



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, AUGUST 6, 2025

Barnes Sawyer Rooms - Deschutes Services Building - 1300 NW Wall Street – Bend

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

AGENDA

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

Members of the public may view the meeting in real time via YouTube using this link:

<http://bit.ly/3mmlnzy>. **To attend the meeting virtually via Zoom, see below.**

Citizen Input: The public may comment on any topic that is not on the current agenda. Alternatively, comments may be submitted on any topic at any time by emailing citizeninput@deschutes.org or leaving a voice message at 541-385-1734.

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

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

- To join the meeting via Zoom from a computer, use this link: <http://bit.ly/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 *9 to indicate you would like to speak and *6 to unmute yourself when you are called on.
- When it is your turn to provide testimony, you will be promoted from an attendee to a panelist. You may experience a brief pause as your meeting status changes. Once you have joined as a panelist, you will be able to turn on your camera, if you would like to.



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.

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

CITIZEN INPUT

The Board of Commissioners provides time during its public meetings for citizen input. This is an opportunity for citizens to communicate to the Commissioners on matters that are not otherwise on the agenda. Time is limited to 3 minutes.

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

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

CONSENT AGENDA

- [1.](#) Approval of Resolution No. 2025-038 approving Solid Waste Disposal Fee Waivers for Fiscal Year 2026
- [2.](#) Approval of Board Order No. 2025-033 appointing Health Services Director's designees
- [3.](#) Approval of a Purchase Agreement, Document No. 2025-806; Dedication Deed, Document No. 2025-807; and Temporary Construction Easement, Document Number 2025-808 from Robert F. Nottelmann for Right of Way for the South Century Drive/Huntington Road Intersection Improvement Project
- [4.](#) Approval of an intergovernmental agreement with the Oregon Department of Transportations for the US97: NW Galloway Ave-O'Neil Hwy Project
- [5.](#) Approval of Document No. 2025-814 terminating and releasing a Public Utility Easement at 63330 N Highway 97
- [6.](#) Approval of an amendment to a restrictive covenant encumbering a parcel consisting of +/- 39.31-acres commonly known as Northpoint Vista in Redmond
7. Consideration of Board Signature on letters reappointing Alysha DeLorto, Jared Jeffcott, Drew Norris, Dan Daugherty, Jerry Thackery and Dustin Miller for service on the Ambulance Service Area (ASA) Committee
8. Approval of the BOCC June 25, 2025 meeting minutes

ACTION ITEMS

- [9.](#) **9:10 AM** Request to add 1.0 FTE Assistant Planner position
- [10.](#) **9:20 AM** Public Hearing: McKenzie Meadow Village Comprehensive Plan Amendment and Zone Change for 58 acres adjacent to the City of Sisters

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.

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

ADJOURN



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 6, 2025

SUBJECT: Approval of Resolution No. 2025-038 approving Solid Waste Disposal Fee Waivers for Fiscal Year 2026

RECOMMENDED MOTION:

Move approval of Resolution No. 2025-038 approving solid waste disposal fee waivers for Fiscal Year 2026.

BACKGROUND AND POLICY IMPLICATIONS:

The Solid Waste department presented a resolution to the Board at its July 23, 2025 meeting to adopt the proposed solid waste disposal fee waivers for Fiscal Year 2026. Because that resolution had an incorrect number, staff seeks Board adoption of a resolution having the corrected number. No other changes have been made to the body of the resolution or to the attachments.

To recap, this resolution allows for waivers of solid waste disposal fees to non-profit organizations which reuse or resell used goods. The policy establishes a maximum amount of \$5,000 for participating organizations, with an overall funding of \$45,000 for the program. For FY26, ten non-profit organizations applied for the program and the department is proposing a total of \$43,000 in fee waivers, with seven of the organizations receiving the maximum \$5,000 amount.

In addition to the thrift store fee waivers, the Board has given the Director of Solid Waste authority to grant fee waivers on a case-by-case basis to groups doing clean-up projects on public lands or similar efforts, and to assist in solid waste code enforcement efforts. Additionally, this past spring the department provided the County Forester with fee waivers for the disposal of materials collected through Fire-Wise Community fuel reduction activities. Through June of FY25, \$5,764, \$304, and \$9,517.45 in fee waivers were granted for these programs respectively (see attached table).

BUDGET IMPACTS:

The fee waivers do not result in any expenditures by the department and are considered lost revenue.

ATTENDANCE:

Tim Brownell, Director of Solid Waste

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

A Resolution Amending Resolution 2024-036
To Establish Solid Waste Disposal Fee
Waiver Amounts for the 2025-2026 Fiscal
Year

*
*
*

RESOLUTION NO.
2025-038

WHEREAS, the Board of County Commissioners has determined that the public interest is served by waiving solid waste disposal fees, to a limited dollar amount, for certain organizations within Deschutes County, and

WHEREAS, the Board has established a policy, through Resolution 2024-036, for the waiver of such fees, and

WHEREAS, the Board has determined that Resolution 2024-036 will continue in full force and effect with the following exceptions, now, therefore,

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

Section 1. The maximum aggregate amount of fee waivers authorized each year shall be forty-five thousand dollars (\$45,000). The maximum individual amount of fee waiver authorized each year shall be five thousand dollars (\$5,000).

Section 1. Exhibit “A”, attached hereto and made a part hereof, constitutes a list of organizations to receive solid waste disposal fee waivers, and the maximum dollar amount of such fee waivers to be credited to their account by the Solid Waste Department for Fiscal Year 2025-2026.

DATED this ____ day of _____, 2025.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DeBONE, Chair

ATTEST:

PATTI ADAIR, Vice Chair

Recording Secretary

PHIL CHANG, Commissioner

Exhibit A

FY 2025-26 Disposal Fee Credits

Total Amount Allocated - \$43,000.00

<u>ORGANIZATION</u>	<u>FY 23-24 CREDIT</u>
2050 Habitat for Humanity – Bend/Redmond	\$5,000.00
1117 Habitat for Humanity – Sisters	\$3,000.00
1140 Humane Society of Central Oregon	\$5,000.00
1840 Brightside Animal Center	\$5,000.00
1208 Opportunity Foundation	\$5,000.00
1266 Second Tern Thrift Shop	\$1,000.00
1833 St Vincent DePaul – La Pine	\$4,000.00
1831 St Vincent DePaul – Redmond	\$5,000.00
1874 Teen Challenge Thrift Store	\$5,000.00
2103 Furnish Hope	\$5,000.00



**SOLID
WASTE**

Board Authorized Fee Waivers Non-Profit Thrift Stores

08/06/2025 Item #1.

Deschutes County Department of Solid Waste

ACCT #	NON-PROFIT ENTITY	CREDIT FY 17-18	CREDIT FY 18-19	CREDIT FY 19-20	CREDIT FY 20-21	CREDIT FY 21-22	CREDIT FY 22-23	CREDIT FY 23-24	CREDIT FY 24-25	USED THRU 5/31/2025	UNUSED CREDIT	REQUEST FY 25-26	RECOMM FY 25-26
1856	City Care/City Thrift	2,000.00	2,000.00	2,000.00	3,000.00	4,000.00	4,000.00	2,000.00	2,000.00	2,000.00	0.00	0.00	0.00
2050	Bend-Redmond Habitat for Humanity*	7,000.00	7,500.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	0.00	16,750.00	5,000.00
1117	Sisters Habitat for Humanity	2,500.00	2,500.00	3,000.00	3,000.00	2,500.00	2,500.00	2,500.00	2,500.00	1,081.00	1,419.00	3,000.00	3,000.00
1140	Humane Society of Central Oregon	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	0.00	5,000.00	5,000.00
1840	Brightside Animal Center	5,000.00	5,000.00	3,500.00	4,000.00	5,000.00	5,000.00	5,000.00	5,000.00	2,856.00	2,144.00	5,000.00	5,000.00
1208	Opportunity Foundation of Central Oregon	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	2,376.00	2,624.00	18,365.00	5,000.00
1266	Second Tern Thrift Shop	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	399.00	101.00	2,500.00	1,000.00
1833	St Vincent DePaul LaPine	2,000.00	2,500.00	3,000.00	3,000.00	3,500.00	3,500.00	3,000.00	3,000.00	1,776.00	1,224.00	4,000.00	4,000.00
1831	St Vincent DePaul Redmond	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	0.00	10,000.00	5,000.00
1874	Teen Challenge Thrift Store	3,000.00	3,500.00	3,500.00	3,700.00	4,000.00	5,000.00	5,000.00	5,000.00	4,928.00	72.00	5,000.00	5,000.00
2103	Furnish Hope					1,600.00	1,600.00	2,000.00	3,000.00	2,864.00	136.00	5,000.00	5,000.00
TOTAL		37,000.00	38,500.00	35,500.00	37,200.00	41,100.00	42,100.00	40,000.00	41,000.00	33,280.00	7,720.00	74,615.00	43,000.00

*FY 19-20: Bend & Redmond Habitat for Humanity combined into one entity

FY 21-22: Opportunity Foundation closed the Bend location in FY 20-21, the FY 21-22 request is for the Redmond location

New non-profit entity request for Furnish Hope who gathers, warehouses, redistributes and delivers donated home essentials to families referred to them



Director Authorized Fee Waivers

08/06/2025 Item #1.

Deschutes County Department of Solid Waste

6/1/24 - 5/31/25 (as of 6/10/25)

Total \$														Total	
Cust ID	CustomerName	2024 JUN	JUL	AUG	SEP	OCT	NOV	DEC	2025 JAN	FEB	MAR	APR	MAY		
SPECIAL REQUEST WAIVERS:															
1868	CENTRAL OREGON VETERANS OUTREACH	\$ 217.00	\$ 424.00	\$ 680.00	\$ 360.00	\$ 328.00	\$ 208.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,217.00
8281	LUTHERAN CHURCH/THRIFT SALE		\$ 120.00												\$ 120.00
Total		\$ 217.00	\$ 544.00	\$ 680.00	\$ 360.00	\$ 328.00	\$ 208.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,337.00
HOMELESS CAMPS/PUBLIC LANDS CLEAN UP:															
8256	DISCOVER YOUR FORESTS/CHINA HAT USFS CLEAN UP													\$ 1,160.00	\$ 1,160.00
8258	PATRICIA SMITH/USFS HOMELESS CAMP CLEAN UP											\$ 27.00	\$ 98.00		\$ 125.00
8273	MENDOZA GROUP/LA PINE STATE PARK HOMELESS CLEAN UP	\$ 92.00													\$ 92.00
8280	RYAN THOMAS/FOREST SERVICE CLEAN UP	\$ 21.00													\$ 21.00
8282	NEWBERRY REGIONAL PARTNERSHIP/HOMELESS CAMP CLEAN UP					\$ 568.00	\$ 1,161.00	\$ 60.00							\$ 1,789.00
8283	SISTERS COMMUNITY LEADERSHIP INITIATIVE/HOMELESS CLEAN UP					\$ 240.00									\$ 240.00
Total		\$ 113.00	\$ -	\$ -	\$ -	\$ 808.00	\$ 1,161.00	\$ 60.00	\$ -	\$ -	\$ -	\$ 27.00	\$ 1,258.00		\$ 3,427.00
CODE ENFORCEMENT PROPERTY CLEAN UP:															
8268	KAREN MCMAHAN	\$ 42.00	\$ 64.00	\$ 64.00	\$ 64.00	\$ 16.00									\$ 250.00
8288	TERESA HOLBROOK												\$ 54.00		\$ 54.00
Total		\$ 42.00	\$ 64.00	\$ 64.00	\$ 64.00	\$ 16.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 54.00		\$ 304.00
FIREWISE COMMUNITY CLEAN UP (50% DISPOSAL CREDIT):															
9010	BEND GARBAGE & RECYCLING	\$ 116.20											\$ 846.40		\$ 962.60
9020	CASCADE DISPOSAL	\$ 1,100.05											\$ 1,301.20		\$ 2,401.25
9030	HIGH COUNTRY DISPOSAL	\$ 569.10											\$ 3,768.80		\$ 4,337.90
9040	WILDERNESS GARBAGE & RECYCLING	\$ 167.30											\$ 1,648.40		\$ 1,815.70
Total		\$ 1,952.65	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,564.80		\$ 9,517.45



Director Authorized Fee Waivers

08/06/2025 Item #1.

Deschutes County Department of Solid Waste

6/1/24 - 5/31/25 (as of 6/10/25)

Total \$		2024							2025					Total													
Cust ID	CustomerName	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY														
SPECIAL REQUEST WAIVERS:																											
1868	CENTRAL OREGON VETERANS OUTREACH	\$	217.00	\$ 424.00	\$ 680.00	\$ 360.00	\$ 328.00	\$	208.00	\$	-	\$	-	\$	-	\$	2,217.00										
8281	LUTHERAN CHURCH/THRIFT SALE			\$ 120.00												\$	120.00										
Total		\$	217.00	\$ 544.00	\$ 680.00	\$ 360.00	\$ 328.00	\$	208.00	\$	-	\$	-	\$	-	\$	2,337.00										
HOMELESS CAMPS/PUBLIC LANDS CLEAN UP:																											
8256	DISCOVER YOUR FORESTS/CHINA HAT USFS CLEAN UP													\$	1,160.00	\$	1,160.00										
8258	PATRICIA SMITH/USFS HOMELESS CAMP CLEAN UP											\$	27.00	\$	98.00	\$	125.00										
8273	MENDOZA GROUP/LA PINE STATE PARK HOMELESS CLEAN UP	\$	92.00													\$	92.00										
8280	RYAN THOMAS/FOREST SERVICE CLEAN UP	\$	21.00													\$	21.00										
8282	NEWBERRY REGIONAL PARTNERSHIP/HOMELESS CAMP CLEAN UP					\$ 568.00	\$ 1,161.00	\$	60.00							\$	1,789.00										
8283	SISTERS COMMUNITY LEADERSHIP INITIATIVE/HOMELESS CLEAN UP					\$ 240.00										\$	240.00										
Total		\$	113.00	\$	-	\$	-	\$	-	\$	808.00	\$	1,161.00	\$	60.00	\$	-	\$	-	\$	-	\$	27.00	\$	1,258.00	\$	3,427.00
CODE ENFORCEMENT PROPERTY CLEAN UP:																											
8268	KAREN MCMAHAN	\$	42.00	\$	64.00	\$	64.00	\$	64.00	\$	16.00						\$	250.00									
8288	TERESA HOLBROOK														\$	54.00	\$	54.00									
Total		\$	42.00	\$	64.00	\$	64.00	\$	64.00	\$	16.00	\$	-	\$	-	\$	-	\$	-	\$	-	\$	54.00	\$	304.00		
FIREWISE COMMUNITY CLEAN UP (50% DISPOSAL CREDIT):																											
9010	BEND GARBAGE & RECYCLING	\$	116.20												\$	846.40	\$	962.60									
9020	CASCADE DISPOSAL	\$	1,100.05												\$	1,301.20	\$	2,401.25									
9030	HIGH COUNTRY DISPOSAL	\$	569.10												\$	3,768.80	\$	4,337.90									
9040	WILDERNESS GARBAGE & RECYCLING	\$	167.30												\$	1,648.40	\$	1,815.70									
Total		\$	1,952.65	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	7,564.80	\$	9,517.45								



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 6, 2025

SUBJECT: Approval of Board Order No. 2025-033 appointing Health Services Director's designees

RECOMMENDED MOTION:

Move approval of Board Order No. 2025-033 appointing Health Services Director's designees.

