; and

**WHEREAS**, Our social fabric, the economy, health, and environment are strengthened in diverse, inclusive communities; and

**WHEREAS**, More than fifty years after the passage of the Fair Housing Act, discrimination persists, and many communities remain segregated; and

**WHEREAS**, Acts of housing discrimination and barriers to equal housing opportunity are repugnant to a common sense of decency and fairness; and

**WHEREAS**, Deschutes County is an inclusive community committed to fair housing, and to promoting appropriate activities by private and public entities to provide and advocate for equal housing opportunities for all residents and prospective residents of Deschutes County.

**NOW THEREFORE BE IT RESOLVED** that the Board of County Commissioners does hereby declare the month of April 2023 as Fair Housing Month.

Dated this \_\_\_ day of \_\_\_\_\_ 2023 by the Deschutes County Board of Commissioners.

\_\_\_\_\_  
Anthony DeBone, Chair

\_\_\_\_\_  
Patti Adair, Vice Chair

\_\_\_\_\_  
Phil Chang, Commissioner

ATTEST:

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



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 5, 2023

**SUBJECT:** Public Hearing for a Plan Amendment and Zone Change to approximately 93 acres located east of Bend between Neff Road and Highway 20

**RECOMMENDED MOTION:**

The Hearings Officer recommends approval of file nos. 247-22-000313-ZC, 314-PA.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Board of Commissioners will conduct a public hearing on April 5, 2023 to consider a request for a Plan Amendment and Zone Change (file nos. 247-22-000313-ZC, 314-PA) for approximately 93 acres located east of Bend between Neff Road and Highway 20.

Additional background is included in the staff memorandum.

**BUDGET IMPACTS:**

None.

**ATTENDANCE:**

Nathaniel Miller, Associate Planner  
Jacob Ripper, Principal Planner



## MEMORANDUM

**TO:** Board of County Commissioners

**FROM:** Nathaniel Miller, AICP, Associate Planner

**DATE:** April 5, 2023

**SUBJECT:** Public Hearing for a Plan Amendment and Zone Change (File nos. 247-22-000313-ZC, 314-PA).

The Board of County Commissioners (“Board”) will conduct a Public Hearing on April 5, 2023, to consider a request for a Comprehensive Plan Amendment and Zone Change (File nos. 247-22-000313-ZC, 314-PA). The subject properties are located east of, and adjacent to, the City of Bend Urban Growth Boundary. Tax Lot 1200 and Tax Lot 1201 contain a combined area of approximately 93 acres. The properties are addressed as 62385 Hamby Road and 21480 Highway 20. A location map is included as **Attachment A**.

### I. BACKGROUND

The applicant and property owners, Te Amo Despacio LLC and CTH Investments LLC, requests approval of a Comprehensive Plan Map Amendment to change the designation of the subject property from Agricultural (AG) to Rural Residential Exception Area (RREA). The applicant also requests approval of a corresponding Zoning Map Amendment to change the zoning of the subject property from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA10). The applicant asks that Deschutes County change the zoning and the plan designation because the subject property does not qualify as “agricultural land” under Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OAR) definitions. Further, the Applicant argues that no exception to Statewide Planning Goal 3, Agricultural Land, is required because the subject property is not agricultural land.

The Applicant submitted a soil study, which was prepared by a certified soils scientist and soil classifier. The purpose of this soil study was to inventory and assess the soils on the subject property and to provide more detailed data on soil classifications and ratings than is contained in the NRCS soils maps. The soil study determined the subject property contains approximately 71 percent Land Capability Class 7 and 8 nonirrigated soils, which was primarily observed as shallow Gosney soils,

shallow Bakeoven soils, and rock outcroppings. According to the soil study, the subject property is comprised of soils that do not qualify as Agricultural Land<sup>1</sup>.

**II. PUBLIC COMMENTS**

Three written comments were submitted in advance of the Hearing Officer hearing on November 15, 2022. One comment questioned the approvability of the application, one was in opposition, and the other was in support of the proposal. No members of the public testified in opposition to, or in support of, the applications during the hearing.

The comment questioning the approvability of the application stated concerns of the Burden of Proof successfully meeting the applicable criteria. The comment did not include specific code references and no further comment was received.

**III. HEARINGS OFFICER RECOMMENDATION**

The Deschutes County Hearings Officer held a public hearing on November 15, 2022. The applicant’s legal representation provided testimony in the hearing.

On December 15, 2022, the Hearings Officer issued a recommendation of approval for the proposed Plan Amendment and Zone Change.

**IV. BOARD CONSIDERATION**

As the property includes lands designated for agricultural use, Deschutes County Code 22.28.030(C) requires the application to be heard *de novo* before the Board, regardless of the determination of the Hearings Officer. The record is available for inspection at the following link: <https://www.deschutes.org/cd/page/247-22-000313-zc-247-22-000314-pa-te-amo-despacio-llc-cth-investments-llc-properties>

**V. NEXT STEPS**

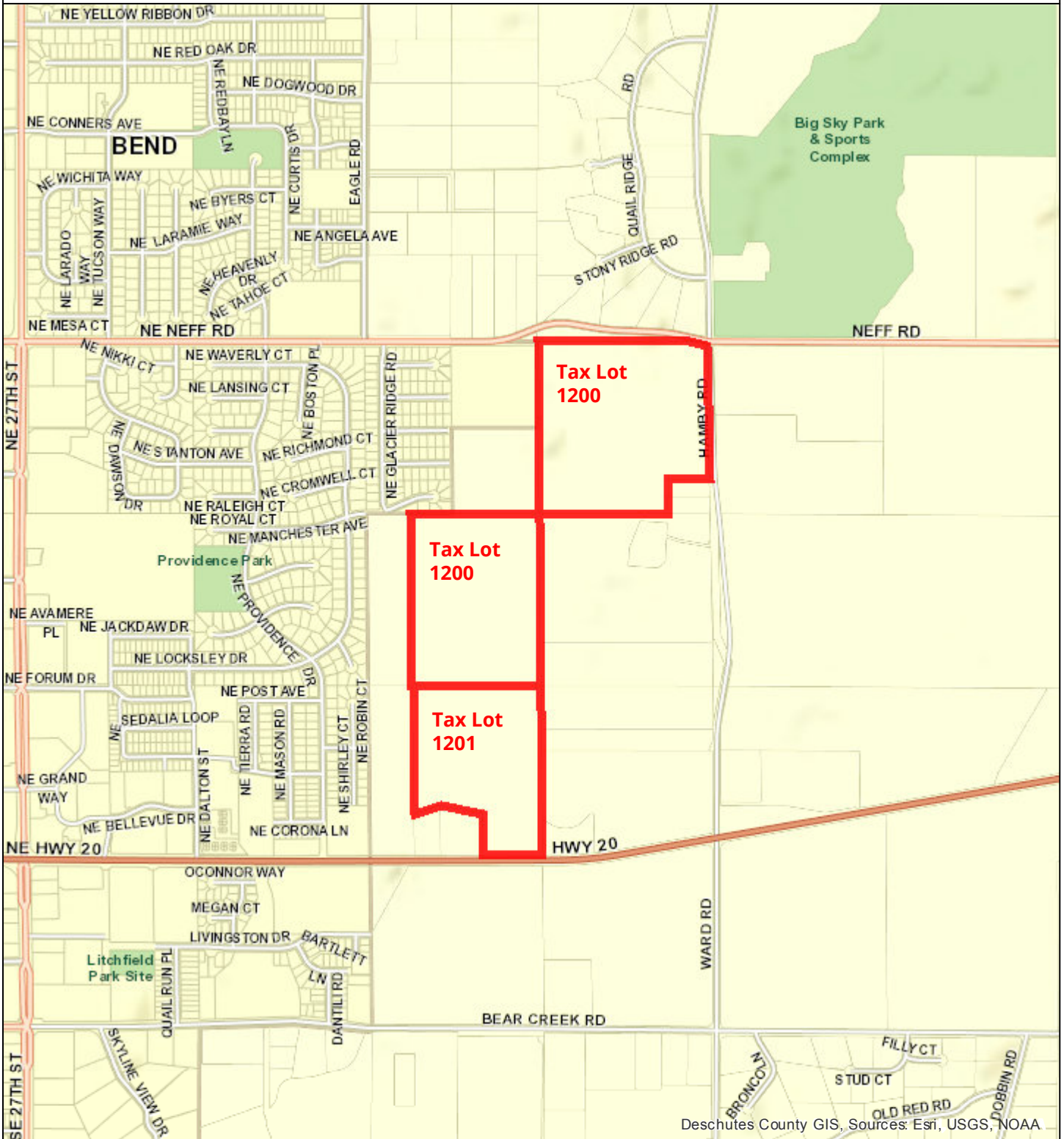
Based on direction received from the Board and testimony at the Public Hearing, Staff will prepare for deliberations.

- Attachment A:** Location Map
- Attachment B:** Surrounding Area Zoning Map
- Attachment C:** City of Bend Limits Map
- Attachment D:** Hearing Officer Recommendations

<sup>1</sup> The phrase ‘agricultural soils’ is defined in OAR 660-033-0020.

