



BOARD OF COMMISSIONERS

BOARD OF COUNTY COMMISSIONERS MEETING

9:00 AM, WEDNESDAY, SEPTEMBER 27, 2023

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 view the meeting via Zoom, see below.

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

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

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

- To join the meeting via Zoom from a computer, use this link: <http://bit.ly/3h3oqD>.
- To join by phone, call 253-215-8782 and enter webinar ID # 899 4635 9970 followed by the passcode 013510.
- If joining by a browser, use the raise hand icon to indicate you would like to provide public comment, if and when allowed. If using a phone, press *6 to indicate you would like to speak and *9 to unmute yourself when you are called on.



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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

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

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

CONSENT AGENDA

1. Approval of a lease with Saving Grace to operate the Mary's Place supervised visitation program and the Saving Grace courthouse advocacy project
2. Approval of Revocable License with Trenton Wayne LLC dba 97 Café to operate 97 Café located in the Deschutes Services Building
3. Resolution No. 2023-056, increasing 0.2 regular duration FTE within the Health Services Department
4. Approval of Order No. 2023-037 denying the petition for incorporation of the proposed City of Mountain View and adopting findings and conclusions and prescribing an effective date
5. Approval of Order 2023-040 concerning appointments to the 2023 Board of Property Tax Appeals
6. Consideration of Board Signature on letters reappointing Jo Ellen Zucker, Michael Simpson and Michael Walker, and appointing Frances Harder, Matthew Latimer, Brian Ricker, Peggy O'Donnell and Robert James Horvat, Jr., to the Deschutes County Board of Property Tax Appeals
7. Consideration of Board Signature on letters thanking James Sinasek and Mara Stein, for their service on the Deschutes County Board of Property Tax Appeals
8. Approval of minutes of the BOCC August 23 and 28, 2023 meetings

ACTION ITEMS

9. **9:10 AM** Presentation of 25-year service award to Kevin Furlong, IT Operations Manager

- [10.](#) **9:20 AM** Public Hearing and Resolution amending the Deschutes County 2023-2024 Fee Schedule to add new fees in the Community Development Department
- [11.](#) **9:40 AM** Consideration of Approval for Road Department Submittal of ODOT Local Bridge Program Applications
- [12.](#) **9:50 AM** Request for approval of two grant proposals for the Central Oregon Landscape Resiliency Project and a Community Wildfire Defense Grant
- [13.](#) **10:10 AM** Consideration to hear an appeal of the Hearings Officer's decision approving land use applications for the Redmond Water Pollution Control Facility Effluent and Biosolids Disposal Complex
- [14.](#) **10:25 AM** Consideration of Document No. 2023-880 rendering a final County decision approving a Conditional Use Permit to establish a manufactured home as a secondary accessory farm dwelling at 19825 Connarn Road
- [15.](#) **10:40 AM** Deschutes County Adult Parole and Probation Community Corrections Plan and receipt of Grant in Aid funding from the Department of Corrections
- [16.](#) **11:10 AM** Treasury Report for August 2023
- [17.](#) **11:30 AM** Finance Report for August 2023

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.

18. Request for reconsideration of Mountain View petition to incorporate

EXECUTIVE SESSION

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

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

ADJOURN



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Approval of a lease with Saving Grace to operate the Mary's Place supervised visitation program and the Saving Grace courthouse advocacy project

RECOMMENDED MOTION:

Move approval of Board signature of Document No. 2023-719, a lease with Saving Grace for use of certain office and other spaces as identified.

BACKGROUND AND POLICY IMPLICATIONS:

In 2016, Deschutes County originally entered into a lease with Saving Grace to operate the Mary's Place supervised visitation program and the Saving Grace courthouse advocacy project (Program). The Courthouse provides +/- 152 square feet of office space, and the Mike Maier Services Building provides +/- 387 square feet of dedicated office and storage space, 243 square feet of shared space with Deschutes County Health Services Department, use of conference room and breakroom space, and use of the Munchkin Manor Preschool and Daycare for supervised visitation.

The current lease expires September 30, 2023, and the new lease is effective October 1, 2023 through September 30, 2026, which coincides with the expiration date of the existing Memorandum of Understanding (MOU) that was executed earlier this year between the County and multiple state and local agencies that support these programs. Due to the community benefit of the Program, the lease is provided for zero consideration, and utility charges are currently \$257.93/quarter with 3% annual increase. The lease includes two 2-year auto-renewal periods that are contingent on a current MOU as described.

BUDGET IMPACTS:

Zero consideration lease; \$1,031.72/annual utility payments with 3% annual increases thereafter

ATTENDANCE:

Kristie Bollinger, Property Manager

REVIEWED

LEGAL COUNSEL

LEASE

THIS LEASE AGREEMENT (“Agreement”) is made as of the date of the last signature affixed hereto (“Commencement Date”) by and between **DESCHUTES COUNTY**, a political subdivision of the State of Oregon (“Lessor”), and **SAVING GRACE IMAGINE LIFE WITHOUT VIOLENCE**, an Oregon nonprofit corporation, hereinafter referred to as (“Lessee”). Lessor and Lessee are referred to herein as “Party” or “Parties.”

Lessor hereby leases to Lessee and Lessee takes from Lessor the "Premises" described as follows:

Deschutes County Main Courthouse located at 1100 NW Bond Street, Bend, outlined as follows and as show and incorporated herein as Exhibit A,

Rooms 250 and 251, +/- 152 square feet; and

Mike Maier Services Building located at 1130 NW Harriman Street, Bend, outlined as follows and as show and incorporated herein as Exhibit B,

Room 216, +/- 184 square feet
Room 205b, +/- 88 square feet
First floor storage space, +/- 115 square feet; and

Room 204, +/- 243 square feet shared with Deschutes County Health Services; and

Use of the daycare known as Munchkin Manor as arranged with the owner and operator; and

Use of conference rooms and breakroom space.

The parties agree that the terms of this Lease are as follows:

1. Term. The effective date of this Lease shall be October 1, 2023, or the date on which each party has signed this Lease, whichever is later, and shall continue through September 30, 2026. This agreement and all automatic renewals as defined below, are contingent on a Memorandum of Understanding currently known as Deschutes County Document Number 2023-093 and like subsequent agreements.
 - a. Lessor and Lessee each reserve the right to terminate this Lease prior to its expiration with sixty (60) days written notice, given to the other Party.
 - b. Automatic Renewal. If the Lessee is not then in default and the Agreement has not been terminated in accordance hereof, this Agreement shall automatically renew for additional two (2) year terms under the same terms and conditions set forth herein except for any modifications agreed to in writing by amendment. The Auto Renewal terms will be memorialized by a letter signed by the Lessor (Deschutes County Property Manager or County Administrator), and Lessee.

- 2. Rent. Lessor is providing the Premises for zero consideration for the operation of Lessee’s program known as Mary’s Place. Lessee is responsible for a proportionate share of utilities as outlined in Section 8 Utilities and Services.
- 3. Use of Premises. The Premises shall be used by Lessee for the purpose of operating Lessee’s program, Mary’s Place. Lessee, its principals or agents shall not use the Premises to operate a business other than that specified in this Lease and shall not use the Premises address as the business or mailing address for any other business than that specified in this Lease without obtaining the Lessor’s written consent in advance.

Mary’s Place provides supervised visitation and safe exchanges to families where domestic violence, stalking, sexual assault or child abuse in the context of domestic violence has occurred. Mary’s Place operates after 6:00 pm Monday, Thursday and Friday evenings, Saturday from 9:00 am to 6:00 pm, and Sunday from noon to 8:00 pm. Hours are subject to change as provided by Section 15.

- 4. Parking. Lessee, its employees, and clientele shall have a nonexclusive right to access and utilize vehicle parking spaces in County parking lots. Lessee’s employees will be required to adhere to the County Parking Policy and Regulations, which County in its sole discretion may amend from time to time.
- 5. Restrictions on Use. In connection with the use of the Premises, Lessee shall:
 - a. Conform to all applicable laws and regulations affecting the Premises and correct at Lessee’s own expense any failure of compliance created through Lessee’s fault or by reason of Lessee’s use of the Premises. Lessee shall not be required to make any structural changes to affect such compliance, unless such changes are required because of Lessee’s specific use.
 - b. Refrain from any use which would be reasonably offensive to the Lessor, other tenants, or owners or users of adjoining property or unoccupied portions of the real property, or which would tend to create a nuisance or damage the reputation of the real property.
 - c. Refrain from making any unlawful or offensive use of said property or to suffer or permit any waste or strip thereof.
 - d. Exercise diligence in protecting from damage the real property and common area of Lessor covered by and used in connection with this Lease.
 - e. Be responsible for removing any liens placed on said property as a result of Lessee’s use of leased premises.
 - f. Comply with Lessor’s policies, as periodically amended, regarding smoking, parking, fragrances, facilities maintenance, facilities use and violence in the workplace. Those policies are incorporated by reference herein and are available from Lessor upon request.
- 6. Lessee’s Obligations. The following shall be the responsibility of the Lessee:
 - a. Lessee shall not be required to make structural repairs that would place the Premises in a better condition than at the commencement of this lease. Lessee may place fixtures, partitions, personal property, and the like in the Premises and may make

nonstructural improvements and alterations to the Premises at its own expense. Lessee may be required to remove such items at the end of the Lease term.

b. Any repairs necessitated by the negligence of Lessee, its agents, employees or invitees.

c. Any repairs or alterations required under Lessee’s obligation to comply with laws and regulations as set forth in “Restrictions on Use” above.

7. Maintenance and Repair of Premises.

a. Lessor shall perform all necessary maintenance and repairs to the structure, foundation, exterior walls, roof, doors and windows, elevators, emergency lighting, and Lessor-provided fire extinguishers, sidewalks, and parking area which are located on or serve the Premises. Lessor shall maintain the premises in a hazard free condition and shall repair or replace, if necessary and at Lessor’s sole expense, the heating, air conditioning, plumbing, electrical, and lighting systems in the Premises, obtaining required permits and inspections from Code enforcement authorities, and shall keep the Premises, improvements, grounds and landscaping in good repair and appearance replacing dead, damaged or diseased plant materials when necessary.

b. Should Lessor fail to maintain the Premises in accordance with above requirements, and after at least fourteen (14) days prior written notification to Lessor, Lessee may contract for necessary labor equipment and material to bring Premises within those requirements and invoice Lessor for reimbursement.

c. Lessee shall take good care of the interior of the Premises and at the expiration of the term surrender the Premises in as good condition as at the commencement of this Lease, excepting only reasonable wear, permitted alterations, and damage by fire or other casualty.

8. Utilities and Services.

a. Lessor shall provide adequate heat, electricity, water, air conditioning, trash removal service, and sewage disposal service for the Premises and janitorial services for the common areas of the building. Lessee shall provide its own telephone, internet and janitorial services for the Premises. Utilities or services provided to the Premises are not separately metered, but shall be the responsibility of Lessor and shall pay the amount due and separately invoice Lessee on a quarterly basis. Rate shall increase three (3) percent per year effective October 1 of each year until this Agreement is terminated as provided herein.

Courthouse, 152 square feet: Year 1 \$24.23 per month or \$72.86 per quarter with 3% annual increases.

Mike Maier Services Building, 387 square feet: Year 1 \$61.69 per month or \$185.07 per quarter with 3% annual increases.

b. Unless it is an exempt entity, Lessee agrees to pay property taxes and assessments applicable to the Premises which are due and payable during the term of this Lease or any extension hereof. If exempt, it is the responsibility of Lessee to file for such exemption with the Deschutes County Tax Assessor’s office.

c. Security equipment (cameras, recording devices, wiring, and like instruments), including the installation and maintenance thereof, shall be the sole responsibility of Lessee. Prior to the placement and/or attachment of such equipment to the internal or external portions of the Premises or common areas, Lessee shall notify Lessor and obtain Lessors consent.

9. Liens.

a. Except with respect to activities for which the Lessor is responsible, the Lessee shall pay as due all claims for work done on and for services rendered or material furnished to the leased real property and shall keep the real property free from any liens. If Lessee fails to pay any such claims or to discharge any lien, Lessor may do so and collect the cost from Lessee. Any amount so expended shall bear interest at the rate of nine percent (9%) per annum from the date expended by Lessor and shall be payable on demand. Such action by Lessor shall not constitute a waiver of any right or remedy which Lessor may have on account of Lessee’s default.

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

10. Insurance.

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

Claims Made Policy: Risk Management Initials: _____
(check only if applicable) Approved by County Not Approved by County

b. It is expressly understood that Lessor shall not be responsible for carrying insurance on any property owned by Lessee.

c. Lessee will be required to carry fire and casualty insurance on Lessee’s personal property on the Premises.

d. Lessor will carry fire and casualty insurance only on the structure where Premises are located.

e. Lessee shall carry commercial general liability insurance, on an occurrence basis; with a combined single limit of not less than \$1,000,000 each occurrence, with an annual

aggregate limit of \$2,000,000. Lessee shall provide Lessor with a certificate of insurance, as well as an endorsement, naming Deschutes County, its officers, agents, and employees and volunteers as an additional insured. There shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage during the term of this lease.

f. Lessee shall provide to Lessor proof of workers compensation insurance.

g. Indemnification: Lessor and Lessee shall each be responsible for the negligent and wrongful acts of their officer, agents, employees and invitees. Lessor's liability exposure is restricted by the Oregon State Constitution, Article XI, and Oregon Revised Statutes 30.260 through 30.300, the Oregon Tort Claims Act.

11. Casualty Damage. If the Premises or improvements thereon are damaged or destroyed by fire or other casualty to such a degree that the Premises are unusable for the purpose leased, and if repairs cannot reasonably be made within ninety (90) days, Lessee may elect to cancel this Lease. Lessor shall in all cases promptly repair the damage or ascertain whether repairs can be made within ninety (90) days, and shall promptly notify Lessee of the time required to complete the necessary repairs or reconstruction. If Lessor's estimate for repair is greater than ninety (90) days, then Lessee, upon receiving said estimate will have twenty (20) days after such notice in which to cancel this Lease. Following damage, and including any period of repair, Lessee's rental obligation shall be reduced to the extent the Premises cannot reasonably be used by Lessee.
12. Surrender of Leased Premises. Upon abandonment, termination, revocation or cancellation of this Lease or the surrender of occupancy of any portion of or structure on the leased premises, the Lessee shall surrender the real property or portion thereof to Lessor in the same condition as the real property was on the date of possession, fair wear and tear excepted, except, that nothing in this lease shall be construed as to relieve Lessee of Lessee's affirmative obligation to surrender said premises in a condition which complies with all local, state or federal environmental laws, regulations and orders applicable at the time of surrender that was caused by Lessee or occurred during the term of this lease. Upon Lessor's written approval, Lessee may leave site improvements authorized by any land use or building permit. Lessee's obligation to observe and perform this covenant shall survive the expiration or the termination of the Lease.
13. Nonwaiver. Waiver by either party of strict performance of any provision of this Lease shall not be a waiver of or prejudice of the party's right to require strict performance of the same provision in the future or of any other provision.
14. Default. Neither party shall be in default under this Lease until written notice of its unperformed obligation has been given and that obligation remains unperformed after notice for fifteen (15) days in the case of the payment or for thirty (30) days in the case of other obligations. If the obligation cannot be performed within the thirty-day period, there shall be no default if the responsible party commences a good faith effort to perform the obligation within such period and continues diligently to complete performance. In case of default the non-defaulting party may terminate this Lease with thirty (30) days' notice in writing to the defaulting party, shall be entitled to recover damages or any other remedy provided by applicable law, or may elect to perform the defaulting party's obligation. The cost of such performance shall be immediately recoverable from the defaulting party plus interest at the legal rate for judgment. If Lessee makes any such expenditures as the non-defaulting party, those expenditures may be applied to monthly rent payments(s).

15. Notices. Notices between the parties shall be in writing, effective when personally delivered to the address specified herein, or if mailed, effective 48 hours following mailing to the address for such party specified below or such other address as either party may specify by notice to the other:

Lessor: Deschutes County Property Management
Attn: Property Manager
14 NW Kearney Avenue
Bend, Oregon 97701
Phone: 541-385-1414
Kristie.Bollinger@deschutes.org

Or, mail to:
Deschutes County Property Management
Attn: Property Manager
P.O. Box 6005
Bend, OR 97708

Lessee: Saving Grace
Attn: Cassi MacQueen, Executive Director
1425 NW Kingston, Suite 100
Bend, Oregon 97703
Phone: 541-382-9227 x5
Email: Cassi.M@saving-grace.org

16. Assignment. Lessee shall not assign or sub-rent the premises without the prior written consent of the Lessor.

17. Attorneys' Fees. In the event a suit or action of any kind is instituted on behalf of either party to obtain performance under this Lease or to enforce any rights or obligations arising from this Lease, each party will be responsible for paying its own attorney fees.

18. Authority. The signatories to this agreement covenant that they possess the legal authority to bind their respective principals to the terms, provisions and obligations contained within this agreement.

19. MERGER.

THIS LEASE CONSTITUTES THE ENTIRE LEASE BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS LEASE SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS LEASE. LESSOR, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT LESSOR HAS READ THIS LEASE, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

[SIGNATURE PAGES FOLLOW]

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

LESSOR:

Dated this _____ of _____, 2023

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

[SIGNATURE PAGE FOLLOWS]

LESSEE:

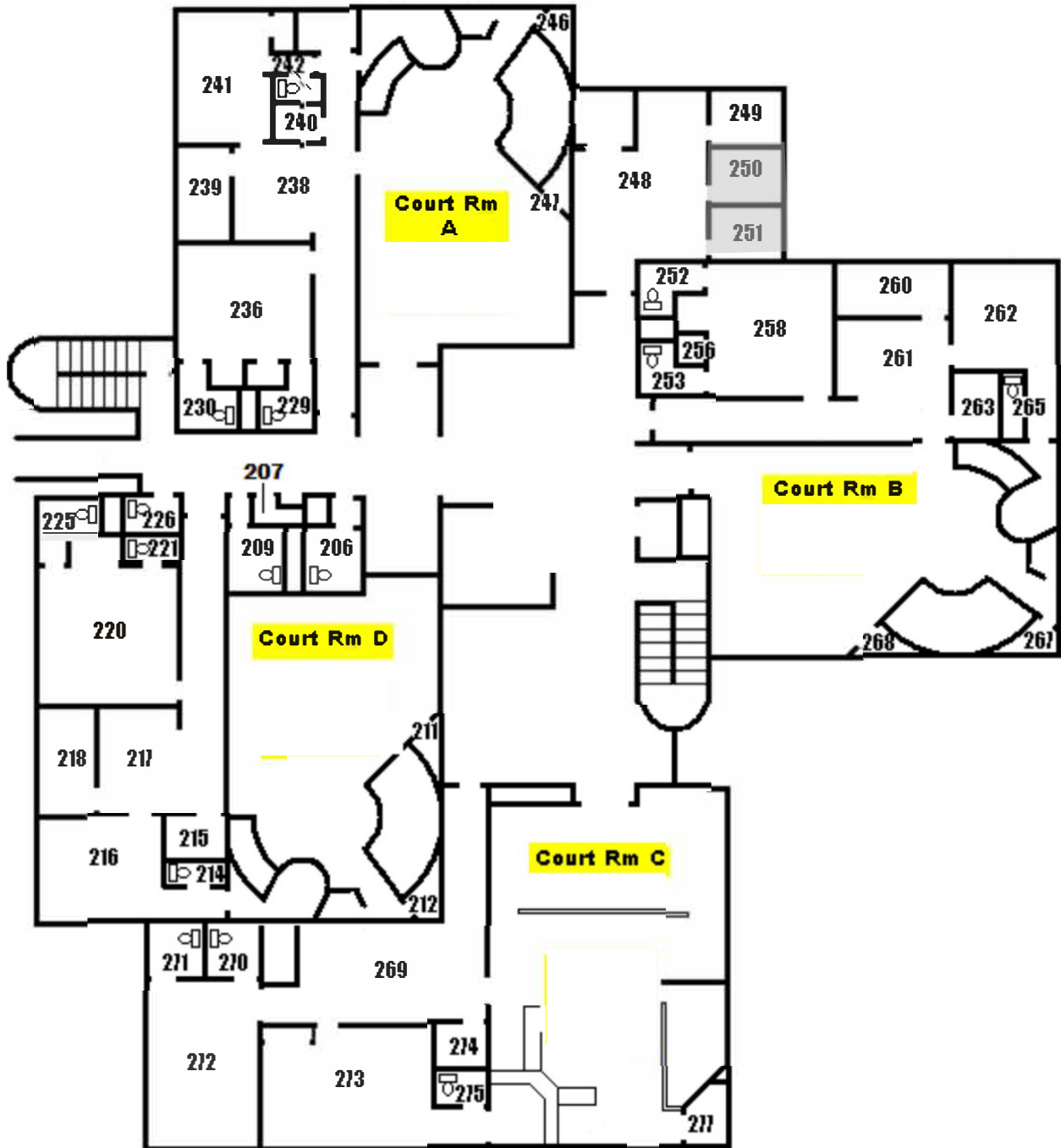
Dated this 14th of September, 2023

SAVING GRACE IMAGINE LIFE WITHOUT VIOLENCE



CASSI MACQUEEN
EXECUTIVE DIRECTOR

Justice Building Second Floor



MMSB 1st Floor

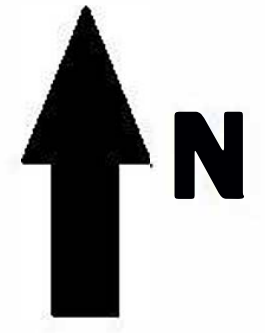


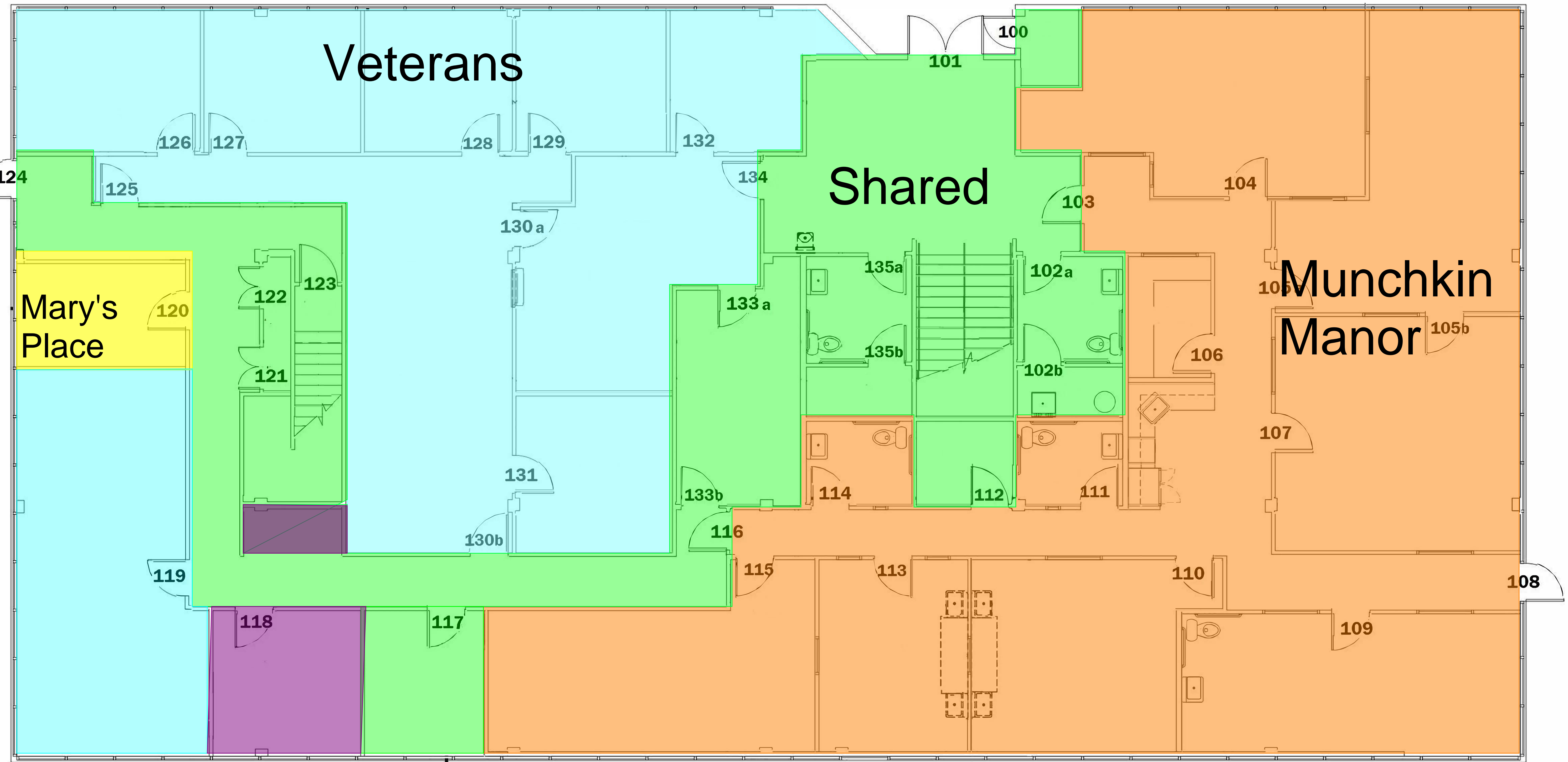
Exhibit B

Veterans

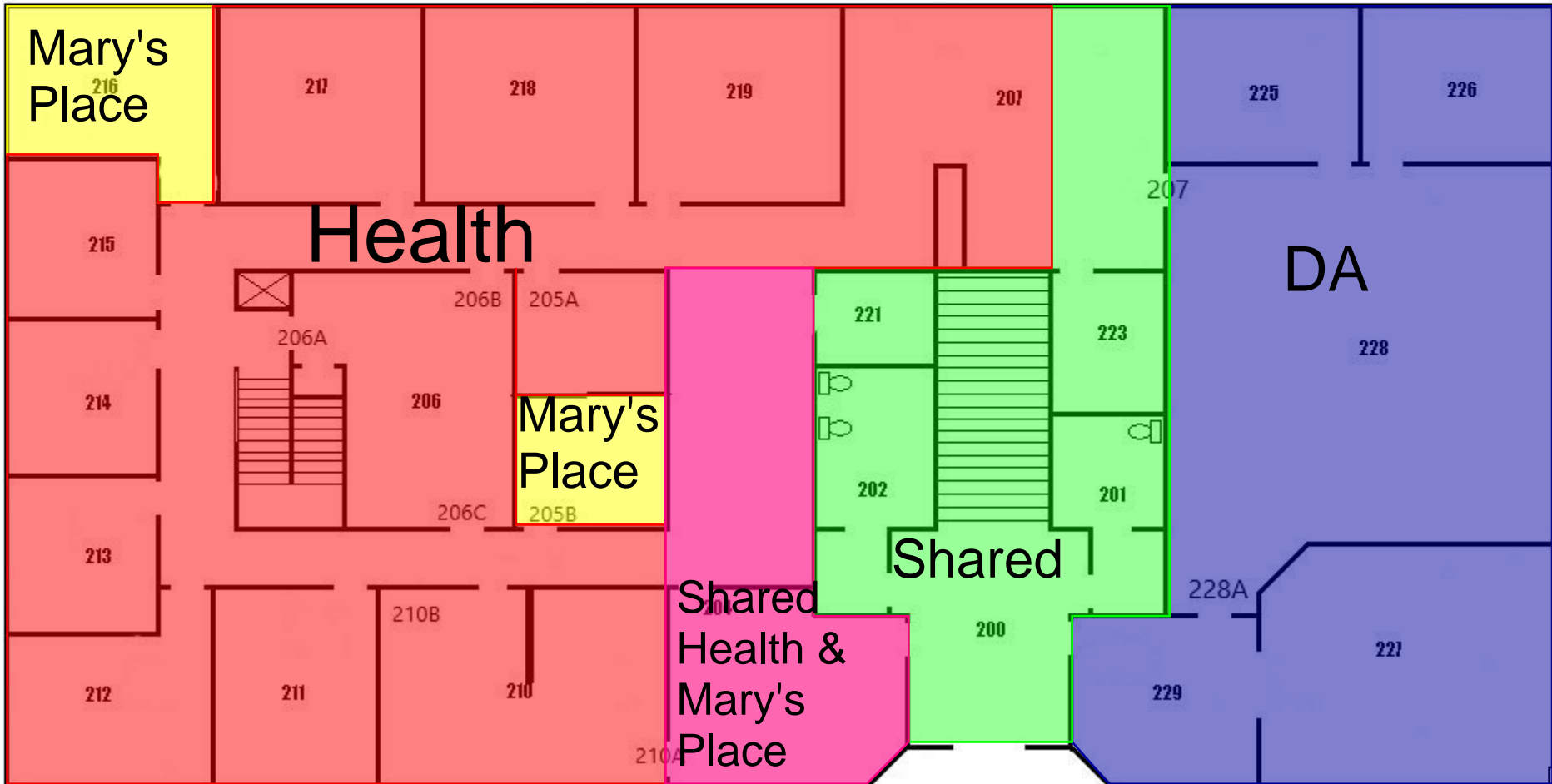
Shared

Munchkin Manor

Mary's Place



MMSB Second Floor





BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Approval of Revocable License with Trenton Wayne LLC dba 97 Café to operate 97 Café located in the Deschutes Services Building

RECOMMENDED MOTION:

Move approval of Board Signature of Document No. 2023-838, a Revocable License with Trenton Wayne LLC to operate 97 Café located in the Deschutes Services Building.

BACKGROUND AND POLICY IMPLICATIONS:

In March 2020, Deschutes County entered into a Revocable License (License) with the owners/operator of 97 Café, Tim and Summer Schultz. The Schultz's have opted to sell the café and have identified new buyers, Corina and David Burger and Chloe Marshall, who will operate as Trenton Wayne LLC, dba 97 Café.

The 97 Café will continue to operate in the main lobby of the Deschutes Services Building (DSB) located at 1300 NW Wall Street, Bend, and the buyers will also have continued access to the secure kitchen located in the south hallway on the first floor of the DSB.

The term of the License begins October 1, 2023, or upon execution, through September 30, 2026. The License includes a 3-year extension upon mutual agreement in writing. The License is provided for zero consideration in exchange for the benefit and service the café provides to the public visiting the DSB and downtown campus, and to County and State staff.

BUDGET IMPACTS:

Zero consideration Revocable License

ATTENDANCE:

Kristie Bollinger, Property Manager

REVIEWED

LEGAL COUNSEL

REVOCABLE LICENSE

DESCHUTES COUNTY a political subdivision of the State of Oregon (“Licensor”) hereby grants to **TRENTON WAYNE LLC, DBA 97 Café** (“Licensee”), a non-exclusive revocable license to use County real property, described as approximately Five Hundred (500) square feet of space and use of the kitchen designated by Licensor on the first floor of the Deschutes Services Building located at 1300 NW Wall Street, Bend, Oregon 97703, together with necessary ingress and egress for such space, referred to herein as “the Premises.”

RECITALS

Deschutes County is granting Licensee a non-exclusive, revocable license (“License”) for that Licensee to use the Premises to operate a mobile food unit, as defined in Oregon Administrative Rules (OAR) 333-150-0000, 1-201.10(B)(48.1).

NOW THEREFORE, this nonexclusive, revocable license is granted upon the following terms and conditions:

1. Term. The effective date of this License shall be October 1, 2023, or the date on which the last party has signed this License, whichever is later, and shall continue through September 30, 2026 (“initial term”). Licensor and Licensee each reserve the right to terminate this License prior to its expiration with thirty (30) days written notice, given to the other party. Except as otherwise provided in this License, if the Licensee is not then in default and with Licensor's approval, Licensee has the option to renew this License for three (3) years by giving at least thirty (30) days written notice to Licensor prior to the expiration of the initial term. The additional term will be memorialized by a letter signed by the Licensor (Deschutes County Property Manager or County Administrator), and Licensee.
2. Rent. In exchange for the benefit the Licensee’s service provides to the general public and public employees, this License is provided for zero cost during the initial and subsequent terms of this License.
3. Use of Premises. The Premises shall be used by Licensee for operation of a Class III mobile food unit, as defined in OAR 333-162-0020(2)(c). Licensee shall offer for sale to the general public food and beverages, including, but not limited to, sandwiches, soup, pastries, and fruit, as well as coffee, tea, soft drinks and juice. Licensee shall furnish customer seating and tables. Licensee shall provide all necessary materials and supplies for food and beverage preparation, service, and sanitation. The Premises shall be used by Licensee for the purpose of operating Licensee's primary business, **97 Café**. Licensee, its principals or agents shall not use the Premises to operate a business other than that specified in this License and shall not use the Premises address as the business or mailing address for any other business than that specified in this License without obtaining the Licensor's written consent in advance.

4. Parking. Licensee, its employees, and clientele shall have a nonexclusive right to access and utilize vehicle unassigned public parking spaces in County parking lots. Licensee's employees will be required to adhere to the County Parking Policy and Regulations, which County in its sole discretion may amend from time to time.
5. Restrictions on Use. In connection with the use of the Premises, Licensee shall:
 - a. Conform to all applicable laws and regulations affecting the Premises and correct at Licensee's own expense any failure of compliance created through Licensee's fault or by reason of Licensee's use of the Premises. Licensee shall not be required to make any structural changes to affect such compliance, unless such changes are required because of Licensee's specific use.
 - b. Refrain from any use which would be reasonably offensive to the Licensor, other licensees, tenants, or owners or users of adjoining premises or unoccupied portions of the premises, or which would tend to create a nuisance or damage the reputation of the real property.
 - c. Refrain from making any unlawful or offensive use of said property or to suffer or permit any waste or strip thereof.
 - d. Exercise diligence in protecting the premises and adjoining common area from damage.
 - e. Be responsible for removing any liens placed on said property as a result of Licensee's use of licensed premises.
 - f. Comply with Lessor's policies, as periodically amended, regarding smoking, parking, fragrances, facilities maintenance, facilities use and violence in the workplace. Those policies are incorporated by reference herein and are available from Lessor upon request (copies of referenced policies were provided to Lessee prior to execution of this License).
 - g. Minimum hours of operation shall be Monday through Friday, between the hours of 7:30 a.m. and 2:00 p.m., excluding county holidays or other approved closures. If any exceptions to the above hours of operation are necessary, notice with brief explanation shall be given to Deschutes County Property Management.
6. Licensee's Obligations. The following shall be the responsibility of the Licensee:
 - a. Licensee shall not be required to make structural repairs that would place the Premises in a better condition than at the commencement of this License. Licensee may place partitions, personal property, and the like in the Premises and may make nonstructural improvements and alterations to the Premises at its own expense. Licensee may be required to remove such items at the end of the License term if required by Licensor. Licensee must obtain Licensor's express authorization prior to placing a fixture on the Premises.
 - b. Licensee, at its expense, shall keep Licensee's equipment and facilities in a first-class repair, operating condition, working order and appearance. Licensee shall also be responsible for any repairs to other property necessitated by its negligence or the negligence or wrongful acts of its agents, employees and invitees.

- c. Any repairs or alterations required under Licensee's obligation to comply with laws and regulations as set forth in "Restrictions on Use" above.
- d. Licensee warrants the honesty and integrity of all personnel Licensee employs or authorizes to operate Licensee's business on the Premises. Licensee shall notify Licensor in writing in advance of any changes in personnel having access to the Premises, including without limitation suspension, termination or resignation. Subject to security policies, practices and procedures, Licensee shall be granted access to and through Licensor's security access system in order to access the Premises in accordance with this License and shall be responsible for retrieving access keys or badges from Licensee's personnel who are no longer Licensee's authorized employees or representatives on the Premises.
- e. Licensee's signage and decorative accessories may be provided but must be approved by the Licensor prior to installation. Interior wall-mounted or free-standing signs and decorative accessories may also be allowed, but must not interfere with public traffic flow or County and State message boards. Placement of exterior signs, whether wall-mounted or free-standing, will be subject to the prior approval of the County's Facilities Department. Building exterior signs, if allowed, must also comply with the City of Bend sign code and be installed in accordance with all related City of Bend permit regulations. Printed flyers, menus, notices, announcements, and other promotional materials may be distributed among the neighboring buildings of the County's complex for the purposes of increasing customer traffic with prior approval of the Licensor.

7. Maintenance and Repair of Premises.

- a. Licensor shall perform all necessary maintenance and repairs to the structure, foundation, exterior walls, roof, doors and windows, elevators, emergency lighting, and Licensor-provided fire extinguishers, sidewalks, and parking area which are located on or serve the Premises. Licensor shall maintain the premises in a hazard free condition and shall repair or replace, if necessary and at Licensor's sole expense, the heating, air conditioning, plumbing, electrical, and lighting systems in the Premises, obtaining required permits and inspections from Code enforcement authorities, and shall keep the Premises, improvements, grounds and landscaping in good repair and appearance replacing dead, damaged or diseased plant materials when necessary.
- b. Should Licensor fail to maintain the Premises in accordance with above requirements, and after at least fourteen (14) days prior written notification to Licensor, Licensee may terminate the license.
- c. Licensee shall maintain its facilities and equipment on the Premises so as to impact in the least possible way Licensor's equipment, facilities and personnel.
- d. Licensee shall also secure its personal property on the Premises in a clean, safe and sanitary condition when not in use and at the close of daily business.
- e. Licensee shall take good care and keep clean the interior of the Premises, and at the expiration of the term surrender the Premises in as good condition as at the

commencement of this License, excepting only reasonable wear, permitted alterations, and damage by fire or other casualty.

8. Utilities and Services. Licensor shall provide adequate heat, electricity, water, air conditioning, trash removal service, and sewage disposal service for the Premises and janitorial services for the common areas of the building. Licensee shall provide its own janitorial services for the Premises.
9. Liens.
 - a. Except with respect to activities for which the Licensor is responsible, the Licensee shall pay as due, and as may be applicable, all property taxes, all claims for work done on and for services rendered or material furnished to the licensed premises and shall keep the property free from any liens. If Licensee fails to pay any such claims or to discharge any lien, Licensor may do so and collect the cost from Licensee. Any amount so expended shall bear interest at the rate of nine percent (9%) per annum from the date expended by Licensor and shall be payable on demand. Such action by Licensor shall not constitute a waiver of any right or remedy which Licensor may have on account of Licensee's default.
 - b. Licensee may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Licensor's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Licensee shall, within thirty (30) days after knowledge of the filing, secure the discharge of the lien or deposit with Licensor cash or a sufficient corporate surety bond or other surety satisfactory to Licensor in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under a lien.
10. Insurance.
 - a. It is expressly understood that Licensor shall not be responsible for carrying insurance on any property owned by Licensee.
 - b. Licensee will be required to carry fire and casualty insurance on Licensee's personal property on the Premises.
 - c. Licensor will carry fire and casualty insurance only on the structure where Premises are located.
 - d. Subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7, Licensee shall carry commercial general liability insurance, on an occurrence basis with a combined single limit of not less than limitations set forth in ORS 30.272. Licensee may fulfill its obligations through a program of self-insurance pursuant to applicable law. Licensee shall provide Licensor with a certificate of insurance, as well as an endorsement, naming Deschutes County, its officers, agents, employees and volunteers as an additional insured. There shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage during the term of this License.

- e. As applicable, Licensee shall provide to Licensor proof of workers compensation insurance or a legally established program of self-insurance for workers compensation claims, or certify exemption from the requirement under ORS 656.
 - f. Indemnification: Licensor and Licensee shall each be responsible for and defend, indemnify and hold the other harmless for losses, costs or claims due to the negligent and wrongful acts of their employees, agents and invitees. Licensor's liability exposure is limited by the Oregon Constitution, Article XI, and Oregon Revised Statutes 30.260 through 30.300.
11. Casualty Damage. If the Premises or improvements thereon are damaged or destroyed by fire or other casualty to such a degree that the Premises are unusable for the purpose Licensed, and if repairs cannot reasonably be made within ninety (90) days, Licensee may elect to cancel this License. Licensor shall in all cases promptly repair the damage or ascertain whether repairs can be made within ninety (90) days, and shall promptly notify Licensee of the time required to complete the necessary repairs or reconstruction. If Licensor's estimate for repair is greater than ninety (90) days, then Licensee, upon receiving said estimate will have twenty (20) days after such notice in which to cancel this License. Following damage, and including any period of repair, Licensee's rental obligation shall be reduced to the extent the Premises cannot reasonably be used by Licensee.
12. Surrender of Licensed Premises. Upon abandonment, termination, revocation or cancellation of this License or the surrender of occupancy of any portion of or structure on the Licensed premises, the Licensee shall surrender the real property or portion thereof to Licensor in the same condition as the real property was on the date of possession, fair wear and tear excepted, except, that nothing in this License shall be construed as to relieve Licensee of Licensee's affirmative obligation to surrender said premises in a condition which complies with all local, state or federal environmental laws, regulations and orders applicable at the time of surrender that was caused by Licensee or occurred during the term of this License. Upon Licensor's written approval, Licensee may leave site improvements authorized by any land use or building permit. Licensee's obligation to observe and perform this covenant shall survive the expiration or the termination of the License.
13. Nonwaiver. Waiver by either party of strict performance of any provision of this License shall not be a waiver of or prejudice of the party's right to require strict performance of the same provision in the future or of any other provision.
14. Default. Neither party shall be in default under this License until written notice of its unperformed obligation has been given and that obligation remains unperformed after notice for fifteen (15) days in the case of the payment or for thirty (30) days in the case of other obligations. If the obligation (other than payment) cannot be performed within the thirty-day period, there shall be no default if the responsible party commences a good faith effort to perform the obligation within such period and continues diligently to complete performance. In case of default the non-defaulting party may terminate this License with thirty (30) days' notice in writing to the defaulting party, shall be entitled to recover damages or any other remedy provided by applicable law, or may elect to perform the defaulting party's obligation. The cost of such performance shall be immediately recoverable from the defaulting party plus interest at the legal rate for judgment.

15. Notices. Notices between the parties shall be in writing, effective when personally delivered to the address specified herein, or if mailed, effective 48 hours following mailing to the address for such party specified below or such other address as either party may specify by notice to the other:

Licensors: Deschutes County Property Management
Property Manager
14 NW Kearney Avenue
Bend, Oregon 97701
Phone: 541-385-1414
Email: Kristie.Bollinger@deschutes.org
Mail to: P.O. Box 6005
Bend, OR 97708

Licensee: Trenton Way LLC, dba 97 Café
Corina Burger and Chloe Marshall
2974 NE Dogwood Drive
Bend, OR 97701
Phone: Corina @ 541-408-3653, Chloe @ 541-213-4029
Email: corina75@live.com and chloervibe@icloud.com

16. Assignment. Licensee shall not assign or sub-rent the premises without the prior written consent of the Licensors.

17. Attorneys' Fees. In the event a suit or action of any kind is instituted on behalf of either party to obtain performance under this License or to enforce any rights or obligations arising from this License, each party will be responsible for paying its own attorney fees.

18. Authority. The signatories to this agreement covenant that they possess the legal authority to bind their respective principals to the terms, provisions and obligations contained within this agreement.

19. MERGER.

THIS LICENSE CONSTITUTES THE ENTIRE LICENSE BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS LICENSE SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS LICENSE. LICENSOR, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT LICENSOR HAS READ THIS LICENSE, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

[SIGNATURE PAGES FOLLOW]

LICENSOR:

DATED this ____ day of _____, 2023

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE , Chair

PATTI ADAIR, Vice-Chair

Recording Secretary


PHIL CHANG, Commissioner

[SIGNATURE PAGE FOLLOWS]

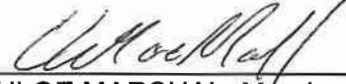
LICENSEE:

DATED this 20th day of September, 2023

TRENTON WAYNE LLC,
DBA 97 CAFÉ



CORINA BURGER, Member



CHLOE MARSHAL, Member



DAVID BURGER, Member



CERTIFICATE OF LIABILITY INSURANCE

09/27/2023 Item #2.

09/13/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Century Insurance Group, LLC 320 SW Upper Terrace Dr. Suite 104 Bend OR 97702		CONTACT NAME: Lucinda Floyd PHONE (A/C, No, Ext): (541) 382-4211 E-MAIL ADDRESS: Lucinda@centuryins.com FAX (A/C, No): (541) 382-7468	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Hartford Underwriters Ins Co	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	
INSURED Trenton Wayne LLC, DBA: 97 Cafe 2974 NE Dogwood Dr Bend OR 97701			

COVERAGES **CERTIFICATE NUMBER:** Master 23-24 **REVISION NUMBER:**


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			52SBABA1NPC	09/13/2023	09/13/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 EPLI \$ 25,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Deschutes County Property Management is additional insured with respects to General Liability. Refer to policy endorsements, forms and exclusions.

CERTIFICATE HOLDER**CANCELLATION**

Deschutes County Property Management 14 NW Kearny Ave Bend OR 97701	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Resolution No. 2023-056, increasing 0.2 regular duration FTE within the Health Services Department

RECOMMENDED MOTION:

Move approval of Resolution No. 2023-056 increasing 0.2 regular duration FTE within the 2023-24 Deschutes County Budget for the Health Services Department.

BACKGROUND AND POLICY IMPLICATIONS:

On September 20, 2023, the Board approved an increase of 0.2 regular duration FTE for the Health Services department in support of language access services.

BUDGET IMPACTS:

Should funding no longer support the increase in the position, DCHS will consider the future of this position within the budgeting process. The estimated cost of a 0.2 Administrative Support Technician for 10 months is \$15,145. No additional appropriation will be necessary in the Health Services Fund.

ATTENDANCE:

Cam Sparks, Senior Budget Analyst, Finance

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY,
OREGON

A Resolution Increasing *
FTE Within the 2023-24 * RESOLUTION NO. 2023-056
Deschutes County Budget *

WHEREAS, the Deschutes County Health Services department presented to the Board of County Commissioners on September 20, 2023, with regards to increasing .2 regular duration Administrative Support Technician FTE in support of language access, and

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

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

Section 1. That the following FTE be added to the FY 2023-24 Deshutes County Budget

Job Class	Position Number	Type	Duration if Limited Duration	FTE
Administrative Support Technician	2260	Regular Duration		.2
Total FTE				.2

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

DATED this _____ day of September 2023.

BOARD OF COUNTY COMMISSIONERS OF
DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

ATTEST:

PATTI ADAIR, Vice-Chair

Recording Secretary

PHIL CHANG, Commissioner



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Approval of Order No. 2023-037 denying the petition for incorporation of the proposed City of Mountain View and adopting findings and conclusions and prescribing an effective date

RECOMMENDED MOTION:

Move approval of Board signature of Order No. 2023-037 denying the petition for incorporation of the proposed City of Mountain View and adopting findings and conclusions and prescribing an effective date.

BACKGROUND AND POLICY IMPLICATIONS:

On September 20, 2023 the Board closed the oral and written portions of the public hearing to consider a petition to incorporate the proposed City of Mountain View. The Board deliberated and voted 3-0 to deny the petition; Order No. 2023-037 formalizes this decision.

BUDGET IMPACTS:

None

ATTENDANCE:

Will Groves, Planning Manager
Stephanie Marshall, Assistant Legal Counsel

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Denying the Petition for
Incorporation of the Proposed City of
Mountain View and Adopting Findings and
Conclusions and Prescribing an Effective
Date

*
*

ORDER NO. 2023-037

WHEREAS, a petition for incorporation for a new City of Mountain View was duly filed pursuant to ORS Chapter 221; and

WHEREAS, ORS 221.040(2) provides that upon the filing of a petition for incorporation, the Deschutes County Board of Commissioners shall conduct a public hearing upon the merits of the petition; and

WHEREAS, ORS 197.175(1) makes the Board’s consideration of a petition to incorporate a new city an exercise of County planning and zoning responsibility; and

WHEREAS, ORS 221.040(2) authorizes the Board to alter the boundaries of the proposed city to include all territory that may be benefitted by the formation of the city but must first provide owners and residents of property within such additional territory notice and opportunity to present evidence and argument on the applicable issues; and

WHEREAS, the Board, upon notice duly given, commenced the required public hearing on the proposed petition on September 20, 2023; and

WHEREAS, the Board closed the oral and written record on September 20, 2023, deliberated on the proposal, and voted 3-0 to deny the proposal and adopt staffs findings; now, therefore,

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

Section 1. The petition proposing the incorporation of the City of Mountain View is hereby denied.

Section 2. In support of the decision set forth in Section 1 of this order, the Board adopts staffs findings in Exhibit "A" attached hereto and by this reference incorporated herein.

Section 3. That this decision shall become effective on September 28, 2023, the date it shall be mailed to the chief petitioners and other parties to this proceeding.

DATED this ____ day of _____, 2023.

BOARD OF COUNTY COMMISSIONERS

ANTHONY DEBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner



COMMUNITY DEVELOPMENT

EXHIBIT A TO ORDER NO. 2023-037
STAFF REPORT

FILE NUMBER: 247-23-000587-TA

HYBRID HEARING: September 20, 2023
Deschutes Services Center
Barnes & Sawyer Rooms
1300 NW Wall Street
Bend, OR 97708
And Via Zoom

PETITIONER Andrew Aasen
27898 Ford Road
Bend, OR 97701

REQUEST: Petition to incorporate the proposed City of Mountain View.

LOCATION: The proposed City of Mountain View extends west at Diamond T Road and ends in the east at the intersection of Highway 20 and 27. It consists of approximately 265 square miles or 169,550 acres.

STAFF CONTACT: Nicole Mardell, AICP, Senior Planner
Phone: 541-317-3157
Email: Nicole.Mardell@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.deschutes.org/mountainviewincorporation

APPLICABLE CRITERIA

- Oregon Revised Statutes (ORS)
 - Chapter 195, Local Government Planning Coordination
 - Chapter 197.175, Cities' and counties' planning responsibilities; rules on incorporations; compliance with goal
 - Chapter 215, County Planning
 - Chapter 221, Incorporation of Cities
- Oregon Administrative Rules (OAR), Chapter 660

- Division 4 (Goal 2 Exceptions Process)
- Division 6 (Forest Lands)
- Division 8 (Goal 10 Housing)
- Division 9 (Industrial and Commercial Development)
- Division 11 (Public Facilities Planning)
- Division 12 (Transportation Planning)
- Division 14, (Application of the Statewide Planning Goals to Newly Incorporated Cities, Annexation, and Urban Development on Rural Lands)
- Division 15, (Statewide Planning Goals and Guidelines)
- Division 16 (Goal 5)
- Division 33 (Agricultural Land)

McManus v. Skoko, 255 Or. 374, 380 (1970)

1000 Friends of Oregon v. Wasco Co. Court, 62 Or App 75, 659 P2d 1001, rev den 295 Or 399, 614 P2d 1144 (1980)

1000 Friends of Oregon v. Wasco County Court, 299 Or. 344, 358-60, 67 (1985)

Deschutes County Comprehensive Plan. Deschutes County Code Title 23

Deschutes County Code (DCC) Subdivision, Zoning, and Development Procedures Ordinances. Titles 17, 18, 22

I. INTRODUCTION AND BACKGROUND

Introduction

A petition has been filed for the incorporation of a new city in Deschutes County. The Board of County Commissioners (Board) is holding a hearing to determine whether to place the proposed incorporation on the May 2024 ballot per ORS 221.040(3). To determine whether the incorporation should be placed before the voters, the Board must determine:

1. Whether the proposed boundary correctly includes all lands that would be benefited from being in the proposed city.
2. Whether the taxation rate will support the proposed services.
3. Whether the proposed city can and will be able to comply with relevant statewide planning goals, County Comprehensive Plan goals and policies, and implementing ordinances.

The first two issues are required by ORS and the third is related to land use and is required by OAR and *1000 Friends of Oregon v. Wasco County Court*, 299 Or. 344, 358-60, 67 (1985).

Background

1. On February 14, 2023, a prospective petition to incorporate the City of Mountain View was submitted to the Deschutes County Clerk.

2. On April 18, 2023, four signature sheets were filed with the Deschutes County Clerk's office containing 29 signatures of electors within the boundary of the proposed City of Mountain View.
3. On April 28, 2023, Steve Dennison, Deschutes County Clerk, certified signatures on the petition submitted by Andrew Aasen (Petitioner) for incorporation for the proposed City of Mountain View were verified and that there are over 29 valid signatures.
4. On June 9, 2023, the Petitioner submitted a petition to the Board to incorporate the proposed City of Mountain View and related documents including an *Economic Feasibility Study* for review and consideration at a public hearing.
5. On July 7, 2023, Christopher Bell, Senior Assistant Legal Counsel, mailed a letter to the Petitioner, describing, "while you have provided at least the minimum information for the Board's review of your petition as required by ORS 221.040(2), you have not provided any evidence to demonstrate whether the proposed city can and will comply with the Statewide Land Use Planning Goals once it is incorporated and assumes primary responsibility for comprehensive planning in the area to be incorporated."
6. On July 10, 2023, the Petitioner provided an email response to Mr. Bell's letter and requested the public hearing be scheduled.
7. On July 21, 2023, the Petitioner provided supplemental materials, including a *Statewide Land Use Compliance Plan*.
8. On August 9, 2023 the Board adopted Order 2023-033 accepting a petition and setting a date of September 20, 2023 for a public hearing on the incorporation of the proposed City of Mountain View.
9. Between August 18-20, 2023, the Petitioner emailed additional information to be added to the record. One of these emails included an image of a suggested amendment to the proposed boundary. The image did not include any specific detail on a formal change to the petition, nor additional information such as the number of taxlots impacted by the change. The information reviewed in this staff report is based on the original boundary submitted with the petition for incorporation.
10. The properties subject to the petition extend west at Diamond T Road and end in the east at the intersection of Highway 20 and 27. The property is further described in the Petitioner's *Economic Feasibility Study*.
11. The properties subject to the petition are located in Township 18, Ranges 13 and 14; Township 19, Ranges 13, 14, 15, 16; Township 20, Ranges 13, 14, 15, 16, 17; and Township 21, Ranges 14, 15 and 16.
12. The properties subject to the petition encompass approximately 265 square miles or 169,550 acres, with a Petitioner's estimate of a resident population of approximately 160 +/- residents.

13. Land ownership consists of a 618 taxlots totaling 169,550 acres:

- Federal: 112 taxlots: 127,303 acres
- Private: 437 taxlots: 39,350 acres
- Rights-of-Way: 1,408 acres
- County: 54 taxlots: 1,244 acres
- State: 15 taxlots: 246 acres

14. Rural zoning for the proposed City of Mountain View consists of:

- Exclusive Farm Use / Horse Ridge: 133,889 acres
- Forest Use 1: 28,637 acres
- Surface Mining: 2,838 acres
- Flood Plain: 1,424 acres
- Exclusive Farm Use / Alfalfa: 628 acres
- Open Space & Conservation: 701 acres
- Rural Service Center / Commercial & Mixed Use: 27 acres

15. There are several combining zones that apply to the petition, consisting of:

- Wildlife Area – Deer Winter Range: 267 taxlots, 113,079 acres
- Wildlife Area – Antelope: 474 taxlots, 80,399 acres
- Sage-grouse General: 209 taxlots, 75,631 acres
- Sage-grouse Low Density: 56 taxlots, 10,452 acres
- Sage-grouse Core Area: 9 taxlots, 7,913 acres
- Sensitive Bird & Mammal Habitat, 13 taxlots; 6 sites

II. PUBLIC COMMENTS

Notice of Application was sent to property owners located within the proposed boundary, and within 750 feet of the proposed boundary on August 3, 2023. Notice of Public Hearing was mailed on August 17, 2023, and was physically posted in three locations as required by ORS 221.040(1): in the Deschutes County Service Center near the hearing room, in the Deschutes County Community Development Department foyer bulletin board, and on county owned property adjacent to Highway 20 within the proposed boundary. Notice of Public Hearing was also published in the Bend Bulletin for two consecutive weeks prior to the public hearing (August 23 and August 30, 2023). As of September 13, 2023, thirty-one public comments have been submitted to the record.

Those in opposition (approximately twenty-one) cited the following concerns:

- Allegations that Petitioner misrepresented the purpose of the proposed petition, stated purpose during signature varied but included representation that it would 1) create a rural fire protection district, 2) would stop the landfill siting process or 3) incorporate only the existing rural community of Millican (2 parcels).
- Allegations that Petitioner’s Code Enforcement circumstance appears to be the basis for the petition to incorporate¹.
- Concern regarding higher cost and taxes associated with incorporation.
- Concern regarding budget feasibility.
- Concern regarding lack of community discussion/consensus on incorporation.
- Concern regarding lack of benefit to incorporation and necessity given low population.
- Concern regarding incompatible uses with city (hunting, target shooting, etc.)
- Concern regarding water availability and infrastructure costs with serving the area.
- Assertion that existing County services and fire protection are adequate.
- Concern regarding wildlife and natural resources.

Those in support (approximately ten) cited general support for the petition.

III. AGENCY COMMENTS

Notice of Application was sent to agencies on August 3, 2023, and Notice of Public Hearing was sent on August 17, 2023. The following agencies submitted comments:

- Oregon Department of Fish and Wildlife: cited concerns relating to mule deer, elk, and Sage-grouse habitat. Noted that the proposal was not adequately mitigating for potential Sage-grouse disturbance.
- Deschutes National Forest Supervisor: Noted that portion of proposal includes National Forest System Land. Lands in a National Forest are federal, subject to Federal legal jurisdiction, and not subject to state or local zoning or taxation.
- Bureau of Land Management, Prineville District, Deschutes Field Office: Noted that 65% of land in boundary is managed by BLM. Raised several concerns regarding areas designated as wilderness, areas of environmental concern, and Greater Sage-grouse habitat. Noted that BLM land is not designated for disposal and not subject to taxation. Also noted that if incorporation occurs, a Mutual Aid Agreement would be necessary for fire protection, of which a requirement is for the new city to have a fire district. Until executed, BLM would be limited in responding to private land ignitions.
- Oregon Water Resources Department: Provided information regarding well depths in the proposed boundary area, noted that well yields in the area are generally quite low and would have difficulty supplying enough water for a municipality. Also noted that quasi-municipal or municipal

¹ Staff notes the Petitioner was involved with a code compliance case (247-22-000510-CE) that resulted in a voluntary compliance agreement. As this proposal is for an incorporation, and not for a land use application on an individual property, code compliance matters on particular properties are not applicable criteria for this incorporation application.
EXHIBIT A TO ORDER NO. 2023-037

water right is unlikely to be obtained due to well declines, and that the area is in the Deschutes Basin Mitigation Zone of Impact.

- League of Oregon Cities: Provided detail on the many aspects of Oregon Law that cities are required to abide by, which include financial and staff resources.
- Deschutes County Road Department: Provided information on current costs of road maintenance and concerns regarding Petitioner’s proposed budget for road maintenance.
- Deschutes County Transportation Planner: Provided information related to current County owned and maintained roads and process for jurisdictional transfer.

IV. INCORPORATION REQUIREMENTS

Incorporation Criteria

ORS Chapter 221 sets out city incorporation procedures and ORS Chapter 197 establishes county land use planning authority and responsibilities.

Role of Board of County Commissioners

ORS 221.040(2) provides that, upon the filing of a petition for incorporation, the county “Court” (Board of Commissioners) shall conduct a public hearing to determine if the proposed incorporation is “feasible” and should move forward to placement on the next election ballot. If the proposal were to move forward to the vote, only registered voters in the proposed boundary could vote to officially incorporate². During the public hearing, any person may appear and provide testimony on the following considerations:

- Proposed City Boundary and Benefit/Lack of Benefit to Properties
- Objections to Granting Petition
- Objections to Formation of Incorporated City
- Objections to Tax Rate
- Reasonable Likelihood that City Can and Will Comply with Statewide Planning Goals, Including Development of a Land Use Program.

The relevant statute and case law identify three formal approval criteria to guide the Board’s decision-making process.

1. Whether to alter the proposed boundaries in order to include all territory that may be benefited or exclude territory that will not be benefitted.
2. The adequacy of the estimated taxation rate to support the proposed services.
3. Whether the incorporation is in compliance with the statewide land use goals.

² As of August 2023 the County Clerk has record of 77 registered voters in the proposed boundary.
EXHIBIT A TO ORDER NO. 2023-037

The County’s authority to approve, reject, or modify the proposal is also established in ORS 221.040(3), which provides,

Upon the final hearing of the petition, the Court, if it approves the petition as originally presented or in an altered form, shall provide by order for the holding of an election relating to the incorporation of the proposed city.

If approved or modified, the proposal would move forward to a vote. Staff provides findings to address each of these three criteria.

A. Proposed Boundary and Benefitted Lands

Criteria: The Board must consider whether the properties included within the boundaries of the new city are benefitted. “Benefit” is not defined by case law, nor ORS 221.040, rather the ORS states the County Court:

...may alter the boundaries as set forth in the petition to include all territory which may be benefitted by being included within the boundaries of the proposed incorporated city...No land shall be included in the proposed city which will not, in the judgment of the county, be benefitted.

Staff understands the term “benefit” to mean that the proposed property would see immediate and long-term value and little to no disadvantage from inclusion in a new city boundary.

Petitioner Response: The Petitioner provided the longitude and latitude coordinates for the proposed boundary and noted that the approximate population within the boundary is 160 +/- residents. The Petitioner did not provide any rationale for selection of the properties in the boundary, ownership information, zoning, or current use of properties in the proposed boundary.

In the Petitioner’s August 1, 2023 submittal he provides the following to address this criteria.

The proposed boundary of the City of Mountain View have been carefully considered and takes into account key factors that could benefit the community. Here's a summarized analysis of how the proposed boundary seems to align with the community's needs and potential for growth:

Population: With a current population of 160, the proposed boundary seems to include areas that are currently populated and would benefit from being part of the city.

Land Use: Considering that the current land use is primarily Exclusive Farm Use (EFU), the incorporation's comprehensive planning to rezone areas as needed demonstrates a thoughtful approach to accommodating various land uses as the city develops. This can allow for a mix of residential, commercial, and agricultural zones to meet the community's needs.

Services: Since there are currently no services, the incorporation's plan to add services as allowed is a practical step to support the community's growth and development. This approach can ensure that the necessary infrastructure and amenities are put in place to serve the residents effectively.

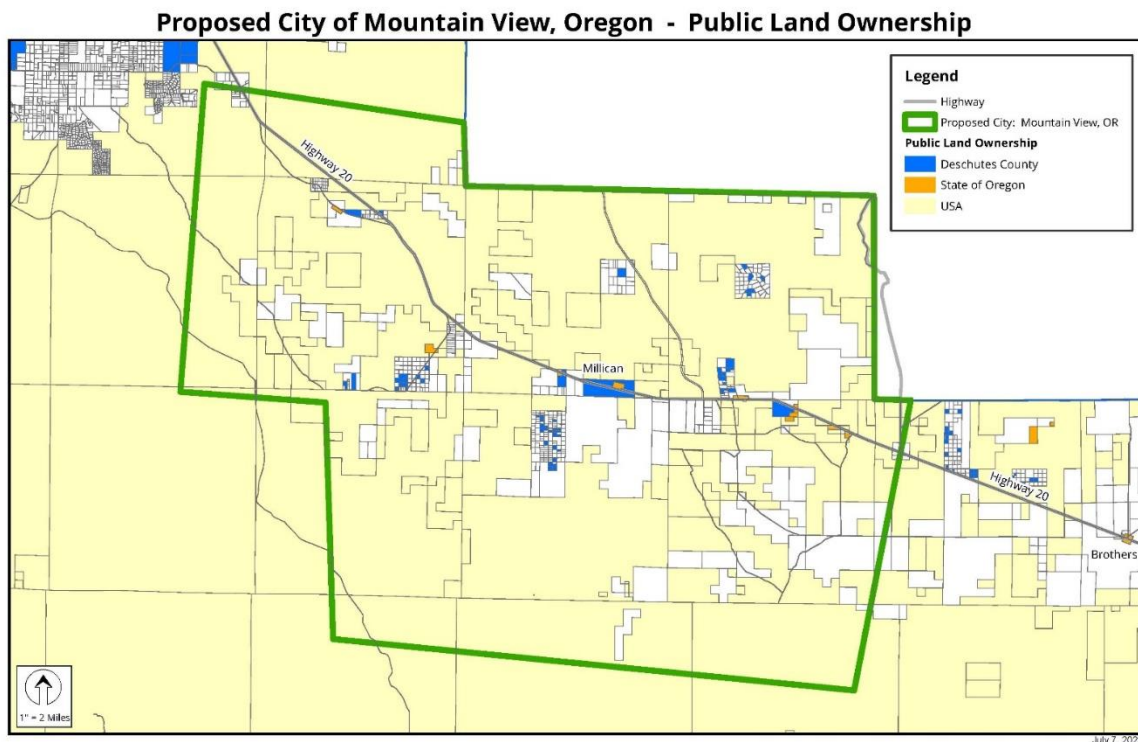
Natural Resources: The inclusion of BLM land and forest land within the proposed boundary provides an opportunity for the city to actively engage in the conservation and management of these valuable natural resources. Incorporating these lands could enable the city to have a say in their future development and ensure preservation for the benefit of residents.

Community Support: Given that the community wants to incorporate, it suggests a desire for local governance and self-determination. Incorporation can empower the community to make decisions that align with their specific needs and values.

Future Growth: Anticipating future growth from 160 to a maximum of 688 residents demonstrates a realistic projection for expansion. The proposed boundary can accommodate this growth and provide sufficient space for potential development.

Overall the proposed boundary of the City of Mountain View takes into account the community's preferences, potential for growth, and the need to address current and future infrastructure and service requirements. However, it is essential for local officials and planners to conduct a detailed analysis and community engagement to ensure that the boundary aligns with the long-term vision and aspirations of the residents.

Staff Findings:

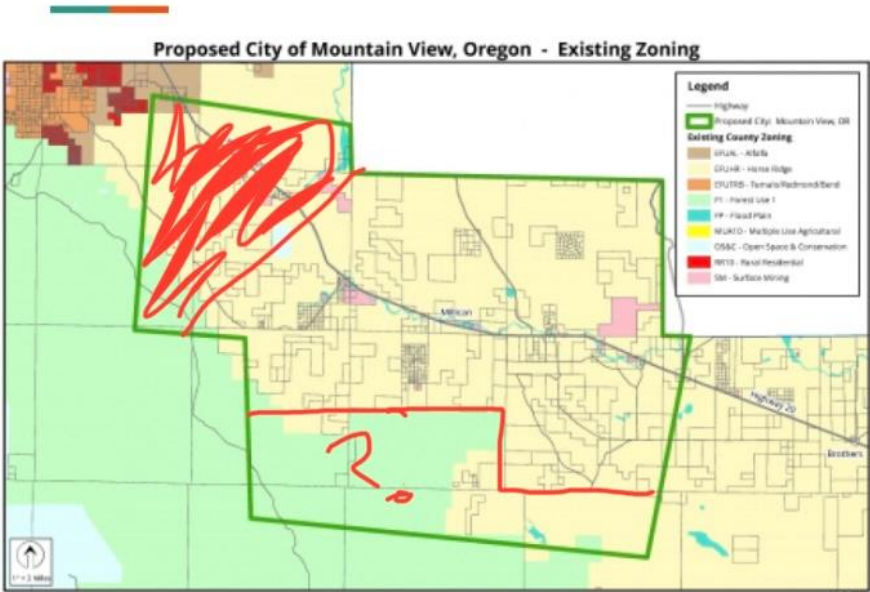


Boundary Size and Characteristics

The Petitioner for the City of Mountain View is proposing to incorporate an area encompassing 169,550-acres or 265-square miles. Within the proposed City of Mountain View approximately 75% of property is federally owned, 23.2% privately owned, and 1.6% state or county-owned property including existing property in road right-of-way.

The boundary appears to be in its proposed size and configuration in order to meet the statutory requirement listed in ORS 221.020, which establishes a minimum requirement of at least 150 residents residing in a boundary to initiate incorporation. In assessing the application materials, it is unclear if this minimum requirement is met. The Petitioner cites "Portland State University Census data" to conclude that approximately 160 residents live within the proposed boundary. This data source does not exist; therefore, staff assumes the Petitioner was intending to cite either the 2020 United States Census data, or Portland State University Population Research Center population estimate data.³ Staff has reviewed each of these sources and was not able to confirm the Petitioner's estimated population for the area. In each case, the data set covered a much larger area than the proposed boundary and is difficult to extract the population for this specific boundary. The Petitioner has not demonstrated with substantial evidence in the record that ORS 221.020 is met.

Boundary



As referenced in the background section, the Petitioner provided an amended boundary map in an email dated August 19, 2023. The map does not provide detail on the proposed boundary change including new coordinates or number of tax lots impacted. The petition cannot be modified at this stage, therefore staff will continue to review the original proposed boundary included in the petition to incorporate.

Comparison to Recent Incorporation Proposals

As there is limited guidance in statute on assessing incorporation boundary applications, staff reviewed materials related to recent successful incorporations. Through this review, staff notes there are significant differences between the proposed City of Mountain View boundaries and recent, successful, efforts. Staff compares and contrasts the proposed City of Mountain View boundary with those of other successful incorporation efforts below.

³ <https://www.pdx.edu/population-research/sites/g/files/znlidhr3261/files/2022-06/Deschutes.pdf>
EXHIBIT A TO ORDER NO. 2023-037

The last municipality to successfully incorporate in Oregon was the City of La Pine in 2006. Before La Pine, the last municipality to successfully incorporate was the City of Keizer in 1982.⁴

The City of La Pine consists of 4,500 acres or 7 square-miles. The City of Keizer is approximately 4,713 acres or 7.36 square-miles. The proposed boundary for the City of Mountain View is approximately 37 times the size of other recent incorporation boundaries.

At the time of incorporation, the City of La Pine had approximately 1,000 residents reflecting a population density of approximately 143 residents per square mile. The City of Keizer, at time of incorporation, had a population of approximately 19,650 with a population density of approximately 2,669 residents per square mile. The population density for the City of Mountain View is anticipated to be 0.6 residents per square mile. Staff is concerned that the extremely low population density will provide impassable barriers to implementation of community services typically provided by a city, including creation of community water and wastewater systems, and a contiguous and well-maintained network of City roads.

At the time of incorporation, the City of La Pine encompassed the entire La Pine Urban Unincorporated Community, a designation granted by the state in 1996 due to the historic levels of dense development in the area and creation of the unincorporated community administrative rule (OAR 660-022-0030). This former Urban Unincorporated Community included County designations allowing for residential, commercial, industrial, business park, sewer treatment, and community facility uses. The area also contained an existing rural fire protection district, water and sewer districts, and a park and recreation district. At the time of incorporation, La Pine was able to utilize these existing services and levels of development to support municipal operations. Additionally, adjacent to the city boundary were rural residential exception lands and Bureau of Land Management (BLM) land identified for community expansion, meaning that the land was noted in BLM documents as a candidate for disposal.

In comparison, 94% of the land in the proposed City of Mountain View is resource zoned⁵, which heavily restricts under both state law and the County Code any development aside from uses supporting farm or forestry operations. Adjoining property is also resource zoned and appears to be actively used for farming, ranching, and rangeland uses. Twenty-seven acres or 0.015% of the proposed boundary is zoned as a Rural Service Center to encompass the historic community of Millican. The existing buildings on the property (gas station, post office, and residence) are currently for sale and the commercial buildings are not in use. The buildings are in disrepair, requiring renovation work prior to re-establishing any commercial uses. Remaining lands in the boundary are zoned for Surface Mining (1.6% total area), Flood Plain (0.8%), and Open Space and Conservation (0.4%)

Private and publicly owned lands are intermixed in the boundary, with large tracts of federal land often separating small privately owned properties. Approximately 27 dwellings are currently located within the proposed boundary, although it is unclear from assessor records whether these structures are compliant with state building code regulations and/or County land use regulations. Remaining privately owned lands are largely undeveloped. Federally owned land is used for conservation of sensitive species (Sage-grouse) and recreation, with several areas improved for Off-Highway Vehicle Recreation (OHV), hunting, and hiking. Comments received from the BLM and U.S. Forest Service note that these lands are not

⁴ The City of Damascus incorporated in 2004. However, it disincorporated in 2020.

⁵ Exclusive Farm Use – Horse Ridge Subzone (78%), Exclusive Farm Use – Alfalfa Subzone (0.3%), Forest Use 1 (16%).

designated for disposal and are not eligible for sale, donation, or transfer. Many are being managed for Sage-grouse conservation, a candidate species under consideration of designation under the federal Endangered Species Act.

The area in which the proposed City of Mountain View would be sited currently contains few public services. The Bend Rural Fire Protection District #2 protects a handful of properties on the northwestern edge of the boundary. There are no community water or sewer districts or systems, irrigation districts, nor a park district. The proposed City straddles the Bend-La Pine and Crook County School districts, with the closest school facility being the Brothers K-8 School located outside of the proposed boundary.

Benefitted Lands

ORS 221.040(2) notes *“No land shall be included in the proposed city which will not, in the judgment of the court, be benefitted”*.

"Benefit" is not specifically defined within ORS 221.440(2) however the Petitioner has provided examples of how properties within the proposed city boundary could be "benefitted" by incorporation.

These proposed benefits include:

- Rezoning of lands to allow for residential and commercial uses.
- Local control of road, planning, and building services
- Local control of natural resources
- Local control of fire protection
- Empowerment of residents

The boundary as currently proposed presents significant challenges to private property owners within the boundary seeking development opportunities, federal agencies seeking to meet conservation and land management goals, and adjacent farm and forestry operations in avoiding disruptions to farm and forestry practices. Further discussion of the proposed services and Petitioner’s Economic Feasibility Study is in the next section.

Staff has concerns regarding the necessity of the proposed incorporation. The likelihood of establishing a centralized water or sewer system, necessary for increased commercial and residential development, would prove to be difficult given the large boundary, remote location, and nature of existing uses and ownership within the proposed boundary. Over 75% of land in the proposed boundary is federally owned and will remain under federal ownership and authority if the incorporation were to be successful. This land is designated for conservation and the incorporation of these, and adjacent lands would be detrimental to current operations⁶. Approximately 94% of land in the proposed boundary, including privately owned land, is zoned for resource use. There are active grazing and ranching operations in the area that could be negatively impacted by development patterns and creation of new roads.

Furthermore, the Petitioner states the Urban Growth Boundary (UGB) will most likely encapsulate a one-to-two-mile radius from the Millican Store, leaving approximately 263 square miles of incorporated land

⁶ Staff also notes that these lands would not be subject to taxation by the proposed city.
EXHIBIT A TO ORDER NO. 2023-037

subject to county zoning, but under city control.⁷ There is no municipality in Oregon that contains such a discrepancy between its UGB and incorporated boundary (further discussed in the Statewide Planning Goal 14 analysis below). In Oregon, many cities' UGBs and incorporation boundaries are coterminous like La Pine. For those that are not, their UGBs extend beyond their incorporation boundary by several hundred or a few thousand acres like Bend, Redmond, and Sisters. Lastly, it is unclear if the Exclusive Farm Use (EFU), Surface Mine, and Flood Plain zoned taxlots within a one-to-two-mile radius are lawfully established units of land (lots of record) for development purposes, which will remain a statutory requirement, even if lands are incorporated.

Due to the high percentage of federal lands, resource zoned land, and vast area with limited population, staff finds the proposed boundary is an inappropriate size and configuration for incorporation and that the land included in the proposed city will not be benefited. The Petitioner's application materials do not provide a compelling reason for this incorporation, aside from more local control of building and planning processes.

B. Economic Feasibility Study

Criteria: The Board must consider if the proposed tax rate can support the proposed services for the new city.

The Petitioner has provided an *Economic Feasibility Study* that details plans for initial services (years 0-3 following incorporation) and long-range goals (15-30 years following incorporation). Additionally, the Petitioner has provided a fiscal breakdown for year one and year three following incorporation including a proposed budget and projected revenues.

Proposed Services

The Petitioner states that on day 0 following incorporation, the city will develop long range zoning and economic plans, vote on the format of municipal government, post add listings for an assistant city administrator, begin developing a local fire district, and provide road services. The Petitioner has provided minimal detail in the establishment and management of these services. Staff notes that until a city has plans adopted and approved by state agencies, the following services will be required to be provided by the County in the interim: Building, Planning, Onsite Wastewater, 911, Roads, and Law Enforcement. Typically, these services are provided through a joint management agreement with the County and include fees paid by the city to the County for receipt of services.

Proposed Tax Rate

The tax rate for the proposed City of Mountain View is \$2.00 per \$1,000 assessed value and would begin to be collected following an election to incorporate, if successful. The Petitioner, in the *Economic Feasibility Study*, finds that the total real market value of all property in the proposed boundary totals \$35,000,000,

⁷ Unless there was an intergovernmental agreement signed by both the Board and proposed City of Mountain View City Council, the proposed City of Mountain View will be required to adopt and administer County zoning within its incorporation boundary outside a UGB.

with an assessed value of all property as \$15,000,000. The Petitioner estimates an income of approximately \$30,000 to cover city expenses resulting from this tax rate. The Petitioner did not cite a source for these estimates for evaluation by the Board as the fact-finding authority in these proceedings.

For several reasons, staff has concerns with the accuracy of Petitioner’s income estimate. In utilizing County GIS and Assessor data, staff estimates the total assessed value of all property in the boundary (including federal lands, which are not subject to local taxation) as \$10,913,276. Of this, approximately \$2,111,586 is currently being deferred through the state’s farm tax deferral program and would continue to be deferred until a property owner opted out of or discontinued the farm use. This leaves approximately \$8,801,690 in assessed value for all property in the boundary, resulting in \$17,603 in estimated tax revenue to the City in year one. This is roughly 58% of the income estimated by the Petitioner in his materials.

In comparison, the City of La Pine established a tax rate of \$1.98/\$1,000. Per the City of La Pine’s budget, the estimated revenue from this tax rate in 2023 is approximately \$477,330. La Pine’s revenue is approximately 27 times that of the proposed City of Mountain View’s and covers an area that is 37 times smaller. Staff has significant concerns on the City’s proposed budget and the validity of the proposed tax rate.

Shared Revenue Sources

The provided Year 1 budget lists a proposed city income of \$195,110. The budget is required by law to assess the economic feasibility for city formation and to establish the basis for the proposed permanent tax rate. However, it is important to note that the future city council is not bound to adopt these budgets. After its first year of operation, the new city is required to follow Oregon budget law, which among other provisions, requires a budget committee be appointed by lay citizens.

Aside from the proposed tax revenue discussed above, the Petitioner also notes the following government shared income revenue sources in the year 1 budget:

- State Allocated Income - \$10,000
- Federal Allocated Income - \$12,000
- County Income - \$8,474.58
 - \$30,474.58 in Total Government Shared Income

The Petitioner has not provided detail on the source of these government allocated funds, nor the basis for including them in the petition. Absent this information, staff assumes the source of state funds on which Petitioner’s analysis is based relate to Oregon Highway Trust Fund Revenues, Liquor Revenues, Marijuana Tax Revenues, Cigarette Tax Revenues, and 9-1-1 Tax Revenues. Distribution of these funds come with several minimum requirements, with which Petitioner has not established compliance or an ability of the proposed City of Mountain View to comply in order to be immediately eligible to receive funds⁸:

⁸ <https://www.orcities.org/application/files/4116/7423/9902/2023SSRFullReport-Revised.pdf>
EXHIBIT A TO ORDER NO. 2023-037

Highway Tax, Liquor Revenues, and Cigarette Tax: A city must provide at least four of the following municipal services to be eligible for allocation: fire protection, police protection, sanitary sewers, storm sewers, planning or zoning, utility services, or street construction, maintenance, and lighting. Specific data on the actual allocation of these shared revenue sources are not readily available beyond Highway Tax. Generally, for similarly sized cities, annual liquor revenues average approximately \$3,000 and annual cigarette revenues average \$180.

Several small cities did receive Highway Tax in 2022 that are similar in population size to the proposed City of Mountain View, Jordan (130), Grass Valley (157), and Spray (138), although it is notable that each of these cities do provide at least four municipal services and serve a boundary that is a much smaller geographic area, 2.08, 0.5, and 0.29 square miles respectively.

The City of Mountain View would not be eligible to receive funds from these allocations until 1) the City has collected tax revenues for at least one year and 2) at least four of these municipal services are provided, of which only two (planning and streets) are proposed in the year 0-3 plan. Providing services over the entire proposed boundary would require major funding and staffing allocations, which could prove to be difficult from the Petitioner’s proposed budget. It is also notable that Highway Tax funds shall only be used for highway purposes.

9-1-1 Tax: This tax is allocated to 9-1-1 jurisdictions connected to statewide network and shall only be used for 9-1-1 related purposes. The Petitioner is not proposing to take over these services from Deschutes County 9-1-1, therefore would not be eligible for these funds.

Marijuana Tax: Cities with established marijuana operations are eligible to receive these funds. Distributed based on per capita and number of licensed facilities in the city. Until a marijuana dispensary is established, which would require rezoning of land and connection to utilities, the city would not be eligible. Once established, the estimated income based on a city of this size would be approximately \$215.

Staff is not aware of any federal shared revenue that a city of this size would be eligible for, and assumes this number is likely an overestimation.

Other Income Sources

Aside from state shared income, the city is anticipating the following city income in its Year 1 budget:

- SIN Tax Allocated Per Capita - \$3,188
- Highway/Gas Tax - \$11,448
- Building/Planning - \$20,000
- Grants -\$100,000

Staff interprets the reference to SIN tax, although not defined by Petitioner, as Liquor and Cigarette Revenues and Taxes from the state. As noted above, the Petitioner is likely not eligible for these taxes until 1) the city has collected property taxes for at least one year and 2) at least four municipal services are provided. The Petitioner has not provided any additional information on a separate city tax.

Staff noted the viability of receiving Highway/Gas Tax from the State of Oregon above. The Petitioner has not provided any additional information noting a separate city gas tax.

The County currently provides building and planning services for properties in this area. According to the Petitioner, the proposed City of Mountain View will adopt Deschutes County Community Development Department’s current fee schedule but apply a 60% reduction to land use applications and building permits. Hearings Officer fees will be paid by the city. Last year, Deschutes County CDD processed eleven applications within the petition boundary consisting of:

- Conditional Use Permit
- Extension Requests (2)
- Lot of Record Verifications (4)
- Permit Sign-off for Other Agency
- Property Line Adjustments (2)
- Temporary Use Permit

These fees totaled approximately \$9,500. No building permit applications were received or approved. Utilizing the Petitioner’s approach to building and permitting fees, this same amount would result in \$3,800 of revenue if using the Petitioner’s proposed 60% discounted rate. It is worth noting that revenues associated with building permits are restricted under ORS 455.210 to “administration and enforcement of a building inspection program.” They may not be used for general municipal purposes. It is unclear whether the proposed City of Mountain View intends to contract with the County for building plan review and inspection services only, or all components of a building program including permit application take-in and issuance, record keeping, system maintenance, etc., as Petitioner has provided no information on what the City intends to do with regard to these services.

While it is possible that the City will be able to obtain technical assistance for land use planning to develop its own comprehensive plan and land use regulations from the Department of Land Conservation and Development (DLCD), the Petitioner has not provided evidence in the record that they have the resources or even the appropriate zoning and requisite infrastructure to complete those tasks within four years as required in OAR 660-014-0010(4). While not a requirement for the petition, properties zoned EFU and Forest Use will require exceptions to Goals 2 and 14 if these lands are proposed to be within a UGB. Lands surrounding Millican also contain inventoried wildlife resources which will require an Economic, Environmental, Social, and Energy (ESEE) analysis per OAR Chapter 660, Division 16. Both entail rigorous analysis especially at a scale of 1 to 2 square miles. It does not seem plausible that one City employee can accomplish these responsibilities, let alone oversee other land use planning tasks that include but are not limited to developing a Residential Land Needs Analysis, Housing Needs Assessment, Economic Opportunity Analysis, Transportation System Plan, Goal 14 analysis, water and wastewater plans, natural hazard plans, park and recreation plans, and intergovernmental agreements.

The Petitioner states, “that several small cities have generally contracted with the county, the local council of governments, or a private planning consulting firm to prepare the comprehensive plan. Mountain View will seek assistance from all three.” Contracting services with the County have not been discussed with the Board. With the limited projected resources for the City of Mountain View, it is unclear whether the City could provide compensation to the County for any contracted services, the time period during which County services would be requested to be provided, and the economic impact on the County as a result of considering contracting with the City, either on its own or in conjunction with the local council of governments or a private planning consulting firm.

Last, the Petitioner notes that \$100,000 in grant funds are expected to be awarded in year 1, accounting for over 51% of the proposed city revenues. Petitioner has provided no evidence of any grant

applications, precisely what grants they have or would apply for, or how they would otherwise expect to obtain such funds within the timeframe claimed. Staff questions the feasibility of the City receiving this amount of award funding under the evidence presented in support of the petition, particularly considering the proposed limitation of only one employee to manage all city operations.

The largest anticipated cost in the proposed budget, employee payroll, including benefits is proposed as \$46,724. There is no city recorder, administrative assistant, accounting clerk, or engineer. This one person will be responsible for managing the proposed City of Mountain View with duties that include but are not limited to:

- Administration
- Agendas and Minutes
- Budgeting
- Economic development
- Engineering
- Finance
- Grant writing
- Human resources
- Intergovernmental agreements
- Land use planning
- Parks planning
- Public facility planning
- Risk management
- Road maintenance

Without a detailed burden of proof and supporting evidence, one cannot conclude that the city will find a staff person with a skill set that includes the duties listed above for \$46,724, even if Petitioner could establish some evidence that the City would have the means to sufficiently fund such position.⁹ To the extent an employee is hired, the Petitioner has not identified where city business would be located or convened. Petitioner lists a budget item of \$35,250 as operating expenses, which include a city meeting space, equipment, supplies, legal counsel, insurance, utilities, and League of Oregon Cities. An additional \$20,000 is allocated for city hall; another \$50,000 for a future fire department. As mentioned above, the buildings in Millican are in disrepair. The other rural lands encompassed in the petition are not zoned to allow for office uses. This includes 27 dwellings located in the petition boundary.¹⁰ Office uses are not permissible in lawfully established EFU or Forest dwellings.

Contract legal services are estimated to amount to just \$10,000 for the year. There is no evidence to support a finding that this limited estimate would be sufficient to cover actual legal services, considering the numerous documents that will require legal drafting and review. Supplies and equipment for Year One are estimated at \$2,000 and \$1,000, respectively. Meeting space is estimated at \$16,000. All three figures seem remarkably low and are not supported by evidence. There is no discussion or analysis of the location(s) in which meetings will occur at the low estimated cost of \$16,000. Given the zoning restrictions in the petition boundary, it appears to be impractical and beyond the estimated meeting space budget line item to rent meeting rooms for city operations in Redmond, Bend, or the rural communities of Tumalo and Terrebonne.

⁹ According to the Economic Feasibility Study, the one paid position for Years 1 and 2 will be paid with grant funding. There is no evidence in the record describing the funding source.

¹⁰ Eleven are located in the EFU-Alfalfa area which is located in the northwest corner of the petition boundary. Sixteen are located in the EFU-Horse Ridge area.

The League of Oregon Cities provided a letter into the record detailing the many facets of Oregon Law that cities are required to demonstrate compliance with, including budget, procurement, and labor laws among others. This letter outlines in great detail the amount of financial and staff resources required to maintain legal status as a city, of which the Petitioner does not address in the application materials.

The Petitioner, in his August 1, 2023 supplemental application materials email, states that at a bare minimum - expenses for the new city could be as low as \$17,250 including meeting space, insurance, utilities and LOC dues. Staff finds this estimate to be extremely low given the previous information provided.

In summary, staff finds that the proposed tax rate is insufficient to fund the proposed services based on the provided *Economic Feasibility Statement* and recommends denial.

V. LAND USE REQUIREMENTS

Criteria: The Board must determine whether the proposed city can and will be able to comply with relevant statewide planning goals, County Comprehensive Plan goals and policies, and implementing ordinances.

Application of the Statewide Planning Goals and the County Comprehensive Plan

Oregon’s land use statutes, as interpreted by Oregon’s appellate courts, define the responsibility of the county governing body in this proceeding, and, by extension, the nature and scope of the application of various state and local standards and criteria. ORS 197.175(1) explicitly makes county consideration of a petition to incorporate a new city an exercise of county planning and zoning responsibility. The statute requires that:

Cities and Counties shall exercise their planning and zoning responsibilities including, but not limited to, a city or special district boundary change which shall mean the annexation of unincorporated territory by a city, the incorporation of a new city, and the formation or change of organization of or annexation to any special district ... in accordance with ORS Chapters 196 and 197 and the goals approved under ORS Chapters 196 and 197.

ORS 195.025 assigns to county governing bodies the responsibility to coordinate land use planning within their jurisdictions, as follows:

In addition to the responsibilities stated in ORS 197.175, each county, through its governing body, shall be responsible for coordinating all planning activities affecting land uses within the county, including planning activities of the county, cities, special districts, and state agencies, to assure an integrated comprehensive plan for the entire area of the county....

Application of Statewide Planning Goals to Incorporation Petitions

The Oregon Supreme Court has provided useful guidance as to how the goals are to be applied to proposed city incorporations. In Part III. of its decision in the *1000 Friends of Oregon v. Wasco County*

Court, 299 Or. 344, 358-60, 67 (1985) incorporation case, the Supreme Court explained that:

The legislature deemed a county's decision in connection with a proposed incorporation a land use decision which must accord with 'the goals', without exception. We take this general mandate to mean that to the extent a county can conduct a meaningful inquiry as to all 19 goals, it must do so. A county's responsibility at the time it considers a petition for an incorporation election is no greater with respect to Goal 14 (urbanization goal) than with respect to the other goals. It is to determine the compatibility of incorporation and its consequences with the criteria stated in the goal.

Incorporation will transfer to the city actual planning authority for some of the land presently within the county's planning authority. Some of the consequences of incorporation may foreseeably affect land that remains the county's responsibility. The county cannot expect the proponents of incorporation to present a concrete or even a tentative comprehensive plan before the election, and we do not believe that the legislature intended this, although proponents may wish to offer their own ideas for a plan in making their record for approval of the proposed incorporation. The county can, however, expect that the proponents present evidence of the purposes sought to be achieved by incorporation insofar as they bear on future land use, such as the kind of municipal services that the city is expected to provide and the projections about future population and tax base that these purposes assume or necessarily imply. The realism of the purposes and projections and the probable consequences for land use are, of course, open to challenge.

Although this task that ORS 197.175 assigns the counties may not be easy, there is no doubt that the legislature assigned it. We believe that it can be given a practical interpretation...

The seven establishment factors of Goal 14 are designed to be considered in conjunction with the actual drawing of a proposed UGB. Nonetheless, under the test stated in Part II. of this opinion, a county can determine whether it is reasonably likely that the newly incorporated city can and will consider and address the Goal 14 factors when the city eventually draws a proposed UGB, and whether it is reasonably likely that the city can and will ensure that future urbanization is appropriate and not incompatible with Goal 14 and the other goals.

In Part II. of its decision, referred to in the above paragraph, the Court said:

The goals are designed to be applied during a local government's preparation of a comprehensive plan, a process in which a county court's actions with regard to an incorporation petition are not normally a part. As a result, a county's consideration of the goals incident to an incorporation petition differs from a city's or county's application of the goals during the planning process in which specific uses are proposed for specific parcels of land.

... A county discharges its planning and zoning responsibilities with regard to whether a proposed incorporation is in accordance with the goals if the county is satisfied that after a successful incorporation election it is reasonably likely that the newly incorporated city can

and will comply with the goals once the city assumes primary responsibility for comprehensive planning in the area to be incorporated. The county's determination must be supported in the record like any other county land use decision." 1000 Friends of Oregon v. Wasco County Court, 299 Or 344, 360, 367-68, 703 P2d 207 (1985).

The Supreme Court interprets the statutory obligation of the county to exercise its planning and zoning authority concerning incorporations in accordance with statewide planning goals to be imposed directly and specifically by ORS 197.175 so that it continues even after the acknowledgement of the county's comprehensive plan.

Application of the County Comprehensive Plan to Incorporation Petitions

ORS 197.175(1) also requires counties to assure that land use decisions, including decisions approving, modifying, or denying petitions for incorporation, comply with applicable provisions of comprehensive plans and land use ordinances. The Deschutes County Comprehensive Plan implements the statewide planning goals. Like the statewide planning goals, the Comprehensive Plan's goals and policies apply with varying degrees of specificity to the proposed incorporation.

The County is responsible for processing the petition for incorporation as a land use decision in accordance with its comprehensive plan. It is direct and immediate. In addition, Deschutes County must analyze how the proposed city will comply with the County's comprehensive plan pending adoption of the City's own plan and implementing ordinances. ORS 215.130(2) provides that a county's comprehensive plan and implementing ordinances shall continue to apply to land inside a newly incorporated city unless and until the city provides otherwise. However, ORS 197.175 imposes upon a newly incorporated city a separate obligation to comply with statewide planning goals and to make land use decisions in accordance with statewide goals "...if its [the city's] comprehensive plan and land use regulations have not been acknowledged by the commission." The same statute requires cities to adopt comprehensive plans and implementing ordinances.

Based upon these statutes, a newly incorporated city must make land use decisions from the outset in accordance with both the statewide planning goals and with the county's comprehensive plan and implementing ordinances. Therefore, in order for the Board to approve an incorporation petition, the evidence in the record must support findings that: (1) the proposed city can and will comply with both sets of regulations from the outset; and (2) the proposed city can and will adopt, secure acknowledgement, and competently implement its own comprehensive land use plan and implementing ordinances within the time period allowed by the statute.

The evidence in the record must also support findings that the city can and will continue to comply with the County Comprehensive Plan and implementing regulations or that the city can and will be able to adopt and implement its own plan and implementing regulations in a manner consistent with the statewide planning goals that will apply directly to the city's planning and zoning process. This requirement effectively brings the statewide planning goals in through the comprehensive plan and requires the same analysis of goal issues as described in the Wasco case, quoted above.

If the proposed incorporation is found to be inconsistent with the comprehensive plan or applicable zoning ordinances, then the petition will have to be denied or an appropriate plan amendment or land use regulation amendment will have to be adopted in conjunction with any approval.

Petitioner response:

The Petitioner, in his August 1, 2023, supplemental application materials email provides the following response to this criterion.

The proposed incorporation seeks to align with and fully adhere to Oregon's statewide planning goals, prioritizing responsible and sustainable growth that preserves natural resources, supports agricultural and forest lands, and fosters a vibrant and inclusive community. As a newly formed city, we are committed to utilizing the 4-year period provided by the state to develop a comprehensive land use plan in close collaboration with the county and relevant state departments. This process will prioritize citizen involvement, engaging the community's diverse voices to ensure that their interests and needs are incorporated into the decision-making.

We have meticulously met all the necessary requirements to incorporate, ensuring that the proposed boundary correctly includes all lands that would benefit from being part of the proposed city. The taxation rate has been thoughtfully designed to support the proposed services, providing a sustainable financial foundation.

Our incorporation proposal diligently adheres to the requirements set forth in the Oregon Administrative Rules (OAR) and draws lessons from the case of 1000 Friends of Oregon v. Wasco County Court, 299 Or. 344, 358-60, 67 (1985), learning from past experiences to avoid any mistakes in our planning process.

Given the state's requirement of no municipal services until a 2,500 population threshold is achieved, our comprehensive plan may initially be relatively simple. However, we are committed to building a well-thought-out plan that sets the groundwork for future growth while prioritizing essential services as our population reaches the threshold.

By upholding Oregon's statewide planning goals, meeting incorporation requirements, and involving the community throughout the process, our incorporation aims to create a well-balanced and resilient community that fosters economic development, environmental stewardship, and an enhanced quality of life for all residents, now and in the future.

Staff Findings:

A. Compliance with Statewide Planning Goals

Aside from the general information provided above, the Petitioner provides several references to compliance with statewide land use planning goals in the application materials. The Petitioner states in their *Statewide Land Use Compliance Plan* in their July 21, 2023, supplemental materials, that most of the statewide planning goals are accompanied by guidelines. Staff notes that to the contrary, many are administered by OARs which include specific legal requirements. The Petitioner frequently references

DLCD’s website to Oregon’s Statewide Land Use Planning Goals.¹¹ Petitioner’s citations are not a substitute for, and do not constitute substantial evidence.

Goal 1 – Citizen Involvement

In the application materials, Petitioner quotes excerpts from DLCD’s website devoted to Goal 1. He states that the proposed City of Mountain View will develop a committee for citizen involvement to monitor and encourage public participation in planning with help from DLCD. The Petitioner then states a Citizen Involvement Advisory Committee will advise the Land Conservation and Development Commission.

There is no discussion or analysis by the Petitioner whether the incorporation proposal represents a citizen-driven effort nor any discussion or analysis of future plans to incorporate Goal 1 into future city decision making. Deschutes County is not aware of community meetings or workshops held to discuss city goals, services, and boundaries, or governance studies. It is unclear how the proposed City of Mountain View will engage residents if incorporated in such an expansive geographic area. There is no discussion of technology or a web presence. For the La Pine incorporation effort for example, a political action group created a website that contained frequently asked questions, a map of the proposed boundaries, and a statement of purpose. It is not clear how the creation of a comprehensive plan for the proposed City of Mountain View, including required public involvement, would be funded. As stated previously, staff questions the availability of a central meeting place for the community, which could pose challenges to public hearings and citizen participation in city related matters.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities for compliance with Goal 1.

Goal 2 – Land Use Planning

Oregon Planning Goal 2 requires each local government in Oregon to adopt and implement a comprehensive land use plan and zoning regulations. These plans are required to have a factual base to inform the plan and demonstrate compliance with each applicable state planning goal.

The Petitioner, in his July 10, 2023, supplemental email, suggests the following path to adopt a comprehensive plan following incorporation:

The council should officially ask the LCDC county coordinator and field representative to begin the development of comprehensive planning work program and grant application. The county coordinator and the area’s field representative from the Oregon Department of Land Conservation and Development (DLCD) will assist the city in developing a suggested work program - after incorporating. Information gathered for the feasibility study should provide much of the base data for the comprehensive plan and should be shared with the DLCD to assist in determining what tasks still need doing. The work program will be reviewed by the DLCD, and a mutually accepted compliance schedule (work program) will be

¹¹ <https://www.oregon.gov/lcd/OP/Pages/Goals.aspx>
EXHIBIT A TO ORDER NO. 2023-037

developed. Historically, the program has provided funds for a portion of the planning effort. Small cities have generally contracted with the county, the local council of governments, or a private planning consulting firm to prepare the comprehensive plan.

Staff is concerned about the connection between this effort and the Petitioner’s proposed budget. As noted previously, staff’s analysis of the information submitted by the Petitioner results in significantly lower anticipated city income and revenue streams than that projected by the Petitioner. As such, it appears doubtful that the city will have financial resources to complete a comprehensive plan creation process. Although DLCD does offer grant programs to assist with these tasks, the new city will likely require planning consultation services, which is not listed in the proposed budget.

Staff also notes the complexity involved with incorporating a city in an area that is comprised largely of resource lands. The Petitioner is obligated to demonstrate whether the proposal on its face can comply with the statewide planning goals and/or whether it is feasible for the new city to develop a comprehensive plan and implementing ordinances that meets the Goals within four years of incorporation. Consideration largely rests on whether exceptions¹² will have to be taken in order to rezone land for urban uses. The proposed boundary consists of lands zoned EFU, Forest Use, Surface Mine, Open Space & Conservation, Flood Plain, and Rural Service Center. There are no existing exception zoned lands such as Rural Residential or Multiple Use Agricultural, that exist in other areas of Deschutes County. If incorporated, the City of Mountain View will be required to take exceptions to Statewide Planning Goals 2 and 14 for redesignation of farmland and for redesignation of land from rural to urban scale uses. The Petitioner contemplates a UGB of 1 to 2 square miles. Unfortunately, the Petitioner has provided no evidence in the record that it is plausible to develop findings justifying an exception for up to 1,280 acres of EFU and/or Forest Use zoned land.