BACKGROUND AND POLICY IMPLICATIONS:

Oregon Revised Statute (ORS) 426.233 (3) provides that the Director may authorize a qualified individual to perform certain acts listed in ORS 426.233 (3) including, without limitation, accepting custody of a person from a peace officer, taking custody of a person, removing a person in custody to an approved hospital or nonhospital facility, transferring a person in custody to another individual authorized under this resolution or a peace officer, transferring a person in custody from a hospital or nonhospital facility to another hospital facility or nonhospital facility, and retaining a person in custody. The Director has confirmed that each of the individuals identified in Sections 2 and 3 of the attached Board Order are qualified mental health professionals as that term is defined under Oregon law and meet applicable standards established by the Oregon Health Authority.

Board Order 2025-012 was signed March 19, 2025. Since that time, five mental health professionals have been removed from the list and two qualified mental health professionals who meet the applicable standards have been added. The authorization to provide custody and secure transportation services for allegedly mentally ill persons is being updated to reflect these staff changes through the attached Board Order 2025-033.

BUDGET IMPACTS:

None

ATTENDANCE:

Nicole Von Laven, Program Manager

REVIEWED

LEGAL COUNSEL

08/06/2025 Item #2.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Repealing Order No. 2025-012 dated *
March 19, 2025; and Authorizing Designated * ORDER NO. 2025-033
Persons to Provide Custody and Secure *
Transportation Services for Allegedly Mentally Ill *
Persons

WHEREAS, on March 19, 2025, the Deschutes County Board of Commissioners signed Order No. 2025-012, “An Order Repealing Order No. 2024-014; and Authorizing Designated Persons to Provide Custody and Secure Transportation Services for Allegedly Mentally Ill Persons”; and

WHEREAS ORS 426.070 through 426.395 authorize or require the Community Mental Health Program Director (“Director”) to take certain actions in matters pertaining to the custody, transport and involuntary commitment of mentally ill persons; and

WHEREAS, OAR 309-033-0210 includes, within the definition of the term “community mental health director,” a person who has been authorized by the Director to act in the Director’s capacity for the purpose of this rule; and

WHEREAS, the Director has authorized each of those individuals identified in Section 2, below, to act as the Director’s designee and in the Director’s capacity for purposes of OAR 309-033-0210; and

WHEREAS, ORS 426.233(3) provides that the Director may authorize a qualified individual to perform certain acts listed in ORS 426.233(3) including, without limitation, accepting custody of a person from a peace officer, taking custody of a person, removing a person in custody to an approved hospital or nonhospital facility, transferring a person in custody to another individual authorized under this resolution or a peace officer, transferring a person in custody from a hospital or nonhospital facility to another hospital facility or nonhospital facility, and retaining a person in custody; and

WHEREAS, the Director has recommended to the Deschutes County governing body that each of those individuals identified in Section 3, below, be authorized to perform those acts listed in ORS 426.233(3); and

WHEREAS, the Director has confirmed that each of the individuals identified in Sections 2 and 3 below is a qualified mental health professional as that term is defined under Oregon law and meets applicable standards established by the Oregon Health Authority; now therefore,

Based upon the foregoing recitals and pursuant to ORS 426.233 and OAR 309-033-0210, THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. An Order Repealing Order No. 2025-012 dated March 19, 2025, “An Order Repealing Order No. 2024-014 and Authorizing Designated Persons to Provide Custody and Secure Transportation Services for Allegedly Mentally Ill Persons” is hereby repealed;

Section 2. The following persons, all of whom are part of the Deschutes County Health Services Department's Community Assessment Team/Mobile Crisis Team, and all of whom are Qualified Mental Health Professionals, are hereby recognized as designees of the Director and are authorized to act in the capacity of the Director with regard to any action permitted or required to be performed by the Director under ORS 426.070 through ORS 426.395:

Holly Harris, M.Ed., LPC
Adam Goggins, MA, LPC, Crisis Program Services Manager
Rebecca Battleson, MSW, LCSW
Susanna M. Gallagher, MSW, CSWA
Meredith Haddan, MA, LPCi, CADC-R
Hanako Kubori, MS, LPCi
Taylor McGowan, MSW, LCSW
Nicole Von Laven, MA, LPCi
Megan Weaver, MSW, CSWA
Briana Schulte, LPC
Martina Krupinski, M.Ed, LPC
Anna Valencia, M.S., LPC-intern
Darla Fletcher, LIC, BHS II
Katie Nikkel, BHS II
Maryssa Nohr MA
Sierra Schlundt, MSW
TJ Helou, QMHP
Rebekah Bricker, LCSW
Gregg Logan, MA
Jesse Kratz, LPC
Jordan Granata, PhD
Jessica Shoemaker, QMHP
Joshua Gage, QMHP

Section 3. The following persons, all of whom are part of the Deschutes County Health Services Department's Community Assessment Team/Mobile Crisis Team, and all of whom are Qualified Mental Health Professionals, are hereby authorized to perform any act set forth in ORS 426.233(3):

Holly Harris, M.Ed., LPC
Adam Goggins, MA, LPC, Crisis Program Services Manager
Rebecca Battleson, MSW, LCSW
Susanna M. Gallagher, MSW, CSWA
Meredith Haddan, MA, LPCi, CADC-R
Hanako Kubori, MS, LPCi
Taylor McGowan, MSW, LCSW
Nicole Von Laven, MA, LPCi
Megan Weaver, MSW, CSWA
Briana Schulte, LPC
Martina Krupinski, M.Ed, LPC
Anna Valencia, M.S., LPC-intern
Darla Fletcher, LIC, BHS II
Katie Nikkel, BHS II
Maryssa Nohr MA
Sierra Schlundt, MSW

TJ Helou, QMHP
Rebekah Bricker, LCSW
Gregg Logan, MA
Jesse Kratz, LPC
Jordan Granata, PhD
Jessica Shoemaker, QMHP
Joshua Gage, QMHP

Section 4. Each individual identified herein in Sections 2 and 3 shall retain the authority granted by this order so long as he or she continuously meets applicable standards established by the Oregon Health Authority and is employed with the County in the Health Services Department except as may otherwise be ordered by the Board of County Commissioners.

Dated this _____ of _____, 20__

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DeBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner



BOARD OF
COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 6, 2025

SUBJECT: Approval of a Purchase Agreement, Document No. 2025-806; Dedication Deed, Document No. 2025-807; and Temporary Construction Easement, Document Number 2025-808 from Robert F. Nottelmann for Right of Way for the South Century Drive/Huntington Road Intersection Improvement Project

RECOMMENDED MOTION:

Move approval of a Purchase Agreement, Document No. 2025-806; a Dedication Deed, Document No. 2025-807; and a Temporary Construction Easement, Document No. 2025-808 from Robert F. Nottelmann for right-of-way for the South Century Drive/Huntington Road Intersection Improvement Project.

BACKGROUND AND POLICY IMPLICATIONS:

The Board of County Commissioners authorized the Road Department to negotiate with owners of properties impacted by the South Century Drive/Huntington Road Intersection Improvement project for the acquisition of right-of-way (Resolution No. 2025-032). During preliminary design of the project, it was determined that a portion of Tax Lot No. 201130A000102, owned by Robert F. Nottelmann, would be impacted by the project. The Road Department has negotiated with the property owner for acquisition of right-of-way. The property owner has agreed to the following:

Instrument:	Dedication Deed
Area:	±2,500 sq. ft. (±0.06 acre)
Compensation:	\$7,128.00
Other Consideration:	None
Instrument:	Temporary Construction Easement(TCE)
Area:	±977 sq. ft. (±0.02 acre)
Compensation:	\$472.00
Other Consideration:	Replacement of 4 trees within TCE area

BUDGET IMPACTS:

The County will make payment to the property owner in the amount of \$7,600.00, which is budgeted in the Department's Fiscal Year 2025-2026 Road Capital Improvement Plan budget.

ATTENDANCE:

Cody Smith, County Engineer/Assistant Road Department Director

<div>REVIEWED</div> <div>LEGAL COUNSEL</div> <div>After recording return to: Deschutes County Road Dept. 61150 S.E. 27th Street Bend, Oregon 97701</div>	<div>For Recording Stamp Only</div>
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PURCHASE AGREEMENT
SOUTH CENTURY DRIVE: SUNRIVER CORRIDOR INTERSECTIONS
IMPROVEMENT PROJECT
Robert F. Nottelmann
File No.: 002

THIS AGREEMENT is made and entered into by and between **DESCHUTES COUNTY, OREGON**, a political subdivision of the State of Oregon, ("County"); and **Robert F. Nottelmann**, ("Grantor"), on the following terms and conditions:

RECITALS

1. South Century Drive and Huntington Road are part of the County road system under the jurisdiction and control of County.
2. County is constructing the South Century Drive: Sunriver Corridor Intersections Improvement project, which includes improvement of the intersection of South Century Drive and Huntington Road. County has identified that the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** is necessary for the Project.
3. Grantor is the owner of the property described in the attached **Exhibit A** and depicted in the attached **Exhibit B**.

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

TERMS OF AGREEMENT

1. Grantor shall convey to County the real property described in the attached **Exhibit A** and depicted in the attached **Exhibit B** by deed of dedication and

temporary construction easement for the total purchase price of **Seven Thousand Six Hundred and 00/100 (\$7,600.00)**.

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

GRANTOR OBLIGATIONS

1. Grantor shall provide County with fully signed and executed deed of dedication and temporary construction easement for subject property with this Agreement. Upon receipt of purchase payment, Grantor shall immediately deliver possession of property to County.
2. Grantor makes the following representations:
 - a. Grantor has no notice from any government agency of any violation of law relating to the property.
 - b. The property has never been used for the storage or disposal of hazardous waste materials.
 - c. Grantor is not a "foreign person" as that term is defined in IRS Code Section 1445.
3. If the subject property is subject to any mortgage, deed of trust, land sales contract, or other similar encumbrance, Grantor should review that document to determine whether that document contains any provision under which default may be triggered by the Grantor's signing of this Agreement or any conveyance instrument.
4. Grantor understands that all fences and other improvements that are constructed or reconstructed on real property retained by Grantor pursuant to this Agreement will be the property of Grantor and will be maintained and repaired by the Grantor after completion of the project.
5. Grantor understands that any construction lying outside of the traveled portion and shoulders but within the right of way of the county road which is made for the use and benefit of the remaining property, either under the terms of this agreement or the construction plans, shall be completed in conformance with normal engineering construction practices.

6. Upon Grantor's execution of deed of dedication, Grantor shall remove from the property all personal property, fixtures, and improvements retained by Grantor under the terms of this Agreement. If personal property, fixtures, or improvements are required to be moved, Grantor may be entitled to relocation benefits and assistance which will be provided outside of this Agreement in accordance with the Uniform Relocation Act requirements in conformance with the ODOT Right-of-Way Manual.
7. Grantor understands that this Agreement does not convey any water rights appurtenant to the subject property. If water rights are appurtenant to the subject property, Grantor shall make the necessary arrangements with the applicable irrigation district to transfer water rights to another portion of Grantor's property or quit claim water rights back to the appropriate irrigation district prior to Grantor's execution of dedication deed.
8. Grantor acknowledges that performance of County's obligations under this Agreement constitute just and full compensation for the property (both the dedication and the temporary construction easement) and any damage to property retained by Grantor.

COUNTY OBLIGATIONS

1. Within thirty (30) calendar days of execution of this Agreement and receipt of fully signed and executed deed of dedication and temporary construction easement, County will deliver payment to Grantor in the amount of **Seven Thousand Six Hundred and 00/100 Dollars (\$7,600.00)**. County will take immediate possession of property upon delivery of payment.
2. County will be responsible for payment of all recording fees or other costs required for recording conveyance instruments.
3. Prior to completion of the project, County or their contractor shall replace existing trees to be removed within the temporary construction easement on a one-for-one basis with 6 foot-height ponderosa pine trees to be planted within the temporary construction easement area. Existing trees to be replaced shall only include live trees with a diameter at breast height (DBH) of 4 inches or more.

4. County will require that the work listed in Section 3 be done in a reasonable workmanship manner, but County cannot guarantee or warrant the work or goods provided to Grantor. County disclaims all warranties of merchantability and fitness for any particular purpose, express or implied.

GENERAL PROVISIONS

1. This Agreement supersedes any prior oral and written Agreements or understandings. This Agreement may be modified only by written amendments.
2. The conditions of this Agreement are binding upon and will inure to the benefit of the successors and legal representatives of Grantor and County and will survive conveyance of the property.
3. Time is of the essence of this Agreement. References to Grantor in this Agreement include all persons who hold title to the property.

(Signature Page to Follow)

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

GRANTOR

DATED this 21 day of July, 2025

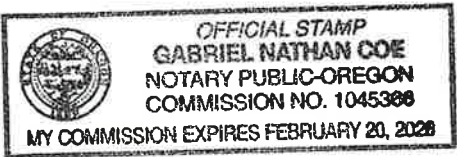


Robert F. Nottelmann, Owner

STATE OF Oregon)
County of Deschutes) SS.

Before me, a Notary Public, personally appeared Robert F. Nottelmann and acknowledged the foregoing instrument.

Dated this 21 day of July, 2025.





NOTARY PUBLIC FOR Oregon
My Commission Expires: 02/20/2028

DESCHUTES COUNTY, acting by and through its Board of County Commissioners

DATED this _____ day of _____, 20____.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE-CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this _____ day of _____, 20____.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____



EXHIBIT A
RIGHT-OF-WAY DEDICATION
TAX LOT 102
TAX MAP 20 11 30AO

A TRACT OF LAND, BEING A PORTION OF PARCEL 1 DESCRIBED IN WARRANTY DEED 2023-23435, DESCHUTES COUNTY OFFICIAL RECORDS, LOCATED IN THE NORTHWEST ONE-QUARTER (NW1/4) OF THE NORTHWEST ONE-QUARTER (NW1/4) SECTION 29, TOWNSHIP 20 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 29, MARKED BY A 2-1/2 INCH BRASS CAP STAMPED "R. OMAN PLS702, 1982"; THENCE SOUTH 89°28'50" EAST 564.56 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SOUTH CENTURY DRIVE (BEING 30.00 FEET FROM CENTER WHEN MEASURED AT RIGHT ANGLES TO);

THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE NORTH 87°55'43" EAST 52.04 FEET TO THE WEST RIGHT-OF-WAY LINE OF HUNTINGTON ROAD (BEING 30.00 FEET FROM CENTER WHEN MEASURED AT RIGHT ANGLES);

THENCE ALONG SAID WEST RIGHT-OF-WAY 100.84 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 565.00 FEET, THROUGH A CENTRAL ANGLE OF 10°13'33", AND A CHORD OF SOUTH 24°14'55" WEST 100.70 FEET;

THENCE LEAVING SAID WEST RIGHT-OF-WAY LINE NORTH 06°45'16" WEST 90.57 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED TRACT OF LAND CONTAINS 2,500 SQUARE FEET MORE OR LESS.

SUBJECT TO ANY EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.

BEARINGS FOR THIS DESCRIPTIONS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS), DESCHUTES 13 TRANSFORMATION, DERIVED FROM THE OREGON REAL-TIME GNSS NETWORK (ORGN).