# File: 247-22-000313-ZC, 247-22-000314-PA

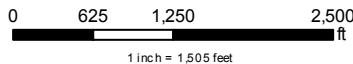
62385 Hamby Road, 21480 HWY 20



Deschutes County GIS, Sources: Esri, USGS, NOAA

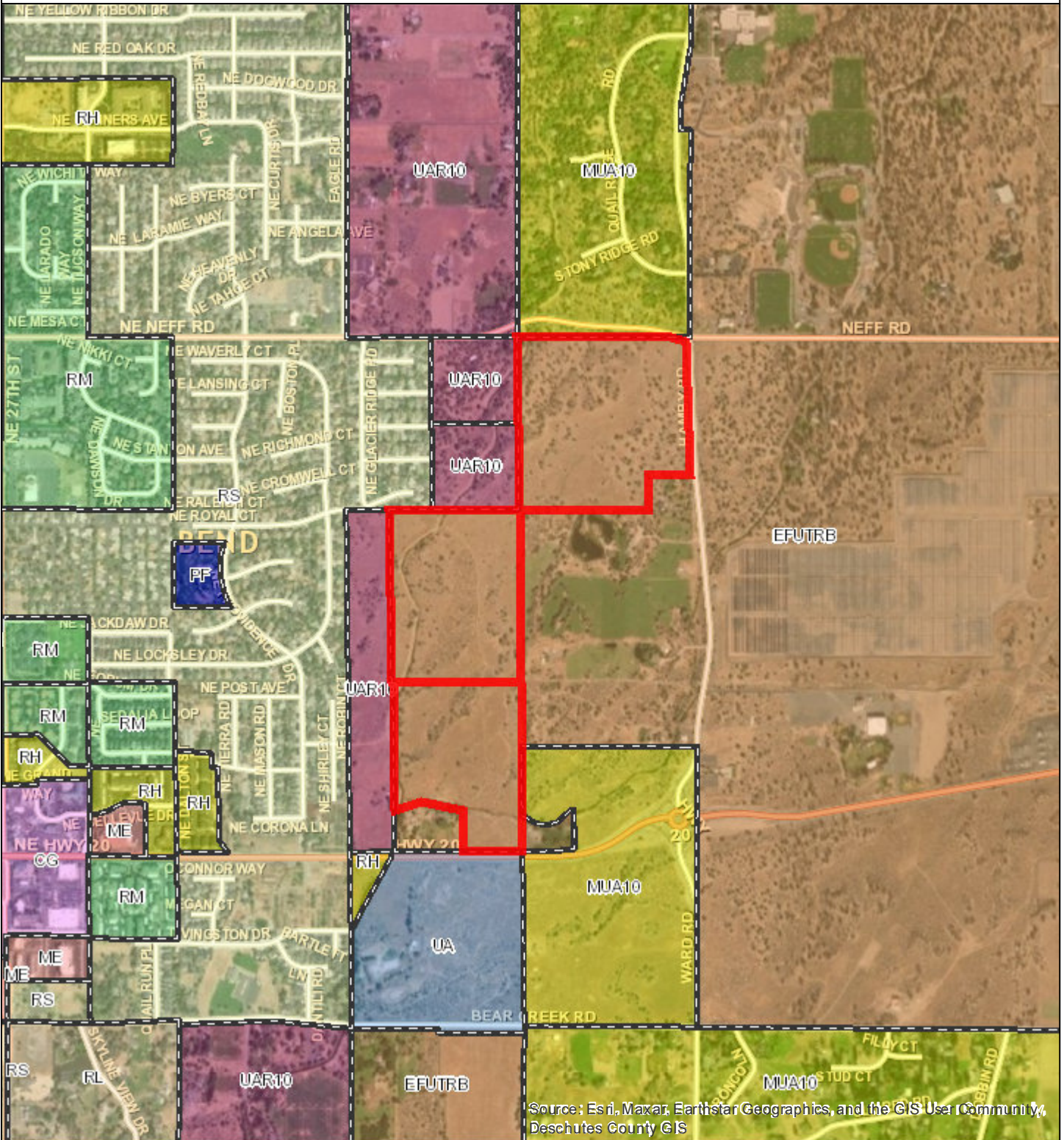


Date: 4/25/2022

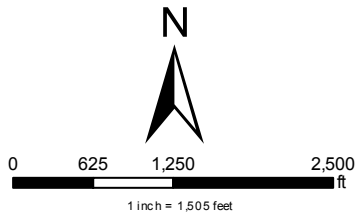


# 247-22-000313-ZC, 22-314-PA

## Surrounding Zoning

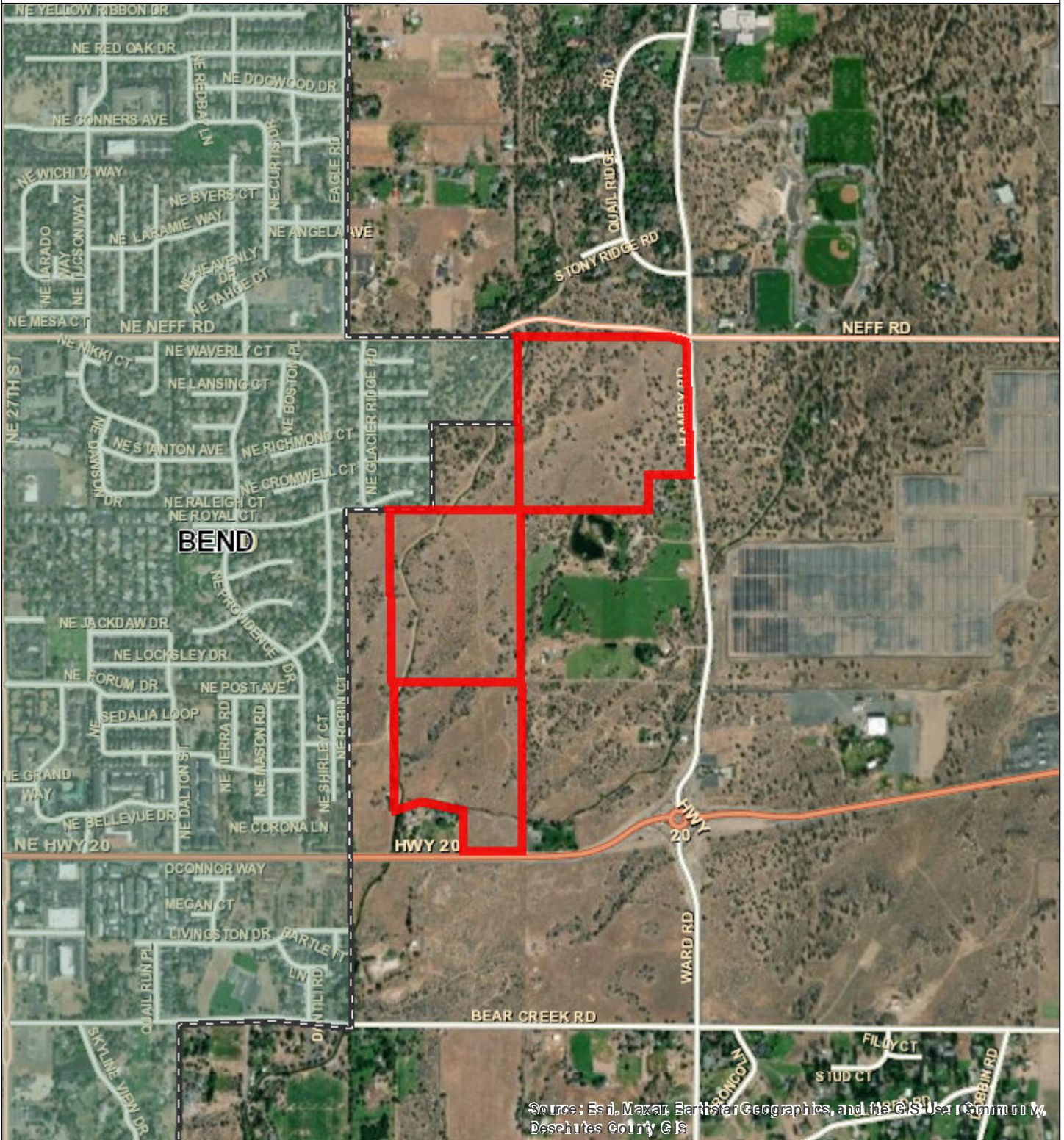


Date: 3/21/2023



# 247-22-000313-ZC, 22-314-PA

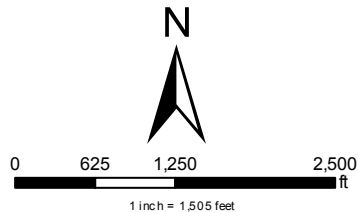
## City of Bend Limits



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



Date: 3/21/2023





**RECOMMENDATION AND FINDINGS OF  
THE DESCHUTES COUNTY HEARINGS OFFICER**

**FILE NUMBERS:** 247-22-000313-ZC, 247-22-000314-PA

**HEARING DATE:** November 15, 2022, 6:00 p.m.

**HEARING LOCATION:** Videoconference and  
Barnes & Sawyer Rooms  
Deschutes Services Center  
1300 NW Wall Street  
Bend, OR 97708

**APPLICANTS/OWNERS:** Te Amo Despacio, LLC and CTH Investments, LLC

**SUBJECT PROPERTIES:** Map and Taxlot: 1712350001200  
Account: 119020  
Situs Address: 62385 HAMBY RD, BEND, OR 97701

Map and Taxlot: 1712350001201  
Account: 119038  
Situs Address: 21480 HWY 20, BEND, OR 97701

**REQUEST:** Applicants request approval of a Comprehensive Plan Amendment to change the designation of the Subject Properties from Agricultural (AG) to Rural Residential Exception Area (RREA). Applicants also requests a corresponding Zone Change to rezone the Subject Properties from Exclusive Farm Use – Tumalo/ Redmond/ Bend subzone (EFU-TRB) to Multiple Use Agricultural (MUA-10).

**HEARINGS OFFICER:** Tommy A. Brooks

**SUMMARY OF RECOMMENDATION:** The Hearings Officer finds that the Applicants have met their burden of proof with respect to the requested Comprehensive Plan Amendment and Zone Change and, therefore, recommends APPROVAL of the Application based on the Findings set forth in this Recommendation.

**I. APPLICABLE STANDARDS AND CRITERIA**

Title 18 of the Deschutes County Code, the County Zoning Ordinance:  
Chapter 18.04, Title, Purpose, and Definitions  
Chapter 18.16, Exclusive Farm Use Zones (EFU)  
Chapter 18.32, Multiple Use Agricultural (MUA10).  
Chapter 18.136, Amendments

- Title 22, Deschutes County Development Procedures Ordinance
- Deschutes County Comprehensive Plan
  - Chapter 2, Resource Management
  - Chapter 3, Rural Growth Management
    - Appendix C, Transportation System Plan
- Oregon Administrative Rules (OAR), Chapter 660
  - Division 12, Transportation Planning
  - Division 15, Statewide Planning Goals and Guidelines
  - Division 33, Agricultural Land
- Oregon Revised Statutes (ORS)
  - Chapter 215.010, Definitions
  - Chapter 215.211, Agricultural Land, Detailed Soils Assessment

**II. BACKGROUND AND PROCEDURAL FINDINGS**

A. Nature of Proceeding

This matter comes before the Hearings Officer as a request for approval of a Comprehensive Plan Map Amendment (“Plan Amendment”) to change the designation of the Subject Properties from Agricultural (AG) to Rural Residential Exception Area (RREA). The Applicants also request approval of a corresponding Zoning Map Amendment (“Zone Change”) to change the zoning of the Subject Properties from Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA10). The basis of the request in the Application is the Applicants’ assertion that the Subject Properties do not qualify as “agricultural land” under the applicable provisions of the Oregon Revised Statutes or Oregon Administrative Rules governing agricultural land. Based on that assertion, the Applicants are not seeking an exception to Statewide Planning Goal 3 for the Plan Amendment or Zone Change.

B. Notices and Hearing

The Application was filed on April 14, 2022. On April 27, 2022, the County issued a Notice of Application to several public agencies and to property owners in the vicinity of the Subject Properties (together, “Application Notice”). The Application Notice invited comments on the Application.