The Bureau of Land Management, Prineville District, Deschutes Field office submitted a letter to the record noting that BLM land within the boundary is not available for disposal or community expansion, meaning that the land is not eligible for donation, sale or transfer and will remain under BLM management. This land is also not eligible for taxation. With over 75% of land in the boundary designated as federal land, staff has concerns regarding the functionality of the city and urban growth boundary, and feasibility for urban level development. With small parcels of private land intermixed with large tracts of public land, development of roads and utilities to serve private development at an urban level would be extremely difficult.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities for compliance with Goal 2.

Goal 3 Agricultural Lands

¹² An exception is a decision to exclude certain land from requirements of one or more applicable state goals (commonly relating to Goal 3 – Agricultural Land, Goal 4 – Forest Land, and Goal 14 – Urbanization).

In *1000 Friends vs. Wasco County*, the Oregon Supreme Court found that a County can only look to land within the area proposed for incorporation when identifying the predominant soil capability classifications for the purpose of identifying agricultural lands.

In the application materials, the Petitioner quotes excerpts from DLCD’s website devoted to Goal 3. The petitioner in his *Statewide Land Use Compliance Plan* notes:

Mountain View will be sure to comply and designate EFU zones within its boundaries as necessary.

The proposed boundary includes 134,517 acres (EFU-Alfalfa: 628 acres, EFU-Horse Ridge: 133,88 acres) of land planned and zoned for agricultural use under Goal 3 in the County Comprehensive Plan. The crop profiles for these subzones as described the Deschutes County Comprehensive Plan are irrigated hay and pasture (EFU-Alfalfa) and rangeland grazing (EFU-Horse Ridge). The act of incorporation *per se*, does not affect agricultural land. The land remains planned and zoned for agricultural use until such time as the City of Mountain View adopts a Comprehensive Plan and rezones the land for other uses in compliance with the statewide planning goals. Impacts to EFU land would not occur until they are included within a UGB.

The Petitioner, in the application materials, describes a UGB consisting of 1 to 2 square miles centered around the Rural Service Center Millican. Most of those lands are currently zoned EFU. The City of Mountain View will be required to demonstrate that EFU lands are needed for development to include them in the UGB. There may be some *perceived* impacts to EFU lands included within city boundaries due to the fact that, in most cities, EFU lands are not included within city boundaries. Cities are established primarily to provide urban infrastructure, urban levels of service, and local governance. There may be potential impacts to farm practices, real or perceived, due to future urbanization.

However, the Petitioner has not demonstrated why city boundaries are being proposed or are necessary in this particular area of the county, which is overwhelmingly zoned EFU. Outside of the Rural Service Center of Millican, which is currently vacant and in need of major repair, there is no development history, pattern, or urban infrastructure that dictate a governance solution for a municipality. Staff finds no demonstration that this land is not fit for farming purposes and should be reclassified for another use.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 3.

Goal 4 – Forest Lands

In the application materials, the Petitioner quotes excerpts from DLCD’s website devoted to Goal 4 and states there is no plan to change the use of any forest or BLM land within City limits.

The proposed boundary includes 28,637 acres of land planned and zoned for forest use under Goal 4 in the County Comprehensive Plan. Most of this land is owned and governed by the federal

government. It includes the Pine Mountain Observatory. Similar to the analysis for agricultural lands, the incorporation *per se*, does not affect forest land. The land remains planned and zoned for forest use until such time as the City of Mountain View adopts a Comprehensive Plan and rezones the land for other uses in compliance with the statewide planning goals. Impacts to forest land would not occur until they are included within a UGB. There may be some *perceived* impacts to forest lands included within city boundaries due to the fact that, in most cities, forest lands are not included within city boundaries. Cities are established primarily to provide urban infrastructure, urban levels of service, and local governance. There may be potential impacts to forest practices, real or perceived, due to future urbanization.

The Petitioner has not demonstrated why city boundaries are being proposed for or necessary in this particular area of the county which contains significant forest zoned property. Outside of the Rural Service Center of Millican, which is vacant and in need of major repair, there is no development history, pattern, or urban infrastructure that dictate a governance solution for a municipality. Staff finds no demonstration that this land is not fit for forest purposes and should be reclassified for another use.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 4.

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

The petition for incorporation contains several acknowledged wildlife inventories pertaining to Sage-grouse (93,996 acres), Sensitive Bird & Mammal Habitat (6 sites), Antelope (80,399 acres), and Deer Winter Range (113,079 acres). As it pertains to Goal 5, there are also 2,838 acres zoned Surface Mine, 701 acres zoned Open Space & Conservation and 1,424 acres zoned Flood Plain. These comprehensive plan designations and regulations remain in place until the City adopts its own. However, upon incorporation, the City will be required to produce an ESEE analysis per OAR Chapter 660, Division 16.

In the Petitioner’s *Statewide Land Use Compliance Plan* provided in the July 21, 2023, submittal, the Petitioner states the following:

Mountain View will in short review land uses allowed on or near each resource site that might have a negative impact on the resource. It will then decide on a level of protection appropriate for each resource site and adopt codes to put policies into effect. This will be implemented by following State rules for implementing Goal 5 that have been adopted and amended over the years. As stated above for goal 4- there are no current plans to change the use of forest or BLM lands now or within the next 25 years.

Oregon Department of Fish and Wildlife provided comments expressing concern with the Petitioner’s proposal:

The proposed area of Mountain View is located within biological elk and mule deer winter range and essential pronghorn habitat. These areas are designated as category 2 habitat as defined

by the ODFW Fish and Wildlife Habitat Mitigation Policy. Under the mitigation policy, it is the policy of ODFW to recommend mitigation for unavoidable impacts to wildlife habitat. The mitigation goal, if impacts are unavoidable, is no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality through reliable in-kind and in-proximity mitigation. As proposed, this application does not meet these criteria. Any future development in the proposed city would be subject to these standards.

The Petitioner's *Economic Feasibility Study* references Sage-grouse habitat specifically:

Mountain View should develop a rehabilitation program with ODFW to restore populations of the Greater Sage-grouse. Hatching centers and breeding programs are among possible solutions to combat declining populations. Working with SE counties in Oregon may be a solution for sourcing fertile eggs.

In response, Oregon Department of Fish and Wildlife provided the following:

In addition, the proposed city boundaries overlap greater Sage-grouse core habitat and low-density habitat (including both the existing 2011 Greater Sage-grouse Conservation Assessment and Strategy for Oregon definition, and the draft 2023 core habitat and low-density habitat boundaries). As described under ODFW's Greater Sage-grouse Conservation Strategy for Oregon mitigation policy, adverse direct and indirect impacts on Sage-grouse and Sage-grouse core and low-density habitats must be mitigated by the developer. The application cites potential to establish a greater Sage-grouse rehabilitation and breeding facility to 'restore populations' of Sage-grouse. A rehabilitation and breeding facility in Deschutes County is not an idea supported by ODFW, and not adequate mitigative measures. As proposed, this application does not meet mitigation criteria.

The dominant habitat type within the proposed area is sagebrush habitat, which is described as a "Strategy Habitat" in the Oregon Conservation Strategy⁵. The reduced quality and quantity of this habitat type across Central Oregon influences many wildlife species including other "Strategy Species" such as the ferruginous hawk, loggerhead shrike, sagebrush sparrow, Brewer's sparrow, northern sagebrush lizard, Washington ground squirrel, and pygmy rabbit. Despite the natural resource considerations included in this proposal, increased development associated with the incorporation of Mountain View will have a net negative effect on the habitat values provided by sagebrush and the wildlife that depend on this habitat type.

ODFW goes on to recommend that the County ensure there is a compensatory mitigation plan to address County-recognized Goal 5 habitats as well as ODFW defined Category 2 habitats prior to approval of the petition.

Similarly, the BLM states in their letter that they maintain a disturbance cap of 3% not to exceed a 1% increase each decade on development on BLM land within the boundary. New infrastructure, roads, and energy development fall within this cap. The Petitioner has not addressed how the city will manage these disturbance caps on both federal and private lands.

The Petitioner does not address with substantial evidence in the record the responsibility and analysis that come with developing a Goal 5 inventory for wildlife, open space, or scenic resources. There is no documentation or detailed analysis of Deschutes County's acknowledged Goal 5 inventories, of which the city would be required to implement.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 5.

Goal 6 – Air Water and Land Resources Quality

The Petitioner's *Statewide Land Use Compliance Plan* for Goal 6 states:

*the proposed City of Mountain View will consider protection of air, water and land resources from pollution and pollutants when developing comprehensive plans...
As advised by the current watermaster for Mountain View – current private well use shall continue to be the primary water source for citizens, as allowed under the state water use law – meeting single lot exemptions (15,000 gallons). No ordinances or state laws are in effect to prohibit new wells for new homes under this exemption, and for personal water consumption use. This plan of action will be sufficient until a larger population is present (2,500 or greater).*

The Assistant Watermaster for the Upper Deschutes Basin provided a letter into the record on September 8, 2023.

- If the proposed city plans to have water/sewer infrastructure the following should be considered:*
- *In the western extent of the project area, well depths are 900-1100 feet deep with static wells near 800 feet below land surface. In the central and eastern project extents, well depths are 400-600 feet deep with static water levels near 450 feet below land surface. OWRD well log database shows several drillings resulting in dry wells.*
 - *Well yields in the proposed area are generally quite low (median yield = 15 gpm) and would have difficulty supplying enough water for a municipality.*
 - *The nearest observation wells have declined persistently since at least the mid-1990s. Because of these declines and the low estimated well yields, a quasi-municipal or municipal water right in the proposed boundary is unlikely.*
 - *The proposed area falls within the Deschutes Basin mitigation zone of impact. Water right application from this area would need to acquire mitigation credits to offset any new water right uses. Mitigation credits in this region are limited.*

The information from Oregon Water Resources Department outlines the practical limitations to water availability in the proposed boundary area, which in turn will impact the type and scale of development allowed within the boundary. The Petitioner has not provided information regarding plans for municipal water service, although OWRD notes that acquisition of municipal water rights

are unlikely. Additionally, OWRD notes that drilling for individual wells could be extremely costly and may not provide enough yield to support urban levels of development.

One purpose of incorporation is to establish urban levels of services, which ultimately requires urban density. Relying on domestic wells and onsite wastewater treatments systems necessitates a land use pattern of at least 1 acre or larger lots or parcels due to state setback requirements from the well to the septic system, drainfield, and reserve area.

The Petitioner has not provided sufficient information to the management of water and wastewater within the proposed city. OWRD shared information noting challenges to use of individual wells as well as acquisition of municipal or quasi-municipal water rights. The zoning of the area is not conducive to establishment of community water and wastewater systems.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 6.

Goal 7 – Areas Subject to Natural Disasters and Hazards

The Petitioner’s *Statewide Land Use Compliance Plan* for Goal 7 states,

Mountain View will address natural hazards in our comprehensive land use plan. This will be accomplished by adopting a natural hazard inventory and supporting plans and policies. A limited amount of planning grant money is available through DLCD to help communities address these planning needs and will be applied for.

There is a Federal Emergency Management Agency flood hazard area within the proposed petition boundary. This flood hazard area is regulated by the County through its Flood Plain zoning. The city will have to develop and maintain regulations to meet federal requirements in order to receive federal flood insurance. The Petitioner has not demonstrated it is feasible for the proposed city to do so.

Wildfire hazard is extreme in rural Deschutes County. Lands within the petition boundary are unprotected. There is no rural fire protection district serving this area. In the *Economic Feasibility Study*, the Petitioner identifies \$50,000 for a future fire station. However, there is no analysis or proposed timeline for establishing a fire district or fire station, nor any evidence for a determination of whether it is plausible to establish one. By its own admission, the Petitioner states,

the lack of a fire district puts local residents in harm’s way and creates a situation that does not adequately serve the needs of the new city residents.

The Bureau of Land Management, in their September 19, 2023, letter, discuss the process for a mutual aid agreement for fire protection.

Dr. Aasen indicates that much of the needed infrastructure and services will continue to be provided by existing sources for several years or more, and that developing a local fire district may not occur for up to 10 years. For the BLM to develop a Mutual Aid Agreement (Agreement) through a Memoranda of Understanding to partner with Mountain View in wildfire suppression, Mountain View will have to establish a fire department. The minimum standard would be a state-approved rangeland fire protection association, which is made up of willing landowners who meet standards for training and equipment (engines, water tenders, radios, and personal protective equipment) and adequate liability insurance. Without this Agreement, suppression costs for wildfires that originate on private land within the incorporated area would be the responsibility of Mountain View. In addition, without this Agreement, the BLM would be limited in responding to private land ignitions.

Staff notes that the establishment of a city requires a Mutual Aid Agreement with the BLM and a fire department as part of this agreement, to ensure ongoing fire protection on private land in the unincorporated area. The Petitioner’s *Economic Feasibility Statement* list this service as being provided between years 0-10. This timeline for service, in combination with the limited tax revenue, would lead to a significant gap in fire protection for private property owners if the city were to incorporate.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 7.

Goal 8 – Recreational Needs

The Petitioner’s *Statewide Land Use Compliance Plan* for Goal 8 states,

Mountain View will plan for the recreation needs of our residents and visitors. Our goal will place a priority on non-motorized forms of recreation, and recreation areas that service high-density populations with limited transportation options and limited financial resources. Mountain View will also place a priority on recreation areas that are free or available at a low cost to the public.

In the Petitioner’s *Economic Feasibility Analysis*, parks and recreation services are listed as a long-range goal (15-30 years) for the city. The city has not accounted for the creation of a parks district or provided any detail on parks maintenance or acquisition in the proposed budget. The proposed City of Mountain View is also not within a boundary of a park and recreation district. Staff is concerned that the reference to this Goal 8 requirement a “long-range goal” means that the Petitioner will not be able to meet the intent of Goal 8 within the first four years of operation as a city.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 8.

Goal 9 – Economic Development

The Petitioners' *Statewide Land Use Compliance Plan* states the following:

Mountain View and all local governments should have a working inventory of areas suitable for economic growth that can be provided with public services. These inventories primarily focus on planning for major industrial and commercial developments, and having a ready supply of land appropriately zoned and located for those opportunities and local investments. As with all areas of the comprehensive plan, the amount of land planned for economic development will be adequate for a 20-year supply. The economic development plans formed by Mountain View will use one or more market incentives to encourage the type of development the new city would like to see, as mentioned in the petition- with a goal of creating a green community that can be showcased throughout the United States. A few possible initiatives may include tax incentives or disincentives, land use controls, or preferential assessment.

Aside from this information, the petition contains no economic strategic plan or demographic profile. With the exception of the Rural Service Center of Millican, which is currently vacant and in need of major repair, there are no lands in the petition boundary currently planned and zoned for industrial, commercial or mixed uses. The complication of a Goal exception to rezone existing EFU and potentially Forest zoned land could also create barriers to providing a sufficient land base for employment.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 9.

Goal 10 – Housing

The Petitioner offers a general summary of Goal 10 and acknowledges in the Petitioner's *Statewide Land Use Compliance Plan* and *Economic Feasibility Study* that future residential uses will rely on domestic wells and onsite wastewater systems. Additionally, the Petitioner states,

Lots that are generally suited and developed with residential size restrictions will be converted to residential lots of record (5-40 acres). Lots should not be reduced to less than 5 acres to conform with ODFW regulations and best practices for development in the Wildlife combining zone and Sage-grouse habitat. Large lots (100+ Acres) that have not had farm tax deferral status, or farming operations (within the last 5 years) will be considered for future residential, commercial, and industrial development. Future and existing lot dimensions will have a five acre or larger minimum size requirement.

Goal 10 specifies that each city must plan for and accommodate needed housing types including for multifamily. It requires each city to verify population projections, prepare buildable land inventories, project future land needs, and plan and zone enough buildable land to meet those forecasts. Rural exception lands or water or sewer districts do not exist within the proposed petition area. It is unclear if the existing EFU, Surface Mine, and Flood Plain zoned taxlots within a one-to-two-mile square mile of Millican are lawfully established units of land (lots of record) for development purposes. This is the area the Petitioner contemplates for a UGB. Petitioner's submittals do not include any figures or analysis regarding population projections, buildable land

inventories, projected future land needs to support planning and zoning for adequate buildable land in the proposed City.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 10. There is no evidence that the City will provide adequate land for a full range of housing types at urban densities for residents at various income levels.

Goal 11 – Public Facilities

In response to this goal, the Petitioner quotes excerpts from DLCD’s website devoted to Goal 11 and offers the following in his *Statewide Land Use Compliance Plan*

Mountain View acknowledges that each city with a population greater than 2,500 is required to create a public facilities plan that meets its current and long-range needs. If a county is home to an unincorporated community, the county too must develop and adopt a community public facility plan that regulates facilities and services. A city with an urban growth boundary (UGB) cannot include, as part of its public facilities plan, the intent to serve areas beyond the UGB, except in very specific and limited circumstances. Within an urban growth boundary, public facilities should be in greater supply in areas planned for higher densities, and available at appropriate levels of service throughout the city. Outside an urban growth boundary, public facilities should not, as a matter of practice, be provided. For example, public sewer service is only allowed outside of a UGB to alleviate an existing health hazard, and public water service is only allowed if it is not used as justification to increase existing levels of allowed rural development. Examples of this would be areas zoned for "rural residential" use. The city's public facilities plan should plan for provision of public services to "urbanizable" areas, lands that are within the city's UGB but don't have public facilities available to them yet.

Goal 11 speaks to a variety of public facilities and services to manage the needs of residents. The petition boundary contains no water, sewer, or fire protection district. The Deschutes County Sheriff’s Office provides law enforcement services to the unincorporated area. The Bend-La Pine School District and Crook County School District serve the proposed City of Mountain View. The *Economic Feasibility Study’s* long-term goals identify a local fire district (0-10 years) and the establishment of a municipal water service, sewage disposal, garbage disposal and collection, parks and recreation, library services, local school district and transportation, and elderly and low-income housing assistance within 15-30 years.

Goal 11 requires the proposed City of Mountain View to develop a “timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.” It requires the new city to determine its needs for facilities and services based on development plans and population projections and assure that needed facilities and services are available in advance of or concurrent with development. Staff is concerned that the lack of budget and staff resources will lead to significant service gaps for community members within the boundary.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 11.

Goal 12 – Transportation

The Petitioner quotes excerpts from DLCD’s website devoted to Goal 12 and states in the *Statewide Land Use Compliance Plan* that a Transportation System Plan is not required until “the population threshold is achieved”.

There is no analysis of existing modes of transportation, transportation facilities, the Transportation System Plan (TSP) or transportation studies that have been completed for the area. Additionally, the existing infrastructure in the boundary includes a complex network of County, State, and Federally managed rights of way. The proposed City of Mountain View will be required to develop a TSP in compliance with OAR 660-12, the Transportation Planning rule (TPR). The TPR applies differently to UGBs greater than 25,000 than those with less than 25,000, but in all respects, the TSP must be consistent with land use. Staff is concerned about staff and financial resources to complete this highly technical work.

In regard to maintenance, the *Economic Feasibility Study* states “city roads will begin improvements year 0 of city incorporation.” The Petitioner provides a tentative budget for road maintenance but does not detail plans on acquiring equipment or personnel to conduct the maintenance. A comment from the County Engineer notes:

The actual cost of \$262,146 per year (present value) to operate and maintain the County roads within the proposed city boundary at current service levels far exceeds the Year One \$31,448 and Year Three \$52,134.88 streets operations and maintenance costs proposed by the Petitioners in their economic feasibility analysis.

Staff is concerned that the Petitioner has underestimated the cost and staff resources required to maintain County roads (not including Highways or Federal roads) in the boundary and if incorporated, lack of maintenance could lead to serious public health and safety concerns.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 12.

Goal 13 – Energy

The Petitioner quotes excerpts from DLCD’s website devoted to Goal 13. The *Economic Feasibility Study* states,

Within the long-range plan, utilities should be considered in a manner that fits harmoniously within the natural surroundings. Sustainable development of energy sources will take priority. Examples: Solar, Geothermal, Wind, and other technological advances.

Water studies and sources will take priority, ensuring domestic populations do not harm ecosystems or re fill capacity. Rain and snow water collection, along with greywater reuse systems will be key to success in this region for long term sustainability. Green building methods should always be considered to ensure the impact from development is limited in scope. This will also set a precedent for the region. Lifetime of development projects should strive for buildings and residences that can be maintained sustainably. Along with affordable building and housing development fees, Mountain View will strive to be a community leader in developing with nature. This means living sustainably with the local animals and requiring greenspace (BLM) and residential landscaping fit the needs of the local ecology. Dark Skies initiatives should continue in collaboration with the Pine Mountain Observatory. This means the city will not develop or implement street lights.

It is not clear from the proposed budget if and how these types of programs will be funded. Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 13.

Goal 14 - Urbanization

In *1000 Friends of Oregon v. Wasco County Court*, 299 Or. 344, 358-60, 67 (1985) the Oregon Supreme Court determined that a County is not required to adopt a Goal 2, part II, exception to Goal 14 in order to approve a petition for incorporation. Land within a newly incorporated area shall retain the same County Comprehensive Plan and Zoning designations as was existing, until the new City adopts their Urban Growth Boundary, along with their own plans and designations.

To comply with Goal 14, the Supreme Court noted that proponents of the petition must provide evidence of the purposes sought to be achieved by the incorporation, as it pertains to the future of land use, such as the kind of municipal services the city is expected to provide, tax, and population projections.

The Petitioner quotes excerpts from DLCD’s website devoted to Goal 14. The *Statewide Land Use Compliance Plan* states the following:

Like every incorporated city in the state, Mountain View will develop a UGB. The UGB will be designated in the city's comprehensive plan. The land is inside a UGB, will be considered urbanizable. When designating an urban growth boundary, Mountain View city will plan to include a twenty year supply of land for housing, employment, industry, open space and recreational needs. The UGB will also provide plans for transition from urban to rural land uses, to avoid conflicts. Within the UGB, Mountain View once at or above the 2,500 population threshold; will create a transportation system plan and public utility plan. And lastly, our comprehensive plan will encourage efficient use of the land, to provide for a more livable, walkable, and sustainably built community.

The proposed incorporation has no immediate effect on Goal 14. However, Goal 14, along with Goal 2 are significant because they require the proposed City of Mountain View to establish a UGB. Goals 2 and 14 are evaluated together due to the fact that any resource lands being considered for a UGB will require an exception. The proposed City of Mountain View will be required to

demonstrate its need for urbanizable land coupled with an analysis of Deschutes County’s twenty-year population projections. When the City establishes its UGB it will have to consider the land need factors of Goal 14, which requires efficient accommodation of identified land needs, an orderly and economic provision of public facilities, comparative ESEE analysis, and compatibility of proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.¹³

The petition for incorporation proposes an unusual situation where the city boundary will be significantly larger than the UGB. The Petitioner states the UGB will most likely encapsulate a one-to-two-mile radius from the Millican Store, leaving approximately 263 square miles of incorporated land subject to county zoning, but city control. There is no municipality in Oregon that contains such a discrepancy between its UGB and incorporated boundary. Outside of the Rural Service Center of Millican, there is no development history, pattern, or urban infrastructure. The proposed City of Mountain View contains no rural residential exception lands or utility or service districts.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View could complete its responsibilities in compliance with Goal 14, most notably in compliance with location factors of Goal 14 and the priority scheme of ORS 197.298. It is not reasonable to expect that it is feasible for the new city to propose a UGB that ensures that future urbanization is appropriate and not incompatible with Goal 14 and the other statewide planning goals based on the lack of evidence in the record, the rural character of the area and the lack of urban infrastructure.

In summary, staff finds that the Petitioner has not provided sufficient information to demonstrate that the City can reasonably comply with Statewide Planning Goals following incorporation and recommends denial.

B. Deschutes County Comprehensive Plan

The Petitioner did not provide findings addressing the Deschutes County Comprehensive Plan. Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View can or will be able to comply with the Deschutes County Comprehensive Plan.

C. Deschutes County Implementing Ordinances

The Petitioner did not provide findings on Deschutes County Code Title 17 (Subdivisions) or Title 18 (County Zoning). The new city will be required to implement these regulations until they adopt and receive acknowledgment from the state for their own implementing regulations The Petitioner describes a Year 0-3 plan that mentions,

¹³ OAR 660-015-0000(14)
EXHIBIT A TO ORDER NO. 2023-037

The City of Mountain View will develop long range zoning and economic plans to ensure the residents of the area have equal and adequate opportunities to develop, grow, and sustain the economic welfare of the area. This will start immediately (day 0) upon incorporation.

It is not clear from the proposed budget how this work will be funded or how the city will implement the County Comprehensive Plan and implementing ordinances until the city adopts its own plan and regulations.

Based on the lack of evidence in the record, the Petitioner has not demonstrated that the proposed City of Mountain View can or will be able to comply with the Deschutes County implementing ordinances.

VI. CONCLUSION & NEXT STEPS

Conclusions

As noted above, in order to approve the petition for incorporation, the Board must find that the record supports findings by the Board that:

1. The proposed boundary correctly includes all lands that would be benefited from being in the proposed city.
2. The taxation rate will support the proposed services.
3. The proposed city can and will be able to comply with relevant statewide planning goals, County Comprehensive Plan goals and policies, and implementing ordinances.

Staff finds that the Petitioner has not demonstrated with substantial evidence in the record that a minimum of 150 residents live in the proposed incorporation boundary, which is required per ORS 221.020.

Staff finds that the configuration of the proposed boundary includes primarily (75% federal owned land) that will not be benefitted from being in a proposed city. Staff finds the configuration of the boundary, in which private land is interspersed among large tracts of publicly owned land, poses significant challenges to promote orderly and efficient urban scale development. Land within the 265-square mile boundary is currently used for farming, ranching, and conservation of sensitive species such as Sage-grouse, elk, antelope, and mule deer. There is no development history, pattern, or urban infrastructure that dictate a governance solution for a municipality within the proposed incorporation boundary, or the area at large. Therefore staff finds that the benefit of incorporation and inclusion of property in the proposed boundary has not been adequately demonstrated.

Staff finds that the proposed taxation rate will not support the proposed services. The Petitioner’s *Economic Feasibility Statement* includes insufficient and incorrect information regarding potential city income and revenue sources. The tax revenue has been miscalculated by the Petitioner and will only account for approximately \$17,608 in the first year compared to the amount of \$30,000 (a difference of 42%) as stated in the Petitioner’s materials. The tax rate for the proposed City of Mountain View will not

cover the cost of creating, operating, and maintaining a city of approximately 160 residents, spanning 265 square miles regardless of whether it contains a UGB of one-to-two square miles. This amount does not cover the cost of any expense category, let alone the anticipated total expenses of \$183,923 in year one.

Staff finds that the Petitioner has not provided sufficient information to determine if the city can and will be able to comply with relevant statewide planning goals, County Comprehensive Plan goals and policies, and implementing ordinances. It is not feasible for the city to meet any of the statewide planning goals though the establishment of a UGB within four years as required in OAR 660-014-0010(4). Based on existing zoning, a UGB would require exceptions to Goals 2 and 14. The incorporated city outside of the UGB would include resource and Goal 5 land that would have to be zoned similarly to the existing County zones to meet the statewide planning goals and be consistent with the County Comprehensive Plan. The Petitioner has not demonstrated that it is reasonably likely that the newly incorporated city can and will comply with the goals once the city assumes primary responsibility for comprehensive planning in the area to be incorporated. Lastly, there is no evidence in the record that the proposed City of Mountain View can and will continue to comply with the Deschutes County Comprehensive Plan and implementing regulations or that the city can and will be able to adopt and implement its own plan and implementing regulations in a manner consistent with the statewide planning goals that will apply directly to the city's planning and zoning process.

For all the foregoing reasons set forth in this Staff Report, staff recommends denial of the proposed petition to incorporate the City of Mountain View.

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.

DESCHUTES COUNTY PLANNING DIVISION



Written by: Nicole Mardell, AICP, Senior Planner



Reviewed by: Will Groves, Planning Manager



Reviewed by: Peter Gutowsky, Community Development Director



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Approval of Order 2023-040 concerning appointments to the 2023 Board of Property Tax Appeals

RECOMMENDED MOTION:

Move approval of Order No. 2023-040 appointing County residents to two pools from which the County Clerk will select members of the Board of Property Tax Appeals.

BACKGROUND AND POLICY IMPLICATIONS:

Prior to October 15th of every year, the Board of County Commissioners is to appoint members to the Board of Property Tax Appeals pools for the upcoming session. Below is an outline of the process:

- The Board of County Commissioners must appoint two pools of County residents from which the County Clerk will select the members of the Board of Property Tax Appeals.
The pools from which the members are selected must be appointed on or before October 15th. The terms are for two years, ending June 30th.
The pools shall consist of the following persons who are eligible to serve on the boards:
1. A pool of members of the county governing body or nonoffice-holding county residents to serve in their place. This pool may be referred to as the "Chairperson's Pool."
2. A "Nonoffice Holding Pool" consisting of residents of the county who are not employees of the county or of any taxing district within the county.

The order of the Board of County Commissioners which appoints the pools must be in writing and contain the following information (order attached for the Board's consideration):

- The names, addresses, and phone numbers of the persons appointed to the pools.
A brief description of training either already taken or that will be completed before any term as a board member begins.
The pool or pools to which the person is appointed.
The date when the order becomes effective.

An appointee may be appointed to both the "Chairperson's Pool" and the "Nonoffice-Holding Pool" if they qualify.

BUDGET IMPACTS:

Revenues and expenditures have been budgeted and approved for Board of Property Tax Appeals for Fiscal Year 2023-2024 in General Fund account 0010650.

ATTENDANCE:

Steve Dennison, County Clerk

REVIEWED

LEGAL COUNSEL

09/27/2023 Item #5.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Appointing County Residents to Two *
Pools from which the County Clerk Will Select *
Members of the Board of Property Tax Appeals. *

ORDER NO. 2023-040

WHEREAS, ORS 309.067(1)(a) requires the county governing body to appoint to the County Board of Property Tax Appeals (“BOPTA”) “A pool of members of the county governing body or the governing body’s designees who are eligible and willing to serve as members of the county board of property tax appeals”; and

WHEREAS, ORS 309.067(1)(b) requires the county governing body to appoint to BOPTA “A pool of nonoffice-holding residents of the county who are not employees of the county or of any taxing district within the county and who are eligible and willing to serve as members of the county board of property tax appeals”; and

WHEREAS, ORS 309.067(3) requires that each appointed member to the pool receive training prior to that member’s term as a BOPTA member; and

WHEREAS, ORS 309.067(5) requires the county governing body to appoint members to the BOPTA pools by October 15 of each year or at any time upon the request of the county clerk; now therefore,

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

Section 1. ORS 309.067(1)(a) Pool.

The following persons are appointed to the County Governing Body’s Pool of persons eligible and willing to serve as a member of the Board of Property Tax Appeals for Deschutes County:

1. Jo Ellen Zucker, 66900 Sagebrush Lane, Bend, OR 97703
Training: Prior experience. Telephone Number 541-788-8484
2. Michael C. Simpson, 1547 NW Cliff Side Way, Redmond, OR 97756
Training: Prior experience. Telephone Number 541-527-9151
3. Michael C. Walker, 1642 NW Overlook Dr., Bend, OR 97703
Training: Prior experience. Telephone Number 541-390-5607
4. Frances F. Harder, 14212 Stillwater Lane, La Pine, OR 97739
Training: Needs training. Telephone Number 541-771-6405
5. Matthew C. Latimer, 19537 Aster Lane, Bend, OR 97702
Training: Needs training. Telephone Number 312-927-7080
6. Brian Ricker, 19929 Fir Lane, Bend, OR 97703
Training: Needs training. Telephone number 541-653-0843

- 7. Peggy O'Donnell, 662 Goshawk Dr., Redmond, OR 97756
Training: Needs training. Telephone number 503-930-1624
- 8. Robert James Horvat Jr., 2010 Mountain Quail Drive, Redmond, OR 97756
Training: Needs training. Telephone number 503-810-1915

Section 2. ORS 309.067(1)(b) Pool.

The following non-office holding residents of Deschutes County who are not employees of the County or of any taxing district within the County are appointed to an additional pool of persons eligible and willing to serve as members of the Board of Property Tax Appeals for Deschutes Count

- 1. Jo Ellen Zucker, 66900 Sagebrush Lane, Bend, OR 97703
Training: Prior experience. Telephone Number 541-788-8484
- 2. Michael C. Simpson, 1547 NW Cliff Side Way, Redmond, OR 97756
Training: Prior experience. Telephone Number 541-527-9151
- 3. Michael C. Walker, 1642 NW Overlook Dr., Bend, OR 97703
Training: Prior experience. Telephone Number 541-390-5607
- 4. Frances F. Harder, 14212 Stillwater Lane, La Pine, OR 97739
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- 5. Matthew C. Latimer, 19537 Aster Lane, Bend, OR 97702
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- 6. Brian Ricker, 19929 Fir Lane, Bend, OR 97703
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- 7. Peggy O'Donnell, 662 Goshawk Dr., Redmond, OR 97756
Training: Needs training. Telephone number 503-930-1624
- 8. Robert James Horvat Jr., 2010 Mountain Quail Drive, Redmond, OR 97756
Training: Needs training. Telephone number 503-810-1915

Section 3. Effective Date. The appointments are effective October 15, 2023, and expire on June 30, 2025.

Dated this 27th of September, 2023

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: September 27, 2023

SUBJECT: Public Hearing and Resolution amending the Deschutes County 2023-2024 Fee Schedule to add new fees in the Community Development Department

RECOMMENDED MOTION:

Following the public hearing, move approval of Resolution 2023-052 to amend the Deschutes County 2023-2024 Fee Schedule to adopt new fees and revise fee descriptions in the Community Development Department.

BACKGROUND AND POLICY IMPLICATIONS:

Community Development seeks to add four new fees during the 2023-2024 fiscal year. The new fees are:

- Petition to Incorporate \$13,802 – The fee will cover department costs associated with processing incorporation requests.
- Recreational Vehicle Used for Residential Purposes \$730 – The fee will cover costs associated with processing recreational vehicles used for residential purposes requests.
- Road vacation without public hearing \$1,500 – The road vacation process will transfer from the Road Dept. to CDD as soon as the fees are adopted. The fee will cover costs associated with processing road vacation requests.
- Road vacation with public hearing \$3,000 – The road vacation process will transfer from the Road Dept. to CDD as soon as the fees are adopted. The fee will cover costs associated with processing road vacation requests including public hearings.

Additionally, CDD seeks to clarify the description of four existing fees associated with medical hardships and RV's as temporary residence.

BUDGET IMPACTS:

Anticipated additional revenue if these application types are submitted.

ATTENDANCE:

Sherri Pinner, Senior Management Analyst
Will Groves, Planning Manager
Laura Skundrick, Management Analyst

REVIEWED

LEGAL COUNSEL

09/27/2023 Item #10.

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

A Resolution Amending the Deschutes County 2023-2024 Fee Schedule * RESOLUTION NO. 2023-052 * *

WHEREAS, various departments of Deschutes County charge fees for services and permits; and

WHEREAS, it is necessary to amend the Deschutes County Fee Schedule and to adopt the revised Community Development Fees to include new fees for petition to incorporate, recreational vehicle used for residential purposes, and road vacation(s) with and without public hearing and revise fee descriptions on four existing fees associated with medical hardships and RV’s as temporary residence, now, therefore,

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

Section 1. That the fees set forth in Exhibit “A”, attached hereto and, by this reference, incorporated herein, are hereby amended in the 2023-2024 fees and charges of Deschutes County, Oregon.

Section 2. The fees and charges for services and permits adopted in Exhibit “A” of this Resolution are effective September 27, 2023.

Section 3. All fees and charges for services and permits in effect prior to September 27, 2023, are hereby continued or superseded as provided herein.

Dated this _____ of _____, 2023

BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

ANTHONY DeBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner

Deschutes County Community Development Fee Schedule

09/27/2023 Item #10.

FY 2024

Exhibit A

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
Community Development				
CDD 1	Refund request processing	\$ 35.00		
	No refunds if refund amount is less than \$35.00. Other amounts may be deducted from refund for work already performed.			
CDD 2	Address Issuance	\$ 38.00	per dwelling	
CDD 3	New use with separate address (charged at time of building permit or plot plan review, except revised plot plan review)	\$ 38.00		
CDD 4	Copy fee	\$ 0.25	per page	
CDD 5	Coin-copy machine	\$ 0.10	per page	
CDD 6	Plot plan review	\$ 107.75		
CDD 7	Advanced planning fee (supports long-range planning and regular code updates and review)	0.34%	of bldg valuation	
CDD 8	Public Information fee (supports public information and assistance in Bend, Redmond and LaPine and allows for consolidated permit processing at one location)	0.35%	of bldg valuation	
CDD 9	Code compliance fee (supports code enforcement program)	0.27%	of bldg valuation	
CDD 10	Code Compliance Court Fine or Fee	ACS		Circuit court or hearings officer determination
CDD 11	Research/file review supervision	\$ 191.25	per hour	
CDD 12	Road Access Permit	\$ 81.50		
CDD 13	Second Road Access Permit	\$ 40.50		
CDD 14	Three or more Road Access Permits	\$ 20.25	each	
CDD 15	Consultation by CDD professional staff	ACS		
CDD 16	Consultation by CDD building safety staff	ACS		
CDD 17	Consultation by CDD electrical staff	ACS		
CDD 18	Consultation by CDD code enforcement staff	ACS		
CDD 19	Consultation by CDD environmental onsite staff	ACS		
CDD 20	Consultation by CDD current planning staff	ACS		
CDD 21	Consultation by CDD long range planning staff	ACS		
CDD 22	Collection/administration fee for system development charges	\$ 36.50	per fee collected	
	Policy Regarding Refunds:			
	A 75% refund may be made after an application has been received. The 25% withheld covers work associated with the application, including zoning, septic and plot plan review, file creation and staff assignment. An additional percentage will be withheld as each additional phase of the permitting process is completed (i.e. plan review, inspections, staff report preparation). Refunds must be requested within 180 days of application. In every case, the \$35 refund request processing fee will be charged to cover the cost of refund check processing and issuance.			
CDD 23	Bend Park and Recreations SDC for Accessory Dwelling Unit (ADU)	\$ 4,689.00		
CDD 24	Bend Park and Recreations SDC for Multi Family, (0 bedrooms)	\$ 4,689.00		
CDD 25	Bend Park and Recreations SDC for Multi Family, (1 bedroom)	\$ 5,166.00		
CDD 26	Bend Park and Recreations SDC for Multi Family, (2 bedrooms)	\$ 8,377.00		
CDD 27	Bend Park and Recreations SDC for Multi Family, (3 bedrooms)	\$ 10,852.00		
CDD 28	Bend Park and Recreations SDC for Hotel/Motel, each unit	\$ 7,491.00	per room	
CDD 29	Bend Park and Recreations SDC for Single Family Home (< 500 sq ft)	\$ 7,425.00		
CDD 30	Bend Park and Recreations SDC for Single Family Home (500-1,000 sq ft)	\$ 8,074.00		
CDD 31	Bend Park and Recreations SDC for Single Family Home (1,000- 1,600 sq ft)	\$ 9,376.00		
CDD 32	Bend Park and Recreations SDC for Single Family Home (1,601 - 3,000 sq ft)	\$ 10,635.00		
CDD 33	Bend Park and Recreations SDC for Single Family Home (> 3,001 sq ft)	\$ 11,895.00		
CDD 34	Bend Park and Recreation SDC for Manufactured/Mobile Home Placement Permit (in a Park)	\$ 9,810.00		
CDD 35	Transportation SDCs - base rate	\$ 5,603.00	Per peak hour trip Per single family home	
CDD 36	Transportation SDCs - Single Family Home	\$ 4,538.00		
CDD 37	System development charge payment plan administrative fee	\$ 300.00		
CDD - Building Safety Division				
CDBS 1	Reproduction printing of electronically submitted plans at customer request	\$ 4.50	per page/sheet	
CDBS 2	Phased Project Plan Review Fee - in addition to project plan review fees	\$ 604.75	plus 10% of the total project building permit fee not to exceed \$1,500.00 for each phase or portion of the project	

Deschutes County Community Development Fee Schedule

FY 2024

Exhibit A

09/27/2023 Item #10.

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
CDD - Building Safety Division (continued)				
CDBS	3 Deferred Submittal Plan Review Fee – in addition to project plan review fees	65%	calculated using the value of the deferred portion with a \$250 minimum	
Expedited Review (optional program):				
CDBS	4 Structures require engineer/architect stamped plans	\$ 461.50	in addition to bldg permit fee	
CDBS	5 All others	\$ 196.30	in addition to bldg permit fee	
CDBS	6 Special Inspection - inspections that do not fit into the specific type of permits under the building code	\$ 103.00	or ACS	
CDBS	7 Agricultural building exemption fee	\$ 67.75		
CDBS	8 Building inspections outside of normal business hours (min charge - two hours)	\$ 111.25	per hour	
CDBS	9 Re-inspection fee	\$ 96.75	each	
CDBS	10 Inspections for which no fee is specifically indicated (min charge - ½ hour)	\$ 111.25	per hour	
CDBS	11 Additional plan review required by changes, addition or revisions to approved plans (min charge - ½ hour)	\$ 111.25	per hour	
CDBS	12 Demolition permits	\$ 194.00		
CDBS	13 Consultation fee (min 1 hour)	\$ 96.75	per hour	
CDBS	14 Temporary certificate of occupancy (commercial)	\$ 572.75		
CDBS	15 Temporary certificate of occupancy (residential)	\$ 161.25		
CDBS	16 Solar Building Permit - Prescriptive	\$ 109.75		ORS 455.020 & OAR 918-050-0180
CDBS	17 Solar Building Permit - Non-Prescriptive Path System - valuation to include the solar panels, racking, mounting elements, rails and the cost of labor to install. Solar electrical equipment including collector panels and inverters shall be excluded from the Structural Permit valuation. New construction and additions shall be calculated using the ICC Building Valuation Data Table current as of April 1st of each year. CDD may charge the average or actual additional cost for ensuring a building, structure or system is in conformance with state building code for work commenced prior to permit issuance.		Fee as per Structural Permit Fee table by valuation	
Residential Fire Suppression				
CDBS	18 Residential Sprinklers 0-2000 sq ft, includes plan review, applies to standalone and multipurpose/continuous loop	\$ 200.00		OAR 918-050-0140
CDBS	19 Residential Sprinklers 2001-3600 sq ft, includes plan review, applies to standalone and multipurpose/continuous loop	\$ 250.00		OAR 918-050-0140
CDBS	20 Residential Sprinklers 3601-7200 sq ft, includes plan review, applies to standalone and multipurpose/continuous loop	\$ 325.00		OAR 918-050-0140
CDBS	21 Residential Sprinklers 7201 sq ft and greater, includes plan review, applies to standalone and multipurpose/continuous loop	\$ 410.00		OAR 918-050-0140
Commercial Fire Suppression				
CDBS	22 Commercial Fire Suppression		See Structural Permit Fee table by valuation	
CDBS	23 Re-inspection fee: A \$96.75 re-inspection fee shall be charged for inspections of violations found by the division on or after the second inspection and for inspections requested but which cannot be performed due to inability to get access to work to be inspected.	\$ 96.75		
PLAN REVIEW:				
CDBS	24 Approval of additional set of plans	\$ 25.50		
CDBS	25 Plan check fee	65%	bldg permit fee	
CDBS	26 Plan check fee for electrical and mechanical systems of commercial/residential buildings	25%	bldg permit fee	
CDBS	27 Plan check fee for plumbing of commercial/residential bldgs	30%	bldg permit fee	
CDBS	28 Plan check fee for fire/life safety/over 4,000 sq ft	40%	bldg permit fee	
CDBS	29 Plan check for manufactured dwelling/rec park plan review	65%	permit fee	
CDD - Building Safety Division (continued)				
The current State of Oregon surcharge is added to all fees in the Building Safety Division. Additional State fees may apply.				

Deschutes County Community Development Fee Schedule

FY 2024

Exhibit A

09/27/2023 Item #10.

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
	Total valuation:			
CDBS 30	\$1.00 to \$500.00	\$ 10.25		
CDBS 31	\$501.00 to \$2,000.00	\$ 10.25	first \$500 + \$1.75 for each additional \$100 or fraction thereof, to and including \$2,000	
CDBS 32	\$2,001.00 to \$25,000.00	\$ 36.50	first \$2,000 +\$6.50 for each additional \$1,000 or fraction thereof, to and including \$25,000	
CDBS 33	\$25,001.00 to \$50,000.00	\$ 186.00	first \$25,000 +\$5.00 for each additional \$1,000 or fraction thereof, to and including \$50,000	
CDBS 34	\$50,001.00 to \$100,000.00	\$ 311.00	first \$50,000 +\$4.50 for each additional \$1,000 or fraction thereof, to and including \$100,000	
CDBS 35	\$100,001.00 and up	\$ 536.00	first \$100,000 +\$5.50 for each additional \$1,000 or fraction thereof	
	Plumbing: includes one kitchen, first 100 feet each of site utilities, hose bibbs, icemakers, underfloor low-point drains, and rain drain packages that include the piping, gutters, downspouts, and perimeter system. Half bath counted as whole.			
CDBSPL 1	One and Two Family / 1 bath	\$ 371.25		
CDBSPL 2	One and Two Family / 2 bath	\$ 477.25		
CDBSPL 3	One and Two Family / 3 bath	\$ 530.50		
CDBSPL 5	Baths greater than-4 3	\$ 53.00		
CDBSPL 6	One and two family/solar (when connected with potable water)	\$ 143.75		
	Residential and U1 plumbing:			
	Fixtures:			
CDBSPL 7	Kitchen sink	\$ 29.50		
CDBSPL 8	Water heater	\$ 29.50		
CDBSPL 9	Disposal	\$ 29.50		
CDBSPL 10	Water closet	\$ 29.50		
CDBSPL 11	Basin	\$ 29.50		
CDBSPL 12	Tub (bathing)	\$ 29.50		
CDBSPL 13	Shower	\$ 29.50		
CDBSPL 14	Clothes washer	\$ 29.50		
CDBSPL 15	Laundry tub	\$ 29.50		
CDBSPL 16	Other Plumbing	\$ 29.50		
CDBSPL 17	Floor drain	\$ 29.50		
CDBSPL 18	Backflow Preventer	\$ 29.50		
CDBSPL 19	Urinal	\$ 29.50		
CDBSPL 20	Hose bibbs	\$ 29.50		
	Water service/sanitary/storm sewer:			
CDBSPL 21	Water service (first 100 feet or fraction thereof)	\$ 101.50		
CDBSPL 22	Water service (second 100 ft. or fraction thereof)	\$ 57.75		
CDBSPL 23	Building sewer (first 100 feet or fraction thereof)	\$ 101.50		
	CDD - Building Safety Division (continued)			
CDBSPL 24	Building sewer (each additional 100 ft. or fraction thereof)	\$ 57.75		

Deschutes County Community Development Fee Schedule

09/27/2023 Item #10.

FY 2024

Exhibit A

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
CDBSPL 25	Building storm sewer or rain drain (each 100 feet or fraction thereof)	\$ 101.50		
CDBSPL 26	Storm or rain drain (each additional 100 feet or fraction thereof)	\$ 57.75		
CDBSPL 27	Alternate potable water heating system (coil, heat pumps, extractor, water treatment equipment, etc.)	\$ 101.50		
	Manufactured Homes:			
CDBSPL 28	M/H park sewer connection & water distribution system	\$ 101.50	per space	
CDBSPL 29	Prefabricated structures site inspections (includes site development & connection of the prefabricated structure)	\$ 101.50		
CDBSPL 30	Special inspections	\$ 111.25	per hour	
	Commercial Plumbing			
	(all buildings other than R-3 & U-1):			
CDBSPL 31	Minimum Fee	\$ 149.25		
CDBSPL 32	Fixture fee - commercial	\$ 29.50		
CDBSPL 33	Backflow prevention device	\$ 29.50		
CDBSPL 34	Sink-kitchen, bar, laundry	\$ 29.50		
CDBSPL 35	Lavatory - bathrooms only	\$ 29.50		
CDBSPL 36	Tub/shower combinations	\$ 29.50		
CDBSPL 37	Separate shower and tub	\$ 29.50		
CDBSPL 38	Water closets	\$ 29.50		
CDBSPL 39	Dishwashers	\$ 29.50		
CDBSPL 40	Disposal	\$ 29.50		
CDBSPL 41	Washing machine	\$ 29.50		
CDBSPL 42	Water heater	\$ 29.50		
CDBSPL 43	Urinal	\$ 29.50		
CDBSPL 44	Hose bibs	\$ 29.50		
CDBSPL 45	Bidet	\$ 29.50		
CDBSPL 46	Catch Basins	\$ 29.50		
CDBSPL 47	Drinking fountain	\$ 29.50		
CDBSPL 48	Receptors	\$ 29.50		
CDBSPL 49	Interceptors	\$ 29.50		
CDBSPL 50	Floor drains	\$ 29.50		
CDBSPL 51	Sewage and sump pump	\$ 29.50		
CDBSPL 52	Special water connection	\$ 29.50		
CDBSPL 53	Storm drain - first 100 feet	\$ 63.25		
CDBSPL 54	Storm drain - each additional 100 feet	\$ 29.50		
CDBSPL 55	Swimming pool piping	\$ 96.75		
CDBSPL 56	Solar	\$ 29.50		
CDBSPL 57	Plumbing alteration not specified	\$ 29.50		
CDBSPL 58	Water service - first 100 feet	\$ 101.50		
CDBSPL 59	Water service (each additional 100 ft)	\$ 57.75		
CDBSPL 60	Sewer - first 100 feet	\$ 101.50		
CDBSPL 61	Sewer - each additional 100 feet	\$ 57.75		
	Medical Gas – fee based on installation costs and system equipment, including but not limited to inlets, outlets, fixtures and appliances			
	Valuation:			
CDBSPL 62	\$0 - \$25,000	\$ 142.50		
CDBSPL 63	\$25,001 - \$50,000	\$ 142.50		\$142.50 for the first \$25,000 plus \$3.25 for each additional \$1,000 or fraction thereof, to and including \$50,000
CDBSPL 64	\$50,001 - \$100,000	\$ 223.75		\$223.75 for the first \$50,000 plus \$2.25 for each additional \$1,000 or fraction thereof, to and including \$100,000
CDD - Building Safety Division (continued)				

Deschutes County Community Development Fee Schedule

09/27/2023 Item #10.

FY 2024

Exhibit A

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
CDBSPL 65	\$100,001 and above	\$ 336.00	\$336.00 for the first \$100,000 plus \$1.25 for each additional \$1,000 or fraction thereof	
CDBSPL 66	M/H park sewer collection/water distribution system	\$ 96.75	per space	
CDBSPL 67	Special inspection	\$ 84.75	per hour	
CDBSPL 68	Alternative potable water heating systems (coils, extractors, heat pumps, etc.)	\$ 61.75		
CDBSPL 69	M/H Park Installation Connection	\$ 78.00		
Recreational Vehicle and Manufactured Dwelling Parks				
CDBSPL 70	Five or fewer spaces	\$ 308.75		
CDBSPL 71	Six to 19 spaces	\$ 308.75	plus \$53.00 per space	
CDBSPL 72	Twenty or more spaces	\$ 742.00	plus \$40.50 per space	
MECHANICAL:				
CDBSM 1	Minimum Fee	\$ 87.75	each	
CDBSM 2	Installation or relocation of forced-air or gravity-type furnace or burner, including ducts & vents attached to such appliance up to/including 100,000 Btu/h, up to 100,000 cfm air handler	\$ 21.75	each	
CDBSM 3	Installation or relocation of forced-air or gravity-type furnace or burner, including ducts and vents attached to each appliance over 100,000 Btu/h, over 100,000 cfm air handler	\$ 25.25	each	
CDBSM 4	Installation or relocation of floor furnace, including vent	\$ 16.25	each	
CDBSM 5	Installation or relocation of suspended heater, recessed wall heater or floor-mounted heater	\$ 16.25	each	
CDBSM 6	Installation, relocation or replacement of appliance vent installed and not included in an appliance permit	\$ 9.75	each	
CDBSM 7	Repair, alteration or addition to heating appliance, refrigeration, cooling, absorption, or heating/cooling/absorption unit or evaporative cooling system, including installation of controls (Heat Pump)	\$ 21.75	each	
CDBSM 8	Air-handling unit to and including 10,000 cubic feet per minute (cfm), including attached ducts	\$ 12.00	each	
CDBSM 9	Air-handling unit of 10,000 cfm	\$ 21.75	each	
CDBSM 10	Evaporative cooler other than portable	\$ 12.00	each	
CDBSM 11	Ventilation fan connected to single duct	\$ 10.00	each	
CDBSM 12	Ventilation system that is not a portion of any heating or air-conditioning system authorized by a permit	\$ 12.50	each	
CDBSM 13	Installation of hood which is served by mechanical exhaust, including ducts for hood	\$ 12.50	each	
CDBSM 14	Installation/relocation of domestic-type incinerator/woodstove, includes vent	\$ 32.00	each	
CDBSM 15	Installation/relocation of propane or natural gas vented room heaters, gas fired appliance, includes vent	\$ 32.00	each	
CDBSM 16	Appliance or piece of equipment regulated by code but not classified in other appliance categories	\$ 12.50	each	
CDBSM 17	Gas-piping system - one to four outlets	\$ 8.25		
CDBSM 18	Inspection outside of normal business hours (minimum charge - two hours)	\$ 126.00	per hour	
CDBSM 19	Re-inspection fee	\$ 96.75	each	
CDBSM 20	Inspections for which no fee is specifically indicated (minimum charge - ½ hour)	\$ 94.75	per hour / 1/2 hour minimum charge	
CDBSM 21	Additional plan review required by changes, additions or revisions to approved plans (min charge ½ hour)	\$ 94.75	per hour / 1/2 hour minimum charge	
CDBSM 22	Installation or relocation of hydronic in-floor heating	\$ 80.00		
CDBSM 23	Installation or relocation of fuel fired or electrical heat exchanger (to be used in a hydronic heating system)	\$ 30.75		
CDBSM 24	Mini split system	\$ 41.50		
CDBSM 25	Heat recovery ventilator system (HRV)	\$ 12.50		
CDD - Building Safety Division (continued)				
Commercial Mechanical Permit Fee Table				
Commercial and Multifamily New, Alterations, Additions, Repairs & Accessory Structures				OAR 918-050-100
Total Valuation				

Deschutes County Community Development Fee Schedule

FY 2024

Exhibit A

09/27/2023 Item #10.

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
CDBSM 26	\$1 to \$2,000	\$ 76.50		
CDBSM 27	\$2001 to \$25,000	\$ 76.50	first \$2,000 plus 11.50 for each additional \$1,000 or fraction thereof, to and including \$25,000	
CDBSM 28	\$25,001 to \$50,000	\$ 341.00	first \$25,000 plus 9.50 for each additional \$1,000 or fraction thereof, to and including \$50,000	
CDBSM 29	\$50,001 to \$100,000	\$ 578.50	first \$50,000 plus 6.25 for each additional \$1,000 or fraction thereof up to and including \$100,000	
CDBSM 30	\$100,001 and up	\$ 891.00	first \$100,000 plus 4.25 for each additional \$1,000 or fraction thereof	
	ELECTRICAL:			
	Residential - New 1 & 2 family dwellings or new multi-family per dwelling unit. Service included.		# of inspections per permit allowed	
CDBSE 1	1,000 square feet or less	\$ 304.50	4	
CDBSE 2	Each additional 500 square feet, or portion thereof	\$ 51.75		
	Multi-family building containing three or more apartments; Determine fee for the largest unit using the sq. ftg. rates above, additional units are charged at 50%.		4	
CDBSE 3	Each manufactured home or modular dwelling service or feeder	\$ 141.75	2	
	Service/feeders: installation, alteration or relocation:			
CDBSE 4	200 amps or less	\$ 173.00	2	
CDBSE 5	201 amps to 400 amps	\$ 210.75	2	
CDBSE 6	401 amps to 600 amps	\$ 344.25	2	
CDBSE 7	601 amps to 1000 amps	\$ 429.75	2	
CDBSE 8	Over 1000 amps or volts	\$ 1,043.00	2	
CDBSE 9	Reconnect only	\$ 141.50	2	
	Temporary service or feeders - installation, alterations or relocation			
CDBSE 10	200 amps or less	\$ 141.50	2	
CDBSE 11	201 amps to 400 amps	\$ 193.50	2	
CDBSE 12	Over 4001 amps to 600 amps	\$ 257.00	2	
CDBSE 13	Over 600 amps to 1000 volts - see "service/feeders" (10 branch circuits included) above	\$ 333.50		
	Branch circuits - new, alteration or extension per panel			
	Fee for branch circuits with purchase of service or feeder fee			
CDBSE 14	Each branch circuit	\$ 13.50	2	
	Fee for branch circuits without purchase of service or feeder fee			
CDBSE 15	First branch circuit	\$ 132.75	2	
CDBSE 16	Each additional branch circuit	\$ 13.50	2	
	Miscellaneous (service or feeder not included)		# of inspections per permit allowed	
CDBSE 17	Each water or sewage pump or irrigation circle	\$ 141.75	2	
CDBSE 18	Each sign or outline lighting	\$ 141.75	2	
CDBSE 19	Signal circuit(s) or a limited energy panel, alteration or extension - commercial use	\$ 141.75	2	
	CDD - Building Safety Division (continued)			
	Renewable Energy Systems			
CDBSE 20	5 KVA or less	\$ 79.00	2	OAR 918-309-0070
CDBSE 21	5.01 KVA to 15KVA	\$ 94.00	2	OAR 918-309-0070

Deschutes County Community Development Fee Schedule

FY 2024

Exhibit A

09/27/2023 Item #10.

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
CDBSE 22	15.01 KVA to 25 KVA	\$ 156.00	2	OAR 918-309-0070
CDBSE 23	Over 25 KVA	\$ 7.50	2 per KVA / \$7.50 per kva over 25 kva, \$156.00 for first 25 kva - maximum fee at 100 kva	
	Wind Generation Systems			
CDBSE 24	26 KVA to 50 KVA	\$ 204.00		OAR 918-309-0070
CDBSE 25	51 KVA to 100 KVA	\$ 469.00		OAR 918-309-0070
	Solar Farms			
CDBSE 26	26 KVA to 50 KVA	\$ 204.00		OAR 918-309-0070
CDBSE 27	51 KVA to 100 KVA	\$ 469.00		OAR 918-309-0070
	Limited energy - residential use			
CDBSE 28	One and two family	\$ 69.50		
CDBSE 29	Multi-family limited energy and/or protective signaling	\$ 129.25	per floor; 2 inspections allowed per floor	
CDBSE 30	Each additional inspection over the allowable in any of the above	\$ 87.00	per inspection	
CDBSE 31	Other inspections not listed above (portal to portal - one hour minimum)	\$ 141.75	per hour	
CDBSE 32	Master permit - renewed annually at no additional fee other than required annual inspections.	\$ 100.00		OAR 918-309-0100
CDBSE 33	Inspections outside or normal business hours (min charge - two hours)	\$ 141.50	per hour	
CDBSE 34	Re-inspection fee	\$ 108.50	each	
CDBSE 35	Inspections for which no fee is specifically indicated (min charge - ½ hour)	\$ 141.75	per hour	
CDBSE 36	Additional plan review required by changes, additions or revisions to approved plans	\$ 141.75	per hour	
CDBSE 37	Inspection for code items requiring inspection, but no specific fees are given	\$ 107.25	each item	
	MANUFACTURED DWELLINGS:			
CDBSMF 1	Manufactured dwelling and cabana installation permit	\$ 798.75	per installation + applicable state fee(s)	
CDBSMF 2	Manufactured dwelling and cabana re-inspection fee	\$ 184.00	per re-inspection	
CDBSMF 3	State Cabana Fee	\$ 30.00		OAR 918-500-0105
	New Manufactured Home Park Fee Schedule:			OAR 918-600-0030 & OAR 918-650-0030
	The Area Development Permit fee to be calculated based on the valuations shown in Table 2 of OAR 918-600-0030 for Manufactured Dwelling/Mobile Home Parks and Table 2 of OAR 918-650-0030 for Recreational Park & Organizational Camp - and applying the valuation amount to Table 1 as referenced for each.			
CDBSMP 1	Additional plan review required by changes, additions or revisions to approved plans (min charge - ½ hour)	\$ 111.25	per hour	
CDBSMP 2	Consultation fee (min charge - one hour)	\$ 94.75	per hour	
	State surcharge on manufactured home park permit fee is 12% of total			
	Plan check fee for manufactured home park is 65% of building permit fee			
	Prefabricated Structural Inspections (includes site development and connection of the prefabricated structure)			
CDBSMP 3	MH Park Installation connection	\$ 70.00		
	CDD - Onsite Wastewater Division			OAR 340-071-0140
	Site evaluations, construction installation permits, renewal permits, alteration permits, authorization notices and existing system evaluation reports incur an additional \$100 surcharge per OAR 340-071-0140			
	On-site sewage disposal systems:			
CDES 1	New site evaluation - single family dwelling	\$ 905.00		
CDES 2	Site evaluation - springtime observation *	\$ 491.00		
	Commercial Facility Systems:			
CDES 3	First 1,000 gallons projected daily sewage flow	\$ 905.00		
CDES 4	For each additional 500 gallons or part thereof above 1,000 gallons projected daily sewage flow up to 5,000 gallons	\$ 258.00		
	CDD - Onsite Wastewater Division (continued)			OAR 340-071-0140

Deschutes County Community Development Fee Schedule

09/27/2023 Item #10.

FY 2024

Exhibit A

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
	Each fee paid for a site evaluation report entitles the applicant to as many site inspections on a single parcel or lot as are necessary to determine site suitability for a single system. The applicant may request additional site inspections within ninety (90) days of the initial site evaluation at no extra cost. Separate fees shall be required if site inspections are to determine site suitability for more than one (1) system on a single parcel or lot.			
	* Not subject to surcharge			
	Consultation Fee:			
CDES 5	Environmental Soils staff in office	ACS	based on loaded salary rate of staff performing the service	
CDES 6	Environmental Soils staff in the field (one hour minimum)	ACS	based on loaded salary rate of staff performing the service	
	Construction installation permit:			
CDES 7	First 1,000 gallons projected daily sewage flow - standard on-site system	\$ 1,285.00		
CDES 8	For each additional 500 gallons or part thereof above 1,000 gallons	\$ 188.00		
	Alternative systems:			
CDES 9	Alternative Treatment Technology (ATT) System to Drain Field	\$ 1,810.00		
CDES 10	Alternative Treatment Technology (ATT) System to Sand Filter	\$ 2,068.00		
CDES 11	Capping fill	\$ 1,810.00		
CDES 12	Gray water waste disposal sump	\$ 557.00		
CDES 13	Pressure distribution	\$ 1,648.00		
CDES 14	Recirculating gravel filters	\$ 2,202.00		
CDES 15	Sand filter	\$ 2,068.00		
CDES 16	Seepage trench	\$ 1,285.00		
CDES 17	Steep slope	\$ 1,285.00		
CDES 18	Tile dewatering	\$ 3,490.00		
CDES 19	At the discretion of the Department, the permittee may be assessed a reinspection fee, not to exceed \$230.00, when a precover inspection correction notice requires correction of improper construction and at a subsequent inspection, the Department finds system construction deficiencies have not been corrected. The Department may elect not to make further precover inspections until the reinspection fee is paid.	\$ 230.00		
	Commercial Facility Systems (includes ADU when combined with residential), Plan Review:			
CDES 20	For system with projected daily sewage flow of 600 gallons, but not more than 1,000 gallons projected daily sewage flow	\$ 439.00		
CDES 21	For each additional 500 gallons or part thereof above 1,000 gallons to a maximum sewage flow limit of 5,000 gallons per day	\$ 84.00		
	Residential Systems Variance, Plan Review			
CDES 22	For system with projected daily sewage flow of less than 600 gallons and is designed by certified professional.	\$ 439.00		
	Permit Transfer, Re-instatement or Renewal:			
CDES 23	Field visit required	\$ 439.00		
CDES 24	No field visit required	\$ 290.00		
	Alteration Permit			
CDES 25	Major	\$ 1,163.00		
CDES 26	Minor	\$ 581.00		
	Repair Permit - single family dwelling			
CDES 27	Major	\$ 581.00		
CDES 28	Minor	\$ 362.00		
	Authorization notice:			
CDES 29	Field visit required	\$ 698.00		
CDES 30	No field visit required	\$ 336.00		
	Septic location approval:			
CDES 31	Site/system verification - Field visit required	\$ 362.00		
CDES 32	No field visit required	\$ 96.00		
CDES 33	Pumper truck inspection*	\$ 220.00		
CDES 34	Existing system evaluation report	\$ 582.00		

Deschutes County Community Development Fee Schedule

FY 2024

Exhibit A

09/27/2023 Item #10.

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
CDES 35	Holding Tanks	\$ 1,105.00		
CDD - Onsite Wastewater Division (continued)				OAR 340-071-0140
Report Fees				
CDES 36	Holding Tanks	\$ 40.00		
CDES 37	Other Alternative systems - Service Provider	\$ 68.00		
CDES 38	Other Alternative systems - Individual Customer	\$ 84.00		
CDES 39	Septic tank abandonment inspection	\$ 220.00	per site	
	CDD may charge twice the established fee for a septic permit or approval as a compliance recovery fee.			
	<p>Surcharges: 340-071-0140 Onsite System Fees (10) DEQ surcharge. (a) To offset a portion of the administrative and program oversight costs of the statewide onsite wastewater management program, DEQ and contract counties must levy a surcharge for each site evaluation, report permit and other activity for which an application is required in this division. The surcharge fee is listed in Table 9F as determined by DEQ. This surcharge does not apply to pumper truck inspections, annual report evaluation fees, or certification of installers or maintenance providers. Proceeds from surcharges collected by DEQ and contract counties must be accounted for separately. Each contract county must forward the proceeds to DEQ in accordance with its agreement with the DEQ.</p>			
	Activity	Surcharge		
	Site evaluation, for each site examined, based on a projected flow of:			
CDES 40	A. 1,000 gallons or less	\$ 100.00		
CDES 41	B. to 2,000 gallons	\$ 100.00		
CDES 42	C. 2,001 to 3,000 gallons	\$ 100.00		
CDES 43	D. 3,001 to 4,000 gallons	\$ 100.00		
CDES 44	E. 4,001 gallons or more	\$ 100.00		
CDES 45	Construction - installation permit	\$ 100.00		
CDES 46	Renewal permit	\$ 100.00		
CDES 47	Alteration permit	\$ 100.00		
CDES 48	Authorization notice	\$ 100.00		
CDES 49	Existing system evaluation report	\$ 100.00		
CDD - Planning Division				
CDPN 1	Accessory Dwelling Unit Review	\$ 730.00		
CDPN 2	Administrative determination with notice - Major	\$ 1,989.00		
CDPN 3	Administrative determination with notice - Minor	\$ 1,274.00		
CDPN 4	Administrative determination - EFU alteration of a dwelling; Historic ADU	\$ 664.00		
CDPN 5	Appeals - Administrative	\$ 250.00	maximum	ORS 215.416(11)
CDPN 6	Appeals to Board of Commissioners - Deposit	\$ 3,448.00	+20% of original fee/Deposit/ ACS	
CDPN 7	Appeals to Board of Commissioners - not accepted	ACS		
CDPN 8	Appeals - LUBA Remand Hearing	\$ 5,000.00	Deposit/ACS	
CDPN 9	Conditional Use (template dwelling)	\$ 3,620.00		
CDPN 10	Conditional Use (template dwelling proposed in Haner Park, Section 36, Skyline Subdivision, 1st edition and a portion of Squaw Creek Canyon Recreational Estates, 1st edition)	\$ 2,535.00		
CDPN 11	Conditional Use (Home Occupation - Type 1 for EFU or F Zone)	\$ 1,299.00		
CDPN 12	Conditional Use (Home Occupation - Type 2)	\$ 1,739.00		
CDPN 13	Conditional Use (Home Occupation - Type 3)	\$ 3,540.00		
CDPN 14	Conditional Use (new destination resort)	\$ 20,381.00	or ACS	
CDPN 15	Conditional Use (non-farm dwelling)	\$ 4,502.00		
CDPN 16	Conditional Use (non-farm dwelling proposed in Squaw Creek Canyon Recreational Estates, 1st edition and Meadow Crest Acres)	\$ 3,152.00		
CDPN 17	Conditional Use (power transmission line and communication tower or pole)	\$ 6,179.00	or ACS	
CDPN 18	Conditional Use (P.U.D. or cluster development)	\$ 7,493.00		
CDPN 19	Conditional Use (schools with 100 students or more)	\$ 5,170.00	or ACS	
CDPN 20	Consultant Fee (for consultant or expert retained by County and paid for by applicant)	ACS		
CDPN 21	Declaratory Ruling (status determined under Chap. 22.40)	\$ 1,956.00		
CDPN 22	Declaratory Ruling for Destination Resorts	ACS		
CDPN 23	Destination Resort Overnight Lodging Tracking (Eagle Crest)	\$ 5,000.00	Deposit/ACS	
CDPN 24	Expedited Land Divisions	\$ 5,817.00	or ACS	
CDPN 25	Extension Request	\$ 477.00		

Deschutes County Community Development Fee Schedule

09/27/2023 Item #10.

FY 2024

Exhibit A

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
CDPN 26	Filming Activities	\$ 4,217.00		
CDPN 27	Final Plat Review (all plats)	\$ 172.00	plus \$106 per lot	
CDD - Planning Division (continued)				
Historic Landmarks Commission Public Hearing and Review:				
CDPN 28	Add historic structure/site to Goal 5 Inventory	\$ 2,386.00		
CDPN 29	Appeal of Landmarks Commission Decision to Board	\$ 1,120.00		
CDPN 30	Exterior alteration - major	\$ 530.00		
CDPN 31	Delete Historic Site/Building from Goal 5 Inventory	\$ 2,386.00		
CDPN 32	Demolish a Historic Landmark Structure	\$ 2,386.00		
CDPN 33	Moving a Historic Landmark Structure	\$ 530.00		
Historic Administrative Review (Staff)				
CDPN 34	Appeal of Administrative Decision	\$ 250.00	maximum	ORS 215.416(11)
CDPN 35	Exterior Alteration - Pilot Butte Canal Historic District	\$ 118.00		
CDPN 36	Exterior alteration - minor	\$ 371.00		
CDPN 37	Improvement Agreement - Modified	\$ 1,941.00		
CDPN 38	Improvement Agreement - New	\$ 3,235.00		
CDPN 39	Land Use Verification Letter and/or Information Sheet	\$ 287.00		
CDPN 40	Landscape Management Review (not visible from road or stream)	\$ 730.00		
CDPN 41	Landscape Management Review (river)	\$ 1,723.00		
CDPN 42	Landscape Management Review (road)	\$ 1,227.00		
CDPN 43	Landscape Management Review (property includes river frontage, applies to non-conforming river setbacks)	\$ 2,586.00		
CDPN 44	Landscape Management Review (river setback exception)	\$ 3,343.00		
CDPN 45	Landscape Management Review (and less than 50 feet from rimrock)	\$ 2,380.00		
CDPN 46	Limited Land Use Decision	\$ 5,817.00	plus \$32 per lot	
Limited Use Permit (Agri-tourism & other events in EFU zone)				
CDPN 47	Type 1 or Renewal of Type 1, 2 or 3	\$ 664.00		
CDPN 48	Type 2	\$ 1,299.00		
CDPN 49	Type 3	\$ 1,299.00		
CDPN 50	Lot of Record Verification (each proposed lot)	\$ 1,196.00		
CDPN 51	Major Code Change (applicant will be billed for M56 Notice)	\$ 15,249.00	plus ACS (Notice)	
CDPN 52	Master Plan (including final master plan for destination resort)	\$ 7,598.00		
CDPN 53	Master Plan (ORS 197 - Skyline Forest)	\$ 26,522.00		
CDPN 54	Minor code changes	\$ 7,659.00		
CDPN 55	Modification of Conditions	\$ 1,989.00		
CDPN 56	Modification of Submitted Application	\$ 1,274.00		
CDPN 57	No Shooting Zone	\$ 3,787.00		
CDPN 58	Noise Ordinance Variance/Permit	\$ 1,989.00		
CDPN 59	Noise Ordinance Variance Appeal	\$ 1,150.00		
CDPN 60	Non-Conforming Use Alteration (without prior verification)	\$ 2,625.00		
CDPN 61	Non-Conforming Use Verification	\$ 2,091.00		
CDPN 62	Non-Conforming Use Alteration (with prior verification)	\$ 2,091.00		
CDPN 63	Non-Conforming Use Verification (River/Wetland/Flood Plain)	\$ 3,869.00		
CDPN 64	Outdoor Mass Gathering	\$ 3,787.00		
CDPN 65	Outdoor Mass Gathering Renewal	\$ 470.00		
CDPN 66	Extended Outdoor Mass Gathering	\$ 3,787.00		
CDPN 67	Extended Outdoor Mass Gathering Renewal	\$ 683.00		
CDPN 68	Partition	\$ 4,217.00	plus \$46 per lot	
	Petition for Incorporation	\$ 13,802.00		ORS 197.175
Permit sign-off for other agency (Role change, Land Use Compatibility Statement, DMV, Water Resources, etc.)				
CDPN 69	Land Use	\$ 1,989.00		
CDPN 70	LUCS sign off	\$ 118.00		
CDPN 71	Renewal	\$ 47.00		
CDPN 72	Plan Amendment (without goal exception)	\$ 9,890.00		
CDPN 73	Plan Amendment (including goal exception/UGB expansion)	\$ 13,802.00	or ACS	
CDPN 74	Planning Inspection Fee	\$ 995.00		
CDPN 75	Pre-application meeting	ACS		
CDPN 76	Property Line Adjustment	\$ 730.00		
CDPN 77	Property Line Adjustment with notice	\$ 1,274.00		

Deschutes County Community Development Fee Schedule

09/27/2023 Item #10.

FY 2024

Exhibit A

ITEM NO.	DESCRIPTION	FY 2024 FEE	UNIT	ENACTMENT AUTHORITY
CDPN 78	Property Line Adjustment (consolidation)	\$ 557.00		
CDPN 79	Reconsideration by Hearing Officer	\$ 1,579.00		
	Recreational Vehicle Used for Residential Purposes	\$ 730.00		
CDPN 80	Rimrock Setback Site Plan (within 50 feet of rim outside LM zone)	\$ 1,194.00		
CDPN 81	Road Dedication	\$ 1,274.00		
	CDD - Planning Division (continued)			
CDPN 82	Road Name Change	\$ 1,194.00		
	Road Vacation without public hearing	\$ 1,500.00		ORS 368.341(4)
	Road Vacation with public hearing	\$ 3,000.00		ORS 368.341(4)
CDPN 83	Sign Permit	\$ 683.00		
CDPN 84	Sign Permit (change of approved sign)	\$ 205.00		
CDPN 85	Sign Permit with Variance	\$ 1,684.00		
CDPN 86	Similar Use Ruling	\$ 1,857.00		
	Site Plan:			
CDPN 87	Alteration or Enlargement of 25% or less (in structural area or required parking)** if site conforms with all existing standards	\$ 1,274.00		
CDPN 88	Alteration or Enlargement, 26% to 100% (in structural area or required parking)**	\$ 3,044.00		
CDPN 89	Alteration or Enlargement of over 100% (in structural area or required parking)**	\$ 4,217.00		
CDPN 90	Change of Use (no change in structural area or required parking) site conforms with all existing standards	\$ 1,274.00		
CDPN 91	Site Plan with New Development** (no previous site plan approval)	\$ 4,893.00		
	**All new site plans and major and minor alterations are subject to the following additional fees:			
CDPN 92	Per 1,000 sq. feet of structure	\$ 67.00		
CDPN 93	Per developed acre (over 1 acre)	\$ 159.00	over 1 acre	
CDPN 94	Site Plan/Surface Mining	\$ 5,736.00		
	Site Plan/Surface Mining Combining Zone (SMIA):			
CDPN 95	1/4 mile from mining site and two dwellings closer	\$ 683.00		
CDPN 96	250 feet to 1/4 mile from mining site	\$ 1,194.00		
CDPN 97	Within 250 feet of mining site or special ESEE standards apply	\$ 2,081.00		
CDPN 98	Site Plan/Wildlife Review	\$ 1,274.00		
CDPN 99	Partition/subdivision SMIA review	\$ 1,327.00		
CDPN 100	Solar Access Permit	\$ 1,068.00		
CDPN 101	Solar Shade Exemption	\$ 2,083.00		
CDPN 102	Solar Variance	\$ 1,274.00		
CDPN 103	Special operating permit	\$ 2,991.00		
CDPN 104	Subdivision Name Change	\$ 1,274.00		
CDPN 105	Subdivision (cemetery)	\$ 3,242.00		
CDPN 106	Subdivision Replat	\$ 3,356.00	plus \$46 per lot	
CDPN 107	Subdivision (Tentative Plat)	\$ 7,493.00	plus \$54 per lot	
	Temporary Use:			
CDPN 108	All other	\$ 1,274.00		
CDPN 109	Land Use Permit	\$ 1,274.00		
CDPN 110	Manufactured Home Storage	\$ 463.00		
CDPN 111	Medical Hardship Temporary Residence For Medical Condition	\$ 730.00		
	Medical Hardship EFU or Forest Temporary Residence for Medical Condition/Hardship Dwelling			
CDPN 112	EFU or Forest Zone	\$ 1,155.00		
CDPN 113	RV as Temporary Residence	\$ 463.00		CDD 18.116.095
CDPN 114	RV as Temporary Residence Renewal	\$ 147.00		CDD 18.116.095
CDPN 115	Variance	\$ 3,580.00		
CDPN 116	Variance Type II (variance from less than 25% of the standards in urban area/less than 10% of standards in the county)	\$ 2,081.00		
CDPN 117	Zone Change	\$ 9,692.00	plus ACS (notice)	
	Note: Where ACS is noted, applicant may be required to pay an advance deposit reflecting the estimated cost of service.			
CDPN 118	Oregon Liquor and Cannabis Commission License - Original Application	\$ 100.00		
CDPN 119	Oregon Liquor and Cannabis Commission License - Change in Ownership, Location or Privilege	\$ 75.00		
CDPN 120	Oregon Liquor and Cannabis Commission License - Renewal or Temporary Application	\$ 35.00		



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Consideration of Approval for Road Department Submittal of ODOT Local Bridge Program Applications

RECOMMENDED MOTION:

Move approval of Road Department submittal of ODOT Local Bridge Program applications.

BACKGROUND AND POLICY IMPLICATIONS:

The Oregon Department of Transportation (ODOT) is currently soliciting for applications by local agencies for bridge project funding under the Local Bridge Program (LBP) for the 2027-2030 ODOT Statewide Transportation Improvement Plan (STIP) cycle. The call for projects issued by ODOT includes a list of the local agency bridges eligible for the program based on current bridge condition ratings. No Deschutes County-owned bridges are eligible for replacement funding at this time, but several Deschutes County-owned bridges were identified as being eligible for rehabilitation funding.

Road Department staff have prioritized the eligible County-owned bridges and are preparing LBP applications for the following bridge rehabilitation projects:

1. Spring River Road (Harpers) Bridge – Work would include concrete repair of superstructure elements, strengthening of steel foundation elements, bridge rail repairs, and approach rail replacement. Estimated total cost = \$1,131,000
2. S Century Road (BNSF Railroad) Bridge – Work would include concrete repair of superstructure and foundation elements, bridge rail replacement, deck joint replacement, deck sealing, and other work. Estimated total cost = \$2,533,000
3. Sisemore Road (Tumalo Reservoir Feed Canal) Bridge – Work would include deck and superstructure replacement and improvements to existing foundation elements. Estimated total cost = \$818,000
4. Cottonwood Road ((BNSF Railroad) Bridge – Work would include concrete repair of superstructure and foundation elements, bridge rail repairs, deck joint replacement, deck sealing, and other work. Estimated total cost = \$2,400,000

LBP applications for the 2027-2030 ODOT STIP cycle will be selected for scoping by the Local Agency Bridge Selection Committee (LABSC), which is composed of local agency

public works staff from around the state, in early 2024. Funding selections will be made in early 2025.

Applications are due on Monday, October 16, 2023.

BUDGET IMPACTS:

None at this time. Projects selected for funding will require a 10.27 percent local match. If any of the County's applications are successful, the Road Department will propose budgeting for the required matching funds beginning in the Department's Fiscal Year 2026 Road Capital Improvement Plan (CIP) fund. Projects selected for funding will be subject to an ODOT/County intergovernmental agreement. The Spring River Road (Harpers) Bridge and S Century Drive (BNSF Railroad) Bridge projects are identified in the 5-Year Road CIP for Fiscal Years 2024 through 2028 as fully County-funded projects.

ATTENDANCE:

Cody Smith, County Engineer/Assistant Director



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Request for approval of two grant proposals for the Central Oregon Landscape Resiliency Project and a Community Wildfire Defense Grant

RECOMMENDED MOTION:

Move approval of the submittal of proposals for a Central Oregon Landscape Resiliency Project Grant and a Community Wildfire Defense Grant.

BACKGROUND AND POLICY IMPLICATIONS:

Grant for the Central Oregon Landscape Resiliency Project

The Landscape Resiliency grant program is funded from Senate Bill 762 and administered by the Oregon Department of Forestry. In 2022, the Central Oregon Landscape Resiliency Project (COLRP) was awarded \$5.8 million which was distributed to 16 partner organizations throughout Central Oregon. That agreement ended in June 2023. A new proposal for the second round of LRP funding closed on September 1, 2023. COLRP requested \$7.2 million for distribution to 19 partners involving a total of 20,888 acres.

The Deschutes County Natural Resource Department is requesting \$1.25 million in funding for two private landowners, one community (Squaw Creek Estates) and 1,639 acres of land owned by Deschutes County for a total of 2,274 acres of treatment. Although the COLRP funding request would be the lion’s share of the available funding, we want to show that the Central Oregon Landscape Resiliency Project has the capacity to get the work done and our request is scalable based on funding and priorities.

The Central Oregon Shared Stewardship Alliance has applied for this grant on behalf on the 19 partners.

Community Wildfire Defense Grant

Roads maintained by Deschutes County are used for hundreds of thousands of vehicle trips throughout the year. During wildfire season, County-owned and -maintained roads serve as critical evacuation and transportation routes. Reducing fire risk along these routes will greatly improve evacuation procedures and first responder needs. Using the "Wildfire Crisis Strategy," the USDA Forest Service has identified Central Oregon as one of ten landscapes in the West to invest funding with partner organizations to reduce wildfire risk. Underserved communities such as La Pine have been identified as areas of high fire risk. The Deschutes County Road Department in conjunction with the Natural Resource Department is requesting \$348,000 to increase the pace and scale of vegetation management on rights of way. Funding would be used for contractual services and a new masticator head for brush removal.

The Community Wildfire Defense grant will be applied for by the Oregon Department of Forestry on behalf of various Central Oregon counties, including Deschutes County.

BUDGET IMPACTS:

These proposals have not been budgeted because they have not been awarded. If awarded, they will result in revenue to the Road and Natural Resource Departments.

For the Central Oregon Landscape Resiliency grant, the required 25% match would come from US Forest Service Wildfire Crisis Strategy funding and, if needed, up to \$960,000 from the Bureau of Land Management.

For the Community Wildfire Defense grant, the Road Department would provide in-kind matching funds of \$100,000 per year over five years by conducting brush mowing and herbicide treatments in conjunction with fuel removal treatments along roads identified by the project.

ATTENDANCE:

Chris Doty

Kevin Moriarty

2023 LRP - All Lands Central Oregon (SCALABLE Proposal)

Community Name(s): Jefferson County, Warm Springs, Greater La Pine, Crescent/Gilchrist, Greater Sisters, Greater Bend, Sunriver

Budget and Match Narrative

The full funding request includes 18 partners working across 3 counties, treating 20,888 acres on a footprint of 8,016 acres. Our total request is \$7,428,541.

This work is scalable, and we present 3 options for selecting priority work:

- Option 1: Bundles 9 partners with projects in underserved areas, treating 11,968 acres on a 4,259 acre footprint. Cost: \$4,272,948
- Option 2: Bundles 13 partners with self-identified high-priority projects, treating 7,096 acres on a 2,581 acre footprint. Cost: \$3,302,500
- Option 3: Bundles 3 new partners treating 3,033 acres on a 444 acre footprint. Cost: \$1,361,115

Projects could also be prioritized by geography: Greater Bend, Greater Sisters, South Deschutes County, Jefferson County/Warm Springs

The proposed 20,888 treatment acres is matched by 25,698 treatment acres on BLM and USFS, with more than 70% of matched treatment acres located in the wildland urban interface (WUI). Partners include State, County, Municipal, Tribal, non-profit, and private landowners.

Deschutes SWCD, Upper Deschutes Watershed Council, Walker Range, request personnel funds to oversee projects in cooperation with private landowners. Jefferson County will use a portion of their budget to train volunteers and students to complete on-the-ground fuels reduction work. The High Desert Museum requests funds to hire a forest manager to plan and continue fuels reduction work around museum buildings and on adjacent private property previously supported by the ODF Small Forestland Grant Program. Our full budget request also includes small equipment purchases such as chainsaws to implement on-the-ground work. Supplies include native seed for reseeding following invasive species and fuels reduction treatments as well as outreach materials to help recruit landowners for current and future fuels reduction work. COFSF will administer contracts, collect and validate implementation data, and collect spatial data for partners, streamlining ODF's efforts. COFSF will engage in targeted outreach to underserved communities, to identify and reduce their barriers to participation. Real-time problem solving is supported through peer-to-peer communication via the network and 2 field trips.

A detailed budget spreadsheet displaying \$ budgeted by category (requested and match) and a breakdown by each project partner was emailed to the State Grant Initiatives Coordinator

The 1.65 million acre project area includes an extensive WUI surrounding the cities of Bend, Sisters, La Pine, unincorporated areas of Crescent, Gilchrist, Cloverdale, and Sunriver. The project area provides countless benefits to area residents, including clean air, water, recreational opportunities, and a robust economy based on forest products, agriculture, and

tourism. Numerous high-use recreation areas are located across the landscape and the area is bisected by three primary state highways (97, 58, 20), and two scenic byways, Hwy 242 and the Cascade Lakes Scenic Byway. The project area has a history of large wildfires that prompt multiple evacuations, costly suppression, cause health complications due to heavy smoke, and have resulted in structural losses. The project area averages 179 fires a year, 71% human-caused, and 18 large fires in the past 10 years, emphasizing the risk to people and property from high fire hazard. Current conditions of the area's ponderosa, lodgepole and juniper forests present a high fire risk for communities. Forest health issues, a lack of fire resilience, and a growing population present significant challenges for agencies responsible for wildfire suppression and evacuation. The landscape contains Oregon's #1 and #6 fireshed for cross-boundary community exposure to wildfire. Many communities within the top 50 at risk for housing exposure (Quantitative Wildfire Risk Assessment) are within the project area: Bend #4, Sisters #20, Tumalo #21, La Pine #34. The project area is in a crucial time for partnering to scale up resilience by expanding treated landscapes.

Project Area Description and Challenges

The project area intersects with 8 current CWPPs all with goals of resilient landscapes, fire adapted communities and safe & effective wildfire response. The proposal aligns with CWPP goals by reducing fuel hazards on public & private lands, reducing structural vulnerability, increasing education & awareness of the threat of wildfire, & improving and protecting evacuation routes. This project is directly tied to reducing fuel hazards on public & private lands with the intent as described in the CWPPs of reducing overall fire behavior so suppression resources are successful while providing increased safety for first responders & residents. Through matching efforts with Firewise sites, structural vulnerability is also being addressed. Most areas within the proposed work areas are rated as very high or high risk of impacts to people and property. Success will be shared with the public to tell the story of the region's current conditions & the cross-boundary work being done to support wildfire resiliency. Outreach materials & events match CWPP goals to increase education & awareness.

FAP goals accomplished: 1) leveraging partnerships to build landscape scale, cross-boundary projects, to conserve forest landscapes (shared stewardship); 2) restore disturbance resilient forests, manage ecosystem health toward fire adapted landscapes, & protect life & property while increasing pace, scale & quality of management on federal lands to protect forests from harm; 3) reduce negative post disturbance impact & reduce impacts of smoke on air quality through forest management. Proposed treatments address FAP priority issues of Climate Change, DEI, Forest Health, Water Quality & Quantity.

Proposed Activities

The goal of this work is to reduce wildfire risk, lower the expected severity of fire behavior, enhance public safety, and increase communities' fire resilience. The project will treat an estimated 46,586 acres with small tree thinning, pruning, brush mowing, mastication and prescribed burning. Fuel reduction projects are located near homes and critical infrastructure that is in and adjacent to communities.

The majority of the project's boundary falls within the Central Oregon Focal Landscape as identified in the USFS Wildfire Crisis Strategy, which calls for treating 20 million acres of USFS land and an additional 30 million acres of private land over the next 10 years. The projects also fall in Class 1 on the eNVC risk map, with small portions in Class 2. While the 1.65 million acre geography is quite large, the proposed work is part of a larger landscape resiliency and fuels reduction effort that has been in process over 17+ years, and includes Project Wildfire, Deschutes Collaborative Forest Project, two Joint Chief's projects, and over 62 official Firewise USA™ sites across the region. It also includes over \$170,000 of defensible space fuel reduction projects across 38 Firewise USA™ communities since 2022.

Work on non-federal lands can be broken down into three general focal areas: Greater Sisters area, Jefferson Co. & Warm Springs to the north, and south Deschutes County. A mix of tribal, local government, non-profit, industrial and non-industrial private, and HOA landowners will engage in thinning and fuel reduction on more than 8000 acres.

This work will deepen and expand the COSSA network of relationships, increasing central Oregon's capacity to coordinate and implement cross-boundary fuels reduction work. As COSSA continues to stitch together the patchwork of fuels reduction projects across Central Oregon, funding will increase the pace and scale of current Firewise USA™ defensible space projects and future Firewise USA™ sites.

Inclusion of underserved communities in fuels reduction projects will be increased in this project. In addition to working with Jefferson County and the Confederated Tribes of Warm Springs, COFSF and OSU Extension will conduct targeted outreach to underserved communities, leveraging demonstration projects slated for implementation in Jefferson & Deschutes Counties and sharing success stories to increase awareness and support of cross-boundary landscape work. These efforts may include pub talks in favorite watering holes near at-risk communities. Where possible, LRP participants will serve as the program voice, putting a local face on the state's program. Efforts will also include field trips, videos, and print collateral designed to increase awareness, connect people to peers who have completed work on the ground, and develop a list of those interested in fuels reduction projects in underserved communities.

Building on lessons learned during LRP1, partners will learn from each other via quarterly peer-to-peer learning sessions, enhancing real-time problem solving. COFSF will update and enhance a list of qualified contractors, increasing its accuracy and utility to partners. The ability to identify and secure a contractor capable of completing the work-at-hand was a significant barrier to efficient implementation. An accurate, sortable, and detailed list will save time and money.

Project work will be administered under the umbrella of COFSF, which will draft and oversee agreements, collect and validate monitoring data, manage invoicing, and gather and update spatial data to meet reporting needs. This streamlines ODF's workload and provides needed services to partners in support of accurate reporting and project completion.

Cross-Boundary Opportunities

The proposed project boundary lies within the USFS Wildfire Crisis Strategy Central Oregon Focal Landscape, one of ten high-risk landscapes in the U.S. chosen for immediate investment to reduce overall fire risk. The project overlays with 8 CWPP's, and the Deschutes Collaborative CFLRP boundary to weave together current and ongoing efforts to improve landscape resiliency and reduce the risk of wildfire. This project adds the element of Shared Stewardship into these other existing initiatives which serves to broaden project partners to the fullest extent to insure an all lands cross boundary approach.

All project partners will either work on their own lands or will work with multiple private landowners to accomplish the overall objective of reduction of wildfire risk on public and private lands, in and adjacent to communities, near homes and critical infrastructure while restoring landscape resiliency. Additionally, over 50% of the proposed projects are immediately adjacent to public land, and 42% are privately owned, non-industrial lands. COSSA has also built new partnerships in Jefferson County and Warm Springs in order to protect cultural resources, critical infrastructure and smaller lot owners who are in high wildfire risk areas and also represent underserved populations.

To bring all these organizations together under an overall Shared Stewardship approach, COFSF will convene partners for an effort focused on supportive grant administration and coordination, while providing as-needed local support for state-level effectiveness monitoring, and creating stories of success highlighting cross boundary collaboration coming out of this proposed project.

Project Collaboration

Jefferson Co. Fire & EMS will treat heavy fuel loads on private, school district, & public land, to include two demonstration sites

Confederated Tribes of Warm Springs will reduce fire risk adjacent to the museum, which is of cultural importance to the tribe

BPRD is plans a 200 ft fuel break, weed control, native reseeding, and fuels reduction work on municipal land

Deschutes Land Trust is working on 2 properties in Sisters treating noxious weeds and conducting pile burning, and 1 thinning project in La Pine

Deschutes SWCD is developing a Forest Health and Wildfire Risk Reduction Program & will identify 10, 30-acre projects to implement forest health projects

UDWC will utilize trees removed from thinning projects for a stream habitat improvement project in cooperation with OWEB

Deschutes County will be working with private landowners in Sisters and La Pine, as well as conducting a prescribed burn

High Desert Museum will hire a forest manager to oversee 165 acres of fuels reduction on museum property and the adjacent private land

Shanda Assets will create a continuous line of fuels reduction work with the Melvin Butte USFS and SAFR projects

Walker Range & Shanda will reduce fuels in Mahn Acres Subdivision

Sunriver Owners will thin, chip, and brush common areas
 Peaks 360 will create a fuel break to help protect areas near Lower Bridge
 Caldera Springs will create fuel breaks to help protect residential infrastructure
 OPRD will reduce fire risk in La Pine State Park
 OSU Extension will assist with sharing success stories through outreach materials/events
 COFSF will hold and manage agreements with project partners to streamline administration through the life of the grant

Project Timeline

Fall 2023-Sp 2024:

COFSF finalizes agreement with ODF and agreements with partners, final project layout, bidding and contract execution. Contractors and landowners begin on the ground work.

Admin/planning: COFSF draws up agreements for each project partner & develops invoicing processes, works with partners to develop protocols for collecting spatial data, required reports, & demographic data. Hold quarterly partner meetings.

Contractor List: Use partner meetings to refine & update content of list.

Outreach: Schedule field trips, develop outreach plan & timeline, develop outreach materials, update project webpage.

Summer- Fall 24:

Continue fuel reduction work, some possible delays for fire season restrictions.

Admin: Execute work as agreed to and described under winter/spring, partner meetings, support partners' mid-term reporting and data validation, hold mid-project field trip.

Contractor List: Expand content, format & distribute.

Outreach (continues through Spring 2025): Field trip, develop & distribute print collateral, host pub talk, update project webpage.

Winter 2024/5:

Mid-project check in COFSF and partners, make adjustments or amendments as needed, continue on the ground work.

Admin: update implementation timelines, continue partner meetings, complete interim reports.

Spring 25:

Finalize work, ensure completed work aligns with scope of work.

Admin: Final partner field trip, prepare for final reporting and wrap-up.

June 15 25:

COFSF support partners to complete end-of project reporting and close out agreements, submit final report to ODF

Admin: Complete contractor directory, collect final reports, invoices, & spatial data from partners, submit final report.

Diversity, Equity, and Inclusion

This project expands the LRP program's reach into underserved communities in Jefferson County, Confederated Tribes of Warm Springs, and the La Pine area, which have high rates of poverty (15.9%, 27.8%, and 9.7% respectively in 2022). Underserved and poor communities traditionally have less access to the resources needed to create defensible space, and are thus more vulnerable to loss of property from wildfire & less able to recover afterwards.

In addition to including multiple underserved communities in our proposal, this project seeks to overcome the barriers these communities have to participating in the first place. Lack of awareness, inability to provide in-kind or cash match, challenges completing paperwork & reporting, cultural barriers, and a lack of trust for the government are just a few reasons for lack of participation.

COFSF and OSU Extension will partner to engage in targeted outreach, to increase our ability to serve these communities. Because people respond best to trusted peers, this project will engage community members who have completed fuels reduction work to serve as a key contact and bridge to the program. We will host field trips, pub talks, and engage in targeted outreach to connect underserved communities to others doing fuels reduction work, build relationships and add them to our network so we can enroll them in future programs.

Additionally, COFSF will collect demographic data on contractors and program participants. This information will paint a picture of the degree to which the program currently serves communities of color and poverty. We also plan to work in partnership with Heart of Oregon to broaden the population that is reached.

Deschutes County Right of Way Fuel Reduction Project – Community Wildfire Defense Grant

Proposal –Key Points

- Deschutes County roads service hundreds of thousands of county residents and non-residents throughout the year. During wildfire season, County owned and maintained roads serve as evacuation and transportation routes.
- Reducing fire risk along these routes will greatly improve evacuation procedures and first responder needs.
- Using the “Wildfire Crisis Strategy”, the USDA Forest Service has identified Central Oregon as one of 10 landscapes in the West to invest funding with partner organizations to reduce wildfire risk.
- Underserved communities such as La Pine have been identified as areas of high fire risk.

Treatment: Tree removal and limbing of remaining trees for 31 miles of right of way along Deschutes County maintained roads. The project would focus in the La Pine area which has been identifies as an underserved community.

- La Pine-30.82 miles (La Pine CWPP)

Requests for Funding:

1.) Tree Removal

Funding Category-Contractor Services

Scope of work: Remove suppressed and understory trees 15 ft. from the fog line on Deschutes County maintained roads. Trees to be removed will be 10 inch DBH or less. Tree species and location will determine maximum DBH trees to be removed. Maximum DBH to be removed would vary between 6-10 inches depending on treatment. Limb remaining trees up 8 feet high to reduce potential wildfire ignition. Stumps to be cut to 4 inches high or less. Maps are provided for La Pine.

Cost: Cost in this area is higher than average because of the high tree density. We estimate the cost to be \$10,000 per mile. One mile of treatment includes both sides of the road.