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

Corey Pacheco

Digitally signed by Corey Pacheco
DN: cn=US,
E=cpacheco@parametrix.com,
CN=Corey Pacheco
Date: 2025.03.25 16:06:23-0700

**OREGON
JULY 11, 2023
COREY PACHECO
101863**

EXPIRES: 12-31-2026



EXHIBIT A
TEMPORARY CONSTRUCTION EASEMENT
TAX LOT 102
TAX MAP 20 11 30AO

A 10.00-FOOT-WIDE STRIP OF LAND, BEING A PORTION OF PARCEL 1 TAXLOT DESCRIBED IN WARRANTY DEED 2023-23435, DESCHUTES COUNTY OFFICIAL RECORDS, LOCATED IN THE NORTHWEST ONE-QUARTER (NW1/4) OF THE NORTHWEST ONE-QUARTER (NW1/4) SECTION 29, TOWNSHIP 20 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE NORTH 87°55'43" EAST 10.03 FEET;

THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE SOUTH 06°45'16" EAST 90.57 FEET TO THE WEST RIGHT-OF-WAY LINE OF HUNTINGTON ROAD (BEING 30.00 FEET FROM CENTER WHEN MEASURED AT RIGHT ANGLES);

THENCE ALONG SAID WEST RIGHT-OF-WAY THE FOLLOWING TWO (2) COURSES:

10.69 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 565.00 FEET, THROUGH A CENTRAL ANGLE OF 1°05'02", AND A CHORD OF SOUTH 29°54'12" WEST 10.69 FEET;

THENCE SOUTH 30°26'43" WEST 5.99 FEET;

THENCE LEAVING SAID WEST RIGHT-OF-WAY LINE NORTH 06°45'16" WEST 104.73 FEET TO THE POINT OF BEGINNING.

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BEARINGS FOR THIS DESCRIPTIONS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS), DESCHUTES 13 TRANSFORMATION, DERIVED FROM THE OREGON REAL-TIME GNSS NETWORK (ORGN).

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

Corey Pacheco

Digitally signed by Corey Pacheco
 DN: C=US,
 E=cpacheco@parametrix.com,
 CN=Corey Pacheco
 Date: 2025.03.25.16:05:02-07'00'

**OREGON
JULY 11, 2023
COREY PACHECO
101863**

EXPIRES: 12-31-2026



150 NW Pacific Park Lane, Suite 110 • Bend, OR 97701 | 541.508.7710 | Parametrix.com

EXHIBIT B
RIGHT-OF-WAY DEDICATION EXHIBIT
A TRACT OF LAND LOCATED IN THE NW1/4 OF THE NW1/4
SECTION 29, TOWNSHIP 20 SOUTH, RANGE 11 EAST, W.M.,
DESCHUTES COUNTY, OREGON

TAX LOT 1700
TAX MAP 20 11 20
BARGAIN AND SALE DEED
2018-21103

TAX LOT 100
TAX MAP 20 11 29B
WARRANTY DEED
2001-45102

CURVE NO.	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD BEARING
C1	100.84'	565.00'	10°13'33"	100.70'	S94°14'55"W

SOUTH CENTURY DRIVE
(THOLSTRUP COUNTY ROAD)

TAX LOT 102
TAX MAP 20 11 30A0
PARCEL 1
WARRANTY DEED
2023-23435

TAX LOT 101
TAX MAP 20 11 30A0
PARCEL 1
WARRANTY DEED
2023-23435

LEGEND



RIGHT-OF-WAY DEDICATION
AREA = ±2500 SF

SF
ROW

SQUARE FEET
RIGHT-OF-WAY

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Corey Pacheco
E:cpacheco@pirametri.com
C:Corey Pacheco
Date: 2025-03-25 16:06:36-0700

OREGON
JULY 11, 2023
COREY PACHECO
101863

EXPIRES: 12-31-2026

BASIS OF BEARINGS
BEARINGS FOR THIS EXHIBIT ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCs), DESCHUTES 13 TRANSFORMATION, DERIVED FROM THE OREGON REAL-TIME GNSS NETWORK (ORGN).

PREPARED FOR
DESCHUTES COUNTY

EXHIBIT: B

S. CENTURY DRIVE
RIGHT-OF-WAY DEDICATION
TL 102 TM 201130A0

DRWN: DRF

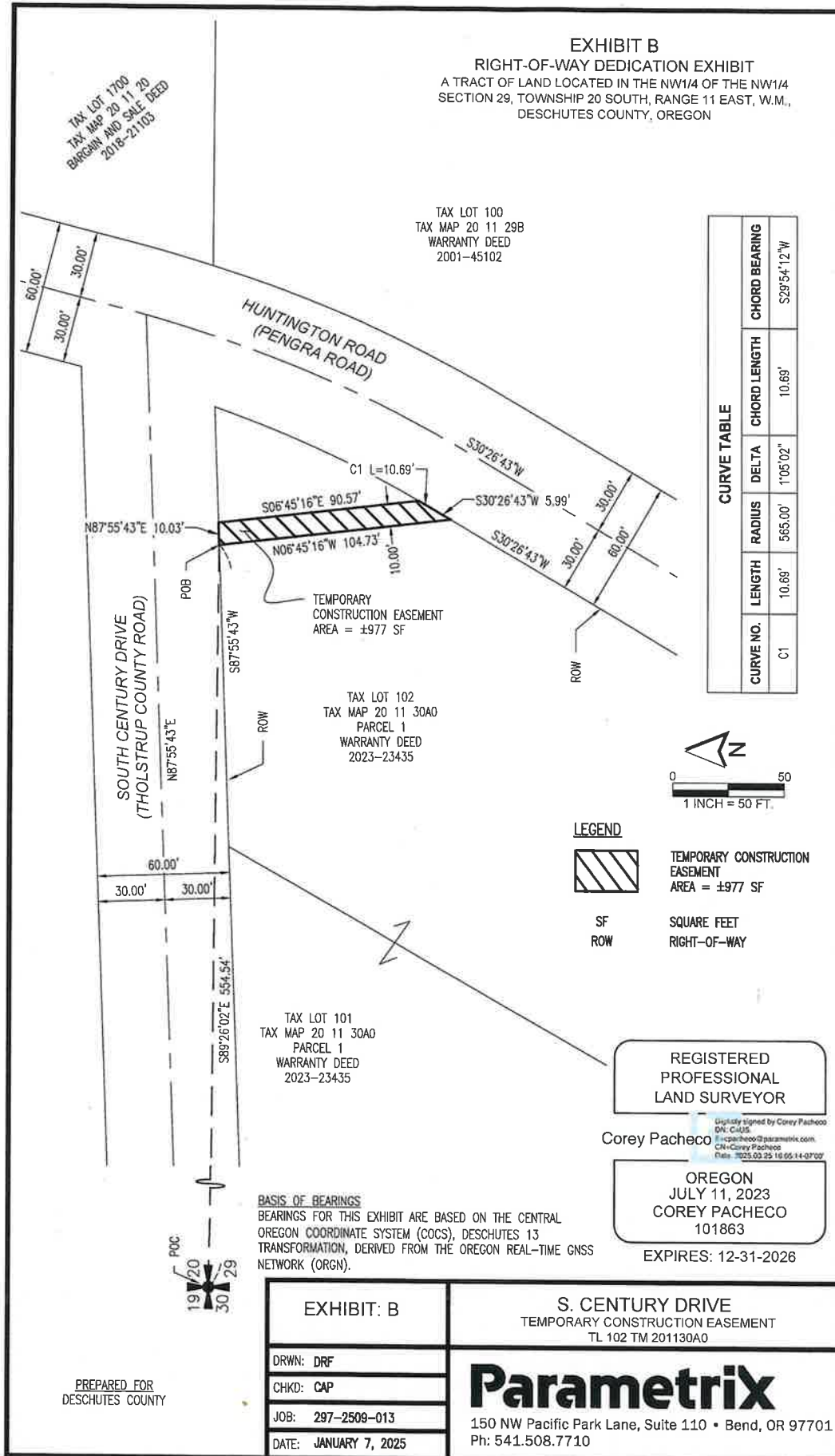
CHKD: CAP

JOB: 297-2509-013

DATE: MARCH 25, 2025

ParametriX

150 NW Pacific Park Lane, Suite 110 • Bend, OR 97701
Ph: 541.508.7710



REVIEWED

LEGAL COUNSEL

After recording return to:
Deschutes County Road Dept.
61150 S.E. 27th Street
Bend, Oregon 97701

For Recording Stamp Only

DEED OF DEDICATION

Robert F. Nottelmann, Grantor, does hereby dedicate to the public for roadway and utility purposes that parcel of land described in Exhibit "A" and depicted in Exhibit "B", attached hereto and by this reference incorporated herein.

The true consideration for this conveyance is **Seven Thousand One Hundred Twenty-Eight and 00/100 (\$7,128.00).**

DATED this 21 day of July, 2025.

Robert F Nottelmann

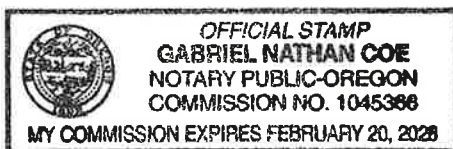
Name:

Title:

STATE OF Oregon)
County of Deschutes) SS.

Before me, a Notary Public, personally appeared Robert F Nottelmann and acknowledged the foregoing instrument.

Dated this 21 day of July, 2025.



Gabriel Nathan Coe
NOTARY PUBLIC FOR Oregon
My Commission Expires: 02/20/2028

ACCEPTANCE

Deschutes County, acting by and through its Board of County Commissioners, does hereby accept the foregoing Deed of Dedication as a public road pursuant to ORS 93.808.

DATED this _____ day of _____, 2025.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this _____ day of _____, 2025.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____



EXHIBIT A
RIGHT-OF-WAY DEDICATION
TAX LOT 102
TAX MAP 20 11 30AO

A TRACT OF LAND, BEING A PORTION OF PARCEL 1 DESCRIBED IN WARRANTY DEED 2023-23435, DESCHUTES COUNTY OFFICIAL RECORDS, LOCATED IN THE NORTHWEST ONE-QUARTER (NW1/4) OF THE NORTHWEST ONE-QUARTER (NW1/4) SECTION 29, TOWNSHIP 20 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE LEAVING SAID WEST RIGHT-OF-WAY LINE NORTH 06°45'16" WEST 90.57 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED TRACT OF LAND CONTAINS 2,500 SQUARE FEET MORE OR LESS.

SUBJECT TO ANY EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD AND THOSE COMMON AND APPARENT ON THE LAND.

BEARINGS FOR THIS DESCRIPTIONS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS), DESCHUTES 13 TRANSFORMATION, DERIVED FROM THE OREGON REAL-TIME GNSS NETWORK (ORGN).

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

Corey Pacheco

Digitally signed by Corey Pacheco
DN: cn=US,
E=cpacheco@parametrix.com,
cN=Corey Pacheco
Date: 2025.03.25 15:06:23-0700

**OREGON
JULY 11, 2023
COREY PACHECO
101863**

EXPIRES: 12-31-2026

EXHIBIT B

RIGHT-OF-WAY DEDICATION EXHIBIT

A TRACT OF LAND LOCATED IN THE NW1/4 OF THE NW1/4
SECTION 29, TOWNSHIP 20 SOUTH, RANGE 11 EAST, W.M.,
DESCHUTES COUNTY, OREGON

TAX LOT 100
TAX MAP 20 11 29B
WARRANTY DEED
2001-45102

CURVE TABLE				
CURVE NO.	LENGTH	RADIUS	DELTA	CHORD BEARING
C1	100.84'	565.00'	101°3'33"	S24°14'55"W

TAX LOT 1703
TAX MAP 20 11 20
BARGAIN AND SALE DEED
2018-21103

HUNTINGTON ROAD
(PENGRAD ROAD)

52.04°

C1-L=100.84'

186145°16"W 90.57'

ROW DEDICATION
AREA = ± 2500

TAX LOT 102
TAX MAP 20 11 30A0
PARCEL 1
WARRANTY DEED
2023-23435

SOUTH CENTURY DRIVE
THOLSTRUP COUNTY ROAD)

387°55'43"W

TAX LOT 101
TAX MAP 20 11 30A0
PARCEL 1
WARRANTY DEED
2023-23435

LEGEND



RIGHT-OF-WAY DEDICATION
AREA = ±2500 SF

SF
ROW

SQUARE FEET
RIGHT-OF-WAY

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Corey Pacheco

OREGON
JULY 11, 2023
COREY PACHECO
101863

EXPIRES: 12-31-2026

BASIS OF BEARINGS
BEARINGS FOR THIS EXHIBIT ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCs), DESCHUTES 13 TRANSFORMATION, DERIVED FROM THE OREGON REAL-TIME GNSS NETWORK (ORGN).

EXHIBIT: B

S. CENTURY DRIVE
RIGHT-OF-WAY DEDICATION
TL 102 TM 201130A0

DRWN: DRF

CHKD: CAP

JOB: 297-2509-013

DATE: MARCH 25, 2025

Parametrix

150 NW Pacific Park Lane, Suite 110 • Bend, OR 97701
Ph: 541.508.7710

PREPARED FOR
DESCHUTES COUNTY

REVIEWED

LEGAL COUNSEL

After recording return to:
Deschutes County Road Department
61150 S.E. 27th Street
Bend, Oregon 97702

For Recording Stamp Only

TEMPORARY CONSTRUCTION EASEMENT

Robert F. Nottelmann, Grantor, does hereby grant to Deschutes County, Oregon, Grantee, its successors and assigns, a Temporary Construction Easement for construction purposes, over and across the Grantor's property as described in Exhibit "A" and depicted on Exhibit "B", attached hereto and by this reference incorporated herein.

The true consideration for this conveyance is **Four Hundred Seventy-Two and 00/100 Dollars (\$472.00)** and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

The Grantee's use of the easement shall include the right for the Grantee, its employees, agents, assigns, contractors and employees of contractors, to enter and use the easement area for construction work in connection with the South Century Drive: Sunriver Corridor Intersections Improvements Project, South Century Drive/Huntington Road Roundabout project ("Project").

The term and duration of this temporary construction easement shall be from start date of construction to the completion of the Project, or two (2) calendar years following the date all required signatures are obtained, whichever is sooner.

This document is intended to grant easements on the property described, not to convey fee title or any interest in the underlying property except as expressly stated herein. The easements granted shall not prevent Grantors from the use of said property provided, however, that such use shall not be permitted to interfere with the rights herein granted. Grantor shall not be permitted to endanger the lateral support of any facilities constructed within or adjacent to the easements granted herein.

Grantor agrees that the consideration recited herein is just compensation for the property or property rights conveyed, including any and all damages to Grantor's remaining property, if any, which may result from the acquisition or use of said property and the construction or improvement in the public way.

Grantors hereby covenant to and with Grantee that they are the owners of said property, which is free from all encumbrances, except for easements, conditions and restrictions of record, and

will warrant and defend the easement rights herein granted from all lawful claims whatsoever, except as stated herein.

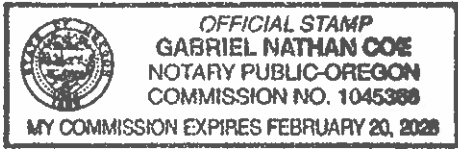
DATED this 21 day of July, 2025.

Robert F Nottelmann
Name:
Title: [Signature]

STATE OF Oregon)
County of Deschutes) SS.

Before me, a Notary Public, personally appeared Robert F Nottelmann, and acknowledged the foregoing instrument.

Dated this 21 day of July, 2025.



[Signature]
NOTARY PUBLIC FOR Oregon
My Commission Expires: 02/20/2028

ACCEPTANCE

Deschutes County, acting by and through its Board of County Commissioners, does hereby accept the foregoing Temporary Construction Easement.

DATED this _____ day of _____, 2025.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

PATTI ADAIR, VICE CHAIR

ATTEST:

PHIL CHANG, COMMISSIONER

Recording Secretary

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this _____ day of _____, 2025.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____



EXHIBIT A
TEMPORARY CONSTRUCTION EASEMENT
TAX LOT 102
TAX MAP 20 11 30AO

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BEARINGS FOR THIS DESCRIPTIONS ARE BASED ON THE CENTRAL OREGON COORDINATE SYSTEM (COCS), DESCHUTES 13 TRANSFORMATION, DERIVED FROM THE OREGON REAL-TIME GNSS NETWORK (ORGN).