Following additional submittals by the Applicants, the County mailed a Notice of Public Hearing on October 7, 2022 (“Hearing Notice”) announcing an evidentiary hearing (“Hearing”) for the requests in the Application. Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on November 15, 2022, opening the Hearing at 6:03 p.m. The Hearing was held via videoconference, with Staff and a representative of the Applicants in the hearing room. The Hearings Officer appeared remotely. On October 7, 2022, the Deschutes County Planning Division (“Staff”) issued a report setting forth the applicable criteria and presenting the evidence in the record at that time (“Staff Report”).<sup>1</sup>

<sup>1</sup> The Staff Report is styled “Findings and Decision”. During the Hearing, it was acknowledged that the Staff Report was not a decision and, rather, was Staff’s summary of the record as applied to the criteria.

At the beginning of the Hearing, I provided an overview of the quasi-judicial process and instructed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. I stated I had no *ex parte* contacts to disclose or bias to declare. I asked for but received no objections to the County’s jurisdiction over the matter or to my participation as the Hearings Officer.

No participant requested that the record remain open. The Hearing concluded at approximately 6:36 p.m. At that time, I closed the Hearing and the record, and I took this matter under advisement.

C. 150-day Clock

Because the Application includes a request for the Plan Amendment, the 150-day review period set forth in ORS 215.427(1) is not applicable.<sup>2</sup> The Staff Report also notes that the 150-day review period is not applicable by virtue of Deschutes County Code (“DCC” or “Code”) 22.20.040(D). No participant to the proceeding disputed that conclusion.

**III. SUBSTANTIVE FINDINGS AND CONCLUSIONS**

A. Adoption of Factual Findings in Staff Report

The Staff Report contains a comprehensive summary of evidence in the record as it relates to each of the applicable criteria. The Staff Report, although it expresses agreement with the Applicants in many places, does not make a final recommendation. Instead, the Staff Report asks the Hearings Officer to determine if the Applicants have met the burden of proof necessary to justify the Plan Amendment and the Zone Change. That being said, no participant challenged the specific evidence or findings presented in the Staff Report. As a result, I hereby adopt as fact the evidentiary findings in the Staff Report as my evidentiary findings. To the extent any of the findings in this Recommendation conflict with the findings in the Staff Report, my intent is to have these findings control. The remainder of this Recommendation sets forth the legal criteria and adopts legal findings based on those factual findings.

B. Legal Findings

The legal criteria applicable to the requested Plan Amendment and Zone Change were set forth in the Application Notice and also appear in the Staff Report. No participant to this proceeding asserted that those criteria do not apply, or that other criteria are applicable. This Recommendation therefore addresses each of those criteria, as set forth below.

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<sup>2</sup> ORS 215.427(7).

1. Title 18 of the Deschutes County Code, County Zoning

Section 18.136.010, Amendments

*DCC Title 18 may be amended as set forth in DCC 18.136. The procedures for text or legislative map changes shall be as set forth in DCC 22.12. A request by a property owner for a quasi-judicial map amendment shall be accomplished by filing an application on forms provided by the Planning Department and shall be subject to applicable procedures of DCC Title 22.*

**FINDING:** The Applicants are the owners of the Subject Properties and have requested a quasi-judicial Plan Amendment and filed applications for that purpose, together with the request for a Zone Change. No participant to this proceeding objects to this process. It is therefore appropriate to review the Application using the applicable procedures contained in Title 22 of the Deschutes County Code.

Section 18.136.020, Rezoning Standards

*The applicant for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property. Factors to be demonstrated by the applicant are:*

- A. *That the change conforms with the Comprehensive Plan, and the change is consistent with the plan's introductory statement and goals.*

**FINDING:** According to the Applicants, the County applies this Code provision by considering whether: (1) the Zone Change conforms to the Comprehensive Plan; and (2) the change is consistent with the Comprehensive Plan’s introduction statement and goals.

With respect to the first factor, the Applicants note that they are also seeking a Plan Amendment, which will change the Comprehensive Plan designation of the Subject Properties from Agriculture to Rural Residential Exception Area. If that Plan Amendment is approved, which is addressed in more detail below, the proposed change from the EFU-TRB zone to the MUA-10 zone will be consistent with the new Comprehensive Plan designation. No participant to this proceeding disputes that conclusion.

With respect to the second factor, the Applicants note that introductory statements and goals in the Comprehensive Plan are not approval criteria, and no participant to this proceeding asserts otherwise. Instead, the Applicants identify several Comprehensive Plan policies and goals and analyzes whether the Application is consistent with those policies and goals. Those policies and goals are set forth in more detail below, and the findings in that section are adopted here in full by this reference.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that this Code provision is satisfied.

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B. *That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.*

**FINDING:** Only the Applicants and Staff offer any evidence or argument with respect to the purpose of the MUA-10 zone. The purpose of the MUA-10 zoning district is stated in DCC 18.32.010 as follows:

The purposes of the Multiple Use Agricultural Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area; to preserve and maintain agricultural lands not suited to full-time commercial farming for diversified or part-time agricultural uses; to conserve forest lands for forest uses; to conserve open spaces and protect natural and scenic resources; to maintain and improve the quality of the air, water and land resources of the County; to establish standards and procedures for the use of those lands designated unsuitable for intense development by the Comprehensive Plan, and to provide for an orderly and efficient transition from rural to urban land use.

According to the Applicants, the Subject Properties are not suited to full-time commercial farming. The MUA-10 zone will instead allow the owners to engage in hobby farming, and the low-density of development allowed by the MUA-10 zone will conserve open spaces and protect natural and scenic resources. As a result, the MUA-10 zoning provides a proper transition zone from city, to rural, to EFU zoning. The Staff Report agrees that the change in classification is consistent with the purpose and intent of the MUA10 Zone, and no participant to this proceeding disputes that conclusion.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that this Code provision is satisfied.

C. *That changing the zoning will presently serve the public health, safety and welfare considering the following factors:*

1. *The availability and efficiency of providing necessary public services and facilities.*

**FINDING:** As noted in the Staff Report, this criterion specifically asks if the Zone Change will *presently* serve public health, safety, and welfare. The Applicants and the Staff Report provided the following as support for why this criterion is met:

- Necessary public facilities and services are available to serve the Subject Properties.
- Transportation access to the Subject Properties is available, and the impact of increased traffic on the transportation system is negligible.
- The Subject Properties receive police services from the Deschutes County Sheriff and fire service from Rural Fire Protection District # 2, which has a fire station adjacent to the northeast corner of the Subject Properties.
- There are no known deficiencies in public services or facilities that would negatively impact public health, safety, or welfare.

- The close proximity of the Subject Properties to urban development will allow for efficient service provision.
- Prior to development of the properties, the Applicants would be required to comply with the applicable requirements of the Code, including possible land use permit, building permit, and sewage disposal permit processes. Through these development review processes, assurance of adequate public services and facilities will be verified.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that this Code provision is satisfied.

2. *The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.*

**FINDING:** Only the Applicants and Staff offer any evidence or argument with respect to this criterion. Specifically, the Applicants noted the following:

The MUA-10 zoning is consistent with the specific goals and policies in the comprehensive plan discussed above. The MUA-10 zoning is the same as the zoning of many other properties in the area north and south of the subject property. In addition, the MUA-10 zoning provides a proper transition zone from City, to rural zoning, to EFU zoning. The zone change will not impose new impacts on the EFU- zoned land to the east of the subject property because those properties are not engaged in commercial farm use, are idle, are small parcels, and most are developed with dwellings. The three EFU-zoned parcels to the east which are currently receiving farm tax deferral will not suffer new impacts from the proposed zone change because they are hobby farms, are already developed with dwellings, and are not engaged in commercial farm use. As discussed below, the subject property is not agricultural land, is comprised of predominantly Class 7 and 8 soils, and as described by the soil scientist, Andy Gallagher, the subject property is impractical to farm due to the cut up landscape. It is not land that could be used in conjunction with the adjacent property and any future development of the subject property would be subject to building setbacks.

The Staff Report agrees that the Applicants have demonstrated the impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that this Code provision is satisfied.

*D. That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question.*

**FINDING:** Only the Applicants offer any evidence or argument with respect to this criterion. According to the Applicants, a mistake in zoning was made and the EFU zoning designation on the Subject Properties

was likely based on the best soils data that was available to the County at the time it was originally zoned, during the late 1970's, when the Comprehensive Plan and Map were first adopted. The EFU designation was applied even though there was no history of farming on the Subject Properties. The Applicants also assert that there has been a change in circumstances since that time. Specifically, the Applicants note that there are new data regarding soils on the Subject Properties and that the updated soils report shows the Subject Properties do not have agricultural soils. The Applicants also assert that the economics of farming and the viability of commercial farm uses in Deschutes County have significantly changed, and farming for a profit has become increasingly difficult, particularly on parcels that are relatively small for livestock grazing and that have inadequate soils or irrigation for raising crops such as the Subject Properties.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that this Code provision is satisfied.

*2. Deschutes County Comprehensive Plan Goals and Policies*

Chapter 2 of the Comprehensive Plan relates to Resource Management. Section 2.2 of that Chapter relates specifically to Agricultural Lands. The Applicants and Staff have identified the following goals and policies as relevant to the Application.

*Goal 1, Preserve and maintain agricultural lands and the agricultural industry.*

**FINDING:** According to the Applicants, they are pursuing the Plan Amendment and Zone Change because the Subject Properties do not constitute "agricultural lands", and therefore, it is not necessary to preserve or maintain the Subject Properties as such. In support of that conclusion, the Applicants rely on a soils report showing the Subject Properties consist predominantly (73%) of Class 7 and 8 non-agricultural soils. Such soils have severe limitations for agricultural use as well as low soil fertility, shallow and very shallow soils, abundant rock outcrops, low available water capacity, and major management limitations for livestock grazing.

The Staff Report notes the Subject Properties have no history of agricultural use and lack water rights.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.

*Policy 2.2.2 Exclusive Farm Use sub-zones shall remain as described in the 1992 Farm Study and shown in the table below, unless adequate legal findings for amending the sub-zones are adopted or an individual parcel is rezoned as allowed by Policy 2.2.3.*

**FINDING:** The Applicants have not asked to amend the subzone that applies to the Subject Properties. Instead, the Applicants requested a change under Policy 2.2.3 and have provided evidence to support rezoning the subject properties as MUA-10.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.

*Policy 2.2.3 Allow comprehensive plan and zoning map amendments, including for those that qualify as non-resource land, for individual EFU parcels as allowed by State Statute, Oregon Administrative Rules and this Comprehensive Plan.*

**FINDING:** The Applicants request approval of the Plan Amendment and Zone Change to re-designate the Subject Properties from Agricultural to Rural Residential Exception Area and rezone the Subject Properties from EFU to MUA-10. The Applicants do not seek an exception to Goal 3 for that purpose, but rather seek to demonstrate that the Subject Properties do not meet the state definition of “Agricultural Land” as defined in Statewide Planning Goal 3 (OAR 660-033-0020).