$30.82 \times 10,000 = \$308,000$

2.) Masticator head for Skid Steer Cat 299

Funding Category- Equipment

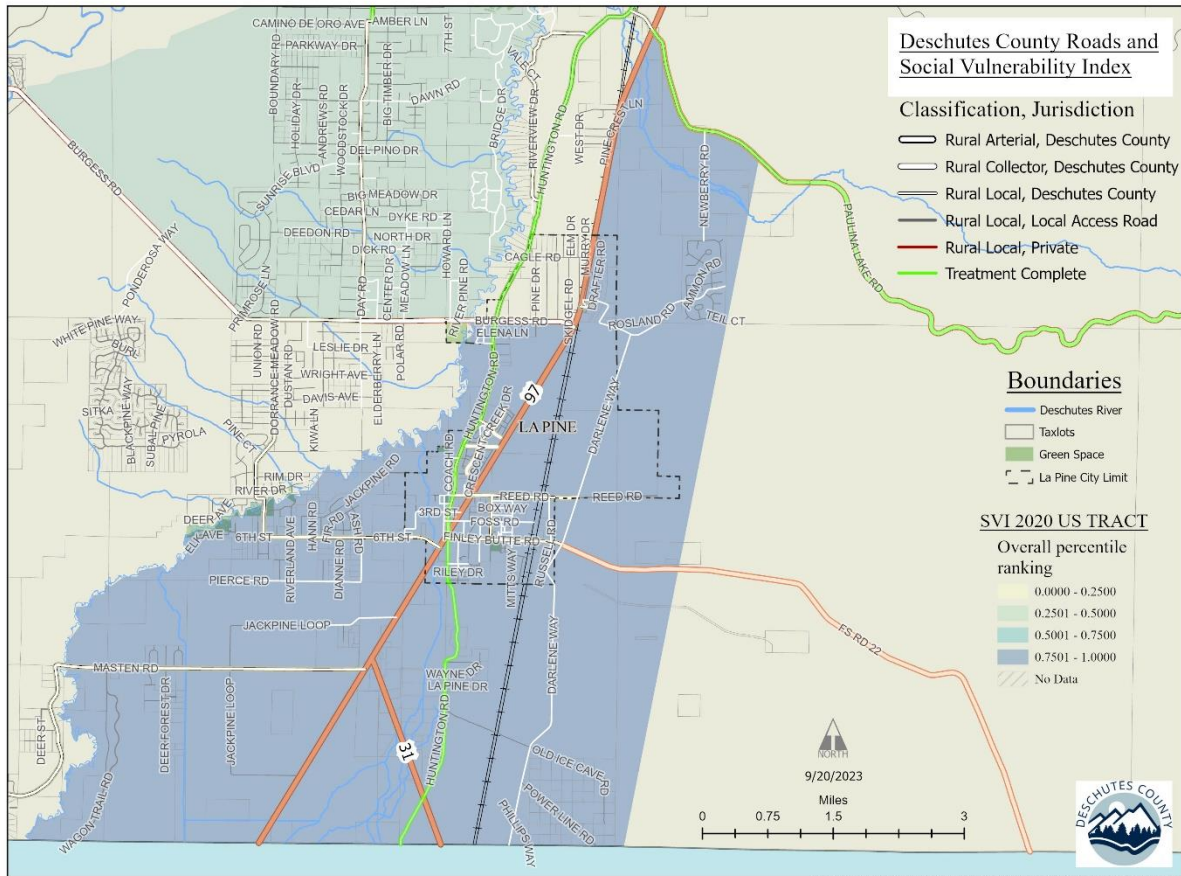
The Road department would like to purchase a masticator head for their Skid Steer to improve mowing operations. Blade mower are sometime inadequate for mowing heavy brush with a large wood component. Masticator heads are more efficient for woody vegetation.

Cost=\$40,000

Match

The Deschutes County Road Department would conduct brush mowing and herbicide treatments in conjunction with fuel removal treatments along the Project identified roads. The Road Department estimates spending \$100,000 per year on brush removal and herbicide treatments for the identified roads.

\$100,000 per year x 5 years= \$500,000



Path: Z:\ArcGIS_Projects\Vegetation\GrantForMowing_2023\DRW_Zono4Maps_2023.aprx



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Consideration to hear an appeal of the Hearings Officer’s decision approving land use applications for the Redmond Water Pollution Control Facility Effluent and Biosolids Disposal Complex

RECOMMENDED MOTION:

Consider whether to hear an appeal of a Hearings Officer’s decision on a Conditional Use Permit, Site Plan Review, Lot of Record, and Administrative Determination approving a series of land use applications to facilitate the establishment of the Redmond Water Pollution Control Facility Effluent and Biosolids Disposal Complex (“Redmond Wetlands Complex”).

BACKGROUND AND POLICY IMPLICATIONS:

Staff referred the applications to a public hearing, which was held on June 20, 2023 before a Hearings Officer. On August 8, 2023, the Hearings Officer issued a decision which approved the applications.

Ms. Braedi Kolberg (“Appellant”) filed a timely appeal of the Hearings Officer’s decision on August 21, 2023 (reference appeal No. 247-23-000632-A).

BUDGET IMPACTS:

None

ATTENDANCE:

Haleigh King, Associate Planner



MEMORANDUM

TO: Board of County Commissioners

FROM: Haleigh King, Associate Planner

DATE: September 20, 2023

RE: Consideration to Hear on Appeal – Deschutes County Land Use File Nos. 247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD, 634-RC; Redmond Wetlands and Sanitation Complex

On September 27, 2023, the Board of County Commissioners (Board) will consider whether to hear an appeal of a Hearings Officer’s decision (ref. File Nos. 247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD, 634-RC) approving a series of land use applications to facilitate the establishment of the Redmond Water Pollution Control Facility Effluent and Biosolids Disposal Complex (“Redmond Wetlands Complex”).

I. BACKGROUND AND PROCEDURAL HISTORY

On August 8, 2023, the Hearings Officer issued a tentative approval for the subject applications. Braedi Kolberg, the appellant, filed a timely appeal of the Hearings Officer’s approval on August 21, 2023. The applicant, City of Redmond, also filed a Reconsideration on August 21, 2023. Pursuant to Deschutes County Code Chapter 22.30, the Reconsideration process must occur first and the appeal is stayed pending outcome of the Reconsideration.

The Hearing’s Officer found the Reconsideration application had merit and issued a modified Findings and Decision on September 13, 2023. The modified decision eliminates Condition Q from the original Hearing Officer’s decision. A 12-day appeal period follows ending on September 23, 2023. As of the date of this memo, an appeal of the Reconsideration decision has not been received. The appeal originally filed by Ms. Kolberg remains pending and is before the Board for its consideration of whether to hear that appeal.

II. PROPOSAL

The subject applications will allow for the establishment of an Effluent and Biosolids Disposal Complex (“utility facility necessary for public service”) to serve land inside the Redmond urban growth boundary to accommodate wastewater and sewage treatment, storage, and disposal for its growing population. State statute also allows the system to serve land inside a nearby unincorporated community. The scope also includes the replacement of an existing 24-inch diameter interceptor pipeline with a 48-inch diameter pipeline that will be below grade and within established utility easements and/or public rights-of-way on an approximately two (2) mile route to the City of Redmond to connect to existing facilities treatment facility at the north end of Dry Canyon.

III. KOLBERG APPEAL

Ms. Kolberg, represented by Steven G. Liday, requests the Board review the Hearing Officer’s decision on appeal to address the following summarized issues:

- Size and impact of development
- Important policy concerns including preemption of local code, preferential treatment for projects by municipal bodies, applicable standards for protection of county farmland.
- Potential reversal by Oregon Land Use Board of Appeals (LUBA).

The appellant did not specify whether *de novo*, limited *de novo*, or an on-the-record appeal was sought. The appellant requests the Board waive the transcript requirements outlined in DCC 22.32.024(D).

V. STAFF RECOMMENDATION

Staff notes the Board has contributed \$1 million dollars in American Rescue Plan Act (ARPA) funds to the sanitary complex expansion. Therefore, based on these financial contributions, the Board cannot sit as a neutral decision-making body on the appeal and should decline review.

Furthermore, staff notes the Hearings Officer’s Decision could be supported, as the record exists today, on appeal to LUBA. Both parties were well represented by land use consultants and/or attorneys. Lastly, the issues are a matter of statewide importance since they are regulated under State law; the Board may not be granted deference if appealed to LUBA.

For these reasons, Staff, in coordination with Legal Counsel, recommends the Board decline to hear the appeal.

IV. BOARD OPTIONS

There is one version of Order No. 2023-038 attached to this memo; to decline to hear the appeal. In determining whether to hear the appeal, the Board may consider only:

- 1. The record developed before the Hearings Officer;
- 2. The notices of appeal; and
- 3. Recommendation of staff¹

If the Board decides that the Hearings Officer’s Decision shall be the final decision of the County, then the Board shall not hear the appeal and the party appealing may continue the appeal as provided by law. The decision on the land use application and associated appeals becomes final upon the mailing of the Board’s order to decline review.

VI. 150-DAY LAND USE CLOCK

The 150th day on which the County must take final action on this application is November 11, 2023.

VII. RECORD

The record for File Nos. 247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD, 23-634-RC and the Notices of Appeal for Appeal No. 247-23-000632-A are as presented at the following Deschutes County Community Development Department website:

www.deschutes.org/redmondwetlandscomplex

Attachments:

- 1. DRAFT Board Order 2023-038 Declining Review of the Hearings Officer’s Decision
- 2. Notice of Appeal (Appeal No. 247-23-000632-A)
- 3. Hearing’s Officer Decision (File No. 247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD)
- 4. Hearing’s Officer Reconsideration Decision (File No. 247-23-000634-RC)

¹ Deschutes County Code 22.32.035(D)

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Denying Review of Hearings *
Officer’s Decision in File Nos. 247-23- * ORDER NO. 2023-038
000149-CU, 150-SP, 151-LR, 152-AD, 634-RC

WHEREAS, on August 8, 2023, the Hearings Officer approved File Nos. 247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD; and

WHEREAS, on August 21, 2023, Braedi Kolberg, the Appellant, appealed (Appeal No. 247-23-000632-A) the Deschutes County Hearings Officer’s Decision on File Nos. 247-23-000149-CU, 150-SP, 151-LR, 152-AD; and

WHEREAS, on August 21, 2023, the City of Redmond filed a Reconsideration (File No. 247-23-000634-RC) application of the Deschutes County Hearings Officer’s Decision on File Nos. 247-23-000149-CU, 150-SP, 151-LR, 152-AD; and

WHEREAS, on September 13, 2023, the Hearings Officer issued a Reconsideration decision on File No. 247-23-000634-RC; and

WHEREAS, Sections 22.32.027 and 22.32.035 of the Deschutes County Code (“DCC”) allow the Deschutes County Board of County Commissioners (“Board”) discretion on whether to hear appeals of Hearings Officers’ decisions; and

WHEREAS, the Board has given due consideration as to whether to review this application on appeal; now, therefore,

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

Section 1. That it will not hear on appeal Appeal No. 247-23-000632-A pursuant to Title 22 of the DCC and/or other applicable provisions of the County land use ordinances.

Section 2. Pursuant to DCC 22.32.015, the County shall refund any portion of the appeal fee not yet spent processing the subject application. If the matter is further appealed to the Land Use Board of Appeals and the County is required to prepare a transcript of the hearing before the

Hearings Officer, the refund shall be further reduced by an amount equal to the cost in the County to prepare such a transcript.

Section 3. Pursuant to DCC 22.32.035(D), the only documents placed before and considered by the Board are the notice of appeal, recommendations of staff, and the record developed before the lower hearing body for File Nos. 247-23-000149-CU, 150-SP, 151-LR, 152-AD, 634-RC, 632-A as presented at the following website:

www.deschutes.org/redmondwetlandscomplex

DATED this ____ day of _____, 2023.

BOARD OF COUNTY COMMISSIONERS

ANTHONY DEBONE, Chair

PATTI ADAIR, Vice Chair

ATTEST:

Recording Secretary

PHIL CHANG, Commissioner



APPEAL APPLICATION – BOARD OF COUNTY COMMISSIONERS

FEE: \$5,482.60

EVERY NOTICE OF APPEAL SHALL INCLUDE:

1. A statement describing the specific reasons for the appeal.
2. If the Board of County Commissioners is the Hearings Body, a request for review by the Board stating the reasons the Board should review the lower decision.
3. If the Board of County Commissioners is the Hearings Body and *de novo* review is desired, a request for *de novo* review by the Board, stating the reasons the Board should provide the *de novo* review as provided in Section 22.32.027 of Title 22.
4. If color exhibits are submitted, black and white copies with captions or shading delineating the color areas shall also be provided.

It is the responsibility of the appellant to complete a Notice of Appeal as set forth in Chapter 22.32 of the County Code. The Notice of Appeal on the reverse side of this form must include the items listed above. Failure to complete all of the above may render an appeal invalid. Any additional comments should be included on the Notice of Appeal.

Staff cannot advise a potential appellant as to whether the appellant is eligible to file an appeal (DCC Section 22.32.010) or whether an appeal is valid. Appellants should seek their own legal advice concerning those issues.

Appellant’s Name (print): Steven Liday on behalf of Doug and Braedi Kolberg Phone: (503) 205-2362

Mailing Address: 111 SW 5th Avenue, Suite 3400 City/State/Zip: Portland, OR 97204

Email Address: steven.liday@millernash.com

Land Use Application Being Appealed: 23-152-AD

Property Description: Township 14S Range 13E Section 30 Tax Lot 101; others listed in appeal statement

Appellant’s Signature: Date: August 18, 2023

By signing this application and paying the appeal deposit, the appellant understands and agrees that Deschutes County is collecting a deposit for hearing services, including “whether to hear” proceedings. The appellant will be responsible for the actual costs of these services. The amount of any refund or additional payment will depend upon the actual costs incurred by the county in reviewing the appeal.

Except as provided in section 22.32.024, appellant shall provide a complete transcript of any hearing appealed, from recordings provided by the Planning Division upon request (there is a \$5.00 fee for each recording copy). Appellant shall submit the transcript to the planning division no later than the close of

the day five (5) days prior to the date set for the *de novo* hearing or, for on-the-record appeals, the date set for receipt of written records.

NOTICE OF APPEAL

See Appeal Statement below.

Pursuant to DCC 22.32.024(D), appellants request that the County waive the requirement that they provide a transcript for the June 20, 2023, hearing on the application.

Request for Review by Board of County Commissioners

Appeal of hearings officer's approval of
Application for Major Administrative Determination,
File No. 23-152-AD
5801 NW Way, Redmond, Oregon 97756
Tax Lots: 1413300000101, 1413000002604, 1413290000201

I. Overview of Application and Decision

The City of Redmond (the "City") has decided to close its wastewater treatment facilities within its city limits and pump the raw sewage produced by its citizens to a new complex located outside its urban growth boundary (UGB) on exclusive farm use (EFU) land, which will also require the expansion of a conveyance pipe between the city and EFU property. The City proposes to relocate all of its wastewater division operations to this EFU site, including administrative offices, vehicle/equipment parking, and maintenance shops, which it claims are utility facilities that can be sited on EFU land. The City has also repeatedly stated that it will open this site as a public park.

On February 28, 2023, the City submitted applications for a conditional use permit, site review, lot of record verification, and major administrative determination. Remarkably, the new \$60-million-plus wastewater treatment and operations complex was only addressed in the request for an administrative decision.

On August 8, 2023, all applications were approved in a decision by the Deschutes County Hearings Officer (the "Decision"). This appeal concerns only the approval of the application for an administrative determination for the new wastewater treatment and operations facility at 5801 NW Way, Redmond, Oregon 97756 ("Application").

II. Reasons the Board of County Commissioners Should Review the Decision

There are several reasons for the Board of County Commissioners (the "Board") to review the Decision:

- **Size and impact of development.** The Application proposes a new wastewater treatment system covering more than 1,000 acres, as well as the relocation of all operations of the City's wastewater division to EFU land outside the City's UGB. This development will have a significant impact on the surrounding rural community.

- **Important policy concerns.** The appeal raises several important policy questions that should be answered by the County’s governing body, including:
 - ***Preemption of local code:*** The Decision states that the County’s site plan review code is preempted by ORS 215.283, even though that statute concerns only the *uses* allowed on EFU land, not the *design* of the development. This conclusion turns ORS 215.283 on its head: instead of a list of limited exceptions to the strict protection of farm use land, the statute is converted into a preference for development on EFU land. The County’s governing body should decide if its code is preempted in this manner.
 - ***Preferential treatment for projects by municipal bodies:*** Throughout the Decision, the hearings officer expressly defers to representations by the City, repeatedly stating that it is not the job of a hearings officer to “second guess” the statements of City staff. There is no discussion of the burden of proof that applies to all other applicants. The Board should decide if this preferential treatment for a municipal body is consistent with the County’s code.
 - ***The applicable standards for protection of county farmland:*** The Decision adopts a low standard for siting utility facilities on EFU land, finding that the requirement of infeasibility is satisfied by showing that it is more convenient or efficient to site the facility on EFU land. This application of the standard will encourage additional proposals for utility facilities on farm use land.

- **The Decision will almost certainly be reversed by the Oregon Land Use Board of Appeals (LUBA).** As a result of the inappropriate deference to the City representations, the Decision contains multiple errors that are independent grounds for reversal by LUBA on appeal, including:
 - Most of the components of the proposed wastewater treatment and operations complex cannot be sited on the City’s property under state-law restrictions because their construction on EFU land is not necessary for provision of the services. This fact is unequivocally set out in the City’s own project feasibility report and 2020 wastewater facility plan amendment.
 - The proposed “future disposal wetlands” are not only unnecessary—as clearly stated in the City’s 2020 reports, and thus ineligible for construction on EFU land—but also not a legitimate part of the application at issue.
 - The County’s site plan review code is not preempted by state law, and the proposed utility facilities can be allowed without site plan approval.

- The planned recreational facilities that are clearly shown in the Application site plans should not have been approved without approval of a conditional use permit.

Foregoing local review—thus, sending the appeal directly to LUBA—will harm all parties involved. Not only will the City, County, and appellants be forced to expend significant financial resources on legal fees, but review of the Decision by LUBA will take significantly longer than a decision by the Board. The City has stated that expansion of its wastewater treatment facilities is time sensitive. Correcting the Decision to approve only the necessary lagoons and treatment wetlands would avoid a delay in the City’s expansion of its wastewater treatment capacity.

For all the reasons above, appellants respectfully request that the Board elect to review the Decision.

4870-3576-5625.2

Appeal Statement

Appeal by Doug and Braedi Kolberg
of
Approval of Application for Major Administrative Determination,
File No. 23-152-AD
5801 NW Way, Redmond, Oregon 97756
Tax Lots: 1413300000101, 1413000002604, 1413290000201

I. Introduction

The City of Redmond (the “City”) has decided to close its wastewater treatment facilities within its city limits and pump the raw sewage produced by its citizens to a new complex located outside its urban growth boundary (UGB) on exclusive farm use (EFU) land. The City also proposes to relocate all of its wastewater division operations to this EFU site, including administrative offices, vehicle/equipment parking, and maintenance shops, which it claims are utility facilities that can be sited on EFU land. The City has also repeatedly stated that it will open this site as a public park, and even obtained a \$750,000 grant from the state to do so.

Despite the obvious impacts of this expansive development on nearby residents—including appellants—the City proposed no design features, mitigation measures, or even advance planning to ameliorate the harm to the surrounding community. Moreover, the City claims that Deschutes County (the “County”) has no authority to review the design of this wastewater treatment, operations, and public park complex, even though the County code states that these facilities are subject to site plan review and conditional use approval. The City argues that site plan review is preempted by state law and that it can build the park facilities without conditional use review so long as it seeks that permit before opening the site to the public.

The City is wrong, both in its lack of consideration of surrounding residents and in its arguments concerning the applicable code and state law. As set out below:

- Most of the components of the proposed wastewater treatment and operations complex cannot be sited on the City’s property under state-law restrictions because their construction on EFU land is not necessary for provision of the sewer services. This fact is unequivocally set out in the City’s own project feasibility report and 2020 wastewater facility plan amendment.
- The proposed “future disposal wetlands” are not only unnecessary—as clearly stated in the City’s 2020 reports, and thus ineligible for construction on EFU land—but also not a legitimate part of the application at issue.

- The County’s site plan review code is not preempted by state law and the proposed utility facilities can be allowed without site plan approval.
- The planned recreational facilities—clearly shown in the site plans—should not have been approved without approval of a conditional use permit.

The August 8, 2023, decision approving the proposed wastewater treatment and operations complex (the “Decision”) did not critically examine any of the above issues, but instead repeatedly deferred to the City as though it is the decision-maker for this land use application—finding criteria met because the City had provided some form of explanation, which it found to be not patently unreasonable.

That, however, is not the applicable standard. As set out below, the City does not come close to proving compliance with applicable code criteria and state-law standards. Accordingly, the Decision should be reversed and the City’s application denied.

II. Overview of Project and Application

The City seeks to shut down its wastewater treatment facilities within city limits and relocate all of its wastewater division operations—including treatment facilities, offices/administrative buildings, maintenance buildings, etc.—to the City’s property at 5801 Northwest Way (the “Property”). The City intends to replace its existing mechanical treatment plant with lagoons and wastewater treatment wetlands, and thus refers to the major development as the “Redmond Wetlands Project.”¹

The Property is outside the City’s UGB and is zoned EFU, Terrebonne (EFUTE). Contrary to the repeated claims by the City, the site is not currently used for treatment of wastewater, but for the storage, application, and disposal of already-treated wastewater and biosolids.² The site primarily consists of hay fields used for repurposing of treated water, an irrigation pond, and a few structures for biosolid drying and disposal. Nearby, on land owned by the Bureau of Land Management (BLM), is an infiltration gallery that the City uses to dispose of treated wastewater.

¹ Burden of Proof Statement (“Statement”), submitted with the City’s applications on February 28, 2023, at 2.

² City’s website states that the property is currently “used to repurpose and discharge all of Redmond’s treated wastewater effluent, and biosolids.” <https://www.redmondoregon.gov/government/departments/public-works/wastewater-division>. This matches the description in the City’s wastewater facility plan.



Satellite Image from Deschutes County Property Information (DIAL)

The City outlines the long list of improvements for the Property in its application materials as: “New primary treatment facilities with headworks screening; New aerated lagoon system for secondary treatment; New lined treatment wetlands for effluent polishing; New and expanded unlined wetlands for effluent disposal (on adjacent BLM property; Tax Lot 2600, 14-13-00 and Tax Lot 200, 14-12-00); Maintain existing infiltration gallery; Sloped concrete slab vector dump station; Headworks structure (three-sided structure covering equipment); New operational buildings: Electrical Building, Disinfection Building, Maintenance Building, Division Building.”³

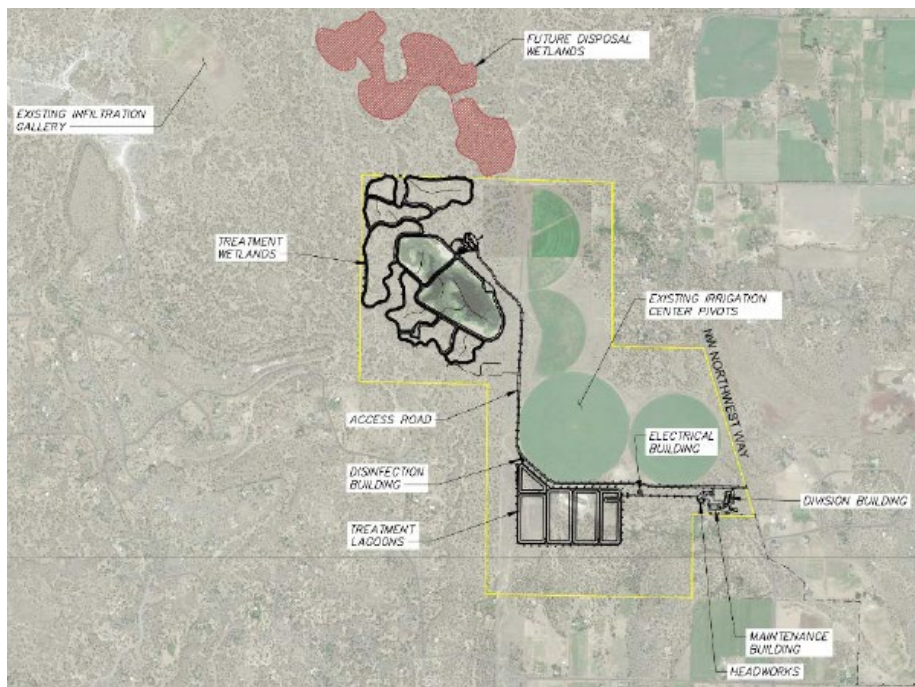


Image from Preliminary Overall Site Plan (Sheet G-G07)

³ Statement at 16.

Because the sewer system requires the City to pump raw sewage instead of treated wastewater to the Property, the City also proposes to replace a 24-inch-diameter conveyance pipe between the existing facilities and the Property with a pipe twice that size.⁴

From the very outset, the City has also stated that the complex is designed and will be used as a public park with walking paths, trails, bird-viewing areas, and other recreational facilities. These facilities are prominently featured on the official Project website, including photo renderings and maps and of the paths and recreation areas.⁵ In fact, the City obtained a \$750,000 grant from the Oregon Parks and Recreation Department (OPRD) to help pay for the construction of these recreational facilities.⁶

On February 28, 2023, the City submitted applications for the new treatment and operations complex and the conveyance pipe replacement. Remarkably, the City submitted applications for a conditional use permit, site review, and lot of record verification for the replacement pipe, but only a request for administrative determination for the new \$60-million-plus wastewater treatment and operations complex.⁷ Despite clear requirements under the County’s zoning code, the City did not submit site plan review or conditional use applications for the complex because it claims that the site plan review code is preempted by state law and that it can obtain approval of the park use after the recreational facilities are built.

This appeal challenges only the approval of the wastewater treatment and operations complex on the Property (the “Project”), including approval of the City’s application for a Major Administrative Determination (File No. 23-152-AD) (the “Application”).⁸

III. Grounds for Reversal of Decision

A. The proposed disposal wetlands, administrative buildings, and treatment headworks cannot be sited on EFU land under state law and local code standards.

Oregon has an “overriding policy of preventing agricultural land from being diverted to nonagricultural use.” *Warburton v. Harney Cty.*, 174 Or App 322, 328-29, 25 P3d 978 (2001). Accordingly, utility facilities are only allowed in EFU zones if they are “necessary for public

⁴ Statement at 15.

⁵ <https://redmondwetlandscomplex.com/expansion-site-design/>.

⁶ Attachment 3.

⁷ Statement at 15-16.

⁸ It does not challenge the approval of the three applications for the conveyance pipe (File Nos. 247-23-000149-CU, 23-150-SP, and 23-151-LR).

service.” ORS 215.283(1)(c). This means that a utility facility addresses an “identified need”⁹ and the facility “must be sited in an exclusive farm use zone in order to provide the service.” ORS 215.275(1).¹⁰

Under Deschutes County Code (DCC) 22.24.050, the City has the burden to prove that all improvements in the Project satisfy these standards. Except for the lagoons and treatment wetlands, the City did not and cannot do so. The City’s own feasibility study and official wastewater facility plan amendment state that the administrative buildings, headworks, and disposal wetlands do not need to be included as part of the Project. As set out below, the City’s post hoc, contradictory justifications for siting these facilities on EFU land are patently untenable.

The hearings officer adopted these justifications, however, stating that it was not the job of a hearings officer to “second guess” the explanations provided by City staff.¹¹ With all due respect, that is exactly the job of the hearings officer,¹² and had he critically evaluated the City’s attempts to undermine its own feasibility report and official wastewater treatment plan, he would have found them lacking. Further, the Decision fails to analyze and make findings on the feasibility of siting the various improvements on non-EFU land, i.e., their current location. Instead, the Decision states “I also will defer to the Cities’ elected officials on this matter and their determination that other sites were infeasible.”¹³ As set out below, the City’s justifications are untenable and the hearings officer erred by adopting them without critical examination.

⁹ “[O]nce the decision is made to construct a particular kind of utility facility to respond to an identified need, that facility may only be located on EFU-zoned lands if there are no feasible sites for the proposed facility that are not zoned EFU.” *Dayton Prairie Water Ass’n v. Yamhill Cty.*, 38 Or LUBA 14, 20 (2000).

¹⁰ Proposed sewer systems in rural land are subject to further state-law restrictions. “Components of a sewer system that serve lands inside an urban growth boundary (UGB) [are allowed to be built outside that boundary if] [s]uch placement is *necessary* to serve [those] lands inside the UGB.” OAR 660-011-0060(3) (emphasis added). Further exceptions are provided for components that are necessary to serve unincorporated communities or Goal 14 exception areas, as well as for components that more efficiently transport wastewater or connect other components. The state-law standards for siting utility facilities and sewer systems within EFU land are set out in sections 18.16.025(E) and 18.16.038 of the Deschutes County Code.

¹¹ Decision at 9, 10, and 34.

¹² *Oregon Shores Conservation Coal. v. City of North Bend*, 2020 WL 4814312, at *15 (general comments by geotechnical engineers were not substantial evidence sufficient to demonstrate compliance with approval standards); *Palmer v. Lane Cty.*, 1995 WL 1773127, at *5 (same); *Phillips v. Lane Cty.*, 62 Or LUBA 92, 114, 2010 WL 3925421, at *14 (comments by county sanitarian were not sufficient to rebut detailed concerns raised by opponents); *Lenox v. Jackson Cty.*, 54 Or LUBA 272, 280, 2007 WL 1661237, at *5 (letter from expert that did not support conclusions was insufficient to demonstrate compliance with standards).

¹³ Decision at 9.

1. Each of the components of the proposed wastewater treatment and operations complex must be evaluated independently for siting on EFU land.

Throughout its application materials, the City treats the entire wastewater treatment and operations complex as an inseparable utility facility, which it argues can be approved for siting on EFU land as a whole.¹⁴ This characterization of the Project and related legal argument are contradicted by the City's own materials and clear state law.

In determining whether utility-related facilities satisfy the above standards for siting utility facilities on EFU land, the local government must evaluate the individual component separately. As LUBA stated in *City of Albany v. Linn Cty.*, 40 Or LUBA 38, 47-48 (2001):

It is worth noting that the 'utility facility' permitted under ORS 215.213(1)(d) and 215.283(1)(d) may have multiple components that require separate analysis and justification. In *Dayton Prairie [Water Ass'n v. Yamhill Cty.]*, 38 Or LUBA 14, *aff'd*, 170 Or App 6, 11 P3d 671 (2000), * * * [w]e held that the county had justified the necessity, i.e., lack of feasible alternatives on non-EFU land, for locating the wells on EFU land, but that the county had not justified the necessity of locating the treatment facility and reservoir on EFU land. * * * In other words, justification for siting one component of a utility facility in an EFU zone does not necessarily justify siting other components in that zone.

The City's own materials unequivocally show that the proposed wastewater treatment and operations complex is composed of distinct and separable improvements. The Project was initiated in 2020 when the City engaged Anderson Perry & Associates, Inc. (APAI), to evaluate options for expanding the City's wastewater treatment capacity. APAI provided its analysis in the 2020 Lagoon and Wetland Treatment and Disposal Feasibility Evaluation (the "Feasibility Report").¹⁵ In this report, APAI studied three feasible options:

- Expanding the existing mechanical treatment plant;
- Constructing new lagoons and treatment wetlands at the Property while continuing to use the headworks and other supporting facilities at the existing site; and

¹⁴ E.g., Statement at 31 ("The proposal is for major structures that are * * * for the transmission and processing of wastewater. All facilities proposed are interconnected components that are designed to serve this end and only this end. All buildings are devoted exclusively to enable the transmission and processing of wastewater. Accordingly, the proposed Redmond Wetlands Complex is a "utility facility" both within the meaning of the statutory term as interpreted by Cox and the County code's definition of the same.")

¹⁵ Lagoon and Wetland Treatment and Disposal Feasibility Evaluation (July 8, 2020); originally attached to Letter from Steven Liday to Haleigh King (June 12, 2023) as Attachment 2. Enclosed with this letter as Attachment 1.

- Constructing new lagoons, treatment wetlands, headworks, offices, and all other facilities at the Property.¹⁶

APAI expounded on its analysis of these options in the 2020 Wastewater Facility Plan Amendment (the “2020 WFP Amendment”)¹⁷ that it prepared for the City later that year. Based on this “extensive alternatives analysis,”¹⁸ APAI finds that constructing only the lagoons and wetlands at the Property, while continuing to use the existing headworks, offices, and other support facilities at the current plant, was the least expensive option, both in initial capital costs and total costs over a 20-year life cycle.¹⁹ Moreover, the estimated capital costs for the proposed Project, i.e., relocating all of the wastewater division’s operations to the Property, has nearly doubled from \$41.6 million in 2020 to \$69.7 million in 2023.²⁰

Thus, not only is it feasible to separate the headworks and other improvements from the lagoons and wetlands, but it is much less expensive to do so.

2. Office space is not a utility facility that can be sited on EFU land—and even if it was, the City has not shown that its administrative buildings must be sited on EFU land.

Despite the clear analysis in the Feasibility Report and 2020 WFP Amendment, the City claims that it must site its administrative building near the treatment wetlands for three reasons: (i) efficiency, (ii) need for monitoring of the treatment facilities, and (iii) wastewater testing logistics. Each fail to rebut the unequivocal findings in the Feasibility Report and wastewater treatment plan.

a. Efficiency.

During the June 20, 2023, hearing and in a letter submitted the same day, City staff argued that the office and administrative buildings proposed in the Project must be sited on EFU land for efficiency purposes. This purported efficiency, however, is irrelevant. Rather, the City must demonstrate that it is “infeasible” to site the proposed facilities in non-EFU land. *Harshman v. Jackson Cty.*, 41 Or LUBA 330, 335 (2002) (holding that “an applicant who wishes to site a utility facility on EFU-zoned land must show that it is infeasible to locate the facility on land that

¹⁶ Feasibility Report at 8.

¹⁷ 2020 Wastewater Facility Plan Amendment for City of Redmond, Oregon (Dec. 17, 2020); originally attached to Letter from Steven Liday to Haleigh King (June 12, 2023) as Attachment 3. Enclosed with this letter as Attachment 2.

¹⁸ 2020 WFP Amendment at 4.

¹⁹ Feasibility Report at 8.

²⁰ City Budget for fiscal year 2022-2023 at 50; available at: <https://www.redmondoregon.gov/home/showpublisheddocument/23849/637986674979200000>.

is not zoned EFU[,] * * * [and] it is quite clear that a finding that the proposed site is the best of the available sites is inadequate.”).

As described, the City’s comprehensive expert analysis concluded that it is not only feasible to provide the wastewater treatment services at issue with only the lagoon and treatment wetlands located at the Property, but that such an arrangement would be less expensive.

b. Facility Monitoring.

The City also claims that it must site its administrative buildings at the Property to monitor the wastewater treatment facilities.²¹ The wastewater division manager argued that “without staff on site to monitor the supervisory control systems and respond with corrective action in real time, operations of the facility would suffer.” *Id.* The City also raised concerns with emergency response times.

There are multiple flaws with these claims. First, these justifications presuppose that the headworks and other primary treatment facilities will be located on the Property, which the Feasibility Report and 2020 WFP Amendment state is not necessary. The City does not claim that passive lagoons and treatment wetlands present a need for “real time” maintenance and responses.

Second, the City only provides generic, high-level representations without detailed explanations or specific examples—which, at a minimum, is necessary to refute two comprehensive, official reports prepared by the City’s own experts.²²

Finally, the general references to emergency responses are unpersuasive, considering that outside normal working hours no one is required to be at the treatment facilities anyway. As explained in APAI’s post-hearing memo, the City’s emergency response plan involves “a variety of alarms *telemetered*, 24-hours/day, to the wastewater treatment plant personnel via a *priority call sequence*.”²³ Further, the City fails to even identify the types of emergencies at issue or the consequences that would occur if a division manager needed to drive 2.5 miles (approximately a four-minute drive²⁴) from the existing facilities to the Property.

²¹ Letter from Ryan Kirchner to Haleigh King (June 20, 2023) at 1.

²² *Oregon Shores Conservation Coal. v. City of North Bend*, 2020 WL 4814312, at *15 (general comments by geotechnical engineers were not substantial evidence sufficient to demonstrate compliance with approval standards); *Palmer v. Lane Cty.*, 1995 WL 1773127, at *5 (same).

²³ Memo from APAI to Ryan Kirchner (June 26, 2023) at 2 (emphasis added).

²⁴ According to [Google Maps](#).

Most importantly, the City never claims that it is not feasible to monitor the new facilities on the Property from the existing administrative offices—only that it would be better to have them together. That is not the applicable standard.

c. Time-Sensitive Wastewater Testing.

The City also claims that it is not possible to maintain its current division offices at the existing site because of the need for “time-sensitive analyses for wastewater testing[,]” specifically, “items like pH and Chlorine testing.”²⁵ The wastewater division manager claimed that this challenge is “insurmountable due to wastewater testing protocols – lab testing must be conducted within 15 minutes of taking the sample in the wastewater facilities...”²⁶

The City fails to explain, however, how it is has managed to overcome this insurmountable challenge of time-sensitive water testing for the last several decades. Under the City’s existing Water Pollution Control Facilities Permit from DEQ, the City is already required to conduct 15-minute testing of pH, chlorine, and coliform for the infiltration basin and irrigation water disposed of at the Property.²⁷

Moreover, this justification asks the County to believe that it is impossible, in 2023, to conduct pH and chlorine testing of water without a laboratory on the same site. That is not the case, as demonstrated by the Environmental Protection Agency (EPA) guide, “Water Sensors Toolbox,” which outlines in detail how remote sensors can be used for “[m]easuring the use and effectiveness of wastewater and drinking water treatment,” including testing for pH and chlorine, among many other pollutants.²⁸

Finally, even if a testing laboratory needed to be located on the Property, that does not explain why all the wastewater division buildings also need to be located on the site.

3. The City did not and cannot show that it is necessary to relocate the primary wastewater treatment facilities to the Property.

As stated above, APAI concluded, in both the Feasibility Report and 2020 WFP Amendment, that it was not only feasible to continue to use the existing headworks and primary treatment facilities at the existing location, but that it would be less expensive than moving them to the

²⁵ Letter from Ryan Kirchner to Haleigh King (June 20, 2023) at 1-2.

²⁶ Letter from Ryan Kirchner to Haleigh King (July 5, 2023) at 2.

²⁷ 2007 Water Pollution Control Facilities Permit at 4-5, attached to APAI June 27, 2023, memo.

²⁸ Available at <https://www.epa.gov/water-research/water-sensors-toolbox>; Although not submitted into the record, government reports and publications are subject to judicial notice. *See, e.g., Oregon Dep’t of Fish and Wildlife v. Lake Cty.*, 2020 WL 2306258, at *3 (LUBA Nos 2019-084/085/093 (Apr. 29, 2020) (taking notice of an Oregon Department of Fish and Wildlife publication on big-game habitat); *Shaff v. City of Medford*, 79 Or LUBA 317, 321 (2019) (taking official notice of a United States Centers for Disease Control publication regarding bicyclist deaths).

Property. In fact, in the City’s 2018 Wastewater Facility Plan update, the engineering firm Stantec found that the headworks are in “good condition” and “expected to meet the hydraulic capacity of the plant through 2045 for both average annual and peak hour flows.”²⁹

Nevertheless, the City claims that it needs to move the headworks facilities to the Property because otherwise dried waste will still need to be trucked off site and the headworks facility will “need to be rebuilt before 20 years.”³⁰ It is unclear how the need to rebuild within 20 years justifies rebuilding right now on EFU land. Regardless, neither the continuation of trucking biosolids or the need to rebuild the headworks in 20 years addresses the feasibility standard that applies.

The only other justification the City could provide is a general claim that it is “industry practice” to site all treatment facilities together. Again, industry practice is not the standard—only feasibility matters. As detailed in the City’s Feasibility Report, it is entirely feasible to pump treated wastewater to wetlands at another site for further polishing. In fact, the Roseburg Urban Sanitary Authority (RUSA) operates its facilities in this manner. The City of Roseburg’s wastewater is first treated at RUSA’s main facility—located within Roseburg city limits—and then pumped to wetlands located on nearby EFU land.³¹

4. The City’s own analysis concludes that the disposal wetlands are unnecessary.

Finally, the City cannot justify the construction of disposal wetlands at or near the Property because they are not needed at all. As background, the Project proposes the construction of treatment wetlands (wetlands where wastewater is actively polished and not allowed to seep into the ground) and the “future” construction of disposal wetlands (wetlands that allow treated wastewater to slowly filter into the ground).

The City’s 2020 WFP Amendment states, however, that the existing infiltration galleries are already sufficient to handle disposal of the expected increase in wastewater volume through at least 2045:

The existing seepage area has four cells with only one or two cells operated at a time. Based on current operation, the seepage area appears to have sufficient capacity to serve the City in the future. The capacity of the existing seepage area

²⁹ Update of 2018 Wastewater Facility Plan at 2.20; letter from Ryan Kirchner to Haleigh King (July 5, 2023), Ex. B.

³⁰ Letter from Ryan Kirchner to Haleigh King (July 5, 2023) at 2-3.

³¹ See RUSA summary of natural treatment facilities; letter from Steven Liday to hearings officer Alan Rappleyea (June 27, 2023), Ex. 1.

is currently adequate to dispose of the design rate of 4.34 MGD, so improvements to the infiltration gallery are not proposed[.]³²

The only justification for construction of the disposal wetlands provided in the WFP Amendment is to create a “natural wildlife and park area,” stating:

Based on current operation, the seepage area appears to have sufficient capacity to serve the City in the future. For this reason, the disposal wetlands are not necessarily needed, but there is an opportunity to beneficially use the effluent in a wetland environment that could be accessible to the public. This would provide a natural wildlife and park area. It is suggested to set aside approximately \$4,000,000 for construction of publicly accessible wetland and wildlife park features as disposal wetlands between the treatment wetlands and the existing seepage area.³³

Building unnecessary disposal wetlands in order to create a larger “natural wildlife and park area” cannot, however, justify the construction of a utility facility on EFU land. *Sprint PCS v. Washington Cty.*, 186 Or App 470, 481, 63 P3d 1261 (2003) (holding that proposed improvement must “advance[] the statutory goal of providing the utility service.”).

Appellants raised this issue on June 12, 2023, and the City has been unable to provide a substantive rebuttal since that time.

B. The disposal wetlands cannot be approved through the Application.

The lack of need for new disposal wetlands explains why they are not actually a part of the Application. The City does not provide construction plans, design details, grading plans, geometric data, utility plans, pipe and access road details, or other basic information about the disposal wetlands. Rather, it seeks generic approval of “future disposal wetlands” that the City will construct at some unspecified time in the future.

This is not a valid method for obtaining land use approval of development. At a minimum, the applicant must show what it proposes to build and state the intent to build the improvements within the permit validity period. Moreover, the “future disposal wetlands” are not even proposed to be located on the Property at issue, but instead on BLM land to the north, which the City has no current right to use.

Thus, even if the disposal wetlands were necessary, their unspecified future construction cannot be approved through the Application.

³² 2020 WFP Amendment at 12; update of 2018 Wastewater Facility Plan at 2.21 (stating “it is very likely that all four infiltration basins can meet the average annual flow rates through 2045”).

³³ 2020 WFP Amendment at 8.

C. The Project cannot be approved without site plan review.

The County's development code states that utility facilities cannot be established, enlarged, or changed until a final site plan is approved. DCC 18.124.030(B)(5). The criteria for the site plan review are set out in DCC 18.124.060. The City did not address these criteria or submit final site plans but instead argued that the County's site plan review code is preempted by ORS 215.283 for proposals to construct utility facilities on EFU land. The City is mistaken.

Oregon courts “begin with a presumption against preemption of local regulation.” *Ashland Drilling, Inc. v. Jackson Cty.*, 168 Or App 624, 635, 4 P3d 748 (2000). Only where the legislature “unambiguously expresses an intention” of preemption can that presumption be overcome. *Rogue Valley Sewer Servs. v. City of Phoenix*, 357 Or 437, 454, 353 P3d 581 (2015). Accordingly, Oregon courts “will not determine a local ordinance to be preempted by implication—the legislative preemptive intent must be apparent—that is, “clear and unequivocal”—or the concurrent operation of the local and state law must be impossible.” *Rogue Valley Sewer Servs. v. City of Phoenix*, 262 Or App 183, 192, 329 P3d 1 (2014), *aff'd*, 357 Or 437, 353 P3d 581 (2015).

And even where there is a clear intent by the legislature to preempt local law, Oregon courts will construe the scope of that preemption narrowly based on the exact terms used in the law. *Rogue Valley*, 262 Or App at 194 (describing the decision in *US West*, 336 Or at 187-88, 81 P3d 702 as “reading statutory limits on city’s taxing and fee-setting authority narrowly as constrained to the precise words used.”).

ORS 215.283(1) states that utility facilities necessary for public service “may be established in any area zoned for exclusive farm use[.]” The statute is silent on the design of such utility facilities. There is nothing to suggest that the Oregon legislature intended to excuse utility facilities on EFU land from site plan review—let alone an “unambiguous intention” to do so.

Such a conclusion is patently untenable in light of Oregon’s “overriding policy of preventing agricultural land from being diverted to nonagricultural use.” *Warburton v. Harney Cty.*, 174 Or App 322, 328-29, 25 P3d 978 (2001). Reading such preemption into ORS 215.283 turns the statute on its head: instead of a list of limited exceptions to this general policy and Statewide Planning Goal 3, that statute is converted into a preference for development on EFU land. That is certainly not the point of the statute.

The City’s sole reliance on *Brentmar v. Jackson Cty.*, 321 Or 481, 496, 900 P2d 1030 (1995) is misplaced. The case concerned a county’s treatment of a use expressly allowed in ORS 215.283(1) as a conditional use under county code. This local code was found to be preempted because it *directly* contradicted state law. There is no similar contradiction with site plan review, which only concerns the design of physical development. *Living Strong, LLC v. City of Eugene*, LUBA Nos. 2021-005/006, 2021 WL 1861208, at *4 (Or LUBA Apr. 30, 2021),

aff'd, 313 Or App 739, 491 P3d 810 (2021) (holding that site review standards have no impact on the nature of the use of the site); *McPhillips Farm v. Yamhill Cty.*, 66 Or LUBA 355, 2012 WL 10816576 (Or LUBA Oct. 30, 2012) (holding that landfill's failure to obtain site design review had no impact on the status of the landfill as an allowed use).

Nevertheless, the Decision adopted the City's analysis because it found that the site plan review process could be used to deny a utility facility use on EFU land.³⁴ The Decision does not explain how the code could operate in this manner, and a facial review of the code shows that it cannot. DCC 18.124.010 states that the site plan review process "provides for administrative review of the *design* of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment." (Emphasis added.) Thus, the code allows for the denial of a *site plan*, not a development or use in general. DCC 18.124.050-.060.

Accordingly, the County's site plan review code is not preempted and the City is required to obtain site plan review for the proposed wastewater treatment and operations complex in accordance with DCC 18.124.030(B)(5).

D. The Project cannot be approved without conditional use approval.

From its first public announcement of the Project, the City has highlighted the public recreation amenities that would be part of the treatment wetlands site. Staff has repeatedly promoted these extensive walking paths, public trails, and other recreation facilities in press interviews,³⁵ "open house" and neighborhood association meetings, workshop discussions with nature/wildlife organizations, direct mailers, the city newsletter, and other communications. These facilities are prominently featured on the official Project website, including photo renderings and maps and of the paths and recreation areas.³⁶

In fact, in March 2022, the City applied to OPRD for a recreational facilities development grant. In its application, the City set out in detail the specific recreational amenities it would construct as part of the Project:

Incorporated in the new wastewater treatment system, the Redmond Wetlands Complex (RWC), will be a new trail system, the Redmond Wetlands Complex

³⁴ Decision at 23.

³⁵ Nicole Bales, *Redmond to relocate and expand its wastewater treatment facility*, The Bulletin, Jul. 21, 2021 ("[the city's wastewater manager] said the plan will reduce costs and increase public green space because the complex will be accessible to the public for hiking trails and other recreational activities. The city envisions connected trails into a citywide trails system. Kirchner said that once the project is complete, it will be like having an oasis in the desert." https://www.bendbulletin.com/localstate/redmond/redmond-to-relocate-and-expand-its-wastewater-treatment-facility/article_7ee8f448-e7fe-11eb-b6f2-5b744ad7683b.html).

³⁶ <https://redmondwetlandscomplex.com/expansion-site-design/>.

Trail System (RWC Trail System), offering over 6 miles of new Americans with Disability Act (ADA) asphalt paved trail loops and compacted gravel trail loops[,] [a] series of educational trail signage[,] * * * informational kiosks and covered seating areas for wildlife viewing[;] * * * The [primary] trailhead will include paved parking, restroom facilities, a large shade structure, a picnic area, a demonstration garden, way finding signage, and an overlook. * * * The secondary trailhead will include a gravel parking area, sized to accommodate horse trailers, and will provide amenities including a vault toilet and staging area for equestrian and mountain bike users.³⁷

The City also explained in the grant application how the construction of the RWC Trail System would be part of the construction of the treatment wetlands:

The trail system, trailheads, and all amenities will be procured in the same construction contract as the RWC lagoons and ponds scheduled to begin construction February 2023. As an important part of the lagoon grading plans, the series of trails will be constructed simultaneously to the RWC ponds. *Id.*

The OPRD application was approved on November 27, 2022, and the City was awarded \$750,000 toward the construction of the recreational facilities included in the constructed wetlands complex.³⁸

Obviously, hiking paths, covered picnic areas, gardens, and the other public recreational facilities listed above are not components of a sewer system or utility facility. Thus, as the County stated in the March 2022, land use compatibility statement for the OPRD grant application,³⁹ the trail system constitutes a public park⁴⁰ that requires site plan review and a conditional use permit to be sited on EFU land.

In a transparent attempt to avoid this review process, the City claimed in its application materials that constructing the trails and recreational facilities was not part of the Project. The only reference to the trail system and other recreational facilities in the Application appears on page 18 of the Statement, where the City writes:

Compared to conventional treatment plants, constructed wetlands are cost-effective and easily operated and maintained while supporting wetland habitat for birds and other wildlife and offering recreational and educational opportunities,

³⁷ Page 6; Attachment 2 to letter from Steven Liday to Haleigh King (April 26, 2023).

³⁸ Attachment 3 to letter from Steven Liday to Haleigh King (April 26, 2023).

³⁹ Attachment 4 to letter from Steven Liday to Haleigh King (April 26, 2023).

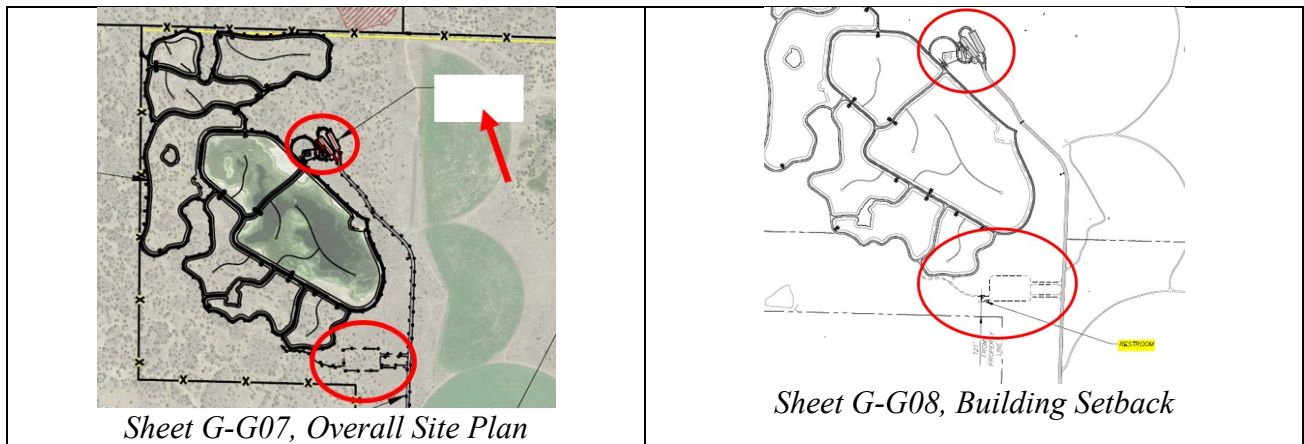
⁴⁰ “‘Public park’ means an area of natural or ornamental quality for outdoor recreation that provides the resource base for the following activities: picnicking, boating, fishing, swimming, camping and hiking or nature oriented recreation such as viewing and studying nature and wildlife habitat, and may include play areas and accessory facilities that support the activities listed above.” DCC 18.04.030.

should the City choose to pursue that in the future. (Statement at 18) (emphasis added).

With a \$750,000 OPRD grant in hand, this statement was misleading. In its OPRD grant application, the City explained that the trail system, trailheads, and all amenities would be part of the construction contract for the lagoons and ponds and that the trails will be constructed as part of the lagoon grading.⁴¹ It also represented to OPRD that it would obtain the necessary site review and conditional use permits “in tangent to the permitting process to construct [the] engineered wetlands.”⁴² The City stated that the applications for these permits were “in-progress and will be included in the wetland’s construction submission.” *Id.*

After appellants raised the contradicting statements in a public comment letter, the City backtracked and stated that it did have plans to construct recreational facilities and open the site as a park, but that it would move forward with that aspect of the Project at a later time.⁴³ It argued that that the City was not required to obtain approval of a public park, even though the proposed improvements would be used for that purpose. Staff claimed that the design and scope of the proposed improvements would be the same, regardless of the planned recreational uses.

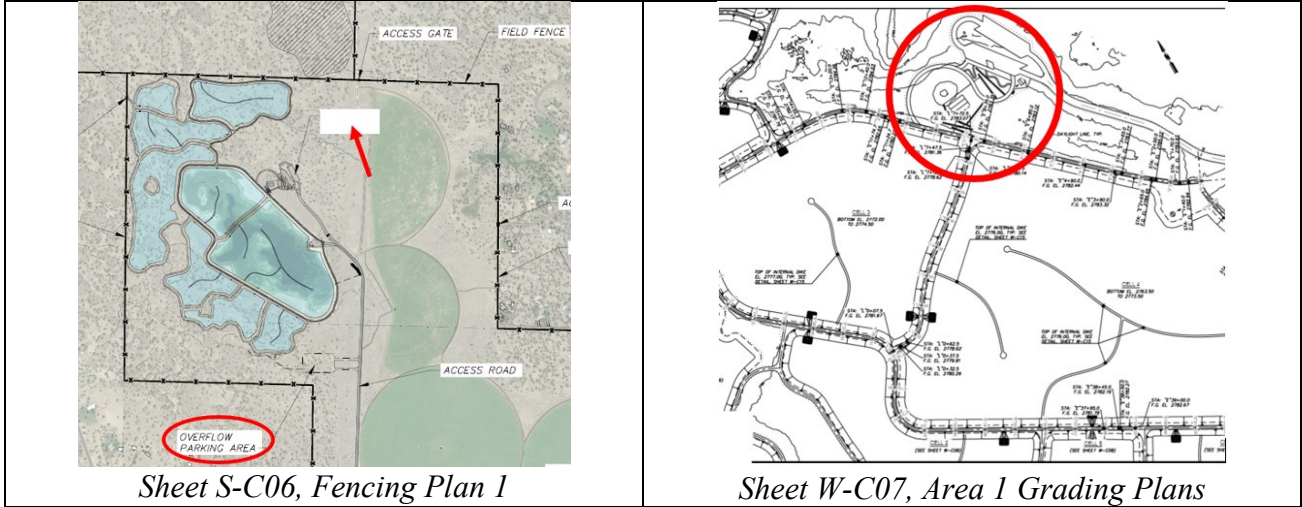
This claim is belied, however, by the site plans submitted by the City. These plans show multiple facilities that relate only to public use of the site, such as parking lots, public restrooms, etc. Simply removing some of the labels from the plans does not change the nature of the facilities.



⁴¹ Attachment 2 to letter from Steven Liday to Haleigh King (April 26, 2023) at 6. Due to their inseparable nature, the City included \$626,430 for the “Main Entry Roadway” and \$771,810 for “Earthwork and Underground Utilities” as part of the cost schedule for the recreational facilities that it submitted to OPRD. Attachment 3 to letter from Steven Liday to Haleigh King (April 26, 2023) at 3.

⁴² Attachment 2 to letter from Steven Liday to Haleigh King (April 26, 2023) at 16.

⁴³ Waffling on the issue, however, City staff submitted a subsequent letter that again characterized the construction of the recreational facilities as only a possibility. “If the City chooses to open the site for public park purposes, the City will submit the required land use applications to jointly use the property for public park purposes.” Letter from Ryan Kirchner to Haleigh King (July 5, 2023) at 5.



Nevertheless, the hearings officer agreed that the City was not proposing any recreational facilities in the Application.⁴⁴ The Decision does not address those facilities clearly shown in the plans above. This finding is a clear error and the this development should not have been approved without requiring the City to obtain conditional use approval. Accordingly, the Decision should be reversed.

IV. Conclusion

It is unclear why the City has taken such a hardline approach to the County’s review of the Project—refusing to submit for site plan review, flatly opposing the application of any mitigation requirements, and attempting to elude review of the park facilities until after the development is finished. Any potential “gains” by the City in avoiding some application review procedures or mitigation requirements is more than offset by the costs it has and will continue to incur in adversarial local proceedings and a potential future appeal to LUBA.

Regardless of the wisdom of the City’s strategy, the Application and supporting materials do not come close to demonstrating compliance with the statutory restrictions and local code requirements. Accordingly, the Decision should be reversed and the Application denied.

⁴⁴ Decision at 4.

**LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION**

FOR

CITY OF REDMOND, OREGON



Prepared for the
City of Redmond, Oregon

**LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
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2020



ANDERSON PERRY & ASSOCIATES, INC.
La Grande, Redmond, and Hermiston, Oregon
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Table of Contents

Background	1
Design Criteria	1
Lagoon Treatment	2
Facultative	2
Partially Aerated.....	2
Aerated.....	3
Aerated Lagoon with Orbal Pre-Aeration.....	3
Treatment Wetlands	4
Disposal Wetlands	4
Other Beneficial Uses	4
Permit Limits	4
Biochemical Oxygen Demand and Total Suspended Solids.....	5
Nitrogen.....	5
Total Dissolved Solids	5
Project Consideration	5
Expand Existing Mechanical Treatment Plant at Existing Site.....	5
New Lagoons and Wetlands with Existing Facilities.....	6
New Lagoon and Wetland Treatment Plant with Support Facilities at New Site.....	7
Summary	8

TABLES

- Table 1 Facultative Lagoon Preliminary Cost Estimate
- Table 2 Partially Aerated Lagoon Preliminary Cost Estimate
- Table 3 Aerated Lagoon Preliminary Cost Estimate
- Table 4 Orbal Plus Aerated Lagoon Preliminary Cost Estimate
- Table 5 Treatment Wetlands Preliminary Cost Estimate
- Table 6 Disinfection System Preliminary Cost Estimate
- Table 7 Support Facilities Preliminary Cost Estimate

FIGURES

- Figure 1 Treatment Process Flow Schematic
- Figure 2 Improvements Plan
- Figure 3 Improvements Detail Plan

Background

The City of Redmond, Oregon, recently completed a Wastewater Facilities Plan (WWFP) and a WWFP Update in November 2019. These planning documents recommended improvements totaling \$44.6 million in 2018 dollars (\$47.7 million in 2020 dollars) but did not consider improvement alternatives other than mechanical treatment. The WWFP and WWFP Update did not include other locations for the proposed improvements. The City believes it may be prudent to consider other improvement alternatives that could reduce the total life cycle costs to City residents and relocate the existing facilities out of the residential area. As an example of other possible improvements to consider, the City of Prineville, Oregon, has successfully implemented the use of lagoon technology with constructed wetland treatment and disposal, while substantially reducing the overall total cost to the City and providing public access to wetland/wildlife areas. The purpose of this feasibility evaluation is to evaluate the potential of using a lagoon treatment system with a constructed wetland treatment and disposal system as an alternative to meet the City's wastewater treatment and disposal needs.

Design Criteria

The design criteria used for this evaluation are taken from the WWFP Update. The design year 2045 was used with the following wastewater influent parameters:

- Population - 53,800
- Average Annual Flow - 3.49 million gallons per day (MGD)
- Maximum Month Flow - 3.76 MGD
- Average Annual Five-day Biochemical Oxygen Demand (BOD₅) - 14,500 pounds per day (ppd)
- Maximum Month BOD₅ - 19,000 ppd
- Average Annual Total Suspended Solids (TSS) - 9,600 ppd
- Maximum Month TSS - 14,400 ppd
- Average Annual Total Kjeldahl Nitrogen (TKN) - 1,900 ppd
- Maximum Month TKN - 2,400 ppd
- Total Dissolved Solids (TDS) - Approximately 320 milligrams per liter (mg/L)

The City's current Water Pollution Control Facilities (WPCF) Permit has wastewater effluent limits established for discharge into existing infiltration basins. These are as follows:

- BOD₅ and TSS - 20 mg/L
- Nitrate + Nitrite as Nitrogen - 6 mg/L
- Total Nitrogen - 9 mg/L
- pH - 6.0 to 9.0
- *E. coli* - 126 most probable number

The following monthly average groundwater limits apply to the down-gradient groundwater monitoring wells:

- Nitrate - 9 mg/L
- TDS - 500 mg/L

Although these design criteria considered only flows from the City of Redmond, they could be modified to include the community of Terrebonne. The following sizes and costs would be anticipated to be modified only slightly to include the expanded service area.

Lagoon Treatment

Lagoon treatment can be provided with a facultative lagoon, partially aerated lagoon, or aerated lagoon. Cost consideration is also given to an option that utilizes the existing capital investment in the treatment plant's Orbal oxidation ditches to reduce BOD₅ and, thus, lagoon size and aeration requirements. The purpose of the lagoon treatment is to provide for reduction in BOD₅ to the permit limits. Some total nitrogen reduction would also be realized for systems with front-loaded oxygen additions and facultative or anoxic zones at the end of the processes.

Facultative

A facultative lagoon provides oxygen for waste decomposition from an air/water interface area and algae photosynthesis. This system would be a minimum two-stage system operating between 3 and 7 feet in depth, with a minimum detention time of approximately 100 days. For this evaluation, an operating depth between 4 and 5 feet was assumed, and the detention time would be well in excess of 100 days due to the area needed for oxygen transfer. The first stage would need to be 290 acres and the second stage would be 190 acres, for a total lagoon size of 480 acres. For construction purposes, it is suggested to divide these lagoon cells into maximum 40-acre units. There would then be approximately 12 40-acre lagoons.

Solids handling would not be required for this option. Lagoon solids would be anticipated to be removed approximately once every 40 years, once the lagoons reach their design BOD₅ loading. A multi-cell lagoon system would allow a lagoon cell to be taken offline and solids to dry in the bottom of the lagoon for easy and cost-effective removal.

This lagoon type can reduce total nitrogen 40 to 95 percent. A removal efficiency of approximately 85 percent is needed to meet existing WPCF Permit limits. For this reason, adding a treatment wetland for effluent polishing would be recommended.

The estimated capital and 20-year lifecycle costs for this option are \$43.4 million and \$46.4 million, respectively (see Table 1).

Partially Aerated

A partially aerated lagoon would provide some of the oxygen requirements through an aeration system. For purposes of this evaluation, we would assume that the oxygen for the first stage of the facultative lagoon system would be provided through mechanical aeration. Approximately 2 pounds of oxygen per pound of BOD₅ removed is used in this evaluation to include both BOD₅ and nitrogen reduction, and approximately 2 pounds of oxygen per horsepower (Hp) per hour can be assumed for an aeration system. The first-stage aeration system would mainly be used to increase the dissolved oxygen in the wastewater so it is available for microbial use and provide oxygen that would be consumed during the time water is in this cell. The detention time in this lagoon would be approximately three days. This first stage of the lagoon would then be approximately 10 feet deep to provide for aeration. Approximately 360 Hp of aeration would be needed. This would require a first-stage lagoon of approximately 3.5 acres. The second stage would then be approximately 190 acres and

constructed mainly as a facultative system to provide both aerobic and anoxic microbial colonies, but this area would not provide enough oxygen for the BOD₅ loading, so approximately 240 Hp of additional aeration would still be needed in the second stage.

As with the facultative lagoons, solids handling would not be proposed for this system. Solids reduction would occur naturally in the second-stage lagoons, but solids removal from the lagoons may still be needed approximately every 30 years.

This lagoon type can reduce total nitrogen 40 to 95 percent. A removal efficiency of approximately 85 percent is needed to meet the existing WPCF Permit limits. For this reason, a treatment wetland would be recommended to be added for effluent polishing.

The estimated capital and 20-year lifecycle costs for this option are \$23.9 million and \$31.9 million, respectively (see Table 2).

Aerated

An aerated lagoon would provide sufficient oxygen through aeration systems. A partially mixed, aerated lagoon would consist of five cells with a total detention time of 20 days. The 20-day detention time is on the longer end of what would normally be anticipated, but it provides a factor of safety and capacity to realize increased reduction in total nitrogen. A total requirement of approximately 800 Hp is needed to provide the required oxygen. The depth of the lagoon cells would be approximately 10 feet. The total wet area needed would be approximately 23 acres.

Solids handling would not be anticipated for this option, as solids reduction occurs in the lagoon cells. It is still anticipated that solids removal would be needed approximately once every 20 years, once the flows and loadings reach design levels.

This lagoon type can reduce total nitrogen 60 to 95 percent. A removal efficiency of approximately 85 percent is needed to meet the existing WPCF Permit limits. For this reason, a treatment wetland would be recommended to be added for effluent polishing.

The estimated capital and 20-year lifecycle costs for this option are \$10.6 million and \$19.5 million, respectively (see Table 3).

Aerated Lagoon with Orbal Pre-Aeration

This alternative utilizes the existing capital investment in the Orbal aeration system to provide pre-aeration and reduce the total capital and operation and maintenance (O&M) requirements at the new lagoon site. The Orbal aeration system capacity provides enough oxygen to reduce the anticipated BOD₅ loads on the proposed lagoon treatment system to approximately 9,000 ppd. This alternative would abandon the existing treatment plant facilities except for the headworks, two Orbal units, and one clarifier and associated sludge pump. The clarifier would harvest biosolids (microorganisms) from the ditch effluent and send them back to the ditch. The effluent from the ditches and clarifier would then be combined with any raw wastewater not sent to the ditch. The combined flows would then be sent to the aerated lagoons. This would reduce the total required at the aerated lagoon to approximately 375 Hp, the required detention time to 15 days, and the lagoon size from 23 acres to 17 acres.

Solids handling and nitrogen reduction would be similar to the aerated lagoon option.

The estimated capital and 20-year lifecycle costs for this option are \$6.3 million and \$14.7 million, respectively (see Table 4).

Treatment Wetlands

After biologic stabilization of the waste is provided in the lagoon system, the lagoon effluent should be further “polished” in treatment wetlands to provide a more natural environment to further reduce pathogens and nutrients. The wetlands would provide a shallow surface flow system for increased exposure to light and encourage vegetation growth. The vegetation in the wetlands provides a substrate for attached growth microbial colonies that would provide for nitrification of any remaining ammonia. Denitrification would then be provided in the bottom anoxic layers of the wetlands and in deeper sections built into the environment. The treatment wetlands would be sized for a six-day detention time at an average depth of 12 inches. The treatment wetland would have a liner installed under 12 inches of native material in which vegetation would grow. The wetland would be seeded and planted. This would require a wetland complex with approximately 70 wet acres. Additional nitrogen reduction is provided in the wetlands, but nitrogen reduction is improved when multiple wetland cells constructed in series are provided. The estimated capital and 20-year lifecycle costs for this option are \$9.8 million and \$10.4 million, respectively (see Table 5).

Disposal Wetlands

The existing disposal system utilized by the City is through irrigation and seepage. The area proposed for facility construction contains a concrete sealed irrigation storage pond that holds water and a seepage area that leaks at a high rate. The size of disposal wetlands would depend on the seepage rate of the wetlands. Due to the function of the seepage area, it is assumed that the natural ground would provide very high infiltration rates. The existing seepage area has multiple cells with only one cell operated at a time. Based on current operation, the seepage area appears to have sufficient capacity to serve the City in the future.

The City could construct new disposal wetlands for wildlife and public use using the water reclaimed from the wetland treatment process. These would need to have more controlled seepage by removing the topsoil, treating the fractured rock with bentonite, and replacing the topsoil. The disposal wetlands would be of varying depths and configurations that would more closely follow the natural terrain and provide wildlife habitat and an aesthetically pleasing area that the public may enjoy. For reasons of realizing a beneficial use for the reclaimed water, a capital cost of \$4 million is added for disposal wetlands and trails.

Other Beneficial Uses

The City could also utilize the treated effluent for additional beneficial uses such as irrigating turf grass for new sports fields in the area. Some added effluent polishing may be needed, depending on the proposed beneficial use.

Permit Limits

The effluent permit limits that merit further discussion in this evaluation are the BOD₅ and TSS limit of 20 mg/L, total nitrogen limit of 9 mg/L entering the infiltration basins, and TDS limit of 500 mg/L in the

monitoring wells. The limits entering the infiltration basins appear to have been established as technology-based effluent limits based on the activated sludge process employed in the existing treatment plant.

Biochemical Oxygen Demand and Total Suspended Solids

The treatment wetland would be susceptible to extensive algae growth that may limit the ability to consistently meet the 20 mg/L limit. This limit may be attainable with the aerated lagoon option prior to entering the treatment wetland. A discussion with the Oregon Department of Environmental Quality would need to occur to determine if the permit limit and/or monitoring location can be changed.

Nitrogen

The total nitrogen limit is achievable through a lagoon and wetland system, as the City of Prineville averaged a total nitrogen concentration of 7.0 mg/L from the lagoons throughout the 2019 season with nitrates in the monitoring wells being approximately 1 mg/L. The design of wetlands for nitrogen reduction has a large range of constants that could be used to achieve reduction efficiencies over a large range (i.e., 45 to 95 percent). This is due to the variability in plant and microbial colonies that can occur in different climatic regions and the type of waste entering the system. For this installation, data from the Cities of Prineville and La Grande, Oregon, lagoon and wetland treatment systems could be used to verify the design parameters. Some of the data that could be useful to verify the facility sizing are not currently being collected by the Cities. If this option is pursued further, additional testing from the Prineville facility would prove beneficial to confirm design parameters to reduce the risk associated with potential unknown design “constants.”

Total Dissolved Solids

TDS data were collected for the existing treatment plant effluent. This TDS is also anticipated to be in the range of what would be expected for lagoon effluent. A mass balance was completed to estimate the TDS seeping into the groundwater by reducing the total seepage volume and increasing the total TDS due to evaporation. The amount of evaporation in the system would directly affect the difference in TDS between the influent and effluent, but this amount is small. TDS is expected to increase by less than 10 percent through the lagoon and wetland system.

Project Consideration

The City could consider three different alternatives to meet their future needs. These include expanding the existing mechanical treatment plant; using lagoons and wetlands to provide the treatment capacity needed for the future and continue using the headworks and office space at the existing facility; or moving the entire treatment system, offices, and shops to a new location. The decision-making process should consider Capital Cost, Life Cycle Cost, Land and Future Expandability, and Community Benefits.

Expand Existing Mechanical Treatment Plant at Existing Site

Capital Cost - This alternative was evaluated in the 2019 WWFP Update of the 2018 WWFP. The total capital cost for this alternative is \$44.6 million (2018 dollars), which has been updated to \$47.7 million (2020 dollars at 3.5 percent inflation).

Life Cycle Cost - This alternative has an estimated 20-year life cycle cost of approximately \$62.0 million.

Land and Future Expandability - This alternative utilizes the existing site located in an area surrounded by residential housing. The options for future expandability are limited. Also, there is concern over having this industrial wastewater facility in the middle of a residential area with a public pathway through the area.

Community Benefits - This alternative will provide wastewater treatment for the City. The water is used for irrigating crops in the summertime but is disposed of in the wintertime through ground percolation. There may be opportunities for further reuse of the reclaimed water.

New Lagoons and Wetlands with Existing Facilities

This project alternative is shown on Figure 1. This alternative includes utilizing the existing headworks facility to provide screening of the influent. Raw wastewater would then flow down the existing pipelines to the proposed lagoon site at and/or adjacent to the existing irrigation area. Wastewater would then be treated in a five-cell, aerated lagoon system with chlorine disinfection. The disinfected lagoon effluent would then flow to the existing irrigation storage pond or into a 70-acre treatment wetland complex before entering a disposal wetland and infiltration basin area for evaporation and seepage into the groundwater. The total project cost for this system is summarized on the following table. The disinfection system evaluation was not part of this evaluation, but a cost estimate is included, assuming a chlorination system is used (see Table 6).

Capital Cost - The total estimated capital and associated life cycle cost is shown on the following table.

NEW LAGOON AND WETLANDS WITH EXISTING FACILITIES

Item	Estimated Capital Cost	Estimated 20-year Life Cycle Cost
Aerated Lagoon	\$10.6 million	\$19.5 million
Disinfection System	\$1.7 million	\$2.4 million
Treatment Wetlands	\$9.8 million	\$10.4 million
Disposal Wetlands	\$4.0 million	\$4.1 million
Support Facilities	\$12.4 million	\$16.4 million
Total	\$38.5 million	\$52.8 million

Note: Capital costs for Support Facilities taken from 2019 WWFP Update.

Life Cycle Cost - The 20-year life cycle cost shown above needs to be augmented to include the existing facilities that will be used as part of this alternative, and also includes the headworks and lift station. The revised total estimated life cycle cost assumes these facilities are new and is estimated at \$37.0 million. Also, this alternative will split the treatment plant staff between two sites. This can provide O&M challenges.

Land and Future Expandability - The existing facilities would still be located in an area surrounded by residential homes with a walking path near the treatment plant. The lagoons and wetland areas are surrounded by undeveloped lands where future expansion could easily occur.

Community Benefits - Maintaining part of the existing treatment facilities will still have odor producing systems in the middle of the residential and pathway area. This alternative would provide a minimum of 70 acres of wetland environment that could provide plant and wildlife habitat. The City of Prineville uses its wetland area as part of their parks and trails and the City of Redmond could implement a similar community enhancement.

New Lagoon and Wetland Treatment Plant with Support Facilities at New Site

The development of new treatment facilities will provide the opportunity to move all of the treatment facilities to a new less populated area north of the City. Figures 2 and 3 show an initial potential layout for moving all of the treatment works. The additional facilities needed would include a main division building, maintenance building, generator building, operations building, vacuum truck dump, headworks screening, lift station, sludge drying beds, and associated roads and parking areas. The inclusion of sludge drying beds will allow lagoon sludge removal to be done by City staff using the drying beds and floating dredge. The drying beds can be completed as a second phase of the project, as lagoon sludge will not need to be removed for many years. The estimated cost for the headworks and support facilities, including the drying beds, is shown on Table 7.

Capital Cost and Life Cycle Cost - The total estimated capital and life cycle cost for moving the treatment plant is summarized on the following table.

**NEW LAGOON AND WETLAND TREATMENT PLANT
WITH SUPPORT FACILITIES AT NEW SITE**

Item	Estimated Capital Cost	Estimated 20-year Life Cycle Cost
Aerated Lagoon	\$10.6 million	\$19.5 million
Disinfection System	\$1.7 million	\$2.4 million
Treatment Wetlands	\$9.8 million	\$10.4 million
Disposal Wetlands	\$4.0 million	\$4.1 million
Headworks and Support Facilities	\$15.5 million	\$17.5 million
Total	\$41.6 million	\$53.9 million

Land and Future Expandability - This alternative locates all the wastewater treatment facilities in an undeveloped area where future expandability would be easier.

Community Benefits - This alternative would provide a wetland environment that could be made accessible to the public for bird watching, hiking, and cycling. It could also be tied into a City-wide trails system as an extension to Dry Canyon. The reuse of the reclaimed water in this manner provides an ancillary benefit to the City that is otherwise not realized.

City of Redmond, Oregon
Lagoon and Wetland Treatment and Disposal Feasibility Evaluation

Summary

The following table summarizes the project alternatives:

Summary of Project Alternatives

Alternative	Advantages	Disadvantages	Capital Cost	20-Year Life Cycle Cost	Life Expectancy
Expand Mechanical Treatment Plant at Existing Site	Use existing headworks and treatment systems.	Odors, limited expandability, older systems, treatment plant in residential area, higher costs.	\$47.7 million	\$62.0 million	Reused mechanical components will have shorter life. New mechanical components will need replaced approximately every 10 years.
New Lagoons and Wetlands with Existing Facilities	Use existing headworks.	Odors, older systems, two sites, treatment plant in residential area.	\$38.5 million	\$52.8 million	Unknown life for existing lift station and headworks but will most likely need to be rebuilt before 20 years.
New Lagoon and Wetland Treatment Plant with Support Facilities at New Site	Move out of residential and Dry Canyon Park area. Expandable. All new systems. Added wildlife habitat. Added trails system. Reduced biosolids handling. Increased tourism possibilities.		\$41.6 million	\$53.9 million	Lagoons and wetlands have a life expectancy in excess of 50 years.

TABLES

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
FACULTATIVE LAGOON
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (3% of Construction Cost)	LS	\$ 1,020,000	All Req'd	\$ 1,020,000
2	Earthwork	CY	5	350,000	1,750,000
3	Rock Removal	CY	60	161,333	9,680,000
4	Liner	SF	1	21,000,000	21,000,000
5	Control Structures	EA	15,000	12	180,000
6	Piping	LF	60	5,600	336,000
7	Gravel	CY	20	8,100	162,000
8	Fencing	LF	6	21,000	126,000
9	Site Work	LS	50,000	All Req'd	50,000
Sum of Estimated Construction Cost					\$ 34,304,000
Construction Contingency (15%)					5,146,000
Subtotal Estimated Construction Cost					\$ 39,450,000
Administration, Legal, and Engineering (10%)					3,945,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 43,395,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor	\$ 41,000
2	Supplies, Parts, Maintenance, and Repairs	1,000
3	Replacement	1,000
4	Lagoon Solids Removal	200,000
Total OM&R		\$ 243,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		3,029,000
Total Present Worth (2020 Dollars)		\$ 46,424,000



CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
FACULTATIVE LAGOON
PRELIMINARY COST ESTIMATE

**TABLE
1**

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
PARTIALLY AERATED LAGOON
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (4% of Construction Cost)	LS	\$ 800,000	All Req'd	\$ 800,000
2	Earthwork	CY	5	172,000	860,000
3	Rock Removal	CY	60	64,600	3,876,000
4	Liner	SF	1	8,712,000	8,712,000
5	Control Structures	EA	15,000	5	75,000
6	Piping	LF	60	3,600	216,000
7	Gravel	CY	20	3,800	76,000
8	Diffusers	LS	1,200,000	All Req'd	1,200,000
9	Blowers	LS	650,000	All Req'd	650,000
10	Blower Building	SF	200	1,200	240,000
11	Electrical and Controls	LS	500,000	All Req'd	500,000
12	Fencing	LF	6	10,000	60,000
13	Site Work	LS	50,000	All Req'd	50,000
Sum of Estimated Construction Cost					\$ 17,315,000
Construction Contingency (15%)					2,597,000
Subtotal Estimated Construction Cost					\$ 19,912,000
Administration, Legal, and Engineering (20%)					3,982,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 23,894,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor	\$ 82,000
2	Supplies, Parts, Maintenance, and Repairs	2,000
3	Power (600 horsepower, \$0.08 per kilowatt hour)	314,000
4	Replacement	62,000
5	Lagoon Solids Removal	180,000
Total OM&R		\$ 640,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		7,976,000
Total Present Worth (2020 Dollars)		\$ 31,870,000



CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
PARTIALLY AERATED LAGOON
PRELIMINARY COST ESTIMATE

**TABLE
2**

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
AERATED LAGOON
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 430,000	All Req'd	\$ 430,000
2	Earthwork	CY	6	113,000	678,000
3	Rock Removal	CY	60	32,000	1,920,000
4	Liner	SF	1	1,089,000	1,089,000
5	Control Structures	EA	15,000	4	60,000
6	Piping	LF	60	2,000	120,000
7	Gravel	CY	20	1,400	28,000
8	Diffusers	LS	1,500,000	All Req'd	1,500,000
9	Blowers	LS	800,000	All Req'd	800,000
10	Blower Building	SF	200	1,800	360,000
11	Electrical and Controls	LS	600,000	All Req'd	600,000
12	Fencing	LF	6	5,000	30,000
13	Site Work	LS	50,000	All Req'd	50,000
Sum of Estimated Construction Cost					\$ 7,665,000
Construction Contingency (15%)					1,150,000
Subtotal Estimated Construction Cost					\$ 8,815,000
Administration, Legal, and Engineering (20%)					1,763,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 10,578,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)		
1	Labor	\$ 164,000
2	Supplies, Parts, Maintenance, and Repairs	10,000
3	Power (800 horsepower, \$0.08 per kilowatt hour)	418,000
4	Replacement	82,000
5	Lagoon Solids Removal	42,000
Total OM&R		\$ 716,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		8,923,000
Total Present Worth (2020 Dollars)		\$ 19,501,000



CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
AERATED LAGOON
PRELIMINARY COST ESTIMATE

**TABLE
3**

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
ORBAL PLUS AERATED LAGOON
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 250,000	All Req'd	\$ 250,000
2	Earthwork	CY	6	94,000	564,000
3	Rock Removal	CY	60	8,100	486,000
4	Liner	SF	1	828,000	828,000
5	Control Structures	EA	15,000	4	60,000
6	Piping	LF	60	2,000	120,000
7	Gravel	CY	20	1,100	22,000
8	Diffusers	LS	900,000	All Req'd	900,000
9	Blowers	LS	480,000	All Req'd	480,000
10	Blower Building	SF	200	1,200	240,000
11	Electrical and Controls	LS	500,000	All Req'd	500,000
12	Fencing	LF	6	5,000	30,000
13	Site Work	LS	50,000	All Req'd	50,000
Sum of Estimated Construction Cost					\$ 4,530,000
Construction Contingency (15%)					680,000
Subtotal Estimated Construction Cost					\$ 5,210,000
Administration, Legal, and Engineering (20%)					1,042,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 6,252,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor	\$ 165,000
2	Supplies, Parts, Maintenance, and Repairs	10,000
3	Power (800 horsepower, \$0.08 per kilowatt hour)	418,000
4	Replacement	44,000
5	Lagoon Solids Removal	42,000
Total OM&R		\$ 679,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		8,462,000
Total Present Worth (2020 Dollars)		\$ 14,714,000



CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
ORBAL PLUS AERATED LAGOON
PRELIMINARY COST ESTIMATE

**TABLE
4**

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
TREATMENT WETLANDS
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 400,000	All Req'd	\$ 400,000
2	Earthwork	CY	6	67,000	402,000
3	Rock Removal	CY	60	32,400	1,944,000
4	Liner	SF	1	3,050,000	3,050,000
5	Control Structures	EA	15,000	6	90,000
6	Piping	LF	60	4,000	240,000
7	Gravel	CY	20	2,100	42,000
8	Top Soil Removal and Replacement	CY	8	113,000	904,000
9	Seeding and Planting	LS	20,000	All Req'd	20,000
10	Fencing	LF	6	7,000	42,000
Sum of Estimated Construction Cost					\$ 7,134,000
Construction Contingency (15%)					1,070,000
Subtotal Estimated Construction Cost					\$ 8,204,000
Administration, Legal, and Engineering (20%)					1,640,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 9,844,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor	\$ 41,000
2	Supplies, Parts, Maintenance, and Repairs	1,000
3	Replacement	1,000
4	Vegetation Removal	2,000
Total OM&R		\$ 45,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		561,000
Total Present Worth (2020 Dollars)		\$ 10,405,000



**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
DISINFECTION SYSTEM
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 66,000	All Req'd	\$ 66,000
2	Building	SF	200	1,000	200,000
3	Chlorination Equipment	LS	40,000	All Req'd	40,000
4	Chlorine Contact Basin	LS	280,000	All Req'd	280,000
5	Electrical and Controls	LS	100,000	All Req'd	100,000
6	Piping	LF	60	200	12,000
7	Rock Removal	CY	60	1,000	60,000
8	Gravel	CY	20	100	2,000
9	Steel Building Over Basin	LS	500,000	All Req'd	500,000
Sum of Estimated Construction Cost					\$ 1,260,000
Construction Contingency (15%)					189,000
Subtotal Estimated Construction Cost					\$ 1,449,000
Administration, Legal, and Engineering (20%)					290,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 1,739,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<i>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</i>		
1	Labor	\$ 20,000
2	Supplies, Parts, Maintenance, and Repairs	30,000
3	Replacement	2,000
Total OM&R		\$ 52,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		649,000
Total Present Worth (2020 Dollars)		\$ 2,388,000



**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
SUPPORT FACILITIES
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 600,500	All Req'd	\$ 600,500
2	Main Division Building	SF	250	8,750	2,187,500
3	Maintenance Building	SF	175	12,000	2,100,000
4	Generator Building	SF	200	320	64,000
5	Roads and Parking	SY	22	16,000	352,000
6	Operations Building (Motor Control Center, Control Room, Lab)	SF	250	3,000	750,000
7	Lift Station	LS	400,000	All Req'd	400,000
8	Vacuum Truck/Septage Dump	LS	90,000	All Req'd	90,000
9	Sludge Drying Beds	Acre	750,000	3	2,250,000
10	Domestic Water	LF	40	10,000	400,000
11	Fencing/Site Work	LS	100,000	All Req'd	100,000
12	Headworks	LS	400,000	All Req'd	400,000
13	Rock Removal	CY	60	200	12,000
14	Electrical and Controls	LS	700,000	All Req'd	700,000
15	Site Piping	LF	60	4,000	240,000
16	Grit Chamber	LS	300,000	All Req'd	300,000
17	Rock Processing	LS	250,000	All Req'd	250,000
Sum of Estimated Improvements Construction Cost					\$ 11,196,000
Construction Contingency (15%)					1,679,000
Subtotal Estimated Improvements Construction Cost					\$ 12,875,000
Administration, Legal, and Engineering (20%)					2,575,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 15,450,000

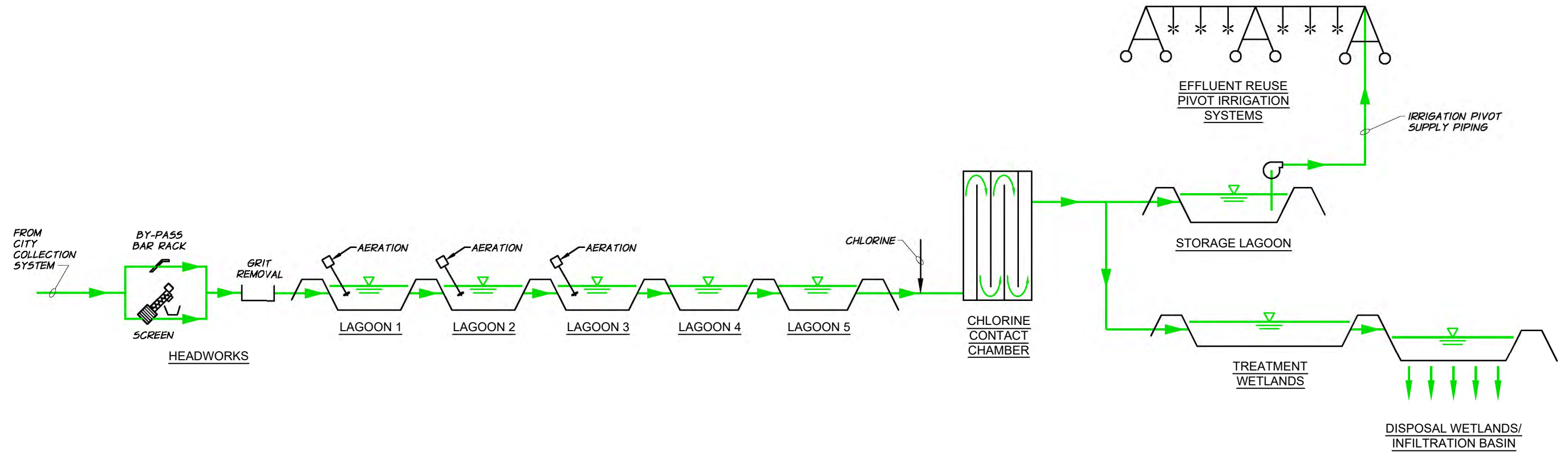
PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor (Headworks and Lift Station Only)	\$ 126,000
2	Supplies, Parts, Maintenance, and Repairs	10,000
3	Replacement	30,000
Total OM&R		\$ 166,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		2,069,000
Total Present Worth (2020 Dollars)		\$ 17,519,000



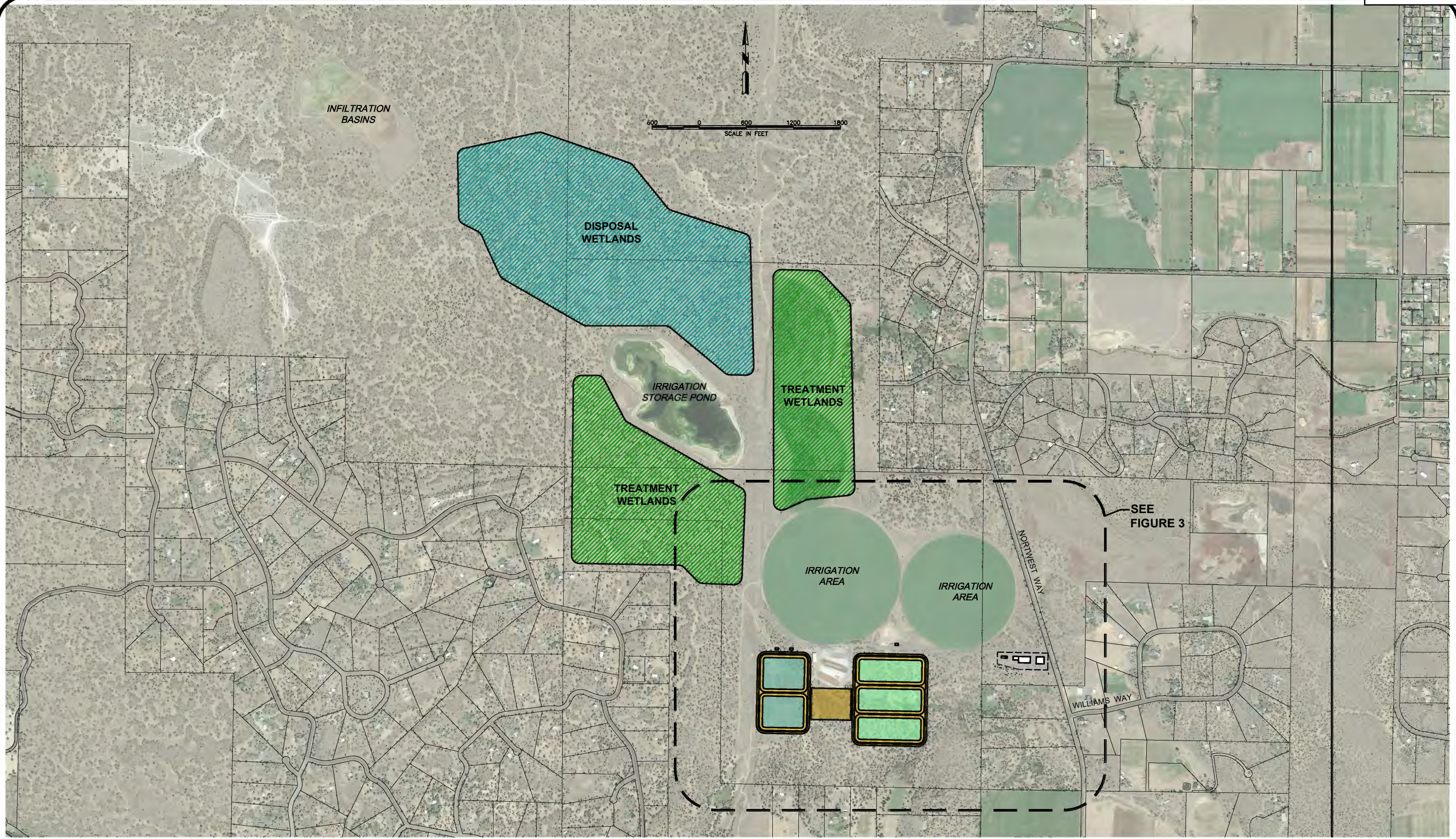
FIGURES

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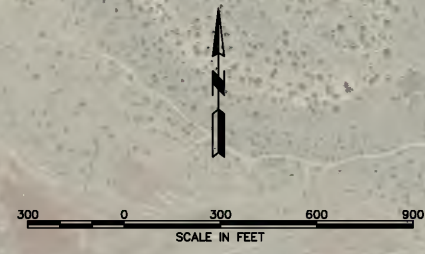
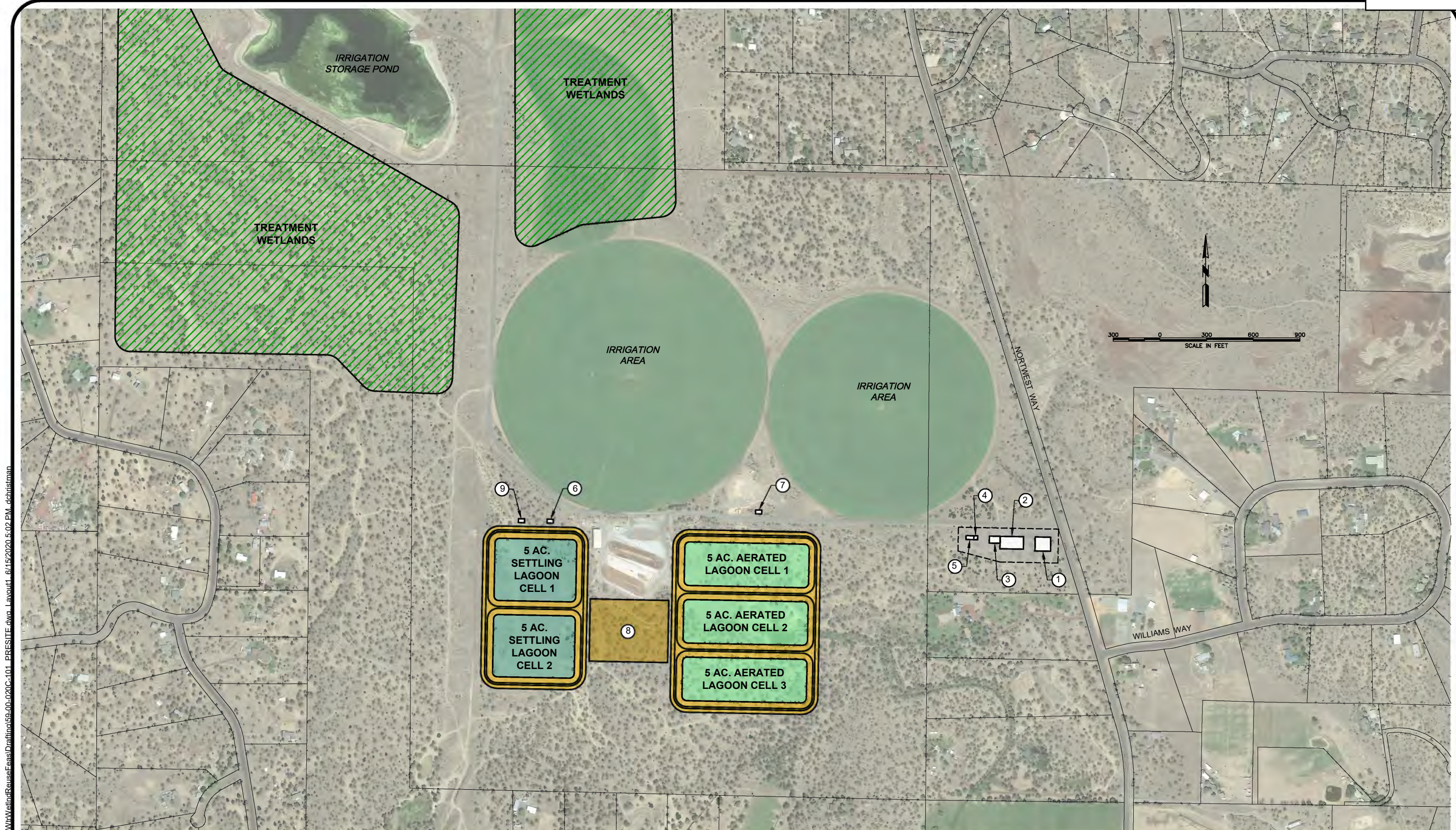
	<p>CITY OF REDMOND, OREGON RECLAIMED WATER WETLAND REUSE FEASIBILITY EVALUATION</p> <p>TREATMENT PROCESS FLOW SCHEMATIC</p>	<p>FIGURE 1</p>
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CITY OF REDMOND, OREGON
RECLAIMED WATER WETLAND REUSE FEASIBILITY EVALUATION
IMPROVEMENTS PLAN

FIGURE 2



IMPROVEMENTS SCHEDULE

- | | |
|--|-----------------------------|
| ① MAIN DIVISION BUILDING (8,750 SQ. FT.) | ⑥ DISINFECTION BUILDING |
| ② MAINTENANCE BUILDING (12,000 SQ. FT.) | ⑦ BLOWER BUILDING |
| ③ OPERATIONS BUILDING (3,000 SQ. FT.) | ⑧ FUTURE SLUDGE DRYING BEDS |
| ④ VAC-TRUCK/SEPTAGE DUMP | ⑨ CHLORINE CONTACT BASIN |
| ⑤ HEADWORKS (SCREENS AND LIFT STATION) | |



CITY OF REDMOND, OREGON
 RECLAIMED WATER WETLAND REUSE FEASIBILITY EVALUATION
IMPROVEMENTS DETAIL PLAN

FIGURE 3

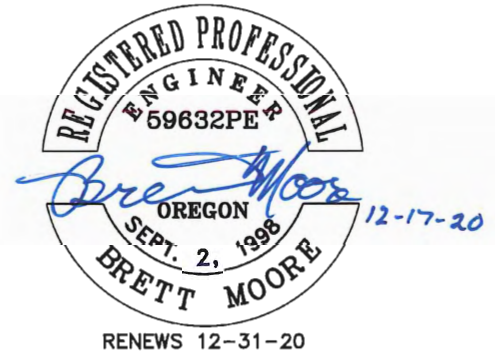
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WASTEWATER FACILITY PLAN AMENDMENT - 2020



Prepared for the
City of Redmond, Oregon

**WASTEWATER FACILITY PLAN AMENDMENT
FOR
CITY OF REDMOND, OREGON
2020**



ANDERSON PERRY & ASSOCIATES, INC.
La Grande, Redmond, and Hermiston, Oregon
Walla Walla, Washington

Table of Contents

Preface	1
A1.0 Basis of Planning	1
A1.1 Introduction and Need for the Project.....	1
A1.5 Existing and Future Population, Flows, and Loads.....	1
A1.6 Summary	2
A3.0 Regulatory Requirements	3
A4.0 Alternatives Analysis	4
A4.1 Lagoon Treatment.....	4
A4.1.1 Facultative	4
A4.1.2 Partially Aerated	4
A4.1.3 Aerated	5
A4.1.4 Aerated Lagoon with Orbal Aeration.....	5
A4.2 Wetlands	6
A4.2.1 Treatment Wetlands.....	7
A4.2.2 Disposal Wetlands	7
A4.3 Disinfection	8
A4.4 Support Facilities.....	8
A4.5 Ranking.....	9
A5.0 Recommended Improvements	10
A5.1 Headworks (Primary Treatment)	11
A5.2 Aerated Lagoon (Secondary Treatment).....	11
A5.3 Treatment Wetlands	12
A5.4 Disposal Wetlands and Infiltration Gallery	12
A5.5 Capital Cost and Life Cycle Cost	12
A5.6 Other Beneficial Uses.....	12
A6.0 Project Funding	13

TABLES

Table 1-1 Project Flows and Loads from the Wastewater Facility Plan	2
Table 1-2 Updated Project Flows and Loads.....	3
Table 4-1 Summary of Lagoon Alternatives	6
Table 4-2 Treatment Wetland Cost Estimate.....	7
Table 4-3 Disinfection System Estimated Project Cost	8
Table 4-4 Support Facilities Cost Estimate.....	9
Table 4-5 Alternative Rankings	10
Table 5-1 New Lagoon and Wetland Treatment Plant With Support Facilities at New Site.....	12

FIGURES

- Figure 1 Treatment Process Flow Schematic
- Figure 2 Improvements Plan
- Figure 3 Improvements Detail Plan

APPENDICES

Appendix A – Preliminary Calculations

Appendix B - Lagoon and Wetland Treatment and Disposal Feasibility Evaluation

Preface

The City of Redmond, Oregon, contracted Anderson Perry & Associates, Inc., to conduct a Lagoon and Wetland Treatment and Disposal Feasibility Evaluation (Evaluation), completed in July 2020 for wastewater treatment alternatives and, subsequently, this Wastewater Facility Plan Amendment (Amendment) to their 2019 Update of the Wastewater Facility Plan (WWFP). This Amendment summarizes the results of the Evaluation and is intended to supplement and not replace the WWFP. Therefore, this Amendment will closely follow the outline of the WWFP to best synchronize the contents of each document. Detailed background on the City of Redmond's physical environment, planning and service area, and existing infrastructure can be found in the WWFP.