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

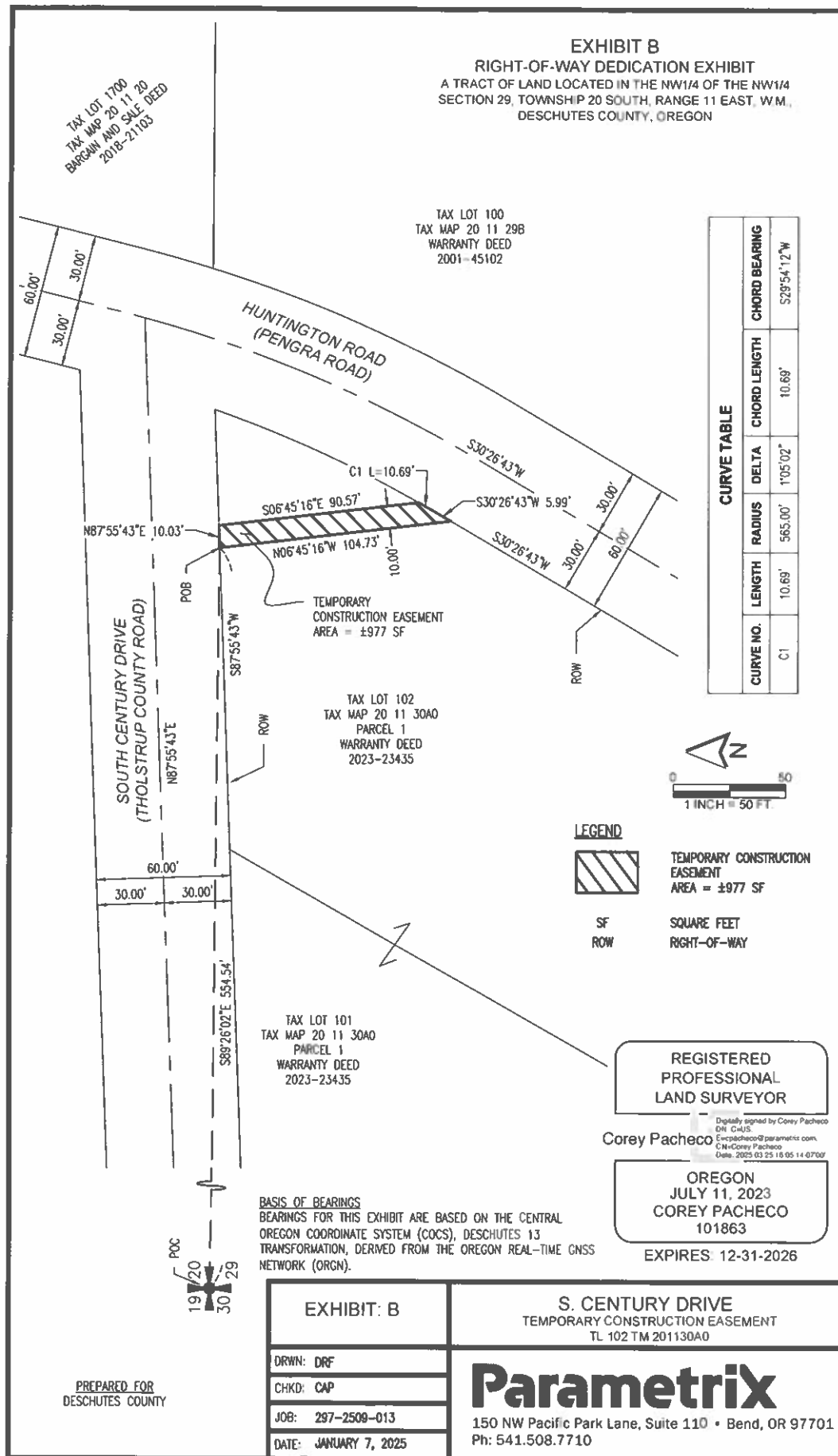
Corey Pacheco

Digitally signed by Corey Pacheco
DN: C=US,
E=cpacheco@parametrix.com,
CN=Corey Pacheco
Date: 2025.03.25 16:05:02-07'00'

**OREGON
JULY 11, 2023
COREY PACHECO
101863**

EXPIRES: 12-31-2026







BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 6, 2025

SUBJECT: Approval of an intergovernmental agreement with the Oregon Department of Transportations for the US97: NW Galloway Ave-O'Neil Hwy Project

RECOMMENDED MOTION:

Move approval of Document No. 2025-812, an intergovernmental agreement with the Oregon Department of Transportations for the US97: NW Galloway Ave-O'Neil Hwy Project

BACKGROUND AND POLICY IMPLICATIONS:

The Oregon Department of Transportation (ODOT) is delivering the US97: NW Galloway Ave-O'Neil Hwy project. The project includes the construction of median barrier on US97 between NW Galloway Avenue and O'Neil Highway and intersection improvements at the intersection of US97, NW Pershall Way, and O'Neil Highway and the intersection of US97 and North Canal Boulevard that will restrict left turns onto US97 from the approaching county roadways.

ODOT staff gave a presentation of the project to the Board of County Commissioners at their June 23, 2025 meeting. Additionally, the project was generally covered in a prior intergovernmental agreement between ODOT and the County (Document No. 2023-415).

The project work will require ODOT and their construction contractor to enter onto the rights of way for NW Pershall Way and NW Canal Boulevard, both Deschutes County roads. This agreement will authorize ODOT and their construction contractor to enter onto the County right of way and memorialize the County's agreement to the restriction of left turns onto US97 at the intersections identified above. Deschutes County is not contributing funding to the project.

BUDGET IMPACTS:

None

ATTENDANCE:

Cody Smith, County Engineer/Assistant Director, Road Department

INTERGOVERNMENTAL AGREEMENT
US97: NW Galloway Ave – O’Neil Hwy
Key No. 22777
Deschutes County

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and DESCHUTES COUNTY, acting by and through its elected officials, hereinafter referred to as "Agency," both referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. The Dalles – California Highway, US Route 97, State Highway No. 004 and the O’Neil Highway, OR Route 370, State Highway No. 370 are under the jurisdiction and control of the Oregon Transportation Commission (OTC).
3. NW Canal Boulevard is a part of the County Road system under the jurisdiction and control of Agency.
4. NW Pershall Way between US97 and NW 10th Street is part of the Deschutes County Road system which is within the City of Redmond’s Urban Growth Boundary subject to City land-use planning and transportation planning.
5. State’s US97: NW Canal Blvd - O’Neil Highway Project (Key No. 2277) consists of designing and constructing safety features that will restrict all intersection crossing and left turn movements from NW Pershall Way and O’Neil Hwy to US97. The Project will also restrict turning movements to right-in/right-out at the intersection of NW Canal Boulevard from US97.

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

TERMS OF AGREEMENT

Under such authority, State and Agency agree to State accessing Agency’s property for the purpose designing and constructing safety improvements at the intersections of US97 and NW Pershall Way and US97 and NW Canal Blvd. Said traffic and safety improvements will restrict crossing movements from the NW Pershall Way approach to the O’Neil Highway and left turn movements from the NW Pershall Way approach to US97 northbound; and will restrict turning movements from the NW Canal Boulevard approach to US97 to right in and right out movements only.

1. **Americans with Disabilities Act Compliance**

Deschutes County/ODOT
Agreement No. 73000-00038782

- a. When the Project scope includes work on sidewalks, curb ramps, or pedestrian-activated signals or triggers an obligation to address curb ramps or pedestrian signals, the Parties shall:
 - i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, “ADA”), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Follow ODOT’s processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
 - iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State’s Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT’s fillable Curb Ramp Inspection Form and instructions are available at the following address:
- b. Agency shall ensure that any portions of the Project under Agency’s maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed;
 - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and

Deschutes County/ODOT
Agreement No. 73000-00038782

- v. Applicable permitting and regulatory actions are consistent with ADA requirements.
 - c. Maintenance obligations in this section shall survive termination of this Agreement.
- 3. This Agreement does not change any existing maintenance responsibilities.
- 4. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance (and power if applicable) responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed within ten (10) calendar years following the date of final execution of this Agreement by both Parties.

AGENCY OBLIGATIONS

- 1. County agrees that State shall perform the work described in Terms of Agreement, paragraph 1 above.
- 2. County agrees to the restricted turning movements of NW Pershall Way and NW Canal Boulevard in conjunction with the State's US97: NW Canal Blvd - O'Neil Hwy project
- 3. Agency grants State the right to enter onto Agency property for the performance of State's duties as set forth in this Agreement.
- 4. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- 5. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind the Agency.
- 6. Agency's Project Manager for this Project is Cody Smith – County Engineer, 61150 SE 27th Street, Bend, OR 97702, (541) 322-7113, Cody.smith@deschutes.org or

assigned designee upon individual's absence. Agency shall notify the other Parties in writing of any contact information changes during the term of this Agreement

STATE OBLIGATIONS

1. State shall perform the work described in Terms of Agreement, Paragraph 1 above.
2. State shall be responsible for all costs associated with the Project.
3. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
4. State's Project Manager for this Project is Abbey Driscoll – Transportation Project Manager, 63055 N. Highway 97, Bldg M, Bend, OR 97703, (541) 388-6064, abbey.driscoll@odot.oregon.gov, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

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

Deschutes County/ODOT
Agreement No. 73000-00038782

3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
5. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
6. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

Deschutes County/ODOT
Agreement No. 73000-00038782

7. 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.
8. 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.
9. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind the Parties unless in writing and signed by all Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

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

This Project is in the 2024-2027 Statewide Transportation Improvement Program (STIP), (Key #22777) that was adopted by the Oregon Transportation Commission on July 13, 2023 (or subsequently by amendment to the STIP).

SIGNATURE PAGE FOLLOWS

Deschutes County/ODOT
Agreement No. 73000-00038782

DESCHUTES COUNTY, by and through
its elected officials

By _____
Commission Chair

Date _____

By _____
Commissioner

Date _____

By _____
Commissioner

Date _____

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

By _____
Agency’s Counsel

Date _____

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 4 Manager

Date _____

APPROVAL RECCOMENDED

By _____
Central Oregon Area Manager

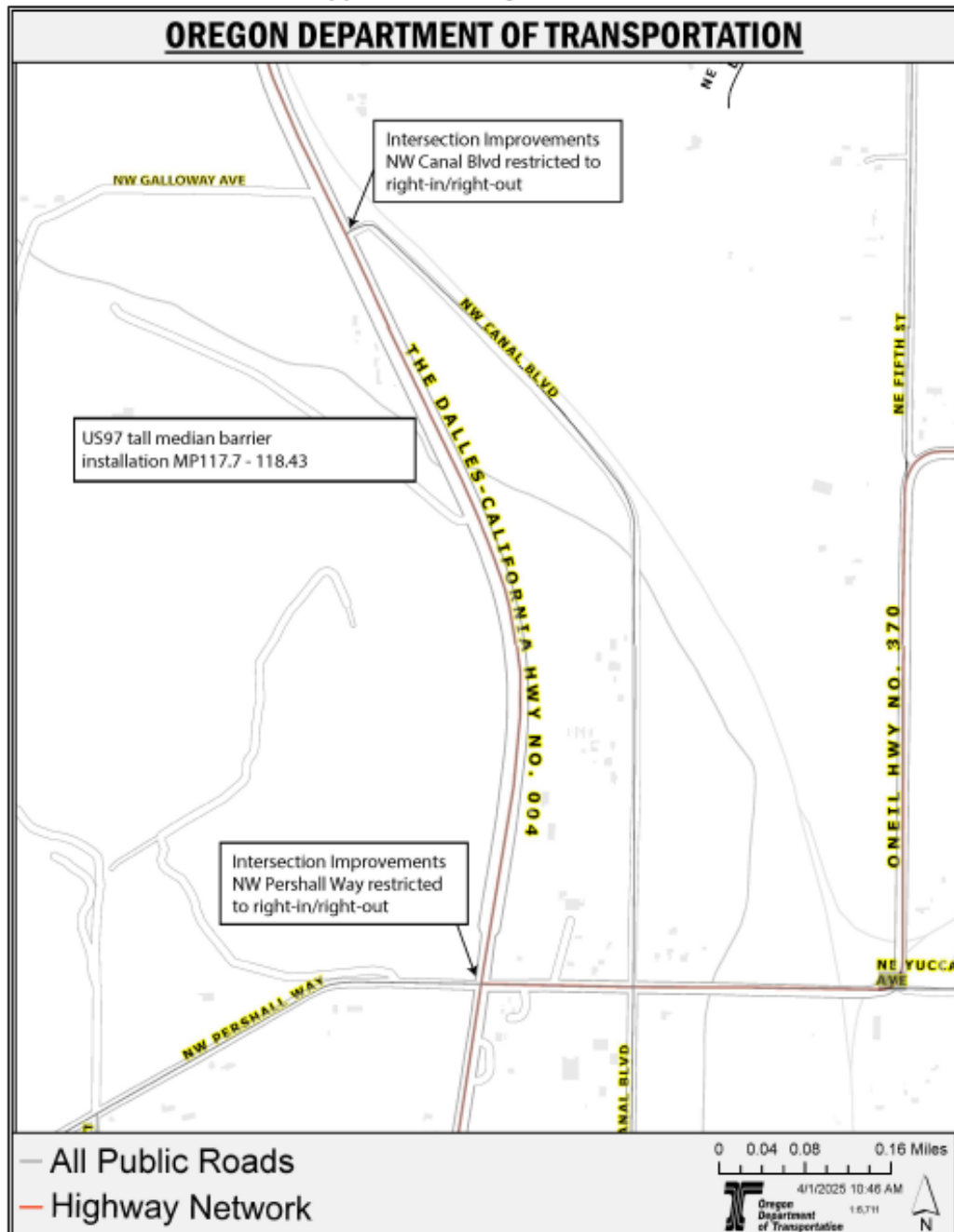
Date _____

Agency Contact:
Cody Smith – County Engineer
61150 SE 27th Street
Bend, OR 97702
(541) 322-7113
Cody.smith@deschutes.org

State Contact:
Abbey Driscoll – Transportation Project
Manager
63055 N. Highway 97, Bldg M
Bend OR, 97703
(541) 410-5906
abbey.driscoll@odot.oregon.gov

Deschutes County/ODOT
Agreement No. 73000-00038782

EXHIBIT A
Approximate Project Location





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 6, 2025

SUBJECT: Approval of Document No. 2025-814 terminating and releasing a Public Utility Easement at 63330 N Highway 97

RECOMMENDED MOTION:

Move approval of Document No. 2025-814 to terminate and release a Public Utility Easement at 63330 N Highway 97.

BACKGROUND AND POLICY IMPLICATIONS:

The Deschutes County Road Department has received a request to terminate and release a portion of a public utility easement over [Tax Lot 171216C000500](#) (63330 N Highway 97, Bend, OR), which lies within the incorporated limits of the City of Bend. The subject easement was reserved as part of Order No. 97-144, which vacated the public right-of-way for the W.X. Hunnell Road south of Cooley Road in 1997. The requesting party, Erik Huffman of Becon Civil Engineering and Land Surveying, represents the interests of the Matt Thomas Trust, the owner of the subject tax lot. Release of the easement will provide for development of the subject tax lot.

Notice of the termination and release of the portion of the easement on the subject tax lot was provided to all impacted utility owners, and said utility owners provided signed forms consenting to the termination and release of the easement portion.