In support of this approach, the Applicants rely in part on the Land Use Board of Appeals’ decision in *Wetherell v. Douglas County*, 52 Or LUBA 677 (2006), where LUBA states as follows:

As we explained in *DLCD v. Klamath County*, 16 Or LUBA 817, 820 (1988), there are two ways a county can justify a decision to allow nonresource use of land previously designated and zoned for farm use or forest uses. One is to take an exception to Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands). The other is to adopt findings which demonstrate the land does not qualify either as forest lands or agricultural lands under the statewide planning goals. When a county pursues the latter option, it must demonstrate that despite the prior resource plan and zoning designation, neither Goal 3 or Goal 4 applies to the property.

The Applicants assert that the facts presented in the Application are sufficiently similar to those in the *Wetherall* decision and in other Deschutes County plan amendment and zone change applications. The Staff Report agrees and concludes the Applicants have the potential to prove the Subject Properties are not agricultural land and do not require an exception to Goal 3 under state law.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.

*Policy 2.2.4 Develop comprehensive policy criteria and code to provide clarity on when and how EFU parcels can be converted to other designations.*

**FINDING:** The Applicants assert this plan policy provides direction to Deschutes County to develop new policies to provide clarity when EFU parcels can be converted to other designations and that the Application is consistent with this policy. The Staff Report also concludes the proposal is consistent with this policy.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.



*Goal 3, Ensure Exclusive Farm Use policies, classifications and codes are consistent with local and emerging agricultural conditions and markets.*

*Policy 2.2.13 Identify and retain accurately designated agricultural lands.*

**FINDING:** The Applicants assert that this Comprehensive Plan policy requires the County to identify and retain agricultural lands that are accurately designated. The Applicants propose that the Subject Properties were not accurately designated as demonstrated by the soil study in the record.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.

\* \* \*

Section 2.5 of Comprehensive Plan Chapter 2 relates specifically to Water Resource Policies. The Applicants and Staff have identified the following goal and policy in that section as relevant to the Application.

*Goal 6, Coordinate land use and water policies.*

*Policy 2.5.24 Ensure water impacts are reviewed and, if necessary, addressed for significant land uses or developments.*

**FINDING:** The Applicants and Staff assert that the Applicants are not required to address water impacts associated with development because they have not proposed a specific development application at this time. Instead, the Applicants will be required to address this criterion during development of the Subject Properties, which would be reviewed under any necessary land use process for the site.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.

\* \* \*

Section 2.7 of Comprehensive Plan Chapter 2 relates specifically to Open Spaces, Scenic Views and Sites. The Applicants and Staff have identified the following goal and policies in that section as relevant to the Application.

*Goal 1, Coordinate with property owners to ensure protection of significant open spaces and scenic view and sites.*

*Policy 2.7.3 Support efforts to identify and protect significant open spaces and visually important areas including those that provide a visual separation between communities such as the open spaces of Bend and Redmond or lands that are visually prominent.*

*Policy 2.7.5 Encourage new development to be sensitive to scenic views and sites.*

**FINDING:** The Applicants assert these policies are fulfilled by the County’s Goal 5 program. The County protects scenic views and sites along major rivers and roadways by imposing Landscape Management (LM) Combining Zones to adjacent properties. Because there is no LM combining zone applicable to the Subject Properties, the Subject Properties are not identified as a Goal 5 resource, and no new development is proposed, the Applicants argue there is no applicable regulation that requires the Subject Properties to be protected as open space or for scenic views.

The Staff Report notes that the Subject Properties are within the Landscape Management Combining Zone for Highway 20, which is designated as landscape management feature by the Comprehensive Plan. However, the Staff Report finds that any future development within the LM Zone will be reviewed for compliance at that time.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.

\* \* \*

Chapter 3 of the Comprehensive Plan relates to Rural Growth. Within that chapter, Section 3.2 relates specifically to Rural Development. The Applicants and Staff have identified the following language in that section as relevant to the Application.

*Growth Potential*

*As of 2010, the strong population growth of the last decade in Deschutes County was thought to have leveled off due to the economic recession. Besides flatter growth patterns, changes to State regulations opened up additional opportunities for new rural development. The following list identifies general categories for creating new residential lots, all of which are subject to specific State regulations.*

- *2009 legislation permits a new analysis of agricultural designated lands*
- *Exceptions can be granted from the Statewide Planning Goals*
- *Some farm lands with poor soils that are adjacent to rural residential uses can be rezoned as rural residential*

**FINDING:** According to the Applicants, this portion of the Comprehensive Plan anticipates the need for additional rural residential lots as the region continues to grow. This includes providing a mechanism to rezone farm lands with poor soils to a rural residential zoning designation. While the Applicants do not seek the creation of new residential lots in the Application, they assert the Subject Properties can ultimately support that goal, as they will provide for an orderly and efficient transition from the Bend Urban Growth Boundary to rural and agricultural lands. The Applicants also assert the Subject Properties, as rezoned, will link the pocket of MUA-10 zoned land to the north with the MUA-10 zoned land to the south, furthering the creation a buffer of MUA-10 zoned land along the City’s eastern boundary where the quality of soils are poor and the land is not conducive for commercial agriculture.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.

\* \* \*

Section 3.3 of Comprehensive Plan Chapter 3 relates specifically to Rural Housing. The Applicants and Staff have identified the following language in that section as relevant to the Application.

*Rural Residential Exception Areas*

*In Deschutes County most rural lands are designated for farms, forests or other resources and protected as described in the Resource Management chapter of this Plan. The majority of the land not recognized as resource lands or Unincorporated Community is designated Rural Residential Exception Area. The County had to follow a process under Statewide Goal 2 to explain why these lands did not warrant farm or forest zoning. The major determinant was that many of these lands were platted for residential use before Statewide Planning was adopted.*

*In 1979 the County assessed that there were over 17,000 undeveloped Rural Residential Exception Area parcels, enough to meet anticipated demand for new rural housing. As of 2010 any new Rural Residential Exception Areas need to be justified through initiating a nonresource plan amendment and zone change by demonstrating the property does not meet the definition of agricultural or forest land, or taking exceptions to farm, forest, public facilities and services and urbanization regulations, and follow guidelines set out in the OAR.*

**FINDING:** According to the Applicants, prior Hearings Officer’s decisions have found that Section 3.3 is not a plan policy or directive. Further, the Applicants state that no Exception to Statewide Planning Goal 3 is required for the rezone application because the Subject Properties do not qualify as farm or forest zoning or agricultural lands under the statewide planning goals. The Applicants believe the County has interpreted the Rural Residential Exception Area (RREA) plan designation as the proper “catchall” designation for non-resource land and, therefore, the RREA plan designation is the appropriate plan designation to apply to the Subject Properties.

The Staff Report agrees that this Comprehensive Plan language is not a policy and does not require an Exception to Goal 3. The Staff Report also agrees the proposed RREA plan designation is the appropriate plan designation to apply to the Subject Properties.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.

\* \* \*

Section 3.7 of Comprehensive Plan Chapter 3 relates specifically to Transportation. The Applicants and Staff have identified the following goal and policy in that section as relevant to the Application.

*Appendix C – Transportation System Plan  
ARTERIAL AND COLLECTOR ROAD PLAN*

...

*Goal 4. Establish a transportation system, supportive of a geographically distributed and diversified economic base, while also providing a safe, efficient network for residential mobility and tourism.*

...

*Policy 4.4 Deschutes County shall consider roadway function, classification and capacity as criteria for plan map amendments and zone changes. This shall assure that proposed land uses do not exceed the planned capacity of the transportation system.*

**FINDING:** The Applicants and the Staff Report asserts this policy advises the County to consider the roadway function, classification and capacity as criteria for Comprehensive Plan amendments and zone changes. Compliance with OAR 660-012, also known as the Transportation Planning Rule (TPR), is described below in subsequent findings, and the Applicants and Staff assert that such compliance is sufficient to demonstrate compliance with these transportation goals and policies.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this portion of the Comprehensive Plan.

*3. Oregon Administrative Rules*

The Applicants and the Staff Report identify several administrative rules as potentially applicable to the Application. No other participant in this proceeding identified other applicable rules.<sup>3</sup>

*OAR 660-006-0005*

- (7) *“Forest lands” as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:*
  - (a) *Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and*
  - (b) *Other forested lands that maintain soil, air, water and fish and wildlife resources.*

**FINDING:** The Applicants and the Staff Report assert that the Subject Properties do not appear to qualify as forest land and, therefore, the administrative rules relating to forest land are not applicable. The Subject Properties are not zoned for forest lands, nor are any of the Subject Properties within a 4-mile radius of forest lands. The Subject Properties do not contain merchantable tree species and there is no evidence in the record that the Subject Properties have been employed for forestry uses historically.

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<sup>3</sup> Some administrative rules the Applicants address, or which appear in the Staff Report, have been omitted from this Recommendation where the rule does not expressly impose an approval criterion.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with these administrative rules.

OAR 660-033-0020

*For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals, and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:*

*(1)(a) "Agricultural Land" as defined in Goal 3 includes:*

- (A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;*

**FINDING:** The Applicants’ proposed Plan Amendment and Zone Change is premised on its assertion that Subject Properties are not defined as “Agricultural Land.” The Applicants specifically argue that the Subject Properties are not properly classified as Agricultural Land and therefore do not merit protection under Goal 3. As noted in earlier findings, the soils are predominately Class 7 and 8 soils that have severe limitations for farm use.

The Staff Report agrees with the Applicants’ representation of the soil data for the Subject Properties and that the Subject Properties do not constitute “Agricultural Lands” as defined in OAR 660-033-0020(1)(a)(A).

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Subject Properties should not be considered agricultural land under this part of the administrative rules.

- (B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and*

**FINDING:** According to the Applicants, this part of the definition of "Agricultural Land" requires the County to consider whether the Class 7 and 8 soils found on the Subject Properties are suitable for farm use despite their Class 7 and 8 soil classification. The Applicants rely on a decision by the Oregon Supreme Court that determined the term "farm use" as used in this rule and Goal 3 means the current employment of land for the primary purpose of obtaining a profit in money through specific farming-related endeavors.<sup>4</sup> Applying that definition, the Applicants describe various limitations on the ability of the Subject Properties to support farm uses, including, among other factors, a lack of water rights and low soil fertility.

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<sup>4</sup> *Wetherell v. Douglas County*, 342 Or 666, 160 P3d 614 (2007).

The Staff Report agrees with the Applicants that many factors – such as the current residential land uses in the area, soil fertility, and amount of irrigation required – result in a relatively low possibility of farming on the Subject Properties.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Subject Properties should not be considered agricultural land under this part of the administrative rules.