Sections that are not addressed in this Amendment can be referred to in the original WWFP.

A1.0 Basis of Planning

A1.1 Introduction and Need for the Project

The City recently completed a WWFP Update in November 2019. The WWFP established a basis of planning, existing facilities evaluation, regulatory requirements, alternatives analysis, and recommended improvements. Several alternatives were evaluated as seen in Section 4.0 of the WWFP; however, all considered alternatives included expanding the existing mechanical treatment plant at its current location. The City wished to also consider abandoning the constrained site of the existing mechanical treatment plant and evaluate the option of lagoon and wetland treatment and disposal. The purpose of this Amendment is to update the design criteria to the year 2045 and add an alternative for a lagoon treatment system with a constructed wetland treatment and disposal system to meet the City's needs.

A1.5 Existing and Future Population, Flows, and Loads

Remaining consistent with the WWFP, this Amendment uses the Portland State University: Oregon Population Forecast Program to estimate future population data. The data suggest the population in Redmond may increase to approximately 54,000 by the end of 2045.

Historic flow data used for this Amendment differ from that used in the WWFP due to a correction in data collected by the City. In October 2019, the City discovered the influent flowmeter was not reading correctly. This provided flows that were less than actual; therefore, the design criteria used in the WWFP were not accurate. The flowmeter has been recalibrated, and the following corrections have been made, along with clarifications:

- **Population - 53,800.** As used in the WWFP.
- **Average Annual Flow - 4.34 million gallons per day (MGD).** A review of the influent flows between January 2015 and October 2019 showed the average per capita flow to be 65.2 gallons per capita per day (gpcd). This flow is a little lower than what would normally be expected. After the flowmeter was reset, the flows between November 2019 and June 2020 were 80.8 gpcd, which provided an increase of 15.6 gpcd. This is in the range normally seen for communities in this region. This increase was added to the flow records before October 2019 to obtain a more accurate indication of historic influent flows. The per

capita flow was then used with the design population to determine the average annual design flows.

- **Maximum Month Flow - 4.51 MGD.** The adjusted per capita flows noted above were used for the highest flow month of each year. These were then averaged and multiplied by the design population.
- **Average Annual Five-day Biochemical Oxygen Demand (BOD₅) - 501 milligrams per liter (mg/L), 18,134 pounds per day (ppd).** The average annual concentration was used with the design flows to determine loadings.
- **Maximum Month BOD₅** - A review of the historic data show the maximum flow months produce less BOD₅ loading than the average. For this reason, the average annual loading of 18,134 ppd should be used.
- **Average Annual Total Suspended Solids (TSS) - 353 mg/L, 12,777 ppd.** The historic average concentration was used with the design flow.
- **Maximum Month TSS - 357 mg/L, 13,428 ppd.** The historic average concentrations from each of the annual maximum months were used with the design maximum month flow to obtain the loading.
- **Average Annual Total Kjeldahl Nitrogen (TKN) - 65 mg/L, 2,353 ppd.** The design concentration from the WWFP Update was used with the flow above.
- **Maximum Month TKN - 75 mg/L, 2,821 ppd.** The design concentration from the WWFP Update was used with the flow above.
- **Peak Hour Flow - 11.63 MGD.** The WWFP Update indicated the peak hour flow can be calculated using a peaking factor of 2.68 with the average annual flow.

A1.6 Summary

The updated projected flows and loads used in this Amendment compared to those used in the WWFP can be seen on Tables 1-1 and 1-2. The projections presented on Table 1-2 are used in the following sections.

**TABLE 1-1
PROJECT FLOWS AND LOADS FROM THE WASTEWATER FACILITY PLAN**

Year	Population	Average Annual Flow, MGD	Maximum Month BOD ₅ Load, ppd	Maximum Month TSS Load, ppd	Maximum Month TKN Load, ppd
2017	28,800	1.90	9,800	7,000	1,200
2020	30,700	2.00	10,800	8,200	1,400
2025	34,400	2.20	12,100	9,200	1,500
2030	38,600	2.50	13,600	10,300	1,700
2035	43,200	2.80	15,200	11,600	2,000
2040	48,400	3.10	17,100	13,000	2,200
2045	53,800	3.50	19,000	14,400	2,400

**TABLE 1-2
UPDATED PROJECT FLOWS AND LOADS**

Year	Population	Average Annual Flow, MGD	Maximum Month BOD ₅ Load, ppd	Maximum Month TSS Load, ppd	Maximum Month TKN Load, ppd
2017	28,800	2.33	10,088	7,188	1,510
2020	30,700	2.48	10,753	7,662	1,610
2025	34,400	2.78	12,049	8,586	1,804
2030	38,600	3.12	13,520	9,634	2,024
2035	43,200	3.49	15,131	10,782	2,265
2040	48,400	3.91	16,953	12,080	2,538
2045	53,800	4.34	18,134	13,428	2,821

A3.0 Regulatory Requirements

Section 3 of the WWFP outlines the current water quality standards under the Water Pollution Control Facilities (WPCF) Permit that the City must comply with, as well as potential future regulatory considerations. As this Amendment is focused on evaluating the alternative of lagoon and wetland treatment and disposal, regulatory considerations surrounding this alternative will be outlined.

The City’s current WPCF Permit for the existing mechanical treatment plant would be modified or renewed with the construction of an entirely new treatment system. The existing mechanical treatment plant provides secondary treatment through the use of an activated sludge process with discharge to groundwater via an infiltration gallery. The system proposed in this Amendment would utilize aerated lagoons for secondary treatment, lined constructed wetlands for tertiary treatment, and unlined disposal wetlands with the existing infiltration basins for effluent disposal. The added wetland treatment and disposal areas will enhance water quality using more natural processes but will be completely different than the existing facilities. The new treatment system will require that a modified or renewed WPCF Permit be obtained. For this reason, an initial meeting was held with Oregon Department of Environmental Quality (DEQ) staff to discuss this treatment and disposal alternative with respect to a new permit. Generally, the DEQ is supportive of this option and feels that it can be permitted.

Since a new permit will be required but not yet obtained, the existing groundwater protection (Oregon Administrative Rules [OAR] 340-040) and effluent reuse rules (OAR 340-055) will be used for guidance in the evaluation of the lagoon and wetland alternative. The contaminate of specific note for groundwater protection from the proposed facility is a Nitrate - N limit of 10 mg/L. No other contaminants shown on OAR 340-040 Tables 1, 2, and 3 are anticipated to be at levels of concern in the treated effluent.

Effluent reuse is governed by OAR 340-055 and an approved Reclaimed Water Use Plan. Currently, the City irrigates crops not for human consumption using Class C effluent. This type of reuse only requires Class D or non-disinfected effluent based on the OARs. The existing WPCF Permit requires Class D effluent for discharge to the infiltration beds. The proposed treatment system would disinfect secondary effluent prior to discharging to treatment wetlands, then disposal wetlands, and ultimately an infiltration gallery. It is proposed that the wetland area be accessible to the public for non-contact use of adjacent walking paths for wildlife viewing and exercise. The area will be posted to prevent human contact with wetland water. A 10-foot setback is required by OAR 340-055. For this use, disinfecting the effluent to a Class D level prior to discharging to the treatment wetland is proposed. The natural

wetland system and wildlife use would make disinfection limits after the treatment wetland unpredictable.

A4.0 Alternatives Analysis

The City conducted an extensive alternatives analysis as seen in Section 4.0 of the WWFP. Along with the preferred mechanical treatment plant expansion alternative, the City can consider two additional alternatives: using lagoons and wetlands to provide the treatment capacity needed for the future and continue using the headworks and office space at the existing facility, or moving the entire treatment system, offices, and shops to a new location. These three options will be compared considering capital cost, life cycle cost, land and future expandability, and community benefits.

A4.1 Lagoon Treatment

Lagoon treatment can be provided with a facultative lagoon, partially aerated lagoon, or aerated lagoon.

A4.1.1 Facultative

A facultative lagoon provides oxygen for waste decomposition from an air/water interface area and algae photosynthesis. This system would be a minimum two-stage system operating between 3 and 7 feet in depth, with a minimum detention time of approximately 100 days. For this evaluation, an operating depth between 4 and 5 feet was assumed, and the detention time would be well in excess of 100 days due to the area needed for oxygen transfer. The first stage would need to be 360 acres and the second stage would need to be 160 acres, for a total lagoon size of 520 acres. For construction purposes, it is suggested to divide these lagoon cells into maximum 40-acre units. Then, there would be approximately 13 40-acre lagoons. See Appendix A for preliminary calculations.

Solids handling would not be required for this option. Lagoon solids would be anticipated to be removed approximately once every 40 years, once the lagoons reach their design BOD₅ loading. A multi-cell lagoon system would allow a lagoon cell to be taken offline and solids to dry in the bottom of the lagoon for easy and cost-effective removal.

This lagoon type can reduce total nitrogen 40 to 95 percent (see Metcalf & Eddy, Wastewater Engineering, Third Edition). A removal efficiency of approximately 85 percent is needed to meet existing WPCF Permit limits. For this reason, adding a treatment wetland for effluent polishing would be recommended.

A4.1.2 Partially Aerated

A partially aerated lagoon would provide some of the oxygen requirements through an aeration system. For purposes of this evaluation, it was assumed that the oxygen for the first stage of the facultative lagoon system would be provided through mechanical aeration. Approximately 2 pounds of oxygen per pound of BOD₅ removed is used in this evaluation to include both BOD₅ and nitrogen reduction, and approximately 2 pounds of oxygen per horsepower (Hp) per hour can be assumed for an aeration system. The first-stage aeration system would mainly be used to increase the dissolved oxygen in the wastewater so it is available for microbial use and provide oxygen that would be consumed during the time water is in this cell. The detention time in

this lagoon would be approximately three days. This first stage of the lagoon would then be approximately 10 feet deep to provide for aeration. Approximately 360 Hp of aeration would be needed. This would require a first-stage lagoon of approximately 4 acres. The second stage would then be approximately 160 acres and constructed mainly as a facultative system to provide both aerobic and anoxic microbial colonies, but this area would not provide enough oxygen for the BOD₅ loading, so approximately 106 Hp of additional aeration would still be needed in the second stage.

As with the facultative lagoons, solids handling would not be proposed for this system. Solids reduction would occur naturally in the second-stage lagoons, but solids removal from the lagoons may still be needed approximately every 30 years.

This lagoon type can reduce total nitrogen 40 to 95 percent. A removal efficiency of approximately 85 percent is needed to meet existing WPCF Permit limits. For this reason, it is recommended a treatment wetland be added for effluent polishing.

A4.1.3 Aerated

An aerated lagoon would provide sufficient oxygen through aeration systems. A partially mixed, aerated lagoon would consist of five cells with a total detention time of 20 days. The 20-day detention time is on the longer end of what would normally be anticipated, but it provides a factor of safety and capacity to realize increased reduction in total nitrogen. A total requirement of approximately 755 Hp is needed to provide the required oxygen. The depth of the lagoon cells would be approximately 11 feet. The total wet area needed would be approximately 25 acres.

Solids handling would not be anticipated for this option, as solids reduction would occur in the lagoon cells. Solids removal is still anticipated to be needed approximately once every 20 years, once the flows and loadings reach design levels.

This lagoon type can reduce total nitrogen 60 to 95 percent. A removal efficiency of approximately 85 percent is needed to meet existing WPCF Permit limits. For this reason, a treatment wetland would be recommended to be added for effluent polishing.

A4.1.4 Aerated Lagoon with Orbal Aeration

This alternative utilizes the existing capital investment in the Orbal aeration system to provide pre-aeration and reduce the total capital and operation and maintenance (O&M) requirements at the new lagoon site. The Orbal aeration system capacity would provide enough oxygen to reduce the anticipated BOD₅ loads on the proposed lagoon treatment system to approximately 9,000 ppd. This alternative would abandon the existing mechanical treatment plant facilities except for the headworks, two Orbal units, and one clarifier and associated sludge pump. The clarifier would harvest biosolids (microorganisms) from the ditch effluent and send it back to the ditch. The effluent from the ditches and clarifier would then be combined with any raw wastewater not sent to the ditch. The combined flows would then be sent to the aerated lagoons. This would reduce the total required at the aerated lagoon to approximately 375 Hp, the required detention time to 10 days, and the lagoon size from 25 to 13 acres.

Solids handling and nitrogen reduction would be similar to the aerated lagoon option.

Table 4-1 shows a summary of costs for these treatment alternatives.

**TABLE 4-1
 SUMMARY OF LAGOON ALTERNATIVES**

	Facultative Lagoon	Partially Aerated Lagoon	Aerated Lagoon	Orbal Plus Aerated Lagoon
Mobilization/Demobilization (5% of Construction Cost)	\$1,020,000	\$800,000	\$430,000	\$250,000
Earthwork	1,750,000	860,000	678,000	564,000
Rock Removal	9,680,000	3,876,000	1,920,000	486,000
Liner	21,000,000	8,712,000	1,089,000	828,000
Control Structures	180,000	75,000	60,000	60,000
Piping	336,000	216,000	120,000	120,000
Gravel	162,000	76,000	28,000	22,000
Diffusers	0	1,200,000	1,500,000	900,000
Blowers	0	650,000	800,000	480,000
Blower Building	0	240,000	360,000	240,000
Electrical and Controls	0	500,000	600,000	500,000
Fencing	126,000	60,000	30,000	30,000
Site Work	50,000	50,000	50,000	50,000
Sum of Estimated Construction Cost	\$34,304,000	\$17,315,000	\$7,665,000	\$4,530,000
Construction Contingency (15%)	5,146,000	2,597,000	1,150,000	680,000
Subtotal Estimated Construction Cost	39,450,000	19,912,000	8,815,000	5,210,000
Administration, Legal, and Engineering (10% to 20%)	3,945,000	3,982,000	1,763,000	1,042,000
Total Capital Costs	43,395,000	23,894,000	10,578,000	6,252,000
20-year Estimated O&M Cost	3,029,000	7,976,000	8,923,000	8,462,000
Total Estimated 20-year Life Cycle Cost (2020 Dollars)	\$46,424,000	\$31,870,000	\$19,501,000	\$14,714,000

As seen on Table 4-1, the option of using a facultative or partially aerated lagoon is cost prohibitive due to the overall size and amount of liner required. Further examination of the aerated lagoon and using the City’s existing Orbal system plus an aerated lagoon is analyzed considering operational impacts, long-term maintenance, location, odor concerns, future flexibility, energy efficiency, and community benefits. This analysis indicates the aerated lagoon alternative should be pursued by the City. Results of the comparison are included in Section A4.5.

A4.2 Wetlands

Wetlands are a natural treatment system that provide an environment for the healthy growth of microbial colonies that decompose organic materials and return them to their basic molecular structures. For example, complex hydrocarbons found in organic materials are consumed by microbes for their stored energy and turned into carbon dioxide, water, nitrogen gas, and phosphorus. In general, wetlands provide food and shelter for a wide variety of microbes, macro-

invertebrates, insects, amphibians, waterfowl, upland birds, mammals, and all forms of life in a complex ecosystem.

A4.2.1 Treatment Wetlands

After biologic stabilization of the waste is provided in the lagoon system, the lagoon effluent should be further “polished” in treatment wetlands to provide a more natural environment to further reduce pathogens and nutrients. The wetlands would provide a shallow surface flow system for increased exposure to light and encourage vegetation growth. The vegetation in the wetlands would provide a substrate for attached growth microbial colonies that would provide for nitrification of any remaining ammonia. Denitrification would then be provided in the bottom anoxic layers of the wetlands and in deeper sections built into the environment. The treatment wetlands would be sized for a six-day detention time at an average depth of 12 inches. The treatment wetland would have a liner installed under 12 inches of native material in which vegetation would grow. The wetland would be seeded and planted. This would require a wetland complex with approximately 70 wet acres. Additional nitrogen reduction would be provided in the wetlands, but nitrogen reduction would be improved when multiple wetland cells constructed in series are provided. See Table 4-2 for a preliminary estimated project cost for these improvements.

**TABLE 4-2
TREATMENT WETLAND COST ESTIMATE**

Mobilization/Demobilization (5% of Construction Cost)	\$400,000
Earthwork	402,000
Rock Removal	1,944,000
Liner	3,050,000
Control Structures	90,000
Piping	240,000
Gravel	42,000
Topsoil Removal and Replacement	904,000
Seeding and Planting	20,000
Fencing	42,000
Sum of Estimated Construction Cost	\$7,134,000
Construction Contingency (15%)	1,070,000
Subtotal Estimated Construction Cost	8,204,000
Administration, Legal, and Engineering (20%)	1,640,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)	\$9,844,000

A4.2.2 Disposal Wetlands

The existing disposal system utilized by the City is through irrigation and seepage. The area proposed for facility construction contains a concrete sealed irrigation storage pond that holds water and a seepage area that leaks at a high rate. The size of disposal wetlands would depend on their seepage rate. Due to the function of the seepage area and the standing water from the irrigation ditch return water, it is assumed that the natural ground could provide very high infiltration rates or low infiltration rates. The existing seepage area has multiple cells with only

one cell operating at a time. Based on current operation, the seepage area appears to have sufficient capacity to serve the City in the future. For this reason, the disposal wetlands are not necessarily needed, but there is an opportunity to beneficially use the effluent in a wetland environment that could be accessible to the public. This would provide a natural wildlife and park area. It is suggested to set aside approximately \$4,000,000 for construction of publicly accessible wetland and wildlife park features as disposal wetlands between the treatment wetlands and the existing seepage area.

A4.3 Disinfection

After the wastewater is treated in the lagoon system, it would be disinfected. The alternatives for wastewater disinfection that would normally be considered include chlorine, ultraviolet (UV), and ozone. Using lagoon treatment prior to disinfection would make UV and ozone somewhat unreliable due to uncontrolled interferences with disinfection efficiency that come from the lagoon treatment system. For this reason, chlorine disinfection is recommended.

The disinfected lagoon effluent would then flow to the existing irrigation storage pond or into a 70-acre treatment wetland complex before entering a disposal wetland and infiltration basin area for evaporation and seepage into groundwater. The total project cost for this system is summarized on Table 4-3.

**TABLE 4-3
 DISINFECTION SYSTEM ESTIMATED PROJECT COST**

Mobilization/Demobilization (5% of Construction Cost)	\$66,000
Building	200,000
Chlorination Equipment	40,000
Chlorine Contact Basin	280,000
Electrical and Controls	100,000
Piping	12,000
Rock Removal	60,000
Gravel	2,000
Steel Building over Basin	500,000
Sum of Estimated Construction Cost	\$1,260,000
Construction Contingency (15%)	189,000
Subtotal Estimated Construction Cost	1,449,000
Administration, Legal, and Engineering (20%)	290,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)	\$1,739,000

A4.4 Support Facilities

Support facilities are necessary for all three alternatives. As shown in the WWFP, recommended support facilities upgrades that apply to all alternatives total \$7,100,000, as similar facilities are needed for both the Orbal and lagoon systems. However, the alternatives that abandon the Orbal system will require additional support facilities that include a new headworks, grit chamber, septage dump, etc. These are shown on Table 4-4, with the support facilities identified in the WWFP.

Table 4-4 also shows costs for constructing sludge drying beds to provide operator flexibility in being able to continually manage biosolids accumulation by wet dredging some biosolids as an alternative to taking a lagoon cell off line. The beds could also be used to dry grit. These drying beds could be constructed as part of the initial project or could be constructed as an additional phase after a few years of biosolids accumulation.

**TABLE 4-4
 SUPPORT FACILITIES COST ESTIMATE**

Mobilization/Demobilization (5% of Construction Cost)	\$600,500
Main Division Building	2,187,500
Maintenance Building	2,100,000
Generator Building	64,000
Roads and Parking	352,000
Operations Building (Motor Control Centers, Control Room, Lab)	750,000
Lift Station	400,000
Vacuum Truck/Septage Dump	90,000*
Sludge Drying Beds	2,250,000
Domestic Water	400,000
Fencing/Site Work	100,000
Headworks	400,000*
Rock Removal	12,000
Electrical and Controls	700,000
Site Piping	240,000
Grit Chamber	300,000*
Rock Processing	250,000
Sum of Estimated Construction Cost	\$11,196,000
Construction Contingency (15%)	1,679,000
Subtotal Estimated Construction Cost	12,875,000
Administration, Legal, and Engineering (20%)	2,575,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)	\$15,450,000

*Not included in the Orbal plus Aerated Lagoon option.

A4.5 Ranking

The aerated lagoon, existing Orbal aeration system plus aerated lagoon, and recommended expansion of the existing mechanical treatment plant from the WWFP are considered the viable alternatives to be ranked for comparison purposes. The selection of a preferred alternative from a variety of viable alternatives should consider several factors. The factors could include capital cost, total life cycle cost, ease of operation, maintenance, construction risk, odor concerns, future flexibility, energy efficiency, community benefits, and location. Each of these factors does not bear the same level of importance, so a weight factor is also added to assign more value to the more important factors. The factors, their ranks, and the weighted rankings are shown on Table 4-5 below.

**TABLE 4-5
ALTERNATIVE RANKINGS**

Criterion (Weight)	Ranking (Weighted Ranking)		
	Aerated Lagoon	Orbal Plus Aerated Lagoon	Expand Existing Mechanical Treatment Plant
Capital Cost (2)	\$41.6 million 2 (4)	\$38.5 million 3 (6)	\$47.7 million 1 (2)
Life Cycle Cost (3)	\$53.9 million 2 (6)	\$52.8 million 2 (6)	\$62.0 million 1 (3)
Ease of Operation (1)	3 (3)	1 (1)	2 (2)
Maintenance (2)	3 (6)	2 (4)	1 (2)
Construction Risk (2)	1 (2)	1 (2)	2 (4)
Odors (2)	3 (6)	2 (4)	1 (2)
Future Flexibility (1)	2 (2)	2 (2)	1 (1)
Expandability (3)	3 (9)	3 (9)	1 (3)
Energy Efficiency (1)	3 (3)	2 (2)	1 (1)
Community Benefit (2)	3 (6)	2 (4)	1 (2)
Regulatory Flexibility (3)	3 (9)	2 (6)	1 (3)
Location (2)	3 (6)	2 (4)	1 (2)
Total (Weighted Total)	31 (62)	24 (50)	14 (27)

Notes:

1. Highest Ranking = 3, Intermediate Ranking = 2, Lowest Ranking = 1. Weighted ranking is obtained by multiplying the ranking by the weight.
2. Costs for expand mechanical treatment plant are taken from the WWFP and inflated 2 years at 3.5 percent
3. Capital and life cycle costs are taken from the Lagoon and Wetland Treatment and Disposal Feasibility Evaluation (see Appendix B).

A5.0 Recommended Improvements

Based on the alternative rankings on Table 4-5, the alternative to move the entire treatment system, offices, and shops to a new location is proposed. The improvements would include an aerated lagoon system for secondary treatment with a lined treatment wetland for effluent polishing. Disposal would be through irrigation reuse and reuse in an unlined wetland and the existing infiltration gallery. Primary treatment would be provided with screening and grit removal. Figure 1 shows the proposed treatment process flow schematic and the following details describe each process. Figures 2 and 3 show a conceptual layout on the proposed site. These figures show some of the improvements on property not owned by the City, yet the layout could be modified to utilize City-owned property for everything but the disposal wetlands and infiltration gallery (seepage beds).

The existing WPCF Permit is established for a 2.99 MGD activated sludge mechanical treatment plant and has process limits identified for water entering the constructed disposal area wetlands (seepage beds) that are defined as moderate rate infiltration basins (Outfall 001). These limits were set for the effluent from a 2.99 MGD activated sludge mechanical treatment plant directly entering Outfall 001. In addition, the Permit has limits on downgradient groundwater monitoring wells. The Permit will need to be modified for the new treatment process and treatment plant capacity of 4.34 MGD. The new, larger capacity lagoon and wetland treatment system will protect the groundwater resources, but the change in the system will require a change in permit limits prior to water entering the groundwater. The use of the wetland system for effluent polishing will improve water quality, but the wetlands will also be

susceptible to algae blooms (as the existing seepage beds are). This will make it difficult to consistently meet the current TSS limit of 20 mg/L entering the seepage beds. The 20 mg/L TSS limit was appropriately established for the activated sludge mechanical treatment plant. It is proposed to modify the Permit to increase the monthly average daily flow to 4.34 MGD and maintain the current groundwater limits of 9 mg/L nitrate and 500 mg/L total dissolved solids. In addition, it is proposed to eliminate limits for Outfall 001 but impose appropriate limits for treatment equivalent to secondary (as defined in 40 Code of Federal Regulations 133) on the aerated lagoon effluent prior to entering the polishing wetlands.

A5.1 Headworks (Primary Treatment)

The headworks consists of a screening system to remove rags and debris in wastewater. The headworks would have two rotary drum screens sized for the peak hour flow. Moving the existing screens to the new location is proposed.

After screening, wastewater will flow through a grit chamber where grit would be settled and pumped to a grit classifier for dewatering and disposal in a landfill. An aerated grit chamber could be used since air should be available from the lagoon blowers. The aerated grit chamber would provide approximately three minutes of detention time at peak flow and be dual chambered with approximately 1,620 cubic feet in volume in each chamber. The basins would each be approximately 6 feet deep, 10 feet wide, and 30 feet long. Approximately 300 cubic feet per minute of air would be needed to run the chambers. A vortex pump would remove the settled grit from a sump in the bottom of the chamber and pump it to a dewatering system.

A lift station would be added to pump the screened and de-gritted wastewater to the aerated lagoons. This lift station would meet Level 2 reliability with approximately four submersible pumps each rated at 2,020 gallons per minute.

A5.2 Aerated Lagoon (Secondary Treatment)

A partially mixed, aerated lagoon would consist of five cells with a total detention time of 20 days. A total requirement of approximately 750 Hp would be needed to provide the required oxygen. The operating depth of the lagoon cells would be approximately 11 feet. The total wet area needed would be approximately 25 acres.

The five-cell aerated lagoon system would include a final settling cell area that is a minimum of 2 acres in size to provide adequate solids settling. To avoid needing to clean all ponds at one time, the City could install a small drying bed area with dredge piping from the lagoon cells to the drying beds. City crews could then operate a dredge to pump solids from the bottom of the lagoons to the drying beds on a regular maintenance interval. Even with these improvements, it is anticipated it will take several years before there is enough accumulated biosolids in the bottom of the lagoons to be removed with a dredge.

A treatment wetland for effluent polishing would be recommended. To provide added operator flexibility, improvements could be completed that would allow for a future low head recycle pump to be easily added to recycle nitrified effluent to the first aerated lagoon for denitrification and added total nitrogen reduction.

A5.3 Treatment Wetlands

After biologic stabilization of the waste is provided in the lagoon system, the lagoon effluent should be further “polished” in lined treatment wetlands to provide a more natural environment to further reduce pathogens and nutrients. The wetland would be seeded and planted. This would require a wetland complex with approximately 70 wet acres.

A5.4 Disposal Wetlands and Infiltration Gallery

The existing disposal system utilized by the City is through irrigation and seepage. The area proposed for facility construction contains a concrete sealed irrigation storage pond that holds water and an infiltration gallery that leaks at a high rate. The proposed construction site also contains two irrigation tailwater ponds that hold water. The size of disposal wetlands would depend on the seepage rate of the wetlands. Due to the function of the seepage area, it is assumed that the natural ground could provide high infiltration rates, but the tailwater ponds indicate there are areas that could hold water. The existing seepage area has four cells with only one or two cells operated at a time. Based on current operation, the seepage area appears to have sufficient capacity to serve the City in the future. The capacity of the existing seepage area is currently adequate to dispose of the design rate of 4.34 MGD, so improvements to the infiltration gallery are not proposed, and the existing irrigation system is proposed to be maintained.

A5.5 Capital Cost and Life Cycle Cost

The total estimated capital and life cycle cost for moving the treatment plant is summarized on Table 5-1.

**TABLE 5-1
 NEW LAGOON AND WETLAND TREATMENT PLANT
 WITH SUPPORT FACILITIES AT NEW SITE**

Item	Estimated Capital Cost	Estimated 20-year Life Cycle Cost
Aerated Lagoon	\$10.6 million	\$19.5 million
Disinfection System	1.7 million	2.4 million
Treatment Wetlands	9.8 million	10.4 million
Disposal Wetlands	4.0 million	4.1 million
Headworks and Support Facilities	15.5 million	17.5 million
Total	\$41.6 million	\$53.9 million

A5.6 Other Beneficial Uses

Although these recommended improvements focus on constructing new wastewater treatment and disposal facilities, considerations could be given to developing other beneficial uses with reclaimed water from the wastewater treatment plant.

The City could construct public trails, viewing areas, and parking for public access to the wetland areas that will be home to a variety of birds and other wildlife. This trail system through the wetland areas could also be tied to a City-wide trails system as an extension to Dry Canyon. The

reuse of the reclaimed water in this manner provides an ancillary benefit to the City that is otherwise not realized.

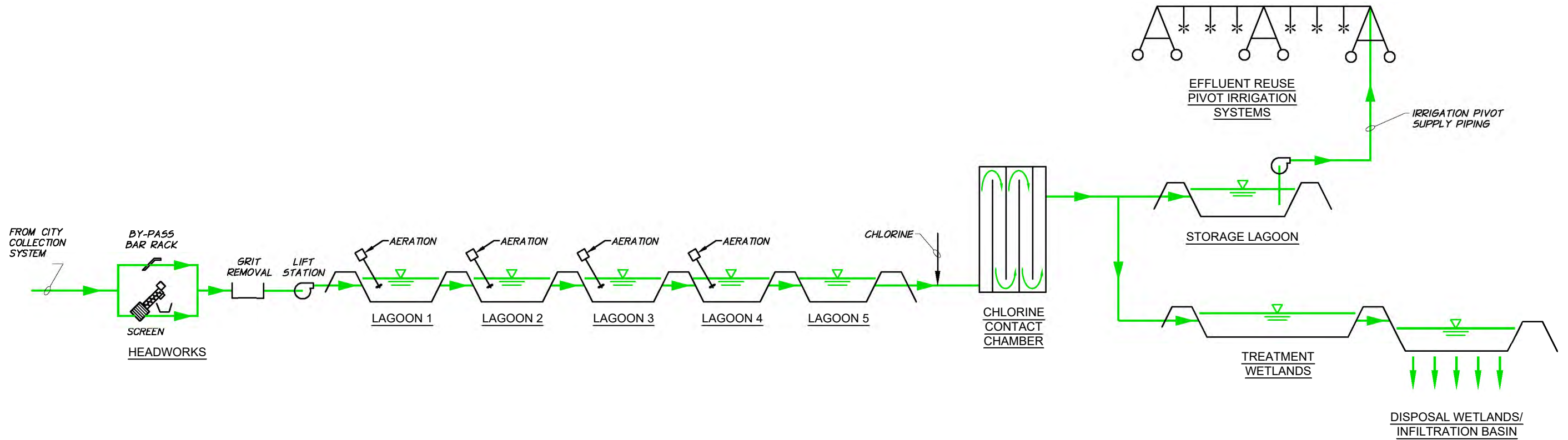
The City could also utilize treated effluent for additional beneficial uses such as irrigating turf grass for new sports fields in the area. Some added effluent polishing may be needed, depending on the proposed beneficial use. At this time, the City is not planning on changing the current irrigation practices.

As improvements are pursued for implementation, these other beneficial uses could be considered.

A6.0 Project Funding

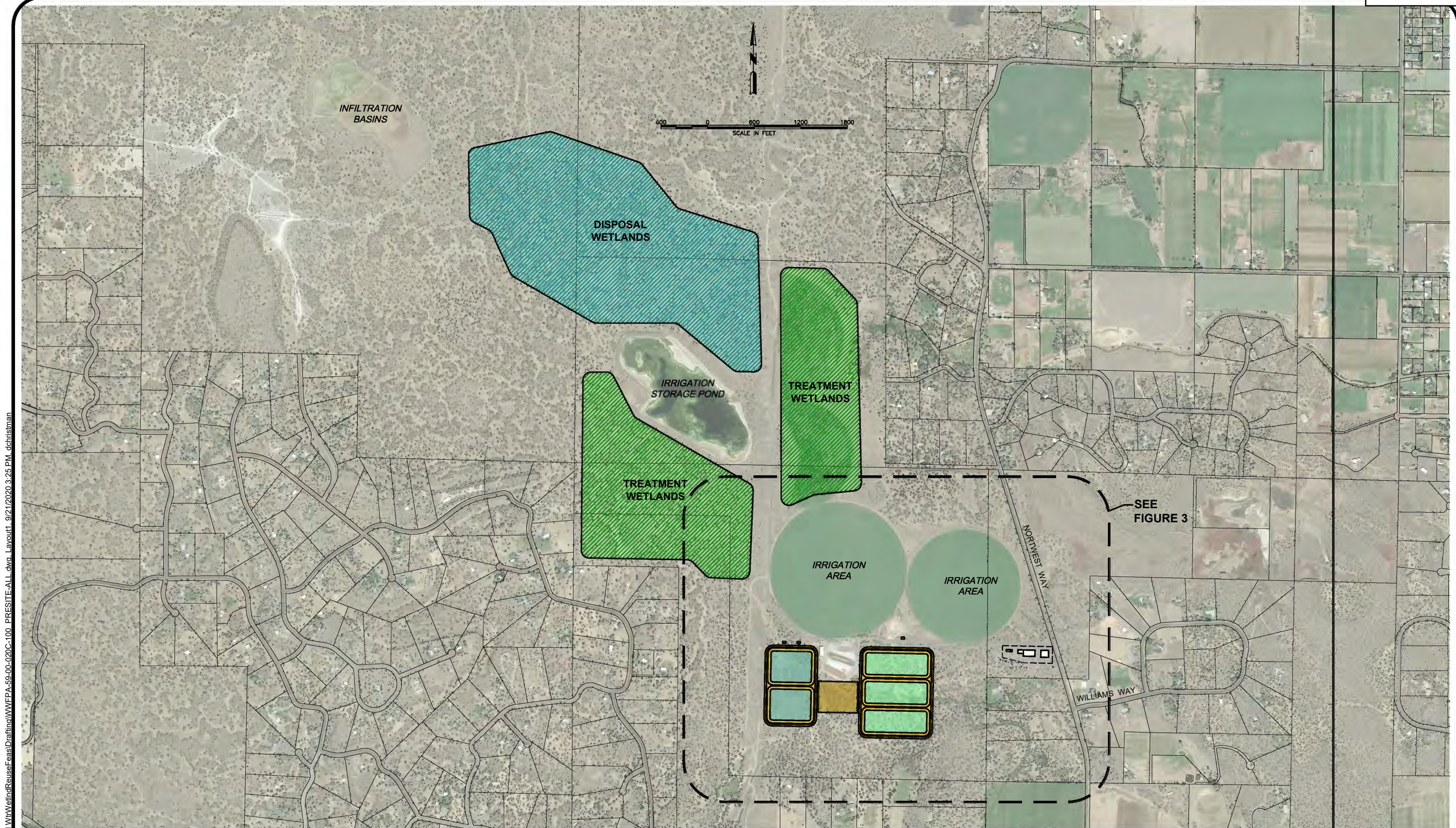
The project will be paid for by user rates and system development charges (SDCs). The project is anticipated be financed (up to 100 percent) primarily through a DEQ loan. Up to \$7.5 million of Wastewater Fund cash (\$1.8 million operating/\$5.7 million SDCs) will either be utilized to pay off higher interest existing debt (\$850,000 of annual debt service) or support expansion project costs. The expansion debt will be paid primarily through SDCs, which equated to \$2.3 million in fiscal year 2019-20. The Wastewater Fund is positioned to provide support to the expansion debt service as well. Over the past four years, the Wastewater Fund has seen surpluses, averaging approximately \$400,000 per year. This surplus is expected to accelerate with the operating efficiencies (reduction in operating costs) gained from the expansion project. Current plant operating costs are approximately \$2.5 million annually, which could conservatively see a 25 percent reduction, based on the new treatment concept planned in the expansion project. A five-year forecast is completed annually to evaluate operating needs and any rate increase that may be needed to support ongoing operations and debt service. Over the past five years, operating rates have, on average, increased 1.8 percent annually as part of the City's budget process. Those rate increases have received unanimous support by the Redmond City Council and remain very competitive relative to other public entities in the region.

FIGURES



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	<p>CITY OF REDMOND, OREGON WASTEWATER FACILITY PLAN AMENDMENT</p> <p>TREATMENT PROCESS FLOW SCHEMATIC</p>	<p>FIGURE 1</p>
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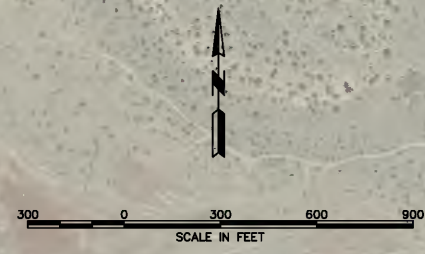
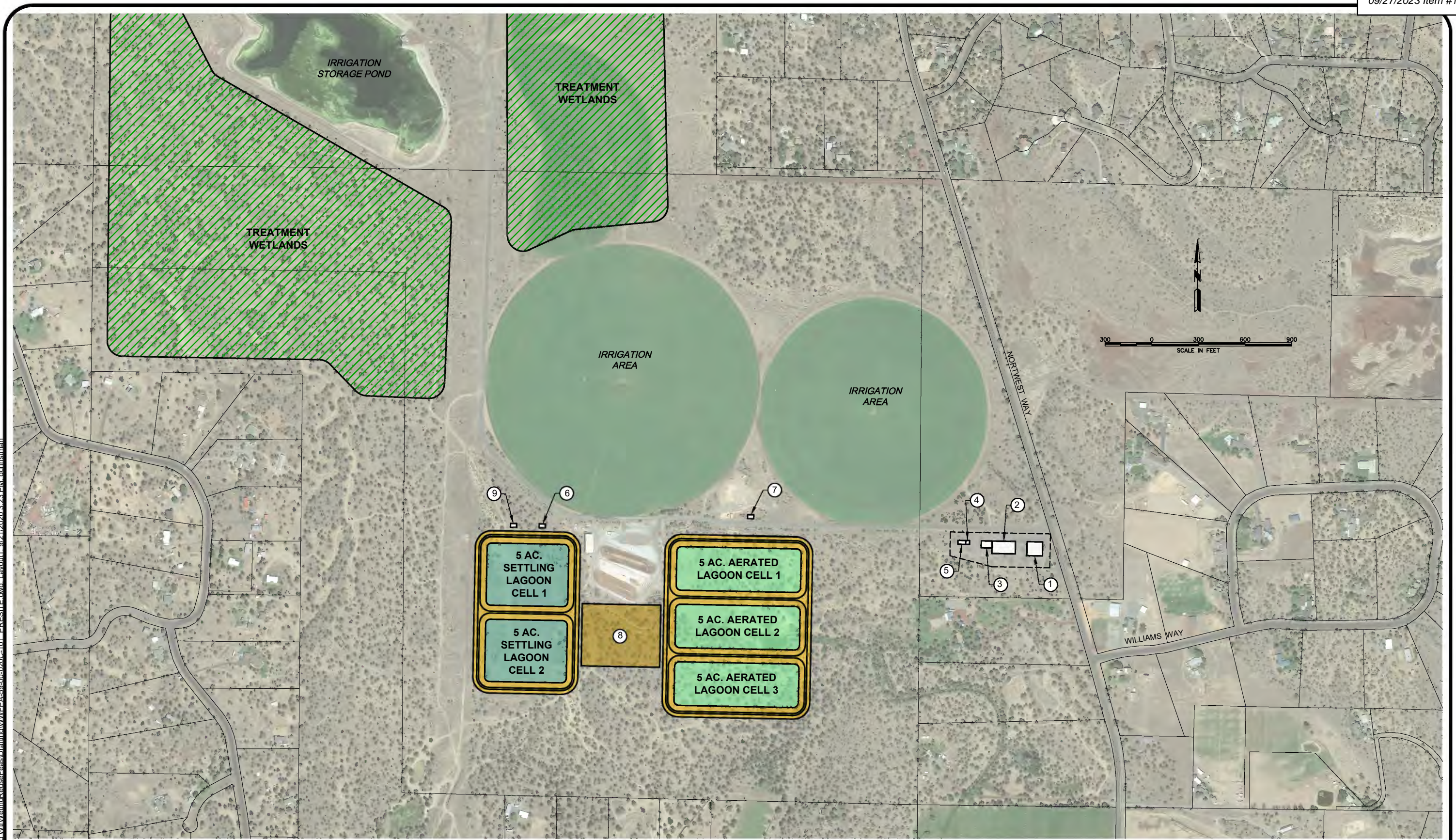


**CITY OF
REDMOND, OREGON**
WASTEWATER FACILITY PLAN AMENDMENT

IMPROVEMENTS PLAN

**FIGURE
2**

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IMPROVEMENTS SCHEDULE

- | | |
|--|-----------------------------|
| ① MAIN DIVISION BUILDING (8,750 SQ. FT.) | ⑥ DISINFECTION BUILDING |
| ② MAINTENANCE BUILDING (12,000 SQ. FT.) | ⑦ BLOWER BUILDING |
| ③ OPERATIONS BUILDING (3,000 SQ. FT.) | ⑧ FUTURE SLUDGE DRYING BEDS |
| ④ VAC-TRUCK/SEPTAGE DUMP | ⑨ CHLORINE CONTACT BASIN |
| ⑤ HEADWORKS (SCREENS AND LIFT STATION) | |



CITY OF REDMOND, OREGON
 WASTEWATER FACILITY PLAN AMENDMENT
IMPROVEMENTS DETAIL PLAN

FIGURE 3

APPENDIX A

Preliminary Calculations

Facultative

$BOD = 18,134 \text{ ppd}$ $Q = 4.34 \text{ MGD}$

$t_{min} = 100 \text{ days}$ primary pond loading = 50 ppd/ac.

total pond loading = 35 ppd/ac.

$\frac{18,134 \text{ ppd}}{50 \text{ ppd/ac}} = 360 \text{ acres}$

$\frac{18,134 \text{ ppd}}{35 \text{ ppd/ac}} = 520 \text{ acres}$

Partially Aerated

$2 \#O_2 / \#BOD.$

$2 \#O_2 / Hp \cdot hr$

$t = 3 \text{ days}$ - Pre-air Cell
depth = 10 feet

Facultative First Stage = $360 \text{ acres} @ 30 \text{ ppd/ac} = 10,800 \text{ ppd}$ For Pre-air

$\frac{10,800 \text{ ppd}}{24 \text{ hrs}} = 360 \text{ Hp}$

$Vol = 4.34 \text{ MGD} \times 3 \text{ days} = 13.02 \text{ MG}$
 $= 40.0 \text{ ac} \cdot \text{ft}$

Area = $40 \div 10 = 4 \text{ acres}$

Second Stage = $520 - 360 = 160 \text{ acres.}$

$160 \text{ acres} \times 30 \text{ ppd/ac} = 4,800 \text{ ppd}$

Total Pre-air Facultative
 $18,134 \text{ ppd} - 10,800 \text{ ppd} - 4,800 = 2,534 \text{ ppd}$ Second stage air

$\frac{2,534 \text{ ppd}}{24 \text{ hrs}} = 106 \text{ Hp.}$

PRELIMINARY

Partially Mixed aerated

$t = 20 \text{ days}$ $C_0 = 501 \text{ mg/l BOD}$ $C_n = ? \text{ mg/l BOD}$ $n = 5 \text{ stages}$
 $k = 0.14 @ 1^\circ\text{C}$ $k = 0.276 @ 20^\circ\text{C}$

$$\frac{C_n}{C_0} = \frac{1}{\left(1 + \left(\frac{k t}{n}\right)^n\right)} \Rightarrow \frac{1}{\left(1 + \left(\frac{0.276 \times 20}{5}\right)^5\right)} \times 501 = C_n = 12 \text{ mg/l}$$

@ $C_n = 30 \text{ mg/l}$ $k = 0.189 \text{ d}^{-1}$ OK

$\frac{18,134 \text{ ppd BOD}}{24 \text{ hr}} = 755 \text{ Hp}$

$4.51 \text{ MGD} \times 20 \text{ days} = 90.2 \text{ MG}$
 $= 277 \text{ ac} \cdot \text{ft}$

$277 \text{ ac} \cdot \text{ft} / 11 \text{ Feet deep} = 25 \text{ acres.}$

Aerated w/Orbal

BOD for Lagoons = 9,000 ppd

$\frac{9,000 \text{ ppd}}{24 \text{ hrs}} = 375 \text{ Hp}$

4.51 MGD

$\frac{9,000 \text{ ppd}}{8.34 \times 4.51 \text{ MGD}} = 239 \text{ mg/l BOD}$

@ $C_n = 30 \text{ mg/l}$

$$\frac{C_n}{C_0} = \frac{1}{\left(1 + \left(\frac{k t}{n}\right)^n\right)} \left(\left(\frac{C_0}{C_n}\right)^{\frac{1}{n}} - 1 \right) \frac{n}{k} = t = \left(\left(\frac{239}{30}\right)^{\frac{1}{5}} - 1 \right) \left(\frac{5}{0.276} \right) = 9.3 \Rightarrow 10 \text{ days}$$

PRELIMINARY

APPENDIX B
Lagoon and Wetland Treatment and Disposal
Feasibility Evaluation

**LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION**

FOR

CITY OF REDMOND, OREGON



Prepared for the
City of Redmond, Oregon

**LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
FOR
CITY OF REDMOND, OREGON**

2020



ANDERSON PERRY & ASSOCIATES, INC.

La Grande, Redmond, and Hermiston, Oregon
Walla Walla, Washington

Table of Contents

Background	1
Design Criteria	1
Lagoon Treatment	2
Facultative	2
Partially Aerated.....	2
Aerated.....	3
Aerated Lagoon with Orbal Pre-Aeration.....	3
Treatment Wetlands	4
Disposal Wetlands	4
Other Beneficial Uses	4
Permit Limits	4
Biochemical Oxygen Demand and Total Suspended Solids.....	5
Nitrogen.....	5
Total Dissolved Solids	5
Project Consideration	5
Expand Existing Mechanical Treatment Plant at Existing Site.....	5
New Lagoons and Wetlands with Existing Facilities.....	6
New Lagoon and Wetland Treatment Plant with Support Facilities at New Site.....	7
Summary	8

TABLES

- Table 1 Facultative Lagoon Preliminary Cost Estimate
- Table 2 Partially Aerated Lagoon Preliminary Cost Estimate
- Table 3 Aerated Lagoon Preliminary Cost Estimate
- Table 4 Orbal Plus Aerated Lagoon Preliminary Cost Estimate
- Table 5 Treatment Wetlands Preliminary Cost Estimate
- Table 6 Disinfection System Preliminary Cost Estimate
- Table 7 Support Facilities Preliminary Cost Estimate

FIGURES

- Figure 1 Treatment Process Flow Schematic
- Figure 2 Improvements Plan
- Figure 3 Improvements Detail Plan

Background

The City of Redmond, Oregon, recently completed a Wastewater Facilities Plan (WWFP) and a WWFP Update in November 2019. These planning documents recommended improvements totaling \$44.6 million in 2018 dollars (\$47.7 million in 2020 dollars) but did not consider improvement alternatives other than mechanical treatment. The WWFP and WWFP Update did not include other locations for the proposed improvements. The City believes it may be prudent to consider other improvement alternatives that could reduce the total life cycle costs to City residents and relocate the existing facilities out of the residential area. As an example of other possible improvements to consider, the City of Prineville, Oregon, has successfully implemented the use of lagoon technology with constructed wetland treatment and disposal, while substantially reducing the overall total cost to the City and providing public access to wetland/wildlife areas. The purpose of this feasibility evaluation is to evaluate the potential of using a lagoon treatment system with a constructed wetland treatment and disposal system as an alternative to meet the City’s wastewater treatment and disposal needs.

Design Criteria

The design criteria used for this evaluation are taken from the WWFP Update. The design year 2045 was used with the following wastewater influent parameters:

- Population - 53,800
- Average Annual Flow - 3.49 million gallons per day (MGD)
- Maximum Month Flow - 3.76 MGD
- Average Annual Five-day Biochemical Oxygen Demand (BOD₅) - 14,500 pounds per day (ppd)
- Maximum Month BOD₅ - 19,000 ppd
- Average Annual Total Suspended Solids (TSS) - 9,600 ppd
- Maximum Month TSS - 14,400 ppd
- Average Annual Total Kjeldahl Nitrogen (TKN) - 1,900 ppd
- Maximum Month TKN - 2,400 ppd
- Total Dissolved Solids (TDS) - Approximately 320 milligrams per liter (mg/L)

The City’s current Water Pollution Control Facilities (WPCF) Permit has wastewater effluent limits established for discharge into existing infiltration basins. These are as follows:

- BOD₅ and TSS - 20 mg/L
- Nitrate + Nitrite as Nitrogen - 6 mg/L
- Total Nitrogen - 9 mg/L
- pH - 6.0 to 9.0
- *E. coli* - 126 most probable number

The following monthly average groundwater limits apply to the down-gradient groundwater monitoring wells:

- Nitrate - 9 mg/L
- TDS - 500 mg/L

Although these design criteria considered only flows from the City of Redmond, they could be modified to include the community of Terrebonne. The following sizes and costs would be anticipated to be modified only slightly to include the expanded service area.

Lagoon Treatment

Lagoon treatment can be provided with a facultative lagoon, partially aerated lagoon, or aerated lagoon. Cost consideration is also given to an option that utilizes the existing capital investment in the treatment plant's Orbal oxidation ditches to reduce BOD₅ and, thus, lagoon size and aeration requirements. The purpose of the lagoon treatment is to provide for reduction in BOD₅ to the permit limits. Some total nitrogen reduction would also be realized for systems with front-loaded oxygen additions and facultative or anoxic zones at the end of the processes.

Facultative

A facultative lagoon provides oxygen for waste decomposition from an air/water interface area and algae photosynthesis. This system would be a minimum two-stage system operating between 3 and 7 feet in depth, with a minimum detention time of approximately 100 days. For this evaluation, an operating depth between 4 and 5 feet was assumed, and the detention time would be well in excess of 100 days due to the area needed for oxygen transfer. The first stage would need to be 290 acres and the second stage would be 190 acres, for a total lagoon size of 480 acres. For construction purposes, it is suggested to divide these lagoon cells into maximum 40-acre units. There would then be approximately 12 40-acre lagoons.

Solids handling would not be required for this option. Lagoon solids would be anticipated to be removed approximately once every 40 years, once the lagoons reach their design BOD₅ loading. A multi-cell lagoon system would allow a lagoon cell to be taken offline and solids to dry in the bottom of the lagoon for easy and cost-effective removal.

This lagoon type can reduce total nitrogen 40 to 95 percent. A removal efficiency of approximately 85 percent is needed to meet existing WPCF Permit limits. For this reason, adding a treatment wetland for effluent polishing would be recommended.

The estimated capital and 20-year lifecycle costs for this option are \$43.4 million and \$46.4 million, respectively (see Table 1).

Partially Aerated

A partially aerated lagoon would provide some of the oxygen requirements through an aeration system. For purposes of this evaluation, we would assume that the oxygen for the first stage of the facultative lagoon system would be provided through mechanical aeration. Approximately 2 pounds of oxygen per pound of BOD₅ removed is used in this evaluation to include both BOD₅ and nitrogen reduction, and approximately 2 pounds of oxygen per horsepower (Hp) per hour can be assumed for an aeration system. The first-stage aeration system would mainly be used to increase the dissolved oxygen in the wastewater so it is available for microbial use and provide oxygen that would be consumed during the time water is in this cell. The detention time in this lagoon would be approximately three days. This first stage of the lagoon would then be approximately 10 feet deep to provide for aeration. Approximately 360 Hp of aeration would be needed. This would require a first-stage lagoon of approximately 3.5 acres. The second stage would then be approximately 190 acres and

constructed mainly as a facultative system to provide both aerobic and anoxic microbial colonies, but this area would not provide enough oxygen for the BOD₅ loading, so approximately 240 Hp of additional aeration would still be needed in the second stage.

As with the facultative lagoons, solids handling would not be proposed for this system. Solids reduction would occur naturally in the second-stage lagoons, but solids removal from the lagoons may still be needed approximately every 30 years.

This lagoon type can reduce total nitrogen 40 to 95 percent. A removal efficiency of approximately 85 percent is needed to meet the existing WPCF Permit limits. For this reason, a treatment wetland would be recommended to be added for effluent polishing.

The estimated capital and 20-year lifecycle costs for this option are \$23.9 million and \$31.9 million, respectively (see Table 2).

Aerated

An aerated lagoon would provide sufficient oxygen through aeration systems. A partially mixed, aerated lagoon would consist of five cells with a total detention time of 20 days. The 20-day detention time is on the longer end of what would normally be anticipated, but it provides a factor of safety and capacity to realize increased reduction in total nitrogen. A total requirement of approximately 800 Hp is needed to provide the required oxygen. The depth of the lagoon cells would be approximately 10 feet. The total wet area needed would be approximately 23 acres.

Solids handling would not be anticipated for this option, as solids reduction occurs in the lagoon cells. It is still anticipated that solids removal would be needed approximately once every 20 years, once the flows and loadings reach design levels.

This lagoon type can reduce total nitrogen 60 to 95 percent. A removal efficiency of approximately 85 percent is needed to meet the existing WPCF Permit limits. For this reason, a treatment wetland would be recommended to be added for effluent polishing.

The estimated capital and 20-year lifecycle costs for this option are \$10.6 million and \$19.5 million, respectively (see Table 3).

Aerated Lagoon with Orbal Pre-Aeration

This alternative utilizes the existing capital investment in the Orbal aeration system to provide pre-aeration and reduce the total capital and operation and maintenance (O&M) requirements at the new lagoon site. The Orbal aeration system capacity provides enough oxygen to reduce the anticipated BOD₅ loads on the proposed lagoon treatment system to approximately 9,000 ppd. This alternative would abandon the existing treatment plant facilities except for the headworks, two Orbal units, and one clarifier and associated sludge pump. The clarifier would harvest biosolids (microorganisms) from the ditch effluent and send them back to the ditch. The effluent from the ditches and clarifier would then be combined with any raw wastewater not sent to the ditch. The combined flows would then be sent to the aerated lagoons. This would reduce the total required at the aerated lagoon to approximately 375 Hp, the required detention time to 15 days, and the lagoon size from 23 acres to 17 acres.

Solids handling and nitrogen reduction would be similar to the aerated lagoon option.

The estimated capital and 20-year lifecycle costs for this option are \$6.3 million and \$14.7 million, respectively (see Table 4).

Treatment Wetlands

After biologic stabilization of the waste is provided in the lagoon system, the lagoon effluent should be further “polished” in treatment wetlands to provide a more natural environment to further reduce pathogens and nutrients. The wetlands would provide a shallow surface flow system for increased exposure to light and encourage vegetation growth. The vegetation in the wetlands provides a substrate for attached growth microbial colonies that would provide for nitrification of any remaining ammonia. Denitrification would then be provided in the bottom anoxic layers of the wetlands and in deeper sections built into the environment. The treatment wetlands would be sized for a six-day detention time at an average depth of 12 inches. The treatment wetland would have a liner installed under 12 inches of native material in which vegetation would grow. The wetland would be seeded and planted. This would require a wetland complex with approximately 70 wet acres. Additional nitrogen reduction is provided in the wetlands, but nitrogen reduction is improved when multiple wetland cells constructed in series are provided. The estimated capital and 20-year lifecycle costs for this option are \$9.8 million and \$10.4 million, respectively (see Table 5).

Disposal Wetlands

The existing disposal system utilized by the City is through irrigation and seepage. The area proposed for facility construction contains a concrete sealed irrigation storage pond that holds water and a seepage area that leaks at a high rate. The size of disposal wetlands would depend on the seepage rate of the wetlands. Due to the function of the seepage area, it is assumed that the natural ground would provide very high infiltration rates. The existing seepage area has multiple cells with only one cell operated at a time. Based on current operation, the seepage area appears to have sufficient capacity to serve the City in the future.

The City could construct new disposal wetlands for wildlife and public use using the water reclaimed from the wetland treatment process. These would need to have more controlled seepage by removing the topsoil, treating the fractured rock with bentonite, and replacing the topsoil. The disposal wetlands would be of varying depths and configurations that would more closely follow the natural terrain and provide wildlife habitat and an aesthetically pleasing area that the public may enjoy. For reasons of realizing a beneficial use for the reclaimed water, a capital cost of \$4 million is added for disposal wetlands and trails.

Other Beneficial Uses

The City could also utilize the treated effluent for additional beneficial uses such as irrigating turf grass for new sports fields in the area. Some added effluent polishing may be needed, depending on the proposed beneficial use.

Permit Limits

The effluent permit limits that merit further discussion in this evaluation are the BOD₅ and TSS limit of 20 mg/L, total nitrogen limit of 9 mg/L entering the infiltration basins, and TDS limit of 500 mg/L in the

monitoring wells. The limits entering the infiltration basins appear to have been established as technology-based effluent limits based on the activated sludge process employed in the existing treatment plant.

Biochemical Oxygen Demand and Total Suspended Solids

The treatment wetland would be susceptible to extensive algae growth that may limit the ability to consistently meet the 20 mg/L limit. This limit may be attainable with the aerated lagoon option prior to entering the treatment wetland. A discussion with the Oregon Department of Environmental Quality would need to occur to determine if the permit limit and/or monitoring location can be changed.

Nitrogen

The total nitrogen limit is achievable through a lagoon and wetland system, as the City of Prineville averaged a total nitrogen concentration of 7.0 mg/L from the lagoons throughout the 2019 season with nitrates in the monitoring wells being approximately 1 mg/L. The design of wetlands for nitrogen reduction has a large range of constants that could be used to achieve reduction efficiencies over a large range (i.e., 45 to 95 percent). This is due to the variability in plant and microbial colonies that can occur in different climatic regions and the type of waste entering the system. For this installation, data from the Cities of Prineville and La Grande, Oregon, lagoon and wetland treatment systems could be used to verify the design parameters. Some of the data that could be useful to verify the facility sizing are not currently being collected by the Cities. If this option is pursued further, additional testing from the Prineville facility would prove beneficial to confirm design parameters to reduce the risk associated with potential unknown design “constants.”

Total Dissolved Solids

TDS data were collected for the existing treatment plant effluent. This TDS is also anticipated to be in the range of what would be expected for lagoon effluent. A mass balance was completed to estimate the TDS seeping into the groundwater by reducing the total seepage volume and increasing the total TDS due to evaporation. The amount of evaporation in the system would directly affect the difference in TDS between the influent and effluent, but this amount is small. TDS is expected to increase by less than 10 percent through the lagoon and wetland system.

Project Consideration

The City could consider three different alternatives to meet their future needs. These include expanding the existing mechanical treatment plant; using lagoons and wetlands to provide the treatment capacity needed for the future and continue using the headworks and office space at the existing facility; or moving the entire treatment system, offices, and shops to a new location. The decision-making process should consider Capital Cost, Life Cycle Cost, Land and Future Expandability, and Community Benefits.

Expand Existing Mechanical Treatment Plant at Existing Site

Capital Cost - This alternative was evaluated in the 2019 WWFP Update of the 2018 WWFP. The total capital cost for this alternative is \$44.6 million (2018 dollars), which has been updated to \$47.7 million (2020 dollars at 3.5 percent inflation).

Life Cycle Cost - This alternative has an estimated 20-year life cycle cost of approximately \$62.0 million.

Land and Future Expandability - This alternative utilizes the existing site located in an area surrounded by residential housing. The options for future expandability are limited. Also, there is concern over having this industrial wastewater facility in the middle of a residential area with a public pathway through the area.

Community Benefits - This alternative will provide wastewater treatment for the City. The water is used for irrigating crops in the summertime but is disposed of in the wintertime through ground percolation. There may be opportunities for further reuse of the reclaimed water.

New Lagoons and Wetlands with Existing Facilities

This project alternative is shown on Figure 1. This alternative includes utilizing the existing headworks facility to provide screening of the influent. Raw wastewater would then flow down the existing pipelines to the proposed lagoon site at and/or adjacent to the existing irrigation area. Wastewater would then be treated in a five-cell, aerated lagoon system with chlorine disinfection. The disinfected lagoon effluent would then flow to the existing irrigation storage pond or into a 70-acre treatment wetland complex before entering a disposal wetland and infiltration basin area for evaporation and seepage into the groundwater. The total project cost for this system is summarized on the following table. The disinfection system evaluation was not part of this evaluation, but a cost estimate is included, assuming a chlorination system is used (see Table 6).

Capital Cost - The total estimated capital and associated life cycle cost is shown on the following table.

NEW LAGOON AND WETLANDS WITH EXISTING FACILITIES

Item	Estimated Capital Cost	Estimated 20-year Life Cycle Cost
Aerated Lagoon	\$10.6 million	\$19.5 million
Disinfection System	\$1.7 million	\$2.4 million
Treatment Wetlands	\$9.8 million	\$10.4 million
Disposal Wetlands	\$4.0 million	\$4.1 million
Support Facilities	\$12.4 million	\$16.4 million
Total	\$38.5 million	\$52.8 million

Note: Capital costs for Support Facilities taken from 2019 WWFP Update.

Life Cycle Cost - The 20-year life cycle cost shown above needs to be augmented to include the existing facilities that will be used as part of this alternative, and also includes the headworks and lift station. The revised total estimated life cycle cost assumes these facilities are new and is estimated at \$37.0 million. Also, this alternative will split the treatment plant staff between two sites. This can provide O&M challenges.

Land and Future Expandability - The existing facilities would still be located in an area surrounded by residential homes with a walking path near the treatment plant. The lagoons and wetland areas are surrounded by undeveloped lands where future expansion could easily occur.

Community Benefits - Maintaining part of the existing treatment facilities will still have odor producing systems in the middle of the residential and pathway area. This alternative would provide a minimum of 70 acres of wetland environment that could provide plant and wildlife habitat. The City of Prineville uses its wetland area as part of their parks and trails and the City of Redmond could implement a similar community enhancement.

New Lagoon and Wetland Treatment Plant with Support Facilities at New Site

The development of new treatment facilities will provide the opportunity to move all of the treatment facilities to a new less populated area north of the City. Figures 2 and 3 show an initial potential layout for moving all of the treatment works. The additional facilities needed would include a main division building, maintenance building, generator building, operations building, vacuum truck dump, headworks screening, lift station, sludge drying beds, and associated roads and parking areas. The inclusion of sludge drying beds will allow lagoon sludge removal to be done by City staff using the drying beds and floating dredge. The drying beds can be completed as a second phase of the project, as lagoon sludge will not need to be removed for many years. The estimated cost for the headworks and support facilities, including the drying beds, is shown on Table 7.

Capital Cost and Life Cycle Cost - The total estimated capital and life cycle cost for moving the treatment plant is summarized on the following table.

**NEW LAGOON AND WETLAND TREATMENT PLANT
WITH SUPPORT FACILITIES AT NEW SITE**

Item	Estimated Capital Cost	Estimated 20-year Life Cycle Cost
Aerated Lagoon	\$10.6 million	\$19.5 million
Disinfection System	\$1.7 million	\$2.4 million
Treatment Wetlands	\$9.8 million	\$10.4 million
Disposal Wetlands	\$4.0 million	\$4.1 million
Headworks and Support Facilities	\$15.5 million	\$17.5 million
Total	\$41.6 million	\$53.9 million

Land and Future Expandability - This alternative locates all the wastewater treatment facilities in an undeveloped area where future expandability would be easier.

Community Benefits - This alternative would provide a wetland environment that could be made accessible to the public for bird watching, hiking, and cycling. It could also be tied into a City-wide trails system as an extension to Dry Canyon. The reuse of the reclaimed water in this manner provides an ancillary benefit to the City that is otherwise not realized.

Summary

The following table summarizes the project alternatives:

Summary of Project Alternatives

Alternative	Advantages	Disadvantages	Capital Cost	20-Year Life Cycle Cost	Life Expectancy
Expand Mechanical Treatment Plant at Existing Site	Use existing headworks and treatment systems.	Odors, limited expandability, older systems, treatment plant in residential area, higher costs.	\$47.7 million	\$62.0 million	Reused mechanical components will have shorter life. New mechanical components will need replaced approximately every 10 years.
New Lagoons and Wetlands with Existing Facilities	Use existing headworks.	Odors, older systems, two sites, treatment plant in residential area.	\$38.5 million	\$52.8 million	Unknown life for existing lift station and headworks but will most likely need to be rebuilt before 20 years.
New Lagoon and Wetland Treatment Plant with Support Facilities at New Site	Move out of residential and Dry Canyon Park area. Expandable. All new systems. Added wildlife habitat. Added trails system. Reduced biosolids handling. Increased tourism possibilities.		\$41.6 million	\$53.9 million	Lagoons and wetlands have a life expectancy in excess of 50 years.

TABLES

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
FACULTATIVE LAGOON
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (3% of Construction Cost)	LS	\$ 1,020,000	All Req'd	\$ 1,020,000
2	Earthwork	CY	5	350,000	1,750,000
3	Rock Removal	CY	60	161,333	9,680,000
4	Liner	SF	1	21,000,000	21,000,000
5	Control Structures	EA	15,000	12	180,000
6	Piping	LF	60	5,600	336,000
7	Gravel	CY	20	8,100	162,000
8	Fencing	LF	6	21,000	126,000
9	Site Work	LS	50,000	All Req'd	50,000
Sum of Estimated Construction Cost					\$ 34,304,000
Construction Contingency (15%)					5,146,000
Subtotal Estimated Construction Cost					\$ 39,450,000
Administration, Legal, and Engineering (10%)					3,945,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 43,395,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor	\$ 41,000
2	Supplies, Parts, Maintenance, and Repairs	1,000
3	Replacement	1,000
4	Lagoon Solids Removal	200,000
Total OM&R		\$ 243,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		3,029,000
Total Present Worth (2020 Dollars)		\$ 46,424,000



CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
FACULTATIVE LAGOON
PRELIMINARY COST ESTIMATE

**TABLE
1**

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
PARTIALLY AERATED LAGOON
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (4% of Construction Cost)	LS	\$ 800,000	All Req'd	\$ 800,000
2	Earthwork	CY	5	172,000	860,000
3	Rock Removal	CY	60	64,600	3,876,000
4	Liner	SF	1	8,712,000	8,712,000
5	Control Structures	EA	15,000	5	75,000
6	Piping	LF	60	3,600	216,000
7	Gravel	CY	20	3,800	76,000
8	Diffusers	LS	1,200,000	All Req'd	1,200,000
9	Blowers	LS	650,000	All Req'd	650,000
10	Blower Building	SF	200	1,200	240,000
11	Electrical and Controls	LS	500,000	All Req'd	500,000
12	Fencing	LF	6	10,000	60,000
13	Site Work	LS	50,000	All Req'd	50,000
Sum of Estimated Construction Cost					\$ 17,315,000
Construction Contingency (15%)					2,597,000
Subtotal Estimated Construction Cost					\$ 19,912,000
Administration, Legal, and Engineering (20%)					3,982,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 23,894,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor	\$ 82,000
2	Supplies, Parts, Maintenance, and Repairs	2,000
3	Power (600 horsepower, \$0.08 per kilowatt hour)	314,000
4	Replacement	62,000
5	Lagoon Solids Removal	180,000
Total OM&R		\$ 640,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		7,976,000
Total Present Worth (2020 Dollars)		\$ 31,870,000



CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
PARTIALLY AERATED LAGOON
PRELIMINARY COST ESTIMATE

**TABLE
2**

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
AERATED LAGOON
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 430,000	All Req'd	\$ 430,000
2	Earthwork	CY	6	113,000	678,000
3	Rock Removal	CY	60	32,000	1,920,000
4	Liner	SF	1	1,089,000	1,089,000
5	Control Structures	EA	15,000	4	60,000
6	Piping	LF	60	2,000	120,000
7	Gravel	CY	20	1,400	28,000
8	Diffusers	LS	1,500,000	All Req'd	1,500,000
9	Blowers	LS	800,000	All Req'd	800,000
10	Blower Building	SF	200	1,800	360,000
11	Electrical and Controls	LS	600,000	All Req'd	600,000
12	Fencing	LF	6	5,000	30,000
13	Site Work	LS	50,000	All Req'd	50,000
Sum of Estimated Construction Cost					\$ 7,665,000
Construction Contingency (15%)					1,150,000
Subtotal Estimated Construction Cost					\$ 8,815,000
Administration, Legal, and Engineering (20%)					1,763,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 10,578,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)		
1	Labor	\$ 164,000
2	Supplies, Parts, Maintenance, and Repairs	10,000
3	Power (800 horsepower, \$0.08 per kilowatt hour)	418,000
4	Replacement	82,000
5	Lagoon Solids Removal	42,000
Total OM&R		\$ 716,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		8,923,000
Total Present Worth (2020 Dollars)		\$ 19,501,000



CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
AERATED LAGOON
PRELIMINARY COST ESTIMATE

**TABLE
3**

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
ORBAL PLUS AERATED LAGOON
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 250,000	All Req'd	\$ 250,000
2	Earthwork	CY	6	94,000	564,000
3	Rock Removal	CY	60	8,100	486,000
4	Liner	SF	1	828,000	828,000
5	Control Structures	EA	15,000	4	60,000
6	Piping	LF	60	2,000	120,000
7	Gravel	CY	20	1,100	22,000
8	Diffusers	LS	900,000	All Req'd	900,000
9	Blowers	LS	480,000	All Req'd	480,000
10	Blower Building	SF	200	1,200	240,000
11	Electrical and Controls	LS	500,000	All Req'd	500,000
12	Fencing	LF	6	5,000	30,000
13	Site Work	LS	50,000	All Req'd	50,000
Sum of Estimated Construction Cost					\$ 4,530,000
Construction Contingency (15%)					680,000
Subtotal Estimated Construction Cost					\$ 5,210,000
Administration, Legal, and Engineering (20%)					1,042,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 6,252,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor	\$ 165,000
2	Supplies, Parts, Maintenance, and Repairs	10,000
3	Power (800 horsepower, \$0.08 per kilowatt hour)	418,000
4	Replacement	44,000
5	Lagoon Solids Removal	42,000
Total OM&R		\$ 679,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		8,462,000
Total Present Worth (2020 Dollars)		\$ 14,714,000



CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
ORBAL PLUS AERATED LAGOON
PRELIMINARY COST ESTIMATE

**TABLE
4**

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
TREATMENT WETLANDS
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 400,000	All Req'd	\$ 400,000
2	Earthwork	CY	6	67,000	402,000
3	Rock Removal	CY	60	32,400	1,944,000
4	Liner	SF	1	3,050,000	3,050,000
5	Control Structures	EA	15,000	6	90,000
6	Piping	LF	60	4,000	240,000
7	Gravel	CY	20	2,100	42,000
8	Top Soil Removal and Replacement	CY	8	113,000	904,000
9	Seeding and Planting	LS	20,000	All Req'd	20,000
10	Fencing	LF	6	7,000	42,000
Sum of Estimated Construction Cost					\$ 7,134,000
Construction Contingency (15%)					1,070,000
Subtotal Estimated Construction Cost					\$ 8,204,000
Administration, Legal, and Engineering (20%)					1,640,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 9,844,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor	\$ 41,000
2	Supplies, Parts, Maintenance, and Repairs	1,000
3	Replacement	1,000
4	Vegetation Removal	2,000
Total OM&R		\$ 45,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		561,000
Total Present Worth (2020 Dollars)		\$ 10,405,000



**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
DISINFECTION SYSTEM
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 66,000	All Req'd	\$ 66,000
2	Building	SF	200	1,000	200,000
3	Chlorination Equipment	LS	40,000	All Req'd	40,000
4	Chlorine Contact Basin	LS	280,000	All Req'd	280,000
5	Electrical and Controls	LS	100,000	All Req'd	100,000
6	Piping	LF	60	200	12,000
7	Rock Removal	CY	60	1,000	60,000
8	Gravel	CY	20	100	2,000
9	Steel Building Over Basin	LS	500,000	All Req'd	500,000
Sum of Estimated Construction Cost					\$ 1,260,000
Construction Contingency (15%)					189,000
Subtotal Estimated Construction Cost					\$ 1,449,000
Administration, Legal, and Engineering (20%)					290,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 1,739,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<i>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</i>		
1	Labor	\$ 20,000
2	Supplies, Parts, Maintenance, and Repairs	30,000
3	Replacement	2,000
Total OM&R		\$ 52,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		649,000
Total Present Worth (2020 Dollars)		\$ 2,388,000



CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
DISINFECTION SYSTEM
PRELIMINARY COST ESTIMATE

**TABLE
6**

**CITY OF REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL FEASIBILITY EVALUATION
SUPPORT FACILITIES
PRELIMINARY COST ESTIMATE
(YEAR 2020 COSTS)**

NO.	DESCRIPTION	UNIT	UNIT PRICE	ESTIMATED QUANTITY	PRICE
1	Mobilization/Demobilization (5% of Construction Cost)	LS	\$ 600,500	All Req'd	\$ 600,500
2	Main Division Building	SF	250	8,750	2,187,500
3	Maintenance Building	SF	175	12,000	2,100,000
4	Generator Building	SF	200	320	64,000
5	Roads and Parking	SY	22	16,000	352,000
6	Operations Building (Motor Control Center, Control Room, Lab)	SF	250	3,000	750,000
7	Lift Station	LS	400,000	All Req'd	400,000
8	Vacuum Truck/Septage Dump	LS	90,000	All Req'd	90,000
9	Sludge Drying Beds	Acre	750,000	3	2,250,000
10	Domestic Water	LF	40	10,000	400,000
11	Fencing/Site Work	LS	100,000	All Req'd	100,000
12	Headworks	LS	400,000	All Req'd	400,000
13	Rock Removal	CY	60	200	12,000
14	Electrical and Controls	LS	700,000	All Req'd	700,000
15	Site Piping	LF	60	4,000	240,000
16	Grit Chamber	LS	300,000	All Req'd	300,000
17	Rock Processing	LS	250,000	All Req'd	250,000
Sum of Estimated Improvements Construction Cost					\$ 11,196,000
Construction Contingency (15%)					1,679,000
Subtotal Estimated Improvements Construction Cost					\$ 12,875,000
Administration, Legal, and Engineering (20%)					2,575,000
TOTAL ESTIMATED PROJECT COST (2020 DOLLARS)					\$ 15,450,000

PRESENT WORTH ANALYSIS (2020 DOLLARS)

Item	Description	Annual Cost
<u>ADDITIONAL ANNUAL OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R)</u>		
1	Labor (Headworks and Lift Station Only)	\$ 126,000
2	Supplies, Parts, Maintenance, and Repairs	10,000
3	Replacement	30,000
Total OM&R		\$ 166,000
Present Worth Operation and Maintenance Cost (5%, 20 years)		2,069,000
Total Present Worth (2020 Dollars)		\$ 17,519,000

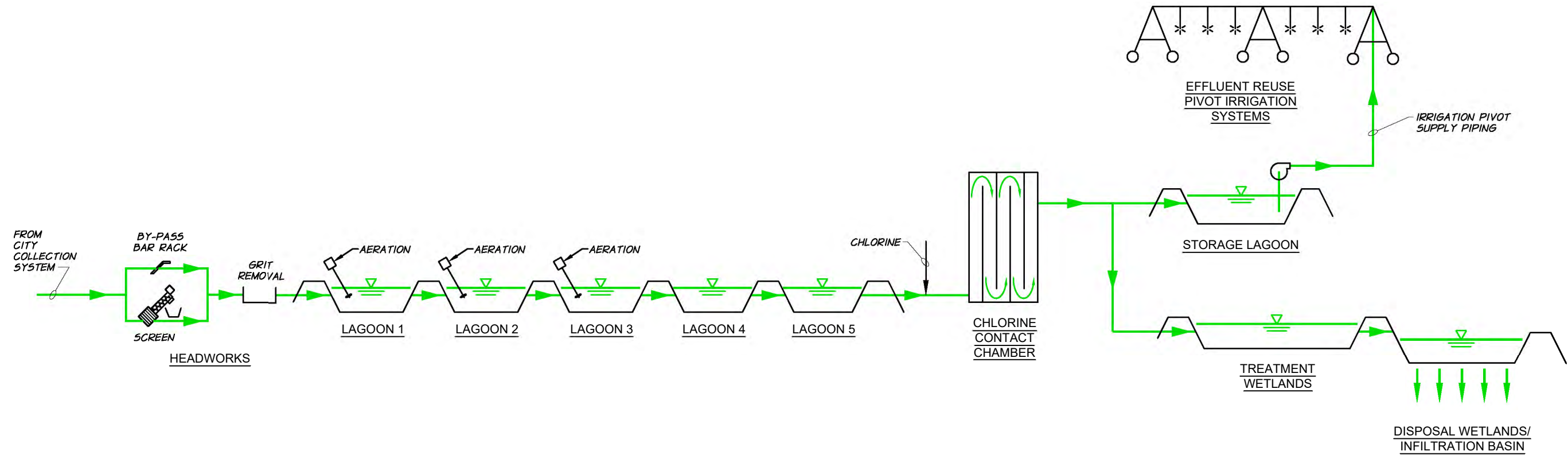


CITY OF
REDMOND, OREGON
LAGOON AND WETLAND TREATMENT AND DISPOSAL
FEASIBILITY EVALUATION
SUPPORT FACILITIES
PRELIMINARY COST ESTIMATE

**TABLE
7**

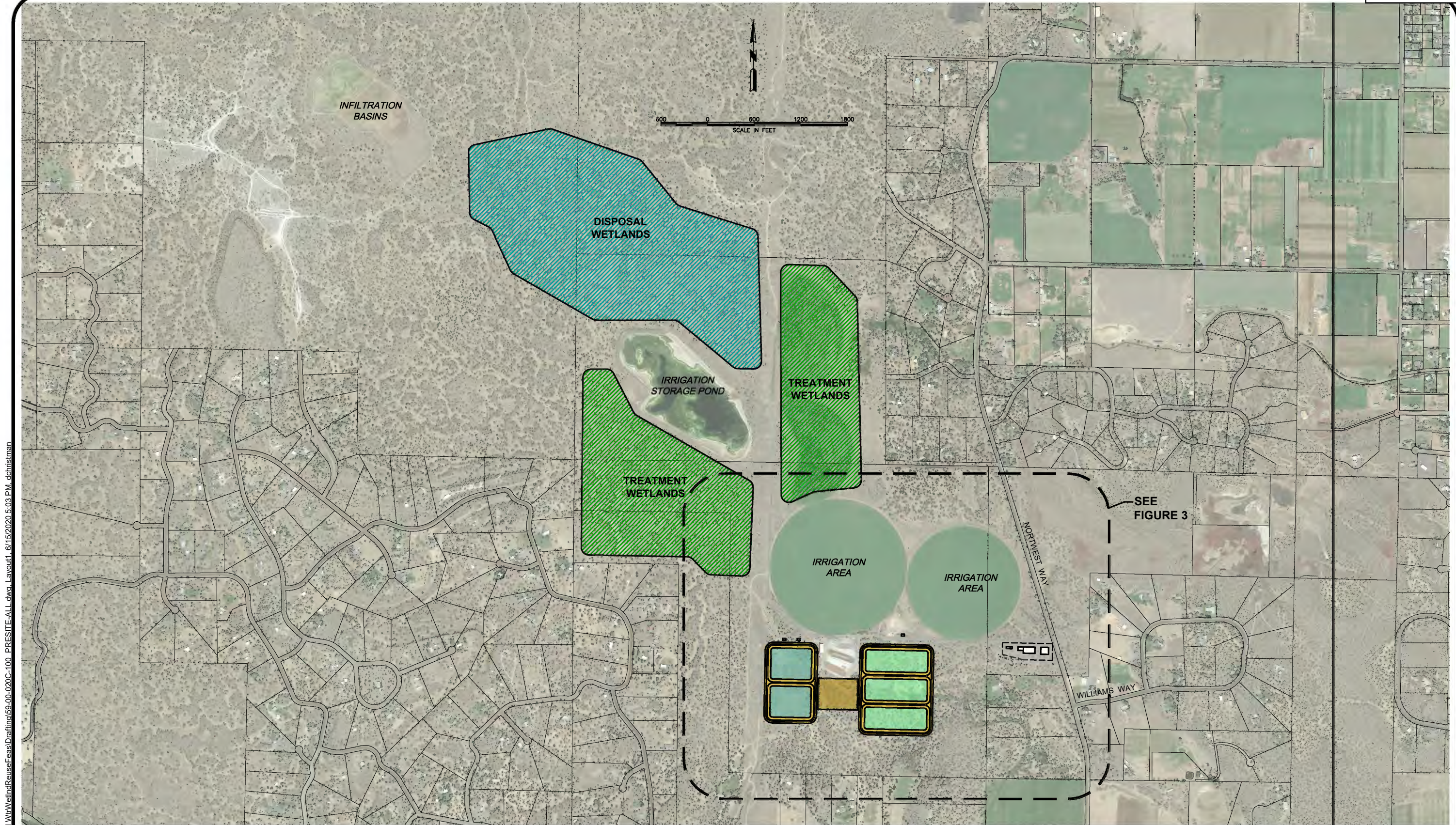
FIGURES

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CITY OF
REDMOND, OREGON
 RECLAIMED WATER WETLAND REUSE FEASIBILITY EVALUATION
**TREATMENT PROCESS
 FLOW SCHEMATIC**

**FIGURE
 1**

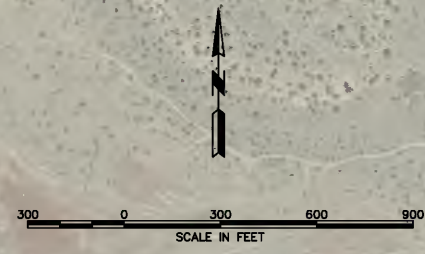
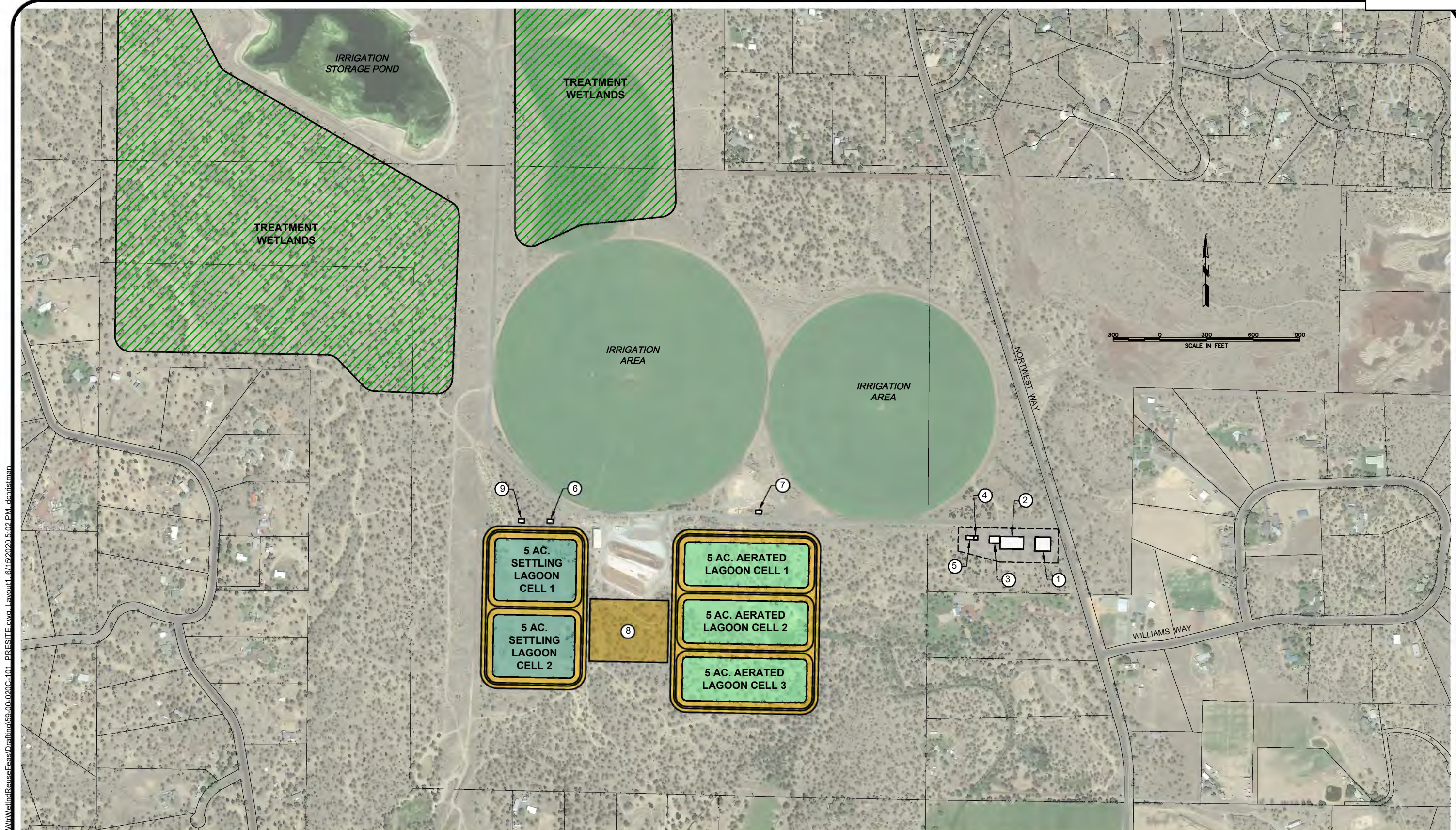


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CITY OF REDMOND, OREGON
RECLAIMED WATER WETLAND REUSE FEASIBILITY EVALUATION
IMPROVEMENTS PLAN

FIGURE 2



IMPROVEMENTS SCHEDULE

- | | |
|--|-----------------------------|
| ① MAIN DIVISION BUILDING (8,750 SQ. FT.) | ⑥ DISINFECTION BUILDING |
| ② MAINTENANCE BUILDING (12,000 SQ. FT.) | ⑦ BLOWER BUILDING |
| ③ OPERATIONS BUILDING (3,000 SQ. FT.) | ⑧ FUTURE SLUDGE DRYING BEDS |
| ④ VAC-TRUCK/SEPTAGE DUMP | ⑨ CHLORINE CONTACT BASIN |
| ⑤ HEADWORKS (SCREENS AND LIFT STATION) | |



CITY OF REDMOND, OREGON
 RECLAIMED WATER WETLAND REUSE FEASIBILITY EVALUATION
IMPROVEMENTS DETAIL PLAN

FIGURE 3

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

FILE NUMBERS: 247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD

HEARING DATE: June 20, 2023, 6:00 p.m.

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

APPLICANTS/OWNERS City of Redmond
Attn: Ryan Kirchner, Wastewater Division Manager
411 SW 9th Street
Redmond, OR 97756

SUBJECT PROPERTY: Map and Taxlot: 1413300000101
Account: 165689
Situs Address: 5801 NORTHWEST WAY, REDMOND, OR
97756

The Redmond Wetlands Complex is proposed across four (4) additional properties identified in the Staff report and are either federally owned or owned by the City of Redmond. The associated pipeline and easements cross through eight (8) private properties within Deschutes County jurisdiction as identified in the Staff report.

REQUEST: Conditional Use Permit, Site Plan Review, Lot of Record Verification, and Major Administrative Determination for the expansion of the Redmond Water Pollution Control Facility Effluent and Biosolids Disposal Complex (“Redmond Wetlands Complex”).

The project includes:

Relocating sanitary sewer treatment facilities to the 608-acre City-owned property and expanding the disposal facilities to the north onto federally owned property. The relocation and expansion includes new operational buildings, new lined and unlined treatment wetlands for effluent polishing and disposal, new primary treatment

facilities with headworks screening, and new aerated lagoon system for secondary treatment.

Replacing an existing 24-inch diameter interceptor pipeline with a 48-inch diameter pipeline that will be below grade and within established utility easements and/or public rights-of-way on an approximately two (2) mile route to the City of Redmond to connect to existing facilities treatment facility at the north end of Dry Canyon.

HEARINGS OFFICER: Alan A. Rappleyea

STAFF CONTACT: Haleigh King, Associate Planner
Phone: 541-383-6710
Email: Haleigh.king@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.deschutes.org/redmondwetlandscomplex

SUMMARY OF RECOMMENDATION: The Hearings Officer finds that the Applicants have met their burden of proof with respect to the applications above. Where I agree with the staff recommendation, I am adopting their findings.

I. APPLICABLE STANDARDS AND CRITERIA

- Oregon Administrative Rules, Chapter 660, Division 11
- Oregon Revised Statutes, Section 215.296
- Deschutes County Code (DCC)
- Title 18, Deschutes County Zoning Ordinance:
 - Chapter 18.16, Exclusive Farm Use Zones (EFU)
 - Chapter 18.32, Multiple Use Agricultural Zone (MUA10)
 - Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)
 - Chapter 18.116, Supplementary Provisions
 - Chapter 18.124, Site Plan Review
 - Chapter 18.128, Conditional Use
- Title 22, Deschutes County Development Procedures Ordinance

II. BACKGROUND AND PROCEDURAL FINDINGS

A. Nature of Proceeding

Conditional Use Permit, Site Plan Review, Lot of Record Verification, and Major Administrative Determination for the expansion of the Redmond Water Pollution Control Facility Effluent and Biosolids Disposal Complex (“Redmond Wetlands Complex”).

B. Notices

The Application was filed on February 28, 2023. The Hearing Notice announcing an evidentiary hearing (“Hearing”) for the Application was provided on March 18, 2023¹. Notice of the hearing was published in the Bend Bulletin on March 19, 2023. The Applicants affidavit of posting was filed on June 7, 2023. Pursuant to the Hearing Notice, I presided over the as the appeal as Hearings Officer on June 20, 2023, opening the Hearing at 6:00 p.m. The Hearing was held via videoconference with Applicants and opponents showing up in person. The Hearings Officer finds that all procedural notice requirements were met.

C. Hearing

At the beginning of the Hearing, I provided an overview of the quasi-judicial process and instructed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. I stated I had no *ex parte* contacts to disclose or bias to declare. I asked for but received no objections to the County’s jurisdiction over the matter or to my participation as the Hearings Officer. I described the time limits for the parties. Mr. Steven Liday, representing opponents requested more than the 3 minutes given to non-applicants. I addressed this later in the hearing and gave Mr. Liday approximately 4 more minutes. I also assured the parties that I had read their submittals. Next, Staff provided a summary of the Staff report. The Applicant’s representatives, Mr. Ryan Kirchner and Ms. Wendie Kellington testified in supports of the application and requested that it be approved. Next the opponents testified, Ms Braedi Kohlberg; Mr. Doug Kohlberg, Mr. Liday, and Mr. Ronald Caramella. Mr. Liday testified via zoom, all others testified in person. Ms. Kellington and Mr. Josh Robinson offered rebuttal testimony.

The opponents requested the record be left open. I left the record open for 7 days with the time for any new evidence submittals being 4:00pm on June 27, 2023. Rebuttal testimony to only respond to any new evidence was due July 5, 2023, at 4:00 pm. Finally, any final arguments by applicant were due on July 12, 2023 at 4:00 pm. The Hearing concluded at approximately 7:40 p.m.

D. Review Period

The subject application(s) were submitted on March 2, 2023 and deemed incomplete by the Planning Division on March 27, 2023. The applicant provided a response to the incomplete letter on May 1, 2023 and the applications were subsequently deemed complete on May 1, 2023. On June 26, 2023, the applicant agreed to toll or extend the clock a total of 22 days during the open record period. The 150th day on which the County must take final action on these applications is October 20, 2023.

¹ The Staff report inadvertently listed this date as 2022.

III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

A. Adoption of Factual Findings in Staff Report

The Staff report under Roman Number II contains “basic findings”.

The one factual issue raised by Mr. Liday is whether the applicants are also applying for a land use permit to allow public recreational access to the site. Mr. Liday argues that applicants must do this as they are using the property for public recreation. Liday, June 12, 2023, submittal page 7 of 291. Applicants stated that they are not proposing any public recreational access in this application and that roads and parking will be required for the pending application. I agree with the applicant that they are not building or applying for a permit for recreational use of the site and any such use in the future will require a conditional use application for a public park. I adopt as findings the argument set forth by Ms. Kellington in her July 11, 2023, submittal pages 10-11.

I adopt the Staff reports Factual Findings under Roman Number II. The findings concerning the Lot of Record (hereinafter LOR) will be discussed later in this opinion.

B. Legal Findings

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

Oregon Administrative Rules

Chapter 660, Division 11, Public Facilities Planning

Section 660-011-0060. Sewer Service to Rural Land.

(1) As used in this rule, unless the context requires otherwise:

(a) "Establishment of a sewer system" means the creation of a new sewage system, including systems provided by public or private entities;

(b) "Extension of a Sewer System" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer system in order to provide service to a use, regardless of whether the use is inside the service boundaries of the public or private service provider. The sewer service authorized in section (8) of this rule is not an extension of a sewer;

...

The Staff report made the following finding:

247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD

“FINDING: The applicant provided the following statement in response to this criterion:

‘The City understands that these provision are inapplicable because the project is not creating a new sewage system and it is not an “extension” of a sewer system “in order to provide service to a use” because the project is improving an existing system that already provides services to a variety of uses. Applicant proposes to increase the diameter of one of the two (2) existing 24-inch diameter interceptor pipelines to a 48-inch diameter pipeline, in the MUA-10 Zone, the EFU Zone and within public rights-of-way that exist extending from the area of service at the City’s existing WPCF within the Redmond UGB. Additionally, the proposal includes the expansion of the existing actual treatment facility with new buildings, wetland ponds and other amenities on the EFU-zoned land owned by the City of Redmond and BLM. Accordingly, for these reasons, the project does not involve either a new system or an extension of an existing sewer system, thus, is not seemingly at least, the “establishment” or “extension” of a sewer system as those terms are defined in OAR 660-011-0060(1) above. This provision is inapplicable.’

Staff generally agrees with the applicant’s response in that the proposal does not include the establishment of a new sewer system or the extension of a sewer system, as defined above. Staff also notes that Deschutes County does not have land use authority on federally owned property. However, Staff notes the public comment from Steven G. Liday raises concerns surrounding the applicant’s characterization of the use and proposed components. Staff asks the Hearings Officer to make specific findings on this criterion.”

Finding: Mr. Liday raised concerns that addressed these criteria.

“The City grossly mischaracterized the Project as an “expansion” of an existing utility facility/sewer system on the site.” Liday letter, page 2 June 12, 2023. (Similar comment in April 26, 2023 letter.)

Mr. Caramella raised similar concerns in his June 27, 2023, submittal. I find that the Applicant’s interpretation and the Staff agreement with that interpretation reasonable. The application is not for a new treatment facility but would be accurately described as a replacement facility for existing facilities. It is also not an “extension” to “provide service to a use.” The service to the use is currently ongoing so it is not “extending” service to that use but is merely continuing the service with new facilities. As further support for this finding, I adopt Ms. Kellington’s reasoning found in her letter dated July 11, 2023, pages 20-21. In particular, I adopt Ms. Kellington’s reasoning regarding the application or OAR 660-011-0060(3) which will be addressed under that section below.

“Even if the proposal can be described as the establishment or extension of a sewer system, as the Staff report states on p. 23, it is expressly allowed under OAR 660-011-0060(3), which provides that “[c]omponents of a sewer system that serve lands inside a [UGB] may be

placed on lands outside the boundary”, provided that certain conditions are met. The applicant has demonstrated that those conditions are met, and we note that Staff agrees. See Applicant’s Burden of Proof Statement, p. 21-24; Staff report, p. 22-27.”

(f) "Sewer system" means a system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or disposing of sewage or for collecting or conducting sewage to an ultimate point for treatment and disposal. The following are not considered a "sewer system" for purposes of this rule:

- (A) A system provided solely for the collection, transfer and/or disposal of storm water runoff;*
- (B) A system provided solely for the collection, transfer and/or disposal of animal waste from a farm use as defined in ORS 215.303.*

Finding: The applicant acknowledges that the proposal involves a sewer system and I concur.

(2) Except as provided in sections (3), (4), (8), and (9) of this rule, and consistent with Goal 11, a local government shall not allow:

- (a) The establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries;*
- (b) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;*
- (c) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on July 28, 1998.*

The Staff report makes the following finding:

“FINDING: The applicant provided the following statement in response to this criterion:

The proposal does not establish a new sewer system, or newly extend sewer lines from a UGB, and is not designed to serve land outside UGBs that was not served on July 28, 1998. As noted elsewhere in this narrative, the Applicant proposes to increase capacity of one (1) of the existing interceptor pipelines and make additional improvements to the existing City of Redmond sewer system. The replacement pipeline and improvements on the subject property will be for the current service area that is within the City’s urban growth boundary. This standard does not appear to apply. However, if this standard did apply, it is met because the proposal is expressly authorized by section (3), addressed below (“Except as provided in sections (3) ***”).

Staff notes the public comment from Steven G. Liday raises concerns surrounding the applicant's characterization of the use as it relates to the above criterion.

Staff notes the applicant asserts that if this standard does apply, the proposal is authorized by section (3) as discussed below.

Staff requests the Hearings Officer make specific findings on this issue.”

Finding: Mr. Liday and Mr. Caramella raise the same objection as described above. I find that the Applicant's interpretation is reasonable that this section does not apply to the application because it is not for a new sewer system or new lines. I further find that even if this interpretation is not correct, Applicant meets the standard as discussed in (3) below.

(3) *Components of a sewer system that serve lands inside an urban growth boundary (UGB) may be placed on lands outside the boundary provided that the conditions in subsections (a) and (b) of this section are met, as follows:*

(a) *Such placement is necessary to:*

(A) *Serve lands inside the UGB more efficiently by traversing lands outside the boundary;*

The Staff report found:

“FINDING: The applicant provided the following statement in response to this criterion:

OAR 660-011-0060 is met for the reasons explained below. The proposed improvements to the City's existing sewer system serve the area within the current City limits and UGB of Redmond. The proposal improves the existing facilities to continue to serve the area within the City's UGB efficiently and effectively, in order to meet its sewerage needs over the long-term planning horizon. This is necessary because the existing system needs significant improvement upgrades to meet the City's anticipated long-term horizon needs and there is not room at the existing facilities in the City's UGB to do so. Creating an entirely new facility on a new property inside the UGB (if one could be found to do so) is inefficient because the City already maintains part of its existing system on the subject property's 608- acre site. It is more efficient to expand the existing pipeline that now conveys effluent to the existing facilities on the 608-acre site, than to abandon the existing 608-acre site, and the existing pipelines that lead to it, in favor of a wholly new system with new piping in the UGB. Therefore, the proposal includes increasing the diameter of one of the existing interceptor pipelines and the facilities on the City-owned and BLM EFU-zoned properties, which are located approximately one and one-half (1.5) miles north of the City of Redmond's UGB. The project will serve lands inside Redmond's UGB more efficiently and allow for anticipated population increases and resulting capacity demands in the future.