Road Department staff recommend that the Board of County Commissioners approve the proposed termination and release of easement.

BUDGET IMPACTS:

None

ATTENDANCE:

Cody Smith, County Engineer/Assistant Road Department Director

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

08/06/2025 Item #5.

After Recording Return to:
Deschutes County Road Dept.
61150 S.E. 27th Street
Bend, Oregon, 97701

TERMINATION AND RELEASE OF EASEMENT

THIS TERMINATION AND RELEASE OF EASEMENT is made by Deschutes County, a political subdivision of the State of Oregon ("County").

RECITALS

- A. County enacted Order No. 97-144, recorded as Instrument No 1997-043108 in the Official Records of Deschutes County, Oregon, to vacate a portion of the Hunnell Road public right-of-way (the "Order").
- B. As part of the Order, County reserved a utility easement within the former Hunnell Road public right-of-way (the "Easement").
- C. The portion of the Easement described in the attached Exhibit "A" and depicted in the attached Exhibit "B" is located on the property described in Instrument No. 2024-04259, recorded in the Official Records of Deschutes County (the "Burdened Property"), and the owner of the Burdened Property desires to extinguish said portion of the Easement.
- D. Notice of the termination and release of the Easement on the Burdened Property was provided to all impacted utility owners, and said utility owners consented to the termination and release of the Easement on the Burdened Property.
- E. County desires to release that portion of the Easement on the Burdened Property as it is no longer needed.

NOW THEREFORE, for other consideration, County hereby terminates, releases, and forever discharges all rights in that portion of the Easement described in the attached Exhibit "A" and depicted in the attached Exhibit "B".

Dated this _____ of _____, 2025

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

STATE OF OREGON)
) SS.
County of Deschutes)

Before me, a Notary Public, personally appeared Anthony DeBone, Patti Adair, and Phil Chang, the above-named Board of County Commissioners of Deschutes County, Oregon, acknowledged the foregoing instrument, on behalf of Deschutes County, Oregon.

Dated this _____ day of _____, 2025.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

EXHIBIT "A"**LEGAL DESCRIPTION**

LOCATED IN THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 17 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, CITY OF BEND, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

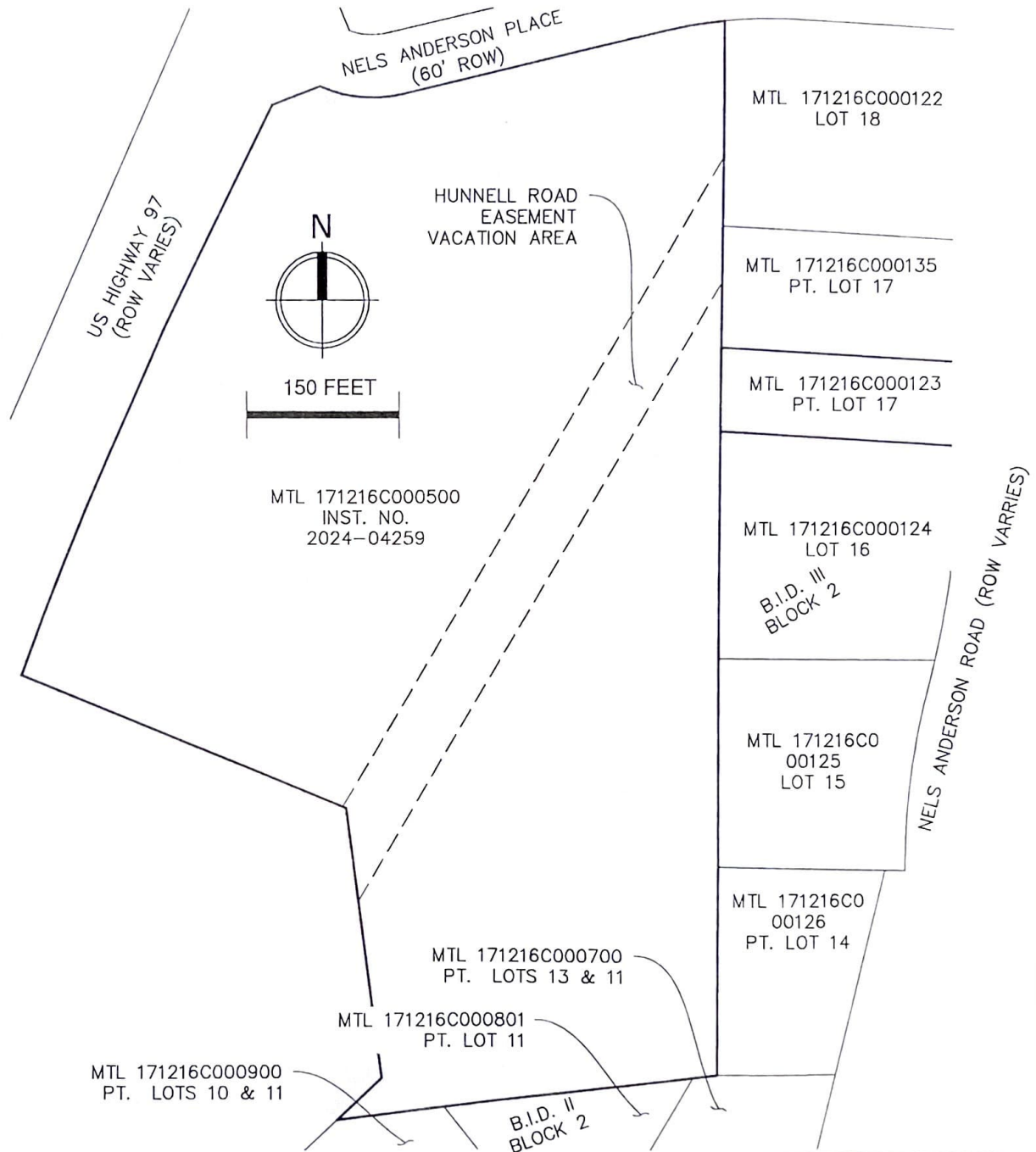
THAT PORTION OF THE RESERVED UTILITY EASEMENT LOCATED IN THE VACATED PORTION OF THE 1914 W. X. HUNNELL ROAD RECORDED NOVEMBER 19, 1997, IN VOLUME 470 PAGE 1050, DESCHUTES COUNTY OFFICIAL RECORDS, LYING SOUTH OF NELS ANDERSON PLACE LYING WITHIN THE BOUNDARY OF THE LAND DESCRIBED IN STATUTORY BARGAIN AND SALE DEED TO WILLAM B. THOMAS AND MATTHEW J. THOMAS, OR HIS SUCCESSOR(S), AS TRUSTEE OF THE MATT THOMAS TRUST DATED AUGUST 1, 2019, RECORDED FEBRUARY 22, 2024, IN INSTRUMENT NUMBER 2024-04259, DESCHUTES COUNTY OFFICIAL RECORDS.

SEE DRAWING LABELED EXHIBIT "B" ATTACHED HERETO AND HEREBY INCORPORATED BY REFERENCE.



EXHIBIT "B"

LOCATED IN THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16,
TOWNSHIP 17 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, CITY OF BEND, OREGON



CIVIL ENGINEERING
& LAND SURVEYING

549 SW MILL VIEW WAY
SUITE 100
BEND, OREGON 97702
(541) 633-3140
www.beconeng.com

FOR:
EMPIRE CONSTRUCTION
63026 NE LOWER MEADOW
DRIVE SUITE 200
BEND, OR 97701

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
DEC. 16, 2009
ERIK J. HUFFMAN
70814

DATE: 06/17/2025

SCALE: 1" = 150'

DRAWN BY: AJH

PROJ: 23046

RENEW: JUN. 30, 2027



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 6, 2025

SUBJECT: Approval of an amendment to a restrictive covenant encumbering a parcel consisting of +/- 39.31-acres commonly known as Northpoint Vista in Redmond

RECOMMENDED MOTION:

Move approval of Document No. 2025-821, a First Amendment to a Restrictive Covenant encumbering a parcel consisting of +/- 39.31-acres known as Map and Tax Lot 151310A001900, and commonly known as Northpoint Vista in Redmond

BACKGROUND AND POLICY IMPLICATIONS:

In May 2024, Deschutes County donated +/- 39.31-acres known as Map and Tax Lot 151310A001900 and commonly known as Northpoint Vista to the City of Redmond. The purpose of the donation was to support the development of affordable, work force and market rate housing.

The original Restrictive Covenant recorded at the time of conveyance to the City required that 30% of the housing units developed on each subsequent parcel be designated at affordable housing.

The First Amendment modifies the Restrictive Covenant to require 30% of the overall housing units developed to be designated as affordable housing, which includes both rental and ownership.

BUDGET IMPACTS:

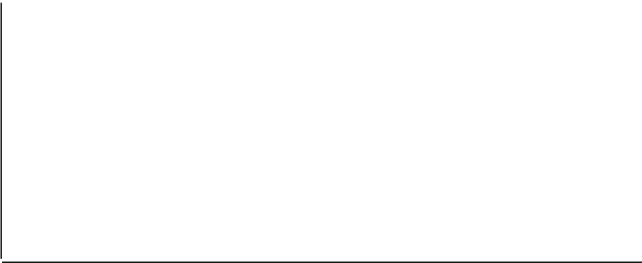
None

ATTENDANCE:

Kristie Bollinger – Deschutes County Property Management

REVIEWED

LEGAL COUNSEL



For Recording Stamp Only

After Recording, Return To:
Deschutes County Property Management
PO Box 6005
Bend, OR 97708

**FIRST AMENDMENT to
RESTRICTIVE COVENANT (Deschutes County Document No. 2024-344)**

THIS FIRST AMENDMENT (“Amendment”) is made as of the date of the signature affixed hereto “Effective Date” by Deschutes County, a political subdivision of the State of Oregon (“County”).

This Amendment amends that certain Restrictive Covenant (“Covenant”) recorded in the Official Records of Deschutes County, Oregon No. 2024-13398 dated May 30, 2024, which encumbers that certain real property (“Property”) legally described as:

Parcel 1, Partition Plat 2023-28, City of Redmond, Deschutes County, Oregon.

This Amendment will be recorded in the Official Records of Deschutes County, Oregon, in accordance with the terms of the Covenant for Fifty (50) years beginning from the conveyance of the Property from the County (“Grantor”) to the City of Redmond, an Oregon municipal corporation (“Grantee”) through the Bargain and Sale Deed recorded in the Official Records of Deschutes County, Oregon No. 2024-13474 dated May 30, 2024 (“Affordability Period”).

The Covenant is amended to ensure affordability on a portion of the Property as follows:

Grantee, at Grantee's sole cost and expense, shall subsequently record a Deed Restriction(s) in the Official Records of Deschutes County, Oregon to Ensure Affordability against certain portions of the Property as required herein.

Grantee agrees that a minimum of thirty percent (30%) of the total housing units developed on the Property will be affordable housing and will be exclusively rented or sold to low income applicants, pursuant to applicable provisions of House Bills 4079 (2016) and 2336 (2019) and Oregon Revised Statute 271.330 (2). Prior to finalizing any and all conveyance or grant of lease, Grantee will record a Deed Restriction to Ensure Affordability on that portion of the Property where the affordable housing will be developed.

Each and every contract, deed, mortgage, or other instrument covering or conveying a portion of the Property to be designated for affordable housing, whether sold or rented, shall be conclusively held to have been executed,

delivered, and accepted subject to this Covenant (as amended), regardless of whether such covenants are set forth in such contract, deed, mortgage, or other instruments.

Nothing herein shall prohibit the Grantee from partitioning a portion of the Property to be developed at market rates. While said partitioned property will not be subject to this Covenant, alienation of the partitioned property will not reduce or alter the 30% calculation formula for development of affordable housing units.

All other Terms of the Covenant remain the same.

[SIGNATURE PAGES FOLLOW]

IN WITNESS THEREOF, the Grantor has caused this First Amendment to be effective for all purposes as of the Execution Date.

GRANTOR:

Dated this _____ of _____, 2025 BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

[SIGNATURE PAGE FOLLOWS]

GRANTEE:

DATED this ____ day of _____, 2025 CITY OF REDMOND, OREGON

ATTEST

KEITH WITOWSKY, City Manager

DRAFT



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 6, 2025

SUBJECT: Request to add 1.0 FTE Assistant Planner position

RECOMMENDED MOTION:

Move approval to add 1.0 FTE Assistant Planner position to the Community Development Department.

BACKGROUND AND POLICY IMPLICATIONS:

CDD requests the addition of one FTE Assistant Planner to the Planning Division (Current Planning Section) to assist with increases in land use applications, counter customers, email and phone inquiries. This position will also eventually assume addressing services as part of CDD's succession planning.

BUDGET IMPACTS:

Planning fees and if necessary, Reserve Fund 300, can fully fund the added position. The total cost of the FTE is estimated at \$129,000 to cover the fully loaded annual rate for salary and benefits (\$126,000) and computer, equipment and training (\$3,000).

ATTENDANCE:

Peter Gutowsky, Community Development Director
Will Groves, Planning Manager
Sherri Pinner, Senior Management Analyst



COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Deschutes County Board of Commissioners
Nick Lelack, County Administrator

FROM: Peter Gutowsky, AICP, Director
Sherri Pinner, Senior Management Analyst

DATE: August 6, 2025

SUBJECT: Planning Division / Staffing Request

I. SUMMARY

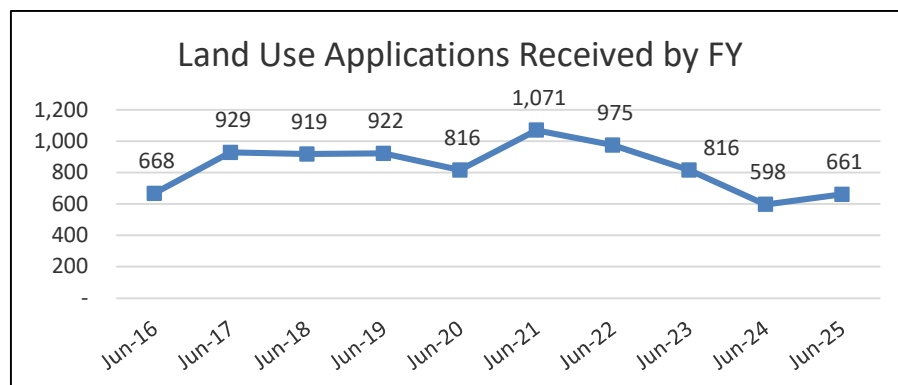
The Community Development Department (CDD) requests the addition of one (1) full-time equivalent (FTE) in the Planning Division (Current Planning Section) to assist with increases in land use applications, counter customers, email and phone inquiries. This position will also eventually assume addressing services as part of CDD's succession planning. Specifically, the Planning Division proposes to:

- Add one (1) full-time regular assistant planner to manage entry level land use applications, telephone calls, emails, walk-in customer demands and addressing.

II. PLANNING DIVISION CHALLENGES / PERMIT VOLUMES & CUSTOMER INQUIRIES

During fall 2023, CDD reduced its workforce and eliminated two (2) Assistant Planners. This decision occurred during a period of reduced land use applications. During Fiscal Year 2025, land use application volume showed an approximate 10.5% increase over the prior period, leading to more counter customers, phone inquiries as well as pre-application meetings. This occurred at a time when the Planning Division experienced staffing shortages related to family medical leave. The Planning Division is currently operating at capacity. Graph 1 illustrates land use applications submitted for the past ten (10) fiscal years.

Graph 1



III. SUCCESSION PLANNING

Looking ahead, the Planning Division is also preparing to assume addressing responsibilities from the Administrative Division. An administrative assistant is expected to retire in December 2026. CDD wants to onboard the assistant planner so there is ample time to assume addressing responsibilities prior to the planned retirement.