*(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.*

**FINDING:** According to the Applicants, the Subject Properties are not land necessary to permit farm practices to be undertaken on adjacent or nearby lands. The nearest properties to the Subject Properties that are agriculturally zoned and engaged in farm use are located across Hamby Road to the east on tax lots 17-12-35-1300, 17-12-35-1301, and 17-12-35-1403, and an MUA-10 zoned parcel planned for urbanization and upon which ODOT is currently constructing a highway roundabout is located in between the Subject Properties and these EFU parcels. The Applicants analyzed those properties and concluded the Subject Properties are not necessary to permit farm practices to be undertaken on those properties.

The Staff Report concurs with the Applicants’ analysis and finds no feasible way that the Subject Properties are necessary for the purposes of permitting farm practices on any nearby parcels.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Subject Properties should not be considered agricultural land under this part of the administrative rules.

*(1)(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;*

**FINDING:** According to the Applicants, the Subject Properties are not part of a farm unit that includes other lands not currently owned by the Applicants. The Subject Properties have no history of farm use and contain soils that make them unsuitable for farm use. Therefore, there is no basis to inventory the Subject Properties as agricultural land.

The record indicates the Subject Properties contain land in capability classes other than I-VI that is adjacent to or intermingled with lands in capability classes I-VI.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Subject Properties should not be considered agricultural land under this part of the administrative rules.

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OAR 660-033-0030

- (1) *All land defined as "agricultural land" in OAR 660-033-0020(1) shall be inventoried as agricultural land.*
- (2) *When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is "suitable for farm use" requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-033-0020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands". A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in 660-033-0020(1).*

**FINDING:** As noted above, this Recommendation finds that the Subject Properties do not qualify as agricultural land as defined by administrative rule, and they are not suitable for farming. Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the administrative rules do not require the Subject Properties to be inventoried as agricultural land.

- (3) *Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either "suitable for farm use" or "necessary to permit farm practices to be undertaken on adjacent or nearby lands" outside the lot or parcel.*

**FINDING:** As concluded in other findings above, the Subject Properties are not suitable for farm use and are not necessary to permit farm practices to be undertaken on adjacent or nearby lands. The ownership of the Subject Properties is therefore not being used as a factor to determine whether the Subject Properties are agricultural land.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this part of the administrative rules.

- (5)(a) *More detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the NRCS land capability classification system.*
- (5)(b) *If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS as of January 2, 2012, would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request*

*that the department arrange for an assessment of the capability of the land by a professional soil classifier who is chosen by the person, using the process described in OAR 660-033-0045.*

**FINDING:** The Applicants have elected to provide a more detailed agricultural soil assessment, conducted by Andy Gallagher, a Certified Professional Soil Scientist approved by the Department of Land Conservation and Development. No participant to this proceeding disputes the information provided in that report or otherwise objects to the use of the date in that report. Based on the undisputed facts in that report, the Subject Properties do not qualify as “agricultural land.”

(c) *This section and OAR 660-033-0045 apply to:*

(A) *A change to the designation of land planned and zoned for exclusive farm use, forest use or mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is not agricultural land; and*

**FINDING:** I find that this administrative rule does not establish a particular standard and simply confirms when this section of the administrative rules applies.

(d) *This section and OAR 660-033-0045 implement ORS 215.211, effective on October 1, 2011. After this date, only those soils assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.*

**FINDING:** The Applicants submitted a soil study dated March 15, 2022. The soils study was submitted following the ORS 215.211 effective date. The Staff Report notes that Staff received acknowledgement from Hilary Foote, Farm/Forest Specialist with the DLCDC, on May 5, 2022, that the soil study is complete and consistent with DLCDC’s reporting requirements. The Staff Report therefore finds this criterion to be met based on the submitted soil study, and confirmation of completeness and consistency from DLCDC.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application is consistent with this part of the administrative rules.

OAR 660-012-0060

(1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*



- (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
- (b) *Change standards implementing a functional classification system; or*
- (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
  - (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
  - (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
  - (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

**FINDING:** This administrative rule is applicable to the Plan Amendment and the Zone Change because they involve an amendment to an acknowledged comprehensive plan. The Applicants assert that the zone change will not result in a significant effect to the transportation system. In support of that assertion, the Applicants submitted a transportation impact analysis memorandum dated March 22, 2022, prepared by traffic engineer, Joe Bessman, PE, which is later supplemented. No participant to this proceeding disputed the information in the impact analysis or otherwise objected to the use of that information.

The County Transportation Planner agreed with the report’s conclusions, as supplemented. As a result, the Staff Report finds that the Plan Amendment and Zone Change will be consistent with the identified function, capacity, and performance standards of the County’s transportation facilities in the area. The Staff Report also concluded the proposed zone change will not change the functional classification of any existing or planned transportation facilities or change the standards implementing a functional classification system.

Based on the foregoing, and in the absence of any countervailing evidence or argument, I find that the Application satisfies this administrative rule.

Statewide Planning Goals and Guidelines

Division 15 of OAR chapter 660 sets forth the Statewide Planning Goals and Guidelines, with which all comprehensive plan amendments must demonstrate compliance. The Applicants assert the Application is consistent with all applicable Goals and Guidelines, which no participant to this proceeding disputes. In light of the foregoing, and in the absence of any counter evidence or argument, I adopt the Applicants’ position and find that the Plan Amendment and Zone Change are consistent with the applicable Goals and Guidelines as follows:

**Goal 1, Citizen Involvement.** Deschutes County will provide notice of the application to the public through mailed notice to affected property owners and by requiring the Applicants to post a "proposed land use action sign" on the Subject Properties. Notice of the Hearings held regarding this application was placed in the Bend Bulletin. A minimum of two public hearings will be held to consider the Application.

**Goal 2, Land Use Planning.** Goals, policies and processes related to zone change applications are included in the Deschutes County Comprehensive Plan and Titles 18 and 23 of the Deschutes County Code. The outcome of the Application will be based on findings of fact and conclusions of law related to the applicable provisions of those laws as required by Goal 2.

**Goal 3, Agricultural Lands.** The Applicants have shown that the Subject Properties are not agricultural land because they consists predominantly of Class 7 and 8 soils that are not suitable for farm use.

**Goal 4, Forest Lands.** Goal 4 is not applicable because the Subject Properties do not include any lands that are zoned for, or that support, forest uses.

**Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces.** Deschutes County DIAL property information and Interactive Map show the Subject Properties have “wetlands” that correspond with Central Oregon Irrigation District’s irrigation distribution system within the Subject Properties. According to the Comprehensive Plan (Chapters 2, Resource Management and 5, Supplemental Sections), in 1992 Deschutes County Ordinance 92-045 adopted all wetlands identified on the U. S. Fish and Wildlife Service National Wetland Inventory (NWI) Maps as the Deschutes County wetland inventory. In addition, as described in the Comprehensive Plan, the NWI Map “shows an inventory of wetlands based on high-altitude aerial photos and limited field work. While the NWI can be useful for many resource management and planning purposes, its small scale, accuracy limitations, errors of omission that range up to 55 percent (existing wetlands not shown on NWI), age (1980s), and absence of property boundaries make it unsuitable for parcel-based decision making.”

The Comprehensive Plan has no specific protections for wetlands; protections are provided by ordinances that implement Goal 5 protections (for example, fill and removal zoning code regulations). In the case of irrigation district performing work within wetlands, DCC 18.120.050(C) regarding fill and removal exceptions allows fill and removal activities as a use permitted outright.

Because the Plan Amendment and Zone Change are not development, there is no impact to any Goal 5 resource. Any potential future development of a wetland – no matter what zone the wetland is in – will be subject to review by the County’s fill and removal regulations.

**Goal 6, Air, Water, and Land Resources Quality.** The approval of this Application will not impact the quality of the air, water, and land resources of the County. Any future development of the Subject Properties will be subject to applicable local, state, and federal regulations that protect these resources.

**Goal 7, Areas Subject to Natural Disasters and Hazards.** According to the Deschutes County DIAL property information and Interactive Map, the entirety of Deschutes County, including the Subject Properties, is located in a Wildfire Hazard Area. The Subject Properties are also located in Rural Fire Protection District #2. Rezoning the property to MUA-10 does not change the Wildfire Hazard Area designation. Any future development of the Subject Properties would need to demonstrate compliance with any fire protection regulations and requirements of Deschutes County.

**Goal 8, Recreational Needs.** This goal is not applicable because no development is proposed and the Subject Properties are not planned to meet the recreational needs of Deschutes County. Therefore, the proposed rezone will not impact the recreational needs of Deschutes County.

**Goal 9, Economy of the State.** This goal is not applicable because the Subject Properties are not designated as Goal 9 economic development land. In addition, the approval of this application will not adversely affect economic activities of the state or area.

**Goal 10, Housing.** The County's comprehensive plan Goal 10 analysis anticipates that farm properties with poor soils, like the Subject Properties, will be converted from EFU to MUA-10 or RR-10 zoning and that these lands will help meet the need for rural housing. Approval of this Application, therefore, is consistent with Goal 10 as implemented by the acknowledged Deschutes County Comprehensive Plan.

**Goal 11, Public Facilities and Services.** The approval of this Application will have no adverse impact on the provision of public facilities and services to the Subject Properties. Pacific Power has confirmed that it has the capacity to serve the Subject Properties and the proposal will not result in the extension of urban services to rural areas.

**Goal 12, Transportation.** This application complies with the Transportation System Planning Rule, OAR 660-012-0060, the rule that implements Goal 12. Compliance with that rule also demonstrates compliance with Goal 12.

**Goal 13, Energy Conservation.** The approval of this Application does not impede energy conservation. The Subject Properties are located adjacent to the city limits for the City of Bend. If the Subject Properties are developed with residential dwellings in the future, providing homes

in this location as opposed to more remote rural locations will conserve energy needed for residents to travel to work, shopping and other essential services provided in the City of Bend.

**Goal 14, Urbanization.** This goal is not applicable because the Applicants’ proposal does not involve property within an urban growth boundary and does not involve the urbanization of rural land. The MUA-10 zone is an acknowledged rural residential zoning district that limits the intensity and density of developments to rural levels. The compliance of this zone with Goal 14 was recently acknowledged when the County amended its Comprehensive Plan. The Comprehensive Plan recognizes the fact that the MUA-10 and RR zones are the zones that will be applied to lands designated Rural Residential Exception Areas.

**Goals 15 through 19.** These goals do not apply to land in Central Oregon.

**III. OTHER COMMENTS IN THE RECORD**

Although only the Applicants and Staff participated in the Hearing, Staff did receive some comments on the Application in response to the Application Notice. The Record contains public comments concerning potential loss of farmland, impacts to wildlife, and potential for increased housing density. I find that each of these comments is generic in nature, and none address specific criteria applicable to the request for the Plan Amendment or Zone Change. The existence of those comments in the record, therefore, does not affect the factual findings in the Staff Report or the findings in this Recommendation.