Staff generally agrees with the applicant's response. Staff notes the public comment from Steven G. Liday raises concerns surrounding the applicant's characterization of the use as it relates to the above criterion and suggests that the applicant must demonstrate why each component of the project, including the operational buildings, must be sited on the EFU land to provide the wastewater treatment service.

Staff asks the Hearings Officer to make specific findings on this criterion.”

Mr. Liday raised concerns over this standard.

“The City cannot treat all the proposed improvements as a single utility facility/sewer complex. Each distinct component must be evaluated on its own, and the City must demonstrate that each component (for example, the office building) must be sited on the EFU land to provide the wastewater treatment service.” Liday Letter, page 3 April 26, 2023

In making this determination, the local government must separately evaluate the individual components of the proposed utility improvements. *City of Albany v. Linn Cty.*, 40 Or LUBA 38, 47-48 (2001). Moreover, the reviewing authority must look behind the stated reasons for the particular facility to determine whether that purpose “advances the statutory goal of providing the utility service.” *Sprint PCS v. Washington Cty.*, 186 Or App 470, 481, 63 P3d 1261 (2003)” Liday Letter. Page 3 June 12, 2023

Mr. Liday's June 27, 2023, testimony follows up on this argument adding that it must be “infeasible” to site the facility on lands that are not EFU lands. Mr. Liday argues that it is feasible to site the project or components of the project on non-EFU lands and cites several examples.

“As we noted in *City of Albany v. Linn County*, 40 Or LUBA 38, 46 (2001), under ORS 215.275, an applicant who wishes to site a utility facility on EFU-zoned land must show that it is infeasible to locate the facility on land that is not zoned EFU. While the statute is somewhat ambiguous concerning how difficult development of a non-EFU-zoned site for the intended purpose must be before it can be found to be infeasible, it is quite clear that a finding that the proposed site is the best of the available sites is inadequate.”

Findings: First, I find that the applicant is correct, that this section does not apply because the proposed facility is neither an “establishment” nor an “extension” of a sewerage treatment facility for the reasons expressed above. Second, I adopt the applicants reasoning that even if it could be considered an “establishment” or and “extension” it qualifies under OAR 660-011-0060(3).

I adopt Ms. Kellington's reasoning in her July 11, 2023 letter pages 20-21, regarding the application or OAR 660-011-0060(3).

“Even if the proposal can be described as the establishment or extension of a sewer system, as the Staff report states on p. 23, it is expressly allowed under OAR 660-011-0060(3), which provides that “[c]omponents of a sewer system that serve lands inside a [UGB] may be placed on lands outside the boundary”, provided that certain conditions are met. The applicant has demonstrated that those conditions are met, and we note that

Staff agrees. See Applicant’s Burden of Proof Statement, p. 21-24; Staff report, p. 22-27.”

Third, I agree with the Staff that this application meets this criterion. Page 22, Staff report. Applying subsection (3) to the application, I find that it is not the Hearings Officers job to second guess engineering decisions recommend to and adopted by the City. At the Hearing, the Applicant provided testimony that the proposed system, where all components were placed together, was more efficient and more cost effective while creating less odor impacts than the current system. While Mr. Liday’s argument that other places do it differently is helpful, it does not mean that the City of Redmond is compelled to do what others do. The testimony in the record was that it was important for efficiency and safety to have all components together and to have Staff present in facilities to address emergency situations. The facility deals with millions of gallons of effluent. The time it would take Staff to drive to the facility during an emergency could be disastrous.

I find compelling the testimony of Mr. Ryan Kirchner, dated June 20, 2023, expressing the need to have all components together. I agree with his testimony of the need to quickly respond to emergencies associated with waste waters. Mr Kirchner summarized: “all of the components of the facility need to be located on site for efficiency and proper management of the Redmond Wetlands Complex.” Based on Mr. Kirchner’s experience, I find that he is an expert and there is no adequate rebuttal testimony on this point

The Applicant also provided an alternatives analysis. The applicant demonstrated that the facility is locationally dependent in its May 1, 2023 Submittal starting at page 6. I hereby adopt those findings. I find sewerage facilities are locationally dependent in general. Sewer treatment facilities need gravity to operate as the old adage reminds us. The proposed site is downhill. While it may be possible to pump waste or even truck it to another site, it certainly is not feasible. It is also possible to intensively treat waste water in a smaller area. Again, based on engineering proposal and the need to efficiently treat waste with less impact and cost, the City opted for the proposed system. I also will defer to the Cities’ elected officials on this matter and their determination that other sites were infeasible.

(B) *Serve lands inside a nearby UGB or unincorporated community;*

“FINDING: The applicant provided the following statement in response to this criterion:

The consolidation of all of the City's sewer system components on the land that currently serves as treatment that is currently situated outside the UGB is necessary to serve land inside the nearby Redmond UGB and its projected growth for the next 20 years and beyond.

Staff agrees with the applicant's response and finds that the proposed project will serve lands inside the Redmond UGB, as allowed by this criterion."

Finding: I concur with the Staff's finding.

(C) *Connect to components of the sewer system lawfully located on rural lands, such as outfall or treatment facilities; or*

The Staff report made the following finding:

"FINDING: The applicant provided the following statement in response to this criterion:

The proposal involves consolidating the City's sewer system on City land that currently serves City waste treatment needs. Serving the goal of consolidation, the proposal will relocate the treatment facilities from Dry Canyon, Redmond's existing WPCF, to the Northwest Way property (referred to in this narrative variously as the Redmond Wetlands Complex 608-acre property) and expand the existing disposal facilities on the subject property (owned by the City of Redmond) to adjacent BLM property zoned EFU. The system is an expansion and improvement to an existing treatment facility in the EFU Zone, that includes increasing capacity of conveyance through expansion of one of the interceptor pipelines that is located on rural lands in a variety of zones approximately one and one-half (1.5) miles north of the area that it serves. Redmond's WPCF was lawfully established in 1976 through County Land Use File No. SP-76-40 (See Exhibit B).

As the applicant notes above, the existing Redmond Water Pollution Control Facility (WPCF) was approved via County Land Use File No. SP-76-40. While this facility is currently within Redmond City Limits, at the time of approval, the property was within County jurisdiction and was zoned A-1, Exclusive Agricultural. The applicant indicates in their narrative that the City of Redmond will be decommissioning the existing mechanical WPCF and transitioning all operations to the subject 608-acre property.

Staff finds the increased pipeline conveyance is an improvement to the existing pipeline and will continue to connect to the area of service within the City UGB as well as the treatment facility located on rural lands.

Staff generally agrees with the applicant's response. However, Staff asks the Hearings Officer to make specific findings on this issue."

Finding: I find that the applicant complies with this criterion based on the quoted language above. The treatment facility was lawfully located on rural lands as the City obtained final land use approval from the County in Land Use File No. SP-76-40. I concur with Staff that the increased pipeline conveyance to existing pipelines will connect the components to a system lawfully located on rural lands. I find that the application is an expansion of existing treatment facilities and is neither an “establishment” nor an “extension” of a utility facility as defined OAR 660-011-00609(a)&(b).

(D) *Transport leachate from a landfill on rural land to a sewer system inside a UGB;*

“FINDING: The applicant provided the following statement in response to this criterion:

Applicant does not propose to transport leachate from a landfill.

Staff agrees and finds the applicant is not proposing to transport leachate from a landfill and thus this criterion is not applicable.”

Finding: I concur.

(b) *The local government:*

(A) *Adopts land use regulations to ensure the sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries, except as authorized under section (4) of this rule; and*

“FINDING: The applicant provided the following statement in response to this criterion:

Applicant does not propose to serve land outside Redmond’s UGB or an unincorporated community. The City will adopt a land use regulation that states “the City of Redmond sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries except as authorized by OAR 660-0011-0060(4)” or other applicable law. This requirement can be imposed as a condition of approval.

Staff agrees with the applicant’s response. The proposed facility and pipeline replacement will not serve land outside Redmond’s UGB or an unincorporated community. To ensure compliance, Staff includes a recommended condition of approval that the utility facility/sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries except as authorized by OAR 660-0011-0060(4) or other applicable law.”

Finding: I concur and will impose a condition that the facility and pipeline replacement will require the City to adopt a land use regulation to prohibit the City of Redmond from serving land outside of the UGB. With that condition, the application complies with this criterion. See “Conditions of Approval.”

(B) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way.

The Staff report made the following finding.

“FINDING: The applicant provided the following statement in response to this criterion:

Oregon Revised Statutes (ORS) 215.296(1) and (2) require the following:

215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards.

(1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(2) An applicant for a use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

This standard appears to apply only to property zoned EFU and that is not situated in the subsurface of public roads and highways.

To the extent relevant, no nearby lands are zoned for forest use or are in forest practices. Accordingly, the proposed use will not force a significant change in accepted forest practices on surrounding land or significantly increase the cost of accepted forest practices on surrounding lands.

There are only three properties involved in the project that are zoned EFU, not including the City’s 608-acre site. The expanded pipeline will traverse those three EFU-zoned properties. The three properties possess existing facility pipelines and easements that are not in road rights-of-way. They are at 3080 NW Euston Ln, Redmond; 2827 NW Coyner Ave., Redmond and 2675 NW Coyner Ave, Redmond. The latter, 2675 NW Coyner Ave., is composed of 13.67 acres according to the county assessor; has a nonfarm dwelling approval from Deschutes County that was issued on January 13, 2017 (File No. 247-16-000359-CU); and according to

Deschutes County Assessment Records, per Deschutes County DIAL, is not receiving farm deferral tax assessment. No farm uses are observed on this property.

3080 NW Euston Ln (approximately 19.81 acres) and 2827 NW Coyner Ave (approximately 19.43 acres), appear to have small-scale farm operations consisting of hay or grass. The proposed expanded pipeline will replace the existing pipeline on these properties and will be buried, and the affected ground will be restored. Any impacts will be temporary during construction and construction activity will be coordinated with the landowners. The pipeline to be upgraded already exists. Any impacts of having a subsurface pipe on the land have been accounted for in the existing farming operations. Moreover, no off-site impacts are anticipated from the upgraded pipeline, which is all underground. The proposal will not force a significant change in accepted farm practices on surrounding lands or significantly increase the cost of accepted farm practices on surrounding lands devoted to farm use.

Some irrigated farm fields are located approximately one-half of a mile from the proposed expanded facilities to include the replaced pipeline as well as the relocation of facilities to the existing 608-acre wetlands complex property. However, no construction or other impacts are foreseen to these properties from any part of the proposal. Accordingly, no part of the proposal will force a significant change in accepted farm practices on surrounding lands or significantly increase the cost of accepted farm practices on surrounding lands devoted to farm use.

In fact, the existing treatment facility is the reason there is productive farm use in the area. The facility provides irrigation water to the 138-acre orchard grass hay farm operation on the 608-acre main site, which produces roughly 830 tons of hay annually. Due to the fact that most of the properties near the Redmond Wetlands Complex are not within an irrigation district, there are very few farm operations nearby.

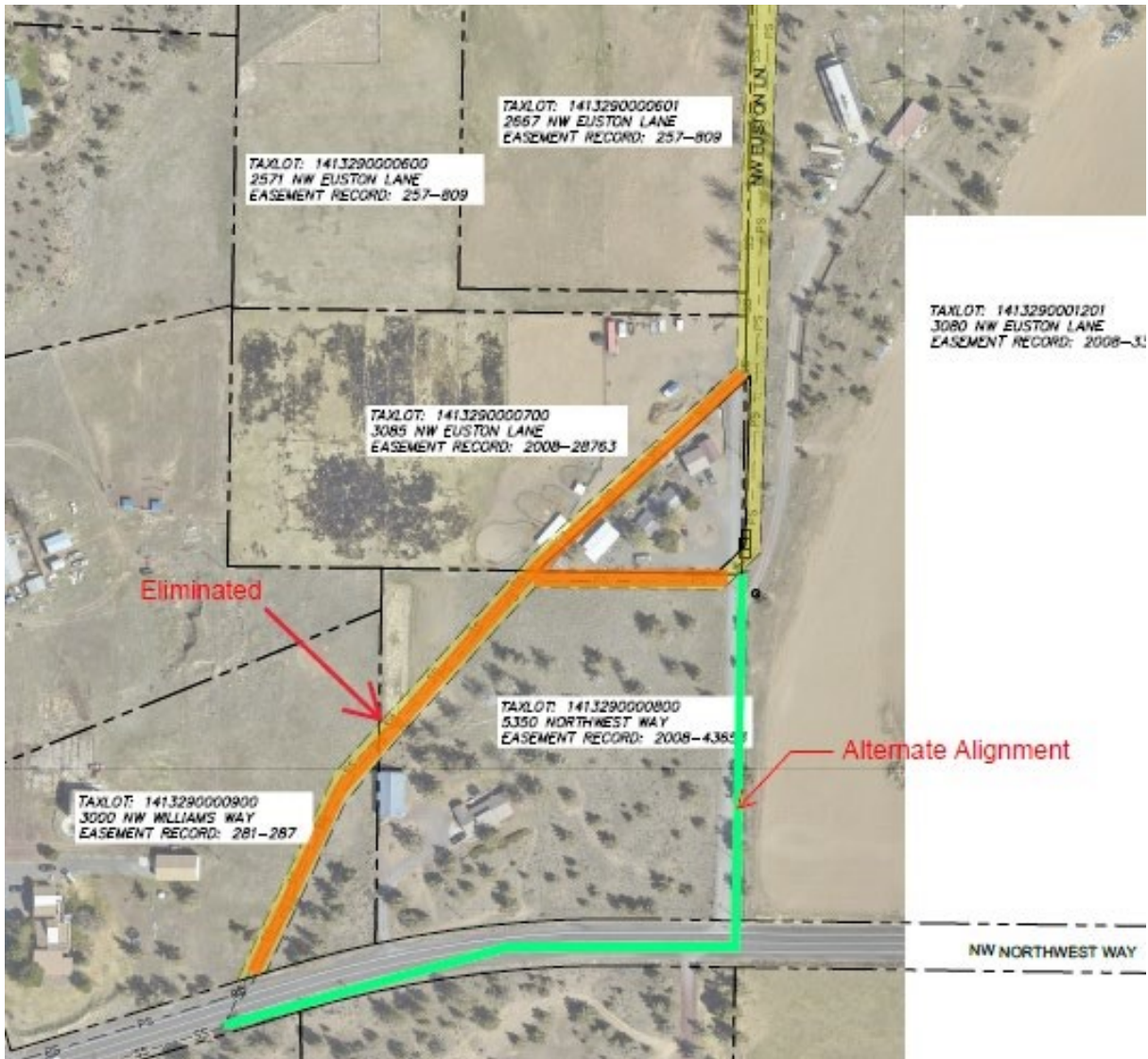
Staff agrees that the standard above does not apply to the portions of the project situated in the subsurface of public roads and highways. Therefore, this analysis would not apply to the pipeline replacement located in the EFU Zone and within the subsurface of public roads. No nearby lands are zoned for forest use. Therefore, the proposed use will not force a significant change in accepted forest practices on surrounding land or significantly increase the cost of accepted forest practices on surrounding lands.

Staff notes DCC 18.16.038(A)(11) requires a farm impacts analysis as it relates to the siting of a utility facility. The applicant provided a detailed response in that corresponding section. Staff incorporates that response herein by reference.

Staff generally agrees with the applicant’s response contained herein as well as the response to DCC 18.16.038(A)(11). However, Staff asks that the Hearings Officer to make specific findings on this issue.”

The applicant submitted arguments supporting its request to provide an alternative for its pipeline on July 11, 2023. It submitted the following arguments:

“The proposal also includes a request to approve two alternatives for piping effluent to the proposed facility: (1) an “original;” proposal to replace one of the two existing 24” interceptor pipes that now transmit treated effluent from the City’s Dry Canyon site to the proposed area within public rights-of-way and existing easements, with a 48” pipeline in the County’s EFU and MUA-10 Zones, and (2) an alternative that adds a 24” pipe and a 48” pipe to a location near where the existing piping is currently located, in a roughly 464-foot linear stretch within the existing public NW Northwest Way right-of-way and private road easement on NW Euston Lane. This approximately 464 ft. stretch of NW Northwest Rd and Easton is zoned MUA-10 (the original proposal area which will be abandoned if the alternative is utilized, is also zoned MUA-10). If the alternative is approved and if the City decides to use the alternative, the existing piping in the originally proposed approximately 464-ft stretch will be abandoned. An illustration of the two proposed pipeline alignments is below (proposed alternative is in green):



The existing rights of way and existing easements within which existing originally proposed piping runs, support the two existing City 24” inch pipes. As noted, these pipes convey treated wastewater from the Dry Canyon site to the subject property; Solids are trucked from the Dry Canyon site to the facility where they are processed on the drying beds on the south end of the site. Instead of conveying treated effluent waste from the Dry Canyon site and hauling solids from the Dry Canyon site, these pipes under either proposal, will convey untreated wastewater from the City to the proposed site in one 48” pipe, leaving one 24” pipe in place as a duplicate protective conveyance if there is ever a problem with the 48” pipe. The alternative will do the same except, as noted above, it will change the location of a modest 464-linear foot stretch of new piping that would be installed in the NW Northwest public ROW and the Euston road easement. The City recognizes that to utilize the alternative alignment, an easement from the owner of TL 800 to do so for use of the Euston private right of way, will be required. The alternative is proposed because untreated waste will be conveyed in the pipes, as opposed to now in which treated effluent is conveyed via the piping.

That means under the proposal, that the pipes will require more inspection and maintenance. The new 48-inch line that is a part of the RWC proposal will carry raw wastewater to the RWC.2. That difference means that the City will need to do more routine maintenance to the line, access it for video inspections, cleaning operations and other activities. Accessing the sewer lines on unimproved property – which is the state of the and from where the originally proposed alignment leaves NW Euston Lane and then reconnects to NW Northwest Way – will potentially be disruptive to the property owner and would make access to that gravity sewer piping easement tricky for things like vector trucks and other large machinery. Therefore, if possible, it would be better to move the 464-linear feet of piping into Euston Ln as is proposed in the alternative scenario. However, either alternative will work for the proposal, both are technically feasible and both the original and alternative piping proposal will substantially take advantage of gravity and existing easements, ROW and piping.”

Finding: I find that as there is no forest use lands nearby, this application will not affect forest practices. As to the EFU zoned lands, I agree with the Staff’s finding that any of the subsurface uses in the existing public roads will not force a significant change on farming practices nor increase costs of farming practices on surrounding farmlands. The pipelines mostly will be in existing ROW that are currently being used for the same purposes and they are underground. Any impacts due to their construction will be temporary and there is no evidence that they would be significant.

I agree with the applicant that there will be no significant change to farming practices and it will not increase the cost of farming practices on the three EFU properties that will have an expanded pipeline for the reasons cited by the applicant above. Particularly, for the parcel located at 2675 NW Coyner Road, was recently granted a non-farm dwelling, which requires a finding that the property is not suitable for farming.

There was testimony regarding potential noxious weeds on the pipeline easements. A condition requiring the applicant suppress, control, and eradicate noxious weeds on the subject property, consistent with the mission of the Deschutes County Noxious Weed Program and the Weed Control Ordinance, DCC Chapter 8.35 will mitigate these impacts. .

I agree with the Applicant that alternative alignment will not force a significant change on farming practices nor increase costs of farming practices on surrounding farmlands. The alternative alignment removes an easement across the middle of the property and relocates it to a public ROW and an easement. As such, even though the size of the pipeline is expanded, it should reduce impacts on surrounding lands. I adopt the Applicant’s statement quoted above and approve of the proposed alternative alignment portrayed in the image above. I find that if Applicant is not able to obtain the required easements for the alternative alignment, then the original alignment is permitted by this application. I will impose a condition that if Applicant can reasonably obtain easements for the new alignment, applicant shall vacate easements which it no longer needs due to the realignment.

Finally, under this criterion, I agree with Staff that DCC 18.16.038(A)(11) requires a farm impacts analysis as it relates to the siting of a utility facility. I find that applicant provided a detailed response in that corresponding section. I hereby incorporate that response by reference.

Title 22, Deschutes County Development Procedures Ordinance

Chapter 22.04, Introduction and Definitions

Section 22.04.040 Verifying Lots of Record.

Finding: Both the Staff report and applicant delve deeply into this criterion. It was also discussed at the hearing. No opponent raised it as an issue. I adopt the factual findings in the Staff report on this criterion. The applicant and County disagreed as to the applicability of the County’s code in 1981. The County believed it required applicant and the federal government to file for a partition of these lands.

I find that that the tax lots were lawfully created and are lots of record by the action of the federal government in providing the patent for these lands. As mentioned above and as discussed at the hearing, the County does not have land use authority over federal lands. In all my many years of land use experience, I have never seen a partition or subdivision request by the federal government on federal lands. I questioned the applicant’s attorney, who also has over 30 years of experience in land use and she had never seen such a request before. I find that the federal government may sometimes tolerate local governments land use regulations, but they are not legally required to comply with County zoning and subdivision and partition laws. Staff acknowledged this as well. Page 34, Staff report.

The applicant’s attorney followed up on this question in her June 27, 2023, submittal.

“The federal government’s authority over public lands is “without limitations.” *Kleppe v. New Mexico*, 426 US 529, 539, 96 S Ct 2285, 49 L Ed2d 34 (1976). In short, the federal government may not be subjected to state or County land division requirements prior to conveying its property. Accordingly, the County may not require the lot or record verification for federal lands or require the federal government to consent to partition of its lands (in compliance with zoning and land division laws) in order to legally separate patented land from its federal parent parcel.”

I agree with the above statement. I also agree with the applicant that even if somehow the federal government is required to follow local government rules, that the five tax lots are “part of a very large legal lot of record created by treaty....” for the reasons contained in the application.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.16, Exclusive Farm Use Zones (EFU)

Section 18.16.020. Uses Permitted Outright.

...

F. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

...

M. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

- 1. A public right of way;**
- 2. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or**
- 3. The property to be served by the utility.**

The Staff report made the following findings:

“FINDING: The applicant provided the following statement in response to this criterion:

As previously described above, the corridor associated with the replacement interceptor pipeline will span across privately-owned tax lots and within public road rights-of-way which are located within the MUA-10 Zone, but also the EFU Zone. The replacement interceptor pipeline of the utility facility will be located within public rights-of-way and on land adjacent to or near a public right-of-way within existing easements with adjacent property owners. Access to the project route will be limited to occasional visits from maintenance personnel. Service lines associated with the project are an outright permitted use in the EFU and MUA-10 zones as described earlier.

The Redmond Wetlands Complex is a “utility facility necessary for public service” permitted “as of right” on EFU-zoned land under ORS 215.283(1)(c) and DCC 18.16.025(E). In 1999, the legislature adopted amendments to ORS 215.283(1)(c) that specifically includes “wetland waste treatment systems” as is proposed here as being within the scope of “utility facilities necessary for public service”. In *Cox v. Polk County*, 174 Or App 332, rev. den. 332 Or 558 (2001), a case decided before the above-referenced 1999 amendments applied, the Oregon Court of Appeals interpreted the term “utility facility” as used in ORS 215.283(1)(c), based on its plain meaning, to mean “equipment or apparatus, whether standing alone or as part of a structure, that functions to perform or provide, in whole or in part, a service such as the production, transmission, delivery or furnishing of electricity or natural gas, the purification of drinking water, or the treatment of solid or liquid waste. The equipment comprising the facility need not

be extensive or complex; in addition, the facility may include ancillary or off-site equipment * * *. However, at a minimum, the facility must include some equipment or apparatus that itself performs the relevant production, transmission or similar function or service.” 174 Or App 332, 343-44 (2001).

DCC 18.04.030 provides the County’s definition of “utility facility”:

“any major structures, excluding hydroelectric facilities, owned or operated by a public, private or cooperative electric, fuel, communications, sewage or water company for the generation, transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including power transmission lines, major trunk pipelines, power substations, telecommunications facilities, water towers, sewage lagoons, sanitary landfills and similar facilities, but excluding local sewer, water, gas, telephone and power distribution lines, and similar minor facilities allowed in any zone. This definition shall not include wireless telecommunication facilities where such facilities are listed as a separate use in a zone.”

The proposal is for major structures that are both owned and operated by the City of Redmond for the transmission and processing of wastewater. All facilities proposed are interconnected components that are designed to serve this end and only this end. All buildings are devoted exclusively to enable the transmission and processing of wastewater. Accordingly, the proposed Redmond Wetlands Complex is a “utility facility” both within the meaning of the statutory term as interpreted by *Cox* and the County code’s definition of the same.

The proposed facility is also “necessary for public service”. A utility facility is “necessary for public service” if the facility meets certain tests that show it must be sited on EFU zoned land in order to provide the service. DCC 18.16.038(A); ORS 215.275; OAR 660-033- 0130(16)(a); *see also McCaw Communications, Inc. v. Marion County*, 96 Or App 552, 555-56 (1989). To demonstrate that a utility facility is necessary for public service, the applicant must show that reasonable alternatives have been considered and that the facility must be sited on EFU due to one or more factors set forth in DCC 18.16.038(A)-(E)/OAR 660-033- 0130(16)(a)(A)/ORS 215.275. The proposal involves the creation of significant wetlands using effluent. Applying the factors of DCC 18.16.038(A)/OAR 660-033-0130(16)(a)(A)/ORS 215.275, it is necessary for the proposed facility to be located on EFU zoned land.

The relevant DCC 18.16.025 provisions and relevant DCC 18.16.038(A)-(E) factors are analyzed below.

Staff finds the portions of the pipeline replacement within the EFU zone will be within the subsurface of public roads and within the public right-of-way. No new land parcels will result and no removal or displacement of buildings are proposed to occur. For these reasons, Staff

finds this portion of the project is permitted outright subject to any County Road Department permits or requirements.

Tax Lot 1201, 1202, and 1300 on Deschutes County Assessor’s Map 14-13-29 and are private properties zoned EFU. These properties include portions of the pipeline replacement within the current easements. Staff does not consider this interceptor pipeline to be a utility service line as described above as the pipeline does not end at the point where the utility service is received by the customer. Instead, the interceptor pipeline is a major sewer line that transports flows to the wastewater treatment facility. For these reasons, Staff finds the portions of the pipeline replacement on private property zoned EFU are subject to 18.16.025(E). However, Staff asks the Hearings Officer to make specific findings on this issue.”

Finding: I find that the proposed Redmond Wetlands Complex is a “utility facility” both within the meaning of the statutory term as interpreted by *Cox* and the County code’s definition of the same as described above. I also find that the Redmond Wetlands Complex is a “utility facility necessary for public service” permitted “as of right” on EFU-zoned land under ORS 215.283(1)(c) and DCC 18.16.025(E) as described above. I agree with Staff that the for the pipeline portion of the project within public roads and ROW, this portion of the project is permitted outright subject to any County Road Department permits or requirements. I concur with Staff that for Tax Lots 1201, 1202, and 1300 the pipelines do not fall within the definition of “utility service line” in section (M) above, because it is not providing service “received by the customer.” I also agree that the portions of the pipeline replacement on private property zoned EFU are subject to 18.16.025(E).

Section 18.16.025. Uses Permitted Subject To The Special Provisions Under DCC Section 18.16.038 Or DCC Section 18.16.042 And A Review Under DCC Chapter 18.124 Where Applicable

E. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale and transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:

- 1. *DCC 18.16.038(A); or*
- 2. *DCC 18.16.038(E) if the utility facility is an associated transmission line, as defined in ORS 469.300.*

The Staff report made the following findings:

“FINDING: The applicant proposes to expand and relocate the City of Redmond’s sanitary sewer treatment facilities, and replace and enlarge an existing sewage interceptor pipeline. For reference, Staff includes the following definition from DCC 18.04.030:

"Utility facility" means any major structures, excluding hydroelectric facilities, owned or operated by a public, private or cooperative electric, fuel, communications, sewage or water company for the generation, transmission, distribution or processing of its products or for the

disposal of cooling water, waste or by-products, and including power transmission lines, major trunk pipelines, power substations, telecommunications facilities, water towers, sewage lagoons, sanitary landfills and similar facilities, but excluding local sewer, water, gas, telephone and power distribution lines, and similar minor facilities allowed in any zone. This definition shall not include wireless telecommunication facilities where such facilities are listed as a separate use in a zone.

The proposed facility is owned and operated by the City of Redmond, which is a public government entity that provides a utility to the people it serves. The facility, both the pipeline and the treatment facility, is for the transfer, treatment, and disposal of sewage and wastewater.

Regarding whether the utility facility is ‘necessary for public service,’ the applicant provided the following statement:

The proposal is the expansion of the City’s existing sanitary sewer treatment facilities, and the replacement and enlargement of an existing interceptor pipeline, and therefore is an expansion and improvement to an existing City of Redmond facility, thus, is a utility facility *necessary for public service*. Redmond’s population is forecast to grow to roughly 58,000 people by 2045. The expansion of the treatment facility is needed to accommodate that growth.

Currently, the wastewater system can process and treat roughly 2.8 million gallons per day. This expansion will increase treatment capacity to roughly 4.6 million gallons per day to serve the projected population. Compliance with DCC 18.16.038(A) is discussed below.

At the outset we note that portions of the proposed project are not required to go through Site Plan Review under the Oregon Supreme Court’s holding in *Brentmar v. Jackson County*, 321 Or 481, 496 (1995), and County Staff have concurred in this conclusion. This is because the proposed facility is a use permitted “as of right” on EFU-zoned land under ORS 215.283(1)(c). In *Brentmar*, the Court decided that the uses allowed under ORS 215.281(1), to include “utility facilities necessary for public service,” are uses “as of right” and local governments err if they seek to impose more stringent criteria than those in the statute. *See also Save Our Rural Oregon v. Energy Facility Siting Council*, 339 Or 353, 383, 121 P3d 1141 (2005) (citing *Brentmar*).

Because the proposed facilities are not a transmission line, as defined in ORS 469.300, the applicant addresses the provisions of DCC 18.16.038(A) below. The provisions of DCC 18.16.038(E) do not apply.

Staff incorporates the following background description provided by the applicant (Page 18 of Burden of Proof) as Staff finds it relevant to this criterion:

For 45 years, the City of Redmond (City) has utilized the Effluent and Biosolids Complex on an approximate 608-acre property to the northwest of the City to repurpose and discharge all of Redmond's treated wastewater effluent and biosolids, which is where the proposed main Redmond Wetlands Complex will be located. The existing Water Pollution Control Facility (WPCF), where the wastewater is now initially treated, is located at the north end of the Dry Canyon.

The population of Redmond and surrounding areas have significantly grown since the last major WPCF Expansion in 2000. The population of Redmond and surrounding areas is expected to increase; as such, the need for an expansion of the treatment facilities is vital to serving growth.

The City plans to expand the approximately 608-acre Effluent and Biosolids Disposal Complex and transition its operation to a more sustainable and environmentally friendly treatment alternative. As early as 1984, the 608-acre Effluent and Biosolids Disposal Complex was identified as a preferred location with long-range opportunities to treat and dispose of wastewater while also offering sustainable development opportunities.

The City will be decommissioning the existing mechanical WPCF in the dry canyon and transitioning all operations to 5801 Northwest Way, Redmond (the subject 608-acre property). In addition to the City's existing approximately 608-acre Effluent and Biosolids Disposal Complex, the City now leases 35 acres on Tax Lot 200 from the Federal Bureau of Land Management, at the site where disinfected water is infiltrated into the ground.²

Due to the necessity of this waste disposal for both human and environmental health and the limited capacity of existing facilities based on anticipated demand, Staff agrees with the applicant's response and finds the proposed utility facility is necessary for public service. Staff notes the public comment from Steven G. Liday raises concerns surrounding the applicant's characterization of the use as it relates to the above criterion and suggests that the applicant must demonstrate why each component of the project, including the operational buildings, must be sited on the EFU land to provide the wastewater treatment service. Staff asks the Hearings Officer to make specific findings on this issue.

Staff agrees with the applicant that the provisions of DCC 18.124 do not apply to the proposed project. The applicant proposes a utility facility, which is a use listed in ORS 215.283(1). As determined through prior rulings, including *Brentmar v. Jackson County*, 321 Or 481, 900

² <https://redmondwetlandscomplex.com/>

P2d 1030 (1995), the proposed use is permitted by state statute and not subject to additional local regulations. Therefore, Staff finds the provisions of Chapter 18.124 do not apply to the subject application.

However, Staff notes the public comment from Steven G. Liday questions the applicability of *Brentmar* to the proposed project and contends that the site plan review criteria would apply to the proposed facilities pursuant to DCC 18.124.030(B)(5). Staff asks the Hearings Officer to make specific findings on this issue.”

Mr. Liday makes the following argument why *Brentmar* is not applicable.

This statute and the holding in *Brentmar* are irrelevant to the County’s site review process, which has no impact on whether a use is allowed, but only concerns the design of physical development. Nothing in ORS 215.283 or *Brentmar* suggests that the Oregon legislature intended to strip counties of the power to regulate the physical design of a type of development that typically has significant impacts on surrounding properties.

Second, the City fails to properly distinguish between the school at issue in *Brentmar* and utility facilities necessary for public service. The latter are subject to a second statute, ORS 215.275, which not only permits conditions, but requires them. ORS 215.275(5). The City mischaracterizes this provision as a limitation on conditions on utility facilities, but there is no language in the subsection to support this reading (e.g., it states that the local government “shall” impose certain conditions, not “shall only”).[Footnotes omitted]

Finding: I disagree with Mr. Liday’s argument above. The Court has stripped Counties of most of their ability to regulate these subcategory (1) uses, although some health and safety regulations can still apply. The County’s site plan regulations can be used to deny the use. This is exactly what was prohibited in *Brentmar*. I also find that the Applicant does have to comply with ORS 215.275(5) which is discussed later. This statute does not mean to override the restrictions of local governments imposed by *Brentmar*.

I agree with the applicant and Staff as described above. I find that *Brentmar* is controlling and DCC 18.124 does not apply to the proposed project. I adopt Ms. Kellington’s argument in her July 11, 2023 submittal:

“One opponent argues that the County must apply additional local criteria to the utility facility – specifically, the County’s criteria for Site Plan Review in DCC 18.124. However, under *Brentmar v. Jackson County*, 321 Or 481, 496, 900 P2d 1030 (1995), and subsequent cases, the County may not apply additional local criteria, to include site plan review, to ORS 215.283(1) uses allowed on EFU-zoned land “as of right”, like the proposed facility. See *Dayton Prairie Water Assn. v. Yamhill County*, 38 Or LUBA 14, 30, aff’d 170 Or App 6, 11 P3d 671 (2000) (LUBA held that application of county comprehensive plan policies to an ORS 215.283(1) utility facility was barred by *Brentmar* and stated that that conclusion

“appl[ies] with equal force to bar application of the county’s site design review criteria[.]”); *T-Mobile USA v. Yamhill County*, 55 Or LUBA, 83, 88 (2007) (county cannot apply local site design standards to ORS 215.283(1) utility facility). The proposed use is a “utility facility necessary for public service”, a use expressly allowed to be sited on EFU-zoned land “as of right” under ORS 215.283(1)(c).” Page 10

Section 18.16.038. Special Conditions For Certain Uses Listed Under DCC 18.16.025

A. A utility facility necessary for public use allowed under DCC 18.16.025 shall be one that must be sited in an agricultural zone in order for service to be provided. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

The Staff report made the following findings:

“FINDING: In order to meet this standard, the applicant must demonstrate why the utility facility and pipeline replacement needs to be sited in the EFU Zone, and show that reasonable alternatives on non-EFU land were considered. The following case law provides guidance on how infeasible an alternative site must be for it to be disqualified from consideration. The Land Use Board of Appeals (LUBA) made the following finding in a previous application for a utility facility, consisting of a cellular tower, in the EFU Zone. *Harshman v. Jackson County*, 41 Or LUBA 330, 335 (2002):

“As we noted in *City of Albany v. Linn County*, 40 Or LUBA 38, 46 (2001), under ORS 215.275, an applicant who wishes to site a utility facility on EFU-zoned land must show that it is infeasible to locate the facility on land that is not zoned EFU. While the statute is somewhat ambiguous concerning how difficult development of a non-EFU-zoned site for the intended purpose must be before it can be found to be infeasible, it is quite clear that a finding that the proposed site is the *best* of the available sites is inadequate.”

Staff interprets this finding to mean the subject property cannot be selected solely on the basis that it ranks best in comparison to alternate sites, when evaluated based on the factors in subsections (1-7), below. Instead, the applicant must demonstrate that other sites were considered for the utility facility, and were not feasible based on the factors below. Other cases have examined the threshold for how difficult a property must be to develop, for it to be disqualified from consideration. Further guidance is provided in the LUBA opinion below, regarding an application to site a water treatment facility in the Farm/Forest Zone. *City of Albany v. Linn County*, 40 OR LUBA 38, 47 (2001):

“The core of petitioner’s arguments under both assignments of error is that Millersburg has failed to demonstrate that reasonable alternatives, which would not

require the use of EFU or F/F-zoned land, are not available. According to petitioner, the F/F-zoned land that Millersburg proposes to use for its proposed treatment facility and storage reservoir would not be needed for the proposed public service if the city instead utilized other feasible options... In petitioner's view, EFU or F/F-zoned land should be selected only if no other option is feasible...

Before and after adoption of ORS 215.275, the ultimate legal standard was a requirement that the applicant demonstrate that "the facility must be sited in an EFU zone in order to provide the service." That legal standard, in turn, requires that an applicant explore non-EFU-zoned alternative sites."

In this case, LUBA ruled that this criteria cannot be met without an analysis of other, non-EFU options. However, LUBA went on to find that the alternatives analysis can disqualify a non-EFU site based on any one of the factors listed in ORS 215.275(2). This LUBA decision further clarifies that the applicant is not required to consider alternate means of designing the utility facility. Staff finds this relevant to the subject application because the applicant is not required to defend their selected methods of transmission and processing of wastewater, and can narrow their alternatives analysis to properties that work best for a facility design that they have already selected. For example, the County cannot require the applicant to evaluate other methods of wastewater transmission, processing or treatment which may require less area, or are less dependent on slope and soil conditions.

The applicant included the following statement in response to this criterion:

The subject utility facility that is necessary for public use is an existing facility. The proposal involves an expansion of the existing facility on property under the ownership of the City of Redmond and USA/BLM, that is already devoted to this use. Therefore, it is not logical, nor is it practical, to seek a new site for the utility facility, as the subject property is currently devoted to utility facility uses associated with wastewater treatment. Further, the component of the existing wastewater reclamation facility that is currently located within the dry canyon in the City has no room to expand nor would such an expansion be a compatible use with the growing urban community.

Nearby non-EFU zoned land includes property in the Surface Mining (SM) zoned properties. Nearby Surface Mining zoned properties lack suitable soils for effluent disposal, as topsoil has been removed from the sites. Additionally, nearby SM zoned properties are currently devoted to surface mining activities. Other non-EFU zoned land in the area consists of MUA-10 and Rural Residential (RR-10) Zoning. However, these properties are too small in size and are devoted in one way or another to residential uses, many of which are on subdivision lots. Although, all nearby non-EFU zoned lands may be considered to be potential "alternatives", they are not reasonable ones. These lands have been "considered" by Applicant and found to be

not suitable for the proposed use. In large measure they are unsuited because they would require significant disruption to existing established private uses situated on them and they do not have any of the existing waste treatment infrastructure on them that is situated on the subject 608-acre City-owned property. Moreover, there is no requirement to demonstrate that among EFU-zoned lands, one set of lands is better than another. This is because in *Dayton Prairie Water Ass'n v. Yamhill County*, 170 Or App 6 (2000), the court explained that to show “necessity”, the applicant must demonstrate that there are no other *non-EFU*-zoned sites that could feasibly accommodate the utility facility. The court rejected an argument that the local government must compare alternative *EFU-zoned sites* and choose the site that is “least disruptive” to agriculture. 170 Or App at 11.

Factors 1-6 below are the “factors” that must be considered in demonstrating that the proposed Redmond Wetlands Complex is a “necessary” utility facility. These factors mirror LCDC’s factors for determining necessity at OAR 660-033-0130(16)(A)(i) – (vi). *See also* ORS 215.275(2). Items 7-12 are not “factors”, but rather are additional criteria that mirror LCDC’s additional criteria at OAR 660-033-0130(16)(B) – (G) (albeit in different order).

Accordingly, the application must demonstrate that the Complex is “necessary” by showing that (1) reasonable alternatives (types of facilities and locations) have been considered (see above), and (2) the Complex must be sited on EFU-zoned land due to one or more of the listed factors 1-6.

The applicant provided the following additional response in their incomplete response dated May 1, 2023, related to their consideration of alternative sites:

...

Below is an alternative site analysis of non-EFU zoned properties in the area surrounding the subject property:

To the East:

Abutting the property to the east, across Northwest Way, is Tax Lot 200, 14-13-29, an approximate 80.95 acre MUA-10 zoned parcel that is owned by the United States and managed by the Bureau of Land Management (BLM). Tax Lot 200 is too small to serve the City’s wastewater treatment needs. And it is not desirable for the proposed facility as it directly abuts a residential subdivision, Squire Ridge Phases 1 through 3, to the east and south. This subdivision is also zoned MUA-10 and contains a total of twenty-three (23) lots that are developed with single family dwellings on lots that are approximately five (5) acres in size. Any potential impacts from noise or odor would certainly be greater on these residential lots within the Squire Ridge subdivision and parcels if the proposed facility were to be developed on Tax Lot 200. Additionally, Tax Lot 200 is physically separated from the existing facility by the County Road, Northwest Way, making it highly impractical.

Also adjoining Tax Lot 200 to the west are SM zoned tax lots (Tax lots 102, 103 and 104, 14-13- 29) that are committed to surface mining usage.

To the Northeast:

Lots within Westwood Acres Sections 1 and 2 directly abut the subject property to the west, located on the west side of Northwest Way. This residential subdivision is zoned MUA-10, with the lots being approximately 2.5 acres in size and it is developed with single family dwellings. There is inadequate space in this residential subdivision to use to convert it to serve the City's wastewater treatment needs. All the lots in this subdivision are developed with residences in any event.

To the North and Northwest:

To the north and northwest of Tax Lot 200 of the subject property are two blocks of MUA-10 zoning that are committed to residential usage within Crooked River Ranch (CRR) No. 4 and No. 5, respectively. Lots within these subdivisions are committed to single-family residential uses and are too small to accommodate the use. These blocks of MUA-10 zoned subdivision lots are located approximately 2.5 miles or farther north of the nearest component of the proposed facility (future disposal wetlands on Tax Lot 2600), making them an impractical location in any event.

To the West:

To the west, abutting Tax Lots 101 and 200 of the subject property, proximate to Tax Lot 2604 of the subject property, are MUA-10 zoned lots within various phases of the Tetherow Crossing subdivision, which are roughly between two and five acres in size and developed with singlefamily dwellings. There is inadequate land available in this development to establish facilities to serve the City's wastewater treatment needs.

Farther to the west of Tax Lot 200 of the subject property are MUA-10 zoned lots within Mark K Falls Estates Subdivision and River Springs Estates subdivision. Lots within these subdivisions are primarily 3.5 to 12 acres in size. There are also multiple MUA-10 zoned tax lots (many of which are partition platted parcels) outside of these subdivisions to the west that are up to 21 acres in size. Lots within these subdivisions are developed with single-family dwellings and are located over one (1) mile west of the proposed facility. None of these areas have property of sufficient size to support the proposal.

Also, abutting Tax Lot 200 of the subject property to the west, on the west side of the Deschutes River and its associated deep canyon, are lots within Lower Bridge Estates subdivision that is zoned Rural Residential, 10-acre Minimum (RR-10). Many of these lots are developed with single family dwellings that are between 6 and 10 acres in size. The closest of these RR-10 zoned lots are over 1.5 miles west of the proposed facility (including expansion of existing treatment wetland and future disposal wetlands). Here too, there is insufficient area to establish a facility for the City's waste treatment needs.

To the South and Southwest:

Properties abutting Tax Lots 101 and 201 of the subject property are zoned EFU-TRB. The property abutting Tax Lot 101 of the subject property to the west is Tax Lot 100, 14-13-33, zoned EFU-TRB, that is owned by the United States and managed by BLM. The BLM has not offered this property to the City. West and southwest of Tax Lot 100 is a large block of MUA-10 zoning comprised of smaller subdivision lots, 2.5 to 5 acres in size, within Tetherow Crossing, Phase IV Subdivision, developed with single-family dwellings, which has inadequate land to meet the City's treatment needs. Approximately one-half mile south of Tax lots 101 and 201 of the subject property is another large block of MUA-10 zoning that consists of lots within La Casa Mia Subdivision, comprising of approximate one-acre lots that are developed with single family dwellings. This also has inadequate area to satisfy the City's wastewater treatment needs. Farther south, there are small parcels developed with single-family dwellings and many devoted to hobby farm uses. These lands are also too small to satisfy the City's wastewater treatment needs. Even farther south, within this MUA-10 zoned block is Hidden Valley Mobile Estates No. 1. Subdivision, consisting of small lots (mostly .25 of an acre in size) that are developed with single-family dwellings, that has the same is – inadequate land area for the City's waste treatment needs. Beyond the block of MUA-10 zoning is property that is within the Urban Growth Boundary (UGB) of Redmond. Properties within all of the subdivisions surrounding the subject property, referenced above, zoned either MUA-10 or RR-10, are too small to accommodate the proposed use (requiring approximately 600 acres). All of these sites in the MUA-10, RR-10 and SM Zones, addressed above, are already committed and/or developed to either residential or surface mining usage, therefore, there are no non-EFU zoned properties in the vicinity of the proposed expanded facility that are feasible alternative sites for the proposed use, considering the factors under 18.16.038 (A).

Staff accepts the applicant's response above and notes the applicant considered reasonable, non-EFU zoned alternatives. However, Staff asks the Hearings Officer to make specific findings on this issue."

Opponent's attorney, Mr. Liday's June 27, 2023 letter responded to this argument. He concurred with Staff that the standard quoted above in *City of Albany v. Linn County*, 40 OR LUBA 38, 47 (2001) was appropriate but argues:

"The evidence in the record is that it is not only feasible to provide the wastewater treatment services at issue with only the lagoon and treatment wetlands located in EFU land, but that such an arrangement would be cheaper. The mere convenience of Staff in avoiding driving 2.5 miles (approximately a four-minute drive 9) to the treatment wetlands is not sufficient justification to relocate all the City's office and other facilities to protected farmland.

Further, the City's reference to the purported "industry practice" of siting all facilities together is irrelevant because it does not address the actual issue of feasibility. As detailed in the City's

Feasibility Report, it is entirely feasible to pump treated wastewater to wetlands at another site for further polishing. In fact, the Roseburg Urban Sanitary Authority (RUSA) operates its facilities in this manner. The City of Roseburg’s wastewater is first treated at RUSA’s main [footnotes omitted] facility—located within Roseburg city limits—and then pumped to wetlands located on nearby EFU land. In fact, almost all treatment wetlands in Oregon are connected to primary facilities that are located within city limits. This includes, in addition to RUSA’s facilities, Prineville’s Crooked River Complex, Clean Water Services’ Fernhill Facility in Forest Grove, the Silverton wastewater treatment plant, Albany’s Talking Water Gardens facilities, and Cannon Beach’s wastewater treatment complex. The City’s failure to plan for future expansion of its current treatment site—instead allowing residential development to surround the treatment plant—does not now justify relocation of all its facilities to outside the city limits.”

Finding: I adopt Staff and the Applicant’s legal and factual analysis as laid out above. As I described at the hearing, it is not my job as the Hearings Officer to second guess the elected officials at the City as to the most cost-effective and practical way to treat city effluent. My job is to apply the criteria to the facts. The City provided a reasonable argument supported by facts and expert testimony from Mr. Kirchner as to why the proposed facility is a unified utility facility that is solely dedicated to transporting and treating water. Kirchner Letter, Pages 1-4, July 5, 2023. That letter also explains why the City decided not to split up the site and why it is more cost effective to proceed with the present application. I find this compelling expert testimony and hereby adopt it. I find Mr. Liday’s argument enlightening, but it does not rebut the expert testimony from the City. I also concur with Ms. Kellington’s reasoning on the need to have all facilities centrally located. Page 12 July 11, 2023

Applicant addresses the locational dependency of the project as well as factors 1 through 6 of ORS 215.275(2)(a)-(f) below and the Staff made the following finding.

1. *Technical and engineering feasibility;*

“FINDING: The applicant provided the following statement in response to this criterion:

“The proposed Redmond Wetlands Complex on the subject property complies with this factor as much of the utility facility on EFU lands is already devoted to this use and engineered plans demonstrate that the proposed expansion of the facilities that are already there, is feasible and of technically sound design.

The applicant provided the following additional response to this criterion in their incomplete response dated May 1, 2023:

The City’s existing Water Pollution Control Facility (WPCF) at 3100 NW 19th Street, sits on roughly 30 acres on the north end of Redmond in the dry canyon. Treated effluent from this facility is conveyed to the property at 5801 Northwest Way that the City owns, through existing piping for disposal via irrigation. This existing

City WPCF located at 3100 NW 19th Street has reached its capacity to treat effluent as is demonstrated in detail in the City 2019 Wastewater Facility Plan at p 54-62. In sum, that plan demonstrates that the existing “Orbal” treatment system is either at or over capacity in 2020; disinfection is projected to be at or over capacity in 2025 and the infiltration basins are projected to be at or over capacity in 2025. The waste activated sludge (“WAS”) storage maximum per each month at the existing NW 19th Street facility was at capacity in 2020 and dewatering was at capacity by 2020. The 3100 NW 19th Street property has inadequate area for long-term expansion of this system or to accommodate the new system that the City has selected to meet its current and projected wastewater treatment needs. The existing 3100 NW 19th Street site is situated in a canyon with steep basalt rock walls and simply provides no possibility of additional space for increased capacity.

To respond to City needs, the City has chosen a wetland treatment technology that will meet the City’s wastewater treatment needs using created wetlands. The proposed site is large enough to provide unlimited capacity to meet the City’s short and long-term waste treatment and disposal needs. Although we note that the existing disposal methodology will not change at the Northwest Way site. The only thing that is changing at the Northwest Way site under the proposal is the addition of incoming processing using a headworks (a fully enclosed) facility, lagoons, disinfection building, and created wetlands for treatment.

The City’s new treatment facility and program is environmentally beneficial and is a program requiring a large volume of land to create wetlands for tertiary treatment of the effluent. The wetland treatment area needs exceed the amount of land available at the 3100 NW 19th Street site therefore rendering it technically and spatially infeasible.’

Staff finds the applicant has provided a detailed response to why the facilities must be sited on EFU-zoned land due to technical and engineering requirements. However, Staff asks the Hearings Officer to make specific findings on whether the applicant has demonstrated that the facility must be sited in an exclusive farm use zone due to this factor.”

Finding: I find that the Applicant meets this criterion and adopt the Staff report and applicant’s statement above as findings. The applicant provided expert testimony as to why the technical and engineering feasibility factor required siting the facility on EFU lands. See expert qualifications, Kircher letter, page 5, July 5, 2023. Although there was anecdotal testimony on why it could be sited elsewhere, there was no expert rebuttal testimony.

2. *The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;*

“FINDING: The applicant provided the following statement in response to this criterion:

‘The proposed Redmond Wetlands Complex (expansion of an existing utility facility) is locationally dependent because the subject property is owned and operated by a municipality (City of Redmond) that also manages the existing utility service (WPCF site inside the Redmond City Limits) and the water treatment facilities are existing on the EFU-zoned subject property, as well as within an existing interceptor pipeline corridor. The interceptor pipelines must cross some EFU properties in order to achieve/maintain the existing reasonably direct route between the existing WPCF inside the Redmond City Limits and the proposed expanded treatment facility. That route already exists with existing easements and any new lands would require new easements and new disruptions the proposal can avoid by being on land already devoted to these uses.

Additionally, the proposed facilities are locationally dependent as the proposal takes advantage of the existing facility compound, existing City ownership of the main 608 acres of land, a lease with BLM for use of Tax Lots 200 and 2600, existing easements and the interceptor pipelines, and existing ingress/egress easements, as well as the existing road system for the access road onto the subject property. Further, the subject property is owned and operated by a municipal utility provider and already has utility facilities. Thus, the only reasonably direct route is the one that already exists and the site should continue to be used for utilities and not encumber additional EFU lands with utilities for which they are not now devoted.

Based on the above, coupled with plans submitted with the applications, the facility is locationally dependent, as there are no suitable non-EFU zoned lands for the proposed use and especially because the proposal is to *expand* an existing utility facility, as described above.’

The applicant provided the following additional response to this criterion in their incomplete response dated May 1, 2023:

‘The proposed facility is locationally dependent. The City must significantly increase its wastewater treatment capacity. It cannot do that at the existing dry canyon facility. The City’s existing wastewater disposal at 5801 Northwest Way is already situated on that site that is proposed to be the situs of the City’s treatment facilities. It is an efficient and prudent use of scarce public funding resources to consolidate operations at the existing 5801 Northwest Way site now used for a part of the City’s wastewater processing needs, which site will be a suitable size for the City’s current and long-term waste treatment and disposal needs. There is already piping that connects City sewage to the 5801 Northwest Way site. Currently, that piping connects to the dry canyon treatment facility to convey the treated effluent to the 5801 Northwest Way

site. Under the proposal, the existing conveyance system will continue to be used only under the proposal, untreated effluent will be conveyed directly from the existing piping that serves the user to the 5801 Northwest Way site for treatment as well as disposal. To reach the 5801 Northwest Way site, the effluent piping system now crosses and must continue to cross land zoned exclusive farm use. That already reasonably direct route now exists and the proposal merely increases the size of the existing conveyancing piping system (increasing the size of one of the two existing conveyance pipes) in order to maintain that reasonably direct route.

The City also notes that due to the large volume of acreage needed for the proposed wetland treatment technology, the City's existing WPCF site is too small for the City's wastewater treatment needs. The proposed RWC will consolidate City operations at the City's existing wastewater disposal site and will be located adjacent to the existing City effluent disposal area (orchard grass farm) and the existing City waste solids drying beds. To meet its wastewater disposal needs, the City has leased roughly 36 acres of land from the Bureau of Land Management (BLM) since 1978, for use as infiltration basins for ground water recharge. Through that relationship, the opportunity to purchase an additional 640 acres of BLM land adjacent to the existing facilities arose. Currently, the City possesses a deed allowing it exclusive use of roughly 610 acres of land which includes the existing drying beds, sewage conveyance lines, a 36-acre recycled water irrigation pond, a 146-acre orchard grass farm upon which treated effluent is sprinkled and a large buffer area.

When the City obtains the additional acreage from BLM (and, if necessary, completes a partition process to separate it from the BLM's larger holdings), the entire City site will total roughly 1,250 acres. This entire 1,250-acre City property will be used in the following manner:

- roughly 200 acres will contain lagoons, chlorine treatment, wetlands treatment and disposal wetlands.
- 146-acre orchard grass farm on which treated wastewater will be deposited as irrigation (as is currently being performed).
- 36-acre recycled water irrigation pond.
- Remaining acreage to be used as buffer from surrounding properties.

The current operation contains large acreages (610 acres owned by City + 35 acres owned by USA/BLM and leased by the City) that now provides a buffer from surrounding properties. The addition of the BLM property that the City plans to acquire and consolidate with its other holdings as a part of the proposal, provides room for the needed wetlands operations based on current population projections as well as provides additional space for expansions in the future that will be necessary in order to serve the fast-growing Redmond community. Further, the total 1,250 acres will provide a buffer from the proposed wetlands to the nearest residences.

This facility is locationally dependent for these reasons.'

As noted throughout this Staff report, the existing interceptor pipeline utilizes non-EFU zoned lands along the project route. However, based on the zoning of the area, the pipeline crosses lands that are in one or more areas zoned EFU. As the applicant states, the interceptor pipeline route already exists within existing easements and any new lands would require new easements and new disruptions that can be avoided by utilizing the existing pipeline route. Staff notes the applicant has proposed a preferred realignment of a portion of the pipeline as discussed later in this report. However, the alternative realignment would not be located on private, EFU-zoned properties and is addressed in the responses to DCC 18.32, 18.124 and 18.128.

Staff finds the proposed interceptor pipeline replacement, where located on private, EFU-zoned properties, is locationally dependent to take advantage of existing easements and minimize disruption to EFU-zoned lands.

Regarding the wastewater treatment facilities, Staff generally agrees with the applicant's response regarding its locational dependence on EFU-zoned land. However, Staff asks the Hearings Officer to make specific findings on whether the applicant has demonstrated that the facility must be sited in an exclusive farm use zone due to this factor.

Post hearing, Mr. Liday submitted arguments that:

“The Feasibility Report states that only the new lagoons and treatment wetlands need to be built on the EFU site and that maintaining the other facilities in their current location would save the City money, both now and in the long run. The 2020 WFP Amendment stated that the disposal wetlands are not necessary.[footnotes omitted] Liday letter, page 2, June 27, 2023.”

The Applicant responded:

One opponent argues that it is feasible for the City to provide its wastewater treatment services with only the lagoon and treatment wetlands on the EFU site, citing a Lagoon and Wetland Treatment and Disposal Feasibility Evaluation prepared for the City from 2020 (“2020 Feasibility Study”) and the City’s 2020 Wastewater Facility Plan Amendment (“2020 WFPA”). However, they misinterpret those documents. The Feasibility Study was just that – a study. It presented three alternatives for City to consider – expanding the existing mechanical treatment plant at existing City site; new treatment lagoons and treatment wetlands at EFU site and utilizing the existing City site for existing headworks and other support facilities; new lagoon and wetland treatment plant with support facilities at EFU site – the Feasibility Study did not recommend one alternative over another. Rather, it left that choice to City, considering capital cost, life cycle cost, land and future expandability, and community benefits of alternatives. Similarly, the 2020 WFPA does not support opponents’ claims that the entirety of the proposed facility is unnecessary either. The 2020 WFPA (as well as the 2023 WFPA) recommended moving the entire facility to the proposed EFU site, based on alternative rankings considering the City’s stated objectives. The

relevant analyses acknowledged that the City has critical short- and long-term waste treatment and disposal needs that are not met at the Dry Canyon site. The Dry Canyon site cannot be expanded to meet the City's long-term treatment or disposal needs, regardless of the type of system the City employs to manage waste treatment and disposal. While at great expense the Dry Canyon site could be upgraded to provide short and perhaps medium-term capacity, it is impossible for the Dry Canyon site to be expanded enough meet the City's long-term treatment needs. There is no serious dispute on this record that no matter what, the City must look elsewhere for its long-term needs. Kellington Letter, page 13, July 11, 2023.

Finding: I find that the Applicant meets this criterion based on the findings in the Staff report above. I find that the transmission line must cross EFU lands in order to take advantage of existing pipelines and easements and to access the existing treatment facility. I agree that the facility is locationally dependent because it needs to take advantage of these existing easements and ownerships. I agree the existing facility is too small to accommodate the method of waste treatment that the City has selected. Kirchner letter page 2, July 5, 2023. As stated before, it is not the role of the Hearings Officer to second guess the method of waste water treatment. I adopt Ms. Kellington's argument that the utility provider has discretion on the type of treatment to provide. Kellington letter, pages 13-14, July 11, 2023.

As to the argument that the City could build just the wetlands on the EFU or make the existing facilities work, I agree with Ms. Kellington's response quoted above. This is supported by the Kirchner Letter, page 2, July 5, 2023. In that letter, Mr. Kirchner, quotes the summary of project alternatives. One of those alternatives is for "New Lagoons and Wetlands with Existing Facilities" with a capital cost of \$38.5 million and a 20-year cost of \$52.8 million that will likely need to be rebuilt in 20 years. That is compared to "New Lagoon and Wetland Treatment Plant with Support Facilities at New Site" with a capital cost of \$41.6 million and a 20-year cost of \$53.9 million but with a life expectancy of in excess of 50 years. While the former may save a few million, for a little more, the City gains 30 plus years of life expectancy among other benefits. Although beyond the scope of my authority as stated above, I find the City Council made the reasonable choice on how and where to treat its wastewater.

Finally, the primary law affecting all, makes the site locationally dependent, gravity.

3. *Lack of available urban and nonresource lands;*

"FINDING: The applicant provided the following statement in response to this criterion:

"There no nearby urban and nonresource lands that are suitable for the proposed use. The existing WPCF in the City of Redmond is not capable of handling the anticipated capacity resulting from expected population growth of Redmond. It is an aged system that is too small for the benign environmentally pleasing, responsible and efficient proposal here for a wetlands complex to treat City effluent. There is insufficient room on the existing parcel in the UGB to create wetlands for a complex as is proposed here. Moreover, expansion of a wastewater treatment facility is not compatible with a rapidly growing surrounding urban environment, nor an efficient

use of urban lands, as here. The interceptor pipelines exist within the established corridor that traverses multiple public road rights-of-way, eight (8) privately owned tax lots outside of the UGB and the subject property. Thus, it is most efficient, least disruptive and best for the fulfillment of the public’s interests to continue using the existing 608-acre treatment facility site and existing pipeline corridors for the sewerage facilities to which they are already devoted rather than to encumber additional EFU lands with new utilities. The existing facility on the subject 608-acre property, existing rights-of-way and existing easements, is owned and operated by a municipal utility provider and already has utility facilities. The facility must be sited in an exclusive farm use zone because in part that is where these facilities already are. This factor is met.’

The applicant provided the following additional response to this criterion in their incomplete response dated May 1, 2023:

‘As explained above, the RWC requires roughly 1,250 acres of land for effective wastewater treatment, providing adequate room for long-term expansion and appropriate buffer area. This technology, while environmentally beneficial, is land intensive. Urban land acreage of this size is not available at all and there is no other non-resource land in the vicinity of where the City’s existing sewage conveyance lines already deliver wastewater.’

Staff generally agrees with the applicant’s response. However, Staff asks the Hearings Officer to make specific findings on whether the applicant has demonstrated that the facility must be sited in an exclusive farm use zone due to this factor.”

Finding: I find that the Application meets this criterion. I adopt the findings above and additionally adopt as findings the Alternative Analysis in Ms. Kellington’s letter, pages 14-16, July 11, 2023, and her finding on page 19 on this criterion in the same letter.

4. Availability of existing rights of way;

“FINDING: The applicant provided the following statement in response to this criterion:

‘The interceptor pipelines are within an existing and available corridor that traverses public road rights-of-way as well as private easements and will continue to be utilized. No expansion into additional rights-of-way is proposed. Therefore, this factor is met.

The applicant provided the following additional response to this criterion in their incomplete response dated May 1, 2023:

Existing rights of way are proposed to continue to be used for the conveyance of wastewater to the proposed site. The RWC will benefit from existing rights-of-way and existing sewer line easements that already provide the necessary alignment for

the existing pipelines that convey wastewater to the RWC. These existing rights of way and easements will be relied on as the City replaces one of the existing 24-inch conveyance lines with a 48-inch line.’

Staff generally agrees with the applicant’s response. A portion of the proposed project, the interceptor pipeline replacement, will include the use of existing rights-of-way. Northwest Way, NW Coyner and NW Pershall are zoned EFU. However, there are no nearby non-EFU zoned rights-of-way to be utilized.

Finding: I agree and adopt as findings the Staff report above. Additionally, the Applicant’s proposed alternative will move more of the pipeline into existing ROWs.

5. Public health and safety; and

“FINDING: The applicant provided the following statement in response to this criterion:

‘The project is proposed as an expansion of the City’s existing sanitary sewer treatment and disposal facilities necessary to meet the City’s growing needs and address aging infrastructure concerns. Redmond has grown significantly since its first wastewater treatment facility was installed in 1978. It is projected that by 2045, Redmond’s population will be 58,000, a 60% increase in the city’s population today. Redmond’s current wastewater system can process and treat just 2.8 million gallons per day and must be expanded in order to process and treat the 4.6 million gallons per day required to serve the projected 2045 population. Neglecting to expand the facility, as proposed, in its existing location could potentially lead to public health and safety concerns. This factor is met.’

The applicant provided the following additional response to this criterion in their incomplete response dated May 1, 2023:

‘Public health and safety requires that the City establish a wastewater treatment facility with adequate capacity for the City’s current and long-term needs. Many of the existing treatment components are already over-capacity. Establishing new wastewater conveyance routes and negotiating new easements for a new route would cause significant delay in the City’s ability to provide the needed treatment capacity. Public health and safety is not served by delaying the proposal simply for the sake of establishing new conveyance locations, when there are perfectly good existing locations and existing easements that can be used and that enable efficient establishment of needed service capacity.’

Staff generally agrees with the applicant that public health and safety is a limiting factor with respect to where this type of utility facility can be sited. However, Staff asks the Hearings

Officer to make specific findings on whether the applicant has demonstrated that the facility must be sited in an exclusive farm use zone due to this factor.

Finding: I agree with Staff and adopt as findings the Staff report quoted above. There was no factual dispute in the record of the need to update the City’s wastewater treatment. The rapid growth of the City is uncontroversial and the health and safety of the residents and nearby communities requires an expansion of the system.

6. Other requirements of state and federal agencies

“FINDING: The applicant provided the following statement in response to this criterion:

‘At present, there are no state or federal requirements that the expanded utility facility must be sited in any particular zone including not in any exclusive farm use zone. This factor does not apply.’

The applicant provided the following additional response to this criterion in their incomplete response dated May 1, 2023:

‘At this time the only required permit will be a 1200-C (construction stormwater general permit) from the Oregon Department of Environmental Quality.’

Staff finds the applicant did not assert that the facility must be sited in the EFU Zone due to this factor. Staff finds this criterion does not apply.

Finding: I agree with Staff that this criterion does not apply. There was no additional testimony addressing it.

Next the Staff report addresses ORS 215.275(3)(4)(5) and (6) .

7. Costs associated with any of the factors listed in 1-6 above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities that are not substantially similar.

“FINDING: The applicant provided the following statement in response to this criterion:

‘Applicant does not contend that the facility must be sited in an exclusive farm use zone due to cost alone under this factor. However, the cost of purchasing new land can and should be considered, particularly, because the facility exists and approximately 608 acres of the facility’s land is already owned by the City of Redmond and the interceptor pipeline exists within a corridor that possesses

easements and right-of-way permits. A copy of the existing easements are attached as Exhibit D to this application.’

The applicant provided the following additional response to this criterion in their incomplete response dated May 1, 2023:

‘There is no suitable urban land for the project. The costs of acquiring new non-resource land for the project and of abandoning the existing conveyance system, establishing a conveyance system to a new site and then to the existing City drying and disposal facilities situated at the subject property is cost prohibitive, not to mention wasteful. Moreover, there are no suitable alternative non-resource lands for the proposed consolidated wastewater treatment operations, in any event.

The City reviewed County records in scanned documents and permits in Deschutes County DIAL, and did not find any complaints on record regarding the City’s existing farm uses irrigated with treated effluent and or the City’s existing biosolid drying or any other part of the existing facility on Northwest Way. The proposal will add treatment facilities and expanded wetlands disposal facilities to the existing disposal facilities on the Northwest Way site. Any non-resource zoned property must not only be large enough to accommodate the proposed expansion of the facility, but must also be in reasonable proximity to the existing conveyance lines and have adequate distance from residential uses (as is proposed) to provide a buffer.

Below is an alternative site analysis of non-EFU zoned properties in the area surrounding the subject property:

To the East:

Abutting the property to the east, across Northwest Way, is Tax Lot 200, 14-13-29, an approximate 80.95 acre MUA-10 zoned parcel that is owned by the United States and managed by the Bureau of Land Management (BLM). Tax Lot 200 is too small to serve the City’s wastewater treatment needs. And it is not desirable for the proposed facility as it directly abuts a residential subdivision, Squire Ridge Phases 1 through 3, to the east and south. This subdivision is also zoned MUA-10 and contains a total of twenty-three (23) lots that are developed with single family dwellings on lots that are approximately five (5) acres in size. Any potential impacts from noise or odor would certainly be greater on these residential lots within the Squire Ridge subdivision and parcels if the proposed facility were to be developed on Tax Lot 200. Additionally, Tax Lot 200 is physically separated from the existing facility by the County Road, Northwest Way, making it highly impractical.

Also adjoining Tax Lot 200 to the west are SM zoned tax lots (Tax lots 102, 103 and 104, 14-13- 29) that are committed to surface mining usage.

To the Northeast:

Lots within Westwood Acres Sections 1 and 2 directly abut the subject property to the west, located on the west side of Northwest Way. This residential subdivision is zoned MUA-10, with the lots being approximately 2.5 acres in size and it is

developed with single family dwellings. There is inadequate space in this residential subdivision to use to convert it to serve the City's wastewater treatment needs. All the lots in this subdivision are developed with residences in any event.

To the North and Northwest:

To the north and northwest of Tax Lot 200 of the subject property are two blocks of MUA-10 zoning that are committed to residential usage within Crooked River Ranch (CRR) No. 4 and No. 5, respectively. Lots within these subdivisions are committed to single-family residential uses and are too small to accommodate the use. These blocks of MUA-10 zoned subdivision lots are located approximately 2.5 miles or farther north of the nearest component of the proposed facility (future disposal wetlands on Tax Lot 2600), making them an impractical location in any event.

To the West:

To the west, abutting Tax Lots 101 and 200 of the subject property, proximate to Tax Lot 2604 of the subject property, are MUA-10 zoned lots within various phases of the Tetherow Crossing subdivision, which are roughly between two and five acres in size and developed with singlefamily dwellings. There is inadequate land available in this development to establish facilities to serve the City's wastewater treatment needs.

Farther to the west of Tax Lot 200 of the subject property are MUA-10 zoned lots within Mark K Falls Estates Subdivision and River Springs Estates subdivision. Lots within these subdivisions are primarily 3.5 to 12 acres in size. There are also multiple MUA-10 zoned tax lots (many of which are partition platted parcels) outside of these subdivisions to the west that are up to 21 acres in size. Lots within these subdivisions are developed with single-family dwellings and are located over one (1) mile west of the proposed facility. None of these areas have property of sufficient size to support the proposal.

Also, abutting Tax Lot 200 of the subject property to the west, on the west side of the Deschutes River and its associated deep canyon, are lots within Lower Bridge Estates subdivision that is zoned Rural Residential, 10-acre Minimum (RR-10). Many of these lots are developed with single family dwellings that are between 6 and 10 acres in size. The closest of these RR-10 zoned lots are over 1.5 miles west of the proposed facility (including expansion of existing treatment wetland and future disposal wetlands). Here too, there is insufficient area to establish a facility for the City's waste treatment needs.

To the South and Southwest:

Properties abutting Tax Lots 101 and 201 of the subject property are zoned EFU-TRB. The property abutting Tax Lot 101 of the subject property to the west is Tax Lot 100, 14-13-33, zoned EFU-TRB, that is owned by the United States and managed by BLM. The BLM has not offered this property to the City. West and southwest of Tax Lot 100 is a large block of MUA-10 zoning comprised of smaller subdivision lots, 2.5 to 5 acres in size, within Tetherow Crossing, Phase IV Subdivision, developed with single-family dwellings, which has inadequate land to meet the City's treatment needs. Approximately one-half mile south of Tax lots 101 and 201

of the subject property is another large block of MUA-10 zoning that consists of lots within La Casa Mia Subdivision, comprising of approximate one-acre lots that are developed with single family dwellings. This also has inadequate area to satisfy the City’s wastewater treatment needs. Farther south, there are small parcels developed with single-family dwellings and many devoted to hobby farm uses. These lands are also too small to satisfy the City’s wastewater treatment needs. Even farther south, within this MUA-10 zoned block is Hidden Valley Mobile Estates No. 1. Subdivision, consisting of small lots (mostly .25 of an acre in size) that are developed with single-family dwellings, that has the same is – inadequate land area for the City’s waste treatment needs. Beyond the block of MUA-10 zoning is property that is within the Urban Growth Boundary (UGB) of Redmond.

Properties within all of the subdivisions surrounding the subject property, referenced above, zoned either MUA-10 or RR-10, are too small to accommodate the proposed use (requiring approximately 600 acres). All of these sites in the MUA-10, RR-10 and SM Zones, addressed above, are already committed and/or developed to either residential or surface mining usage, therefore, there are no non-EFU zoned properties in the vicinity of the proposed expanded facility that are feasible alternative sites for the proposed use, considering the factors under 18.16.038 (A).’

Staff finds the analysis provided under subsections (1-6), above, do not rely on cost alone to demonstrate the utility facility is necessary for public service.”

Finding: I find that the Application meets this criterion and adopt as findings the Staff report quoted above. Additionally, I will add that the Applicant stated: “[w]e note than none of the evaluated alternatives could even accommodate the 610-acre site (without room for expansion and additional buffer).” Kellington letter, page 14, fn 3, July 11, 2023. I have found nothing in the record contrary to this statement.

- 8. *The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.*

“**FINDING:** The applicant provided the following statement in response to this criterion:

‘This factor provides that the owner of the utility facility shall be responsible for restoring, as nearly as possible, to its former condition any land and associated

improvements that may be damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.

Applicant proposes to employ standard Erosion and Sedimentation Control Measures and Best Management Practices (BMP's) consistent with construction work in this region, which will be outlined in the contractor's Erosion and Sedimentation Control Plan, compliance with which can be made a condition of approval. Additionally, Applicant proposes to restore disturbed work areas with native seeding at a minimum and will adhere to warranted conditions of the land use approval and easement terms. This provision is met.'

Staff finds construction, and associated ground disturbances will be limited to within the subject properties. Due to the large size of the subject property for the wastewater treatment facilities and the amount of undeveloped land that will remain as a buffer, Staff believes it is unlikely the proposed use will damage agricultural land.

As it pertains to the pipeline replacement within EFU-zoned land, the applicant proposes to restore disturbed work areas with native seeding and adhere to any conditions of approval or easement agreement terms. However, to ensure compliance, Staff recommends the following conditions of approval:

Land Restoration: The owner of the utility facility shall be responsible for restoring, as nearly as possible, to its former condition any lands zoned EFU and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.

Erosion Control Plan: Prior to the start of construction activities, the applicant shall provide an Erosion Control Plan to the Planning Division prepared by a licensed, professional engineer. Staff recommends that a licensed, professional engineer use the *Central Oregon Stormwater Manual* as the basis for the plan.

As conditioned, Staff finds this criterion will be met.”

Finding: I find that the based on the Staff report quoted above and as conditioned above, the Application meets this criterion. As to land condition, testimony in the record is that the disturbed soils on the easements, have created persistent weeds. As such, a condition will be imposed to help remedy that problem. See below.

- 9. *In addition to the provisions of 1-6 above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.*

FINDING: The applicant provided the following statement in response to this criterion:

The Complex is not the “establishment” or “extension” of a sewer system as those terms are defined in OAR 660-011-0060(1). This factor is inapplicable.

Staff agrees and finds the proposed project is not the establishment or extension of a sewer system. However, Staff asks the Hearings Officer to make a specific finding on this issue.

Finding: I agree

10. *The provisions above do not apply to interstate gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.*

FINDING: The applicant provided the following statement in response to this criterion: No interstate gas pipelines, and associated facilities are proposed. This criterion is inapplicable. Staff agrees and finds this criterion does not apply.

Finding: I agree.

11. *The County shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use, in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.*

“FINDING: The applicant provided the following statement in response to this criterion:

‘Factor 11 provides that the County may impose only clear and objective conditions to mitigate and minimize impacts to farm practices on surrounding farmlands to prevent either a significant change in accepted farming practices or a significant increase in their costs.

No significant adverse impacts to surrounding lands devoted to farm use will occur as a result of this project. Other than the irrigated center-pivot hay fields on the City-owned portion of the subject property, the EFU-zoned land being utilized for this project is primarily undeveloped, non-irrigated land not in intensive farm use. The facility itself on the 608-acre parcel will have no impact on farming on surrounding lands. Similarly, other than temporary construction impacts, the enlargement of the City’s existing pipelines will not cause significant adverse impacts to accepted farming practices or their costs because all work will be temporary and will be coordinated with the underlying landowners. Moreover, at the completion of the project, the interceptor pipeline will be below grade and disturbance to any impacted land will be negligible. Thus, no significant change to accepted farm practices or change in farming costs are anticipated. Therefore, no mitigation is required.’

The applicant provided the following additional response to this criterion in their incomplete response dated May 1, 2023:

‘Regarding factor 11, the applicant has established that the proposed use would not have any negative impacts on farm uses in the area that would either cause a significant increase in the cost of accepted farming practices or a significant change in accepted farming practices. There are a very limited number of surrounding properties that are devoted to farm use – especially in the direct vicinity of where the RWC facility will be located. The wetlands will be constructed west of the City’s existing pivot systems. There are no lands devoted to farm use adjacent to this area or within a distance of approximately 1,000 feet. In review of aerial photographs, the nearest agricultural operation to the west is located approximately 1.5 miles. The nearest agricultural operation to the southwest is located approximately one-half mile. Most of the lands to the west and south are dry, high desert, undulating landscape not devoted to farm use. There is also a rural residential subdivision zoned MUA-10 west and south of the property with little acreage devoted to farm use except for the noted pivot system. There are no roads that will lead to the west from the RWC further limiting any impact from vehicular traffic.

The lands to the east-northeast, contain lands devoted to farm use. A review of aerial photographs shows that there are a variety of irrigated properties located between Highway 97 and the vicinity of NW Northwest Way/NW 31st Street, approximately one-quarter mile from the subject property boundary and over one mile from the any of the proposed facilities.

Of particular note is that the existing operation which now occurs onsite does not introduce adverse impacts to the farm uses in the area. In fact, the existing operation provides irrigation water to four pivot systems and roughly 146 acres of orchard grass hay farming which produces 830 tons annually - allowing farm use in the vicinity to occur versus disrupting such uses.

The expanded operations of the RWC does not introduce activities that are disruptive to accepted farming practices or increase the costs of such practices. Operations of the head works, treatment lagoons and wetland ponds requires use of some heavy machinery but is mostly controlled through operational control devices with occasional manual maintenance. The County specifically requested information related to odor and noise. The facility relies on aeration systems and lagoons for treatment. Proper operation of the system assures that the aeration systems are working properly which manages odor. Further, the lagoons have a water cap which also contains odors. See the detailed explanation for more information on this issue. Odor from this facility will be much lower in comparison to odors emitted from allowed farm uses such as livestock operations and hemp production. The evidence

is that the proposal will not negatively impact accepted farm practices or increase the cost of allowed farming practices, significantly or otherwise.

Specific Response to Odor Concerns:

To begin with, it must be noted that the proposed RWC uses a treatment process that generates far less odors than the City's existing treatment plan. Thus, odor concerns based upon the City's existing dry canyon treatment facility are inapplicable to the proposal.

Detectable off-site odors from the City's current operation originate from the biosolids operation at the Dry Canyon site. Currently, these odorous biosolids are conveyed on an open belt into trucks at the plant and then driven to and dumped on a paved drying pad at the Northwest Way site. As the concentration of biosolids moves through the current system, from aeration basins to the dump trucks, odors are generated that people off-site may note. The proposed RWC will not have any external biosolids operations as the biosolids will be contained and treated in lagoons as detailed below. Not only will the new operation eliminate external biosolids handling, it will also eliminate the current odorous activity at the existing drying pad and land application located at the Northwest Way site.

The proposed facility consists of the following treatment processes where potential for odor generation exists:

Headworks:

The headworks describes the part of the proposed facility that will receive raw wastewater from the City conveyance pipes, and will screen it to remove debris. The debris that is removed is washed with equipment before it is transported into dumpsters and hauled to the landfill for disposal. The screen, washing system, transport system, and dumpsters are enclosed in the "headworks" building in order to contain possible odors

Lagoons:

Lagoon technology is one of the most popular methods for wastewater treatment around the world and they have been in use for hundreds of years. Lagoons are relatively inexpensive in terms of equipment, maintenance, operating cost, energy cost and labor. When wastewater enters a lagoon that has a large volumetric capacity, it stays in the lagoon for an extended period of time. This allows bacteria to grow and remove many of the components of the wastewater. The current treatment plant in the Dry Canyon is a compact mechanical activated sludge treatment facility, which differs greatly in operation and design than the proposed Redmond Wetlands Complex lagoon natural treatment system. Lagoon treatment systems have less

concentrated odors than mechanical treatment systems and when operated within design parameters produce nominal odors. The proposed lagoon cell treatment system will have 96% more water and 97% less solids concentration than the current treatment plant aeration basins in the Dry Canyon. As a result, off-site odors are not expected. By way of comparison, consider the below:

Current Mechanical Treatment System:

Total Aeration Basins (*2) Volume – 3.8 million gallons
Aeration Basins Concentration – 2,500 parts per million

Proposed Lagoon Treatment System:

Total Lagoon Cells (5) Volume – 93.6 million gallons
Lagoon Average Cells Concentration – 67 parts per million
This treatment approach creates a situation where the wastewater to be treated is diluted significantly and treated over a larger area which reduces associated odors.

Treatment Wetlands:

The treatment wetlands will receive oxygenated and disinfected water into a shallow wetland system. These wetlands will have a mild, moist, earthy smell, similar to the existing irrigation pond at the site.

Disposal Wetlands:

The Disposal Wetlands will have similar odor to the treatment wetlands except that they will at times be dry, based on City operations. During times when they are dry, they will have no odor.

The reality is that generation of odor is significantly reduced compared to the City’s existing treatment facility due to the dispersed nature of the treatment processes, the diluted nature of the wastewater to be treated and the lack of solids handling. No off-site odors are anticipated from the disposal wetlands.

Because offsite odors are not anticipated, there is no reasonable possibility that there will be any offsite odors that could significantly increase the cost of accepted farming practices or significantly change accepted farming practices.

Finally, we note that the land application of biosolids is permitted by right in the Exclusive Farm Use Zone, which can and does produce odors. Deschutes County Code (DCC) Section 18.16.020 provides the following (excerpted):

18.16.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright:

1) *Farm use as defined in DCC Title 18.*

14) The land application of reclaimed water, agricultural process or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246 to 215.251. For the purposes of this section, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

Specific Response to ground water concerns:

Some commentators have expressed concerns about the proposal on groundwater. Since the late 1970's the City has discharged all of its treated wastewater and biosolids at the proposed project site located at Northwest Way. To protect groundwater and all waters of the State, Oregon Department of Environmental Quality (DEQ) stringently regulates the City's operations.

City Staff analyze and report to DEQ over a thousand water quality tests a year. Staff monitor and perform monthly water quality analysis at seven (7) different ground water monitoring locations at the proposed site on Northwest Way. In over forty years of discharging treated wastewater at this site the City has never had a groundwater permit violation with DEQ. While the proposed project is moving the treatment process to a new location, the discharge of the treated wastewater is largely unchanged and will continue with additional monitoring. There is no new possible groundwater impact anticipated from the proposal because the only connection between the groundwater is a connection that now exists and will continue to exist and will not change under the proposal. There has never been an issue with ground water, and none is expected. Therefore, the proposal cannot and will not have any impact on groundwater, let alone a significant one on the cost of accepted farming practices and will not cause any significant change to accepted farming practices.

Specific Response to mosquito concerns:

Some commentators expressed concern that the proposal will cause mosquito infestations. The proposal will create wetlands and wetland areas which are natural

habitat for a variety of insects, macro invertebrates, amphibians, waterfowl, and other animal life. We note at the outset that there has not been a mosquito problem under the existing Northwest Way operations. The City has contracted mosquito monitoring for the past two years and is committed to continuing this monitoring to ensure a mosquito nuisance is not introduced in the area. If a mosquito problem occurs, the City will implement control measures.

However, many created wetland systems that treat waste similarly to what is being proposed in this instance have been analyzed to determine whether they cause an increase in mosquito populations. The conclusion of those analyses is that once a mature ecosystem has been established, mosquito predators become present and consume the mosquito population. If there is a problem in the interim, the City will address it using best practices. However, the wetland systems receiving wastewater that have been studied, have recorded lower numbers of mosquitos than that of the surrounding agricultural areas receiving irrigation, and lower than residential areas with open water ditches and irrigated lawns. Accordingly, the proposal will not have any impact on accepted farm practices or their costs regarding mosquitoes, and in the unlikely event that any problem should arise, the City will mitigate it with mosquito control measures.

Specific Response to Access Concerns

There have been concerns expressed regarding access to the proposed facility and its associated traffic. At the outset we note that the truck traffic that currently trucks biosolids from the existing dry canyon site to the Norwest Way site, will stop. Therefore, the proposal results in a significant decrease in truck traffic on the surrounding road network. Access proposed for the RWC will rely on the same access that is already in place. Additional circulation will be constructed within the site but will not extend beyond the facility. In other words, no new road connections from the site to surrounding existing roads will be constructed. This reality limits the traffic to and from the site to relying on the access that already exists. This also limits impact on surrounding lands generally and imposes no significant changes or significant increased costs in accepted farm practices on surrounding lands.

Specific Response to Noise Concerns

The source of noise from this facility consists of operations of farm machinery for the 146-acre orchard grass farm and vehicles driving to and from the site. These operations occur now with no noise complaints and detectable off-site noise is not expected. Regardless, these operations will overwhelmingly be conducted during regular business hours (however, occasionally an emergency may present itself outside those hours requiring that people drive around the site causing automobile noise). Noise from the irrigation machinery and trucks does not significantly adversely impact farm operations or increase the cost of such operations. These are

the same types of machines and vehicles used as part of accepted farm practices, including the farm activities occurring onsite.

The proposed RWC does not introduce urban-level uses that can significantly adversely impact farm uses or increase their costs; rather, the RWC is a use that is more rural in nature than urban based on number of operators, types of operations and equipment. The RWC will continue to provide irrigation for the orchard grass farm operations contributing to farm use in the area, not detracting from it.

Potential noise impacts from the proposed use will be most prominent during the construction phase of the buildings and facilities, which would include truck traffic, excavation activities, pouring of cement and asphalt for foundations, pads and internal roads, as well as usage of contractor's tools such as saws, nail guns, impact wrenches, etc. Following completion of the proposed facility, primary noise associated with the facility would be equipment and machinery associated with the use on the EFU-zoned portion of the property as described above.

Based on the above, it is not necessary for the County to impose conditions on the applications for the proposed use in regard to mitigation or minimization of noise or odor impacts, as the use will not cause a significant change in, or cause a significant increase to, the cost of farm practices on surrounding farmlands.

215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards.

(1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or*
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

(2) An applicant for a use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

As discussed above, based on the nature of the operations for the RWC, its presence and operation will not force a significant change in nor significantly increase the costs of accepted farm practices on surrounding lands devoted to farm use. In fact, its operation will allow the continued operations of a productive orchard grass farming operation.

To the extent that any condition of approval contained in this decision require the property owner to mitigate impacts to surrounding lands devoted to farm use, Staff finds such conditions are authorized by this section.

Staff notes a number of public comments identified concerns with potential odors, vector control, site security, and view impacts associated with the expanded facility. However, is not clear to Staff that these comments directly relate to impacts on accepted farm practices or would result in a significant increase in the cost of farm practices on surrounding farmlands as the comments did not include enough specificity as it relates to the criterion above. Staff notes the public comment from Steven G. Liday proposes a variety of conditions of approval related to a number of concerns raised.

Staff defers to the Hearings Officer on the appropriateness of those conditions proposed and whether those specific conditions of approval or any additional conditions not already recommended are warranted under this criterion.

Finding: I adopt the findings laid out in the Staff report above. I agree with Staff that the comments received are not directly related to impacts on accepted farming practices. I agree with the Applicant that it is the largest farming operation in the area and its own actions will not adversely affect its farm operation. I have reviewed Mr. Liday’s requested conditions of approval. Most of those proposed conditions apply to the use of the facility for recreation and are not appropriate for this application. Several are also not clear and objective. However, conditions relating to vector control and voluntary well monitoring plans may help protect farming practices and can be imposed in a clear and objective manner. Although, I am confident that, as explained above, the Applicant will adequately address these issues, I find that the imposition of conditions aids the application in meeting this criterion. Please review the “Conditions of Approval” section.

12. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this provision are subject to OAR 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

“FINDING: The applicant provided the following statement in response to this criterion:
No workforce housing is proposed. This criterion is inapplicable.
Staff agrees and finds this criterion does not apply.”

Finding: I agree, the criterion does not apply as no workforce housing is proposed.

Next, the Staff report addresses the Oregon Administrative Rules 660-011.

In addition to the provisions of 1-6 above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(a) and (b) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.

“FINDING: The applicant provided the following statement in response to this criterion:
The Complex is not the “establishment” or “extension” of a sewer system as those terms are defined in OAR 660-011-0060(1). This factor is inapplicable.
Staff agrees and finds the proposed project is not the establishment or extension of a sewer system. However, Staff asks the Hearings Officer to make a specific finding on this issue.”

Finding: I agree and for the reasons expressed above on page 4, the application is not for the ‘establishment’ nor and “extension” of sewer system as defined in OAR 660-011-0060(a) and (b).

Next, the Staff report turns to the County standards.

DCC Section 18.16.060. Dimensional Standards.

E. *Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.*

“FINDING: The applicant provided the following statement in response to this criterion:

‘All proposed structures will be less than 30 feet in height from finished grade.’

The applicant provided elevation drawings for proposed buildings including the headworks building, maintenance building, division building, disinfection building, electrical building, and utility cart building. Based on these elevations, Staff finds all buildings will be 30 feet or less in height. As a recommended condition of approval, no building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.”

Finding: I agree with Staff and impose the suggested condition.

Section 18.16.070. Yards.

- A. *The front yard shall be a minimum of: 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector street, and 100 feet from a property line fronting on an arterial street.***
- B. *Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with side yards adjacent to property currently employed in farm use, and receiving special assessment for farm use, the side yard shall be a minimum of 100 feet.***

- C. *Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with a rear yard adjacent to property currently employed in farm use, and receiving special assessment for farm use, the rear yard shall be a minimum of 100 feet.*
- D. *The setback from the north lot line shall meet the solar setback requirements in Section 18.116.180.*
- E. *In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.*

“**FINDING:** The applicant provided the following statement in response to this criterion:

‘Yard’ and ‘setback’ both mean ‘an open space on a lot which is unobstructed from the ground upward’. DCC 18.04.030 (Definitions, ‘Yard’ and ‘Setback’). ‘Setbacks’ are measured throughout the DCC in terms of distance from a building. *See, e.g., ‘Setback, side’* means ‘a setback between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.’ DCC 18.04.030 (Definition, ‘Setback, side’). The proposal is not subject to 100-foot nonfarm dwelling setbacks for side and rear yards because no nonfarm dwellings are proposed. The proposed buildings comply with the applicable setback criteria. The proposed interceptor pipeline will remain underground, thus, is not a building and therefore not subject to yard setback requirements. The interceptor pipeline includes manholes with the top of the manhole ring and cover matching finished grade, thus, are not subject to yard setbacks. The manhole standard detail drawings are I-D01 and I-D02. The proposed site plan (60% Plans, Sheet S-C01) shows that all new structures will meet these required setbacks including solar setback requirements in DCC 18.116.180.

The proposal is not subject to 100-foot nonfarm dwelling setbacks. The required setbacks for the buildings on the wastewater treatment property are 60 feet from Northwest Way and 25 feet from all other lot lines. The proposed site plan shows that all new structures will meet required setbacks under (A) to (D) above. Staff recommends the following condition of approval, structural setbacks from any north lot line shall meet the solar setback requirements in DCC 18.116.180 and in addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.’

Staff agrees with the applicant that the below-grade pipeline and manholes are not subject to yard and setback requirements. “

Finding: I agree with Staff.

Section 18.16.080. Stream Setbacks.

To permit better light, air, vision, stream pollution control, protection of fish and wildlife areas and preservation of natural scenic amenities and vistas along streams and lakes, the following setbacks shall apply:

- A. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.*
- B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.*

“FINDING: There are no streams or lakes in the project vicinity.”

Finding: I agree with Staff.

Section 18.16.090. Rimrock Setback.

Notwithstanding the provisions of DCC 18.16.070, setbacks from rimrock shall be as provided in DCC 18.116.160 or 18.84.090, whichever is applicable.

“FINDING: There is no rimrock in the project vicinity.”

Finding: I agree with Staff.

Chapter 18.32, Multiple Use Agricultural Zone (MUA-10)

The proposed interceptor pipeline will span across a total of nine (9) private properties, five (5) of which are located in the MUA-10 Zone and within portions of existing rights-of-way. The private properties are identified below.

Map and Tax Lot	Situs Address	Property Owner	Zone	Combining Zone
1413290000601	2667 NW EUSTON LN, REDMOND, OR 97756	RANDALL S SCHONING TRUST	MUA10	SMIA
1413290000600	2571 NW EUSTON LN, REDMOND, OR 97756	CARAMELLA, RONALD E & CARYN B	MUA10	SMIA

1413290000700	3085 NW EUSTON LN, REDMOND, OR 97756	PETERSON,CARINA A	MUA10	SMIA
1413290000800	5350 NORTHWEST WAY, REDMOND, OR 97756	LUNA, HELIBERTO	MUA10	SMIA
1413290000900	3000 NW WILLIAMS WAY, REDMOND, OR 97756	MEDLOCK, BRIAN & LAVON	MUA10	SMIA

Section 18.32.030, Conditional Uses Permitted.

The following uses may be allowed subject to DCC 18.128:

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

“FINDING: The applicant provided the following statement in response to this criterion:

‘The area of the proposed interceptor pipeline replacement includes properties and road rights-of-way in the MUA-10 Zone as identified in Figure 1 above.

The proposed expansion of the City’s existing utility facility, including replacement of an existing 24-inch diameter underground pipeline with a 48-inch diameter pipeline in the MUA-10 Zone, is an improvement to an existing water reclamation facility, therefore, is a utility facility necessary to serve the area within the Redmond UGB.

The proposed use is permitted conditionally in the MUA-10 Zone and thus can be allowed pursuant to applicable approval criteria. Compliance with DCC 18.124, Site Plan Review, and DCC 18.128, Conditional Uses, is addressed below.’

The applicant has proposed two options for a portion of the pipeline replacement alignment in the MUA-10 Zone.

Option 1 would replace the 24-inch pipeline with a 48-inch pipeline in its current alignment which runs within NW Euston Way to the point where it crosses private property (Tax Lot 700 and 800) in a northerly direction and bisects the northeast corner of Tax Lot 800. The alternative, and preferred alignment would continue west within NW Euston Lane to the connection with NW Northwest Way. The preferred alternative alignment consists of a roughly 464-foot stretch within the existing road segment on NW Euston Lane. The applicant indicates the change would require a new easement with the property owner of Tax Lot 800 (5350 Northwest Way). The applicant has addressed the criteria below as it pertains to both Option 1 and Option 2. Except for the alternative route discussed above, the applicant

proposes to replace the pipeline in its current alignment along the rest of the project route. The applicant’s description and discussion of the alternative alignment is included in its entirety in the application record³.

The proposed pipeline replacement is an improvement to an existing facility and is a utility facility necessary to serve the area within the Redmond UGB but is located on lands outside the UGB. The proposed use is permitted conditionally and thus can be allowed pursuant to applicable approval criteria. The applicant has provided written documentation of access agreements with property owners in the MUA-10 Zone (and EFU Zone) as noted in Figure 1A and 1B included in their May 1, 2023 incomplete response. However, to ensure compliance, Staff recommends a condition of approval that the applicant shall provide to the Community Development Department written documentation of easement agreements for the sewer line construction and access, where applicable. Compliance with DCC 18.124, Site Plan Review, and DCC 18.128, Conditional Uses, is addressed below.

Finding: I agree with Staff and adopt the analysis above and adopted a condition as described by the described above. As discussed earlier in this opinion, I approve the Application for the pipeline as described in Option 1. If Applicant, is unable to obtain easements for Option 1 through reasonable diligence, then I approve the Application for Option 2 to place the pipelines in the existing easements.

Section 18.32.040. Dimensional Standards

In an MUA Zone, the following dimensional standards shall apply:

...

- D. *Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.***

“FINDING: The applicant provided the following statement in response to this criterion:

The proposed facility elements in the MUA-10 Zone are underground interceptor pipelines, thus, will be well below the 30-foot height maximum. This provision is either inapplicable or is met.

Staff agrees and finds the criterion will be met.”

Finding: I agree.

Section 18.32.050. Yards

- A. *The front yard setback from the property line shall be a minimum of 20 feet for property fronting on a local street right of way, 30 feet from a property line fronting on a collector right of way,***

³ Reference May 25, 2023, R. Kircher Supplemental App Mtrls
247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD

and 80 feet from an arterial right of way unless other provisions for combining accesses are provided and approved by the County.

- B. Each side yard shall be a minimum of 20 feet. For parcels or lots created before November 1, 1979, which are one-half acre or less in size, the side yard setback may be reduced to a minimum of 10 feet. For parcels or lots adjacent to property receiving special assessment for farm use, the adjacent side yard for a dwelling shall be a minimum of 100 feet.*
- C. Rear yards shall be a minimum of 25 feet. Parcels or lots with rear yards adjacent to property receiving special assessment for farm use, the rear yards for a dwelling shall be a minimum of 100 feet.*
- D. The setback from the north lot line shall meet the solar setback requirements in DCC 18.116.180.*
- E. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.*

“FINDING: The applicant provided the following statement in response to this criterion:

As explained above, “yard” and “setback” both mean “an open space on a lot which is unobstructed from the ground upward”. DCC 18.04.030 (Definitions, “Yard” and “Setback”). “Setbacks” are measured throughout the DCC in terms of distance from a building. *See, e.g., “Setback, side” means “a setback between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.”* DCC 18.04.030 (Definition, “Setback, side”). The proposed interceptor pipeline will remain underground, thus, is not a building, as explained above, and therefore, is not subject to yard setback requirements. As previously explained above, manholes associated with the pipeline would at or below grade, thus, are not subject to yard setbacks. This section is not applicable to the proposed replacement pipeline.’

Staff agrees and finds the standards above do not apply.”

Finding: I agree.

Section 18.32.060. Stream Setbacks

To permit better light, air, vision, stream pollution control, fish and wildlife areas and to preserve the natural scenic amenities and vistas along the streams and lakes, the following setbacks shall apply:

- A. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.*

B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.

“FINDING: There are no streams or lakes in the project vicinity.

Finding: I agree.

Section 18.32.070. Rimrock Setback

Setbacks from rimrock shall be as provided in DCC 18.116.160.

“FINDING: There is no rimrock in the project vicinity.

Finding: I agree.

Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)

“FINDING: Multiple tax lots included in the project proposal are located in the Surface Mining Impact Area (SMIA) Combining Zone in association with mine site 331 and 332. However, the applicant does not propose a noise or dust sensitive use, as defined in DCC 18.04, within the SMIA Zone, therefore, Staff finds the provisions of this chapter do not apply.”

Finding: I agree.

Section 18.56.030, Application of Provisions.

The standards set forth in DCC 18.56 shall apply in addition to those specified in DCC Title 18 for the underlying zone. If a conflict in regulations or standards occurs, the provisions of DCC 18.56 shall govern.

“FINDING: The standards under DCC 18.56, to the extent they apply, are addressed in the following findings.”

Finding: I agree.

Section 18.56.040. Uses Permitted Outright.

Uses permitted outright shall be those identified in the underlying zone(s) with which the SMIA Zone is combined.