IV. FINANCIAL IMPACT

The total cost of the FTE is estimated at \$129,000 to cover the fully loaded annual rate (\$126,000) and computer, equipment and training (\$3,000). Funding for the position will come from existing revenues.

V. BOARD DIRECTION

- Approve or deny the addition of one (1) assistant planner.



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: August 6, 2025

SUBJECT: Public Hearing: McKenzie Meadow Village Comprehensive Plan Amendment and Zone Change for 58 acres adjacent to the City of Sisters

RECOMMENDED MOTION:

Following the hearing the Board may choose to:

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

BACKGROUND AND POLICY IMPLICATIONS:

The Board of Commissioners (Board) will hold a public hearing to consider a Comprehensive Plan Amendment and Zone Change request submitted by McKenzie Meadow Village, LLC involving 58 acres located adjacent to the City of Sisters. Additional background is included in the staff memorandum. The full record is located on the project webpage:

<https://www.deschutes.org/mckenziemeadowvillage>.

BUDGET IMPACTS:

None

ATTENDANCE:

Haleigh King, AICP, Senior Planner



COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Haleigh King, AICP, Senior Planner

DATE: July 30, 2025

SUBJECT: McKenzie Meadow Village Comprehensive Plan Amendment and Zone Change – Public Hearing

The Board of County Commissioners (“Board”) will conduct a public hearing on August 6, 2025, to consider a request for a Comprehensive Plan Amendment and Zone Change (file nos. 247-24-0000839-PA, 840-ZC) affecting a total of 58 acres adjacent to City of Sisters. This will be the second of two required public hearings.

I. BACKGROUND

The applicant and property owner, McKenzie Meadow Village LLC, is requesting a Comprehensive Plan Amendment to re-designate the subject properties from Forest to Rural Residential Exception Area and a Zoning Map Amendment to rezone the properties from Forest Use 2 (F-2) to Multiple Use Agricultural – 10 Acre Minimum (MUA-10). The application request includes a Goal 4 (Forest Lands) exception request.

The applicant states that the purpose of this request is to ultimately be brought into the City of Sisters Urban Growth Boundary (UGB) so the applicant can develop a needed housing residential development that includes 30% NET developed units that qualify as affordable housing to meet the City's future housing needs. However, this application request does not include a request to expand the City of Sisters UGB, nor does it include or review a specific development plan under the proposed County zoning designation or any future City zoning designation.

The applicant asserts that the properties qualify for a Goal 4 exception and do not meet the definition of “forest lands” pursuant to State Statute. The applicant provided a supplementary soil study that identifies Class 7 soils on a majority of the property and none of the trees inventoried are considered members of Forest Productivity Class 1 to 4, which are trees considered to be commercial or merchantable in their growth habit. There is nothing in the record indicating the subject property has a known history of commercial timber operations.

II. PUBLIC COMMENTS

As of the date of this memo, Staff received six public comments opposing the proposal in the time period after the Hearing's Officer Recommendation was issued. Comments received after the date of this memo will be included in their entirety in the application record.

Staff received over 150 public comments from neighbors, stakeholders, local interest groups and public agencies related to the April 7, 2025, Hearing's Officer hearing and proceedings. Staff received comments both in favor of the application and those in opposition.

Comments received in support reference the City of Sisters' ongoing UGB expansion process and the subject property's logical inclusion due to proximity to urban services, "moderate" wildfire hazard risk, and potential to provide affordable housing opportunities. Comments received in opposition note concerns with potential traffic impacts, availability of groundwater, wildfire risk, compatibility with and preservation of open space and forested land, and impacts to local wildlife and plant species.

On the day of the initial hearing, Staff received an agency comment from the Oregon Department of Land Conservation and Development ("DLCD") raising several issues but primarily focused on the criteria for a Goal 4 exception request and insufficient evidence in the record to support such a request. DLCD also states the soil survey was not reviewed by DLCD pursuant to Oregon Administrative Rules. Lastly, DLCD emphasizes the application cannot rely on a separate UGB expansion effort as a basis for redesignation.

Approximately 15 people, not including the applicant's team, provided verbal testimony during the hearing with additional written testimony received during the open record periods.

III. HEARINGS OFFICER RECOMMENDATION

The Deschutes County Hearings Officer held a public hearing on April 7, 2025. The written record was left open for a total of 28 days to allow for new evidence and testimony and rebuttal evidence with an additional seven (7) days for the applicant's final legal argument. DLCD did not provide any additional comments during the written open record period.

On June 25, 2025, the Hearings Officer issued a recommendation for approval of the proposed Plan Amendment and Zone Change evaluating compliance with all applicable review criteria.

IV. BOARD CONSIDERATION

As the property includes land designated for forest use and a request for a Goal 4 exception to the Statewide Planning Goals, Deschutes County Code 22.28.030(C) requires the application to be heard *de novo* before the Board, regardless of the recommendation of the Hearings Officer. Per DCC Section 22.20.040(D), the review of the proposed quasi-judicial Plan Amendment and Zone Change is not subject to the 150-day review period typically associated with land use decisions. The record is available for inspection at the Planning Division and at the following website: <https://www.deschutes.org/mckenziemeadowvillage>.

V. NEXT STEPS

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

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

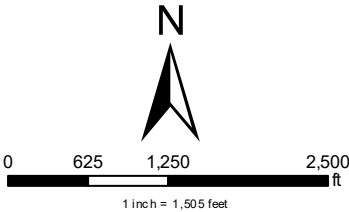
ATTACHMENT(S):

1. Subject Property Map
2. Hearings Officer Recommendation
3. Surrounding Zoning Map
4. Surrounding Property Ownership Map

File Number: 247-24-000839-PA, 840-ZC



Date: 12/31/2024



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

FILE NUMBERS: 247-24-000839-PA / 247-24-000840-ZC

HEARING DATE: April 7, 2025 1:00 p.m.

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

APPLICANT/OWNER: McKenzie Meadow Village LLC

SUBJECT PROPERTIES: Map and Tax Lots:
1510050001200
1510050001202
1510050001203
1510050001205

Situs Addresses:
69095 McKinney Ranch Rd., Sisters, OR 97759
69055 McKinney Ranch Rd., Sisters, OR 97759
69050 McKinney Ranch Rd., Sisters, OR 97759
No Situs Address

REQUEST: The Applicant requests approval of a Comprehensive Plan Amendment to change the designation of the Subject Properties from Forest to Rural Residential Exception Area (RREA) and a corresponding Zone Change to rezone the Subject Properties from Forest Use 2 (F-2) to Multiple Use Agricultural (MUA-10). The Applicant also requests a “reasons exception” to Statewide Planning Goal 4.

HEARINGS OFFICER: Tommy A. Brooks

SUMMARY OF RECOMMENDATION: The Hearings Officer finds that the record is sufficient to support the requested Comprehensive Plan Amendment, Zone Change, and Goal 4 Exception.

I. APPLICABLE STANDARDS AND CRITERIA

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance:

Chapter 18.04, Title, Purpose, and Definitions

Chapter 18.32, Multiple Use Agricultural Zone (MUA10)

Chapter 18.40, Forest Use Zone (F2)

Chapter 18.80, Airport Safety Combining Zone (AS)

Chapter 18.84, Landscape Management Combining Zone (LM)

Chapter 18.136, Amendments

Title 22, Deschutes County Development Procedures Ordinance

Deschutes County Comprehensive Plan

Oregon Administrative Rules (OAR) - Chapter 660

Oregon Revised Statutes (ORS)

Statewide Planning Goals

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 Forest to Rural Residential Exception Area (“RREA”). The Applicant also requests approval of a corresponding Zoning Map Amendment (“Zone Change”) to change the zoning of the Subject Properties from Forest Use 2 (F-2) to Multiple Use Agriculture (MUA-10). As presented by the Applicant, the request also seeks an exception to Statewide Planning Goal 4 (“Goal 4 Exception”).

The Application requests a Plan Amendment, which is ultimately a decision for the County’s Board of Commissioners (“County Board”). Several applicable criteria require a weighing of policy choices, and the record before the County Board may be different than the current record. This Recommendation therefore determines if the Applicant has met its burden of proof in a manner that would support the County Board’s approval of the Application based on the current record.

B. Notices, Hearing, Record Materials

The Applicant initially filed the Application on December 24, 2024, and provided supplemental materials throughout this proceeding.

On January 3, 2025, staff in the County’s Community Development Department (“Staff”) mailed a Notice of Application identifying the standards and criteria governing the review of the Application and seeking public comment on the Application. On March 13, 2025, Staff mailed a Notice of Public Hearing (“Hearing Notice”) to agencies, interested persons, and all property owners within 750 feet of the Subject Properties, announcing a public hearing to be held on April 7, 2025. The Hearing Notice was also published in the Bend Bulletin on Sunday, March 16, 2025. Notice of the Hearing was also submitted to the Department of Land Conservation and Development (“DLCD”).

Pursuant to the Hearing Notice, I presided over the Hearing as the Hearings Officer on April 7, 2025, opening the Hearing at 1:00 p.m. The Hearing was held in person and via videoconference, with the Hearings Officer appearing remotely. At the beginning of the Hearing, I provided an overview of the quasi-judicial process and instructed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. I stated I had no *ex parte* contacts to disclose or bias to declare. I invited but received no objections to the County’s jurisdiction over the matter or to my participation as the Hearings Officer.

The Hearing concluded at approximately 3:04 p.m. Prior to the conclusion of the Hearing, I announced that the written record would remain open as follows: (1) any participant could submit additional materials until April 21, 2025 (“Open Record Period”); (2) any participant could submit rebuttal materials (evidence or argument) until May 5, 2025 (“Rebuttal Period”); and (3) the Applicant could submit a final legal argument, but no additional evidence, until May 12, 2025. Staff provided further instruction to participants, noting that all post-Hearing submittals needed to be received by the County by 4:00 p.m. on the applicable due date. No participant objected to the post-hearing procedures.

Various participants submitted post-Hearing materials within the time limits described above, and no objections were made to any of those submittals. The record therefore includes all materials submitted to the County as reflected on the County’s website for this matter.

C. Review Period

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

III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

A. Staff Report

On March 28, 2025, Staff issued a report setting forth the applicable criteria and presenting evidence in the record at that time (“Staff Report”).

¹ ORS 215.427(7).

The Staff Report, although it expresses agreement with the Applicant in some places, does not make a final recommendation. Instead, the Staff Report asks the Hearings Officer to determine if the Applicant has met the burden of proof necessary to justify the Plan Amendment, Zone Change, and Goal 4 Exception.

B. Preliminary Discussion

In order to identify and better address the applicable criteria, it is necessary both to discuss the Applicant's stated purpose of the Application and to describe what the Applicant is not requesting.

The Applicant candidly presented its long-term goal for the use of the Subject Properties, which is to make those properties more available for eventual consideration by the City of Sisters ("City") to be included in its urban growth boundary ("UGB"). As explained by the Applicant and acknowledged by other participants, the City is in the process of expanding its UGB. Under state law, the City is to give certain properties (e.g. exception areas) higher priority than other properties (e.g. resource lands) when deciding which areas to bring into its UGB.

The Applicant's stated long-term goal understandably prompted a wide variety of comments relating to whether and how the Subject Properties should be brought into the City's UGB or otherwise be developed with urban uses. I agree with the Applicant, however, that these comments are largely not relevant to the Application. The decision to include the Subject Properties in the City's UGB is not part of the request in the Application. That decision belongs to the City and will be governed by other standards and criteria. Further, the requested Plan Amendment, Zone Change, and Goal 4 Exception, if approved, may give the City more options for including the Subject Properties within its UGB, but as DLCD noted in its comments, they are not necessary, and there is a process in state administrative rules that could allow the City to consider the Subject Properties for inclusion in its UGB even with their current designations under the County's Comprehensive Plan ("Plan").

The Applicant is not requesting, through this Application, that the Subject Properties actually be included in the City's UGB, nor is the Applicant requesting approval of any specific type of development if the Zone Change is approved. The findings below therefore address only the specific requests in the Application as a stand-alone application made to the County, regardless of what impact the outcome may or may not have on the City's UGB process. Those specific requests are: (1) the Goal 4 Exception, based on the "reasons exception" component of ORS 197.732; (2) the Plan Amendment; and (3) the Zone Change.

C. Findings for Specific Requests in the Application

1. Goal 4 Exception

Pursuant to ORS 197.175(2), if the County amends its Plan, it must do so in compliance with Statewide Planning Goals (each a "Goal" and, together, the "Goals"). Because the Plan has been acknowledged, the requested Plan Amendment must adhere to the procedures for a post-acknowledged plan amendment ("PAPA") set forth in state statutes and rules. The Applicant does not assert that the requested Plan Amendment is in compliance with Goal 4-Forest Lands. Rather, the Applicant requests an "exception" to

that Goal. ORS 197.732 and its implementing rules govern the process and standards for obtaining such a “Goal Exception”.

Although state statutes allow different types of Goal Exceptions, the Applicant has “confirmed that the application seeks a plan amendment and zone change using a Goal 4 reasons exception under ORS 197.732.” The “Reasons Exception” is a reference to ORS 197.732(2)(c), which allows a Goal Exception if the following standards are met, each of which are addressed below:

- (A) Reasons justify why the state policy embodied in the applicable goals should not apply;
- (B) Areas that do not require a new exception cannot reasonably accommodate the use;
- (C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

ORS 197.732(2)(c)(A)

With respect to the reasons that the state policy embodied in Goal 4 should not apply, the Applicant’s argument is best summarized in its Final Legal Argument. In that submittal, the Applicant identifies the policy embodied in Goal 4 in part as “to preserve forest land for forest related use and timber production,” along with conserving soil, air, water quality and providing for fish and wildlife resources, recreational and agricultural opportunities appropriate in a forest environment. According to the Applicant, these policies “in most or all respects are advanced better under the proposed [MUA-10] zoning.” The Applicant has also asserted that there is a specific need for MUA-10 zoning near the City of Sisters to provide a better transitional zone between urban and rural development. I infer from the Applicant’s arguments that a reason for the Goal Exception is to establish this transitional zone on the Subject Properties, which the Applicant asserts is more beneficial than keeping Goal 4 protections in place on a property that is not suitable for Goal 4 uses.

In support of its argument, the Applicant relies on evidence such as a soils report that confirms the Subject Properties are not suitable for commercial forestry and, therefore, that preserving the property for forestry uses is not appropriate. The Applicant also cites to certain natural area protections imposed through the MUA-10 zone, such as a stream setback requirement, that it asserts will be more protective of Trout Creek (an identified Goal 5 resource) than the regulations of the F-2 zone.

A major issue raised in this proceeding is whether the Applicant has sufficiently established the “reasons” Goal 4 should not apply to the Subject Properties. The arguments in opposition to the Application center around OAR 660-004-0020 and OAR 660-004-0022, which implement ORS 197.732, and which

participants in this proceeding say must be satisfied. The Applicant asserts that OAR 660-004-0022 is not applicable at all because it “applies only to requests for an exception to allow specifically identified uses.” The Applicant argues that it is proposing a broad range of uses (anything allowed in the MUA-10 zone), which do not fit neatly into any of the specific uses in the rule. The Applicant’s primary argument is that only OAR 660-004-0020 is applicable.