**IV. CONCLUSION**

Based on the foregoing findings, I find the Applicants have met their burden of proof with respect to the standards for approving the requested Plan Amendment and Zone Change. I therefore recommend to the County Board of Commissioners that the Application be APPROVED.

Dated this 12<sup>th</sup> day of December 2022



Tommy A. Brooks \_\_\_\_\_  
Deschutes County Hearings Officer

owner	agent	inCareOf	address	cityStZip	type	cdd id
Te Amo Despacio LLC			2464 SW Glacier PL. #110	Redmond, OR 97756	HOR	22-313-ZC, 22-314-PA
CTH Investments LLC			14787 SW Millikan Way	Beaverton, OR 97003	HOR	22-313-ZC, 22-314-PA
Schwabe, Williamson & Wyatt, P.C.	Tia M. Lewis		360 SW Bond Street, Suite 500	Bend, OR 97702	HOR	22-313-ZC, 22-314-PA



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 5, 2023

**SUBJECT:** Public Hearing on 4 Peaks Music Festival 2024 Outdoor Mass Gathering Permit

**PROPOSAL:**

The applicant requests approval of an Outdoor Mass Gathering permit to allow a multi-day music festival in June of 2024. The event includes overnight camping, parking, and food and drink for an estimated 2,000 people. The property is approximately 150 acres in size and developed with a single-family dwelling and multiple accessory structures. The surrounding area consists of small scale farm and residential uses.

Proposed location of the festival is at 21085 Knott Road (see attached Location Maps and Site Plan). Staff notes that the festival received approval from 2016 through 2019 at the same location with similar proposals, and before 2016 at a property near Tumalo. Set up is scheduled to begin June 15, 2024 and tear down will be fully completed by June 24, 2024. The event will take place June 20, 2024 through June 23, 2024. At this time the proposal has been approved by the Environmental Health Division, Bend Fire Department, County Health Department, and the Deschutes County Sheriff's Office.

The subject property has been divided into specific areas for the music festival. The main activity area is on the central portion of the subject property, which contains the stages, vendors, restrooms, water, first aid, trash and recycling collection, and basic operational aspects of the festival. The entrance to the festival is located on the northeast corner which includes the general admission vehicle lanes, ticket will call, day-use parking, and an area for authorized personnel. Other areas surrounding the main event to the south and southeast are designated as car and RV camping. The design layout includes separate vehicle and pedestrian access aisles and an emergency access road.

The applicant has addressed in their proposal the requirements involving insurance, sanitary facilities, water supply, fire protection, medical services, public safety and enforcement, parking facilities, alcohol and dangerous drugs, and hours of operation.

While DCC 8.16.180 only requires a 10 day notice to other County Departments, Notice of Public Hearing was sent to County Departments and surrounding property owners on March 17, 2023 and published in the Bulletin on March 19, 2023. At this time, staff has not received any comments regarding the proposed application.

**OUTDOOR MASS GATHERING REQUIREMENTS/CRITERIA:**

Deschutes County Code (DCC) Chapter 8.16 provides approval criteria for an Outdoor Mass Gathering permit. The applicant has satisfied the requirements addressed in Section 8.16.160, including obtaining signatures on the application form from the following agencies:

- Bend Fire Department
- Deschutes County Health Department
- Deschutes County Environmental Health Division
- Deschutes County Sheriff

Staff believes the proposed outdoor mass gathering permit request can comply with the applicable standards and criteria outlined in Chapter 8.16 below if conditions of approval are met. Conditions will be noted in the Staff Report for the public hearing.

The applicant is requesting a waiver from the requirement to maintain an ambulance on-site during the festival. However, no waiver is sought for the first aid station and the applicant indicates it will comply with County Code. The applicant has provided a Medical Service Plan, which includes the use of Steven Foster Wexler LAC, an event medical service. The Board may waive permit requirements, in this case ambulance service, upon showing good cause by the event organizer (see DCC 8.16.150(B)). Furthermore, if the Board determines no County law enforcement or other services are necessary and no significant public health, safety, or welfare issues are involved, the Board may waive that requirement as well. The Board waived the permit requirement for on-site ambulance service for the last six outdoor mass gathering permits for this festival when it was at the Tumalo and Bend location. For reference, the closest fire station, Bend Fire Station #303, located at 61080 Country Club Drive, is approximately two (2) miles from the event site.