“FINDING: The applicant provided the following statement in response to this criterion:

The proposed project is allowed in the underlying zone, the EFU-TE subzone, of which the SMIA Combining Zone is partially applied to. As explained above, the EFU zones allow “utility facilities necessary for public service” as uses permitted, subject to DCC 18.16.038. This criterion is met.

Staff agrees and finds the proposed use is allowed outright in the underlying zone and therefore permitted outright in the SMIA Zone.”

Finding: I agree.

The Staff report then addressed the permitted conditional uses.

Section 18.56.050 Conditional Uses Permitted

Uses permitted conditionally shall be those identified as conditional uses in the underlying zone(s) with which the SMIA Zone is combined and shall be subject to all conditions of the underlying zone(s) as well as the conditions of the SMIA Zone.

FINDING: Staff finds the portion of the pipeline replacement within the MUA10 Zone is a conditional use and is therefore conditionally allowed within the SMIA Zone. However, as Staff noted above, the proposed use is not a noise or dust sensitive use and is therefore not subject to the conditions of the SMIA Zone.”

Finding: I agree that the proposed use is a conditional use and that it is not a noise or dust sensitive use.

Section 18.56.070. Setbacks.

The setbacks shall be the same as those prescribed in the underlying zone, except as follows:

- A. No noise sensitive or dust sensitive use or structure established or constructed after the designation of the SMIA Zone shall be located within 250 feet of any surface mining zone, except as provided in DCC 18.56.140; and*
- B. No noise sensitive or dust sensitive use or structure established or constructed after the designation of the SMIA Zone shall be located within one quarter mile of any existing or proposed surface mining processing or storage site, unless the applicant demonstrates that the proposed use will not prevent the adjacent surface mining operation from meeting the setbacks, standards and conditions set forth in DCC 18.52.090, 18.52.110 and 18.52.140, respectively.*
- C. Additional setbacks in the SMIA Zone may be required as part of the site plan review under DCC 18.56.100.*
- D. An exception to the 250 foot setback in DCC 18.56.070(A), shall be allowed pursuant to a written agreement for a lesser setback made between the owner of the noise sensitive or dust sensitive use or structure located within 250 feet of the proposed surface mining activity and the owner or operator of the proposed surface mine. Such agreement shall be notarized and recorded in*

the Deschutes County Book of Records and shall run with the land. Such agreement shall be submitted and considered at the time of site plan review or site plan modification.

“**FINDING:** No noise sensitive or dust sensitive use or structure is proposed within one quarter mile of any surface mining zone.”

Finding: I agree.

Section 18.56.080. Use Limitations.

No dwellings or additions to dwellings or other noise sensitive or dust sensitive uses or structures shall be erected in any SMIA Zone without first obtaining site plan approval under the standards and criteria set forth in DCC 18.56.090 through 18.56.120.

“**FINDING:** As noted above, the project does not involve the construction of noise or dust sensitive uses. Therefore, the standards do not apply.”

Finding: I agree.

Section 18.56.090. Specific Use Standards.

*The following standards shall apply in the SMIA Zone:
New dwellings, new noise sensitive and dust sensitive uses or structures, and additions to dwellings or noise and dust sensitive uses or structures in existence on the effective date of Ordinance No. 90 014 which exceed 10 percent of the size of the existing dwelling or use, shall be subject to the criteria established in DCC 18.56.100.*

“**FINDING:** This criterion does not apply to the present application.”

Finding: I agree. Next the Staff report address Supplementary Provisions.

Chapter 18.116, Supplementary Provisions

Section 18.116.020, Clear Vision Areas.

- A. *In all zones, a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet in height, measured from the top of the curb or, where no curb exists, from the established street centerline grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade.*

“FINDING: The applicant provided the following statement in response to this criterion:

Applicant does not propose new intersections from or to public roads along the project route. No planting, fence, wall, structure, or temporary or permanent obstruction will be constructed within a clear vision area along the project route as well. As evident from the submitted plans, no clear vision area will be obstructed by this proposal. This criterion will be met.

Staff agrees with this statement and finds the criterion will be met.”

Finding: I agree.

Section 18.116.030, Off street Parking and Loading.

A. *Compliance. No building or other permit shall be issued until plans and evidence are presented to show how the off street parking and loading requirements are to be met and that property is and will be available for exclusive use as off-street parking and loading. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by DCC Title 18.*

“FINDING: The off-street parking requirements, to the extent they apply, for the proposed use are addressed below.”

B. *Off-Street Loading. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space and which will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:*
1. *Commercial, industrial and public utility uses which have a gross floor area of 5,000 square feet or more shall provide truck loading or unloading berths subject to the following table:*

<i>Sq. Ft. of Floor Area</i>	<i>No. of Berths Required</i>
<i>Less than 5,000</i>	<i>0</i>
<i>5,000-30,000</i>	<i>1</i>
<i>30,000-100,000</i>	<i>2</i>
<i>100,000 and Over</i>	<i>3</i>

“FINDING: For the properties in the MUA-10 Zone, the applicant is not proposing any buildings and all improvements will be below grade. Therefore, no loading berth is required.”

Finding: I agree.

- C. *Off-Street Parking. Off-street parking spaces shall be provided and maintained as set forth in DCC 18.116.030 for all uses in all zoning districts. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of DCC Title 18 is changed.*
- D. *Number of Spaces Required. Off-street parking shall be provided as follows:*
...
 - 9. *Other uses not specifically listed above shall be provided with adequate parking as required by the Planning Director or Hearings Body. The above list shall be used as a guide for determining requirements for said other uses.*

“FINDING: As described above, the portion of the project within the MUA-10 Zone is a below grade pipeline. The applicant states, “The interceptor pipeline will only be visited sporadically by maintenance personnel. The unmanned facility will not require any dedicated parking spaces.”

Based on this information, Staff finds the unmanned facility will not require any dedicated parking spaces.”

Finding: I agree.

- E. *General Provisions. Off-Street Parking.*
 - 1. *More Than One Use on One or More Parcels. In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of requirements of the several uses computed separately.*
 - 2. *Joint Use of Facilities. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap at any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.*
 - 3. *Location of Parking Facilities. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or another parcel not farther than 500 feet from the building or use they are intended to serve, measured in a straight line from the building in a commercial or industrial zone. Such parking shall be located in a safe and functional manner as determined during site plan approval. The burden of proving the existence of such off-premise parking arrangements rests upon the applicant.*
 - 4. *Use of Parking Facilities. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.*
 - 5. *Parking, Front Yard. Required parking and loading spaces for multi-family dwellings or commercial and industrial uses shall not be located in a required front yard, except in the*

Sunriver UUC Business Park (BP) District, Airport Development (AD) Zone, and properties fronting Spring River Road in the Spring River Rural Commercial Zone, but such space may be located within a required side or rear yard.

“**FINDING:** Staff finds the occasional maintenance visits to the sewer line route does not require defined parking spaces; therefore, these criteria are not applicable.”

Finding: I agree.

6. *On-Street Parking Credit. Notwithstanding DCC 18.116.030(G)(2), within commercial zones in the La Pine Planning Area and the Terrebonne and Tumalo unincorporated communities, the amount of required off-street parking can be reduced by one off-street parking space for every allowed on-street parking space adjacent to a property up to 30% of the required off-street parking. On-street parking shall follow the established configurations in the parking design standards under DCC 18.116.030 Table 1.*

To be considered for the parking credit, the proposed parking surface, along the street frontage under review, must have a defined curb line and improved as required under DCC 17.48, with existing pavement, or an engineered gravel surface. For purposes of establishing credit, the following constitutes an on-street parking space:

- a. Parallel parking (0 degree), each 20 feet of uninterrupted curb;*
- b. Diagonal parking (60 degree), each with 11 feet of curb;*
- c. Perpendicular parking (90 degree), each with 10 feet of curb;*
- d. Curb space must be connected to the lot that contains the use;*
- e. Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and*
- f. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces are permitted.*

“**FINDING:** No on-street parking is proposed.”

Finding: I agree.

F. *Development and Maintenance Standards for Off-Street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows...*

G. *Off-Street Parking Lot Design. All off-street parking lots shall be designed subject to County standards for stalls and aisles as set forth in the following drawings and table...*

“**FINDING:** Staff finds that the occasional maintenance visits to the proposed sewer line route does not require defined parking spaces; therefore, these criteria are not applicable.”

Finding: I agree.

Section 18.116.031, Bicycle Parking.

New development and any construction, renovation or alteration of an existing use requiring a site plan review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005 shall comply with the provisions of DCC 18.116.031.

“**FINDING:** Staff finds that the occasional maintenance visits to the proposed sewer line route does not require defined parking spaces; therefore, bicycle parking spaces are not required. These criteria do not apply.”

Finding: I agree. Next the Staff report addresses Site Plan Review.

Chapter 18.124, Site Plan Review

“**FINDING:** “As noted above, the provisions of DCC Chapters 18.124 and 18.116 of the County Zoning Ordinance, Title 18, are applicable only to the properties that fall within the MUA-10 Zone, as identified above. The pipeline replacement and improvement crosses five (5) properties in the MUA10 Zone.

The applicant has proposed two options for a portion of the pipeline replacement alignment in the MUA-10 Zone.

Option 1 would replace the 24-inch pipeline with a 48-inch pipeline in its current alignment which runs within NW Euston Way to the point where it crosses private property (Tax Lot 700 and 800) in a northerly direction and bisects the northeast corner of Tax Lot 800. The alternative, and preferred alignment would continue west within NW Euston Lane to the connection with NW Northwest Way. The preferred alternative alignment consists of a roughly 464-foot stretch within the existing road segment on NW Euston Lane. The applicant indicates the change would require a new easement with the property owner of Tax Lot 800 (5350 Northwest Way). The applicant has addressed the criteria below as it pertains to both Option 1 and Option 2. Except for the alternative route discussed above, the applicant proposes to replace the pipeline in its current alignment along the rest of the project route. The applicant’s description and discussion of the alternative alignment is included in its entirety in the application record⁴.

The other components of this project, located in the EFU Zone, are a utility facility, which is a use listed in ORS 215.283(1). The proposed use is not subject to additional requirements of Deschutes County Code, such as the provisions of DCC 18.124. Therefore, a separate application for Site Plan review for the portion of the project in the EFU Zone is not required.”

⁴ Reference May 25, 2023, R. Kircher Supplemental App Mtrls

Finding: I agree with Staff that the requirements of this Chapter are only applicable to the portion of the Application for the pipelines that are in the MUA-10 zone. This Chapter does not apply to the components of the project located in the EFU Zone.

Section 18.124.030. Approval Required.

- A. *No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to DCC 18.124.030, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to DCC Title 22, the Uniform Development Procedures Ordinance.*
- B. *The provisions of DCC 18.124.030 shall apply to the following:*
 - 1. *All conditional use permits where a site plan is a condition of approval;*
 - 2. *Multiple family dwellings with more than three units;*
 - 3. *All commercial uses that require parking facilities;*
 - 4. *All industrial uses;*
 - 5. *All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, churches, community buildings, cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and*
 - 6. *As specified for Flood Plain Zones (FP) and Surface Mining Impact Area Combining Zones (SMIA).*
 - 7. *Non-commercial wind energy system generating greater than 15 to 100 kW of electricity.*
- C. *The provisions of DCC 18.124.030 shall not apply to uses involving the stabling and training of equine in the EFU zone, noncommercial stables and horse events not requiring a conditional use permit.*
- D. *Noncompliance with a final approved site plan shall be a zoning ordinance violation.*
- E. *As a condition of approval of any action not included in DCC 18.124.030(B), the Planning Director or Hearings Body may require site plan approval prior to the issuance of any permits.*

“**FINDING:** The proposed improvements to the existing interceptor pipeline is a utility facility that serves the general public. Therefore, the provisions of this chapter apply. “

Finding: I agree.

Section 18.124.060. Approval Criteria.

Approval of a site plan shall be based on the following criteria:

- A. *The proposed development shall relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.*

FINDING: In *Father's House*, files 247-18-000061-CU, 247-18-000062-SP, 247-18-000624-A, and 247-18-000643-A, the Board of County Commissioners (Board) made the following finding regarding this standard.

‘The Board agrees that DCC 18.124.060(A) is subjective and, at times, difficult to apply as the Hearings Officer observed. However, as the Board interprets the provision, DCC 18.124.060(A) does not require a particularly onerous exercise. It requires an applicant to show that its proposed site plan relates “harmoniously” to the natural environment and existing development. Unlike the conditional use standards of DCC 18.128.015(B), this standard does not indicate harmony achieved with “surrounding properties.” However, the Board understands that the standard implies that the proposed development shall relate harmoniously on and off the subject property and generally speaking, in the vicinity, by “minimizing visual impacts and preserving natural features including views and topographical features.”

The code does not define what it means to “relate harmoniously.” The Hearings Officer reported that the online Oxford Living Dictionary defines “harmoniously” to mean arranging something “in a way that forms a pleasing or consistent whole.” Both parties in this case, provided various interpretations of the term “harmonious.” The Board is not adopting one interpretation of the term over another as each contributes equally to this evaluation. The Board concurs with the Hearings Officer that there is no “particularly useful case law defining or applying this term.” In addition, the Board agrees, that the Hearings Officer is correct that a site plan should be approved in light of this meaning of “harmonious,” so long as the proposed site plan does not create “more disharmony than other uses allowed by right or conditionally in the MUA-10 zone.” In this regard, the Board finds that this standard presumes the use is approved and evaluates only whether the site plan for the use “relates harmoniously.” The Board finds that the proposed church site plan meets the standard set forth in DCC 18.124.060(A).

Specifically, the Board interprets DCC 18.124.060(A) to mean that an applicant must demonstrate that the site plan has arranged the development in a way that evaluates the natural environment and existing development in the area and in the process has minimized visual impacts and reasonably preserved natural features including views and topographic features. Minimizing visual impact, as with this case, may include introduced landscaping, design layout, and specific design elements such as siding and roofing color and material. In doing so, this enables the County decision maker to find that the site plan’s impacts create no more disharmony than other uses allowed by right or conditionally in the MUA Zone.

The Board agrees, in part, with the Hearings Officer that this standard is considered differently when compared to the term “compatibility” and its associated standard of DCC 18.128.015(B). The chief differences between the two standards is that the DCC 18.128.015(B) compatibility standard evaluates the compatibility of the proposed use on existing and projected uses of surrounding properties and does so in light of specific factors that are not reproduced in DCC 18.124.060(A). The DCC 18.124.060(A) “harmonious” standard evaluates whether a proposed site plan “relates harmoniously to existing development and the natural environment” considering whether the site plan shows that the applicant has reasonably mitigated its impacts

and reasonably preserved views. The Board observes that not every use that requires site plan approval also requires a conditional use permit. However, the Board finds that it is possible that a permitted or approved use is arranged so poorly on a site, that a proposed site plan must be denied under this standard. That is not the case here’.

Staff understands the Board’s findings, cited above, to make clear the use itself is not the subject of review under this criterion. Rather, this criterion only evaluates whether the site plan for the use “relates harmoniously.” Staff reads *Father’s House* to require a demonstration, “...the site plan has arranged the development in a way that evaluates the natural environment and existing development in the area and in the process has minimized visual impacts and reasonably preserved natural features including views and topographic features.”

The applicant provided the following statement in response to this criterion:

‘The area of the project that falls within the MUA-10 zone consists of paved, public road rights-of-way and five (5) residentially-developed properties that have mostly level, but some areas of mild sloping, with areas of scattered rock outcrops, small areas of farmed or cleared land and driveways. In addition to small areas of pasture or lawn, vegetation is primarily native with juniper trees, shrubs, and native grasses. The project area will be largely unaffected with the completion of the project and will be restored to blend harmoniously with the natural environment surrounding it. The visual impacts will not change as a result of this proposed site plan. Visual impacts will be avoided, and preservation of natural features will be exercised for site plan approval.

The proposed development, including the measures proposed above, will relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.’

The applicant provided the following statement in response to this criterion as it pertains to the alternative alignment discussed above and noted in the record:

‘The preferred alignment would be located within an existing road/access easement along the southside of 14-13-29, tax lot 800. The City will work with the property owner to discuss an easement for extension of the interceptor line within that existing easement – which is the western-most section of “NW Euston Lane.” Once constructed, the road along the new easement area would be improved to a higher standard than the existing road. This improvement will relate harmoniously with the existing development, the subsurface pipe will have no visual impacts and no natural features in the vicinity will be disrupted.’

Staff agrees with the applicant’s response. Staff suggests the following conditions of approval be added to ensure compliance with this criterion.

Land Restoration: The owner of the utility facility shall be responsible for restoring, as nearly as possible, to its former condition any lands zoned MUA-10 and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.

Erosion Control Plan: Prior to the start of construction activities, the applicant shall provide an Erosion Control Plan to the Planning Division prepared by a licensed, professional engineer. Staff recommends that a licensed, professional engineer use the *Central Oregon Stormwater Manual* as the basis for the plan.”

Finding: I agree with Staff and adopt as finding the quoted language above. The Board of Commissioners has reasonably interpreted this criterion to mean that use itself is not the subject of review and the County only evaluates whether the site plan for the use “relates harmoniously.” I also adopt the conditions of approval as proposed by Staff. Certainly, there will be impacts during the construction of the pipelines. Nothing about a rock hammer is “harmonious”. However, I interpret this criterion and all the other criteria under this code section to address the ultimate site plan for the use and not the construction of the use. I expect the City to use its best efforts and industry standards to limit impacts during the construction of the pipeline.

B. *The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.*

FINDING: The applicant provided the following statement in response to this criterion:

‘The project area for the interceptor pipeline replacement in the MUA-10 zone consists of mostly level terrain. No major alterations to the existing topography are proposed or would occur as a result of the construction and completion of the pipeline replacement. All vegetation and existing topography throughout the project route will be retained beyond what is required for temporary construction and then, even after construction, the ground will be restored to its condition with equivalent vegetation in disturbed areas as existed before construction. Any preserved trees or shrubs will be protected to the extent possible. No landscaping changes are proposed beyond what is required for the project footprint within the pipeline corridor. No other impacts to landscape and existing topography are proposed. This criterion will be met.’

Staff finds the landscape and existing topography will be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. No significant changes to topography are proposed. Staff finds all trees and shrubs existing on-site, not removed by necessity of the proposed development, are “preserved trees and shrubs.” As a condition of approval, all trees and shrubs existing on-site, not removed by necessity of the proposed development, shall be protected, unless lawfully changed/removed by outright uses (such as farm use) or such change/removal is approved by future land use approvals. “

Finding: I agree and adopt the condition as proposed by Staff.

C. *The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.*

FINDING: The applicant provided the following statement in response to this criterion:

‘The proposed development within the MUA-10 Zone will be below grade and within established easements or within public road right-of-way. Because the construction will be below grade, trenches will be backfilled, and the ground restored with native vegetation where applicable. Additionally, manholes as they are now, will be located at intervals along the main line. The manholes will be secured so not to allow easy access by public.

The proposed development is designed to provide a safe environment. Further, the project does not include any public spaces which would impact any adjoining private spaces. This criterion is met.’

Staff finds this criterion requires demonstration the site is designed to address common safety hazards, including fire safety, and to address any site-specific natural hazards. Staff finds pedestrian, bicycle, and vehicle safety is addressed under sub-sections (E) and (K) of this section. With regard to fire safety, Redmond Fire & Rescue was sent a request for comment on this application. Redmond Fire & Rescue provided comments and conditions as discussed in the Public Agency Comments section. Redmond Fire & Rescue’s comments and conditions have been incorporated as recommended conditions of approval. With regard to other natural hazards, none have been identified on the site.

Finding: I agree and adopt the Staff proposed conditions.

D. *When appropriate, the site plan shall provide for the special needs of disabled persons, such as ramps for wheelchairs and Braille signs.*

FINDING: The Deschutes County Building Division was sent a request for comment on this application. In the State of Oregon, ORS 455.720 and 447.210 through 447.992 are administered by the Deschutes County Building Safety Division. Deschutes County Building Safety Division is required to determine if a structure is an Affected Building and if so, apply the appropriate sections of Chapter 11 and the American National Standards Institute code A117.1-2009. Consequently, the structures will comply with state and federal ADA requirements. If an Affected Building is approved, inspected and finalized by the Deschutes County Building Safety Division, it meets all code requirements as an accessible structure. Staff finds that such a review is required prior to the issuance of building permits. However, Staff notes the pipeline replacement will be located underground, does not include the construction of public buildings, and are to be accessed only by designated persons. Therefore, it is not anticipated accessibility standards will be required for the pipeline replacement. Based on the nature of the proposed utility, together with the fact that the pipelines will not be open or otherwise serviced by the general public, Staff finds this criterion is not applicable.

Finding: I agree.

E. *The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.*

FINDING: The applicant provided the following statement in response to this criterion:

‘The proposed development within the MUA-10 Zone will be pipeline that is below grade and within established easements or within public road rights-of- way.

The portion of the project in the MUA-10 Zone presents no access, circulation, or parking conflicts as there are no existing or proposed buildings affected by the MUA-10 segment of the proposal, and construction activities simply consist of replacement of a below grade pipeline in the approximate same location. This criterion is met.’

Staff agrees with the applicant’s response and notes that no access to the pipeline is required by the public and no parking is proposed or required. Further, the project does not include the construction of public buildings or parking areas. For these reasons, Staff finds this criterion does not apply.

Finding: I agree.

F. *Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality.*

“**FINDING:** The applicant provided the following statement in response to this criterion:

‘The proposed development within the MUA-10 Zone does not propose any surface drainage systems. This criterion is inapplicable.’

Staff agrees with the applicant’s response and further notes the proposed pipeline replacement will be below grade and within established or proposed easements. As noted above, the applicant plans to restore disturbed areas. For these reasons, Staff finds a surface drainage system is not required and this criterion does not apply.”

Finding: I agree.

G. *Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse impacts on the site and neighboring properties.*

“**FINDING:** The applicant provided the following statement in response to this criterion:

‘The proposed development within the MUA-10 Zone will be below grade and within established easements or public road rights-of-way. There are no areas, structures and facilities for storage, machinery and equipment, services, loading and parking or similar accessory areas or structures proposed. This criterion is inapplicable. Regardless, the construction will be below grade and trenches will be backfilled to match existing grade and, thus, will adequately screen the

development from public view, therefore, effectively minimizing adverse visual impacts on the site and neighboring properties. Furthermore, the proposal will include all County required erosion control measures and restoration and reseeded of disturbed areas and compliance may be imposed as a condition of approval.’

Staff agrees with the applicant. The proposed pipeline replacement, when completed, will not be visible from public view. For these reasons, Staff finds the criterion does not apply.”

Finding: I agree.

H. All above ground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.

“**FINDING:** The applicant provided the following statement in response to this criterion:

‘New above-ground utilities are not proposed in the MUA-10 Zone. This criterion does not apply.’

Staff agrees and finds the criterion does not apply.”

Finding: I agree.

I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.).

“**FINDING:** The applicant provided the following statement in response to this criterion:

‘As explained above, site design review is only required for the portions of the project located in the MUA-10 Zone. The site plan includes specific criteria for the MUA-10 Zone where applicable.’

Each zone affecting the subject property is identified in this decision. The applicable criteria for each “zone are addressed in the findings above. This requirement is met.”

Finding: I agree

J. All exterior lighting shall be shielded so that direct light does not project off site.

“**FINDING:** The applicant has not proposed exterior lighting for the portion of the project within the MUA-10 Zone. This criterion does not apply.”

Finding: I agree

K. Transportation access to the site shall be adequate for the use.

1. *Where applicable, issues including, but not limited to, sight distance, turn and acceleration/deceleration lanes, right-of-way, roadway surfacing and widening, and bicycle and pedestrian connections, shall be identified.*
2. *Mitigation for transportation-related impacts shall be required.*
3. *Mitigation shall meet applicable County standards in DCC 18.116.310, applicable Oregon Department of Transportation (ODOT) mobility and access standards, and applicable American Association of State Highway and Transportation Officials (AASHTO) standards.*

“FINDING: The applicant provided the following statement in response to this criterion:

‘The proposed development within the MUA-10 Zone involves replacement of a 24-inch diameter pipeline with a 48-inch diameter pipeline and will be below grade and within established easements or public road rights-of-way. Access to the pipeline will be minimal as it will occur only during construction (replacement of one of the pipelines) and during maintenance or repair. The existing surrounding roadway network provides adequate transportation access to the pipeline corridor when necessary.’

The Deschutes County Road Department and Deschutes County Transportation Planner were sent a request for comment on this application. No infrastructure concerns and no required improvements are identified in the record. Portions of the project in the MUA-10 Zone will be located within the road rights-of-way of Northwest Way, NW Coyner Avenue, NW Euston Lane, and NW Pershall Way. As noted by the Deschutes County Transportation Planner, the applicant will be required to comply with any County Road Department permitting requirements for work within the rights-of-way. Staff has included a recommended condition of approval to this effect. As conditioned, Staff finds the criterion will be met.”

Finding: There was considerable testimony from the public that there would be dust and noise and traffic impacts during the construction of the project. As discussed above, I find that this criterion only applies to the use as permitted. I agree with Staff and adopt the Staff recommended condition. I also adopt conditions addressing noise and dust.

Section 18.124.070. Required Minimum Standards.

- A. *Private or shared outdoor recreation areas in residential developments.*
- B. *Required Landscaped Areas.*
 1. *The following landscape requirements are established for multi family, commercial and industrial developments, subject to site plan approval:*
 - a. *A minimum of 15 percent of the lot area shall be landscaped.*
 - b. *All areas subject to the final site plan and not otherwise improved shall be landscaped.*

“FINDING: This project is not a residential, multi-family, commercial, or industrial development. These criteria do not apply. “

Finding: I agree.

- 2. *In addition to the requirement of DCC 18.124.070(B)(1)(a), the following landscape requirements shall apply to parking and loading areas...*

“FINDING: As discussed below, the proposal does not include required parking or loading areas. This criterion does not apply.”

Finding: I agree

- C. *Non-motorized Access.*
 - 1. *Bicycle Parking. The development shall provide the number and type of bicycle parking facilities as required in DCC 18.116.031 and 18.116.035. The location and design of bicycle parking facilities shall be indicated on the site plan.*

“FINDING: Bicycle parking standards are addressed below in DCC 18.116.031.”

Finding: I agree

- 2. *Pedestrian Access and Circulation:*
 - a. *Internal pedestrian circulation shall be provided in new commercial, office and multi family residential developments through the clustering of buildings, construction of hard surface pedestrian walkways, and similar techniques.*

“FINDING: The proposal does not include new commercial, office and multi-family residential developments. This criterion does not apply.”

Finding: I agree.

- b. *Pedestrian walkways shall connect building entrances to one another and from building entrances to public streets and existing or planned transit facilities. On site walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connections on adjacent properties planned or used for commercial, multi family, public or park use.*
- c. *Walkways shall be at least five feet in paved unobstructed width. Walkways which border parking spaces shall be at least seven feet wide unless concrete bumpers or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Walkways shall be as direct as possible.*
- d. *Driveway crossings by walkways shall be minimized. Where the walkway system crosses driveways, parking areas and loading areas, the walkway must be clearly identifiable through the use of elevation changes, speed bumps, a different paving material or other similar method.*

- e. *To comply with the Americans with Disabilities Act, the primary building entrance and any walkway that connects a transit stop to building entrances shall have a maximum slope of five percent. Walkways up to eight percent slope are permitted, but are treated as ramps with special standards for railings and landings.*

“FINDING: Staff finds that these criteria do not apply to an unoccupied utility facility, since pedestrian use of the site will be limited to occasional visits from maintenance personnel.”

Finding: I agree.

D. Commercial Development Standards...

“FINDING: The applicant is not proposing new commercial buildings. Therefore, Staff finds this criterion is not applicable.”

Finding: I agree.

Section 18.124.090. Right of Way Improvement Standards

Any dedications or improvements to the road right of way required under DCC 18.124 shall meet the standards for road right of way improvements set forth in DCC Title 17 and any standards for right-of-way improvements set forth in DCC Title 18 for the particular zone in question.

“FINDING: Portions of the project in the MUA-10 Zone will be located within the road rights-of-way of Northwest Way, NW Coyner Avenue, NW Euston Lane, and NW Pershall Way. Neither the Deschutes County Road Department, nor the Deschutes County Transportation Planner, identified transportation infrastructure deficiencies or dedication requirements. As indicated in a foregoing finding, the Road Department may require permitting for the construction within County rights-of-way (see DCC 18.124.060(K)). Staff finds this criterion is met as conditioned.”

Finding: There was testimony at the hearing and in written testimony that NW Euston Lane is not adequate. Ron Caramella, Page 3-4, June 16, 2023. Euston Lane appears to be a private road easement. As such, there are restrictions on spending public funds on such a road. Adjacent owners can seek to convert it to a public road and seek improvements to it. As to other roads in the MUA, the experts at the County Road Department and Transportation Planners have not found issues with the road condition, and they have a vested interest in having the City rather than the County pay for any road improvements, I find this criterion met. The Applicant did state:

“The City will work with the property owner to discuss an easement for extension of the interceptor line within that existing easement – which is the western-most section of “NW Euston Lane.” Once constructed, the road along the new easement area would be improved to a higher standard than the existing road. This improvement will relate harmoniously with the

existing development, the subsurface pipe will have no visual impacts and no natural features in the vicinity will be disrupted.” [Emphasis Added].

As Applicant is willing to improve Euston Lane, this seems like a reasonable condition.

Finally, if and when the property is opened up for recreational uses, I expect the County to condition road improvements accessing the site.

Section 18.124.080, Other Conditions.

The Planning Director or Hearings Body may require the following in addition to the minimum standards of DCC Title 18 as a condition for site plan approval.

- A. An increase in the required yards.*
- B. Additional off street parking.*
- C. Screening of the proposed use by a fence or landscaping or combination thereof.*
- D. Limitations on the size, type, location, orientation and number of lights.*
- E. Limitations on the number and location of curb cuts.*
- F. Dedication of land for the creation or enlargement of streets where the existing street system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.*
- G. Improvement, including but not limited to paving, curbing, installation of traffic signals and constructing sidewalks or the street system that serves the proposed use where the existing street system will be burdened by the proposed use.*
- H. Improvement or enlargement of utilities serving the proposed use where the existing utilities system will be burdened by the proposed use. Improvements may include, but shall not be limited to, extension of utility facilities to serve the proposed use and installation of fire hydrants.*
- I. Landscaping of the site.*
- J. Traffic Impact Study as identified in Title 18.116.310.*
- K. Any other limitations or conditions that are considered necessary to achieve the purposes of DCC Title 18.*

“FINDING: To the extent that any conditions of approval contained in this decision require improvement to the site beyond the minimum standards of DCC Title 18, Staff finds such conditions are authorized by this section.”

Finding: I agree.

Chapter 18.128, Conditional Use

The pipeline replacement and improvement crosses five (5) properties in the MUA-10 Zone. The provisions of DCC 18.128 of the County Zoning Ordinance, Title 18, are applicable only to the property

that falls within the MUA-10 Zone. As discussed above, the applicant proposes two options⁵ for a portion of the pipeline replacement. Both options are discussed in the findings below.

Section 18.128.010, Operation.

- A. *A conditional use listed in DCC Title 18 shall be permitted, altered or denied in accordance with the standards and procedures of this title; DCC Title 22, the Uniform Development Procedures Ordinance; and the Comprehensive Plan.*
- B. *In the case of a use existing prior to the effective date of DCC Title 18 and classified in DCC Title 18 as a conditional use, any change in use or lot area or an alteration of structure shall conform with the requirements for a conditional use.*

“FINDING: The proposed conditional use is reviewed in accordance with the standards and procedures of this title; DCC Title 22, the Uniform Development Procedures Ordinance; and the Comprehensive Plan.”

Finding: I agree.

Section 18.128.015, General Standards Governing Conditional Uses.

Except for those conditional uses permitting individual single family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:

- A. *The site under consideration shall be determined to be suitable for the proposed use based on the following factors:*
 - 1. *Site, design and operating characteristics of the use;*

“FINDING: The applicant is proposing an alteration to the existing City of Redmond interceptor pipeline. The project spans five properties which are within the MUA-10 Zone. The provisions of DCC 18.128 are applicable only to the five properties that fall within the MUA-10 Zone, which includes Tax Lots 600, 601, 700, 800, 900. The following analysis considers the site, design, and operating characteristics of the use.”

Finding: I agree that the provisions of DCC 18.128 (listed below) are only applicable to the five properties in the MUA-10 Zone.

Site and Design

The applicant provided the following statement in response to this criterion:

Applicant does not propose any buildings for this portion of the development and all improvements

⁵ Reference May 25, 2023, R. Kircher Supplemental App Mtrls
247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD

will be below grade. The proposed development within the MUA-10 Zone involves replacement of a 24-inch diameter pipeline with a 48-inch diameter pipeline and will be below grade and within established easements and public road rights-of-way. The proposed replacement of the interceptor pipeline constitutes an improvement to an existing sewer system, a utility facility, in MUA-10 Zone, which is a component of a utility facility, that serves the general public. The area of the project that falls within the MUA-10 zone consists of paved, public road right-of-way and easements on five (5) residentially-developed, privately-owned, properties that have mostly level, but some areas of mild sloping, topography, with scattered rock outcrops, small areas of farmed or cleared land and driveways. The project route, consisting of the easements on these five (5) properties, and multiple road rights-of-way, will continue to be below grade. There are no significant natural site features which would preclude siting of the replacement pipelines on these properties and roadways. In addition, those areas disturbed by the project will be restored to a condition defined by the project plans and easement agreements.

Staff agrees with the applicant's characterization of the site and design characteristics of the use.

Finding: I agree.

Operating Characteristics

The applicant provided the following statement in response to this criterion:

The operating characteristics include the initial construction activity for replacement of one of the 24-inch diameter pipelines with a 48-inch diameter pipeline, and after completion, periodic inspection of the site, with maintenance and repair as necessary. Trips for maintenance of the enlarged pipe will be the same as for the existing pipe – maintenance trips will not change under the proposal. Otherwise, operating characteristics are self-contained within the pipe. The completed project will be as it is now – below grade, and neither visible nor impactful to the public.

The pipe enlargement areas under consideration are existing, and the proposal does not include new or extended pipelines, rather simply the replacement of underground pipelines with larger pipe. Thus, the proposed use under consideration is suitable considering the site, design and operating characteristics of the use.

The applicant provided the following statement in response to this criterion as it pertains to the alternative alignment discussed above and noted in the record:

The preferred alignment will provide the easement area needed for the 48-inch pipeline. The preferred alignment would follow an existing roadway easement west along NW Euston Way and connect to the NW Northwest Way right of way where the pipeline would be constructed north towards the RWC. The reason this preferred alignment was chosen was due to the operating characteristics and needed maintenance activities associated with the gravity pipeline. The site of the preferred alignment is already used as a gravel access road. The site is suitable for the construction of the interceptor. The proposed use and preferred alignment under consideration is suitable considering the site, design and operating characteristics of the use.

Staff generally agrees with the applicant's response on the operating characteristics of the proposed use. Further, Staff did not receive comments from any property owner on which the pipeline and associated easement currently exists that documents any issues with the siting, design or operating characteristics of the existing pipeline. Based on the applicant's description of the facility's site, design and operating characteristics, Staff finds the proposal demonstrates that the site under consideration is suitable for the proposed utility facility alteration.

Finding: I agree and adopt the Staff's findings above. I note that Mr. Caramella testified that the easements along his property have created issues with noxious weeds. This is often the case with disturbed soils. Although, it is difficult to characterize this as an "operating characteristic," I find it appropriate to impose a condition requiring the applicant to coordinate with the Deschutes County Weed Control District to control weeds on its easements for 10 years after construction.

2. Adequacy of transportation access to the site; and

"FINDING: The applicant provided the following statement in response to this criterion:

The proposed use in the MUA-10 Zone is simple as it involves the replacement of a 24-inch diameter pipeline with a 48-inch diameter pipeline and will be below grade and within easements and public road rights-of-way. Other than initial activities associated with construction for replacement of the pipeline and occasional required maintenance or repair, there will be no traffic impacts associated with the ongoing use. The same number and type of maintenance trips as now occur, will occur in the future – no change to maintenance needs is expected from the larger pipe. Existing access onto private property is allowed through easements with property owners. Transportation access to the site is provided by the existing roadway network and easements and has been and will continue to be adequate to access the site for the initial construction and future intermittent maintenance of the pipeline under this proposal.

The applicant provided the following statement in response to this criterion as it pertains to the alternative alignment discussed above and noted in the record:

Due to the different type of wastewater that will flow through the preferred alignment, access will be needed for routine maintenance. The existing transportation system in the area provides access to the easement. The preferred alignment provides needed access for the City's wastewater operations Staff and others as needed to provide routine maintenance activities. Further the easement will be improved to a higher standard than what exists making access along that stretch adequate for maintenance as well as property access for those property owners who use that easement.

Comments from the Deschutes County Road Department and Deschutes County Transportation Planner did not identify any transportation infrastructure deficiencies. The Deschutes County Transportation Planner did note that the applicant will need to work with the County Road Department to determine which, if any permits are required to perform work in the County rights of way. Staff includes a suggested 247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD

condition of approval to this effect. Comments from other agencies and the general public did not identify any transportation infrastructure deficiencies related to the pipeline replacement. Staff finds, as conditioned, the site is suitable for the proposed use based on adequacy of transportation access to the site.”

Finding: I agree.

3. *The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.*

“FINDING: The applicant provided the following statement in response to this criterion:

The proposed pipeline replacement for the utility facility will be located in the same location within the five (5) private properties and public rights-of-way as what exists. The area of the project that falls within the MUA-10 Zone consists of paved, public road right-of-way and five (5) residentially developed properties that have mostly level, but some areas of mild sloping, with areas of scattered rock outcrops, small areas of farmed or cleared land and driveways. In addition to small areas of pasture or lawn, vegetation is primarily native with juniper trees, shrubs, and grasses. The project area will be largely unaffected with the completion of the project, and will be restored to blend harmoniously with the natural environment surrounding it.

There are no known natural hazards or distinguishing natural resource values on the properties that merit protection (e.g. Goal 5 inventoried natural resources) that are any different than those experienced by other properties in Central Oregon. There are no natural or physical features on the MUA-10-zoned portion of the project that would prevent the proposed utility facility use. For these reasons, the site is suitable considering natural and physical features.

The applicant provided the following statement in response to this criterion as it pertains to the alternative alignment discussed above and noted in the record:

The preferred alignment is located along an existing access easement. Constructing a sewer line in an existing easement and improving the roadway that sits atop the proposed sewer line will not impact natural or physical features of the site. Once construction is complete and the roadway is improved to a higher standard than its current state, the project area will be largely unaffected.

There are no known natural hazards or distinguishing natural resource values on the preferred alignment property that merit protection. There are no natural or physical features on the MUA-10-zoned portion of the project that would prevent the proposed pipeline. For these reasons, the site is suitable considering natural and physical features.

The *Deschutes County Natural Hazards Mitigation Plan* (2015) identifies drought, earthquake, flood, landslide, volcanic, wildfire, windstorm, and winter storm hazards in the County. Of these, wildfire is of special concern regarding the suitability of the use. Natural resource values typically include agricultural soils, forest lands, wildlife and their habitats, wetlands, and natural water features.

Comments from agencies and the general public did not identify any site unsuitability due to general topography, natural hazards, or natural resource values as it relate to the pipeline replacement. Staff finds there are no natural or physical features on the site that will prevent the proposed utility facility use.”

Finding: I agree.

B. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).

“FINDING: The applicant provided the following statement in response to this criterion:

The areas surrounding the pipeline corridor in the MUA-10 Zone consists of a mix of farm and rural residential properties with some properties exhibiting some level of farm or agricultural use. Projected uses on surrounding properties are limited by the zoning restrictions in the area, which are MUA-10, RR-10, Surface Mining (SM), Floodplain (FP) and EFU zoning. The projected pipeline replacement will have the same compatibility with existing and projected uses on surrounding properties as with the existing pipeline it will replace. The proposed pipeline replacement in the MUA-10 zoned areas of the project will be below grade and not visible to the public after construction is completed.

After construction, the area will be restored to a condition defined by the project plans and easement agreements. A majority of the route will be located outside of any area used for farm use, close to property boundaries, and/or within road right- of-way and thus will retain the existing uses, treed areas, and irrigated lands. Trips for maintenance will be the same as now and so impacts to neighboring roadways will be minimal. The proposal does not include adverse noise or glare impacts. Adverse odor conditions are not anticipated. The pipeline will be below grade and will not interfere with the potential development of other surrounding properties with dwellings and/or farm uses.

Based on the above, coupled with the project being below grade, the proposed pipeline replacement in the MUA-10 Zone will be suitable with surrounding properties considering the siting, design, operating characteristics of the project. Following the construction phase for the pipeline replacement, the proposal will not impact any off-site transportation access. Similarly, the project will not impact any off-site natural or physical features. For these reasons, this criterion is satisfied.

The applicant provided the following statement in response to this criterion as it pertains to the alternative alignment discussed above and noted in the record:

The proposed pipeline replacement in the preferred alignment will be below grade and not visible to the public after construction is completed. A pipeline replacement in the preferred alignment location will have the same compatibility with existing and projected uses on surrounding properties as with the existing pipeline it will replace.

After construction, the preferred alignment area will be restored to a condition defined by the project plans and easement agreements. The proposal does not include adverse noise or glare impacts. Adverse odor conditions are not anticipated. The pipeline will be below grade and will not interfere with the potential development of other surrounding properties.

Based on the above, coupled with the project being below grade, the proposed pipeline replacement in the MUA-10 Zone in the preferred alignment will be suitable with surrounding properties considering the siting, design, and operating characteristics of the project. Following the construction phase for the pipeline replacement, the proposal will not impact any off-site transportation access. Similarly, the project will not impact any off-site natural or physical features.

Staff finds this this criterion requires that the proposed use must be compatible with existing and projected uses on surrounding properties. Staff finds “surrounding properties” are those that might be significantly adversely impacted by their proximity to the proposed use. Existing on surrounding properties include a mix of farm and rural residential properties with most exhibiting some level of agricultural use. Projected uses on surrounding properties are those that have received approvals or are allowed outright and are typical of development of the areas. These projected uses include residential uses and farm uses and those limited by the zoning restrictions in the area, which are EFU, RR-10, and MUA-10. The applicant mentions the Flood Plain Zone but the pipeline replacement is not located on or adjacent to any areas zoned Flood Plain. For these reasons, Staff finds the project uses are likely to be similar to existing uses.”

Finding: I agree. These findings are duplicative of the findings above, regarding farm impacts, those are readopted here.

(A)(1). Site, design and operating characteristics of the use;

“**FINDING:** Staff finds the proposed use would be unsuitable if the siting, design and operating characteristics of the use significantly adversely impacted existing and projected uses on surrounding properties. Typically, potential adverse impacts could include visual, noise, dust, and odor impacts.

Staff finds the proposed project could cause temporary noise and dust impacts during installation and construction. Staff includes the following recommended conditions of approval to mitigate those impacts:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered, up to two times per day, if airborne dust is visible.
2. The beds of all haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes.
4. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications.

5. Use of equipment and machinery to install any trenching for utilities shall only be conducted between 7 a.m. and 10 p.m.”

Finding: I agree and adopt the above conditions.

(A)(2). Adequacy of transportation access to the site; and

“**FINDING:** Staff finds the proposed use would be unsuitable if access to the site would significantly adversely impact existing and projected uses on surrounding properties. No such impacts are anticipated or identified in the record.”

Finding: I agree.

(A)(3). The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.

“**FINDING:** Staff finds the proposed use would be unsuitable if it significantly adversely impacted off-site topography, natural hazards, or natural resource values. Natural hazards on surrounding properties include wildfire. There are no significant natural resources values identified in the record on surrounding properties. As the applicant notes, a majority of the route will be located outside of any area used for farm use, close to property boundaries, and/or within road right-of-way and thus will retain the existing uses, treed areas, and irrigated lands. No offsite impacts to wildfire hazard are anticipated or identified in the record. As discussed, the project, upon completion, will be entirely below grade and does not include the construction of structures or buildings. Staff finds this criterion is satisfied.”

Finding: I agree.

C. These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to insure that the standard will be met.

“**FINDING:** To the extent this decision is conditioned under DCC 18.128 criterion, Staff notes such conditions are authorized by this criterion.

The applicant suggested a condition of approval relating to the “either/or” nature of the preferred alignment. Staff has incorporated this condition into the recommended conditions of approval:

Prior to construction of the 48-inch sewer system pipeline, the applicant shall provide to the Community Development Department written documentation of easement agreements for the sewer line construction and access.”

Finding: I agree.

Section 18.128.020, Conditions.

In addition to the standards and conditions set forth in a specific zone or in DCC 18.124, the Planning Director or the Hearings Body may impose the following conditions upon a finding that additional restrictions are warranted.

- A. Require a limitation on manner in which the use is conducted, including restriction of hours of operation and restraints to minimize environmental effects such as noise, vibrations, air pollution, glare or odor.*
- B. Require a special yard or other open space or a change in lot area or lot dimension.*
- C. Require a limitation on the height, size or location of a structure.*
- D. Specify the size, number, location and nature of vehicle access points.*
- E. Increase the required street dedication, roadway width or require additional improvements within the street right of way.*
- F. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or loading area.*
- G. Limit or specify the number, size, location, height and lighting of signs.*
- H. Limit the location and intensity of outdoor lighting and require shielding.*
- I. Specify requirements for diking, screening, landscaping or other methods to protect adjacent or nearby property and specify standards for installation and maintenance.*
- J. Specify the size, height and location of any materials to be used for fencing.*
- K. Require protection and preservation of existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.*
- L. Require that a site plan be prepared in conformance with DCC 18.124.*

“**FINDING:** To the extent that any conditions of approval contained in this decision require improvement to the site beyond the minimum standards of DCC Title 18, Staff finds such conditions are authorized by this section.”

Finding: I agree. I modify the condition of approval above for the alternative alignment as follows:

Prior to construction of the 48-inch sewer system pipeline, the applicant shall provide to the Community Development Department written documentation of easement agreements for the sewer line construction and access. If easements for the proposed alternative alignment are obtained, then Applicant shall record a vacation of the easements no longer necessary.

I also will impose the following conditions:

1. Applicant will suppress, control, and eradicate noxious weeds on the subject property, consistent with the mission of the Deschutes County Noxious Weed Program and the Weed Control Ordinance, DCC Chapter 8.35
2. For work in Euston Lane, the road along the new easement area will be improved to a higher standard than the existing road. Any manholes shall be at grade.
3. Prior to the issuance of any permits, the Applicant shall provide Staff with a well

monitoring plan for its wells on the Wetlands Complex Site. The plan shall provide for voluntary free well testing for property owners annually within a one-mile radius of the site.

Section 18.128.040, Specific Use Standards.

A conditional use shall comply with the standards of the zone in which it is located and with the standards and conditions set forth in DCC 18.128.045 through DCC 18.128.370.

“**FINDING:** As described herein, the proposed conditional use complies with the standards of the zone in which it is located and with the standards and conditions set forth in DCC 18.128.045 through DCC 18.128.370, as applicable.”

Finding: I agree.

SYSTEM DEVELOPMENT CHARGE

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,080 per p.m. hour trip. As the proposed use will not consume additional roadway capacity as that term is commonly understood, no SDCs are triggered. The burden of proof does mention potential future public access as wetland areas can also function as quasi-parks for nature hikes, bird watching, and similar recreational activities. If the public is allowed access, then the County reserves the right to revisit the issue of SDCs.

Finding: I agree

IV. CONCLUSION

I find that the Applicant, with the attached conditions, has met the burden of proof necessary to justify approval of a Conditional Use Permit, Site Plan Review, LOR Verification, and Major Administrative Determination to establish the Redmond Wetlands Complex on land zoned EFU as well as the replacement of an existing interceptor pipeline along a two-mile route on lands zoned EFU and MUA-10 through effectively demonstrating compliance with the applicable criteria of DCC Title 18 (the Deschutes County Zoning Ordinance) and applicable sections of OAR and ORS.

V. CONDITIONS OF APPROVAL

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B.** The property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.

- C. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040
- D. Structural setbacks from any north lot line shall meet the solar setback requirements in DCC 18.116.180.
- E. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- F. The utility facility/sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries. If the Applicant City has not already done so, adopt a land use regulation to prohibit the City of Redmond from providing sewer service to land outside of the UGB except as authorized by OAR 660-0011-0060(4) or other applicable law.
- G. **Prior to initiation of use and/or issuance of any building permit**, the applicant shall submit to the Planning Division correspondence from Redmond Fire & Rescue indicating all relevant access, fire and water requirements, as detailed in Section II of this decision, have been addressed or met.
- H. **Prior to project construction**, the applicant shall meet County Road Department permitting requirements and conditions regarding the work conducted with road right-of way.
- I. To mitigate noise and dust impacts during project installation:
1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered, up to two times per day, if airborne dust is visible.
 2. The beds of all haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 3. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes.
 4. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications.
 5. Use of equipment and machinery to install any trenching for utilities shall only be conducted between 7 a.m. and 10 p.m.
- J. **Prior to construction of the 48-inch sewer system pipeline**, the applicant shall provide to the Community Development Department written documentation of easement agreements for the sewer line construction and access. If easements for the proposed alternative alignment are obtained, then Applicant shall record a vacation of the easements that are no longer necessary.
- K. Land Restoration: The owner of the utility facility shall be responsible for restoring, as nearly as possible, to its former condition any lands zoned MUA-10 or EFU and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.
- L. Erosion Control Plan: Prior to the start of construction activities, the applicant shall provide an Erosion Control Plan to the Planning Division prepared by a licensed, professional engineer. Staff

recommends that a licensed, professional engineer use the *Central Oregon Stormwater Manual* as the basis for the plan.

- M. **Prior to initiation of use and/or issuance of any building permit**, the applicant shall submit to the Planning Division correspondence from Central Oregon Irrigation District (COID) indicating all relevant comments or conditions, as detailed in Section II of this decision, have been addressed or met.
- N. Applicant will suppress, control, and eradicate noxious weeds on the subject property, consistent with the mission of the Deschutes County Noxious Weed Program and the Weed Control Ordinance, DCC Chapter 8.35.
- O. For work in Euston Lane, the road along the new easement area would be improved to a higher standard than the existing road. Any manholes shall be at grade.
- P. **Prior to the issuance of any permits, the** Applicant shall provide Staff with a vector control plan for the Wetlands Complex consistent with wastewater disposal industry standards.
- Q. **Prior to the issuance of any permits, the** Applicant shall provide Staff with a well monitoring plan for its wells on the property for the Wetlands Complex Site. The plan shall provide for voluntary free well testing for property owners annually within a one-mile radius of the site.

VI. DURATION OF APPROVAL, NOTICE, AND APPEALS

The applicant shall initiate the use for the proposed development within two (2) years of the date this decision becomes final, or obtain approval of an extension under Title 22 of the County Code, or this approval shall be void.

This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the appeal fee, and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue.

Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

Dated this 8th Day of August, 2023

Alan A. Rappleyea
Alan A. Rappleyea

owner	agent	inCareof	address	cityStZip	type	cdd id
BLM, PRINEVILLE DIST. - DESCHUTES FIELD MGR.	Clark, Lisa M <lmclark@blm.gov>		ELECTRONIC		HOFF Decision	23-149-CU, 150-SP, 151-LR, 152-AD
City of Redmond	Ryan Kirchner		243 E Antler Avenue	Redmond, OR 97756	HOFF Decision	23-149-CU, 150-SP, 151-LR, 152-AD
Wendie L. Kellington			PO Box 2209	Lake Oswego, OR 97035	HOFF Decision	23-149-CU, 150-SP, 151-LR, 152-AD
Chris Schmoyer			60939 Zircon Drive	Bend, OR 97702	HOFF Decision	23-149-CU, 150-SP, 151-LR, 152-AD
Bureau of Land Management	James Eisner II		3050 NE 3rd Street	Prineville, OR 97754	HOFF Decision	23-149-CU, 150-SP, 151-LR, 152-AD
City of Redmond	Jon Skidmore		243 E Antler Avenue	Redmond, OR 97756	HOFF Decision	23-149-CU, 150-SP, 151-LR, 152-AD

EMAIL

ryan.kirchner@redmondoregon.gov

wk@klgpc.com

schmoyerluc@gmail.com

jon.skidmore@redmondoregon.gov



NOTICE OF HEARINGS OFFICER'S DECISION

The Deschutes County Hearings Officer has approved the land use application(s) described below:

FILE NUMBER: 247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD

**SUBJECT PROPERTY
/OWNER:**

Mailing Name: CITY OF REDMOND
Map and Taxlot: 1413300000101
Account: 165689
Situs Address: 5801 NORTHWEST WAY, REDMOND, OR 97756

**ADDITIONAL
PROPERTIES:**

The Redmond Wetlands Complex is proposed across four (4) additional properties identified in this staff report, and are either federally owned or owned by the City of Redmond. The associated pipeline and easements cross through eight (8) private properties within Deschutes County jurisdiction as identified at the bottom of this notice.

APPLICANT:

City of Redmond
Attn: Ryan Kirchner, Wastewater Division Manager
411 SW 9th Street
Redmond, OR 97756

**APPLICANT'S
REPRESENTATIVE:**

Wendie L. Kellington
Kellington Law Group, PC
PO Box 2209
Lake Oswego, OR 97035

Chris Schmoyer
Schmoyer Land Use Consulting, LLC
60939 Zircon Drive
Bend, OR 97702

SUBJECT:

Conditional Use Permit, Site Plan Review, Lot of Record Verification, and Major Administrative Determination for the expansion of the Redmond

Water Pollution Control Facility Effluent and Biosolids Disposal Complex (“Redmond Wetlands Complex”). The project includes:

- Relocating sanitary sewer treatment facilities to the 608-acre City-owned property and expanding the disposal facilities to the north onto federally owned property. The relocation and expansion includes new operational buildings, new lined and unlined treatment wetlands for effluent polishing and disposal, new primary treatment facilities with headworks screening, and new aerated lagoon system for secondary treatment.
- Replacing an existing 24-inch diameter interceptor pipeline with a 48-inch diameter pipeline that will be below grade and within established utility easements and/or public rights-of-way on an approximately two (2) mile route to the City of Redmond to connect to existing facilities treatment facility at the north end of Dry Canyon.

STAFF PLANNER: Haleigh King, Associate Planner
541-383-6710 / Haleigh.king@deschutes.org

RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/RedmondWetlandsComplex>

APPLICABLE CRITERIA: Oregon Administrative Rules, Chapter 660, Division 11
Oregon Revised Statutes, Section 215.296
Deschutes County Code (DCC)
Title 18, Deschutes County Zoning Ordinance:
Chapter 18.16, Exclusive Farm Use Zones (EFU)
Chapter 18.32, Multiple Use Agricultural Zone (MUA10)
Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)
Chapter 18.116, Supplementary Provisions
Chapter 18.124, Site Plan Review
Chapter 18.128, Conditional Use
Title 22, Deschutes County Development Procedures Ordinance

DECISION: The Hearings Officer finds that the application(s) meet applicable criteria, and approval is being granted subject to the following conditions:

I. CONDITIONS OF APPROVAL:

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.

- B.** The property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.
- C.** No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040
- D.** Structural setbacks from any north lot line shall meet the solar setback requirements in DCC 18.116.180.
- E.** In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- F.** The utility facility/sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries. If the Applicant City has not already done so, adopt a land use regulation to prohibit the City of Redmond from providing sewer service to land outside of the UGB except as authorized by OAR 660-0011-0060(4) or other applicable law.
- G.** **Prior to initiation of use and/or issuance of any building permit**, the applicant shall submit to the Planning Division correspondence from Redmond Fire & Rescue indicating all relevant access, fire and water requirements, as detailed in Section II of this decision, have been addressed or met.
- H.** **Prior to project construction**, the applicant shall meet County Road Department permitting requirements and conditions regarding the work conducted with road right-of way.
- I.** To mitigate noise and dust impacts during project installation:
1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered, up to two times per day, if airborne dust is visible.
 2. The beds of all haul trucks transporting soil, sand, or other loose material off-site shall be covered.
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- J.** **Prior to construction of the 48-inch sewer system pipeline**, the applicant shall provide to the Community Development Department written documentation of easement agreements for the sewer line construction and access. If easements for the proposed alternative alignment are obtained, then Applicant shall record a vacation of the easements that are no longer necessary.

- K.** Land Restoration: The owner of the utility facility shall be responsible for restoring, as nearly as possible, to its former condition any lands zoned MUA-10 or EFU and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.
- L.** Erosion Control Plan: Prior to the start of construction activities, the applicant shall provide an Erosion Control Plan to the Planning Division prepared by a licensed, professional engineer. Staff recommends that a licensed, professional engineer use the *Central Oregon Stormwater Manual* as the basis for the plan.
- M.** **Prior to initiation of use and/or issuance of any building permit**, the applicant shall submit to the Planning Division correspondence from Central Oregon Irrigation District (COID) indicating all relevant comments or conditions, as detailed in Section II of this decision, have been addressed or met.
- N.** Applicant will suppress, control, and eradicate noxious weeds on the subject property, consistent with the mission of the Deschutes County Noxious Weed Program and the Weed Control Ordinance, DCC Chapter 8.35.
- O.** For work in Euston Lane, the road along the new easement area would be improved to a higher standard than the existing road. Any manholes shall be at grade.
- P.** **Prior to the issuance of any permits, the** Applicant shall provide Staff with a vector control plan for the Wetlands Complex consistent with wastewater disposal industry standards.
- Q.** **Prior to the issuance of any permits, the** Applicant shall provide Staff with a well monitoring plan for its wells on the property for the Wetlands Complex Site. The plan shall provide for voluntary free well testing for property owners annually within a one-mile radius of the site.

This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the base appeal deposit plus 20% of the original application fee(s), and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Board of County Commissioners an adequate opportunity to respond to and resolve each issue.

Copies of the decision, application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

ADDITIONAL PROPERTIES

Map and Tax Lot	Situs Address	Property Owner
141200000200	8300 NW LOWER BRIDGE WAY, TERREBONNE, OR 97760	USA
1413000002600	4250 NW LOWER BRIDGE WAY, TERREBONNE, OR 97760	USA
1413000002604	NONE	CITY OF REDMOND
1413290000201	NONE	CITY OF REDMOND
1413290001201	3080 NW EUSTON LN, REDMOND, OR 97756	RANDY KEMNITZ LIVING REVOCABLE TRUST
1413290001202	2827 NW COYNER AVE, REDMOND, OR 97756	DONLAN, DAVID J & CHERYL L
1413290001300	2675 NW COYNER AVE, REDMOND, OR 97756	HASTINGS, ZACHARY J & TAMMY J
1413290000601	2667 NW EUSTON LN, REDMOND, OR 97756	RANDALL S SCHONING TRUST
1413290000600	2571 NW EUSTON LN, REDMOND, OR 97756	CARAMELLA, RONALD E & CARYN B
1413290000700	3085 NW EUSTON LN, REDMOND, OR 97756	PETERSON, CARINA A
1413290000800	5350 NORTHWEST WAY, REDMOND, OR 97756	LUNA, HELIBERTO
1413290000900	3000 NW WILLIAMS WAY, REDMOND, OR 97756	MEDLOCK, BRIAN & LAVON

X:\Clients\Redmond OR\59-04 Redmond Wetlands Complex\CAD\59-04-G-G07.dwg, Layout1, 11/17/2022 5:17 PM, gsaurtier

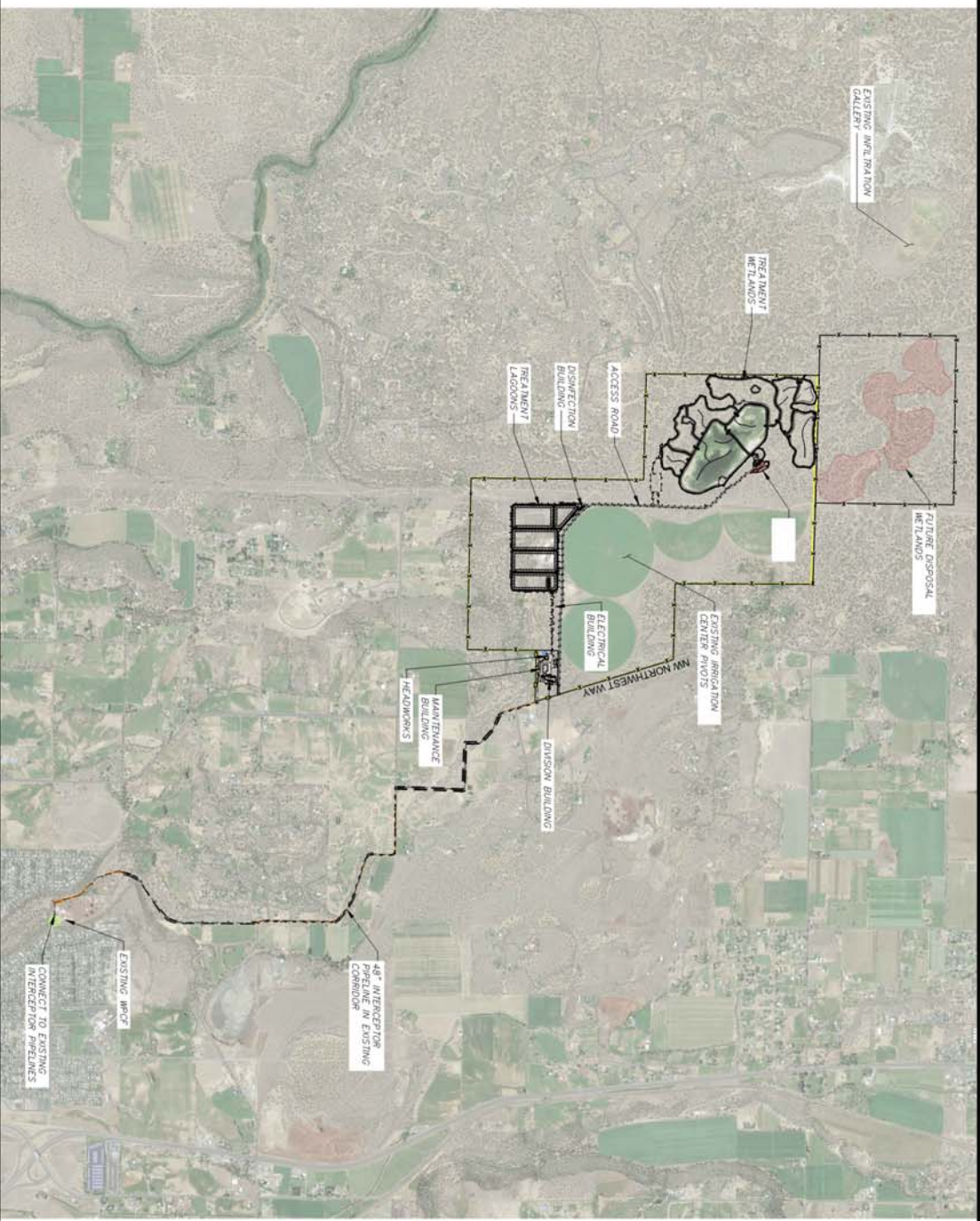
PROJECT	59-04
DESIGNED BY	E. BRUNGER
CHECKED BY	G. SAUBERER
DATE	2022
SCALE	1" = 100'
DATE	2022
PROJECT	59-04
DATE	2022
SCALE	1" = 100'
DATE	2022
PROJECT	59-04
DATE	2022
SCALE	1" = 100'
DATE	2022

**60% DESIGN PLANS
FOR REVIEW ONLY
NOT FOR CONSTRUCTION**

Anderson Perry & Associates, Inc.

**CITY OF REDMOND
REDMOND WETLANDS COMPLEX
OVERALL SITE PLAN**

G-G07



owner	agent	inCareof	address	city5Zip	type	cdid	EMAIL
8698 NW LOWER BRIDGE WAY LLC			101 SECOND ST #900	SAN FRANCISCO, CA 94105	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
WOLF,DENNIS & JUDITH			10311 NE KNOTT ST	PORTLAND, OR 97220	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HSU, YUNGTAI A & LISA L			10725 RUSH ST	SOUTH EL MONTE, CA 91733	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MURPHY, PATRICIA A & KEVIN D			10845 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
PESCI, CAROLYN & BARONE, RAYMOND			10848 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
LEFOR, CONNIE ANN			10850 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
JARVE, ROLAND E JR			11065 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MARSHALL, DARCY & MCPHEE, JONATHAN HUGH			11100 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
DAVIS,GREGORY A			11245 NW DOVE	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
TOWELL, CRAIG D & MELONIE J			11315 NW DOVE RD	CROOKED RIVER RANCH, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
BURTON, LISA R & JAMES C			11335 NW DOVE RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HOUGHTON,CRAIG D & SHAWN L			11385 NW DOVE RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
EILEEN VOLERSTSEN TRUST	VOLLERTSEN, EILEEN CARROLL TTEE		11405 NW DOVE RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HART,ARTHUR DAVID & CATHERINE F			11420 NW DOVE RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
BENDT, DANIEL R & BLAIR-BENDT, ELLEN N			11425 NW DOVE RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
LANE, JEFFREY S & KRISTY K			11445 NW DOVE RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
NEGLAY, CHRISTOPHER J & MATTIE M			11450 NW STEELHEAD FALLS DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
BRADY, BRYCE C & BRENDA W			11475 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HULSING, TIM & JANET			11499 NW STEELHEAD FALLS DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
FLENER,BRIAN E & KENDRA J			11566 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
SMITH FAMILY TRUST	SMITH, DAVID JOHN TTEE ET AL		11590 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MARQUEE, EUGENE P & RHONDA M			11595 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HILLS, DORIS & LOUIS			11810 NW SUMPTER DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
JIM & AMBER FRENCH FAMILY TRUST	FRENCH, JAMES E JR & AMBER TTEES		11820 NW SUMPTER DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MURRAY FAMILY TRUST	MURRAY, MICHAEL GEORGE TTEE ET AL		11845 NW SUMPTER DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
YEAGER, GARY W & CYNTHIA L			11850 NW SUMPTER DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
KAREN M GRAY REVOCABLE TRUST	GRAY, KAREN M TTEE		11895 NW SUMPTER DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
BOMBERGER,DAVID W & DEBORAH L			12055 NW SUMPTER DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
URBAN, NORA S MERANDA			12100 NW SUMPTER DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
BORGSMANN, DERRICK & MCLEOD, LAUREN			12150 NW SUMPTER DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
VANWINKLE,DEANNA M			12174 NW 10TH ST	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
PETERSON, NELS F ET AL			12200 NW SUMPTER DR	CROOKED RIVER RANCH, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
DELEONE,PAUL D & DEBRA L			12285 NW DYLAN CIR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
TASA,LAWRENCE SR & PATRICIA			12300 NW DYLAN CIR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
WILKINS FAMILY TRUST	WILKINS, LARRY D TTEE		12315 NW DYLAN CIR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
CORDIS FAMILY TRUST	CORDIS, BEVERLY A TTEE ET AL		12320 NW DYLAN CIR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MICKLEY, JOHN D & VICKI L			12335 NW DYLAN CIR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
SWEET,MARK A & PEGGY S			12345 NW DYLAN CIR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
OLIVER, ROBERT G			12350 NW DYLAN CIR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
CROSS, ROGER N & KRISTY A			124 SW 7TH ST	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MITCHNER, GEORGE W & SHARON L			12400 NW SUMPTER DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
JONES, LAWRENCE SCOTT & LISA MARIE			12445 NW RAINBOW DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
VINCENT & MARY KRZYCKI FAMILY TRUST	KRZYCKI, VINCENT L & MARY C TTEES		12465 NW STEELHEAD DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
LENO,MICHAEL J & LESLIE			12490 NW STEELHEAD DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MORIN, JOSEPH & MOOR, TIFFANY			12498 NW CHINOOK DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
JEROME G MEZA REVOCABLE LIVING T... ETAL	MEZA,JEROME G TRUSTEE & E NORIE TRUSTEE		12500 NW SUMPTER DR	CROOKED RIVER RANCH, OR 97760-8961	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
ZEJAYIA, RENEE E			12501 NW CHINOOK DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
STEPHANIE J & DEANE E COOPER LIV TRUST	COOPER, STEPHANIE J & DEANE E TTEES		12500 NW STEELHEAD DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HENSLEY, SCOTT			12521 NW RAINBOW DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
GEORGE, FRANK EVERETT JR & PAMELA KAY			12589 NW STEELHEAD DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
LITTLE, LIZA C & PESCI, CAROLYN M			12600 NW QUAIL RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
GRAHAM, ROBERT J & IANIN G			12600 NW STEELHEAD DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
DANIELSON, MARIE E & LILLY, WEBSTER L			12601 NW CHINOOK DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HOLT, JOHN R			12707 NW STEELHEAD RD	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
YEATES, BRIDGET M			12737 NW STEELHEAD DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
GANDER,BUTLER M & MURRAY,CYNTHIA A			12770 NW STEELHEAD FALLS DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
REBBETOY FAMILY TRUST	REBBETOY, CONSTANCE L TTEE		12775 NW CHINOOK DR	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
TSAL, GEORGE & LULLU			1286 CLAYS TRAIL	OLDSMAR, FL 34077	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
GORILLA CAPITAL, OR PW LLC			1342 HIGH ST	EUGENE, OR 97401	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
SLOANER, ELISABETH C			1504 NE SHEPARD PL	BEND, OR 97701	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
WARNER, KARMEN			1555 NE 3RD ST #323	PRINEVILLE, OR 97754	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HANEY, DREW & YELLOWLEES, STACEY			16 VINTAGE CIR #APT 1223	PLEASANTON, CA 94566	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
PRESTON INVESTMENTS LLC			16276 S REDLAND RD	OREGON CITY, OR 97045	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
POLLACK, ADRIAN A ET AL			16640 FIR LN	LAKE OSWEGO, OR 97034	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
BUNNENBERG,ANN & ROSS,JAMIE P			1712 SW HIGHLAND PKWY	PORTLAND, OR 97221	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
SCOTT FAMILY TRUST			17253 SILVER FALLS HWY SE	SUBALMITTY, OR 97385	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MAYS, JEANNINE M			175 24TH ST NE	SALEM, OR 97301	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
RIVER SPRINGS ESTATES PROPERTY OWNERS...			1937 MOUNTAIN QUAIL DR	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MANTIFEL SURVIVORS TRUST	MANTIFEL, JOREEN TTEE		205 SW 16TH CT	TROUTDALE, OR 97060	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MICHAEL G & LORRIE L MILLER REV LIV TR	MILLER, MICHAEL G & LORRIE L TTEES		20633 SW ELKHORN CT	TUALATIN, OR 97062	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
DAVID & PATRICIA CLARK JOINT TRUST	CLARK, PATRICIA A TTEE		21396 OLENA WAY	CALDWELL, ID 83607	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
PASMORE PROPERTIES LLC			2155 NW STOVER CIR	BEND, OR 97703	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
CLYNN, DELORES J & BROWN, WILLIAM K			21666 SE SMOKEY LN	EAGLE CREEK, OR 97022	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
ERIK A HALE LIVING TRUST	HALE, ERIK A TTEE		2280 SYLVAN WAY	WEST LINN, OR 97068	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MCCORMICK, MARYANN & SEYL, SUSAN K			2315 NE EVERETT	PORTLAND, OR 97232	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
REINHART, BRUCE G & LINDSEY G			2343 NW COYNER AVE	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
WELLS FAMILY TRUST	WELLS, ROBERT D TTEE		2455 E TAXIDEA WAY	PHOENIX, AZ 85048	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
KARIMY FAMILY TRUST			2589 NW COYNER AVE	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
ZOLLNER,ROCKY K & CYNTHIA A			2625 NW WILLIAMS LOOP	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HASTINGS, ZACHARY J & TAMMY J			2675 NW COYNER AVE	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
DONLAN,DAVID J & CHERYL L			2827 NW COYNER	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
KIESLER, JOHN M & DIANE L			2828 NW COYNER AVE	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MILLER, ELISHA K & RYAN D			2889 NW WILLIAMS LOOP	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
BLEVINS, RAYMOND L ET AL			2901 NW WILLIAMS LP	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
WEBSTER, JASON ALLAN & GRACE SHARON			2917 NW WILLIAMS LOOP	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
JOHANNSEN,KARL M & TARA M			2920 NW WILLIAMS WAY	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HURT, TERRY L & DEBRA R			2987 NW WILLIAMS LOOP	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MEDLOCK, BRIAN & LAVON			3000 NW WILLIAMS WAY	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HOOPER FAMILY REVOCABLE LIVING TRUST	HOOPER, MAX DALE TTEE ET AL		30728 GANADO DR	RANCHO PALOS VERDES, CA 90275	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
STEPHEN P TRENHALE TRUST	TRENHALE, STEPHEN P TTEE		3099 NW WILLIAMS WAY	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
JAMES & ANNETTE DETWILER TRUST	DETWILER,JAMES K & ANNETTE M TTEES		3216 NW LYNCH WAY	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
BAILEY, CLARENCE W & LINDA K			3204 NW COYNER	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MALTMAN, BRIAN			3331 SW METOLUS MEADOW CT	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
KILPATRICK,JAMES R & VELVET			3345 NW COYNER AVE	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
OLIVER, TESIA & JOBY			3372 NW MONTGOMERY DR	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
FOX, TODD A & MACKENZIE			3391 NW MONTGOMERY DR	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
MARVIN & JUDY BENDER TRUST	BENDER, MARVIN & JUDY TTEES		3383 NW SEDGWICK	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
NELSON, AMY LEE TAYLOR & CODY L			3500 NW SEDGWICK AVE	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
HOOPES,DAVID R & LINDA L			35727 SE SQUAW MTN	ESTACADA, OR 97023	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
JOHNSON FAMILY TRUST	LELACHEUR, BRIAN JOHN TTEE		3626 NW COYNER AVE	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
JOPLIN, JOHN M & DANICE E			3633 NW KNICKERBOCKER	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
RUBY SUTHERLAND REVOCABLE LIVING TRUST	SUTHERLAND, RUBY G TTEE		3648 NW QUINN LN	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	
DAVIDSON, BO ET AL			3659 NW QUINN LN	TERREBONNE, OR 97780	NOD	23-149-CU, 150-SP, 151-LR, 152-AD	

BLAKE, JOSHUA & BRITTANY		7337 NW RAINBOW RD	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
ROE, JAMES W IV & BREANNE N		736 SW 10TH ST	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
LAMB, CHARLES T		7373 NW RAINBOW RD	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
WATKINS, KIRK & LYSIA L		7400 NW RAINBOW RD	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
DILLS, RENEE D		7401 NORTHWEST WAY	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
ROBY, ANDREW R III & MARIETTA G		7447 NW RAINBOW RD	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
NUNEZ, NELSON D ET AL		752 NE CHEYENNE DR	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
AABY, DARRELL K & SHERRY		7575 NW ALMETER WAY	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
PECK, DANNY & RENEE C		7684 FISH HAT CHERRY RD	OKARIDGE, OR 97463	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
DUNNING, MARK & BLANK, JANA		7801 NW 83RD PL	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
COSPER, DAVID M & DONNA A		8000 NW 83RD PL	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
LOCKER SUTHERLAND REV TRUST	LOCKER, RACHEL E CO TTEE ET AL	8011 NW 83RD PL	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
COWAN, MICHAEL HALL		8130 NW GRUBSTAKE WAY	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
KENNY, STEPHEN WILLIAM		8133 SMOKING JACKET PL	LAS VEGAS, NV 89166	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
HEWITT, DUSTIN J		8195 NW ICE AVE	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
STUART FAMILY TRUST	STUART, TRACEY L TTEE	8240 NW ROBERTS CT	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
STAHL, WILLIAM D & JENNIFER		8246 NW ICE AVE	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
BURCH, JODI & RYAN		8255 NW ICE AVE	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
POLLARD, JOHN E & REBECCA S		8267 NW ROBERTS CT	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
VANNEVEL, SCOTT C & LANETTE R		8295 NW 31ST ST	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
REV LIV TRUST OF MARLENE PURCELL	PURCELL, MARLENE TTEE	8318 SE PLEASANT HOME RD	GRESHAM, OR 97080	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
MCCOON, TRISHA		8385 NW 31ST ST	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
MANGEL, WILLIAM		8393 NW 31ST ST	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
SCIGLIANO, STEVEN M & MIRANDA, FRANK M		8445 NW PARKEY DR	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
NUNN, TERRY B		8590 NW THICKET LN	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
TEXEIRA, CATTLE CO ET AL		855 THOUSAND HILLS RD	PISMO BEACH, CA 93449	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
MAXINE E HANE REVOCABLE LIVING TRUST	HANE, MAXINE E TTEE	8620 NW 84TH CT	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
VON BORSTEL LIVING TRUST	VON BORSTEL, NOAH TTEE ET AL	8640 NW 84TH CT	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
ELLIOTT, MICHAEL L & MEYERS, PATTY A		8650 NW PARKEY DR	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
BRANNON, JOHNNY L & WYNONA A		8650 S HEINZ	CANBY, OR 97013	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
DRUIAN REVOCABLE TRUST	DRUIAN, M GREGORY & JANICE M TTEES	8657 NW 89TH PL	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
STACKHOUSE, SUSAN C		8724 NW LOWER BRIDGE WAY	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
NASH/D'ANN K		8797 NW 31ST ST	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
RONALD T R BRUMMOND TRUST	BRUMMOND, RONALD T R TRUSTEE	885 JEFFERSON ST NE	SALEM, OR 97301	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
HODGSON 1991 LIVING TRUST ETAL	HODGSON, GEORGE FREDRICK TRUSTEE ETAL	904 NE 78TH AVE	PORTLAND, OR 97213	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
GRAY, KAREN M & JOEL T		919 NW 50TH ST	VANCOUVER, WA 98663	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
LEIGHTON, JAMES WALTER		9200 NW CROOKED LN	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
HINRICH, CRAIG A & SUSAN J		9285 NW CROOKED LN	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
ENNEKING, JOHN P ET AL		93 FAIRVIEW PLAZA	LOS GATOS, CA 95030	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
DAK PROPERTIES LLC		9400 NW 19TH ST	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
BALLE, PAMELA S		PO BOX 104	PLOT HILL, CA 95664	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
DENTON, RENEE T		PO BOX 114	TERREBONNE, OR 97760-0114	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
ALLEN, DANNY G & JENNIFER LEIGH		PO BOX 1154	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
BRAXLING FAMILY REVOCABLE TRUST	BRAXLING, RICHARD WAYNE TTEE ET AL	PO BOX 1460	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
REEVES, BONNI L		PO BOX 1588	CROOKED RIVER RANCH, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
KOLBERG, BRAEDI		PO BOX 191	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
WILLIAM & JULIE CONN TRUST	CONN, WILLIAM G & JULIE L TTEES	PO BOX 2030	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
CAROL DODSON JACQUET TRUST	JACQUET, CAROL DODSON TRUSTEE	PO BOX 2098	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
OLSON, JESSE		PO BOX 2116	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
FRIEND, PAMELA S		PO BOX 212	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
MCGRADY, SHANE & MISTY		PO BOX 214	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
KLYCE & PAXTON LV TRUST	KLYCE, RICHARD H TTEE ET AL	PO BOX 217	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
LYONS, ROBERT T		PO BOX 2172	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
LINSFORD, RANDY J & TONYA S		PO BOX 2179	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
OBERN, DAVID W & BRENDA S		PO BOX 2316	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
VALENTI FAMILY TRUST	VALENTI, MARK A & JEANINE K TTEES	PO BOX 233	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
MARVIN, KENNETH & TAMRA ET AL		PO BOX 2382	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
RYCHART, MICHAEL P & PAMELA		PO BOX 2403	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
DALTON, DAVID		PO BOX 308	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
SCHMIDT, LEAND BRUCE & GERALDINE CAROL		PO BOX 35	WESTLAKE, OR 97783	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
CHAPMAN, LEORA F & KENNETH L ET AL		PO BOX 428	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
BIG FALLS RANCH CO		PO BOX 434	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
RONCERAY, GARY A		PO BOX 5612	BEND, OR 97708	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
EDWARD BEARD REV TRUST ET AL	BEARD, EDWARD OWEN TTEE ET AL	PO BOX 575	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
ARNOLD, DONNA L		PO BOX 611	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
GUNZNER, JOHN H & JOANNE E		PO BOX 623	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
WALSH, THOMAS F & LYNDA E		PO BOX 662	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
KENNETH AND CHARLOTTE STORRS REV... ETAL	STORRS, KENNETH RUSSEL TRUSTEE ETAL	PO BOX 694	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
FLEWELLING, TIMOTHY W & TANA C		PO BOX 744	REDMOND, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
WELLS FARGO BANK N A TRUSTEE		PO BOX 75086	SEATTLE, WA 98175-0086	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
ISLAND FAMILY LIMITED PARTNERSHIP		PO BOX 823441	VANCOUVER, WA 98682	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
WESTBY, RAY E		PO BOX 932	BORING, OR 97009	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
BLM, PRINEVILLE DIST. - DESCHUTES FIELD MGR.	Clark, Lisa M <lmc1ark@blm.gov>	ELECTRONIC			
CENTRAL OREGON IRRIGATION DIST.	KELLY O'ROURKE - LANDUSE@COID.ORG CRAIG HORRELL - CHORRELL@COID.ORG	ELECTRONIC			
DESCHUTES CO. ASSESSOR		ELECTRONIC			
DESCHUTES CO. BUILDING SAFETY		ELECTRONIC			
DESCHUTES CO. SR. TRANS. PLANNER	PETER RUSSELL / TARIK RAWLINGS	ELECTRONIC			
REDMOND FIRE & RESCUE	Tom Mooney (Tom.Mooney@redmondfireandrescue.org) Wade Gibson (Wade.Gibson@redmondfireandrescue.org)	ELECTRONIC			
REDMOND PUBLIC WORKS		875 SE SISTERS	Redmond, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Peterman Pit LLC		PO BOX 1669	Redmond, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Miller Nash LLP	Steven G. Liday	111 SW Fifth Avenue, Suite 3400	Portland, OR 97204	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Carole Atherton and H. Malerkey Wall		3434 NW Montgomery Drive	Redond, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Paul Johnston		11295 NW Dove Road	Terrebonne, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Dan Marsh		11200 NW QUAIL RD	TERREBONNE, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Jeanmarie Kapp		3124 NW Lynch Way	Redmond, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Braedi Kolberg		PO Box 191	Terrebonne, OR 97760	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Carrie Caramella		2571 NW Euston Lane	Redmond, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Ronald Caramella		2571 NW Euston Lane	Redmond, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Mark and Jeanine Valenti		2551 NW Euston Lane	Redmond, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Doug Kolberg		PO Box 448	Vancouver, WA 98666	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Christine Manley		2494 NW Williams Loop	Redmond, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Carina Peterson		3085 NW Euston Lane	Redmond, OR 97756	NOD	23-149-CU, 150-SP, 151-LR, 152-AD
Miller Nash LLP	Laura J. Mossberger	111 SW Fifth Avenue, Suite 3400	Portland, OR 97204	NOD	23-149-CU, 150-SP, 151-LR, 152-AD

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**RECONSIDERATION OF DECISION AND FINDINGS OF
THE DESCHUTES COUNTY HEARINGS OFFICER**

FILE NUMBERS: Reconsideration File No. 247-23-000634-RC for File Numbers
247-23-000149-CU, 23-150-SP, 23-151-LR, 23-152-AD

APPLICANTS/OWNERS: City of Redmond
Attn: Ryan Kirchner, Wastewater Division Manager
411 SW 9th Street
Redmond, OR 97756

SUBJECT PROPERTY: Map and Taxlot: 1413300000101
Account: 165689
Situs Address: 5801 NORTHWEST WAY, REDMOND, OR
97756

The Redmond Wetlands Complex is proposed across four (4) additional properties identified in the Staff report and are either federally owned or owned by the City of Redmond. The associated pipeline and easements cross through eight (8) private properties within Deschutes County jurisdiction as identified in the Staff report.

REQUEST: Applicant seeks review of a condition placed on the Conditional Use Permit for the expansion of the Redmond Water Pollution Control Facility Effluent and Biosolids Disposal Complex (“Redmond Wetlands Complex”). The project includes:

Relocating sanitary sewer treatment facilities to the 608-acre City-owned property and expanding the disposal facilities to the north onto federally owned property. The relocation and expansion includes new operational buildings, new lined and unlined treatment wetlands for effluent polishing and disposal, new primary treatment facilities with headworks screening, and new aerated lagoon system for secondary treatment.

Replacing an existing 24-inch diameter interceptor pipeline with a 48-inch diameter pipeline that will be below grade and within established utility easements and/or public rights-of-way on an approximately two (2) mile route to the City of Redmond to connect to existing facilities treatment facility at the north end of Dry Canyon.

HEARINGS OFFICER: Alan A. Rappleyea
STAFF CONTACT: Haleigh King, Associate Planner
Phone: 541-383-6710
Email: Haleigh.king@deschutes.org

RECORD: Record items can be viewed and downloaded from:
www.deschutes.org/redmondwetlandscomplex

REVIEW PERIOD: The subject application was submitted on August 21, 2023, the 12th day from the date the original Decision was mailed. The 150-day clock is stayed during the period of reconsideration pursuant to Deschutes County Code 22.30.0210 (August 21, 2023, through and including September 12, 2023). Therefore, the 150th day on which the County must take final action on the original Decision is November 11, 2023.

SUMMARY OF RECOMMENDATION: The Hearings Officer finds that the Applicants have met their burden of proof on the Request for Reconsideration and the Condition will be modified.

I. APPLICABLE STANDARDS AND CRITERIA

DCC 22.30.010. Reconsideration.

- A. An applicant may request that the Hearing Officer's decision be reconsidered as set forth herein. A request for reconsideration shall be accompanied by a fee established by the County and by applicant's written consent that the 150-day time clock will not run during the period of the reconsideration.
- B. Grounds for reconsideration are limited to the following instances where an alleged error substantially affects the rights of the applicant:
 - 1. Correction of an error in a condition established by the Hearing Officer where the condition is not supported by the record or is not supported by law;
 - 2. Correction of errors that are technical or clerical in nature.

II. CONDITION OBJECTED TO:

“Q. *Prior to the issuance of any permits*, the Applicant shall provide Staff with a well monitoring plan for its wells on the property for the Wetlands Complex Site. The plan shall provide for voluntary free well testing for property owners annually within a one-mile radius of the site.”

III. ARGUMENTS

City of Redmond:

“The City of Redmond is requesting that this condition of approval be removed from the decision. As a practical matter it is oppressive, there are some 500 domestic and agricultural wells in this vicinity depending upon where the one mile is measured from. As a legal matter it is respectfully submitted that the condition imposed is not required by any relevant approval standard and there is no evidence in the record that there are or will be groundwater issues for anyone. The findings discuss the condition as a way to avoid adverse impacts to farm uses from the proposed RWC. However, there is no evidence that there will be any adverse impacts to groundwater reasonably expected from the proposal. As is explained in detail in this request, DEQ has an extensive groundwater monitoring program that the proposal will be required to comply with. There is no way for anyone who requests sampling under the condition to know if any detected problems have anything to do with the proposal. There is no baseline from which to measure impacts and no way to know what other uses may be affecting any such results.” Page 2 Burden of Proof Statement

“Please note, the City of Redmond understands the need to protect groundwater quality. The groundwater testing protocols required by DEQ as part of the Water Pollution Control Facility permitting process are strict, based on science and assure that water from the city’s disposal wetlands meet the standards to protect public health. The city’s wastewater treatment practices, which are highly regulated by DEQ, discharge water that meets very high public health standards. Such water does not adversely impact farm practices.” Page 3 Burden of Proof Statement

Opponent Argument: Carrie Caramella and Don Caramella provided comments but did not address the condition at issue. Mr. Liday’s letter dated September 1, 2023, provided the argument below. He also argues that this is a common condition for water treatment plants and if it is changed it should be modified but not removed.

“The City argues in its application that there is no need for this condition because the Project will not have an adverse impact on groundwater. This, of course, assumes that the Project is designed correctly, built as designed, and operates in optimal fashion. This is often not the case, as exemplified by the leak/unauthorized discharge at the City of Albany’s wastewater wetlands facility in 2019.2.[fn omitted] Moreover, the fact that this leak was not discovered for six years illustrates the limitations of DEQ’s monitoring capabilities.”

IV. HEARINGS OFFICER FINDINGS

I find that the condition should be removed, although I agree with Mr. Liday that this is a common land use condition that is imposed on water treatment plants. As originally proposed, I conditioned

the Applicant to come up with a plan to provide well testing. I improperly assumed that the Applicant could create a plan that would provide reasonable limits on well tests, such as twenty tests per year and rotate notices to well owners within the area covered. Such a reasonable plan would not be too burdensome. Perhaps I should have been more specific in my condition. I disagree with Applicant that there is no legal authority to impose this requirement as I can impose restrictions to limit impact to agriculture. I also disagree that there are only three wells in this area that can affect agriculture. I am certain there are domestic wells that farmers use and if those are tainted, then that certainly would affect agriculture. I am also aware of the special groundwater rules that the Oregon Water Resources Department has for central Oregon due to its uniquely porous lava geography, as I participated in that rule making.

Regardless, I am convinced by the Applicants' arguments of the extensive well testing that it currently does, the technical groundwater analysis in its request for reconsideration, and the fact that there have been many years of operation without groundwater issues, that this condition is not supported by the record; therefore, condition Q is not necessary and is removed on reconsideration. The Decision findings, conclusions and conditions shall remain in full force and effect except as modified by this Reconsideration Decision.

Dated this 13^h Day of September, 2023

Alan A. Rappleyea

Alan A. Rappleyea

owner	agent	inCareof	address	cityStZip	type	cdd id	EMAIL
City of Redmond	Ryan Kirchner		243 E Antler Avenue	Redmond, OR 97756	FD	23-634-RC	ryan.kirchner@redmondoregon.gov
Wendie L. Kellington			PO Box 2209	Lake Oswego, OR 97035	FD	23-634-RC	wk@kippc.com
Chris Schmoyer			60939 Zircon Drive	Bend, OR 97702	FD	23-634-RC	schmoyerluc@gmail.com
Bureau of Land Management	James Eisner II		3050 NE 3rd Street	Prineville, OR 97754	FD	23-634-RC	
City of Redmond	Jon Skidmore		243 E Antler Avenue	Redmond, OR 97756	FD	23-634-RC	jon.skidmore@redmondoregon.gov
BLM, PRINEVILLE DIST. - DESCHUTES FIELD MGR.	Clark, Lisa M <lmclark@blm.gov>		ELECTRONIC		FD	23-634-RC	
CENTRAL OREGON IRRIGATION DIST.	KELLY O'ROURKE - LANDUSE@COID.ORG CRAIG HORRELL - CHORRELL@COID.ORG		ELECTRONIC		FD	23-634-RC	
DESCHUTES CO. ASSESSOR			ELECTRONIC		FD	23-634-RC	
DESCHUTES CO. BUILDING SAFETY			ELECTRONIC		FD	23-634-RC	
DESCHUTES CO. SR. TRANS. PLANNER	PETER RUSSELL / TARIK RAWLINGS		ELECTRONIC		FD	23-634-RC	
REDMOND FIRE & RESCUE	Tom Mooney (Tom.Mooney@redmondfireandrescue.org) Wade Gibson (Wade.Gibson@redmondfireandrescue.org)		ELECTRONIC		FD	23-634-RC	
REDMOND PUBLIC WORKS			875 SE SISTERS	Redmond, OR 97756	FD	23-634-RC	
Miller Nash LLP		Steven G. Liday	111 SW Fifth Avenue, Suite 3400	Portland, OR 97204	FD	23-634-RC	steven.liday@millernash.com
Braedi Kolberg			PO Box 191	Terrebonne, OR 97760	FD	23-634-RC	braediane@hotmail.com
Carrie Caramella			2571 NW Euston Lane	Redmond, OR 97756	FD	23-634-RC	caramella.carrie@gmail.com
Ronald Caramella			2571 NW Euston Lane	Redmond, OR 97756	FD	23-634-RC	caramella.ron@gmail.com
Doug Kolberg			PO Box 448	Vancouver, WA 98666	FD	23-634-RC	doukolberg@yahoo.com
Miller Nash LLP		Laura J. Mossberger	111 SW Fifth Avenue, Suite 3400	Portland, OR 97204	FD	23-634-RC	laura.mossberger@millernash.com



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Consideration of Document No. 2023-880 rendering a final County decision to approve a Conditional Use Permit to establish a manufactured home as a secondary accessory farm dwelling at 19825 Connarn Road

RECOMMENDED MOTION:

Move approval of Board Signature of Document No. 2023-880 rendering a final County decision on File Nos. 247-23-000162-CU, 516-A approving a Conditional Use Permit to establish a manufactured home as a secondary accessory farm dwelling at 19825 Connarn Road, Bend.

BACKGROUND AND POLICY IMPLICATIONS:

On June 14, 2023, the Hearings Officer issued a decision which denied the subject application. The Applicant filed a timely appeal of the Hearings Officer's Decision (reference appeal No. 247-23-000516-A). A public hearing was held on August 9, 2023. The Board closed the written and oral record and proceeded to deliberations on August 9, 2023. The Board voted 3-0 to reverse the Hearings Officer's decision and approve the subject applications. As detailed in the Board's decision, the Board finds that a Class A manufactured home can be utilized as a secondary accessory farm dwelling pursuant to DCC 18.116.070.

Based upon the Board's direction, Staff has prepared the decision for approval and signatures. Staff notes that the decision was reviewed by Deschutes County Legal Counsel.

BUDGET IMPACTS:

None

ATTENDANCE:

Haleigh King, Associate Planner

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

DECISION OF THE DESCHUTES COUNTY BOARD OF COUNTY COMMISSIONERS

FILE NUMBER(S): 247-23-000162-CU, 247-23-000516-A

**SUBJECT PROPERTY/
OWNER/APPLICANT:** Mailing Name: TUMALO LAVENDER PROPERTY LLC
Map and Taxlot: 1612190000501
Account: 132493
Situs Address: 19825 CONNARN RD, BEND, OR 97703

**ATTORNEY FOR
APPLICANT:** Adam Smith, Schwabe Williamson & Wyatt

REQUEST: Review of a Conditional Use Permit to establish a secondary accessory farm dwelling in an existing manufactured home in the Multiple Use Agricultural (MUA10) Zone and Airport Safety (AS) Combining Zone.

STAFF CONTACT: Haleigh King, Associate Planner
Phone: 541-383-6710
Email: Haleigh.King@deschutes.org

RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/247-23-000162-CU>

Record items can also be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Deschutes County Code (DCC)
Title 18, Deschutes County Zoning Ordinance
Chapter 18.32, Multiple Use Agricultural Zone (MUA10)

Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)
 Chapter 18.80, Airport Safety Combining Zone (AS)
 Chapter 18.116, Supplementary Provisions
 Chapter 18.128, Conditional Use
 Title 22, Deschutes County Development Procedures Ordinance

I. SUMMARY OF DECISION

In this decision, the County Board of Commissioners (“Board”) considers the June 14, 2023, Hearings Officer’s Decision in land use file no. 247-23-000162-CU (“Hearings Officer’s Decision”). The Board exercised its discretion under Deschutes County Code (“DCC”) 22.28.050 to initiate review of the Hearings Body’s decision. The Board received one Agenda Request & Staff Memo (“Staff Memo”) on the review of the Hearings Officer’s Decision from Associate Planner Haleigh King. The Staff Memo summarized the singular issue on appeal which was the interpretation of Deschutes County Code Section 18.116.070, the rationale relied upon by the Hearings Officer in their decision, and staff’s comments. The Board’s Decision will refer to and incorporate the Hearings Officer’s Decision, unless otherwise noted.

On August 9, 2023, following a public hearing and deliberation, the Board voted 3-0 finding the applicant’s proposal meets the criteria for a secondary accessory farm dwelling in the MUA10 Zone, and moved to reverse the Hearings Officer’s Decision denying the Conditional Use Permit application on the subject property.

II. BASIC FINDINGS OF FACT:

Except to the extent inconsistent with this decision, the Board adopts and incorporates by reference the code interpretations, findings of fact, and conclusions of law in the Hearings Officer’s Decision as set forth in Section I, Applicable Criteria; Section II, Background Findings; and Section III, Findings & Conclusions. However, the Board declines to adopt from the Hearing Officer’s Decision those findings and interpretation set forth in Section III(C)(1) – Staff Issue: Class A Manufactured Homes (pages 10-13); Section III(D) addressing DCC 18.32.030(G) (pages 20-23); Section III(D) addressing DCC 18.116.070(A)(1) (pages 32-33), and Section III(D) addressing DCC 18.116.070(B) (pages 33-34). The Board’s findings below are intended to replace the Hearings Officer’s aforementioned findings. The Hearings Officer’s Decision is attached as Exhibit A to the Board’s Decision.

A. Procedural History: On July 12, 2023, the Board voted 3-0 to initiate review of the Hearing Officer’s Decision pursuant to DCC 22.23.050. On the same day, the Board signed Order No. 2023-029 to initiate review of the Hearings Officer’s Decision. On July 26, 2023, a Notice of Public Hearing was mailed to all parties. On August 9, 2023, the Board conducted a public hearing with testimony provided by the property owner’s representative Adam Smith. The Board subsequently closed the oral and

written record and proceeded to deliberate. On August 9, 2023, the Board deliberated and voted 3-0 to reverse the Hearings Officer's Decision, as detailed below, and approve the Conditional Use Permit application.

- B. Review Period:** The application for 247-23-000162-CU was considered complete and the 150-day clock started on April 6, 2023. At the time the Hearings Officer's Decision was issued, the 150th day was September 17, 2023. However, the applicant initiated a toll from July 14, 2023 to August 9, 2023 which extended the clock by 27 days. The applicant initiated another toll on August 9, 2023 until September 15, 2023, which extended the clock by an additional 37 days.

The 150th day on which the County must take final action on this application is November 20, 2023.

III. FINDINGS

A. Class A Manufactured Homes

The Hearings Officer's Decision included findings addressing an issue raised by staff questioning if "a Class A manufactured home [can] be utilized as a secondary accessory farm dwelling pursuant to DCC 18.116.070." For the reasons explained below, the Board disagrees with the Hearings Officer's analysis and code interpretations and finds that a Class A manufactured home can be utilized as a secondary accessory farm dwelling pursuant to DCC 18.116.070.

Applicant's proposal is for a Conditional Use Permit to allow an existing "Class A manufactured home" to be allowed as a secondary accessory farm dwelling on the Subject Property pursuant to DCC 18.32.030(G). Secondary accessory farm dwellings are only allowed pursuant to DCC 18.32.030(G) "subject to the requirements set forth in DCC 18.116.070." DCC 18.116.070, in turn, sets forth "placement standards" dictating which classes of manufactured homes are permitted in different zones and under different circumstances. The different manufactured home classes – i.e. Class A, B, C, and D – are defined by the preceding provisions, DCC 18.116.050. Accordingly, the Board begins its analysis by interpreting DCC 18.116.050.

DCC 18.116.050 establishes four "classes" of manufactured home. The Board notes that each class generally builds upon the requirements from the lower class. Stated differently, a Class C manufactured home must meet all of the criteria applicable to a Class D manufactured home, but then also meet several additional criteria distinguishing such a manufactured home as Class C. Similarly, a Class B manufactured home must meet all the criteria applicable to Class C and Class D manufactured homes. A Class A manufactured home must meet all the criteria applicable to Class B, C, and D manufactured homes.