Contrary to the Applicant’s argument, OAR 660-004-0022 appears to apply to all reasons exceptions, regardless of the specific use proposed. As described by the Land Use Board of Appeals (“LUBA”): “OAR 660-004-0022 sets out the types of ‘reasons’ that can justify exceptions to various specific goals. For uses not specifically addressed in OAR 660-004-0022, OAR 660-004-0022(1) sets out a ‘catch-all’ provision that lists a non-exclusive set of reasons sufficient to justify an exception.”²

OAR 660-004-0022 confirms that all Reasons Exceptions must comply with OAR 660-004-0022. The lead-in language of that rule states “[i]f a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.” In other words, before applying OAR 660-004-0020, the Applicant must first establish the reasons that justify a Goal Exception by meeting the criteria set forth in OAR 660-004-0022. If those reasons can be established, the Applicant must then show compliance with the other provisions of OAR 660-004-0020. For some uses, OAR 660-004-0022 sets forth the types of reasons that may be relied on, beginning with subsection (2) of that rule. For all other uses, the Applicant can rely on the catch-all provision of OAR 660-004-0022(1).

Participant Central Oregon LandWatch (“COLW”) raises a more specific issue in this regard, asserting that the Applicant must show compliance with OAR 660-004-0022(2), which sets forth the reasons on which a Goal Exception can be based when approving “Rural Residential Development.”:

(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned that require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

² *VinCEP v. Yamhill County*, 53 Or LUBA 514 (2007).

COLW's argument is that OAR 660-004-0022(2) is triggered because the MUA-10 zone is a rural residential zone, which the Applicant disputes.³

It should be noted that the different reasons justifying a Goal Exception set forth in OAR 660-004-0022 are not mutually exclusive. That is, an applicant can seek to justify a Goal Exception for a specific use listed in the rule and, alternatively, seek to justify the Goal Exception based on the catch-all provision of OAR 660-004-0022(1).⁴ In the *1000 Friends of Oregon v. Jackson County* case, a county approved a Goal Exception under OAR 660-004-0022(3) and OAR 660-004-0022(1) for a use that could be described as a rural industrial use. Although LUBA reversed the county's approval, it analyzed the Goal Exception under both rules, stating "we see nothing in the rule that would preclude the county from attempting to justify a reasons exception for an indisputable rural industrial use using the standards set out in the 'catch-all' provision at OAR 660-004-0022(1), in lieu of the non-exclusive set of reasons listed in OAR 660-004-0022(3).

Based on the *1000 Friends of Oregon v. Jackson County* case, I find that the Applicant can attempt to show compliance with either OAR 660-004-0022(1) or any other provision of OAR 660-004-0022 as the basis for the Reasons Exception. While the Applicant responds to COLW's argument by presenting alternative arguments for why OAR 660-004-0022(2) is satisfied, the Applicant notes that its proposal is to rezone the Subject Properties to the MUA-10 zone without regard to specific uses. This means that, if approved, while some rural residential development would be allowed, other non-residential uses would also be allowed. I agree with the Applicant that it makes little sense to proceed under a rule that applies only to residential uses. Even if there are reasons for the Goal Exception to justify the rural residential portion of the proposal, there must still be a basis to justify the non-rural residential components. I therefore find that the Goal 4 Exception can be approved only if the Applicant shows compliance with OAR 660-004-0022(1), the catch-all provision of the rule that would apply to all uses allowed in the MUA-10 zone.

One of the difficulties in applying OAR 660-004-0022(1) to this Application is that the Applicant has not directly addressed that criterion. As noted above, the Applicant asserts that this rule does not apply at all. That is not detrimental to the Application, however, as the plain text of OAR 660-004-0022(1) states that "the reasons shall justify why the state policy embodied in the applicable goals should not apply," which is simply a restatement of ORS 197.732(2)(c)(A), a criterion the Applicant does address.

Another difficulty in applying OAR 660-004-0022(1) to this Application is that it is not immediately clear if the specific provisions of that subsection of the rule require the Applicant to address all of the language in that subsection. That is, under this part of the rule, an applicant can justify a Goal Exception by showing

³ COLW also asserts that OAR 660-004-0022 requires the Applicant to comply with OAR 660-004-0040 to the extent the Applicant seeks to justify the establishment of new urban development on undeveloped rural land. I find that this assertion is not relevant because the Applicant does not propose urban development in this Application even though that is the Applicant's long-term desire for use of the Subject Properties. As explained in other findings, the MUA-10 zone is a rural zone allowing rural uses.

⁴ See, e.g., *1000 Friends of Oregon v. Jackson County*, __ Or LUBA __ (LUBA No. 2071-066, Oct. 27, 2017).

“a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19” (a “Need” component), together with a demonstration that either: (a) that the proposed use or activity requires a location near a resource available only at the proposed exception site; or (b) the proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site (a “Location” component). The Applicant has not directly addressed that additional rule language. But the rule language also says “[s]uch reasons include but are not limited to” a demonstrated Need and Location. The question then, is if the Applicant can rely on other reasons to justify the Goal Exception even if it does not base its reasons on the Need and Locational components of the rule.

No participant to this proceeding has offered any argument to help explain the meaning of the “include but are not limited to” language. Nor does the case law appear to clarify that language, as most of the cases addressing this rule analyze different issues. In the absence of such arguments and authority, I am left with the plain language of the rule. Based on that language, I find that the Applicant can rely on other reasons to justify the Goal Exception, as long as those reasons demonstrate why the state policy embodied in Goal 4 should not apply. The use of “but are not limited to” in the rule implies that other reasons may exist, and the specific reason set forth in the rule (based on Need and Location) is more of a safe harbor that, if met, satisfies the rule. If other reasons could not be relied on, the “but are not limited to” language would not be necessary.

Having reviewed the information provided by the Applicant and other participants, I find that the Applicant has met its burden to show there are reasons why the state policy embodied in Goal 4 should not apply to the Subject Properties. Most of the opposing comments in the record do not address Goal 4 Exception criteria. Those that do simply express the opinion that the Applicant’s stated reasons for the Goal Exception are “not sufficient.” They do not, however, dispute with any particularity the Applicant’s assessment of the capability of the Subject Properties to support forest uses, or the Applicant’s assertion that other Goal 4 policies, like natural resource protections, can actually be enhanced by the MUA-10 zoning.

ORS 197.732(2)(c)(B)

This part of the statute requires a decision approving a Goal Exception to demonstrate that areas that do not require a new Goal Exception cannot reasonably accommodate the use.

The Applicant acknowledges that this criterion is difficult to apply because no one specific use is being proposed. By seeking to rezone the Subject Properties without specifying any limitation on which uses are or are not allowed, the Applicant is proposing that all uses in the MUA-10 zone be allowed. More specifically, however, the Applicant is proposing to allow those uses through the establishment of a transitional zone adjacent to the City that allows a variety of rural uses, including housing. Looking at the “proposed use” through that lens, ORS 197.732(2)(c)(B) requires a determination of whether other areas not requiring a Goal Exception could also be used to establish a transitional zone adjacent to the City of Sisters to allow a variety of rural uses. According to the Applicant, they cannot.

As the Applicant notes, OAR 660-004-0020(2)(b) implements ORS 197.732(2)(c)(B). Under that rule, the consideration of alternative sites for the proposed use can be done through a broad review of similar types of areas. The rule specifically states “[s]ite specific comparisons are not required of a local government

taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use.” The Applicant’s submittals include information showing that the Applicant has assessed the ability of other areas to accommodate the rural uses allowed in the MUA-10 zone. That information includes evidence that existing exception areas, like the RR-10 zone, do not allow the same suite of uses as the MUA-10 zone, and that other areas are encumbered by restrictions preventing certain types of development.

The Applicant’s analysis is largely unchallenged by other participants. With the exception of COLW’s comments, opposing comments in the record do not specifically address ORS 197.732(2)(c)(B) or OAR 660-004-0020(2)(b). COLW’s comments, however, state that this criterion is not met because “ample areas that do not require a new exception can reasonably accommodate the proposed use of future urban development in the City of Sisters.” As explained above, the Applicant is not proposing urban development with this Application, and COLW’s comments do not address the rural uses proposed generally, or the MUA-10 zone as a transitional zone near the City specifically.

Based on the foregoing and the materials currently in the record, I find that the Applicant has met its burden to demonstrate that the proposed use (transitional zoning for the City of Sisters to allow a variety of rural uses) cannot reasonably be accommodated in areas that do not require a new Goal Exception.

ORS 197.732(2)(c)(C)

This subsection of the statute requires an analysis of the long term environmental, economic, social and energy (“ESEE”) consequences resulting from the use compared to the ESEE consequences if the same proposal were located in other areas that would also require a Goal Exception. By the plain language of the statute, the ESEE consequences on the Subject Properties do not have to be lower than the ESEE consequences on alternative sites, and they can even be greater; but they cannot be “significantly more adverse”. Similar to the prior portion of the statute, this statute’s implementing rule – OAR 660-004-0020(2)(c) – expressly states that “[a] detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding.”

The Applicant presents an analysis of the ESEE consequences and asserts that those consequences are no greater than, and in some cases less than, the ESEE consequences if the proposal were on other lands also requiring a Goal Exception. For example, with respect to environmental consequences, the Applicant argues that converting other forest land, which is capable of sustaining forest uses, would have higher consequences because it would have greater impacts to tree canopy, wildlife habitat, and water and air resources. With respect to social and economic consequences, the Applicant highlights items such as impacts to jobs associated with the loss of farm or forest land if those lands were converted to MUA-10 zoning. With respect to energy, the Applicant relies on the proximity of the Subject Properties to other development and asserts that the ability to serve those properties (e.g. providing electricity or transportation) is less energy intensive.

The record contains a multitude of comments asserting negative ESEE consequences will result from the proposal on the Subject Properties. However, those comments do not address this criterion because they do not compare those alleged consequences to the ESEE consequences that would result from the same

proposal on other properties that also require a Goal Exception. Although COLW's comments specifically identify this criterion as not being satisfied, it does so based on an assertion that other areas "that do not require a new goal exception" could accommodate the proposed use and that those areas are already impacted. As explained above, however, that assertion is not responsive to this portion of the statute or its implementing rule, which require a comparison to other properties that do require a new Goal Exception.

The assessment and comparison of ESEE consequences is ultimately a discretionary exercise to be undertaken by the County Board. However, based on the current record, and having reviewed the information provided by the Applicant and other participants, I find that the Applicant has met its burden to show that the ESEE consequences resulting from the proposal on the Subject Properties are not significantly more adverse than the ESEE consequences that would result if the proposal were sited on other properties also requiring a Goal Exception.

ORS 197.732(2)(c)(D)

The final part of ORS 197.732(2)(c) requires a demonstration of compatibility with other adjacent uses. The statute's implementing rule – OAR 660-004-0020(2)(d) – imposes the following additional requirements:

The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

The Applicant responds to this criterion by reviewing the various uses allowed in the MUA-10 zone and describing the likely impacts from those uses. For some conditional uses, like dude ranches, golf courses, and destination resorts, the Applicant asserts that the Subject Properties are too small to accommodate those uses and, therefore, no impacts are likely to exist.⁵ For other allowed uses, like agricultural operations, horse stables, and home occupations, the Applicant asserts those uses are low-intensity and will not generate significant impacts.

Opposing comments in the record express concern over a wide variety of potential impacts, but those comments are largely grounded on the assumption that the Subject Properties will be used for urban development, which is not a proposed use in the Application. COLW, however, does expressly address this criterion, asserting that some of the adjacent properties are forest zoned lands and that the proposal would introduce conflicts to forest practices on those lands. The Applicant responds by arguing that any

⁵ I note that the County Board, if it approves the Goal 4 Exception, has the ability to limit uses allowed on the Subject Properties and, indeed, may be required to do so under OAR 660-004-0018(4), which states that planning and zoning for an area subject to a Reasons Exception must limit uses to those that are justified in the exception. Because the Applicant states that dude ranches, golf course, and destination resorts are not feasible, the County Board may limit its approval to exclude those uses.

potential conflicts can be addressed at a later approval stage if and when portions of the Subject Properties are proposed for development under the new MUA-10 zone.

While this particular issue is a close call, I find that the Application has met its burden with respect to this criterion. In a different context, more details from an applicant may be required. In this context, however, where the proposal is to establish the MUA-10 zone, I find there is a sufficient basis to determine that all of the uses allowed in the MUA10 zone are compatible with adjacent uses and with surrounding natural resources. With respect to non-resource uses, like the adjacent urban area to the south, the MUA-10 zone is a transition zone that actually serves as a buffer between urban and rural areas. With respect to resources on adjacent properties and surrounding areas, I note the purpose of the MUA10 zone:

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. DCC 18.32.010 (emphasis added).

Through that stated purpose, the County has already determined that all of the MUA-10 zone uses are consistent with the character and capacity of natural resources in the area and serve to protect, rather than to harm, agricultural and forest lands.

2. Plan Amendment

DCC 18.136.010 contemplates that an applicant may seek a quasi-judicial amendment to the County's Comprehensive Plan Map ("Plan Map"). Other than a reference to the procedural provisions of DCC Title 22, the Code does not appear to contain any standards or criteria specific to an amendment to the Plan Map. As noted in findings above, however, such an amendment constitutes a PAPA under state law and, therefore, the amendment must be consistent with all applicable Statewide Planning Goals.

Division 15 of OAR chapter 660 sets forth the Statewide Planning Goals and Guidelines, with which all comprehensive plan amendments must demonstrate compliance. The Applicant asserts the Application is consistent with all applicable Goals and Guidelines. Except for Goal 4, Goal 5, and Goal 14, which are addressed in more detail in findings below, and in the absence of any counter evidence or argument, I adopt the Applicants' position on the remaining Goals as recited on pages 50 to 52 of the Staff Report, and I find that the Plan Amendment and Zone Change are consistent with the applicable Goals and Guidelines as set forth there.

The remainder of the findings in this section address specific Goals that are either in dispute or that require additional explanation.

Goal 4 – Forest Lands

The Applicant acknowledges that the Subject Properties are currently zoned for forest use and subject to Goal 4. The Applicant, however, has requested a Goal 4 Exception. As set forth in separate findings above, this Recommendation concludes that the Applicant has met its burden to demonstrate the justification for a Goal 4 Exception. As a result, the Plan Amendment can proceed without showing compliance with Goal 4. If the County Board determines that the Goal 4 Exception is not warranted, the Applicant will need to show compliance with Goal 4.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces

Goal 5 and its implementing rules protect natural resources, scenic and historic areas, and open spaces. Pursuant to OAR 660-023-0250(3), the County does not have to apply Goal 5 as part of a PAPA “unless the PAPA affects a Goal 5 resource.” One scenario in which a PAPA may affect a Goal 5 resource is when the “PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list.”⁶ According to information in the record, the Subject Properties contain or are near to two significant Goal 5 resources: (1) Trout Creek and (2) scenic resources along Highway 20.

The Applicant first asserts that the County is not required to apply Goal 5 to this Application because the uses allowed in the MUA-10 zone will not conflict with the identified Goal 5 resources. The Applicant bases this assertion on its arguments that the uses allowed in the MUA-10 zone are rural, low-intensity uses, that Trout Creek will be protected by the County’s existing development standards in the MUA-10 zone, and that development on the Subject Properties will not be visible from Highway 20 due to land use patterns between the Subject Properties and the highway.

I disagree with the Applicant that the County is not required to apply Goal 5 in this context. The administrative rule requires Goal 5 to be addressed if a PAPA allows new uses that “could” conflict with a Goal 5 resource. Because the MUA-10 zone allows uses not currently allowed in the F-2 zone, and because the Applicant is not proposing a specific development, any of the new uses allowed could conflict with the identified Goal 5 resources. The Applicant’s arguments are more relevant to the remainder of the Goal 5 analysis and whether additional protections are needed.