**BUDGET IMPACTS:**

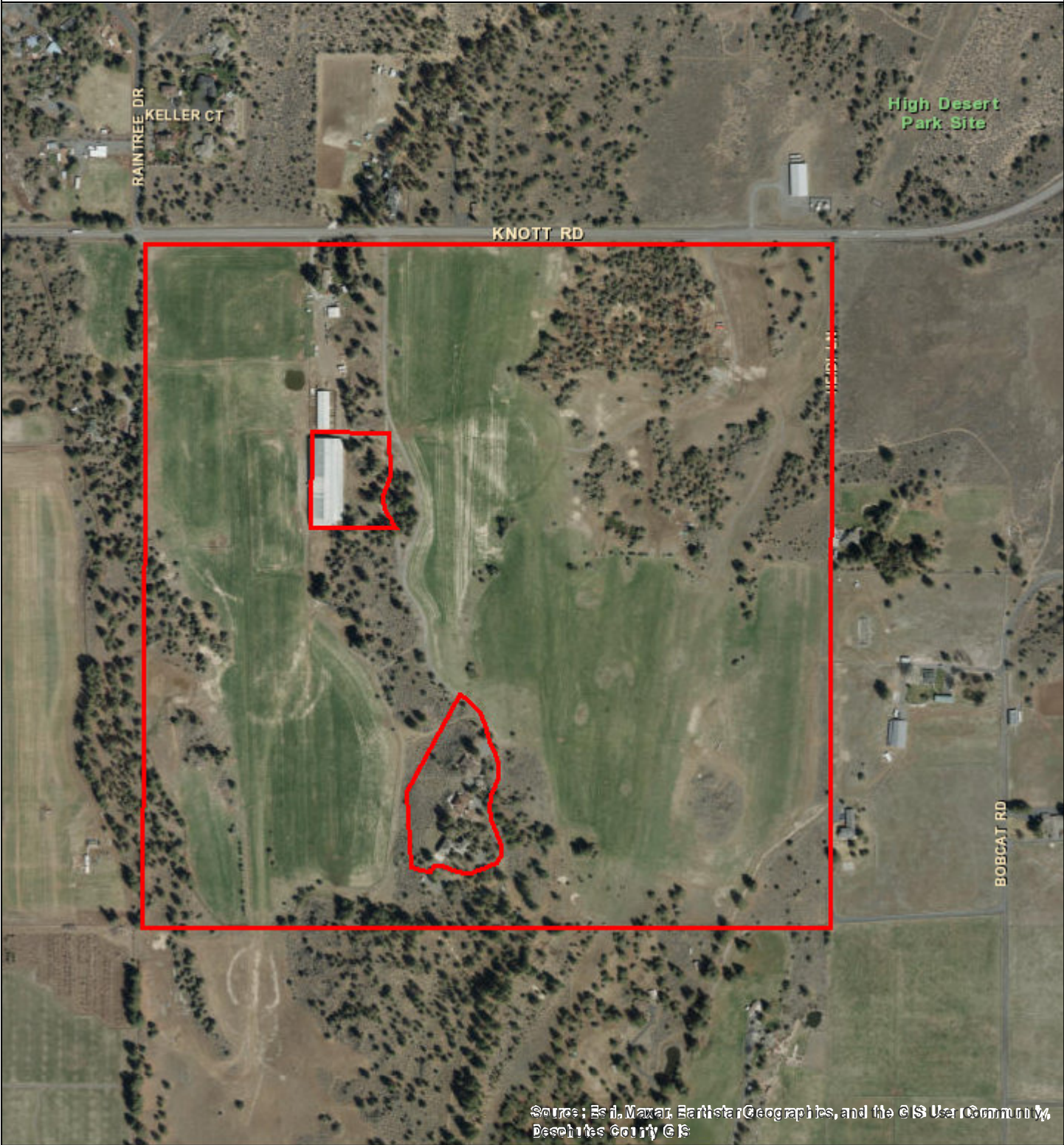
None

**ATTENDANCE:**

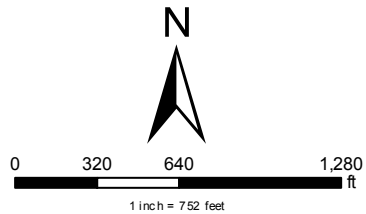
Rachel Vickers, Associate Planner

# Land Use File 247-22-000675-OMG

21085 KNOTT RD, BEND, OR 97702



Date: 10/5/2022



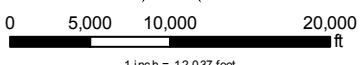


# Land Use File 247-22-000675-OMG

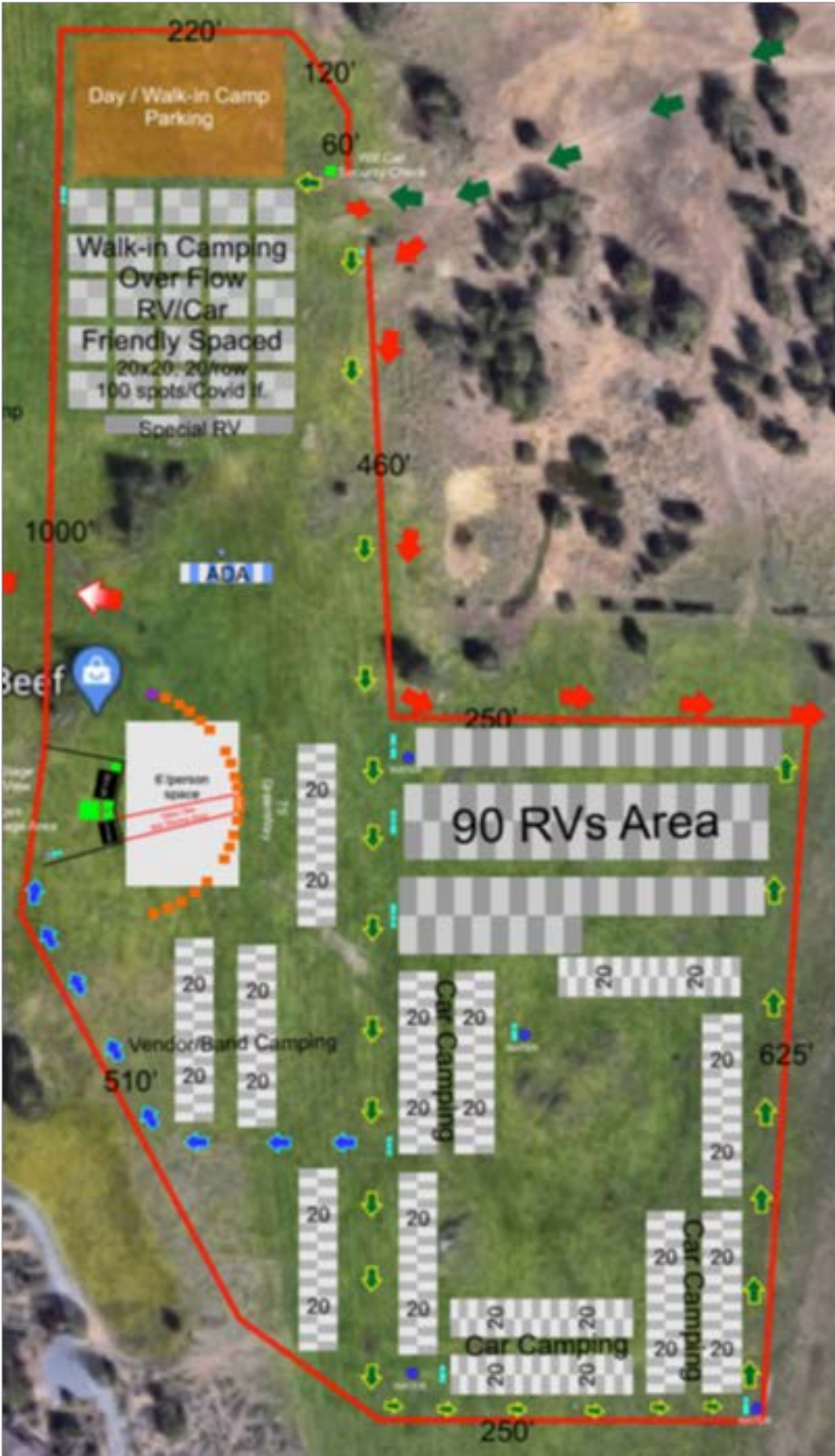
21085 KNOTT RD, BEND, OR 97702



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



Date: 10/5/2022





## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 5, 2023

**SUBJECT:** Request approval to apply for SAMHSA Treatment for Individuals Experiencing Homelessness grant

**RECOMMENDED MOTION:**

Move approval to apply for the Substance Abuse and Mental Health Services Administration grant for Treatment for Individuals Experiencing Homelessness.

**BACKGROUND AND POLICY IMPLICATIONS:**

The U.S. Department of Health and Human Services (HHS) through the Substance Abuse and Mental Health Services Administration (SAMHSA) is accepting applications for the Treatment for Individuals Experiencing Homelessness program. The program will award funding up to \$500,000 per year, per award, for up to 5 years for political subdivisions of states. The anticipated project start date is September 30, 2023.

The purpose of this program is to provide comprehensive, coordinated and evidenced-based services for individuals, youth, and families with a serious mental illness, serious emotional disturbance or co-occurring disorder who are experiencing homelessness or at imminent risk of homelessness (e.g., people exiting jail or prison without a place to live). Recipients will be expected to 1) engage and connect the population of focus to behavioral health treatment, case management, and recovery support services; 2) assist with identifying sustainable permanent housing by collaborating with homeless services organizations and housing providers, including public housing agencies; and 3) Provide case management that includes care coordination/service delivery planning and other strategies that support stability across services and housing transitions. With this program, SAMHSA aims to further expand opportunities to improve access to and delivery of coordinated, comprehensive services mental health services and improve housing stability.

Ending housing instability and homelessness is critical for improving public health and community wellbeing. Studies show much higher rates of physical health issues and mental health and/or substance use disorders among populations experiencing homelessness than among people who are stably housed. People experiencing homelessness often face a decline in their physical and mental health while sheltered or unsheltered; therefore, this is an important window for initiating mental health and/or substance use disorder treatments.

Deschutes County Health Service's (DCHS) grant proposal will include a multidisciplinary structure for providing direct street outreach and coordination for individuals in Deschutes County. This will include a new team consisting of a 0.25 FTE psychiatric nurse practitioner/psychiatrist, 1.0 FTE Behavioral Health Specialist I, 1.0 FTE Behavioral Health Specialist II, and a 0.70 FTE public health nurse to provide low barrier access to Behavioral Health services and intensive case management services to support individuals moving out of homelessness. This grant proposal team will also support the efforts of the permanent supportive housing program, Cleveland Commons, by providing an onsite Behavioral Health case management hours focused on engagement of residents in behavioral health services and recovery supports. Additionally, grant funding will support an Administrative Support Specialist at 0.5 FTE, training, supplies, a vehicle, and 10% indirect. If awarded, DCHS expects to hire all positions within four months of the grant start date.

**BUDGET IMPACTS:**

Up to \$500,000 per year for 5 years. A five-year fiscal analysis is attached.

**ATTENDANCE:**

Kara Cronin, Manager, BH Program

Analysis performed on a fiscal year

Fiscal Years 2024 - 2029, 10/1/24 - 9/30/2029

	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	TOTAL
<b>RESOURCES</b>							
SAMHSA Grant	\$ 297,164	\$ 461,701	\$ 489,979	\$ 529,023	\$ 570,596	\$ 151,537	\$ 2,500,000
							\$ -
							\$ -
							\$ -
	\$ 297,164	\$ 461,701	489,979	\$ 529,023	\$ 570,596	\$ 151,537	\$ 2,500,000
<b>REQUIREMENTS</b>							
Wages & Benefits	\$ 206,149	\$ 406,728	438,435	\$ 473,430	\$ 511,224	\$ 137,761	\$ 2,173,727
Training		\$ 3,000					\$ 3,000
Supplies	\$ 9,000	\$ 10,000	7,000	\$ 7,500	\$ 7,500		\$ 41,000
Capital Outlay	\$ 55,000						\$ 55,000
Contracted Services							\$ -
Total Indirect -	\$ 27,015	\$ 41,973	\$ 44,544	\$ 48,093	\$ 51,872	\$ 13,776	\$ 227,273
Total Costs	\$ 297,164	\$ 461,701	\$ 489,979	\$ 529,023	\$ 570,596	\$ 151,537	\$ 2,500,000

Estimated start date of 2/1/24 for nurse position and 12/1/23 for all others.



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 5, 2023

**SUBJECT:** Request approval to apply for OHA Mobile Health Unit grant

**RECOMMENDED MOTION:**

Move approval to apply for Oregon Health Authority Mobile Health Unit Pilot Program grant.

**BACKGROUND AND POLICY IMPLICATIONS:**

House Bill 4052 (2022) was passed in the 2022 Oregon legislative session. The bill was developed by the Oregon Health Equity Task Force, convened by the Oregon Public Health Association, to identify strategic actions to support House Resolution 6 (2021), which declared racism to be a public health crisis in the state. One of the main strategic actions identified in HB 4052 is to remove barriers to increase access and quality of health care for “priority populations.”

HB 4052 (2022) established the Mobile Health Unit Pilot Program to reduce barriers to health care access by bringing care directly into communities through mobile health units that leverage existing community assets, and provide culturally and linguistically specific services. By making health care more accessible than in traditional settings, mobile health units can improve health outcomes in the communities they serve. The Mobile Health Unit Pilot Program focuses on equity and community by emphasizing community engagement and serving priority populations (i.e., groups that disproportionately experience poor health or social outcomes attributable to racism). These mobile health units can help underserved communities overcome common barriers to accessing health care, such as time, geography, and trust.

Deschutes County Health Services (DCHS) is requesting approval to apply for the Mobile Health Unit Pilot Program grant. This grant will enable the DCHS Crisis Team to purchase a van to assist with non-law enforcement community based crisis response. With a van, the crisis team will be able to further reduce reliance on law enforcement for transferring individuals in crisis, increase service to rural areas, and reduce response times. Meeting

individuals in crisis where they are will increase DCHS ability to provide crisis services to underserved, marginalized and at risk population. Additionally, it will enable DCHS to provide increased community based services, potentially reducing harmful behavior, and increasing engagement in higher levels of care to prevent further episodes of crisis.

DCHS plans to apply for \$100,000 of funding to purchase and retrofit a van. Funds must be spent by June 30, 2023.

**BUDGET IMPACTS:** \$100,000 one-time funding

**ATTENDANCE:**

Adam Goggins, Manager, Behavioral Health Program

Holly Harris, Deputy Director, Health Services



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** April 5, 2023

**SUBJECT:** Board Direction Regarding FY24 Fee Increases

**RECOMMENDED MOTION:**

Move approval of Option 1, Option 2, Option 3 or other option(s) as may be discussed.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Community Development Department (CDD) is primarily a fee-supported department. CDD's permit and application volumes during FY23 have decreased in ranges of 19% to 47.7% when compared to FY22 resulting in lower than anticipated revenue collection. CDD's FY24 preliminary requested budget calculations indicate a need for fee increases in each division. CDD requests a discussion of the preliminary requested FY24 budget details and possible options to balance it while seeking Board guidance and direction on fee increases to be included in the FY24 Requested Budget.

**BUDGET IMPACTS:**

CDD offers three options to balance its FY24 Requested Budget. There are no impacts to the current budget.