Following from the aforementioned observation, the Board interprets DCC 18.116.050 to mean that "Class D manufactured home" is an inclusive term including "Class C manufactured home," "Class B manufactured home," and "Class A manufactured home." The same is true for a "Class C manufactured home" being an inclusive term including "Class B" and "Class A manufactured home," and "Class B manufactured home" being an inclusive term including "Class A manufactured home." Simply stated, a Class A manufactured home, for example, meets the requirements and is also appropriately classified as a Class B, C, or D manufactured home. Accordingly, any DCC criteria allowing a Class D manufactured home, for example, also then allows a Class C, B, or A manufactured home as well. Of course, the opposite is not true. Any DCC criteria allowing a Class A manufactured home specifically excludes Class B, C, or D manufactured homes.

As relevant in this case, DCC 18.116.070 states the following:

"A. As defined in DCC 18.116.050, Class A and B manufactured homes shall be permitted as follows, subject to the requirements of the underlying zone:

- 1. In the following zones, except where there is a Conventional Housing Overlay Zone (CH): Any EFU zone, MUA-10, F-1, F-2, RR-10, any area zoned as an unincorporated community (as that term is defined herein), RSR-M, RSR-5, and FP as the primary dwelling, and R-I and SM as a caretaker's residence.

* * *

B. Class C manufactured homes shall be permitted as follows:

* * *

- 2. As a secondary accessory farm dwelling."

The Hearings Officer's Decision interpreted DCC 18.116.050(A)(1) set forth above without reference to or accounting for either DCC 18.116.070(B)(2), also set forth above, or DCC 18.116.050 discussed above. Of particular relevance to this subject application, the Hearings Officer specifically held that the phrase "as the primary dwelling" modifies and applies to all of the preceding enumerated zones. As further explained by the Hearings Officer, DCC 18.116.070(A)(1) establishes "two lists of zones" where Class A and Class B manufactured homes can be placed, with the first "list" allowing Class A and B manufactured homes only as a "primary dwelling" in the County's EFU, MUA-10, F-1, F-2, RR-10, RSR-M, RSR-5, and FP zone, and any other area zoned as an unincorporated community. The second "list," according to the Hearings Officer, only allows Class A and B manufactured homes as a "caretaker's residence" in the R-I and SM zones.

The Board specifically disagrees with the Hearings Officer's interpretation of DCC 18.116.070(A)(1) because that interpretation then introduces a direct conflict with DCC 18.116.070(B)(2). On its face, DCC 18.116.070(B)(2) allows a Class C manufactured home - which by definition include Class A and B manufactured homes - to be used as a secondary accessory farm dwelling, which is a use allowed in the County's MUA-10 zone. The Hearing Officer's interpretation of DCC 18.116.070(B)(1) only allows Class A and B manufactured homes in the MUA-10 zone if used as "the primary dwelling."

The Board agrees with the Hearings Officer that ORS 174.010 is directly relevant to this case. That statute states the following (emphasis added):

"In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all."

To "give effect to all" applicable DCC provisions - i.e. DCC 18.116.050, DCC 18.116.070(A)(1), and DCC 18.116.070(B)(2) - the Board interprets the "as the primary dwelling phrase" in DCC 18.116.070(A)(1) to only apply to the immediately preceding enumerated FP zone and not to the entire lists of zones preceding that phrase. Following the Hearings Officer's explanation, DCC 18.116.070(A)(1) then sets forth "three" rather than "two lists." The first list then includes those zones where Class A and B manufactured homes may be used regardless of the type of housing: EFU, MUA-10, F-1, F-2, RR-10, RSR-M, RSR-5, and any other area zoned as an unincorporated community. The second list then includes those zones where Class A and B manufactured homes may be used only as a primary dwelling: FP. And the third list then includes those zones where Class A and B manufactured homes may be used only as a caretaker's residence: R-I and SM zones. The Board finds that this interpretation of DCC 18.116.070(A)(1) is plausible because it specifically accounts for DCC 18.116.070(B)(2) which directly allows Class C manufactured homes - which include Class A and B manufactured homes - as secondary accessory farm dwellings in the County's MUA-10 zone, for example.

Returning to the issue, the Board reiterates that a Class A, B, and C manufactured home can all be utilized as secondary accessory farm dwellings pursuant to DCC 18.116.070.

B. DCC 18.32.030(G)

DCC 18.32.030(G) allows a "manufactured home as a secondary accessory farm dwelling" in the County's MUA-10 zone "subject to the requirements set forth in DCC 18.116.070." As noted above, DCC 18.116.070(B)(2) directly allows a Class C

manufactured home to be use as a “secondary accessory farm dwelling.” Consistent with DCC 18.116.050 as interpreted by the Board, Class C manufactured homes also include those manufactured homes meeting the criteria distinguishing Class A or B manufactured homes. Further, DCC 18.116.070(A)(1) also allows Class A and B manufactured homes to be used for any type of housing in the County’s MUA-10 zone.

In this case, Applicant proposes to establish a secondary accessory farm dwelling on the Subject Property using an existing Class A manufactured home. The Board finds that Applicant’s Class A manufactured home also qualifies as a Class C manufactured home pursuant to DCC 18.116.050, and therefore is specifically allowed to be used as a secondary accessory farm dwelling pursuant to DCC 18.116.070(B)(2). The Board also finds that the Applicant’s Class A manufactured home is specifically allowed to be used for housing in the MUA-10 zone pursuant to DCC 18.116.070(A)(1). Accordingly, DCC 18.32.030(G) is satisfied in this case.

C. DCC 18.116.070(A)(1)

Consistent with the Board’s findings regarding DCC 18.32.030(G), the Board finds that DCC 18.116.070(A)(1) is satisfied in this case because that provision allows Class A and B manufactured homes to be used for any type of housing in the MUA-10 zone. In this case, Applicant proposes to use an existing Class A manufactured home as a secondary accessory farm dwelling in the County’s MUA-10 zone.

D. DCC 18.116.070(B)

Consistent with the Board’s findings regarding DCC 18.32.030(G), the Board finds that DCC 18.116.070(B)(2) is directly relevant to this case. That provision allows Class C manufactured homes – which include those manufactured homes meeting the criteria distinguishing Class A and B manufactured homes pursuant to DCC 18.116.050 – to be used as secondary accessory farm dwellings. In this case, the Applicant’s existing Class A manufactured home meets the criteria to also be classified as a Class C manufactured home, and therefore may be used as a secondary accessory farm dwelling pursuant to DCC 18.116.070(B)(2). This criterion is satisfied.

IV. DECISION:

Based upon the foregoing Findings, the Board of County Commissioners hereby **APPROVES** the Applicant’s application for a Conditional Use Permit to establish a secondary accessory farm dwelling under land use file no. 247-23-000162-CU and is subject to the following conditions of approval, except as modified by this decision:

- A.** This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any

substantial change in this approved use will require review through a new land use application.

- B. Prior to the initiation of use**, the property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.
- C. Building Height**: No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.
- D. General Setbacks**: All buildings or structures shall meet the setback standards as outlined in DCC 18.16.070 (A - C).
- E. Building and Structural Code Setbacks**: All buildings or structures shall comply with any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.
- F. Outdoor Lighting**: No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.
- G. Glare**: No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.

Dated this ___ day of _____ 2023

BOARD OF COUNTY COMMISSIONERS
FOR DESCHUTES COUNTY

Anthony DeBone, Chair

Patti Adair, Vice Chair

Phil Chang, Commissioner

THIS DECISION BECOMES FINAL WHEN MAILED. PARTIES MAY APPEAL THIS DECISION TO THE LAND USE BOARD OF APPEALS WITHIN 21 DAYS OF THE DATE ON WHICH THIS DECISION IS FINAL.

EXHIBIT

- A.** Hearings Officer's Decision dated June 14, 2023

HEARINGS OFFICER DECISION

FILE NUMBER: 247-23-000162-CU

**SUBJECT PROPERTY/
OWNER/APPLICANT:** Mailing Name: TUMALO LAVENDER PROPERTY LLC
Map and Tax Lot: 1612190000501
Account: 132493
Situs Address: 19825 CONNARN RD, BEND, OR 97703
(hereafter referred to as the "Subject Property")

**AGENT FOR
APPLICANT:** Douglas White
Oregon Planning Solutions LLC

REQUEST: Review of a Conditional Use Permit to establish a secondary accessory farm dwelling in an existing manufactured home in the Multiple Use Agricultural (MUA10) Zone and Airport Safety (AS) Combining Zone.

HEARING DATE: Tuesday, May 16, 2023

HEARING START: 6:00 pm

STAFF CONTACT: Haleigh King, Associate Planner
Phone: 541-383-6710
Email: Haleigh.King@deschutes.org

RECORD: Record items can be viewed and downloaded from:
<https://www.deschutes.org/247-23-000162-CU>

Record items can also be viewed and downloaded from:
www.buildingpermits.oregon.gov

I. APPLICABLE CRITERIA

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance

Chapter 18.32, Multiple Use Agricultural Zone (MUA10)

Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)

Chapter 18.80, Airport Safety Combining Zone (AS)

Chapter 18.116, Supplementary Provisions

Chapter 18.128, Conditional Use
 Title 22, Deschutes County Development Procedures Ordinance

II. BACKGROUND FINDINGS

A. LOT OF RECORD: The Subject Property has been verified as a legal lot of record pursuant to file no. LR-02-25.

B. SITE DESCRIPTION: The Subject Property is 9.70-acres in size and is currently in farm use consisting primarily of lavender plant production and pasture grasses. In the southern portion of the Subject Property a “stick-built” single-family dwelling is located within a larger agricultural structure¹ (the “Barn”). The Barn has an attached greenhouse on its south side and there are additional large detached greenhouses in the area². In the southeast region development includes an irrigation pond, detached garage, and a manufactured home previously used as a medical hardship home (see below for land use history). The Subject Property is developed with other small accessory structures, including a 504 square foot building used for displaying lavender products available for purchase (permit AG-13-12). Connarn Road, which provides access to the Subject Property, is adjacent to the north property boundary. The Subject Property is served by an on-site septic disposal system, with domestic water provided by a private well. The Subject Property has at least 8.7 acres of irrigation water rights and includes an irrigation pond. According to the Flood Insurance Rate Map (FIRM) and National Wetlands Inventory for Deschutes County, the Subject Property is not located in the 100-year flood plain nor does it contain wetlands. The grade of the Subject Property is relatively even across the property.

C. REVIEW PERIOD: The application in this case was submitted on March 7, 2023 and deemed complete by the Planning Division on April 6, 2023. The Hearings Officer notes that a request to keep the record open was made at the public hearing and the Hearings Officer kept the record open pursuant to the following schedule:

Initial Open-Record Period: Submission of New Evidence by 4:00 pm May 23, 2023; and

Responsive Open-Record Period (evidence in response to that submitted during the Initial Open-Record Period): Submission of Responsive Evidence by 4:00 pm May 30, 2023; and

Rebuttal Open-Record Period (Applicant’s final argument): Submission of Applicant’s Final Argument by 4:00 pm on June 6, 2023.

Staff provided the following comments, during its Initial Open-Record Period submission (Memorandum, May 23, 2023, page 2), related to the date when the final County decision in this

¹ County building permit B59977 (2005) allowed for the central portion of an existing barn (originally reviewed under permit AG-04-3) to be converted into the primary residence (approximately 1,080 square feet).

² The attached and detached greenhouses were established around 2006. Staff (Staff Report, page 2) indicated that the greenhouse structures did not appear to meet the required 25-foot rear setback for the MUA10 Zone. The Hearings Officer notes that this decision does not review or approve these potentially nonconforming setbacks.

case is due:

“As discussed at the conclusion of the May 16, 2023 hearing, the Hearings Officer left the written record open for a total of 21 days to include three periods of seven days. DCC 22.24.140.E states the following,

E. A continuance or record extension granted under DCC 22.24.140 shall be subject to the 150- day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an applicant, the time period during which the 150-day clock is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.

While staff notes the open record period was not initially requested by the applicant, the applicant, Holly Olsen, did not object to the specific schedule as set forth above. This occurred at approximately 1 hours and 27 minutes during the hearing on May 16, 2023. Staff notes the applicant was asked if they wanted to be the initiator of the open record period, to which Ms. Olsen responded, “No”, around 1 hours 28 minutes. Despite the applicant not requesting the open record period, they did agree to it as discussed above.

Therefore, Staff believes the 150-day clock is suspended for the first 14 days of the open record period pursuant to the language above “...or otherwise agreed to by the applicant.” Staff wanted to clarify this for the Hearing Officer’s consideration.”

The Hearings Officer concurs with the above-quoted Staff analysis and conclusion. The Hearings Officer adopts the above-quoted Staff comments as the Hearings Officer’s findings related to the open-record period and impact on the date the final County decision is due.

The Hearings Officer notes that an open-record submission was received from Applicant on June 1, 2023 which stated:

“We will close out the record so that Gregory Frank can start his review and expedite the process. Does that shorten his 21-day review period? In other words, if we close the record today, does the 21-day review period begin today or does it still begin on June 6 (ending June 27)?”

The Hearings Officer finds that Applicant, on June 1, 2023 waived the balance of its final argument period and requested the record be closed. The Hearings Officer finds that the record shall be deemed closed on June 1, 2023.

The 150th day on which the County must take final action on this application is September 17, 2023.

D. PROPOSAL: The Applicant requests a Conditional Use Permit to establish an existing manufactured home as a secondary accessory farm dwelling pursuant to DCC 18.32.030.G and DCC 18.128.³

The Applicant provided the following statement in their Proposal section (Burden of Proof, page 5):

“The applicant is requesting a Conditional Use to establish an existing manufactured home (previously a medical hardship dwelling) as a secondary accessory farm dwelling pursuant to the requirements of the MUA-10 Zone. As stated above, the property is currently engaged in the growing of lavender and production of lavender products. The subject manufactured home was originally put in place and permitted as a temporary use for a medical hardship by the previous owners (see Attachment B showing the 2010 Land Use permit). The subject site was purchased in 2022 by present owners Tumalo Lavender Property LLC which is comprised of an equal 1/3 owner-operator split by the following parties: Holly Olson, Summer Hagedorn, and Marilyn Thompson (see Attachment C showing Property Deed and Attachment D showing operating agreement for Tumalo Lavender Property LLC). One of the owners and primary operators of the farm is currently residing in the subject manufactured home while the primary single-family dwelling is to be rented to farm help.” [underlining included in original document]

Based upon the application materials the Hearings Officer interprets Applicant’s proposal for a secondary accessory farm dwelling to be inextricably linked to the existing manufactured home. The Hearings Officer is constrained by Applicant’s request to locate the existing manufactured home as the secondary accessory farm dwelling. The Hearings Officer is not allowed to consider unspecified alternatives such as locating an alternative Class manufactured home on the Subject Property.

E. SURROUNDING LAND USES: The area surrounding the Subject Property consists of a mix of farm and rural residential properties. To the north, south, and east are properties primarily developed with residences and carry the same zoning as the Subject Property. To the west are properties, developed and undeveloped, which are also zoned for farm use. A majority of the properties in the area exhibit some level of farm or agricultural use. The Deschutes River is approximately 0.5 miles to the east of the Subject Property. Zoning in the area is a mixture of Exclusive Farm Use (EFU), Multiple Use Agricultural (MUA10), Surface Mining (SM), and Flood Plain (FP).

F. LAND USE HISTORY: The Applicant submitted the current land use permit application in response to code enforcement case, file no. 247-22-000400-CE. In summary, the Applicant did not decommission or remove the temporary manufactured home when the medical hardship previously approved in 2010 and again in 2015 ceased to exist and the Subject Property was sold. The Applicant did not apply for a new medical hardship dwelling. The Applicant is requesting an after-the-fact approval for the existing manufactured home to be used as a secondary accessory

³ See Deschutes County Application question #1: “Request Conditional Use for Manufactured Home as Secondary Farm Dwelling.”

farm dwelling. Although the secondary accessory farm dwelling use may have been operational on the Subject Property for some time, Staff and the Hearings Officer reviewed it as a new application.

Below is a summary listing of recent land use actions affecting the Subject Property:

- 247-18-000526-CU, 527-SP: Conditional Use and Site Plan Review to establish a commercial activity in conjunction with the existing lavender farm use; and
- 247-15-000238-TU: Temporary Use Medical Hardship Dwelling⁴; and
- TU-10-8: Temporary Use Medical Hardship Dwelling; and
- SMA-04-4: Surface Mining Impact Area (SMIA) review for single-family dwelling; and
- LR-02-25: Legal lot of record verification.

G. PUBLIC AGENCY COMMENTS: The Deschutes County Planning Division mailed notice on March 21, 2023, to several public agencies and received the following comments:

Deschutes County Onsite Wastewater, Todd Cleveland

“This proposal will require septic system review and permits. Upgrades to the existing system or a new system may be necessary.”

STAFF REPORT COMMENT (Staff Report, pages 4 and 5): *“Staff recommends the following condition of approval be included in any decision which approves the application:*

Prior to the initiation of use, the property owner shall obtain any necessary permits from the Deschutes County Building Division and Onsite Wastewater Division.”

Deschutes County Senior Transportation Planner, Peter Russell

“I have reviewed the transmittal materials for 247-23-000162-CU to change a manufactured home previously approved as a temporary medical hardship dwelling into an accessory farm dwelling on a 9.7-acre parcel in the Multiple Use Agricultural (MUA-10) and Airport Safety (AS) zones at 19825 Connarn Road, aka 16-12-19, Tax Lot 501. The result would be two permanent dwellings on the property, which contains Tumalo Lavender Farm.

The most recent edition of the Institute of Traffic Engineers (ITE) Trip Generation Handbook indicates a single-family home (Land Use #210) produces approximately nine weekday trips. Thus the site’s two dwellings would produce approximately 20 weekday trips (9.43 + 9.43). Under DCC 18.116.310(C), no further traffic analysis is required for a

⁴ The dwelling approved through file 247-15-000238-TU utilizes the same dwelling approved through file TU-10-8. The requirement for a new land use - 247-15-000238-TU – was based on the change of circumstances (change in family member using the dwelling).

use of less than 50 new weekday trips. Staff notes the burden of proof states the farm would have workers ranging in four to 10 in number. Even with 10 employees, which would equal 20 new daily weekday trips, the combination of the roughly 30 weekday trips from the two dwellings (20 from the farm worker dwelling, 9.43 from the main home) would not exceed the 50-trip threshold.

The property accesses Connarn Road, a public road maintained by Deschutes County and functionally classified as local. The property has two driveway permits approved by Deschutes County (#247-19-001534-DA and #247-SW4543) and thus complies with the access permit requirements of DCC 17.48.210(A).

The property is approximately nine miles west-southwest of the Redmond Airport. Between the distance to the airport and the height limit in the zone, the use will not penetrate any imaginary surfaces related to Roberts Field.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$5,080 per p.m. peak hour trip. From an SDC perspective, staff finds the proposed used would in effect establish the trip generation equivalent of a new second dwelling on the property. Staff notes the burden of proof on Page 5 describes the intensity of the use as "...year-round farm help, seven days a week, with part-time and full-time staff varying in between four and up to 10 employees throughout the year." On Page 6, the burden of proof it states "...it is necessary to have farm help reside in both dwellings." County staff has determined a local trip rate of 0.81 p.m. peak hour trips per single-family dwelling unit; therefore the applicable SDC is \$4,115 (\$5,080 X 0.81). The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

THE PROVIDED SDC AMOUNT IS ONLY VALID UNTIL JUNE 30, 2023. DESCHUTES COUNTY'S SDC RATE IS INDEXED AND RESETS EVERY JULY 1. WHEN PAYING AN SDC, THE ACTUAL AMOUNT DUE IS DETERMINED BY USING THE CURRENT SDC RATE AT THE DATE THE BUILDING PERMIT IS SUBMITTED.

ON JULY 1, 2023, THE SDC BECOMES \$5,406 PER PEAK HOUR TRIP AND THIS RATE WILL BE VALID UNTIL JUNE 30, 2024. THIS WILL INCREASE THE SDC FROM \$4,115 TO \$4,379 (\$5,406 X 0.81)."

Deschutes County Building Safety Division, Randy Scheid

"NOTICE: The Deschutes County Building Safety Divisions code mandates that Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. must be specifically addressed during the appropriate plan review process with regard to any proposed structures and occupancies.

Accordingly, all Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.”

The following agencies did not respond to the notice: Bend Fire Department, Deschutes County Assessor, Deschutes Code Enforcement, Deschutes Road Department, Oregon Department of Aviation, Tumalo Irrigation District.

H. PUBLIC COMMENTS: The Deschutes County Planning Division mailed notice of the public hearing to all property owners within 250 feet of the subject property on March 21, 2023. The Applicant also complied with the posted notice requirements of Section 22.24.030(B) of Title 22. The Applicant submitted a Land Use Action Sign Affidavit indicating the Applicant posted notice of the public hearing on March 22, 2023. Notice of the public hearing was published in *The Bulletin* newspaper on March 22, 2023.

Staff, prior to the publication of the Staff Report, received two public comments from nearby property owners.

The first comment received by Staff was received from David Arnold, resident and owner of property located at 19830 Connarn Road, Bend, OR 97703 on March 16, 2023:

“I see that a conditional use application has been submitted by Tumalo Lavender to add a secondary farm dwelling (the medical hardship manufactured trailer) to their property. Please include me with all correspondence at this email address and at my physical address, David Arnold, 19830 Connarn Rd, Bend, OR 97703. I will be asking that this application be denied.”

Mr. Arnold sent a follow-up comment on March 16, 2023,

“I have read the Conditional Use applications from Tumalo Lavender Properties LLC and feel that the application is incomplete. Specifically the plot map provided is incomplete. The applicants have failed to meet the applicants responsibilities for required documentation as required when a conditional use application is submitted to the county. Here is a list of information I feel that needs to be provided for me to respond.

- Driveways (existing and proposed).*
- Location of all existing and proposed structures on the property.*
- Distance from all existing and proposed structures to property lines (setbacks).*
- Location of water source.*
- Location of septic tank, drainfield and replacement area.*
- Location of major features such as rivers, streams, canals, irrigation ditches, and/or rock ledges/outcrops.*

Specifically I am most concerned about location of the water source. This property is registered with the Oregon Department of Agriculture with a Food Processing License and Nsy Stk Growers Collectors of Native Plants license (nursery). Both of these licenses require specific permits from the Oregon Water Resources Department (OWRD). For this reason I

request the application be returned to the applicants as incomplete and not be accepted until all the requirements are met.”

The second comment was received from Gail Burton and Gregg Riegel, residents and owners of property located at 19816 Connarn Road, Bend, OR 97703 on March 16, 2023. Burton/Riegel stated:

“We recently became aware the Tumalo Lavender property at 19825 Connarn Road, Bend OR 97703 has applied for a conditional use permit for a secondary farm dwelling.

We are opposed to their attempt to change the designation of the ‘medical hardship’ manufactured home (granted to the previous owners), which should have been removed, per their agreement with the county, when Judy Knight’s mother died.

Instead, she and her husband, Gordon, were able to finagle its continued existence on the property, by pretending he needed help, ostensibly for a medical condition. Instead, they rented it out, while he was overseeing the operations, driving the tractor, and working on the farm.

The current owners are living in the ‘medical hardship’ manufactured home, rather than in the primary dwelling. As this is zoned MUA-10, where one single family home is allowed, they should be required to remove the manufactured home and bring the property into compliance.

Many of us farm in Tumalo, yet we don’t request county approval for a secondary dwelling to house our ‘farm workers.’ Historically, their farm workers have been seasonal, few in numbers, and have lived elsewhere, except for the illegal travel trailer, which was finally removed, following a code violation complaint.

In the survey records, it appears the south and east property lines were never surveyed. This should be required before determining the actual setbacks, as the manufactured home, its adjacent stick built garage, the primary residence, and the large greenhouses are all very close to the south and east property lines.

In fact, Gordon Knight had a boundary dispute with the neighbor to the south, when he realized the primary residence was laid out incorrectly, and a part of it was too close to the property line.

In conclusion, we formally request a public hearing on this application, and to be informed, via email, and in paper correspondence, of any matters pertaining to the application.”

At the public hearing, in addition to Staff and Applicant (including Applicant representatives), a number of persons testified (Gail Burton, David Arnold, Nunzie Gould). The Hearings Officer reviewed and considered all hearing testimony and all documents submitted into the record when

making this decision. Testimony and documents directed to relevant approval criteria may be referenced in the findings set forth below.

III. FINDINGS & CONCLUSIONS

A. PRELIMINARY FINDING - SCOPE

A number of opponents offering testimony and record documents raised issues related to the *operation* of the lavender farm apart from the proposed secondary accessory farm dwelling. For example, testimony/documentary evidence was offered related to code violations not related to the manufactured home that is subject of the application in this case. Additionally, testimony and evidence were offered related to the commercial activities located on the Subject Property.

The Hearings Officer finds that the application in this case seeks approval of the use of an existing manufactured home proposed to be used as a secondary accessory farm dwelling. The Hearings Officer is limited to considering evidence and argument related to whether or not the application for a secondary accessory farm dwelling meets the relevant approval criteria. This case is not the proper time or forum to reconsider and/or review issues not related to the approval criteria relevant to the specific application for a secondary accessory farm dwelling on the Subject Property.

B. PRELIMINARY FINDING - INCOMPLETE APPLICATION

Two participants (Arnold and Gould) argued that the application was incomplete, should not have been accepted by Staff and therefore should be denied. Initially, the Hearings Officer finds that no participant in this case provided the Hearings Officer with a citation or legal reference to a specific section of State law, DCC or regulation that imposed “application requirements” as relevant approval criteria. The Hearings Officer finds that generally “application requirements” do not operate as relevant approval criteria and therefore, an application cannot be denied on the basis that “application requirements” have not been met.

In this case many of the “application requirement” deficiencies raised by participants related to evidentiary topics that were contained in relevant approval criteria.⁵ In those instances the Hearings Officer considered all evidence in the record when determining if a specific approval criterion was met. In numerous instances evidentiary deficiencies were noted by the Hearings Officer and addressed through the imposition of conditions of approval. The Hearings Officer only utilized conditions of approval to satisfy evidentiary deficiencies where a future administrative decision would be made using objective standards (as opposed to discretionary standards).

C. PRELIMINARY FINDINGS: STAFF ISSUES

⁵ Example of application requirement that is also related to relevant approval criterion: David Arnold May 16, 2023 email to Haleigh King - “distance from all existing and proposed structures to property lines (setbacks).”

Staff (Staff Report [page 15] & Staff PowerPoint Presentation [Issue Areas and Considerations] & hearing testimony) requested that the Hearings Officer address specific issues. The Hearings Officer provides findings below for each issue raised by Staff.

1. Staff Issue: Class A Manufactured Home

“Can a Class A manufactured home be utilized as a secondary accessory farm dwelling pursuant to DCC 18.116.070?”

Applicant requested (Application form & Burden of Proof) that the County approve a conditional use permit for a “manufactured home as a secondary accessory farm dwelling subject to the requirements set forth in DCC 18.116.070.” The reason that DCC 18.116.070 is relevant to this case is found in DCC 18.32.030 G, which states that a conditional use request may be approved for a:

Manufactured home as a secondary accessory farm dwelling, subject to the requirements set forth in DCC 18.116.070.

Applicant’s proposal is for a conditional use permit to allow an existing manufactured home to be allowed as a secondary accessory farm dwelling on the Subject Property. Applicant acknowledged that the existing manufactured home located on the Subject Property is a Class A manufactured home per DCC 18.116.050 A.

DCC 18.116.070, as relevant to this case, states the following:

- A. *As defined in DCC 18.116.050, Class A and B manufactured homes shall be permitted as follows, subject to the requirements of the underlying zones:*
 - 1. *In the following zones, except where there is a Conventional Housing Overlay Zone (CH): Any EFU zone, MUA-10, F-1, F-2, RR-10, any area zoned as an unincorporated community (as that term is defined herein), RSR-M, RSR-5, and FP as the primary dwelling, and R-1 and SM as a caretaker's residence.*

Applicant, in its May 23, 2023 open-record submission, responded to Staff’s above-stated question as follows:

“The Staff Report clearly acknowledges that the existing manufactured home (the one that is the subject of this application) is a Class A manufactured home (page 24 of the Staff Report). The above subsection (1) clearly provides that Class A and B manufactured homes are permitted in any MUA-10 and the ‘FP as the primary dwelling, and R1 and SM as a caretaker residence’.

The provisions of DCC 18.116.070 (A)(1) clearly provide that Class A and B manufactured homes are permitted in certain zones, including MUA-10 Zones, without restriction unless such zoning imposes additional requirements. The MUA-10 zoning regulations do not impose additional requirements as to use of Class A or B manufactured homes. The limit to Class A and B

manufactured homes in the (FP) Flood Plain Zone to only the ‘primary dwelling’ doesn’t apply to the MUA-10 zone, in the same way that a ‘caretaker’s residence’ is permitted in the Rural Industrial (RI) and Surface Mining (SM) zones.”

Staff, in its May 23, 2023 Memorandum, provided the following comments related to the interpretation of DCC 18.116.070 (A)(1):

“As stated in A.1, the sentence construction of the code requirement may be unclear on whether a Class A manufactured home can be utilized only as a primary dwelling in any zone besides RI and SM, as a primary dwelling only in the FP zone, or if allowed as any type of dwelling in the MUA Zone. Although unclear, Staff believes this requirement to specify that Class A manufactured homes are allowed in the FP zone only as a primary dwelling.

It is clear that DCC 18.116.070(B) allows for a Class C manufactured home to be permitted as a secondary accessory farm dwelling. However, as discussed in the staff report, the subject dwelling is classified as a Class A manufactured home. Although unclear, Staff believes this provision for Class C manufactured homes to be used as secondary accessory farm dwellings was intended to allow Class C manufactured homes to be utilized for this specific use on properties where otherwise a Class C manufactured home would not be permitted. In other words, DCC 18.116.070(A)(1) allows Class A and B in a large variety of situations and (B)(2) is an exception to the implicit preclusion of Class C manufactured homes in the .070(A)(1) scenarios.

However, the sentence construction of 18.116.070(A)(1) makes this unclear. Staff requests interpretation and specific findings from the Hearings Officer on this issue.”

The Hearings Officer agrees with Staff that it is necessary to interpret DCC 18.116.070 (A)(1) in order to make the decision in this case.

As a backdrop for the interpretive process the Hearings Officer takes notice of ORS 174.010. While this section of the Oregon Revised Statutes is not determinative in this case the Hearings Officer finds it provides a relevant conceptual perspective. ORS 174.010 states:

“In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all.”

The Hearings Officer also takes note of prior Court and Oregon Land Use Board of Appeals (“LUBA”) interpretative guidelines. A long line of Oregon cases instructs decision makers (such as a hearings officer) to focus on the “text” and the “context” of the relevant code. Portland Gen. Elec. Co v. Bureau of Labor and Indus., 317 Or 606 (1993), State v. Gaines, 346 Or 160 (2009) and Sarathy v Washington County, LUBA No. 2011-065. These cases are consistent with the Hearings Officer’s interpretation of ORS 174.010.

The Hearings Officer finds that the words, and only the words, used by the drafters (Deschutes County Commission) should be considered. The Hearings Officer does not have the authority to insert words into DCC 18.116.070 (A)(1) that were not included or to omit words that were included in DCC 18.116.070 (A)(1). The Hearings Officer also finds it to be proper to consider the actual text of DCC 18.116.070 (A)(1) in the context of other sections of DCC 18.116.070.

The Hearings Officer finds that DCC 18.116.070 is focused on where specific types/categories of manufactured homes may be located in Deschutes County. DCC 18.116.070 (A) addresses where Class A and B manufactured homes are allowed to be placed. The Hearings Officer finds that DCC 18.116.070 (A)(2), (A)(3) and (A)(4) are not relevant to these findings. The preface of DCC 18.116.070 (A) states, in part that DCC 18.116.070 (A) is “subject to the requirements of the underlying zone.” The Hearings Officer finds the “subject to” language is an important part of DCC 18.116.070 (A) and in this case the application for a secondary accessory farm dwelling is allowed as a conditional use in the MUA-10 zone.⁶

The Hearings Officer agrees with Staff that the language of DCC 18.116.070 (A)(1) is challenging to read. This is primarily because of the “except where...” language and the use of a colon (following “(CH)”). However, the Hearings Officer finds that DCC 18.116.070 (A)(1) is capable of a clear interpretation.

The Hearings Officer finds that DCC 18.116.070(A)(1) permits the placement of a Class A or Class B manufactured home in certain designated land use planning zones. DCC 18.116.070 (A)(1) sets forth two lists of zones where Class A and Class B manufactured homes can be placed as “primary dwelling” and where they (Class A and Class B manufactured homes) can be placed as a “caretaker’s residence.” The first list includes the following zones: EFU, MUA-10, F-1, F-2, RR-10, any area zoned as an unincorporated community, RSR-M, RSR-5 and FP. The second list contains the R-1 and SM zones.

The Hearings Officer disagrees with Applicant that the only zone where a “primary dwelling” can be located is the FP zone. The Hearings Officer disagrees with Applicant for two reasons. First, immediately preceding the FP designation in DCC 18.116.070 (A)(1) is the word “and.” The Hearings Officer finds that the word “and,” as used in DCC 18.116.070 (A)(1) between “RSR-5” and “FP,” is a conjunction linking the listed zones.⁷ The word “and” ties together all zones in the list. The Hearings Officer finds that the “FP” zone is included in the list of zones where a Class A or Class B manufactured home must be used as a “primary residence.”

The second reason the Hearings Officer disagrees with Applicant’s “FP is the only zone requiring a ‘primary residence’” is Applicant’s statement that “The MUA-10 zoning regulations do not

⁶ The Hearings Officer finds no participant in this case identified a relevant “underlying zone” (MUA) requirement (other than compliance with DCC 18.116.070) that would limit the location of a Class A or B manufactured home, as a conditional use, on the Subject Property.

⁷ Dictionary definition of “and”: “used to connect words of the same part of speech, clauses, or sentences, that are to be taken jointly.”

impose additional requirements as to use of Class A or B manufactured homes.” DCC 18.32.030 G does in fact “impose additional requirements” for the placement of a manufactured home in the MUA-10 zone; DCC 18.116.070 restrictions and limitations on the various classes of manufactured homes within identified zoning districts. Further, the Hearings Officer finds that had the Commission intended there be no requirements to use Class A or B manufactured homes it could have clearly said that. To the contrary the Commission included a finite list of zones where a Class A or Class B manufactured home must be used as the “primary dwelling.”

The Hearings Officer also considered the context of DCC 18.116.070 (A). The Hearings Officer finds it is reasonable to consider language of other sections of DCC 18.116.070 when interpreting DCC 18.116.070 (A)(1). The Hearings Officer takes note that DCC 18.116.070 (B) is directed to where Class C manufactured homes may be placed. Specifically, DCC 18.116.070 (B)(2) allows a Class C manufactured home to be permitted “as a secondary accessory farm dwelling.” The Hearings Officer finds that the Commission, when drafting DCC 18.116.070 was aware of the difference between “primary dwellings” and “secondary accessory farm dwellings.” The Hearings Officer finds that the Commission’s inclusion of the phrase “secondary accessory farm dwellings” in DCC 18.116.070 (B) but not in DCC 18.116.070 (A) clearly expressed the Commission’s intent. The Hearings Officer finds that the Commission’s omission of the phrase “secondary accessory farm dwellings” from DCC 18.116.070 (A) was intentional. Consistent with ORS 174.010 the Hearings Officer finds that he may not “insert” terms or phrases that are not included in the actual text of a questioned code section. The Hearings Officer cannot insert the “secondary accessory farm dwellings” text into DCC 18.116.070 (A)(1).

The Hearings Officer does not find Applicant’s interpretation of DCC 18.116.070 (A)(1) is without merit. However, the Hearings Officer finds interpreting DCC 18.116.070 (A)(1) to require that Class A and Class B manufactured homes, within the MU-10 zone, must be used for “primary dwelling” purposes best reflects the actual words used (text) in DCC 18.116.070 (A)(1) and is consistent with the overall context of DCC 18.116.070.

2. Staff Issue: Need

“Does an applicant need to demonstrate a need for the ‘secondary accessory farm dwelling?’ and if so, has the applicant demonstrated a need for the ‘secondary accessory farm dwelling?’”

It appears to the Hearings Officer this query arose from Staff’s review of prior County land use decisions. Staff cited two prior County decisions (CU-90-163 and CU-95-122) dealing with applications for a secondary accessory farm dwelling proposed to be located within the MUA-10 zone. County staff, in the CU-90-163 decision (Conclusionary Findings, page 3), stated

*“the applicant has an established farm operation with livestock and has shown a **need** for an accessory dwelling in conjunction with the farm use...”* [bolding added for emphasis by the Hearings Officer]

The Hearings Officer issuing the CU-95-122 decision stated:

*“In order to satisfy this criterion, the applicant must show that farm use of the property is the main use of the property and there is connection between the farm use and the proposed accessory use or structure. Or, in the words of the applicants’ counsel, the issue is ‘whether or not the dwelling will be **necessary** for the farm use.’” [bolding added for emphasis by the Hearings Officer]*

Staff, in this case and in the CU-90-163 Staff decision, and the prior Hearings Officer’s decision (CU 95-122), sourced its “need,” “necessary,” or “connection” concerns from the definition of “accessory use or accessory structure.” (See DCC 18.04.030) The DCC defines “accessory use or accessory structure” as:

“a use or structure incidental and subordinate to the main use of the property, and located on the same lot as the main use. Accessory uses include drilling for, and utilization of, low-temperature geothermal fluid in conjunction with the main use of the property.”

The Hearings Officer finds the above-quoted “Accessory use or accessory structure” definition does not contain the either the word “need” or the word “necessary.” The definition does contain the words “incidental” and “subordinate.” Staff, in its CU 95-122 decision, did reference dictionary definitions for “incidental” and “subordinate.” Staff, in CU 95-122 stated:

“Incidental means ‘being likely to ensure as a chance or minor consequence. Webster’s New Collegiate Dictionary. Subordinate means ‘inferior, submissive to or controlled by authority.’ Id. The use of these terms in the definition of accessory use or structure suggests that there be a connection of the proposed use or structure to the main use of the property.”

The Hearings Officer, in addition to considering the DCC definition of the phrase “accessory use or accessory structure” considered the dictionary definition of “accessory” as an interpretative aide. Webster’s Online Dictionary ([Accessory Definition & Meaning - Merriam-Webster](#)) defines “accessory” as:

*aiding or contributing in a secondary way: supplementary
accessory materials*

*present in a minor amount and not essential as a constituent
an accessory mineral in a rock*

The Hearings Officer finds that the literal meaning of “accessory,” as used in the context of DCC 18.32.030 G., requires that an applicant successfully demonstrate the a proposed “secondary accessory farm dwelling” has a connection to a demonstrated primary farm use. The Hearings Officer finds that the extent or degree of connection could plausibly include a demonstration of “need” or “necessity.” However, the Hearings Officer finds that the use of the phrase “incidental” suggests a lesser standard of proof than “need.” The Hearings Officer finds that use of the term

“incidental” is better paired with the terms “contributing” or “supportive.” The Hearings Officer finds that an applicant is not required to demonstrate “need” in an application for a secondary accessory farm dwelling.

3. Staff Issue: Relationship – Primary use/residence to Secondary Accessory Farm Dwelling

“How does a ‘secondary accessory farm dwelling’ relate to a property’s primary use or primary residence?”

The Hearings Officer incorporates the interpretation of “accessory” set forth in the Need findings above (Section III.C.2). The Hearings Officer finds that DCC does not define the term “secondary” or the phrase “farm dwelling.” The Hearings Officer finds that “primary use” is defined by DCC 18.04.030.

Secondary is defined by Webster’s Online Dictionary ([Secondary Definition & Meaning | Dictionary.com](#)) as:

“next after the first in order, place, time, etc.

belonging or pertaining to a second order, division, stage, period, rank, grade, etc.

dependent on or generated by something more basic; derivative.”

The Hearings Officer finds that the phrase “farm dwelling,” while not defined by the DCC, is a structure that is intended to be occupied for living purposes and is connected/associated with a farm use. The Hearings Officer, considering the above-referenced definitions, finds that a **secondary accessory farm dwelling** is a dwelling (place of occupancy) located on a farm that is supportive of or is subordinate in rank/importance to a “primary dwelling.”

In the context of an application for the location of a secondary accessory farm dwelling the Hearings Officer finds (1) that the structure must be used in connection with farm use(s) occurring on a property and (2) there is a primary dwelling to which the proposed secondary accessory farm dwelling is additional to and subordinate.

The Hearings Officer finds that the “primary use” of a property, when considering “secondary accessory farm use” is important. As noted in the Need findings an applicant for a secondary accessory farm use must demonstrate that the proposed structure contributes to or is supportive of a farm use on a subject property. The same can be said of a “secondary accessory farm structure or dwelling.

The Hearings Officer finds that to have a secondary accessory farm dwelling there must be a primary farm dwelling. The Hearings Officer finds that a primary farm dwelling, in the MUA-10 zone, is allowed as a matter of right and a secondary farm dwelling is only allowed as a conditional use. Therefore, the right to have a secondary farm dwelling is derivative of the right to having a

primary farm dwelling. In the event the primary farm dwelling would be removed or eliminated, in some manner, the secondary accessory farm dwelling rights would no longer exist; a secondary farm dwelling needs, for it to be legally recognizable, a primary farm dwelling.

4. Staff Issue: Occupant(s) of Secondary Accessory Farm Dwelling

“Can a primary farm operator reside in a secondary accessory farm dwelling?”

Staff expressed uncertainty as to whether or not “who” lived in a “primary farm dwelling” and “who” lived in a “secondary farm dwelling” was relevant and/or important. The Hearings Officer reviewed the record in this case and sections of the DCC the Hearings Officer considered relevant. The Hearings Officer could find no provision of the DCC that unequivocally identified “who” should live in a “primary farm dwelling” or “who” should live in a “secondary farm dwelling.”

As noted in the preceding findings the Hearings Officer concluded that a secondary farm dwelling has the right to exist because of the existence of a “primary farm dwelling.” The right of a secondary farm dwelling to exist is derivative of a primary farm dwelling. This right of existence is not dependent upon “who” resides in either the “primary farm dwelling” or the “secondary farm dwelling.”

As alternative findings to the above paragraph the Hearings Officer finds there is no requirement in the DCC that a “primary farm dwelling” be occupied by an “owner” of a property. It is reasonable to assume, in some instances, that the primary farm dwelling could be occupied by a lessee (person renting the farm property) or a farm employee (i.e., foreperson, farm operator, farm worker). Likewise, the Hearings Officer found no requirement in the DCC that a “secondary farm dwelling” be occupied by any class/category of person(s). The Hearings Officer finds an owner, lessee, primary farm operator, secondary farm operator (if there is such a title) or farm employee can all reside in a secondary accessory farm dwelling.

5. Staff Issue: Occupant(s) Stick-built/Primary Dwelling

“Can a stick-built dwelling or primary dwelling, as defined in DCC 18.04.030, be occupied by farm help or employees?”

The Hearings Officer finds DCC 18.04.030 does not include a definition of “stick-built dwelling” or “primary dwelling.”⁸ There is reference to “primary dwelling” in the “primary or principal use” DCC 18.04.030 definition. That reference is strictly temporal in nature; the dwelling that was first located on a lot is the “primary dwelling.” “

⁸ The phrase “Primary or principal use” is defined, in DCC 18.04.030, as “the first use to which property is or may be devoted, and to which all other uses on the premises are accessory or secondary uses. As used relative to dwelling units, the primary dwelling would be the first dwelling unit to be located on a specific parcel or lot.”

The Hearings Officer could find nothing in the DCC either authorizing or prohibiting the occupancy of a “primary farm dwelling” or a “secondary accessory farm dwelling” by farm help or employees. Because there is no DCC reference to who may occupy a “stick-built dwelling” or a “primary dwelling” the Hearings Officer finds there are no limitations on who may occupy such structure. The Hearings Officer finds that a “stick-built dwelling” and also a “primary dwelling” may be occupied by farm help and/or employees.

D. Approval Criteria Findings

Title 22, Deschutes County Development Procedures Ordinance

Chapter 22.20 Review of Land Use Action Applications

Section 22.20.015, Code Enforcement and Land Use.

- A. *Except as described in (D) below, if any property is in violation of applicable land use regulations and/or conditions of approval of any previous land use decisions or building permits previously issued by the County, the County shall not:***
 - 1. *Approve any application for land use development;***
 - 2. *Make any other land use decision, including land divisions and/or property line adjustments;***
 - 3. *Issue a building permit.***
- B. *As part of the application process, the applicant shall certify:***
 - 1. *That to the best of the applicant’s knowledge, the property in question, including any prior development phases of the property, is currently in compliance with both the Deschutes County Code and any prior land use approvals for the development of the property; or***
 - 2. *That the application is for the purposes of bringing the property into compliance with the Deschutes County land use regulations and/or prior land use approvals.***
- C. *A violation means the property has been determined to not be in compliance either through a prior decision by the County or other tribunal, or through the review process of the current application, or through an acknowledgement by the alleged violator in a signed voluntary compliance agreement (“VCA”).***
- D. *A permit or other approval, including building permit applications, may be authorized if:***
 - 1. *It results in the property coming into full compliance with all applicable provisions of the federal, state, or local laws, and Deschutes County Code, including sequencing of permits or other approvals as part of a voluntary compliance agreement;***
 - 2. *It is necessary to protect the public health or safety;***
 - 3. *It is for work related to and within a valid easement over, on, or under the affected property; or***

4. ***It is for emergency repairs to make a structure habitable or a road or bridge to bear traffic.***
- E. ***Public Health and Safety.***
 1. ***For the purposes of this section, public health and safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger life, health, personal property, or safety of the residents of the property or the public.***
 2. ***Examples of that situation include, but are not limited to issuance of permits to replace faulty electrical wiring, repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel or power; and actions necessary to stop earth slope failure.***

FINDING: The Hearings Officer acknowledges that one or more code violations currently exist at the Subject Property. The Hearings Officer finds that a current code violation exists related to the manufactured home that is subject to this application and decision.

The Hearings Officer takes note of the Deschutes County Board of Commissioners' decision in *Tumalo Irrigation District* (247-17-000775-ZC, 247-17-000776-PA). In that decision the Board provided interpretive guidance to all Deschutes County Hearings Bodies related to DCC 22.20.015. Staff, in the Staff Report (pages 8, 9 & 10), pointed out to the Hearings Officer that the following Board comments may be relevant to this case and decision:

"As DCC 22.20.015 is a relatively new provision first adopted in 2015 and frequently arises in contested land use hearings, the Board takes this opportunity to provide interpretation and guidance on the implementation of this provision.

As discussed more fully below, the Board interprets DCC 22.20.015 to require a sequential three-step analysis.

1. *Is there a previously "adjudicated violation" on the property?*
2. *Does the subject land use application present the best forum for adjudicating a new allegation, i.e. is there time to investigate something more than a vague allegation?*
3. *When there is an "adjudicated violation" or the property is found to be in violation as part of the land use application process, can the land use permit nevertheless be issued pursuant to DCC 22.20.015(D) and (E)?*

First, the Board starts by noting that the primary purpose (and benefit) of DCC 22.20.015 is to address "adjudicated violations," i.e. violations that were already conclusively determined through the normal applicable code enforcement process prior to an applicant submitting a land use application. This interpretation is supported by the use of the past tense in the codified definition of "violation" in DCC 22.20.015(C): "[a] violation means the property has been determined to not be in compliance either through a prior decision by

the County or other tribunal, ... or through an acknowledgment by the alleged violator in a signed voluntary compliance agreement ('VCA')" (emphasis added).

Second, differing from the "adjudicated violations" scenario described above, there are cases where the Board anticipates that a County hearings body will need to determine if a property is in violation during the land use application process. DCC 22.20.015(C) addresses this possibility by including in the definition of "violation" the phrase "or through the review process of the current application." However, the Board cautions that County hearings bodies should take up this inquiry in rare cases because of the obvious practical difficulties born from comingling the County's land use application process with the separate and distinct code enforcement process. For example, when a vague allegation is alleged by an opponent late in the land use application process, there rarely will be time to comprehensively investigate and appropriately adjudicate that violation due to the 150-day time limit for issuing final decisions per ORS 215.427. Nothing within DCC 22.20.015 requires a County hearings body to process a code complaint pursuant to the County's adopted Code Enforcement Policy and Procedures Manual and conclusively determine the status of a previously un-adjudicated violation solely on the basis that an opponent submits a vague and unsubstantiated allegation during the land use application process.

As such, the Board interprets DCC 22.20.015 to require something more than a vague allegation (i.e., clear evidence of a violation) to compel the County hearings body to determine if a property is in violation and the pending land use application process is the appropriate forum in which to determine whether a violation exists. As discussed below, this case does not provide a sufficient basis for determining what more is needed and the Board thereby will wait for a subsequent case to establish a bright-line rule. Further, prior to electing to adjudicate an allegation as part of the land use application process, the Board interprets DCC 22.20.015 as necessitating the County hearings body to likewise consider procedural, equitable, and legal issues, including but not limited to the time it will take to conduct an investigation pursuant to the Code Enforcement Policy and Procedures Manual, the severity of the alleged violation (i.e., clear cutting vegetation in a wetland is severe while minimal solid waste that is not creating a public health hazard is not), and the 150-day land use decision making clock.

Third, the Board takes this opportunity to reiterate what is self-evident in DCC 22.20.015. A County hearings body's inquiry is not completed by simply noting a past "adjudicated violation" or finding that a property is in violation. DCC 22.20.015(D) and (E) compel a subsequent analysis to determine, for example, if the permit "protect[s] the public health and safety" or "results in the property coming into full compliance." Further, the final phrase of DCC 22.20.015(D)(1) notes that "coming into full compliance" also "include[s] sequencing of permits or other approvals as part of a voluntary compliance agreement." The Board thereby interprets that aforementioned language to specifically allow a County hearings body to approve a land use permit conditioned on the applicant subsequently

executing and complying with a voluntary compliance agreement even for an unrelated violation on the same property.”

As referenced above, the Subject Property has active code compliance cases, 247-22-000400-CE, 247-22-000399-CE, and 247-22-000398-CE for multiple dwellings, non-approved disposal and RV occupancy. Staff indicated that it believed that the RV occupancy has ceased on the Subject Property. With consideration to the above-mentioned interpretive guidance from the BOCC, Staff expressed its belief that it would be appropriate to use this land use application to resolve the outstanding violation(s).

Staff noted that there are many options for the property owners to achieve compliance with the zoning regulations of the MUA10 Zone; the request to establish the manufactured home as a secondary accessory farm dwelling is one potential pathway. Other options include but are not limited to; removal of the manufactured home from the Subject Property, decommission the manufactured home to a non-residential use, decommission the existing stick-built dwelling to a non-residential use, or remove the existing stick-built dwelling from the Subject Property.

The applicant elected, through the submittal of the subject application, to establish the manufactured home as a secondary accessory farm dwelling. If approved this land use application will address the manufactured home related code violation. Staff stated that the comments from the Onsite Wastewater Division should be included as conditions of approval to ensure the property owner receives any necessary permits as it pertains to the onsite wastewater system.

The Hearings Officer finds that the Board’s DCC 22.20.015 interpretative guidance, as quoted above, is supportive of a holding that this application, if approved, is an appropriate method of addressing the manufactured home related code violation.

Title 18 of the Deschutes County Code, County Zoning

Chapter 18.32, Multiple Use Agricultural Zone (MUA10)

Section 18.32.030, Conditional Uses Permitted

The following uses may be allowed subject to DCC 18.128:

...

- G. Manufactured home as a secondary accessory farm dwelling, subject to the requirements set forth in DCC 18.116.070.***

FINDING: The Hearings Officer incorporates the Preliminary Findings for Staff Issue: Class A Manufactured Home [Section III.C.1.], Staff Issue: Need [Section III.C.2.], Staff Issue: Relationship – Primary use/residence to Secondary Accessory Farm Dwelling [Section III.C.3], Staff Issue: Occupant(s) of Secondary Accessory farm Dwelling (Section III.C.4), and Staff Issue: Occupant(s) of Stick-built/Primary Dwelling [Section III.C.5] as additional findings for this approval criterion.

The Hearings Officer includes the following statements taken from Applicant's Burden of Proof Statement in support of its application:

The applicant is requesting a Conditional Use to establish an existing manufactured home as a secondary accessory farm dwelling, subject to the requirements set forth in Section 18.116.070 (one dwelling was permitted by Deschutes County in 2007, as the primary residence of the subject property). The subject manufactured home was originally permitted in 2010 by Deschutes County on the grounds of a temporary hardship permit for a relative (TU-10-8). There was a change of circumstances with a different family member needing to reside in the manufactured home. The manufactured home was approved as a second hardship dwelling in 2015 (247-15-000238-TU).

The proposed use of the subject manufactured home, as a secondary accessory farm dwelling, may be allowed as a Conditional Use in the MUA-10 Zone. The terms used in County Zoning are defined in DCC 18.04.30, Definitions. The following definitions are relied upon in this burden of proof:

"Accessory use or accessory structure means a use or structure incidental and subordinate to the main use of the property, and located on the same lot as the main use. Accessory uses include drilling for, and utilization of, low-temperature geothermal fluid in conjunction with the main use of the property."

"Farm use means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm Use" also includes the current employment of the land for the primary purpose of obtaining a profit in money by stabling or training equines, including but not limited to, providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described above. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3). Current employment of the land for farm use also includes those uses listed under ORS 215.203(2)(b)."

The applicant is proposing to keep the existing manufactured home as an accessory farm dwelling. The subject manufactured dwelling will be "incidental and subordinate to the main farm use of the property." Incidental means to "being likely to ensure as a chance

or minor consequences.” Webster’s New Collegiate Dictionary. Subordinate means “inferior, submissive to or controlled by authority.” *Id.* The use of these terms suggests in the definition of accessory use or structure that there be a connection of the proposed use or structure with the main use of the property.[footnote omitted]

The definition also requires the “main use of the property” be identified. The main use of the subject property is currently an established lavender farm (Tumalo Lavender) that has gross annual sales exceeding \$80,000 (see Attachment E showing profit and loss for Tumalo Lavender farm operations in 2021). The farm at the subject site consists of approximately 5 acres of established lavender fields, greenhouses for plant propagation/nursery growing of potted plants, commercial activity in conjunction with the lavender farm with an operated store (open to the public with set hours during the spring, summer, and fall months and by appointment during the winter months), a production area for distillation of lavender plants and for making lavender products. The activities described above require year-round farm help, seven days a week, with part-time and full-time staff varying between 4 and up to 10 employees throughout the year.

One of the owners of the subject site who also serves primarily as a farm operator will be residing within the existing manufactured home, while employee(s) of the farm will be residing in the existing single-family dwelling. The manufactured home is supplied with domestic water from the onsite private well and is connected to the on-site septic disposal system servicing the primary single-family dwelling (see Attachment F showing certificate of completion for septic system). The applicant is aware that the existing manufactured home’s use of the on-site septic disposal system was temporarily allowed under the medical hardship permit; thus, Deschutes County approval of the manufactured home as an accessory farm dwelling be conditionally based upon installment of an additional county-approved on-site septic disposal system solely for the manufactured home. The existing on-site disposal system will be used only by the existing primary dwelling that will be used for farm help.

The applicant is employing the property for the primary purpose of obtaining a profit by growing and harvesting lavender. The proposed accessory farm dwelling will be an integral part of the current and future lavender farm operation as it serves as the farm operator’s residence, in addition to the primary single-family dwelling being utilized as residence for farm help. Because of the daily year-round activities required for the success and profitability of the farm, it is necessary to have farm help reside in both dwellings (the accessory dwelling manufactured home in conjunction with the primary single-family dwelling).

Similar to a family medical hardship dwelling, the applicant is applying for a conditional use to allow a different type of “temporary use” for a manufactured home as an accessory farm dwelling and as allowed in the acknowledged MUA-10 Zone.

The Applicant’s request, in this case, is for a Conditional Use Permit to establish an existing manufactured home as a secondary accessory farm dwelling.

Staff noted (Staff Report, page 13), the Title 18 definitions Section (DCC 18.04.030) do not define “secondary accessory farm dwelling.” Staff included a number of Title 18 definitions (Accessory use or accessory structure, Agricultural Use, Dwelling Unit, Family, Manufactured Home, Primary or Principal Use) to assist the Hearings Officer in interpreting “secondary accessory farm dwelling.” Consistent with the findings set forth in Staff Issue: Relationship – Primary use/residence to Secondary Accessory Farm Dwelling (Section III, C.3.) the Hearings Officer defines secondary accessory farm dwelling as a dwelling (place of occupancy) located on a farm that is supportive of or is subordinate in rank/importance to a ‘primary dwelling’.”

The Hearings Officer finds, based upon substantial evidence in the record, that the primary use of the Subject Property is for the cultivation and processing of lavender. The Hearings Officer considered the historical use of the Subject Property as a lavender farm, the number of acres in lavender cultivation, the onsite greenhouses and processing structure and retail location when determining the primary use.

The Hearings Officer finds conflicting evidence in the record with respect to the “necessity” or “need” of employees to live onsite. The Hearings Officer was persuaded by Applicant’s record submissions indicating that it is very important to have two farm operators onsite to assure the efficient and successful operation of the lavender farm (propagation, processing and selling of products). The Hearings Officer agrees with opponents that it may not be absolutely “necessary” that two farm operators reside on the Subject Property; however, the Hearings Officer finds that the likelihood of economic sustainability and growth of the lavender operation at the Subject Property is substantially enhanced by having two onsite farm operators. The Hearings Officer finds there is the requisite/required “connection” between the farm operation (lavender farm) and a secondary accessory farm dwelling being located on the Subject Property.

The Hearings Officer found (Staff Issue: Class A Manufactured Home findings [Section III.C.1]) that DCC 18.116.070(A)(1) does not allow a Class A Manufactured Home to be used as a secondary accessory farm dwelling. The Hearings Officer finds that DCC 18.32.030 G allows a manufactured home to be used as a secondary accessory farm dwelling only if the requirements of DCC 18.116.070 are met. The Hearings Officer finds Applicant’s proposal to use a Class A manufactured home as a secondary accessory farm dwelling does not meet the requirements of DCC 18.116.070. The Hearings Officer finds this criterion is not met.

Section 18.32.040. Dimensional Standards

In an MUA Zone, the following dimensional standards shall apply:

...

- D. Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.**

FINDING: The Applicant provided the following response in the submitted Burden of Proof statement:

“The proposed accessory farm dwelling does not include buildings or structures to be erected or enlarged. Therefore, this criterion does not apply.”

The Hearings Officer finds that, per Staff’s comments, the application in this case is being treated as a new application for a secondary accessory farm dwelling. The Hearings Officer finds that despite the fact that the specific structure subject to the Applicant’s proposal is an “existing” manufactured home this criterion is relevant. The Hearings Officer agrees with Staff that this criterion can be met if a condition of approval is included that requires confirmation that the manufactured home does not exceed 30 feet in height except as allowed by DCC 18.120.040.

Building Height

No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed by DCC 18.120.040.

Section 18.32.050. Yards

- A. *The front yard setback from the property line shall be a minimum of 20 feet for property fronting on a local street right of way, 30 feet from a property line fronting on a collector right of way, and 80 feet from an arterial right of way unless other provisions for combining accesses are provided and approved by the County.***
- B. *Each side yard shall be a minimum of 20 feet. For parcels or lots created before November 1, 1979, which are one-half acre or less in size, the side yard setback may be reduced to a minimum of 10 feet. For parcels or lots adjacent to property receiving special assessment for farm use, the adjacent side yard for a dwelling shall be a minimum of 100 feet.***
- C. *Rear yards shall be a minimum of 25 feet. Parcels or lots with rear yards adjacent to property receiving special assessment for farm use, the rear yards for a dwelling shall be a minimum of 100 feet.***
- D. *The setback from the north lot line shall meet the solar setback requirements in DCC 18.116.180.***
- E. *In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.***

FINDING: The Applicant provided the following response in the submitted Burden of Proof statement:

“The proposed accessory farm dwelling will occupy the existing manufactured home previously approved on the property as a family medical hardship dwelling. In its approval of the hardship dwelling, the county found that the submitted plot plan for the

hardship manufactured home met the required setbacks of DCC 18.32.040. The location of the proposed use will remain on the exact same structure and footprint as the existing manufactured home. Therefore, this section does not apply.”

Staff (Staff Report, page 16) reiterated that this application was reviewed by Staff as an application for a new use despite the manufactured home pre-existing condition. Staff concluded that this criterion is applicable to the application. The Hearings Officer concurs.

The application materials include a site plan which shows the location of the manufactured home on the Subject Property. The site plan shows the manufactured home is setback 30 feet from the side (east) property line. The site plan did not include dimensions for other setbacks. However, staff noted that the Manufactured Home Placement permit depicts a ±460-foot front (north) yard setback, ±550-foot side (west) yard setback, and a ±107-foot rear (south) yard setback. Staff concluded that there is nothing in the record to suggest the location of the manufactured home has changed since permitted in 2010. Staff concluded that the proposed manufactured dwelling complied with setbacks in (A) through (C).

The Hearings Officer finds that the evidentiary record included a copy of the Manufactured Home Placement permit. The Manufactured Home Placement permit information can be considered as evidence in the record of this case. Staff (Staff Report) recommended conditions of approval to assure that the information contained in the Manufactured Home Placement permit remained accurate. The Hearings Officer agrees with Staff’s recommended conditions (see below).

Under DCC 18.116.180, the purpose of the solar setback is, “...to provide as much solar access as practical during the winter solar heating hours to existing or potential buildings...” The northern lot line of the Subject Property abuts Connarn Road, where future structural development is impracticable. Staff determined that the area immediately adjacent to the north lot line is not a location of a “Potential Structure,” as defined in DCC 18.04.030. Staff concluded that the solar protections of DCC 18.116.180 do not apply to this area and, therefore, the solar setback does not apply to the manufactured dwelling. The Hearings Officer concurs with Staff’s analysis and conclusions related to solar setbacks.

General Setbacks

All buildings or structures shall meet the setback standards as outlined in DCC 18.16.070 (A – C).

Building and Structural Code Setbacks

All buildings or structures shall comply with any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.

Section 18.32.060. Stream Setbacks

To permit better light, air, vision, stream pollution control, fish and wildlife areas and

to preserve the natural scenic amenities and vistas along the streams and lakes, the following setbacks shall apply:

- A. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.*
- B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.*

FINDING: There are no streams or lakes in the project vicinity.

Section 18.32.070. Rimrock Setback

Setbacks from rimrock shall be as provided in DCC 18.116.160.

FINDING: There is no rimrock in the project vicinity.

Chapter 18.56, Surface Mining Impact Area Combining Zone (SMIA)

FINDING: The Subject Property is located within the SMIA-X Zone in association with mine site 368. Mining at this site was completed in 1998 and subsequently mine site 368 was reclaimed as confirmed by the Oregon Department of Geology and Mineral Industries on March 17, 2000. The Hearings Officer finds the application is not subject to the provisions of Chapter 18.56.

Chapter 18.80, Airport Safety Combining Zone (AS)

Section 18.80.020. Application of Provisions.

The provisions of DCC 18.80.020 shall only apply to unincorporated areas located under airport imaginary surfaces and zones, including approach surfaces, transitional surfaces, horizontal surfaces, conical surfaces and runway protection zones. While DCC 18.80 identifies dimensions for the entire imaginary surface and zone, parts of the surfaces and/or zones do not apply within the Redmond, Bend or Sisters Urban Growth Boundaries. The Redmond Airport is owned and operated by the City of Redmond, and located wholly within the Redmond City Limits.

Imaginary surface dimensions vary for each airport covered by DCC 18.80.020. Based on the classification of each individual airport, only those portions (of the AS Zone) that overlay existing County zones are relevant.

Public use airports covered by DCC 18.80.020 include Redmond Municipal, Bend Municipal, Sunriver and Sisters Eagle Air. Although it is a public-use airport, due to its size and other factors, the County treats land uses surrounding the Sisters Eagle Air Airport based on the ORS 836.608 requirements for private-use airports. The Oregon Department of Aviation is still studying what land use requirements will ultimately be applied to Sisters. However, contrary to the requirements of ORS 836.608, as will all public-use airports, federal law requires that the FAA Part 77 surfaces must be applied. The private-use airports covered by DCC 18.80.020 include Cline Falls Airpark and Juniper Airpark.

FINDING: The proposed development is located beneath the approach surface for the Redmond Municipal Airport. Therefore, the provisions of this chapter apply.

Section 18.80.028. Height Limitations.

All uses permitted by the underlying zone shall comply with the height limitations in DCC 18.80.028. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall control. [ORS 836.619; OAR 660-013-0070]

- A. Except as provided in DCC 18.80.028(B) and (C), no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface. [ORS 836.619; OAR 660-013-0070(1)]**
- B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height.**
- C. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall follow the procedures for other variances and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA (for Redmond, Bend and Sunriver.)**

FINDING: The proposed structure will have a maximum elevation of 3,302 feet above sea level. Per DCC 18.80.022, the Redmond Municipal Airport has a runway elevation of 3,077 feet and the approach surface for Airport above the Subject Property has an approximate elevation of 4,485 feet. The Hearings Officer finds the proposed development will not penetrate the imaginary surfaces and that this criterion will be met.

Section 18.80.044. Land Use Compatibility.

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of DCC 18.80 as provided herein. When

compatibility issues arise, the Planning Director or Hearings Body is required to take actions that eliminate or minimize the incompatibility by choosing the most compatible location or design for the boundary or use. Where compatibility issues persist, despite actions or conditions intended to eliminate or minimize the incompatibility, the Planning Director or Hearings Body may disallow the use or expansion, except where the action results in loss of current operational levels and/or the ability of the airport to grow to meet future community needs. Reasonable conditions to protect the public safety may be imposed by the Planning Director or Hearings Body. [ORS 836.619; ORS 836.623(1); OAR 660-013-0080]

- A. *Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5 (Table 2 of DCC 18.80). Applicants for any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries, shall sign and record in the Deschutes County Book of Records, a Declaration of Anticipated Noise declaring that the applicant and his successors will not now, or in the future complain about the allowed airport activities at the adjacent airport. In areas where the noise level is anticipated to be at or above 55 Ldn, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn. [NOTE: FAA Order 5100.38D provides that interior noise levels should not exceed 45 decibels in all habitable zones.]***

FINDING: The Subject Property is not within the noise impact boundary associated with the Airport. This criterion does not apply.

- B. *Outdoor lighting. No new or expanded industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.***

FINDING: The proposed use is not an industrial, commercial, or recreational use. This criterion also requires that no use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

Staff (Staff Report, pages 20 & 21) recommended a condition of approval be included in any decision which approves the application. The Hearings Officer concurs with Staff that this criterion can be met if the following condition is included.

Outdoor Lighting.

No use shall imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

- C. *Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.***

FINDING: Staff (Staff Report, page 21) recommended a condition of approval be included in any decision which approves the application. The Hearings Officer finds that with Staff's recommended condition this criterion can be met.

Glare.

No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.

- D. *Industrial emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.***

FINDING: The proposed use is not an industrial, mining or similar use, or expansion of an existing industrial, mining or similar use. This criterion does not apply.

- E. *Communications Facilities and Electrical Interference. No use shall cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radio communication towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to ensure this result.***

FINDING: Staff (Staff Report, page 21) indicated that the proposed use in this case will not cause or create electrical interference. The Hearings Officer concurs with this Staff analysis and conclusion. This criterion can be met.

- F. *Limitations and Restrictions on Allowed Uses in the RPZ, Transitional Surface, Approach Surface, and Airport Direct and Secondary Impact Areas. For the Redmond, Bend, Sunriver, and Sisters airports, the land uses identified in DCC 18.80 Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. In the event of conflict with the underlying zone, the more restrictive provisions shall control. As used in DCC 18.80.044, a limited use means a use that is allowed subject to special standards specific to that use.***

FINDING: The Subject Property is located within the approach surface associated with the Redmond Airport. The proposal includes a secondary accessory farm dwelling; a residential use. Based on DCC 18.80, Table 1, the proposed residential use may be allowed under limited circumstances as outlined in note L (10) of Table 1. The Subject Property is approximately 29,000 feet from the outer edge of the Runway Protection Zone (“RPZ”). At this distance from the RPZ, there is no limitation on the density of residential development. Therefore, the proposed residential use will comply with DCC 18.80, Table 1 and the Hearings Officer finds the criterion is met.

Section 18.80.054. Conditional Uses.

Uses permitted conditionally shall be those identified as conditional uses in the underlying zone with which the AS Zone is combined, and shall be subject to all conditions of the underlying zone except as provided in DCC 18.80.044.

FINDING: The proposed use is permitted conditionally in the underlying zone. The Hearings Officer finds the Applicant’s proposal is also permitted conditionally in the AS Zone. The Hearings Officer finds that DCC 18.80.044 does not prohibit the proposed use.

Chapter 18.116, Supplementary Provisions

Section 18.116.050, Manufactured Homes

Manufactured Home Classes. For purposes of these regulations, manufactured homes are divided into the following types:

- A. *A Class A manufactured home shall:***
 - 1. *Have more than 1,000 square feet of occupied space in a double section or larger multi-section unit;***
 - 2. *Be placed on a foundation or support system, as specified by the manufacturer. Skirting shall be required;***
 - 3. *Have wheels, axles and hitch mechanisms removed;***
 - 4. *Have utilities connected subject to the requirements of the Building Codes Agency and manufacturer's specifications;***

5. ***Bear an insignia of compliance with the Manufactured Housing and Construction and Safety Standards Code as of June 15, 1976;***
6. ***Have roofing materials of a type customarily used on site constructed residences, including wood shakes or shingles, asphalt or fiberglass shingles, corrugated matte finish colored metal and tile materials, but not including high gloss corrugated aluminum or fiberglass panels. The roof pitch shall be a minimum of two over 12; and***
7. ***Have siding materials of a type customarily used on site-constructed residences such as clapboard, horizontal vinyl or aluminum lap-siding, cedar or other wood siding, brick or stone, and not including high gloss finished material, corrugated metal or fiberglass, or metal or plastic panels.***

B. A Class B manufactured home shall:

1. ***Have at least 750 square feet of occupied space in a single, double, expand or multi-section unit;***
2. ***Be placed on a foundation, as specified by the manufacturer. Skirting shall be required;***
3. ***Have wheels, axles and hitch mechanisms removed;***
4. ***Have utilities connected subject to the requirements of the Building Codes Agency and manufacturer's specifications;***
5. ***Bear an insignia of compliance with the Manufactured Housing and Construction and Safety Standards Code as of June 15, 1976;***
6. ***Have roofing materials of a type customarily used on site constructed residences, including wood shakes or shingles, asphalt or fiberglass shingles, corrugated matte finish colored metal and tile materials, but not including high gloss corrugated aluminum or fiberglass panels. The roof pitch shall be a minimum of two over 12; and***
7. ***Have siding materials of a type customarily used on site constructed residences such as clapboard, horizontal vinyl or aluminum lap siding, cedar or other wood siding, brick or stone, and not including high gloss finished material, corrugated metal or fiberglass, or metal or plastic panels.***

C. A Class C manufactured home shall:

1. ***Have at least 576 square feet of occupied space, excluding tipouts and hitches;***
2. ***Be placed on a foundation or support system, as specified by the manufacturer. Skirting shall be required;***
3. ***Bear an insignia of compliance with the Manufactured Housing and Construction and Safety Standards Code as of June 15, 1976, or bear the Oregon Department of Commerce "Insignia of Compliance"; and***

4. Have utilities connected subject to the requirements of the Building Codes Agency and manufacturer's specifications.

FINDING: The Burden of Proof states,

“The placement of the manufactured dwelling had its final inspection approved in 2010. The applicant believes the subject manufactured home still meets the code as required for a Class A manufactured home described above.”

Applicant and Staff agree that the manufactured home that is subject to this application is a Class A manufactured home. The Hearings Officer finds no substantial evidence or persuasive evidence in the record to suggest otherwise. The Hearings Officer finds the manufactured home subject to this application is a Class A manufactured home.

Section 18.116.070, Placement Standards for Manufactured Homes.

A. As defined in DCC 18.116.050, Class A and B manufactured homes shall be permitted as follows, subject to the requirements of the underlying zone:

- 1. In the following zones, except where there is a Conventional Housing Overlay Zone (CH): Any EFU zone, MUA 10, F-1, F 2, RR 10, any area zoned as an unincorporated community (as that term is defined herein), RSR M, RSR 5, and FP as the primary dwelling, and R I and SM as a caretaker's residence.**

FINDING: The Hearings Officer incorporates the Preliminary Findings for Staff Issue: Class A Manufactured Home (Section III.C.1.), Staff Issue: Need (Section III.C.2.), Staff Issue: Relationship – Primary use/residence to Secondary Accessory Farm Dwelling (Section III.C.3.), Staff Issue: Occupant(s) of Secondary Accessory farm Dwelling (Section III.C.4.), and Staff Issue: Occupant(s) of Stick-built/Primary Dwelling (Section III.C.5.) as additional findings for this approval criterion.

DCC 18.32.030 sets forth the uses that may (if standards are met) be approved as conditional uses in the MUA-10 zone. The Hearings Officer concluded that the Applicant’s proposal to locate a Class A manufactured home within the MUA-10 zoned Subject Property cannot be approved if the requirements of DCC 18.116.070 (A)(1) were not satisfied/met. The Hearings Officer found, based upon the representation of Applicant, that the manufactured home sought to be approved as a secondary accessory farm dwelling is a Class A manufactured home. The Hearings Officer found that a Class A manufactured home can be approved, under DCC 18.116.070 (A)(1) “only” as a primary residence. The Hearings Officer finds that Applicant represented the primary residence on the Subject Property was located within the barn structure.

Staff suggested that this criterion could be met with a condition of approval. The Hearings Officer disagrees. The Hearings Officer finds that Applicant’s proposal is for the Class A manufactured home to be the secondary accessory farm dwelling; not some other class of manufactured home. The Hearings Officer finds that adopting Staff’s recommended condition is a modification of

Applicant's proposal and the Hearings Officer does not have such authority. The Hearings Officer finds Applicant's proposal does not satisfy the requirements of DCC 18.116.070 and therefore does not satisfy the requirements of DCC 18.32.030 G.

2. *In manufactured home parks and subdivisions.*

FINDING: The Subject Property is not within a mobile home park or subdivision. The Subject Property does not contain a mobile home park or subdivision. Burden of Proof states,

3. *As permitted in DCC 18.116.080 and 18.116.090.*

FINDING: DCC 18.116.080 is titled "Manufactured Home Or RV As A Temporary Residence On Individual Lot During Construction." DCC 18.116.090 is titled "A Manufactured Home OR Recreational Vehicle as a Temporary Residence for Medical Condition." The application in this case is for approval of a secondary accessory farm dwelling. The application is not for either a temporary residence for use during construction or a temporary vehicle to be used for a medical condition. The Hearings Officer finds this criterion is not relevant.

4. *Class A and B manufactured homes are not permitted in any historic district or on any historic site.*

FINDING: The Hearings Officer finds the Subject Property is not located in an inventoried historic district. The Hearings Officer finds this criterion is not relevant.

B. *Class C manufactured homes shall be permitted as follows:*

- 1. *Except as otherwise allowed in DCC 18.116.070, on parcels 10 acres in size or larger.***
- 2. *As a secondary accessory farm dwelling.***
- 3. *In manufactured home parks and manufactured home subdivisions.***
- 4. *As permitted in DCC 18.116.080 and 18.116.090.***
- 5. *As a replacement to an existing non-conforming manufactured home destroyed by fire or other natural act, or as an upgrade to an existing manufactured home.***
- 6. *In the following subdivisions: Rockview II, Tetherow Crossing, Chaparral Estates, Crystal Acres, Hidden Valley Mobile Estates, Johnson Acres, Seven Peaks, Sun Mountain Ranches, Deschutes River Homesites Rimrock Addition, Happy Acres, Rancho El Sereno, Whispering Pines, Bend Cascade View Estates, Raintree, Holmes Acres, La Pine Meadows North, Pine Crest Ranchettes, Dora's Acres, Pierce Tracts, Roan Park, South Forty, Tomes, Crooked River Ranch, Dale Acres, Replat/Hillman, Lake Park Estates, Mary K. Falls Estates.***

7. Class C manufactured homes are not permitted in any historic district or on any historic site.

FINDING: The Applicant proposes to establish an existing Class A manufactured home as a secondary accessory farm dwelling. The Hearings Officer finds these criteria relate only to Class C manufactured homes. The Hearings Officer finds these criteria are not relevant.

Chapter 18.128, Conditional Use

Section 18.128.010, Operation.

- A. A conditional use listed in DCC Title 18 shall be permitted, altered or denied in accordance with the standards and procedures of this title; DCC Title 22, the Uniform Development Procedures Ordinance; and the Comprehensive Plan.**
- B. In the case of a use existing prior to the effective date of DCC Title 18 and classified in DCC Title 18 as a conditional use, any change in use or lot area or an alteration of structure shall conform with the requirements for a conditional use.**

FINDING: The proposed conditional use is reviewed in accordance with the standards and procedures of this title; DCC Title 22, the Uniform Development Procedures Ordinance; and the Comprehensive Plan. No prior use now classified as a conditional use is being modified by this proposal.

Section 18.128.015, General Standards Governing Conditional Uses.

Except for those conditional uses permitting individual single family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:

FINDING: This criterion applies “except for those conditional uses permitting individual single family dwellings...” The first issue the Hearings Officer must address is whether or not an application for a secondary accessory farm dwelling is an application for permitting a “single family dwelling?”

DCC 18.04.030 defines “dwelling, single family” as:

“a detached building containing one dwelling unit and designed for occupancy by one family only, not including temporary structures such as tents, teepees, travel trailers and other similar structures.”

The Hearings Officer finds that the Class A manufactured home that is being proposed as a secondary accessory farm dwelling is a single detached dwelling unit designed to be occupied by one family only. The Hearings Officer finds that the Class A manufactured home is not a

temporary structure similar to a tent, teepee, travel trailer or other similar structure. Therefore, the Hearings Officer finds that the Class A manufactured home meets the definitional requirements to be considered a “dwelling, single family.” The Hearings Officer finds that a “dwelling, single family” is the same as a “single family dwelling.”

The Hearings Officer, based upon the above stated definitional findings, concludes that the application for a manufactured home to be approved as a conditional use as a secondary accessory farm dwelling falls within the single family dwelling exception for this criterion.

The Hearings Officer, as alternative findings to those set forth above, finds that this criterion is relevant and undertakes evaluation of the factors set forth in DCC 18.128.015, General Standards Governing Conditional Uses.

- A. *The site under consideration shall be determined to be suitable for the proposed use based on the following factors:***
- 1. *Site, design and operating characteristics of the use;***

FINDING: The conditional use proposed under this application is the establishment of an existing manufactured home as a secondary accessory farm dwelling.

The Applicant provided the following response in the submitted Burden of Proof statement:

“The site is suitable for the proposed conditional use as an accessory farm dwelling because of its on-site proximity to the use of the property as a commercial lavender farm. The operating characteristic of the proposed use of the manufactured home is to serve as the on-site residence for the primary farm operators and part owner of the lavender farm. The site is accessed by an existing driveway off of Connarn Road. The location of the proposed conditional use of the for accessory farm dwelling is within the same existing manufactured home placed on the same location of the property and found suitable for a temporary dwelling.”

Comments from governmental agencies and the general public did not identify any site, design, or operating characteristic deficiencies related to the proposed secondary accessory farm dwelling. Comments were received from participants related to impacts created by the commercial lavender operation. As noted in the Preliminary Findings this application is for a manufactured home to be used as a secondary accessory farm dwelling. Impacts from the commercial lavender operation are not relevant to a decision in this case. Further, participants indicated that if this application were to be approved then other proximate property owners would be making “similar requests” and if those are approved then negative impacts, such as increased traffic, could result. The Hearings Officer finds the “similar requests” argument is not relevant to this case.

The Hearings Officer finds that there is no substantial or persuasive evidence in the record that

demonstrates that approval of the manufactured home as a secondary accessory farm dwelling at the Subject Property would have negative impacts based on the location, design or operating characteristics of the manufactured home.

2. Adequacy of transportation access to the site; and

FINDING: Transportation access is provided to the site by Connarn Road, a County-maintained rural local roadway. Comments from the Deschutes County Road Department and Deschutes County Transportation Planner did not identify any transportation infrastructure deficiencies. Comments from other agencies and the general public did not identify any transportation infrastructure deficiencies. As noted by the Deschutes County Transportation Planner, the Subject Property has two driveway permits approved by Deschutes County (247-19-001534-DA and 247-SW4543) and thus complies with the access permit requirements of DCC 17.48.210(A). The subject application does not propose additional driveways.

The Hearings Officer reiterates that the request in this case involves a request for approval of a manufactured home to be used as a secondary accessory farm dwelling. The only traffic impacts relevant to this case are those attributable to the *addition* of the secondary accessory farm dwelling. Traffic impacts from other farm uses, including the commercial farm use, are not subject to reconsideration in this case.

The Hearings Officer finds the written comments from the Deschutes County Road Department and the Deschutes County Transportation Planner are credible and constitute substantial evidence in support of the conclusion that the transportation access to the Subject Property and to the proposed secondary accessory farm dwelling is adequate.

3. The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.

FINDING: The Subject Property is generally level and presents no topographical constraints on the proposed manufactured home to be used as a secondary accessory farm dwelling. The *Deschutes County Natural Hazards Mitigation Plan* (2015) identifies drought, earthquake, flood, landslide, volcanic, wildfire, windstorm, and winter storm hazards in the County. Of these, wildfire is of special concern regarding the suitability of the use. Natural resource values typically include agricultural soils, forest lands, wildlife and their habitats, wetlands, and natural water features. There are no Goal 5 inventoried natural resources on the site that merit protection. Further, the property does not contain any mapped wetlands or special flood hazard areas. The Hearings Officer finds, based upon the evidence in the record, that this criterion can be met.

Comments from agencies and the general public did not identify any site unsuitability due to general topography, natural hazards, or natural resource values. The Hearings Officer finds, based upon the evidence in the record, that this criterion can be met.

B. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).

FINDING: The Applicant provided the following response to DCC 18.128.015(B&C) in the submitted Burden of Proof statement:

“The proposed use is compatible with existing and projected uses on surrounding properties based on the existing location of the manufactured home, driveway and its operating characteristics as the on-site home of the primary farm operator and partial owner.

The applicant and owners understand that approval of the proposed accessory farm dwelling may include conditions ensuring that the standards will be met. This may include a limitation that only farm help may occupy the dwellings.”

Pursuant to the factors listed in DCC 18.128.015(A), staff opined (Staff Report, pages 28 & 29) that the proposed use (manufactured home as a secondary accessory farm dwelling) would be unsuitable if the siting, design, and operating characteristics of the use significantly adversely impacted existing and projected uses on surrounding properties. Typically, potential adverse impacts include visual, noise, dust, and odor impacts. Staff (Staff Report, page 29) also noted that the proposed use would be unsuitable if access to the Subject Property would significantly adversely impact existing and projected uses on surrounding properties. Lastly, Staff (Staff Report, page 29) noted that the proposed use would be unsuitable if it significantly adversely impacts off-site topography, natural hazards, or natural resource values.

The Hearings Officer reiterates that the proposal in this case is a request for approval of a secondary accessory farm dwelling on the Subject Property. The proposal, and therefore this decision, does not include reconsideration or review of any of the existing approved farm uses on the Subject Property. Included in the existing approved farm uses is the growing, processing and commercial sales of lavender products. The impacts from these approved uses is not relevant to this approval criterion.

The Hearings Officer finds the proposed location of the manufactured home will not impact surrounding properties related to the design of the manufactured home or the operating characteristics associated with the manufactured home. The Hearings Officer finds there is no evidence in the record demonstrating that approval of a manufactured home as a secondary accessory farm dwelling on the Subject Property could be expected to cause any significant visual, noise, dust or odor impacts. The Hearings Officer finds no evidence in the record to demonstrate that the proposed location of the manufactured home will have any impact on off-site topography, natural hazards or natural resource values.

The Hearings Officer finds that approval of the application to locate a manufactured home on the Subject Property as a secondary accessory farm dwelling is compatible with surrounding properties.

- C. *These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to insure that the standard will be met.***

FINDING: To the extent this decision is conditioned under DCC 18.128 criterion, the Hearings Officer notes such conditions are authorized by this criterion.

Section 18.128.020, Conditions.

In addition to the standards and conditions set forth in a specific zone or in DCC 18.124, the Planning Director or the Hearings Body may impose the following conditions upon a finding that additional restrictions are warranted.

- A. *Require a limitation on manner in which the use is conducted, including restriction of hours of operation and restraints to minimize environmental effects such as noise, vibrations, air pollution, glare or odor.***
- B. *Require a special yard or other open space or a change in lot area or lot dimension.***
- C. *Require a limitation on the height, size or location of a structure.***
- D. *Specify the size, number, location and nature of vehicle access points.***
- E. *Increase the required street dedication, roadway width or require additional improvements within the street right of way.***
- F. *Designate the size, location, screening, drainage, surfacing or other improvement of a parking or loading area.***
- G. *Limit or specify the number, size, location, height and lighting of signs.***
- H. *Limit the location and intensity of outdoor lighting and require shielding.***
- I. *Specify requirements for diking, screening, landscaping or other methods to protect adjacent or nearby property and specify standards for installation and maintenance.***
- J. *Specify the size, height and location of any materials to be used for fencing.***
- K. *Require protection and preservation of existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.***
- L. *Require that a site plan be prepared in conformance with DCC 18.124.***

FINDING: To the extent that any conditions of approval contained in this decision require improvement to the Subject Property beyond the minimum standards of DCC Title 18, the Hearings Officer finds such conditions are authorized by this section.

Section 18.128.040, Specific Use Standards.

A conditional use shall comply with the standards of the zone in which it is located and with the standards and conditions set forth in DCC 18.128.045 through DCC 18.128.370.

FINDING: As described herein, the proposed conditional use is reviewed in accordance with the standards of the zone in which it is located and with the standards and conditions set forth in

DCC 18.128.045 through DCC 18.128.370, as applicable.

IV. CONCLUSION

The application in this case is to locate a Class A manufactured home on the Subject Property to be used as a secondary accessory farm dwelling. Secondary accessory farm dwellings are allowed in the MUA-10 zone so long as all relevant conditional use approval criteria are met. DCC 18.32.030 G states a manufactured home may be approved as a secondary accessory farm dwelling conditional use in the MUA-10 zone “subject to the requirements set forth in DCC 18.116.070.”

Applicant represented that a “stick-built” structure (part of a barn) is the “primary dwelling” on the Subject Property and the proposed manufactured home would be the “secondary accessory farm dwelling.” Applicant represented that the manufactured home proposed to be used as the secondary accessory farm dwelling is a Class A manufactured home.

The Hearings Officer interpreted DCC 18.116.070 (A)(1) to require Class A manufactured homes (with exceptions for CH zoned property and also R-1 and SM zones which allow caretaker’s residences) to be used as a “primary dwellings.” The Hearings Officer concluded that Applicant’s proposed use of a Class A manufactured home does not satisfy the requirements of DCC 18.116.070.

The Hearings Officer found that all relevant approval criteria were met by the application in this case excepting for DCC 18.116.070. On the basis that the application did not meet the requirements of DCC 18.116.070 the application must be denied.

V. DECISION

Denial of Applicant’s request for Secondary Accessory Farm Dwelling Conditional Use permit at the Subject Property.

Deschutes County Hearings Officer



Gregory J. Frank, Hearings Officer

Date: June 14, 2023

This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the base appeal deposit plus 20% of the original application fee(s), and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Board of County Commissioners an adequate opportunity to respond to and resolve each issue.

owner	agent	inCareof	address	cityStZip	type	cdd id
Tumalo Lavender Property LLC	Holly Olson and Summer	Hagedorn	3318 NW Rademacher Place	Bend, OR 97703	HOFF Decision	23-162-CU
Douglas White			60762 River Bend Drive	BEND, OR 97702	HOFF Decision	23-162-CU
Marilyn Thompson			29475 NE Miller View Lane	Newberg, OR 97132	HOFF Decision	23-162-CU



BOARD OF COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Deschutes County Adult Parole and Probation Community Corrections Plan and Grant in Aid Funding

RECOMMENDED MOTIONS:

1. Move approval of the 2023-2025 Deschutes County Community Corrections Plan
2. Move approval of Chair Signature of Document No. 2023-888, an intergovernmental agreement with the Department of Corrections to receive Grant in Aid funding

BACKGROUND AND POLICY IMPLICATIONS:

Deschutes County receives a formula allocation from the Department of Corrections (DOC) to provide supervision and services for offenders on probation, parole, and post-prison supervision. Grant in Aid provides the majority of funding for community correction activities as outlined in the Community Corrections plan. The Adult Parole & Probation division has created a biennial plan to describe our goals and intentions for using state funding, in alignment with state and county goals, and best available evidence about what works. Our Local Public Safety Coordinating Council reviewed the plan on September 5, 2023 and recommends that the Board approve the plan and sign the intergovernmental agreement for the 2023-2025 biennium.

The Department of Corrections provides funding to counties to promote public safety by holding offenders accountable for their actions and reducing the risk of future criminal behavior. Counties utilize funding to work with adults who are sentenced to probation or returning home from prison for felony and limited misdemeanor charges in three key areas: Supervision, Services, and Sanctions. Historically, supervision (in the form of supervising court conditions, case management and/or surveillance) and sanctions (in the form of increased reporting, community service or jail) have comprised the bulk of resources and time counties spend to achieve this mission. More recently, the state and counties have made attempts to rebalance their array of interventions by improving the quantity and quality of services and supervision that are aimed at long-term behavior change, as well as ensuring necessary short-term accountability.

BUDGET IMPACTS:

This has already been accounted for in our budget. The amount is \$10,123,151 over the biennium; 20% (\$2,024,630.20) goes to Sheriff's Department for jail utilization.

ATTENDANCE:

Deevy Holcomb, Director and Trevor Stephens, Business Manager

Deschutes County Community Corrections Biennial Plan

July 1, 2023 – June 30, 2025



Board of County Commissioners

Anthony DeBone, Chair
Phil Chang, Vice-Chair
Patti Adair, Commissioner

Department of Community Justice

Deevy Holcomb, Director

Adult Parole and Probation

E. Tanner Wark, Deputy Director

TABLE OF CONTENTS

Section I Introduction

Community Corrections Plan Cover Sheet	2
Departmental Description	3

Sections II Submittals

LPSCC Recommendation	4
----------------------------	---

Section III Organization

Public Safety Coordinating Council Membership.....	5
Community Corrections Organizational Chart	6
Sheriff's Office / Jail Organization Chart.....	7

Section IV Programs

Administration and Support.....	8
Felony Supervision	10
Misdemeanor Supervision.....	12
Substance Abuse Treatment.....	14
Sex Offense Treatment.....	16
Domestic Violence Treatment	18
Polygraphs.....	20
Custodial and Sanction Beds	21
Cognitive Behavioral Programs.....	22
Community Service.....	24
Electronic Monitoring	26
Transitional Housing	28

Section V Budget

Budget Summary	30
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Deschutes County 2021-2023 Community Corrections Biennial Plan

Department of Corrections 2575 Center Street NE Salem, Oregon 97301-4667	<i>For Office Use Only</i> Date Received:
Address: 63360 Britta Street Building #2, Bend, Oregon 97703 Phone: 541-385-3246 Fax: 541-385-1804	
Community Corrections Director/Manager: Deevy Holcomb Address: 63360 Britta Street Building #2, Bend, Oregon 97703 Phone: 541-322-7644 Fax: 541-385-1804 Email: Deevy.Holcomb@deschutes.org	
Sheriff: Shane Nelson Address: 63333 Highway 20 West, Bend OR 97703 Phone: 541-317-3118 Fax: 541-389-6835 Email: Shane.Nelson@deschutes.org	
Jail Manager: Michael Shults Address: 63333 Highway 20 West, Bend OR 97703 Phone: 541-617-3387 Fax: 541-389-6835 Email: Michael.Shults@deschutes.org	
Supervisory Authority: Shane Nelson Address: 63333 Highway 20 West, Bend OR 97703 Phone: 541-317-3118 Fax: 541-389-6835 Email: Shane.Nelson@deschutes.org Supervisory Authority: Deevy Holcomb Address: 63360 Britta Street Building #2 Phone: 541-322-7644 Fax: 541-385-1804 Email: Sonya.Littledeer-Evans@deschutes.org	
LPSCC Contact: Deevy Holcomb Address: 63360 Britta Street Building #2 Phone: 541-322-7644 Fax: 541-385-1804 Email: Deevy.Holcomb@Deschutes.org	
<u>Biennial Budget</u>	
State Grant-in-Aid Fund:	<u>\$10,123,151.00</u>
DOC M57 Supplemental Fund:	<u>\$518,614.00</u>
CJC Justice Reinvestment Grant:	<u>\$1,628,976.00</u>
CJC Treatment Court Grant:	<u>\$0.00</u>
County General Fund:	<u>\$1,072,738.00</u>
Supervision Fees:	<u>\$1,000.00</u>
Biennial Carryover (GIA, M57, FSAPP):	<u>\$0.00</u>
Other Fees:	<u>\$1,000.00</u>
Other State or Federal Grant:	<u>\$0.00</u>
Other:	<u>\$571,779.00</u>
<u>Total:</u>	<u>\$13,917,258.00</u>

Section I

Department Description

Community corrections services in Deschutes County are provided by the Parole and Probation division of the Deschutes County Department of Community Justice. The division supervises approximately 1,000 clients on probation or post-prison supervision.

The division's main office is in the city of Bend with satellite offices in the cities of Redmond and La Pine. Eighty percent of those supervised have felony offenses and 20% have misdemeanor offenses (including drug-related, domestic violence-related and sex offense-related misdemeanors). The division supervises clients on deferred prosecution for felony and Assault IV domestic violence offenses. The division also provides community service coordination and electronic monitoring services to the county and court for both pre-trial and division-supervised clients.

The division is currently focused on:

- Providing person-centered balanced supervision that, through use of core correctional practices, protects public safety, teaches and holds individuals accountable, and provides opportunity for long term behavior change;
- Adapting to and managing our population safely in the context of reduced budget, criminal justice reform and prison reduction utilization efforts;
- In partnership with stakeholders and community, addressing disparity and equitably serving our full population. This includes being responsive to individual's self-identified race, ethnicity, and gender.

For FY 2023-2025 Deschutes County community corrections service plan is organized around 12 general program categories. The general program categories are:

- Administration
- Felony supervision
- Misdemeanor supervision
- Substance abuse treatment
- Sex offense treatment
- Domestic violence offense treatment
- Polygraphs
- Custodial and sanction beds
- Cognitive behavioral programs
- Community service program
- Electronic monitoring services
- Transitional housing services

Section II LPSCC Recommendation



PUBLIC SAFETY COORDINATING COUNCIL

Wells Ashby, Chair
Presiding Judge

Nick Lelack, Vice Chair
County Administrator

Janice Garceau
County Health Services Director

Thomas Spear
Attorney at Law

Anthony Broadman
Bend City Councilor

Sara Crosswhite
911 Service District Director

Brandon Smithers
OSP Lieutenant

Roger Olsen
NAMI Central Oregon

Phil Chang
County Commissioner

Deeey Holcomb
Community Justice Director

Angie Curtis
Trial Court Administrator

Stephen Gunnels
District Attorney

Joseph Mabonga
Oregon Youth Authority

Shane Nelson
Deschutes County Sheriff

Mike Krantz
Bend Police Chief

Devin Lewis
Redmond Police Chief

Keith Witcosky
Redmond City Manager

Gil Levy
Citizen Member

Mike Womer
Sunriver Police Chief

Jason Van Meter
Black Butte Police Chief

September 5, 2023

Deschutes County Board of Commissioners
1300 NW Wall Street
Bend, OR 97703

RE: Deschutes County Community Corrections Plan FY 2023-2025

Dear County Commissioners:

Enclosed please find a copy of the Deschutes County Community Corrections Plan for the period of July 1, 2023 through June 30, 2025. The Deschutes County Public Safety Coordinating Council (Council) reviewed and approved the plan at our September 5, 2023 meeting.

The plan describes a comprehensive array of services utilizing a combination of state dollars, county funds and other revenue sources. It appears that this plan provides for effective utilization of these resources for the next biennium.

The Council understands that there is some flexibility in regard to implementation of the plan over the next biennium, including the possibility of state revenue revisions up or down from what is shown in the plan today. It is the recommendation of the Council that the Board of County Commissioners formally adopt the Plan by signing the Intergovernmental Agreement with the Oregon Department of Corrections.