As an alternative argument, the Applicant does provide an ESEE analysis as required by OAR 660-023-0040(1). In accordance with that administrative rule, the Applicant’s analysis identifies conflicting uses, determines an impact area, analyzes the ESEE consequences, and proposes a “program” to achieve Goal 5 protections. The specific program proposed by the Applicant is to allow the conflicting uses in a limited way that protects the Goal 5 resources, as authorized by OAR 660-023-0040(5)(b). For Trout Creek, the proposed limit is the development standards in DCC Chapter 18.32 that the Applicant asserts are already

⁶ OAR 660-023-0250(3)(b).

designed to protect environmental resources on the site, including streams. For the scenic resource, the proposed limit is the application of the County's Landscape Management (LM) combining zone, which already applies to a portion of the Subject Properties, and which the County employs to protect scenic resources along Highway 20.

COLW submitted comments arguing that the Applicant's ESEE is deficient. COLW first asserts that the Applicant's analysis "impermissibly groups several allowed uses in the MUA zone, when they would have varying impacts on inventoried Goal 5 resources." COLW cites to OAR 660-023-0040(2) as support for that argument. The language of the rule COLW cites does not support its argument, which is also counter to other rule language. OAR 660-023-0040(2) simply states that the local government "shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area." That rule imposes no requirement mandating or prohibiting the grouping of several uses as part of the analysis. In contrast, OAR 660-023-0040(4) provides that, in analyzing ESEE consequences, "[t]he analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses." (Emphasis added).⁷

COLW next argues that the Applicant's ESEE analysis "conflates ESEE consequences on Riparian Area resources and Scenic Views resources, when separate analyses are required." I disagree with COLW's characterization of the Applicant's analysis. Each of the steps in that analysis has separate references to Trout Creek and to scenic resources.

Finally, COLW argues that the Applicant's ESEE analysis "fails to consider consequences to the entire Scenic Views resource." Again, COLW's characterization of the Applicant's analysis is not accurate. The information provided by the Applicant states that the Subject Properties are not visible from any portion of Highway 20 and, therefore, that there is no impact to the identified scenic resource.

Other than the comments by COLW, which relate only to the methodology of the ESEE analysis and not the outcome, including the proposed "program" to achieve Goal 5, no other participant directly addresses the Goal 5 requirements.

Based on the foregoing and the materials in this record, I find that the Applicant has met its burden of demonstrating compliance with Goal 5.

Goal 14 – Urbanization

Goal 14 and its implementing rules "provide for an orderly and efficient transition from rural to urban land use." See OAR 660-015-0000(14).

⁷ COLW also cites to OAR 660-023-0040(2) to support an argument that the ESEE analysis is deficient because it "only considers the consequences of a decision to allow development, not a decision to limit or prohibit development." I find that this argument is not developed enough to respond to. The rule COLW cites does not contain language relating to decisions that either allow, limit, or prohibit development, and I am unable to determine what criterion COLW believes is not satisfied.

COLW asserts that the Applicant has not demonstrated compliance with Goal 14. COLW's assertion is largely based on its characterization of the Application as proposing urban development. As noted in earlier findings, however, the Applicant is not proposing any urban uses and is instead proposing that the Subject Properties be zoned MUA-10. Goal 14 would therefore apply only if such a rezoning constitutes urbanization. I find that it does not.

As the Applicant notes, this question has been asked and answered by the County, as described in the LUBA case *Central Oregon LandWatch v. Deschutes County*, __ Or LUBA __ (LUBA No. 2023-049, Feb. 15, 2024). In that case, LUBA considered very similar facts where the County approved a plan amendment and zone change from a resource zone to the MUA-10 zone. Before turning to COLW's arguments in that case, LUBA noted that the County Board had made the following finding:

Deschutes County Comprehensive Plan and Title 18 of the Deschutes County Code have been acknowledged by [the Land Conservation and Development Commission (LCDC)] as being in compliance with every statewide planning goal, including Goal 14. The County specifically amended its comprehensive plan in 2016 to provide that the Rural Residential Exception Area Plan and its related MUA-10 and RR-10 zones should be applied to non resource lands. Ordinance 2016-005. This amendment is acknowledged, which means that the RREA plan designation and its related zoning districts, when applied to non-resource lands such as the subject property, do not result in a violation of Goal 14. (Emphasis added).

As described by LUBA, the County Board has already interpreted its Plan and Code to mean that all uses allowed in the MUA-10 zone are rural in nature. Based on the Board's prior interpretation, I find that the change in the Plan designation to RREA and zoning designation to MUA-10 does not result in urbanization of the Subject Property.

Based on the foregoing, I find that the Applicant has demonstrated the Application does not propose urban uses and Goal 14 is satisfied without the need to take an exception to that Goal.

3. Zone Change

Title 18 of the Deschutes County Code, County Zoning

The Application requests a Zone Change from F-2 to MUA-10. The criteria for rezoning a parcel are set forth in DCC Chapter 18.136. These findings address the applicable zone change criteria in the context of the Applicant's request. That is, the Applicant has also requested the Plan Amendment to change the Plan Map designation applicable to the Subject Properties – from the Forest designation to the RREA designation. As discussed in the findings above, I have found that the Applicant has initially met its burden of demonstrating compliance with the Plan Amendment criteria. The findings in this section are therefore based on the assumption that the Plan designation for the Subject Properties is RREA. If the County Board does not approve the Plan Amendment, these findings will need to be altered to address the request for a Zone Change based on whatever Plan designation the County Board approves.

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.*

This Code provision requires a consideration of the public interest based on whether: (1) the Zone Change conforms to the Comprehensive Plan; and (2) the change is consistent with the Comprehensive Plan's introductory statement and goals.

The Applicant, Staff, and other participants address this Code criterion by discussing specific Plan goals and policies. Before addressing those specific arguments, I note that, if the Plan Amendment is approved, it seems necessary to rezone the Subject Properties in some way. That is, the Forest designation of the Plan is implemented through the F-1 and F-2 zone designations. The RREA Plan designation, in contrast, is implemented only through the RR-10 and MUA-10 zones. There seems to be no basis under the Plan to allow the Plan Amendment to change the designation of the Subject Properties to RREA but to keep the F-2 zoning. Viewed through that lens, it seems that either the RR-10 or the MUA-10 zones inherently conform to the Plan in this context, and that the Applicant must show only that the Zone Change, as applied to the Subject Properties, is consistent with the Plan's introductory statement and goals.

The Staff Report notes that the County generally does not consider the Plan's goals and policies to be mandatory criteria. As described by Staff, the Plan's goals and policies are implemented through the Code, and that consistency with the Code demonstrates consistency with the Plan. No participant to this proceeding appears to dispute Staff's position that the goals and policies are not mandatory criteria or that the Plan is implemented through the Code. Nevertheless, because the Code itself requires a consideration of the Plan's statements and goals, and because some participants have questioned whether the Zone Change is consistent with those Plan provisions, I address those specific issues here.

The Application identifies potentially relevant Plan provisions by pointing to several goals and policies in the Plan set forth in Chapter 1, Comprehensive Planning, Chapter 2, Resource Management, and Chapter 3, Rural Growth Management. The Applicant states that the Application is consistent with those policies and goals. The Staff Report generally agrees with the Applicant's assessment of those policies and goals, but in some areas takes no position. With some exceptions, other participants to this proceeding assert various impacts from the Zone Change that are related to areas covered by Plan policies (e.g. water quality), but do so in a manner that does not directly relate to whether the Zone Change is consistent with the Plan. The remainder of the findings in this section address those Plan goals and policies that were specifically identified by those other participants.

Participants objecting to the Application assert that it is not consistent with Plan policy 2.3.1. That policy is to "Retain forest lands through Forest 1 and Forest 2 zoning." The basis for that argument appears to be that the Subject Properties are currently zoned F-2 and, therefore, any change to the zoning would be counter to this policy. As noted above, I have concluded that the review of the Plan policies should be done in the context of the approval of the Plan Amendment. Because, for purposes of this analysis, the

Applicant is relying on a Goal 4 Exception and the Subject Properties carry the RREA designation, I do not agree that the Subject Properties remain “forest land”. The Zone Change is therefore not inconsistent with Plan policy 2.3.1.

Participants objecting to the Application also assert that it is not consistent with Plan policy 2.3.1. That policy is part of the same set of policies related to Goal 1 under Section 2.3 of the Plan. It identifies the specific characteristics of lands that should be zoned F-2, as opposed to that that should be zoned F-1. However, that policy rests on the assumption that the land is forest land and that the County should determine whether that land should be zoned either as F-1 or F-2. As just noted, for purposes of this analysis, the Applicant is relying on a Goal 4 Exception and the Subject Properties carry the RREA designation. The Subject Properties therefore do not remain “forest land” and the Zone Change is not inconsistent with Plan policy 2.3.3.

Based on the foregoing, and in the context of the approval of the requested Plan Amendment, I find that the Zone Change conforms with the Plan and is consistent with the introductory statements and policies of the Plan.

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

DCC 18.32.010 contains the following purpose of the MUA10 zone:

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.

The Applicant states that the Zone Change will allow low-intensity residential uses, while also allowing uses recognized in DCC 18.32.020 and 18.32.030 as being appropriate in the MUA-10 zone. The Applicant also states that the uses allowed are lower intensity, and development can preserve open space and natural resources. The Staff Report agrees with the Applicant’s assessment, and no other participant appears to argue that this Code provision is not satisfied.

Based on the foregoing, I find that this Code provision is satisfied.

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

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

Only the Applicant and Staff directly address this Code provision. The Applicant notes that development in the MUA-10 zone generally does not rely on public services and facilities. For example, developments in rural areas generally must provide their own water and septic systems. For other facilities, like the transportation system, the Applicant relies on its transportation analysis to demonstrate the adequacy of those facilities. Comments in the record express concerns over groundwater, but those comments do not appear to assert that the availability of groundwater is either a necessary public service, or that it will be impacted by the uses allowed in the MUA-10 zone. The Applicant is not proposing any new development, and no participant has asserted that public services and facilities are insufficient to presently serve the Subject Properties. Any impact to public services and facilities can be assessed at the time of development review if and when a new development is proposed.

Based on the foregoing, and in the absence of more specific countervailing evidence or argument, I find that this Code provision is satisfied as set forth in the Application.

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

The Applicant states that the Applicant's proposal will not affect surrounding land uses due to the low-intensity uses that are allowed in the MUA-10 zone. I agree with the Applicant that the comments made in opposition to the Application are primarily grounded on the assumption that the Subject Properties will be developed with urban uses, which the Applicant is not proposing. Further, as I have concluded above, the only Plan policies identified by other participants are generally not relevant, and no participants assert that the Zone Change will make surrounding land uses inconsistent with a Plan goal or policy.

Based on the foregoing, and in the absence of more specific countervailing evidence or argument, I find that this Code provision is satisfied as set forth in the Application.

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.*

Although the Applicant and other participants address this criterion, they do so in the context of a potential change in circumstances on the physical ground of the Subject Properties. The Applicant, for example, notes the changes in the commercial viability of timber and a better understanding of the soil qualities on site.

I find that it is not necessary to address the difference in opinion of the Applicant and participants. As noted above, the Zone Change analysis relies on the assumption that the Plan designation for the Subject Properties is RREA. When the Subject Properties were last zoned, their Plan designation was Forestry. I

find that the change in Plan designation is, by itself, sufficient to show there has been a change in circumstances and, therefore, this Code provision is satisfied.

IV. CONCLUSION

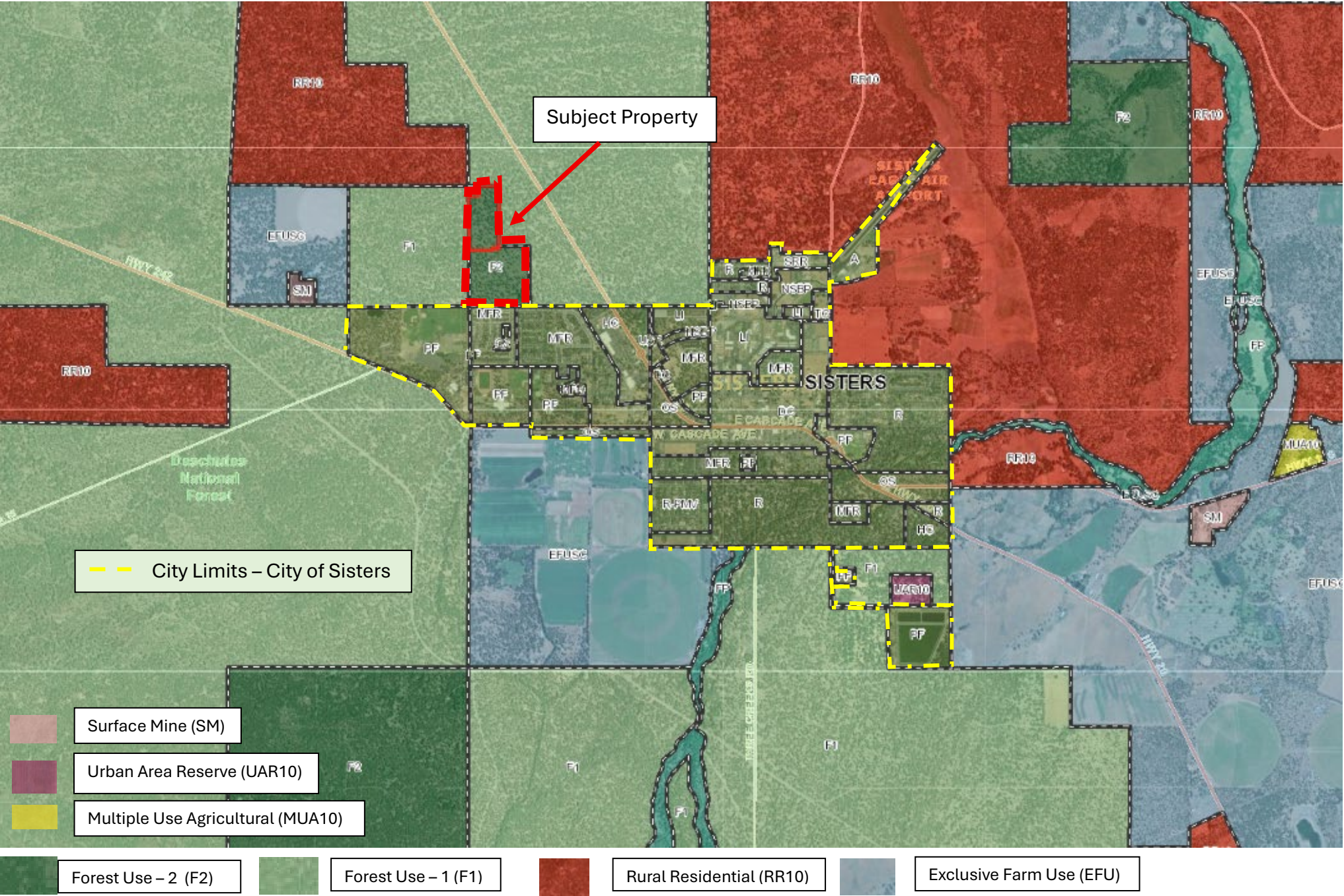
Based on the foregoing findings, I find the Applicant has met its burden of proof with respect to the standards for approving the requested Plan Amendment, Zone Change, and Goal 4 Exception. I can therefore recommend to the County Board of Commissioners that it can APPROVE the request in the Application based on the current record.

Dated this 25th day of June 2025



Tommy A. Brooks
Deschutes County Hearings Officer

Vicinity Map – Surrounding Zoning - File No. 247-24-000839-PA, 840-ZC



Vicinity Map – Surrounding Property Ownership

File No. 247-24-000839-PA, 840-ZC