**ATTENDANCE:**

Peter Gutowsky, Director  
Sherri Pinner, Sr. Mgmt. Analyst





# COMMUNITY DEVELOPMENT

**To:** Board of County Commissioners  
 Nick Lelack, County Administrator

**From:** Peter Gutowsky, CDD Director  
 Sherri Pinner, Senior Management Analyst

**Date:** April 5, 2023

**RE:** CDD FY 2023-24 Fee Increase Discussion

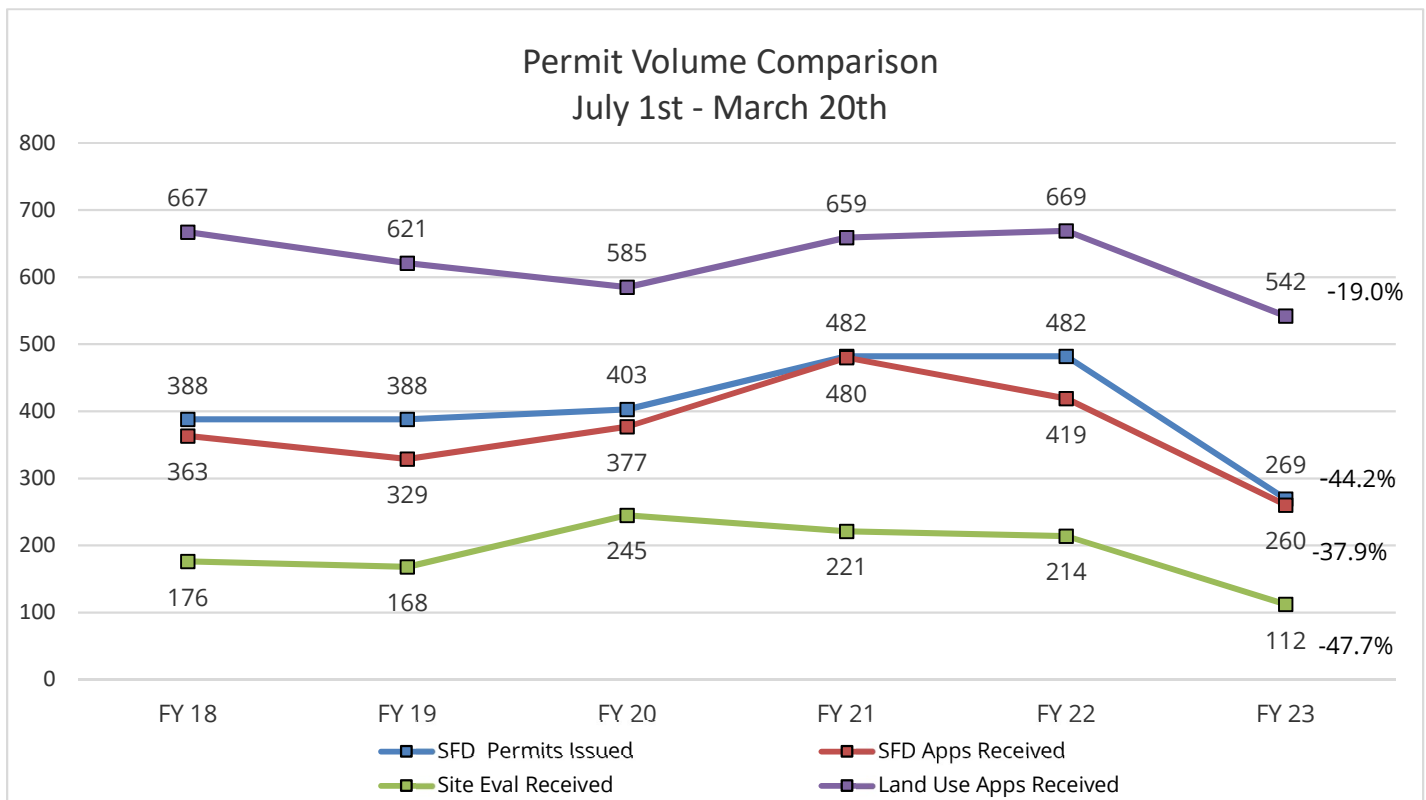
## Fund 295 - Community Development Department

The Community Development Department (CDD) is primarily a fee-supported department. CDD's permit volume summary and FY24 preliminary requested budget highlights are as follows:

### I. PERMIT VOLUME SUMMARY:

The graph below represents permit volume comparisons for the current and past five (5) fiscal years for the time period July 1<sup>st</sup> through March 20<sup>th</sup> of each fiscal year.

- All categories of permits issued and applications received experienced a decrease in volume ranging from 19% to 47.7% when compared to FY22.



## II. FY24 PRELIMINARY REQUESTED BUDGET ASSUMPTIONS:

### **Expenditure Summary:**

- CDD eliminated eight (8) FTE in January 2023 in an effort to align staffing with current permit and application volumes resulting in 64 FTE remaining. CDD will continue to analyze the appropriate number of FTE as retirements and resignations occur and/or if permit and application volumes continue to decrease.
- Includes increases for COLA, PERS, HBT, step increases, and general inflationary increases for materials and services;
- Includes budget for hearings officer services.

### **Revenue Summary:**

- Permit volume is estimated to remain level with FY23 volumes which are comparable to FY15 through FY17 volumes;
- Includes 10.9% increase – ICC building valuation effective 4/1/23;
- Building valuation basis is anticipated to be less than FY23 due to anticipated reduced commercial projects;
- Strategies to balance include a combination of requested fee increases, reserve fund transfers, and/or reduction of fund balance;
- Includes General Fund for hearings officer services.

### **Overall Summary:**

- Budgeted expenditures are an estimated \$1.3M more than base budgeted revenues;
- CDD presents three (3) options to balance;

## III. STRATEGIES TO BALANCE:

### **Option #1**

- Fee increases generate \$806K (App fees 4% to 20%; Building Valuation .02% to .05%)
- Reserve Fund Transfer \$562K
- Ending Fund Balance remains whole
- Contingency = 13.8%

### **Option #2**

- Fee increases generate \$682K (App fees 4% to 18%; Building Valuation .02% to .04%)
- Reserve Fund Transfer \$453K
- Ending Fund Balance decreases \$183K
- Contingency = 11.6%

### **Option #3**

- Fee Increases generate \$575K (App fees 4% to 16%; Building Valuation .02% to .03%)
- Reserve Fund Transfer \$523K
- Ending Fund Balance decreases \$219K
- Contingency = 11.3%

**IV. BOARD DIRECTION:**

- Prepare FY24 Budget using Option #1.
  - Application fees – 4% to 20% increase
  - Building valuation fees - .02% to .05% increase
  - Reserve Fund transfers
  - Contingency 13.8%
  
- Prepare FY24 Budget using Option #2.
  - Application fees – 4% to 18% increase
  - Building valuation fees - .02% to .04% increase
  - Reserve Fund transfers
  - Decrease fund balance – Contingency 11.6%
  
- Prepare FY24 Budget using Option #3.
  - Application fees – 4% to 16% increase
  - Building valuation fees - .02% to .03% increase
  - Reserve Fund transfers
  - Decrease fund balance – Contingency 11.3%

## FY23-24 Fee Increase Discussion

# Community Development

Presenter(s):

Peter Gutowsky, Director

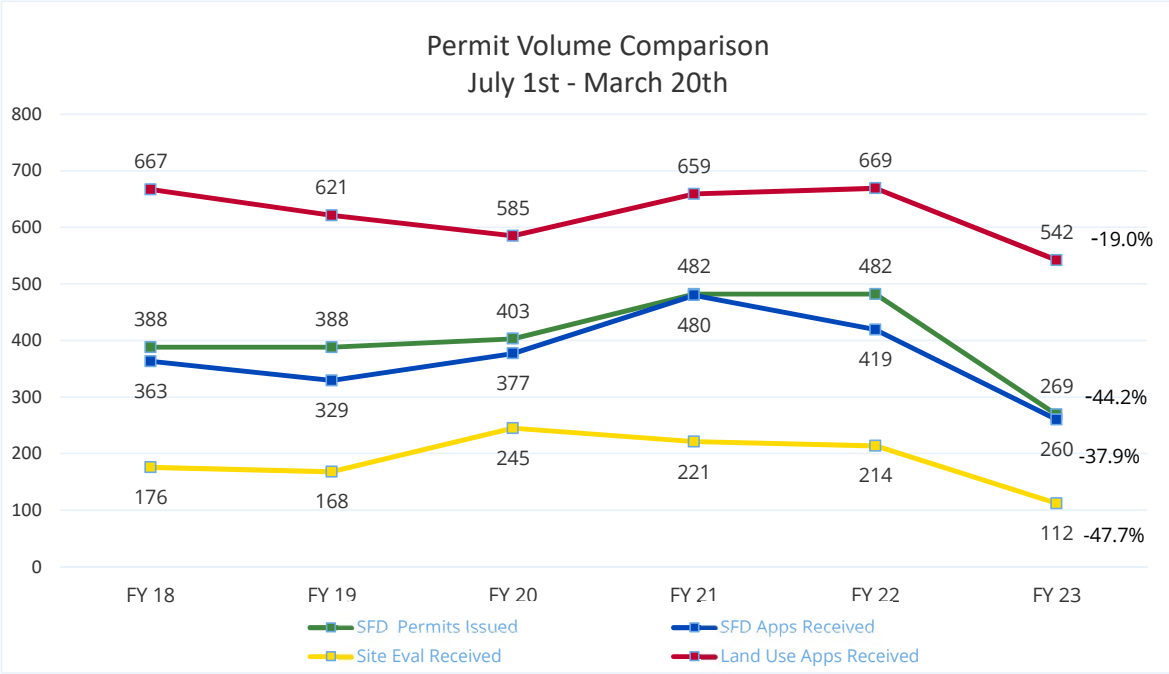
Sherri Pinner, Sr. Mgmt. Analyst



Board Meeting | April 5, 2023

# Fund 295 FY24 Budget Highlights

FY23 Permit and application volumes decreased in ranges from 19% to 47.7% when compared to FY22



# Fund 295 FY24 Budget Highlights

## Resources:

- Anticipate level permit and application volumes;
- Includes International Code Council building valuation increase of 10.9%
- Strategies to balance include a combination of fee increases; reserve transfers and/or decrease in fund balance;
- Includes General Fund for hearings officer services.

## Expenditures:

- Eliminated eight (8) FTE in January 2023; 64 FTE remaining;
- Includes increases for COLA, HBT, PERS, step increases and general inflationary materials & services, and hearings officer services.



# Fund 295 FY24 Budget Summary

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- Budgeted expenditures are an estimated \$1.3M more than base budgeted revenues;
- 64 FTE – succession planning, staff turnover & training, complex applications, non-fee generating inquiries, analyze future vacancies;
- Presenting three (3) options to balance for Board direction;



# Balanced Budget Option #1

Fee Increases generate \$806K

- Code Compliance increase .02%
- Building Safety Supplemental Permits – 4%
- Electrical and Current Planning Apps – 15%
- Onsite Wastewater – 20%
- Public Information Counter and Advanced Planning - .05%

Reserve Transfer \$562K

- Est reserve balances:
  - Fund 300 – 4.5 months
  - Fund 301 – 20.6 months
  - Fund 302 – 8.9 months

Contingency = 13.8%

Building permit cost increase to 1,700 sq. ft. home = \$750





# Balanced Budget Option #2

Fee Increases generate \$682K

- Code Compliance increase .02%
- Building Safety Supplemental Permits – 4%
- Electrical and Current Planning Apps – 13%
- Onsite Wastewater – 18%
- Public Information Counter and Advanced Planning - .04%

Reserve Transfer \$453K

- Est reserve balances:
  - Fund 300 – 4.7 months
  - Fund 301 – 20.6 months
  - Fund 302 – 8.7 months

Reduction of Fund Balance - \$183K

Contingency = 11.6%

Building permit cost increase to 1,700 sq. ft. home = \$695



# Balanced Budget Option #3

Fee Increases generate \$575K

- Code Compliance increase .02%
- Building Safety Supplemental Permits – 4%
- Electrical and Current Planning Apps – 11%
- Onsite Wastewater – 16%
- Public Information Counter and Advanced Planning - .03%

Reserve Transfer \$522K

- Est reserve balances:
  - Fund 300 – 4.6 months
  - Fund 301 – 20.6 months
  - Fund 302 – 8.5 months

Reduction of Fund Balance - \$219K

Contingency = 11.3%

Building permit cost increase to 1,700 sq. ft. home = \$650



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# Thank you