Sincerely,

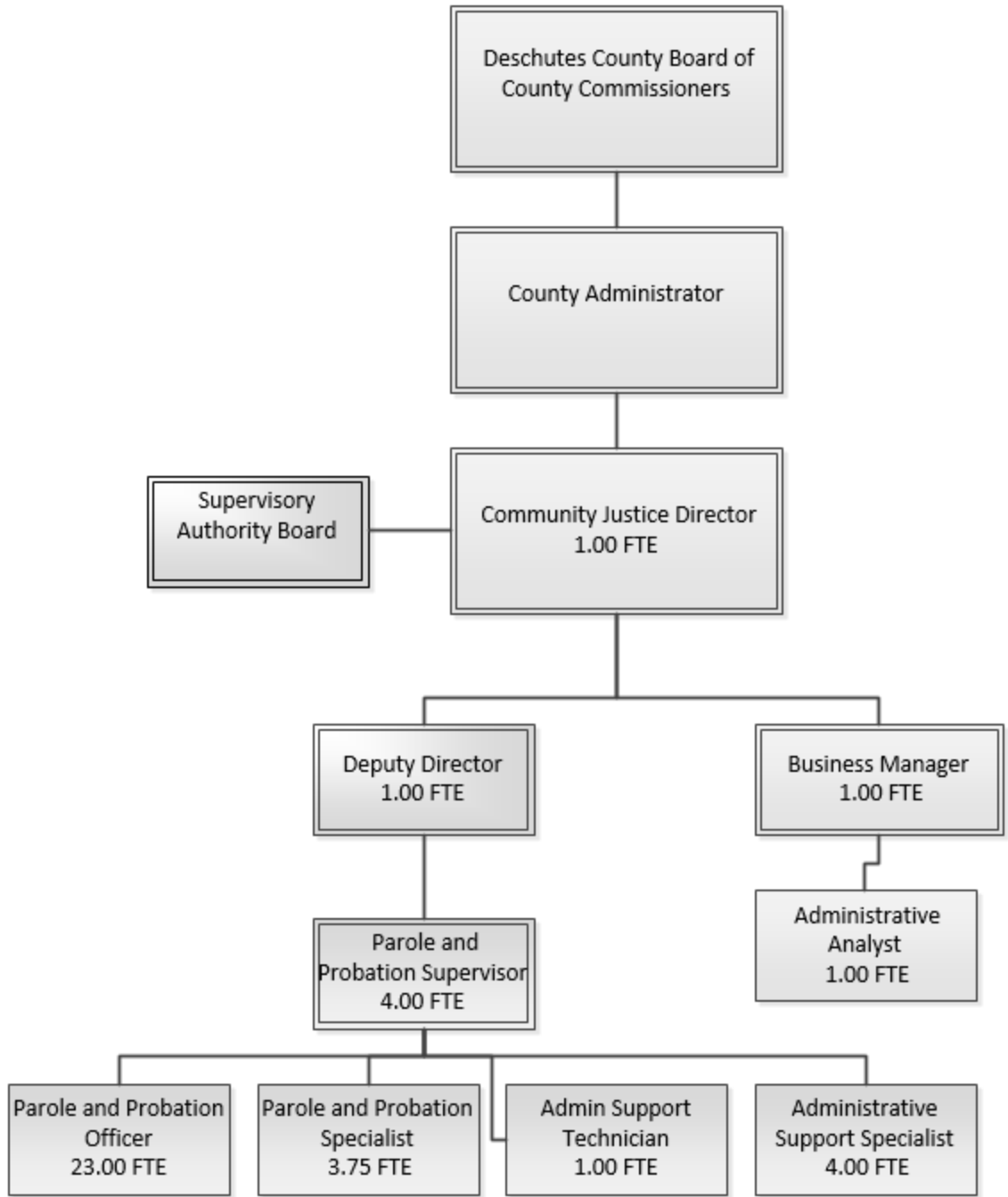
The Honorable Wells Ashby
Chair Local Public Safety Coordinating Council

1300 NW Wall Street Bend, Oregon 97703

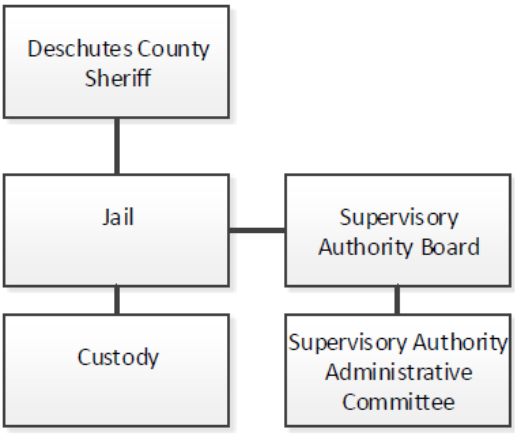
Deschutes County Public Safety Coordinating Council Membership

Name	Title	Organization
Wells B. Ashby	Presiding Judge	11 th Judicial District
Nick Lelack	County Administrator	Deschutes County
Janice Garceau	Director	Deschutes County Health Services Dept.
Sara Crosswhite	Director	Deschutes County 9-1-1 Service District
Phil Chang	County Commissioner	Deschutes County
Mike Womer	Chief of Police	Sunriver Police Department
Deevy Holcomb	Director	Deschutes County Community Justice Dept.
Angie Curtis	Court Administrator	11 th Judicial District
Stephen Gunnels	District Attorney	Deschutes County
Anthony Broadman	City Counselor	City of Bend
Mike Krantz	Chief of Police	City of Bend
Gil Levy	Director	KIDS Center
Joseph Mabonga	Area Supervisor	Oregon Youth Authority
Donna Mills	Citizen Member	Deschutes County Resident
Shane Nelson	Sheriff	Deschutes County
Brandon Smithers	Area Commander	Oregon State Police
Thomas Spear	Defense Counsel	Spear Law
Devin Lewis	Chief of Police	City of Redmond
Erin Taylor	Citizen Member	Deschutes County Resident
Jason Van Meter	Chief of Police	Black Butte
Keith Witcosky	City Manager	City of Redmond
Roger Olsen	Director	NAMI Central Oregon

Community Corrections Organizational Chart



Deschutes County Sheriff's Office/Jail



Program Name:	Administration and Support
Program Description:	This program encompasses the administrative leadership team and internal services costs of the program. The Community Justice Director supervises the Deputy Director and Business Manager. The Director is responsible for strategy, oversight, direction and partnerships with key public safety stakeholders. The Deputy Director is responsible for day to day leadership and manages four parole and probation supervisors who are responsible for the daily supervision of 23 parole and probation officers, four parole and probation specialists, four administrative support specialist, and one administrative support technician. The Business Manager is responsible for the business and financial functions of the department and oversees the administrative analyst who provides performance management, fiscal duties and monitors and support external services contracts. Internal county services fees and miscellaneous administrative contractual or direct fees are also charged to this program.
Program Category:	Administration
Program Objectives:	<p>To provide leadership, program development, policy development, and financial oversight for the department. To provide training and supervision to staff to ensure compliance with department policies, procedures, Oregon Administrative Rules, Oregon Revised Statues, and Intergovernmental Agreements with DOC.</p> <p>This biennium the administrative team seeks to:</p> <ul style="list-style-type: none"> • Successfully create a Gender-Specific Program, including gender-specific caseload structure and CBT option • Provide administrative, dashboard and supervisory support for PPO's to diversify their use of interventions, cognitive-based interventions and core correctional practices in working with clients • Introduce principles of trauma-informed care into organizational decision-making, communication and conflict resolution processes • Complete an Equity Plan that identifies key areas for improvement in disparate outcomes seen by racial and ethnic identity (supervision level overrides; use of jail as sanction and homelessness) • Create two new referral and services partnership with community-based providers to coordinate SUD, housing, and behavioral health services provided outside of community corrections • Diversify sources of funding and partnerships to provide supervised clients with the treatment and housing resources they need but community corrections in decreasingly able to provide within state funding allocations.
Method(s) of Evaluation:	Grant reporting, Dashboards, internal business reports, and annual reports.

Monthly Average to be Served: N/A Type of Offender(s) Served: Crime Category: Gender: Risk Level:

Probation Felony Male High
 Parole/Post-Prison Misdemeanor Female Medium
 Local Control Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

<input checked="" type="checkbox"/> State Grant-In-Aid Fund	\$881,178.00
<input checked="" type="checkbox"/> DOC M57 Supplemental Fund	\$50,000.00
<input checked="" type="checkbox"/> CJC Justice Reinvestment Grant	\$151,272.00
<input type="checkbox"/> CJC Treatment Court Grant	
<input type="checkbox"/> County General Fund	
<input type="checkbox"/> Supervision Fees	
<input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP)	
<input type="checkbox"/> Other Fees (revenue)	
<input checked="" type="checkbox"/> Other State or Federal Grant	
Other: Please Identify	
<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/> Interest on pooled investments	\$75,230.00
<input type="checkbox"/>	

Additional Comments:

Program Name:	Felony Supervision
Program Description:	Assessment, supervision, and case management services are provided to individuals sentenced on felony charges or designated drug related or funded domestic violence misdemeanors. This also includes clients under the terms of Interstate Compact. This includes domestic violence, street crimes, and sex offenses. Research-based assessments are conducted based on the client's crime type and past criminal history. The result of the assessment is utilized to develop a case plan and framework for the client's supervision. Parole and probation provides treatment and resource referrals, urinalysis testing, rewards, and sanctions. In conjunction with casework, information is entered into various computer programs as required by the Division, Deschutes County, and DOC. This program includes having parole and probation officers with caseloads based on crime type and other factors. We operate a mental health caseload, several JRP caseloads, several domestic violence caseloads, and several sex offense caseloads. All of our officers are trained in the use of Carey Guides/BITS, motivational interviewing, and core correctional practices and work to incorporate these skills into client office visits. All low risk clients are assigned to case bank for the purpose of monitoring them for compliance with conditions of supervision. All low risk clients who have an open restitution case will be assigned to the restitution caseload for the purpose of supervising their compliance with conditions of supervision. For clients with felony sex offenses officers will use DOC-approved risk tools to determine sex offender notification level and supervision levels. Our office recently underwent a gender responsivity assessment, the results of which indicate that implementation of a gender specific caseload is necessary to improve outcomes for clients who identify as women, and the organization would benefit from learning and organizational change based on trauma-informed care principles.
Program Category:	Supervision
Program Objectives:	<p>To provide balanced supervision through use of core correctional practice in order to promote public safety, hold and teach individuals accountability and create opportunity for long term behavior change through skill building and cognitive-based interventions. This biennium the division seeks to respond to Department of Corrections and local expectations for performance including::</p> <ul style="list-style-type: none"> • Improve data entry by ensuring 85% EPR records contain no errors at next CCR Review. • Diversify interventions used, with additional use of COGN, OUTX, CURF, MCND and SPGP. • Ensure that Jail Sanction Length follows Supervision Level (in general increases as risk level increases) • 90% of jail sanctions will fall within Administrative Guidelines across all racial and ethnic, and gender, identity categories. • 60% of probationers closed out successfully 2nd Half 2022 and 1st Half 2023 • 67% PPS closed out successfully 2nd Half 2022 and 1st Half 2023 • Safely maintain state prison utilization target (by remaining below identified baseline for both men and women)
Method(s) of Evaluation:	Dashboards, DOC reports, and internal database.

Monthly Average to be Served: 800

Type of Offender(s) Served: Probation Parole/Post-Prison Local Control

Crime Category: Felony Misdemeanor

Gender: Male Female

Risk Level: High Medium Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Program Name:	Misdemeanor Supervision
Program Description:	The misdemeanor supervision program includes mostly clients with misdemeanor sex offenses or misdemeanor domestic violence offenses. It includes clients who are part of the Domestic Violence Deferred Sentencing (DVDS) program. It can also include in rare cases clients with a street crimes offense or person-to-person offense depending on the specifics of the crime and court order. All clients with misdemeanor offenses receive an assessment based on their crime type and past criminal history to get a better understanding of their risk, needs, and responsivity (excluding the division case bank misdemeanor caseload). Clients are then supervised based on their risk level and meet with their probation officer according to the department contact standards. Parole and Probation will combine internal resources along with help provided by treatment providers, victim advocates, and polygraphers. This does not include any DOC funded misdemeanors.
Program Category:	Supervision
Program Objectives:	To provide balanced supervision through use of core correctional practice in order to promote public safety, hold and teach individuals accountability and create opportunity for long term behavior change through skill building and cognitive-based interventions. This biennium the division seeks to respond to Department of Corrections and local expectations for performance including: <ul style="list-style-type: none"> • Improve data entry by ensuring 85% EPR records contain no errors at next CCR Review. • Diversify interventions used, with additional use of COGN, OUTX, CURF, MCND and SPGP. • Ensure that Jail Sanction Length follows Supervision Level (in general length of stay between risk levels is more uniform, or increases as risk level increases) • 90% of jail sanctions will fall within Administrative Guidelines across all racial and ethnic, and gender, identity categories. • <i>60% of probationers closed out successfully 2nd Half 2022 and 1st Half 2023</i>
Method(s) of Evaluation:	Dashboards, DOC reports, and internal database.

Monthly Average to be Served: 200

- Type of Offender(s) Served: Crime Category: Gender: Risk Level:
- | | | | |
|---|---|--|--|
| <input checked="" type="checkbox"/> Probation | <input type="checkbox"/> Felony | <input checked="" type="checkbox"/> Male | <input checked="" type="checkbox"/> High |
| <input type="checkbox"/> Parole/Post-Prison | <input checked="" type="checkbox"/> Misdemeanor | <input checked="" type="checkbox"/> Female | <input checked="" type="checkbox"/> Medium |
| <input type="checkbox"/> Local Control | | | <input checked="" type="checkbox"/> Low |

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- State Grant-In-Aid Fund _____
- DOC M57 Supplemental Fund _____
- CJC Justice Reinvestment Grant _____

<input type="checkbox"/> CJC Treatment Court Grant	_____
<input checked="" type="checkbox"/> County General Fund	\$1,072,738.00
<input type="checkbox"/> Supervision Fees	_____
<input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP)	_____
<input type="checkbox"/> Other Fees (revenue)	_____
<input type="checkbox"/> Other State or Federal Grant	_____
Other: Please Identify	
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____

Additional Comments:

Program Name:	Substance Abuse Treatment
Program Description:	Many of our clients struggle with substance abuse and addiction issues. The majority of our clients qualify for Oregon Health Plan (OHP). We work with all of our community based providers who take OHP. Clients are assessed and assigned a level of care based on their risk/needs level. We have one contracted provider we work with who provides managed sober housing services and that is extent of our substance abuse anticipated expenditures at this time. The managed sober housing is provided to JRP and M57 clients first then followed by our other client populations. Treatment services will also be made available to those individual transitioning into supervision from the DOC custody.
Program Category:	Behavioral Health Tx Services - Substance Abuse
Program Objectives:	To reduce criminal behavior, which is a direct result of substance abuse/use, and to promote pro-social change, using a treatment modality that is evidenced-based. This biennium the division seeks to respond to Department of Corrections expectations and local needs with the following performance objectives: <ul style="list-style-type: none"> • 48% of treatment records closed out successfully. • Create two new referral and services partnership with community-based providers to coordinate SUD services provided outside of community corrections
Method(s) of Evaluation:	Dashboards, Correctional program checklist, provider reports, monthly DOC treatment report, and internal database.

Monthly Average to be Served: 250

Type of Offender(s) Served:	Crime Category:	Gender:	Risk Level:
<input checked="" type="checkbox"/> Probation	<input checked="" type="checkbox"/> Felony	<input checked="" type="checkbox"/> Male	<input checked="" type="checkbox"/> High
<input checked="" type="checkbox"/> Parole/Post-Prison	<input checked="" type="checkbox"/> Misdemeanor	<input checked="" type="checkbox"/> Female	<input checked="" type="checkbox"/> Medium
<input type="checkbox"/> Local Control			<input checked="" type="checkbox"/> Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>
Pfeifer and Associates	Managed Sober Beds	JRI-\$202,704

Funding Sources

- State Grant-In-Aid Fund _____
- DOC M57 Supplemental Fund _____
- CJC Justice Reinvestment Grant \$202,704.00
- CJC Treatment Court Grant _____
- County General Fund _____
- Supervision Fees _____
- Biennial Carryover (GIA, M57, FSAPP) _____
- Other Fees (revenue) _____
- Other State or Federal Grant _____

Other: Please Identify

-
-
-

Additional Comments:

Program Name:	Sex Offense Treatment
Program Description:	Treatment for clients with sex offenses addresses sexual assault cycles, thinking errors and defense mechanisms, victim empathy, victim clarification, arousal control and reconditioning, social competence, development of healthy relationships, and reunification of family when applicable. Treatment groups meet weekly, in addition to individual sessions as required. Each client signs a contract delineating the requirements for compliance to treatment.
Program Category:	Behavioral Health Tx Services - Sex Offender Tx
Program Objectives:	To reduce criminal and sexually-deviant behavior and promote pro-social change using evidenced-based sex offender treatment modalities. While the single sex offense provider that the division has a contractual relationship with performed satisfactorily on the updated evidence-based practices review completed by Department of Corrections, this biennium the division seeks to: <ul style="list-style-type: none"> Identify an additional sex offender treatment provider due to lack of choice and high client numbers
Method(s) of Evaluation:	Dashboards, Correctional program checklist, provider reports, monthly DOC treatment report, and internal database.

Monthly Average to be Served: 30-50 Type of Offender(s) Served: Crime Category: Gender: Risk Level:

<input checked="" type="checkbox"/> Probation	<input checked="" type="checkbox"/> Felony	<input checked="" type="checkbox"/> Male	<input checked="" type="checkbox"/> High
<input checked="" type="checkbox"/> Parole/Post-Prison	<input checked="" type="checkbox"/> Misdemeanor	<input checked="" type="checkbox"/> Female	<input checked="" type="checkbox"/> Medium
<input type="checkbox"/> Local Control			<input checked="" type="checkbox"/> Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>
Maritza Encinas	Sex Offender	GIA-\$80,000

Funding Sources

- | | |
|---|--------------------|
| <input checked="" type="checkbox"/> State Grant-In-Aid Fund | <u>\$80,000.00</u> |
| <input type="checkbox"/> DOC M57 Supplemental Fund | _____ |
| <input type="checkbox"/> CJC Justice Reinvestment Grant | _____ |
| <input type="checkbox"/> CJC Treatment Court Grant | _____ |
| <input type="checkbox"/> County General Fund | _____ |
| <input type="checkbox"/> Supervision Fees | _____ |
| <input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP) | _____ |
| <input type="checkbox"/> Other Fees (revenue) | _____ |
| <input type="checkbox"/> Other State or Federal Grant | _____ |
| Other: Please Identify | _____ |
| <input type="checkbox"/> | _____ |

Additional Comments:

Program Name:	Domestic Violence Treatment
Program Description:	Domestic violence treatment includes evidence-based practices geared towards addressing risk, needs, and responsivity of clients with domestic violence offenses. Treatment includes both group and individual sessions. Treatment groups meet weekly, in addition to individual sessions as required. Each client signs a contract delineating the requirements for compliance to treatment.
Program Category:	Behavioral Health Tx Services - BIP
Program Objectives:	To reduce criminal behavior and promote pro-social change using evidenced-based DV, BIP and anger management treatment modalities. During the 2021-2023 biennium the community-based service providers in this realm faced serious challenges with several unable to continue doing business post-pandemic. This biennium the division seeks to: <ul style="list-style-type: none"> Identify an additional domestic violence treatment provider due to lack of choice and high client numbers, and lack of gender-specific treatment options
Method(s) of Evaluation:	Dashboards, Correctional program checklist, provider reports, monthly DOC treatment report, and internal database.

Monthly Average to be Served: 75

Type of Offender(s) Served:	Crime Category:	Gender:	Risk Level:
<input checked="" type="checkbox"/> Probation	<input checked="" type="checkbox"/> Felony	<input checked="" type="checkbox"/> Male	<input checked="" type="checkbox"/> High
<input checked="" type="checkbox"/> Parole/Post-Prison	<input checked="" type="checkbox"/> Misdemeanor	<input checked="" type="checkbox"/> Female	<input checked="" type="checkbox"/> Medium
<input type="checkbox"/> Local Control			<input checked="" type="checkbox"/> Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>
Bridges 2 Success (Bridges to Safety)	Domestic Violence	GIA-\$80,000.00

Funding Sources

- | | |
|---|-------------|
| <input checked="" type="checkbox"/> State Grant-In-Aid Fund | \$80,000.00 |
| <input type="checkbox"/> DOC M57 Supplemental Fund | _____ |
| <input type="checkbox"/> CJC Justice Reinvestment Grant | _____ |
| <input type="checkbox"/> CJC Treatment Court Grant | _____ |
| <input type="checkbox"/> County General Fund | _____ |
| <input type="checkbox"/> Supervision Fees | _____ |
| <input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP) | _____ |
| <input type="checkbox"/> Other Fees (revenue) | _____ |
| <input type="checkbox"/> Other State or Federal Grant | _____ |
| Other: Please Identify | |
| <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | _____ |



Additional Comments:



Program Name:	Custodial and Sanction Beds
Program Description:	Clients sentenced to a term of imprisonment of one year or less will be housed in our adult jail. Clients serving this type of sentences will be assessed upon admission to the jail and their needs determined. During the period of their incarceration, they will have the opportunity to participate in services designed to reduce their risk to re-offend in accordance with their ability to comply with facility rules, sentence length and program availability. Services available to clients in custodial beds include cognitive classes, anger management, family/parenting skills, AA, NA, A&D treatment and GED classes. Custodial beds are also used as a sanction.
Program Category:	Custodial/Sanction Beds
Program Objectives:	To maintain accountability and reduce criminal behavior. .
Method(s) of Evaluation:	Dashboards, sanction reports and local control caseload analysis.

Monthly Average to be Served: 25

Type of Offender(s) Served:	Crime Category:	Gender:	Risk Level:
<input checked="" type="checkbox"/> Probation	<input checked="" type="checkbox"/> Felony	<input checked="" type="checkbox"/> Male	<input checked="" type="checkbox"/> High
<input checked="" type="checkbox"/> Parole/Post-Prison	<input checked="" type="checkbox"/> Misdemeanor	<input checked="" type="checkbox"/> Female	<input checked="" type="checkbox"/> Medium
<input checked="" type="checkbox"/> Local Control			<input checked="" type="checkbox"/> Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- State Grant-In-Aid Fund \$2,024,630.20
 - DOC M57 Supplemental Fund _____
 - CJC Justice Reinvestment Grant _____
 - CJC Treatment Court Grant _____
 - County General Fund _____
 - Supervision Fees _____
 - Biennial Carryover (GIA, M57, FSAPP) _____
 - Other Fees (revenue) _____
 - Other State or Federal Grant _____
- Other: Please Identify
- Grant in Aid Supplemental \$47,362.80
 - _____
 - _____

Additional Comments:

Program Name:	Cognitive Behavioral Programs
Program Description:	Cognitive Behavioral Programs work to change behavior by identifying and changing the thought processes behind those behaviors. Moral Reconciliation Therapy (MRT) is a cognitive-behavioral treatment program that utilizes a workbook approach along with a 12-16 step curriculum that focuses on behavioral change and growth. MRT takes the form of group and individual counseling using structured group exercises and prescribed homework assignments. MRT is a facilitator led curriculum that meets weekly where the client is required to meet all the requirements before moving on to the next step of the program. MRT is an evidenced-based program. Research shows that MRT helps reduce recidivism rates on average by 16%. Research also shows that MRT programs produce an average return on investment of nine dollars for every dollar spent on MRT services. Because of our recent gender responsiveness assessment we are working to bring back gender specific CBT services. We had Moving On but are determining if it is best to re-train and restart this curriculum or look at other options. We have successfully relaunched in person CBT groups following the pandemic, but have retained one virtual group at this time.
Program Category:	Behavioral Health Tx Services - CBT
Program Objectives:	To prevent criminal behavior and reduce recidivism by assisting clients to identify risky thoughts, feelings and actions, and replace them with prosocial thoughts, feelings and actions. This biennium the divisions seeks to respond to Department of Corrections expectations and local CBT capacity by the following performance objective: <ul style="list-style-type: none"> • 48% participating in treatment programming 2nd Half 2022 and 1st Half 2023. • Identify and implement a gender-specific CBT option for clients who identify as women
Method(s) of Evaluation:	Dashboards, monthly reports, internal database, and completion rates.

Monthly Average to be Served: 25

- | | | | |
|--|---|--|--|
| Type of Offender(s) Served: | Crime Category: | Gender: | Risk Level: |
| <input checked="" type="checkbox"/> Probation | <input checked="" type="checkbox"/> Felony | <input checked="" type="checkbox"/> Male | <input checked="" type="checkbox"/> High |
| <input checked="" type="checkbox"/> Parole/Post-Prison | <input checked="" type="checkbox"/> Misdemeanor | <input checked="" type="checkbox"/> Female | <input checked="" type="checkbox"/> Medium |
| <input type="checkbox"/> Local Control | | | <input type="checkbox"/> Low |

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>
Deschutes County Adult P&P	CBT	JRI-\$240,000

Funding Sources

- | | |
|--|--------------|
| <input type="checkbox"/> State Grant-In-Aid Fund | _____ |
| <input type="checkbox"/> DOC M57 Supplemental Fund | _____ |
| <input checked="" type="checkbox"/> CJC Justice Reinvestment Grant | \$240,000.00 |
| <input type="checkbox"/> CJC Treatment Court Grant | _____ |
| <input type="checkbox"/> County General Fund | _____ |
| <input type="checkbox"/> Supervision Fees | _____ |
| <input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP) | _____ |

- Other Fees (revenue) _____
- Other State or Federal Grant _____
- Other: Please Identify
- _____
- _____
- _____

Additional Comments:

Program Name:	Community Service
Program Description:	Work Crew is provided as one of many intermediate sanctioning options. Community service is also an integral part of enforcing court orders. Clients are afforded the opportunity to perform community service at a variety of locations, such as Habitat for Humanity, the Humane Society, and other various non-profit organizations. Methods of referral are through the Courts and Parole and Probation Officers. Community service also provides a work crew option for clients two days per week.
Program Category:	Community Service and Work Crew
Program Objectives:	To maximize use of non-custodial resources to hold clients accountable and provide community reparation through restorative work service. This biennium the division seeks to respond to Department of Corrections expectations and local needs with the following performance objective: <ul style="list-style-type: none"> 63% community service work completed 2nd Half 2022 and 1st Half 2023.
Method(s) of Evaluation:	Monthly community service reports, internal database, and sanction reports.

Monthly Average to be Served: 175 Type of Offender(s) Served: Crime Category: Gender: Risk Level:

Probation Felony Male High

Parole/Post-Prison Misdemeanor Female Medium

Local Control Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>

Funding Sources

- State Grant-In-Aid Fund _____
- DOC M57 Supplemental Fund _____
- CJC Justice Reinvestment Grant _____
- CJC Treatment Court Grant _____
- County General Fund _____
- Supervision Fees _____
- Biennial Carryover (GIA, M57, FSAPP) _____
- Other Fees (revenue) _____
- Other State or Federal Grant _____
- Other: Please Identify
- _____
- _____



Additional Comments: Due to state budget allocation, the division is unable to financially support the community service crew as we have done for the past six years (providing half of the funding for a 2-person crew leader FTE component with two days of crew service offered weekly). However, the crew, which is run by the Juvenile division of Community Justice, has contractual and other partnership obligations to complete restorative community service projects in the community during workweek days. These days, during the school year, are difficult to find sufficient number of juvenile clients for the crew, making it possible for the crew leaders to offer adult clients the opportunity for crew service one day per week. We hope that this reduction of availability does not negatively affect this important restorative aspect of community supervision previously offered to clients, and will continue to watch completion trends.

Program Name:	Electronic Monitoring
Program Description:	The electronic monitoring program is one of the many intermediate sanctioning options available for all clients on parole and probation. We utilize electronic monitoring as an accountability mechanism. This program is used to provide surveillance/ intensive supervision for the department's high-risk clients. Electronic monitoring is also offered as an option in lieu of a local control sentence. The Courts make use of this program for pre-trial services, DUII offenses, and as an alternative to jail for those clients with medical issues. We contract out for all EM services for adult clients which includes our pre-trial program. We contract with Vigilnet and they do all the install, maintenance, and monitoring. Methods of referral are through the Courts, Local Supervisory Authority, and Parole and Probation Officers.
Program Category:	Community-Based Custodial Alternatives
Program Objectives:	To maximize use of non-custodial resources to hold clients accountable while still able to reside in the community as employees, parents and family members. This biennium the division seeks to continue to offer this alternative to incarceration as a sanction and in limited situations surveillance tool, however budget constraints require that we monitor use carefully. Therefore we seek the following performance objective: <ul style="list-style-type: none"> Identify "earn your way off" incentive protocol for individuals sanctioned to electronic monitoring in light of budget constraints.
Method(s) of Evaluation:	Monthly community service reports, internal database, and sanction reports.

Monthly Average to be Served: 75-100 Type of Offender(s) Served: Crime Category: Gender: Risk Level:

<input checked="" type="checkbox"/> Probation	<input checked="" type="checkbox"/> Felony	<input checked="" type="checkbox"/> Male	<input checked="" type="checkbox"/> High
<input checked="" type="checkbox"/> Parole/Post-Prison	<input checked="" type="checkbox"/> Misdemeanor	<input checked="" type="checkbox"/> Female	<input checked="" type="checkbox"/> Medium
<input checked="" type="checkbox"/> Local Control			<input checked="" type="checkbox"/> Low

Which Treatment Provider(s) Will You Use Within This Program?

Provider Name	Treatment Type <small>(ie., Anger Management, Cognitive, DV, Dual Diagnosis, Sex Offender, Inpatient Substance Abuse, or Outpatient Substance Abuse)</small>	What, if any, state dollars are budgeted to the program and how much to each fund? <small>(ie., GIA-\$25,000; M57-\$5000)</small>
Vigilnet America, INC	Electronic Monitoring	\$100,000- GIA

Funding Sources

<input checked="" type="checkbox"/> State Grant-In-Aid Fund	\$100,000.00
<input type="checkbox"/> DOC M57 Supplemental Fund	_____
<input type="checkbox"/> CJC Justice Reinvestment Grant	_____
<input type="checkbox"/> CJC Treatment Court Grant	_____
<input type="checkbox"/> County General Fund	_____
<input type="checkbox"/> Supervision Fees	_____
<input type="checkbox"/> Biennial Carryover (GIA, M57, FSAPP)	_____
<input checked="" type="checkbox"/> Other Fees (revenue)	\$1,000.00
<input checked="" type="checkbox"/> Other State or Federal Grant	_____

Other: Please Identify

- Sheriff
- Crime Prevention Fund
-

	\$100,000.00
	\$100,000.00

Additional Comments:

<input type="checkbox"/> Other Fees (revenue)	_____
<input checked="" type="checkbox"/> Other State or Federal Grant	_____
Other: Please Identify	_____
<input checked="" type="checkbox"/> Transitional Funds	\$39,417.00
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____

Additional Comments:

Deschutes County 2023-2025 Community Corrections Budget Summary

Program Name	Grant in Aid	Grant in Aid Supplemental	All Other Funds and Fees	Total
Administration and Support	\$888,178.00	\$0.00	\$276,502.00	\$1,164,680.00
Felony Offender Supervision	\$6,774,759.80	\$189,451.20	\$1,349,932.00	\$8,314,143.00
Misdemeanor Supervision	\$0.00	\$0.00	\$1,072,738.00	\$1,072,738.00
Substance Abuse Treatment	\$0.00	\$0.00	\$202,704.00	\$202,704.00
SO Treatment	\$80,000.00	\$0.00	\$0.00	\$80,000.00
DV Treatment	\$80,000.00	\$0.00	\$0.00	\$80,000.00
Polygraph	\$40,000.00	\$0.00	\$0.00	\$40,000.00
Custodial Beds	\$2,024,630.20	\$47,362.80	\$0.00	\$2,071,993.00
COG / MRT	\$0.00	\$0.00	\$240,000.00	\$240,000.00
Community Service	\$0.00	\$0.00	\$0.00	\$0.00
Electronic Monitoring	\$100,000.00	\$0.00	\$201,000.00	\$301,000.00
Transitional housing	\$135,583.00	\$0.00	\$214,417.00	\$350,000.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
Total	\$10,123,151.00	\$236,814.00	\$3,557,293.00	\$13,917,258.00

**INTERGOVERNMENTAL AGREEMENT #6529
BETWEEN THE STATE OF OREGON AND DESCHUTES COUNTY**

This Intergovernmental #6529 (Agreement) is between the State of Oregon acting by and through its Department of Corrections, hereafter called DEPARTMENT, and Deschutes County, hereafter called COUNTY.

Whereas, DEPARTMENT is an agency of the State of Oregon and COUNTY is a unit of local government of the State of Oregon and both parties desire to cooperate by agreement to provide correctional services in COUNTY within the requirements as authorized by ORS 423.475 to 423.565;

Whereas, the Legislative Assembly of Oregon enacted legislation establishing shared responsibility between county corrections programs and the Department on a continuing basis (ORS 423.475 to 423.565);

Whereas, ORS 144.106 provides “the supervisory authority shall use a continuum of administrative sanctions for violations of post-prison supervision”;

Whereas, ORS 144.334 provides that the Board of Parole and Post-Prison Supervision may authorize issuance of citations by supervising officers;

Whereas, ORS 144.343 provides that the Board of Parole and Post-Prison Supervision may delegate the authority to impose sanctions as provided in ORS 144.106 and to continue a violator on parole or post-prison supervision with the same or modified conditions;

Whereas, ORS 423.478(2)(a) - (f) assigns responsibility for all offenders on probation, parole, post-prison supervision and those offenders sentenced or revoked for periods of one year or less, and on conditional release to COUNTY;

Whereas, ORS 137.545 and 137.595 provide that courts may delegate the authority to parole/probation officers to impose sanctions for probationers through a system of Structured Sanctions; and

Whereas, ORS 423.555 requires DEPARTMENT, with cooperation from COUNTY, to establish and operate a Statewide Evaluation and Information System and to monitor effectiveness of corrections services provided to criminal offenders under ORS 423.500 to 423.560.

Now, therefore, THE PARTIES HERETO, in consideration of the mutual promises, terms and conditions hereinafter provided, agree to the following:

I. DEFINITIONS

- A. Amendment: Any change to this Agreement that alters the terms and conditions of the Agreement, effective only after all parties have signed and all approvals have been obtained. Plan Modifications are **NOT** Amendments.
- B. Budget Summary: The part of the County Corrections Plan that reflects the amount of County Corrections Grant funds granted by DEPARTMENT to COUNTY to implement the programs in the Plan. The Budget Summary is attached to this Agreement as Exhibit A.
- C. Community Corrections Manager: Individual designated by COUNTY pursuant to ORS 423.525 as responsible for administration of the community corrections programs as set forth by the Plan.
- D. County Corrections: All County agencies and officials who carry out the responsibilities in ORS 423.478(2)(a)-(f) and the activities of carrying out those responsibilities.
- E. County Community Corrections Plan or Plan: A document developed by the Local Public Safety Coordinating Councils and adopted by COUNTY's governing body pursuant to ORS 423.525 and 423.535 and received by DEPARTMENT's director or designee.
- F. County Community Corrections Plan Modification: A written change or alteration to the County Corrections Plan promulgated by COUNTY modifying the Plan subject to ORS 423.525, effective upon the date the written change or alteration has been submitted to the DEPARTMENT representative under this Agreement.
- G. County Community Corrections Grant: Grant(s) made by DEPARTMENT to assist COUNTY in the implementation and operation of county corrections programs including, but not limited to, preventive or diversionary correctional programs, probation, parole, post-prison supervision work release and local correctional facilities and programs for adults on supervision.
- H. Adult on Supervision (AOS): Any person under supervision who is on parole, post-prison supervision, transitional leave, work release, local control, and/or probation status.
- I. Sanctions or Structured Sanctions: A response to adult on supervision violations of conditions of supervision that uses custody units.

- J. Statewide Evaluation and Information System: The Corrections Information Systems (CIS) including the Offender Profile System (OPS), the Integrated Supervision Information System (ISIS), Case Management for Institutions (CMI), Offender Management System (OMS), Offender Information System (OIS), Interstate Compact Offender Tracking System (ICOTS), and related case management modules.
- K. Supervisory Authority: The local corrections official or officials designated in each COUNTY by that COUNTY's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

II. AUTHORITY AND DURATION

A. Authority

This Agreement is entered into pursuant to the provisions of ORS 423.520, ORS 423.530 and 423.535.

B. Duration

This Agreement will become effective on **July 1, 2023** and will remain in effect until **June 30, 2025** or until terminated according to Section X, captioned TERMINATION.

III. PLAN; PLAN MODIFICATIONS

- A. County Community Corrections Plan: COUNTY will create a County Community Corrections Plan meeting the requirements of ORS 423.525 outlining the basic structure of supervision, services, and local sanctions to be applied to adults on supervision sentenced or convicted of felonies, designated drug-related misdemeanors, or designated person misdemeanors and on supervision in the county. The Plan consists of program descriptions and budget allocations and is included by this reference as part of this Agreement. The Plan must be received and approved by DEPARTMENT before disbursements can be made by COUNTY.
- B. Plan Modifications: COUNTY and DEPARTMENT agree that the Plan must remain a flexible instrument capable of responding to unforeseen needs and requirements. COUNTY may modify the Plan according to ORS 423.525 and the administrative rules thereunder governing the support and development of County Corrections Programs. A copy of all Plan Modifications will be marked in sequence beginning with the designation "Plan Modification 1" and attached to the above-mentioned Plan. DEPARTMENT will notify COUNTY of any concerns about the modification or the need for an amendment within a 30 calendar day period after DEPARTMENT receives the Plan Modification.

- C. Notice of Modification: No Plan Modifications shall take effect until COUNTY gives written notice to DEPARTMENT, in a form approved by DEPARTMENT. DEPARTMENT shall provide to COUNTY an approved form for modifications as soon as practicable after execution of this Agreement.

IV. AMENDMENTS GENERALLY

The terms of this Agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written Amendment signed by the parties.

V. DUTIES AND RESPONSIBILITIES OF COUNTY

- A. COUNTY shall assume administrative responsibility for correctional supervision and services within its jurisdiction, as outlined in the Plan.
- B. COUNTY shall designate a Community Corrections Manager.
- C. COUNTY will meet the goals for community corrections in Oregon described below:
1. Reduce Criminal Behavior
 - a. Indicator: recidivism, as measured by arrest, conviction, or incarceration for a new crime within three years from initial admission to probation.
 - b. Indicator: recidivism, as measured by arrest, conviction, or incarceration for a new crime within three years from first release to parole/post-prison supervision.
 2. Enforce Court, Board of Parole and Post-Prison Supervision, and Local Supervisory Authority Orders:
 - a. Indicator: the percentage of positive case closures for adults on parole/post-prison supervision.
 - b. Indicator: the percentage of positive case closures for adults on probation.
 3. Assist Offenders to Change:
 - a. Indicator: employment rates for adults on supervision.
 - b. Indicator: substantial compliance with treatment requirements.
 4. Provide Reparation to Victims and Community

- a. Indicator: the percentage of restitution and compensatory fines collected, owed to victims.
 - b. Indicator: the percentage of community service hours provided by adults on supervision.

- D. Except as otherwise provided by the DEPARTMENT's rules or orders, COUNTY will adopt and implement a continuum of administrative sanctions used by DEPARTMENT and the Board of Parole and Post-Prison Supervision for violators of conditions of probation, parole and post-prison supervision as authorized by ORS 144.106, 144.334, 144.343 and 137.540 and the rules thereunder. COUNTY will manage local control post-prison supervision in accordance with the rules and practices of the Board of Parole and Post-Prison supervision.

- E. COUNTY will follow the Oregon Administrative Rules (OAR's) applicable to community corrections, including but not limited to the following:
 - 1. Computerized Information System Access and Security OAR 291-005-0005 through 291-005-0075.
 - 2. Case Transfer, OAR 291-019-0100 through OAR 291-019-0225.
 - 3. Community Corrections Programs, OAR 291-031-0005 through OAR 291-031-0360.
 - 4. Pre-sentence Investigation, OAR 291-038-0005 through 291-038-0050.
 - 5. Structured, Intermediate Sanctions OAR 291-058-0010 through OAR 291-058-0070.
 - 6. Short-term Transitional Leave, OAR 291-063-0100 through 291-063-0140.
 - 7. Records Management, OAR 291-070-0100 through OAR 291-070-0140.
 - 8. Community Case Management, OAR 291-078-0005 through OAR 291-078-0031.
 - 9. Admission, Sentence Computation and Release, OAR 291-100-0005 through OAR 291-100-0160.
 - 10. Interstate Compact, OAR 291-180-0106 through OAR 291-180-0275.
 - 11. Sex Offenders, Special Provisions, OAR 291-202-0010 through 291-202-0130.
 - 12. Active and Inactive Probation, OAR 291-206-005 through 291-206-0030.
 - 13. Earned Discharge, OAR 291-209-0010 through 291-209-0070.
 - 14. Dangerous Offenders, OAR Chapter 255, Divisions 36 and 37.
 - 15. Release to Post-Prison Supervision or Parole and Exit Interviews, OAR Chapter 255, Division 60.
 - 16. Conditions of Parole and Post-Prison Supervision, OAR Chapter 255, Division 70.

17. Procedures for Response to Parole and Post-Prison Supervision Condition Violations for Offenders Under the Jurisdiction of the Board of Parole and Post-Prison Supervision or Local Supervisory Authority, OAR Chapter 255, Division 75.
 18. Active and Inactive Parole and Post-Prison Supervision, OAR Chapter 255, Division 94.
 19. Archiving, OAR Chapter 166.
- F. COUNTY will follow all applicable Federal and State civil rights laws including, but not limited to:
1. Federal Code, Title 5 USCA 7201 et seq. - Anti-discrimination in Employment.
 2. Oregon Statutes, Enforcement of Civil Rights: ORS 659A.009, 659A.006, and 659A.030.
 3. Americans with Disabilities Act.
- G. COUNTY will prepare and furnish such data, descriptive information and reports as may be requested by DEPARTMENT as needed to comply with ORS 423.520, which states in part, "The department shall require recipients of the grants to cooperate [. . .] in the collection and sharing of data necessary to evaluate the effect of community corrections programs on future criminal conduct." COUNTY will enter data into the Statewide Evaluation and Information Systems in a complete, accurate, and timely manner. COUNTY agrees to, and does hereby grant DEPARTMENT the right to reproduce, use and disclose all or any part of such reports, data and technical information furnished under this Agreement.
- H. COUNTY will permit authorized representatives of DEPARTMENT to make such review of records of COUNTY as may be necessary to satisfy audit or program review purposes. A copy of any audit or monitoring report will be made available to COUNTY.
- I. COUNTY will follow DEPARTMENT prescribed allotment and expenditure reporting system and shall provide this information on each discrete program in the COUNTY Corrections Plan. This system will be used for controlling County Corrections Grant funds by DEPARTMENT and to provide suitable records for an audit. COUNTY will make available to the DEPARTMENT copies of its annual audit report required by ORS 297.425.
- J. If funding from DEPARTMENT is reduced or discontinued by legislative action, COUNTY will not be required to increase use of COUNTY revenue for continuing or maintaining corrections services as set out in this Agreement. If funding is reduced below the amount set out in ORS 423.483, the County may elect to terminate pursuant to Section X, below.

- K. COUNTY will participate in all of the systems that comprise the Statewide Evaluation and Information Systems. COUNTY will enter and keep current information on adults on supervision in the Law Enforcement Data System (LEDS) Enter Probation Record (EPR) System.
- L. COUNTY will retain responsibility for cases transferred to and accepted by another state under the terms of the Interstate Compact for Adult Offender Supervision, an agreement among states to provide supervision services for parole, post-prison, and probation adults on supervision that relocate to other states per ORS 144.610 and OAR 291-180-0106 through 291-180-0275.
- M. COUNTY will comply with ORS 182.515-182.525. Programs identified by the committee described in ORS 423.150 and receiving any state grant funds shall be evidence based. Evidence based programs are delivered consistent with the findings in research about what works best to reduce recidivism.

VI. DEPARTMENT RESPONSIBILITIES

- A. DEPARTMENT will furnish to COUNTY, in a timely manner, those procedures, directives, records, documents and forms required for COUNTY to meet its obligations.
- B. Subject to system capacity and data processing capabilities, DEPARTMENT will furnish data, descriptive information and reports, available to DEPARTMENT and requested by COUNTY that will assist COUNTY in complying with DEPARTMENT requirements. This data includes, but is not limited to, details regarding outcomes noted in Subsection V(C). DEPARTMENT hereby grants to COUNTY the right to reproduce, use, and disclose all or part of such reports, data, and technical information furnished under this Agreement.
- C. DEPARTMENT agrees to provide COUNTY an opportunity to review and comment on all new or revised administrative rules that have fiscal or programmatic impact on COUNTY.
- D. If by legislative action, funding from DEPARTMENT is reduced to COUNTY, DEPARTMENT agrees to provide reasonable notice and transition opportunity to COUNTY of changes that may significantly alter approved appropriations and programs.
- E. If COUNTY ceases to participate in County Corrections programs as described in ORS Chapter 423, DEPARTMENT may recover title and possession to property previously transferred to COUNTY or purchased by COUNTY with County Corrections Grant funds.

- F. DEPARTMENT grants to COUNTY continual access to the DEPARTMENT's computer system at no charge to COUNTY. All costs (including but not limited to any equipment or software upgrades) to ensure this access; however, is the responsibility of COUNTY. If DEPARTMENT's computer is used in any way other than for pass-through of COUNTY data to the DEPARTMENT's system, COUNTY will provide support for additional activities. DEPARTMENT will provide timely notification and technical assistance when changes are made that impact applicable restrictions on the software, if any. If COUNTY uses DEPARTMENT's data circuits or network connections to access a third party jail management system, the terms of the attached Exhibit B apply. If DEPARTMENT determines that COUNTY has not complied with the terms of Exhibit B, DEPARTMENT may immediately suspend COUNTY access to DEPARTMENT's computer system.
- G. DEPARTMENT's Community Corrections Division will administer the provisions of the Interstate Compact for Adult Offender Supervision, an agreement among states to provide supervision services for adults on parole, under post-prison supervision, and on probation that relocate to other states per ORS 144.610 and OAR 291-180-0106 through 291-180-0275.
- H. DEPARTMENT will provide technical assistance to COUNTY in implementing and evaluating COUNTY's Plan.
- I. DEPARTMENT will provide technical assistance to COUNTY on changes in Oregon Statutes and Oregon Administrative Rules.

VII. FUNDS

- A. The Budget Summary, Exhibit A, lists the County Corrections Grant funds authorized under this Agreement for the implementation of the Plan during the term of this Agreement.
- B. The Plan and this fully executed Agreement must be received by the DEPARTMENT from the COUNTY. After receipt of both the Plan and the executed Agreement, DEPARTMENT will authorize payments to the COUNTY as scheduled in this Section VII.
- C. The first payment to COUNTY will occur as soon as possible after the DEPARTMENT's budget is legislatively approved and implemented and quarterly thereafter.
- D. The DEPARTMENT will disburse to COUNTY one eighth of the County Correction Grant Funds authorized under this Agreement within 15 days of

each of the following dates; 7/1/23, 10/1/23, 1/1/24, 4/1/24, 7/1/24, 10/1/24, 1/1/25, and 4/1/25.

DEPARTMENT's obligation to disburse County Correction Grant Funds is subject to satisfaction, on the date of each disbursement, of each of the following conditions:

1. COUNTY is in compliance with all terms and conditions of this Agreement;
 2. This Agreement has not been terminated; and
 3. DEPARTMENT has received funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow DEPARTMENT, in the exercise of its reasonable administrative discretion, to make the disbursement.
- E. Both parties agree that all reallocations of funds between or within programs shall require a County Community Corrections Plan Modification, except that COUNTY may reallocate up to ten percent of funds in any budget category in the approved Plan between or within programs without a County Community Corrections Plan Modification. COUNTY shall notify DEPARTMENT in writing of such reallocation within 30 days after making the reallocation.
- F. Unexpended Funds: Fund balances remaining at the termination of this agreement may be retained by the COUNTY, upon approval by the DEPARTMENT, for the provision of on-going supervision, correctional services, and sanctions in accordance with the Plan.
- G. Supervision fees previously collected by COUNTY will be used to offset costs of supervising the probation, parole, post-prison supervision or other supervised release.
- H. Unauthorized Expenditures: Any County Corrections Grant Funds expended for unauthorized purposes will be deducted by DEPARTMENT from subsequent payments under this Agreement or refunded to DEPARTMENT upon request.
- I. For purposes of the delivery of field corrections services, DEPARTMENT recognizes COUNTY as an ongoing partner for all County Corrections appropriations provided by the State of Oregon Legislature according to ORS 423.475 to 423.565.
- J. Funding for Sexually Violent Dangerous Offenders: After receipt and review of an invoice from the COUNTY, DEPARTMENT will reimburse

COUNTY at the daily rate established by the DEPARTMENT for the intensive supervision of adults on supervision designated as sexually violent dangerous offenders by the Court or Board of Parole and Post-Prison Supervision only from the amount specifically appropriated for the increased level of supervision of such adults on supervision.

- K. In the event that the COUNTY retains funds to spend in the next biennium under Subsection VII(F), then Subsections VII (D)-(G) and (I)-(J) will survive termination or expiration of this Agreement.

VIII NONCOMPLIANCE

- A. The Assistant Director of Community Corrections or the Assistant Director's designee shall biennially review COUNTY's compliance with this Agreement under ORS 423.500 to 423.560. COUNTY must substantially comply with the provisions of the Plan received by DEPARTMENT and this Agreement.
- B. If, upon review, DEPARTMENT determines that there are reasonable grounds to believe that COUNTY is not in substantial compliance with this Agreement or Plan, DEPARTMENT shall contact COUNTY regarding the alleged noncompliance and offer technical assistance to reach compliance. If COUNTY does not resolve the alleged noncompliance, DEPARTMENT shall, after giving COUNTY not less than 30 calendar days' notice, conduct a hearing to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. After technical assistance, which may include peer review or other assistance, is provided and the hearing occurs, DEPARTMENT may suspend any portion of the funding made available to COUNTY under ORS 423.500 to 423.560 until County complies as required.
- C. In the event that a dispute arises, COUNTY may appeal to the Director of the Department of Corrections.

IX INDEMNIFICATION COUNTY shall comply with the contribution, ADR, subcontractor indemnity and subcontractor insurance requirements set forth in Exhibit C.

X TERMINATION

- A. It is understood and agreed by the parties hereto that this Agreement will remain in force only during its term and will not continue in force after its term. There will be no automatic extension, but this Agreement may be extended only by written Amendment.
- B. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement, including any part, term or provision of any

appended material, is held by a court to be illegal or in conflict with any law of the State of Oregon or applicable administrative rule, that element of this Agreement including relevant appended materials will be void and without effect and will be treated by the parties as having been terminated as of the date of determination of the voidness.

- C. If COUNTY chooses to discontinue participation in the Plan as described in this Agreement and ORS 423.483(2), COUNTY may terminate participation at the end of any month by delivery of a resolution of the Board of Commissioners to the DEPARTMENT's Director or the Director's designee not less than 180 calendar days before the date on which COUNTY intends to discontinue its participation. Termination of COUNTY participation may occur only at the end of a month. This Agreement will terminate on the same date that COUNTY discontinues its participation in the Plan.
- D. If COUNTY terminates participation, the following will apply:
1. The responsibility for correctional services transferred to COUNTY and any unused County Corrections Grant funds will revert to DEPARTMENT.
 2. The responsibility for supervision of and provision of correctional services to misdemeanor offenders does not revert to DEPARTMENT under any circumstances except those of adults on supervision convicted of designated drug-related misdemeanors or designated person misdemeanors.
- E. It is understood and agreed by the parties hereto that this Agreement will automatically terminate if the State of Oregon fails to provide any funding. If there is reduced state funding as described in ORS 423.483, County may terminate the Agreement as described herein.

XI COMPLIANCE WITH APPLICABLE LAW

Both Parties shall comply with all federal, state and local laws, regulations, executive orders, and ordinances to which each is subject and which is applicable to this Agreement. Without limiting the generality of the foregoing, the parties expressly agree to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V 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 those laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. DEPARTMENT's performance under this Agreement is conditioned upon COUNTY's compliance with the provisions of ORS 279B.220, 279B.230, 279B.235 and 279B.270, as amended from time to time, which are made applicable to this Agreement and incorporated herein by this reference. All employers, including

COUNTY, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. COUNTY shall ensure that each of its subcontractors complies with these requirements.

Nothing in this Agreement shall require County or Department to act in violation of state or federal law or the Constitution of the State of Oregon.

XII ACCESS TO RECORDS

For not less than six (6) years after Agreement expiration or termination, DEPARTMENT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers and records of COUNTY which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts. COUNTY shall retain all pertinent records until the later of: (i) the date that is not less than six (6) years following the Agreement expiration or termination date or (ii) the date on which all litigation regarding this Agreement is resolved. COUNTY agrees that full access to DEPARTMENT will be provided in preparation for and during litigation and that copies of applicable records shall be made available upon request and payment by DEPARTMENT for the COUNTY's cost to produce the copies.

XIII SURVIVAL

All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections IV, IX, X, XI, XII, XIII, and XIV.

XIV GOVERNING LAW; JURISDICTION; VENUE

The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement. Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

XV WAIVER

The failure of either party to enforce any provision of this Agreement will not constitute a waiver by that party of that or any other provision.

XVI EXECUTION AND COUNTERPARTS

This Agreement may be executed in several counterparts, each of which will be an original, all of which will constitute but one and the same instrument.

XVII MERGER; INTEGRATION

This instrument contains the entire agreement between the parties and no statement made by any party hereto, or agent thereof, not contained or attached with reference thereto in this written agreement will be valid or binding. This Agreement will supersede all previous communications, representations, whether verbal or written, between the parties hereto. This Agreement may not be enlarged, modified or altered except in writing, signed by the parties, and attached.

STATE OF OREGON
DEPT. OF CORRECTIONS

DESCHUTES COUNTY
BOARD OF COMMISSIONERS

Jeremiah Stromberg, Asst. Director

Chair

Date

Date

Approved for Legal Sufficiency
Oregon Attorney General's Office:

/s/ Sam Zeigler per email dated 5/4/21
Assistant Attorney General

EXHIBIT A
BUDGET SUMMARY
DESCHUTES COUNTY
(to be added by DEPARTMENT after
COUNTY submission of the County Corrections Plan)

EXHIBIT B

DESCHUTES COUNTY

NETWORK ACCESS BY COUNTY

1. COUNTY jail users will be permitted to use existing DEPARTMENT data circuits to access third party systems. Access is permitted for jail management system application users only. COUNTY jail users will not be permitted to use DEPARTMENT circuits for video conferencing, Real Audio, Internet access, applications that require large amounts of bandwidth, or other jail management software online service or system unless approved by DEPARTMENT. COUNTY jail users will be permitted to use DEPARTMENT's data circuits for video image transmissions using a NIST standard (available from DEPARTMENT upon request).

- A. All network traffic covered by this agreement will employ TCP/IP network protocols.
- B. DEPARTMENT will continue its policy of only providing one router to each county. This means that if COUNTY's jail and the parole and probation office are located in separate buildings, COUNTY will be responsible for providing a connection between the two buildings.

2. COUNTY understands and acknowledges that DEPARTMENT is subject to the public records provision of ORS 192.311 through 192.478 and other applicable laws and administrative rules which establish uniform guidelines and procedures for the release of information from DEPARTMENT's computer system.

**EXHIBIT C
INDEMNIFICATION
DESCHUTES COUNTY**

Contribution

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 a party (the "Notified Party") with respect to which the other party ("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. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the Department is jointly liable with the County (or would be if joined in the Third Party Claim), the Department 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 the County in such proportion as is appropriate to reflect the relative fault of the Department on the one hand and of the County on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Department on the one hand and of the County on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Department's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the Department had sole liability in the proceeding.

With respect to a Third Party Claim for which the County is jointly liable with the Department (or would be if joined in the Third Party Claim), the County shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Department in such proportion as is appropriate to reflect the relative fault of the County on the one hand and of the Department 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 the County on the one hand and of the Department 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. The County's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

Alternative Dispute Resolution

The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the 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.

Indemnification by Subcontractors

County shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of County's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

Subcontractor Insurance Requirements

GENERAL

County shall require its first tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under contracts between County and the contractors (the "Subcontracts"), and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to County. County shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, County shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. County shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of "reasonable steps" include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall County permit a contractor to work under a Subcontract when the County is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a "first tier" contractor is a contractor with which the county directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

TYPES AND AMOUNTS

PROFESSIONAL LIABILITY

Professional Liability Insurance covering any damages caused by an error, omission or negligent act related to the services to be provided under the Subcontract, with limits not less than \$2,000,000, as determined by the Department:

"TAIL" COVERAGE If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of : (i) the contractor's completion and County 's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and the Department may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If Department approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE The contractor or its insurer must provide 30 days' written notice to County before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE County shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.



BOARD OF
COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Treasury Report for August 2023

ATTENDANCE:

Bill Kuhn, County Treasurer



MEMORANDUM

DATE: September 25, 2023
TO: Board of County Commissioners
FROM: Bill Kuhn, Treasurer
SUBJECT: Treasury Report for August 2023

Following is the unaudited monthly treasury report for fiscal year to date (YTD) as of August 31, 2023.

Treasury and Investments

- The portfolio balance at the end of August was \$256.2 million, a decrease of \$2.2 million from July and a decrease of \$15.0 million from last year (Aug 2022).
- Net investment income for August was \$491,809 approximately \$25K less than last month and \$282K greater than August 2022. YTD earnings of \$1,008,240 are \$600,989 more than the YTD earnings last year.
- All portfolio category balances are within policy limits.
- The LGIP interest rate increased to 4.50% during the month of August. Benchmark returns for 24-month and 36-month treasuries are down from the prior month by 3 basis points and up by 3 basis points respectively.
- Average portfolio yield is 2.484% which is higher than the prior month's average of 2.38%.
- The portfolio weighted average time to maturity is 1.06 years, down slightly from 1.12 years in July.

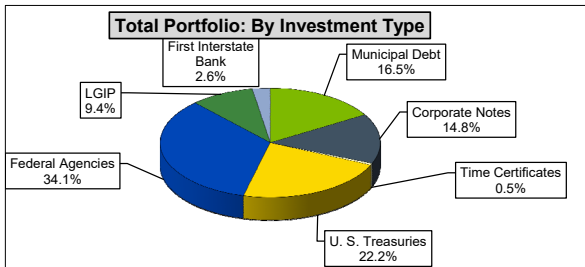
Deschutes County



Total Investment Portfolio As Of 8/31/2023

Portfolio Breakdown: Par Value by Investment Type		
Municipal Debt	\$ 42,175,000	16.5%
Corporate Notes	37,821,000	14.8%
Time Certificates	1,245,000	0.5%
U.S. Treasuries	57,000,000	22.2%
Federal Agencies	87,295,000	34.1%
LGIP	23,989,271	9.4%
First Interstate (Book Balance)	6,762,467	2.6%
Total Investments	\$ 256,287,737	100.0%

Investment Income		
	Aug-23	Y-T-D
Total Investment Income	\$ 496,809	\$ 1,018,240
Less Fee: \$5,000 per month	(5,000)	(10,000)
Investment Income - Net	\$ 491,809	\$ 1,008,240
Prior Year Comparison	Aug-22	
	209,987	\$ 407,251

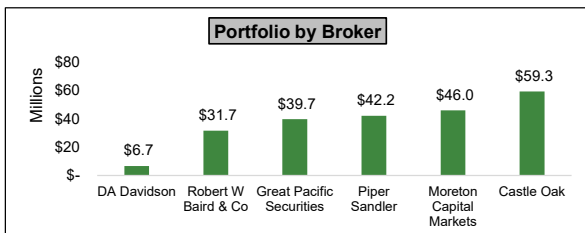


Category Maximums:	
U.S. Treasuries	100%
LGIP (\$56,763,000)	100%
Federal Agencies	100%
Banker's Acceptances	25%
Time Certificates	50%
Municipal Debt	25%
Corporate Debt	25%

	Yield Percentages	
	Current Month	Prior Month
FIB/ LGIP	4.50%	4.30%
Investments	2.21%	2.17%
Average	2.48%	2.38%

Maturity (Years)	
Max	Weighted Average
3.21	1.06

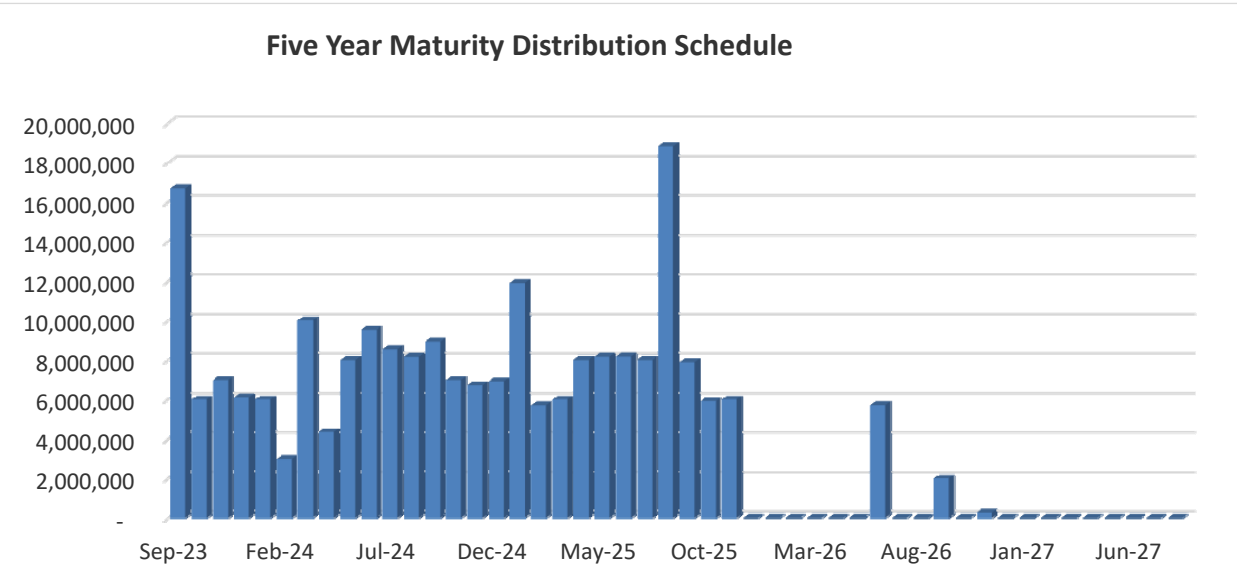
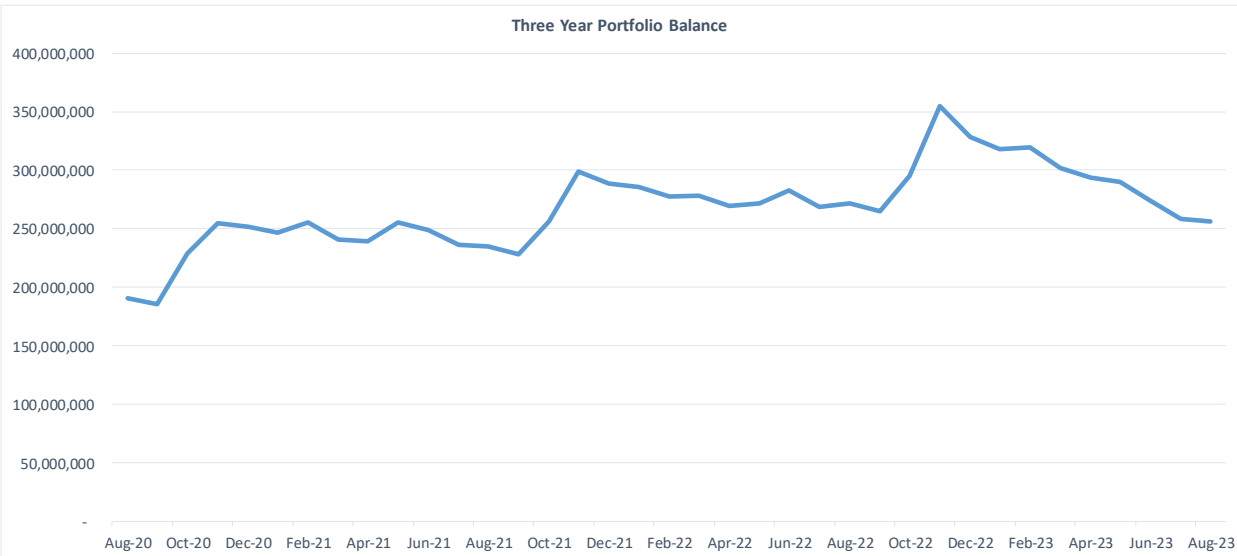
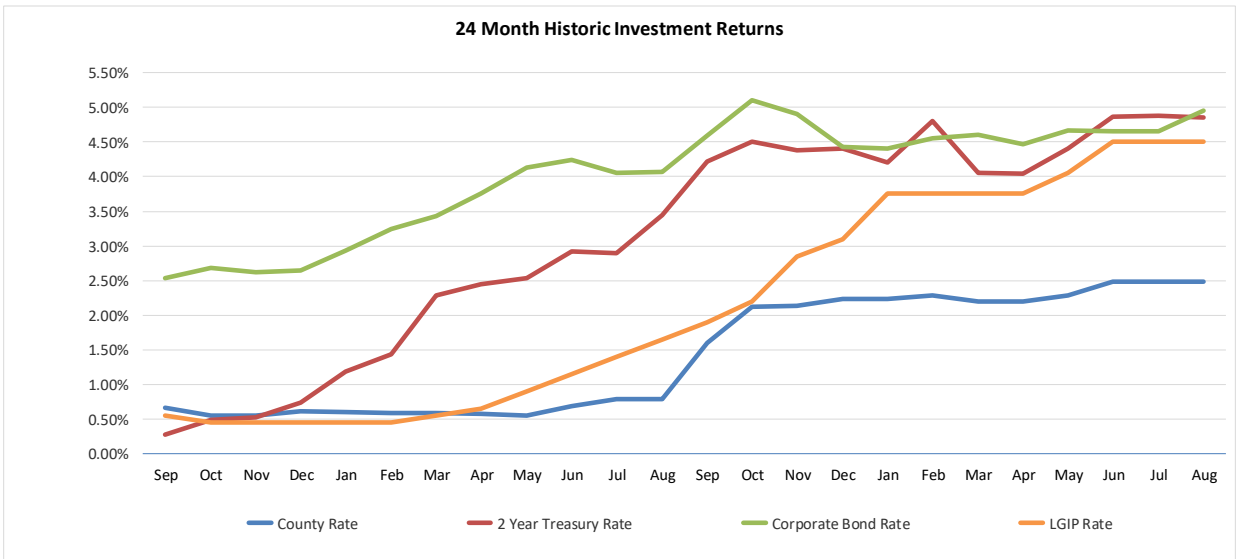
Benchmarks		
24 Month Treasury		4.85%
LGIP Rate		4.50%
36 Month Treasury		4.54%



Term	Minimum	Actual
0 to 30 Days	10%	18.5%
Under 1 Year	25%	48.4%
Under 5 Years	100%	100.0%

Other	Policy	Actual
Corp Issuer	5%	2.5%
Callable	25%	17.7%
Weighted Ave.	AA2	AA1

Investment Activity	
Purchases in Month	\$ 5,000,000
Sales/Redemptions in Month	\$ 12,000,000



Deschutes County Investments
Portfolio Management
Portfolio Details - Investments
August 31, 2023

Inv #	Inv Type	CUSIP	Security	Broker	Purchase Date	Maturity Date	Days To Maturity	Ratings		Coupon		Par Value	Market Value	Book Value	Call Date
								Moodys	S&P/Fitch	Rate	YTM 365				
10844	BCD	05580AB78	BMW	GPAC	7/30/2021	7/30/2024	333			0.55	0.55	249,000	237,948	249,000	-
10847	BCD	38149MXG3	GOLDMAN SACHS	GPAC	7/28/2021	7/29/2024	332			0.55	0.55	249,000	237,983	249,000	-
10848	BCD	795451AA1	SALLIE MAE	GPAC	7/21/2021	7/22/2024	325			0.55	0.55	249,000	238,008	249,000	-
10849	BCD	89235MLF6	TOYOTA FINANCIAL SGS BANK	GPAC	8/5/2021	8/5/2024	339			0.55	0.55	249,000	237,738	249,000	-
10850	NCB	90348JR85	UBS BANK USA	GPAC	8/11/2021	8/12/2024	346			0.55	0.536214	249,000	237,464	249,000	-
10836	FAC	31422XBV3	Federal Agriculture Mtg Corp	GPAC	3/15/2021	12/15/2023	105	Aaa	AA+	0.22	0.2148764	2,000,000	1,968,711	2,000,000	-
10763	FAC	3133EL3P7	Federal Farm Credit Bank	R W B	8/12/2020	8/12/2025	711	Aaa	AA+	0.53	0.53	3,000,000	2,745,421	3,000,000	-
10764	FAC	3133EL3H5	Federal Farm Credit Bank	MORETN	8/12/2020	8/12/2025	711	Aaa	AA+	0.57	0.57	3,000,000	2,747,609	3,000,000	-
10783	FAC	3133EMCN0	Federal Farm Credit Bank	CASTLE	10/16/2020	10/15/2024	410	Aaa	AA+	0.4	0.4440121	2,000,000	1,891,513	1,999,107	-
10819	FAC	3133EMLE0	Federal Farm Credit Bank	PS	12/30/2020	9/22/2023	21	Aaa	AA+	0.19	0.1900035	2,000,000	1,993,657	2,000,000	-
10820	FAC	3133EMLP5	Federal Farm Credit Bank	PS	12/30/2020	12/23/2024	479	Aaa	AA+	0.32	0.3199988	2,000,000	1,872,582	2,000,000	-
10828	FAC	3133EMNK4	Federal Farm Credit Bank	DA DAV	1/22/2021	7/22/2024	325	Aaa	AA+	0.31	0.31	2,000,000	1,910,418	2,000,000	-
10842	FAC	3133EMT51	Federal Farm Credit Bank	R W B	7/19/2021	7/19/2024	322	Aaa	AA+	0.42	0.4283959	1,000,000	956,509	999,926	-
10915	FAC	3133ENN63	Federal Farm Credit Bank	CASTLE	9/20/2022	10/17/2023	46	Aaa	AA+	4.125	4.127566	2,000,000	1,996,386	2,000,000	-
10916	FAC	3133ENP79	Federal Farm Credit Bank	CASTLE	9/26/2022	9/26/2024	391	Aaa	AA+	4.25	4.2542149	2,000,000	1,978,080	1,999,914	-
10926	FAC	3133ENS68	Federal Farm Credit Bank	R W B	10/20/2022	10/17/2024	412	Aaa	AA+	4.62	4.7128512	2,000,000	1,979,351	1,998,018	10/17/2023
10927	FAC	3133ENPG9	Federal Farm Credit Bank	MORETN	10/25/2022	2/14/2025	532	Aaa	AA+	1.75	4.5602179	1,700,000	1,619,988	1,634,792	-
10954	FAC	3133ENG20	Federal Farm Credit Bank	CASTLE	11/30/2022	8/15/2024	349	Aaa	AA+	3.3	4.6146501	2,000,000	1,959,204	1,976,053	-
10903	FAC	3130ASLR8	Federal Home Loan Bank	CASTLE	7/6/2022	3/28/2024	209	Aaa	AA+	3.45	3.3909602	2,000,000	1,976,427	2,000,675	9/28/2023
10913	FAC	3130ATB71	Federal Home Loan Bank	CASTLE	9/9/2022	9/6/2023	5	Aaa	AA+	3.625	3.6277278	2,000,000	1,999,385	1,999,999	-
10914	FAC	3130ATDQ7	Federal Home Loan Bank	CASTLE	9/29/2022	9/29/2023	28	Aaa	AA+	4.05	3.8647659	2,000,000	1,997,262	2,000,000	-
10931	FAC	3130ATN99	Federal Home Loan Bank	PS	10/27/2022	10/27/2023	56	Aaa	AA+	4.75	4.75	2,000,000	1,996,740	2,000,000	-
10932	FAC	3130ATN52	Federal Home Loan Bank	DA DAV	10/27/2022	10/27/2025	787	Aaa	AA+	5	5.0181605	1,855,000	1,831,968	1,854,334	10/27/2023
10937	FAC	3130AK5E2	Federal Home Loan Bank	R W B	11/18/2022	9/4/2025	734	Aaa	AA+	0.375	4.2631353	2,000,000	1,829,596	1,854,221	-
10938	FAC	3130A0F70	Federal Home Loan Bank	R W B	11/18/2022	12/8/2023	98	Aaa	AA+	3.375	4.7972336	2,840,000	2,825,796	2,829,496	-
10947	FAC	3130ASR92	Federal Home Loan Bank	MORETN	11/30/2022	5/16/2025	623	Aaa	AA+	4	5.139245	2,000,000	1,955,218	1,979,801	-
10957	FAC	3130ATU08	Federal Home Loan Bank	PS	12/1/2022	3/8/2024	189	Aaa	AA+	4.75	4.7977307	2,000,000	1,993,080	1,999,542	-
10766	FAC	3134GWND4	Federal Home Loan Mtg Corp	CASTLE	8/14/2020	8/12/2025	711	Aaa	AA+	0.6	0.6101786	2,000,000	1,832,834	1,999,610	11/12/2023
10775	FAC	3134GWF84	Federal Home Loan Mtg Corp	CASTLE	9/9/2020	9/9/2024	374	Aaa	AA+	0.48	0.48	1,000,000	950,728	1,000,000	9/9/2023
10791	FAC	3134GW3W4	Federal Home Loan Mtg Corp	CASTLE	10/30/2020	10/28/2024	423	Aaa	AA+	0.41	0.4163167	2,000,000	1,888,844	1,999,855	10/28/2023
10792	FAC	3134GW5Q5	Federal Home Loan Mtg Corp	CASTLE	10/30/2020	1/29/2025	516	Aaa	AA+	0.45	0.4523943	2,500,000	2,331,882	2,499,917	10/29/2023
10794	FAC	3137EAEZ8	Federal Home Loan Mtg Corp	CASTLE	11/5/2020	11/6/2023	66	Aaa	AA+	0.25	0.2801193	5,000,000	4,955,844	4,999,729	-
10799	FAC	3134GW7F7	Federal Home Loan Mtg Corp	CASTLE	11/18/2020	11/18/2024	444	Aaa	AA+	0.375	0.375	2,000,000	1,884,824	2,000,000	-
10821	FAC	3134GXKK9	Federal Home Loan Mtg Corp	R W B	1/15/2021	1/15/2025	502	Aaa	AA+	0.35	0	2,000,000	1,865,925	2,000,000	10/15/2023
10905	FAC	3134GWZV1	Federal Home Loan Mtg Corp	CASTLE	7/8/2022	10/22/2025	782	Aaa	AA+	0.65	3.2000087	2,000,000	1,822,576	1,897,096	-
10939	FAC	3134GY4P4	Federal Home Loan Mtg Corp	MORETN	11/30/2022	11/26/2025	817	Aaa	AA+	5.3	5.3002699	2,000,000	1,982,479	2,000,000	11/26/2023
10944	FAC	3137EAEX3	Federal Home Loan Mtg Corp	MORETN	11/18/2022	9/23/2025	753	Aaa	AA+	0.375	4.2702845	2,000,000	1,824,093	1,850,297	-
10955	FAC	3137EAEU9	Federal Home Loan Mtg Corp	CASTLE	11/30/2022	7/21/2025	689	Aaa	AA+	0.375	4.3133499	2,000,000	1,836,945	1,861,091	-
10762	FAC	3136G4E74	Federal National Mtg Assn	CASTLE	7/31/2020	1/29/2025	516	Aaa	AA+	0.57	0.569999	1,400,000	1,308,097	1,400,000	10/29/2023
10765	FAC	3136G4N74	Federal National Mtg Assn	MORETN	8/21/2020	8/21/2025	720	Aaa	AA+	0.56	0.56	3,000,000	2,744,693	3,000,000	11/21/2023
10767	FAC	3136G4L84	Federal National Mtg Assn	CASTLE	8/18/2020	8/18/2025	717	Aaa	AA+	0.57	0.5901227	2,000,000	1,830,689	1,999,222	11/18/2023
10770	FAC	3136G4X24	Federal National Mtg Assn	PS	8/28/2020	8/29/2025	728	Aaa	AA+	0.6	0.6000006	1,000,000	914,989	1,000,000	8/29/2024
10772	FAC	3136G4N74	Federal National Mtg Assn	R W B	8/27/2020	8/21/2025	720	Aaa	AA+	0.56	0.5650922	1,000,000	914,898	999,901	11/21/2023
10773	FAC	3136G4X24	Federal National Mtg Assn	CASTLE	8/28/2020	8/29/2025	728	Aaa	AA+	0.6	0.6000006	1,000,000	914,989	1,000,000	8/29/2024
10774	FAC	3136G4N74	Federal National Mtg Assn	R W B	9/3/2020	8/21/2025	720	Aaa	AA+	0.56	0.5599951	2,000,000	1,829,795	2,000,000	11/21/2023
10793	FAC	3135GA2N0	Federal National Mtg Assn	R W B	11/4/2020	11/4/2025	795	Aaa	AA+	0.55	0.55	2,000,000	1,818,038	2,000,000	11/4/2023
10796	FAC	3135G06G3	Federal National Mtg Assn	CASTLE	11/12/2020	11/7/2025	798	Aaa	AA+	0.5	0.5729346	2,000,000	1,821,673	1,996,865	-
10952	FAC	3135G03U5	Federal National Mtg Assn	R W B	11/30/2022	4/22/2025	599	Aaa	AA+	0.625	4.4293463	2,000,000	1,862,529	1,883,007	-
10860	TRC	91282CDA6	U.S. Treasury	MORETN	11/1/2021	9/30/2023	29	Aaa	AA+	0.25	0.4554048	2,000,000	1,991,814	1,999,675	-
10900	TRC	91282CDV0	U.S. Treasury	GPAC	6/28/2022	1/31/2024	152	Aaa	AA+	0.875	3.0200597	2,000,000	1,963,125	1,982,718	-
10901	TRC	91282CEG2	U.S. Treasury	GPAC	6/28/2022	3/31/2024	212	Aaa	AA+	2.25	3.0493067	2,000,000	1,963,906	1,991,022	-
10902	TRC	91282CER8	U.S. Treasury	GPAC	6/28/2022	5/31/2024	273	Aaa	AA+	2.5	3.0809126	2,000,000	1,957,422	1,991,627	-
10904	TRC	91282CEH0	U.S. Treasury	MORETN	7/8/2022	4/15/2025	592	Aaa	AA+	2.625	3.0804476	2,000,000	1,924,844	1,985,924	-
10917	TRC	91282CDD0	U.S. Treasury	CASTLE	10/3/2022	10/31/2023	60	Aaa	AA+	0.375	4.2236506	2,000,000	1,983,359	1,987,762	-
10919	TRC	91282CBR1	U.S. Treasury	PS	10/3/2022	3/15/2024	196	Aaa	AA+	0.25	4.282992	2,000,000	1,945,703	1,958,421	-
10920	TRC	91282ZL7	U.S. Treasury	PS	10/3/2022	4/30/2025	607	Aaa	AA+	0.375	4.2171846	2,000,000	1,852,969	1,880,059	-
10921	TRC	91282ZT0	U.S. Treasury	PS	10/3/2022	5/31/2025	638	Aaa	AA+	0.25	4.2325215	2,000,000	1,842,578	1,869,706	-

Inv #	Inv Type	CUSIP	Security	Broker	Purchase Date	Maturity Date	Days To Maturity	Ratings		Coupon Rate	YTM 365	Par Value	Market Value	Book Value	Call Date
								Moodys	S&P/Fitch						
10924	TRC	91282CBV2	U.S. Treasury	MORETN	10/20/2022	4/15/2024	227	Aaa		0.375	4.6205671	2,000,000	1,938,281	1,949,573	-
10925	TRC	912828WJ5	U.S. Treasury	MORETN	10/20/2022	5/15/2024	257	Aaa		2.5	4.6315735	2,000,000	1,959,453	1,971,337	-
10928	TRC	912828V80	U.S. Treasury	MORETN	10/25/2022	1/31/2024	152	Aaa		2.25	4.5518203	2,000,000	1,974,063	1,981,585	-
10929	TRC	91282CDZ1	U.S. Treasury	MORETN	10/25/2022	2/15/2025	533	Aaa		1.5	4.5042292	2,000,000	1,898,828	1,917,705	-
10934	TRC	91282CED9	U.S. Treasury	MORETN	11/4/2022	3/15/2025	561	Aaa		1.75	4.6405931	2,000,000	1,901,953	1,916,716	-
10935	TRC	91282CEU1	U.S. Treasury	MORETN	11/4/2022	6/15/2025	653	Aaa		2.875	4.6510728	2,000,000	1,928,828	1,940,803	-
10936	TRC	91282CEY3	U.S. Treasury	MORETN	11/4/2022	7/15/2025	683	Aaa		3	4.660048	2,000,000	1,931,250	1,942,194	-
10942	TRC	91282CDN8	U.S. Treasury	MORETN	11/18/2022	12/15/2024	471	Aaa		1	4.3929033	2,000,000	1,895,703	1,917,280	-
10943	TRC	91282CDZ1	U.S. Treasury	MORETN	11/18/2022	2/15/2025	533	Aaa		1.5	4.3902761	2,000,000	1,898,828	1,920,578	-
10945	TRC	9128285C0	U.S. Treasury	MORETN	11/18/2022	9/30/2025	760	Aaa		3	4.1910054	2,000,000	1,927,422	1,953,725	-
10946	TRC	91282CEY3	U.S. Treasury	MORETN	11/18/2022	7/15/2025	683	Aaa		3	4.2514798	2,000,000	1,931,250	1,956,102	-
10948	TRC	912828WJ5	U.S. Treasury	DA DAV	11/30/2022	5/15/2024	257	Aaa		2.5	4.6796779	2,000,000	1,959,453	1,970,629	-
10949	TRC	912828Y87	U.S. Treasury	GPAC	11/30/2022	7/31/2024	334	Aaa		1.75	4.6137515	2,000,000	1,935,234	1,950,083	-
10953	TRC	91282CDV0	U.S. Treasury	CASTLE	11/30/2022	1/31/2024	152	Aaa		0.875	4.732274	2,000,000	1,963,125	1,969,128	-
10956	TRC	91282CBR1	U.S. Treasury	PS	11/30/2022	3/15/2024	196	Aaa		0.25	4.7067273	2,000,000	1,945,703	1,954,092	-
10958	TRC	91282CEY3	U.S. Treasury	PS	11/30/2022	7/15/2025	683	Aaa		3	4.2943472	2,000,000	1,931,250	1,954,600	-
10959	TRC	91282CEU1	U.S. Treasury	PS	11/30/2022	6/15/2025	653	Aaa		2.875	4.2893605	2,000,000	1,928,828	1,952,545	-
10961	ATD	912797GU5	U.S. Treasury	MORETN	8/28/2023	9/26/2023	25	Aaa		5.2500041	5.41977144	5,000,000	4,981,658	4,981,771	-
10806	MC1	037833DF4	Apple Inc	GPAC	12/3/2020	1/13/2025	500	Aaa	AA+	2.75	0.6389292	2,000,000	1,937,567	2,056,859	11/13/2024
10862	MC1	037833CG3	Apple Inc	GPAC	11/17/2021	2/9/2024	161	Aaa	AA+	3	0.9122019	2,000,000	1,978,096	2,018,097	12/9/2023
10865	MC1	037833DN7	Apple Inc	GPAC	11/18/2021	9/11/2026	1106	Aaa	AA+	2.05	1.4551529	2,000,000	1,847,882	2,034,656	7/11/2026
10822	MC1	12572QAG0	CME GROUP	GPAC	1/4/2021	3/15/2025	561	Aa3	AA-	3	0.6490818	2,000,000	1,930,697	2,071,261	-
10830	MC1	22546QAP2	CREDIT SUISSE NY	CASTLE	2/1/2021	9/9/2024	374	A3	A	3.625	0.57179	2,950,000	2,869,562	3,040,996	-
10818	MC1	166764BW9	Chevron Corp	GPAC	12/28/2020	5/11/2025	618	Aa2	AA-	1.554	0.6470298	1,663,000	1,564,058	1,688,158	-
10824	MC1	166764BW9	Chevron Corp	CASTLE	1/7/2021	5/11/2025	618	Aa2	AA-	1.554	0.6175284	2,000,000	1,881,008	2,031,264	-
10802	MC1	459058JM6	International Bonds for Recons	CASTLE	11/24/2020	11/24/2023	84	Aaa	AAA	0.25	0.3204397	2,000,000	1,977,360	1,999,670	-
10817	MC1	46625HKC3	JPMorgan Chase - Corporate N	CASTLE	12/22/2020	1/23/2025	510	A1	A-	3.125	0.8061136	2,000,000	1,934,612	2,063,489	-
10826	MC1	46625HKC3	JPMorgan Chase - Corporate N	CASTLE	11/11/2021	1/23/2025	510	A1	A-	3.125	0.8272497	2,000,000	1,934,612	2,062,895	-
10864	MC1	46625HJX9	JPMorgan Chase - Corporate N	CASTLE	11/18/2021	5/13/2024	255	A1	A-	3.625	0.9770205	1,500,000	1,478,800	1,527,402	-
10873	MC1	46625HJT8	JPMorgan Chase - Corporate N	CASTLE	12/2/2021	2/1/2024	153	A1	A-	3.875	0.9289607	1,000,000	993,167	1,012,123	-
10797	MC1	822582CC4	ROYAL DUTCH SHELL PLC	GPAC	11/13/2020	11/7/2024	433	Aa2	A+	2	0.7055457	3,000,000	2,884,205	3,045,234	10/7/2024
10823	MC1	822582CC4	ROYAL DUTCH SHELL PLC	CASTLE	1/7/2021	11/7/2024	433	Aa2	A+	2	0.5429301	1,708,000	1,642,074	1,737,104	10/7/2024
10858	MC1	91159HHX1	US Bank	PS	10/29/2021	7/30/2024	333	A3	A	2.4	0.8420282	2,000,000	1,941,284	2,028,086	-
10814	MC1	931142DV2	WALMART	GPAC	12/17/2020	12/15/2024	471	Aa2	AA	2.65	0.570485	2,000,000	1,936,749	2,052,924	10/15/2024
10801	MC1	30231GBH4	XTO Energy Inc	GPAC	11/19/2020	3/19/2025	565	Aa2	AA-	2.992	0.813784	2,000,000	1,936,016	2,066,211	-
10816	MC1	30231GBC5	XTO Energy Inc	GPAC	12/21/2020	8/16/2024	350	Aa2	AA-	2.019	0.5432498	2,000,000	1,935,425	2,027,967	7/16/2024
10800	MC1	98459LAA1	YALE UNIVERSITY	GPAC	11/18/2020	4/15/2025	592	Aaa	AAA	0.873	0.5784436	2,000,000	1,868,083	2,009,422	-
10788	MUN	014365DS6	ALDERWOOD WA WTR & WSTWTR DIST	R W B	11/12/2020	12/1/2024	457	Aa2	AA+	1	0.6501532	935,000	885,875	939,029	-
10789	MUN	014365DR8	ALDERWOOD WA WTR & WSTWTR DIST	R W B	11/12/2020	12/1/2023	91	Aa2	AA+	1	0.550114	270,000	267,108	270,301	-
10843	MUN	098419MM3	BONNEVILLE & BINGHAM CNTYS SCH	PS	7/28/2021	9/15/2023	14	Aaa		4	0.4307542	1,000,000	999,480	1,001,380	-
10808	MUN	13034AL57	CALIFORNIA INFRASTRUCTURE & EC	GPAC	12/17/2020	10/1/2024	396		AAA	0.645	0.6450337	1,000,000	950,630	1,000,000	-
10930	MUN	13048VLK2	CA ST MUNI FIN AUTH REVENUE	GPAC	10/26/2022	10/1/2025	761	A1		2.148	5.0003132	2,060,000	1,939,057	1,947,413	-
10777	MUN	179093KQ1	CLACKAMAS SCHOOL DISTRICT	PS	10/1/2020	6/15/2024	288	Aa1		0.613	0.6130311	500,000	481,725	500,000	-
10807	MUN	179198JF4	CLACKAMAS SCHOOL DISTRICT	DA DAV	12/3/2020	6/15/2024	288	Aa1		0.83	0.480219	300,000	289,260	300,820	-
10871	MUN	250325UL9	DESCHUTES CTY SCH DIST #1	R W B	12/7/2021	6/15/2026	1018	Aa1		1.4	1.2301048	2,000,000	1,815,360	2,009,189	-
10778	MUN	4511527C0	IDAHO ST BOND BANK AUTH REVENUE	PS	10/8/2020	9/15/2024	380	Aa1		5	0.6103486	1,000,000	995,140	1,044,993	-
10780	MUN	476453GR0	JEROME IDAHO SCHOOL DISTRICT	PS	10/13/2020	9/15/2023	14	Aaa		5	0.4793681	200,000	199,960	200,349	-
10781	MUN	476453G58	JEROME IDAHO SCHOOL DISTRICT	PS	10/13/2020	9/15/2024	380	Aaa		5	0.7253469	220,000	218,726	229,615	-
10840	MUN	498368EB1	KLAMATH CNTY OR SCH DIST	PS	7/1/2021	6/15/2025	653		AA+	0.86	0.8600191	400,000	369,532	400,000	-
10870	MUN	569280EX4	Salem-Keizer School District	PS	12/7/2021	6/15/2026	1018	Aa1		1.438	1.2900015	2,000,000	1,812,960	2,007,993	-
10782	MUN	584288ER1	MEDFORD OR REVENUE	R W B	10/14/2020	7/15/2024	318		AA-	2	0.6503538	815,000	790,803	824,464	-
10825	MUN	625506PX2	MULTNOMAH CO-REF-TXBL	GPAC	1/21/2021	6/1/2025	639	Aaa	AAA	1	0.5000954	2,165,000	2,021,569	2,183,713	-
10815	MUN	625517MG9	MULTNOMAH COUNTY OR SCHOOLS	R W B	12/30/2020	6/15/2024	288	Aa1	AA+	2	0.4052718	2,750,000	2,676,053	2,784,433	-
10841	MUN	625517NE3	MULTNOMAH COUNTY OR SCHOOLS	CASTLE	7/15/2021	6/30/2025	668	Aa2	AA	0.95	0.6870868	1,255,000	1,161,540	1,260,949	-
10768	MUN	67232TBM6	OAKLAND CA REDEV SUCCESSOR	PS	8/21/2020	9/1/2023	0		AA-	3.125	0.6015189	2,500,000	2,500,000	2,500,000	-
10875	MUN	68587FAW4	OR EDU DIST FF&C PENSION OBLI	R W B	12/8/2021	6/30/2026	1033	AA2	AA	1.104	1.3861517	250,000	222,915	248,072	-
10950	MUN	68609TWD6	OREGON STATE	GPAC	12/1/2022	5/1/2025	608	Aa1	AA+	0.895	4.7532126	500,000	465,875	471,821	-
10805	MUN	68609TZR2	Oregon State Lottery	R W B	12/1/2020	8/1/2024	335	Aa1	AA+	0.638	0.4148774	505,000	483,906	506,024	-
10811	MUN	68608USW7	Oregon State Lottery	R W B	12/17/2020	8/1/2024	335	Aa1	AA+	2.677	0.9386601	755,000	736,880	766,800	-
10829	MUN	68607VZ73	Oregon State Lottery	PS	1/26/2021	4/1/2024	213	Aa2	AAA	2.505	0.3901753	2,350,000	2,310,497	2,378,782	-
10874	MUN	68609TWC8	Oregon State Lottery	R W B	12/2/2021	5/1/2024	243	Aa1	AA+	0.795	0.7300606	500,000	484,965	500,214	-
10771	MUN	68583RCT7	OR ST COMMUNITY COLLEGE DIST	R W B	8/27/2020	6/30/2024	303	Aa1	AA+	5.66	0.6000375	90,000	90,087	93,733	-
10853	MUN	68583RCY6	OR ST COMMUNITY COLLEGE DIST	PS	8/31/2021	6/30/2024	303		AA	0.583	0.5830334	1,000,000	960,150	1,000,000	-

Inv #	Inv Type	CUSIP	Security	Broker	Purchase Date	Maturity Date	Days To Maturity	Ratings		Coupon Rate	YTM 365	Par Value	Market Value	Book Value	Call Date
								Moodys	S&P/Fitch						
10863	MUN	68583RCV2	OR ST COMMUNITY COLLEGE DIST	GPAC	11/18/2021	6/30/2026	1033	Aa1	AA+	5.68	1.4000014	210,000	213,751	234,551	- -
10876	MUN	68607DVC6	ODOT HWY USER TAX REV	R W B	12/8/2021	11/15/2026	1171	Aa1	AAA	0.934	1.3661066	260,000	230,760	256,529	- -
10784	MUN	732098PE2	POMONA CALI UNI SCH DIST TAXAB	PS	10/20/2020	8/1/2024	335	Aa3		0.77	0.6001765	1,200,000	1,149,240	1,201,845	- -
10809	MUN	736688MD1	Portland Community College	PS	12/17/2020	6/15/2024	288	Aa1		0.572	0.5720012	1,000,000	963,140	1,000,000	- -
10845	MUN	736688MF6	Portland Community College	MORETN	7/23/2021	6/15/2026	1018	Aa1		0.899	0.8000224	1,250,000	1,120,050	1,253,376	- -
10810	MUN	73474TAB6	MORROW PORT TRANS FAC	R W B	12/14/2020	9/1/2024	366	Aa2		3.221	0.4201896	1,750,000	1,711,693	1,798,581	- -
10837	MUN	73473RDH5	MORROW PORT TRANS FAC	R W B	4/1/2021	12/1/2023	91		A-	0.7	0.7000516	1,000,000	987,620	1,000,000	- -
10951	MUN	752147HJ0	RANCHO SANTIAGO CA CMNTY CLG D	GPAC	12/1/2022	9/1/2025	731	Aa2	AA	0.734	4.6299342	1,895,000	1,744,044	1,757,981	- -
10776	MUN	568571CZ4	SILVER FALLS SD	PS	9/17/2020	6/15/2024	288	Aa1		0.55	0.5500254	1,900,000	1,826,470	1,900,000	- -
10831	MUN	799055QU5	SAN MATEO CA FOSTER CITY SCHO	DA DAV	2/16/2021	8/1/2025	700	Aaa	AA+	1.597	0.4700929	500,000	467,975	510,675	- -
10786	MUN	835569GR9	SONOMA CCD	PS	10/21/2020	8/1/2024	335	Aa2	AA	2.061	0.600206	1,200,000	1,163,220	1,215,863	- -
10787	MUN	88675ABS4	TIGARD OR WTR SYS REVENUE	PS	11/3/2020	8/1/2025	700	Aa3	AA	2	0.8504149	350,000	329,508	357,543	- -
10779	MUN	906429EE1	UNION CTY OR SCHOOL DISTRICT	PS	10/8/2020	6/15/2024	288	Aa1		0.675	0.6750364	490,000	471,674	490,000	- -
10785	MUN	939307KV5	Washington County SD Municipal	PS	10/28/2020	6/15/2024	288	Aa1		0.59	0.5840838	1,500,000	1,442,190	1,500,000	- -
10798	MUN	938429V61	Washington County SD Municipal	PS	11/17/2020	6/15/2025	653	Aa1	AA+	0.912	0.6448704	350,000	323,701	351,645	- -
10078	RRP	SYS10078	Local Govt Investment Pool		7/1/2006	- -	1			4.5	4.5	23,989,271	23,989,271	23,989,271	- -
10084	RR2	SYS10084	First Interstate Bank		7/1/2006	- -	1			4.5	4.5	6,762,467	6,762,467	6,762,467	- -
TOTALS												256,287,737	247,106,320	255,029,063	



BOARD OF
COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Finance Report for August 2023

ATTENDANCE:

Robert Tintle, Chief Financial Officer



MEMORANDUM

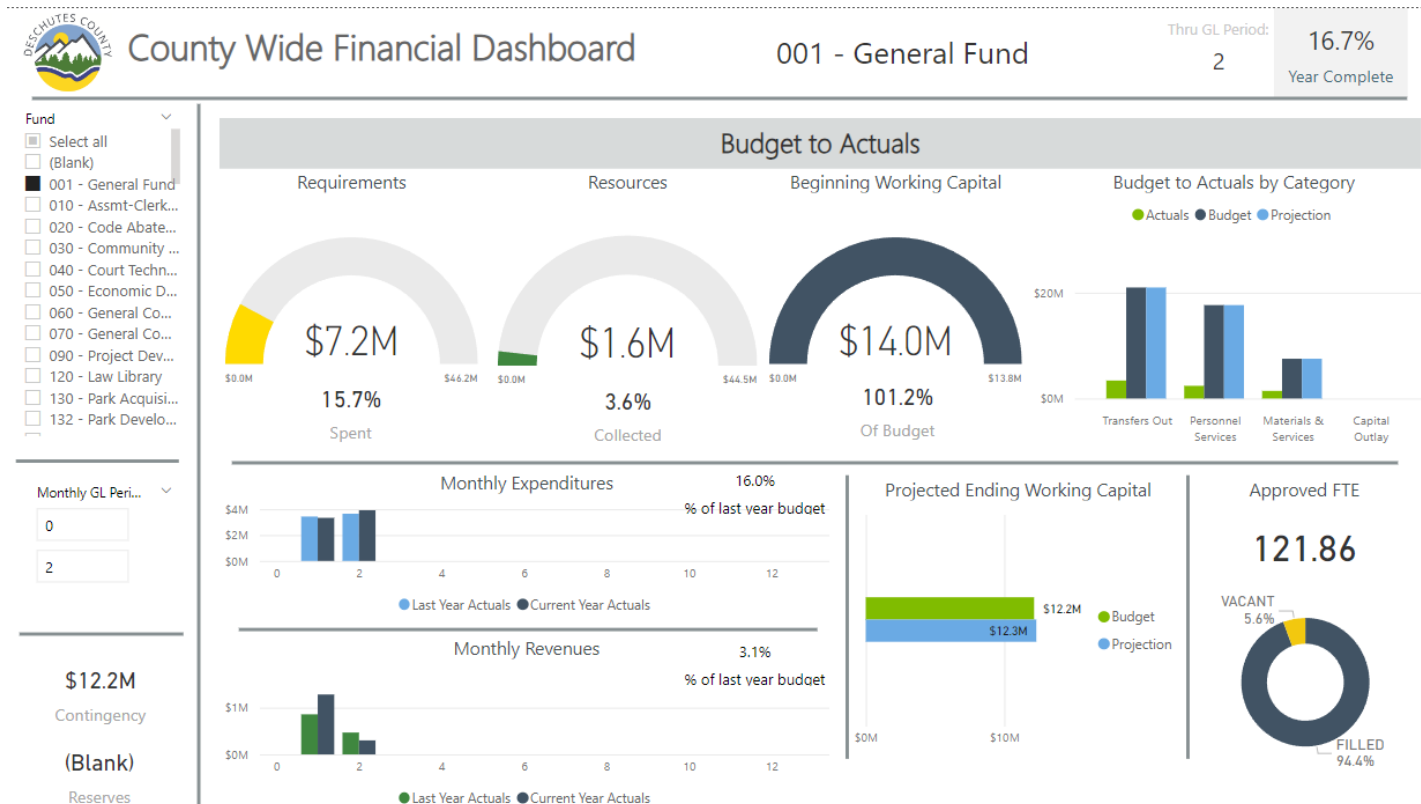
DATE: September 25, 2023
TO: Board of County Commissioners
FROM: Robert Tintle, Chief Financial Officer
SUBJECT: Finance Report for August 2023

Following is the unaudited monthly finance report for fiscal year to date (YTD) as of August 31, 2023.

Budget to Actuals Report

General Fund

- *Revenue* YTD in the General Fund is \$1.6M or 3.6% of budget. By comparison, last year revenue YTD was \$1.6M and 3.8% of budget.
- *Expenses* YTD are \$7.2M and 15.7% of budget. By comparison, last year expenses YTD were \$7.3M and 16.5% of budget.
- *Beginning Fund Balance* is \$14.0M or 101.2% of the budgeted \$13.8M beginning fund balance.



All Major Funds

On the attached pages you will find the Budget to Actuals Report for the County’s major funds with actual revenue and expense data compared to budget through August 31, 2023.

Position Control Summary

Position Control Summary FY24														
Org		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	July - June Percent Unfilled
Assessor	Filled	31.63	31.63											
	Unfilled	3.63	3.63											10.29%
Clerk	Filled	9.48	10.48											
	Unfilled	1.00	-											4.77%
BOPTA	Filled	0.52	0.52											
	Unfilled	-	-											0.00%
DA	Filled	57.90	58.90											
	Unfilled	3.20	2.20											4.42%
Tax	Filled	6.50	6.50											
	Unfilled	-	-											0.00%
Veterans'	Filled	5.00	5.00											
	Unfilled	-	-											0.00%
Property Mgmt	Filled	2.00	2.00											
	Unfilled	1.00	1.00											33.33%
Total General Fund	Filled	113.03	115.03	-	-	-	-	-	-	-	-	-	-	
	Unfilled	8.83	6.83	-	-	-	-	-	-	-	-	-	-	6.43%
Justice Court	Filled	4.60	4.60											
	Unfilled	-	-											0.00%
Community Justice	Filled	45.00	43.00											
	Unfilled	4.00	6.00											10.20%
Sheriff	Filled	233.75	232.75											
	Unfilled	37.25	38.25											13.93%
Houseless Effort	Filled	1.00	1.00											
	Unfilled	1.00	1.00											50.00%
Health Srvc	Filled	381.55	376.95											
	Unfilled	33.25	37.85											8.57%
CDD	Filled	54.80	54.80											
	Unfilled	3.20	3.20											5.52%
Road	Filled	57.00	57.00											
	Unfilled	5.00	5.00											8.06%
Adult P&P	Filled	33.75	33.75											
	Unfilled	6.00	6.00											15.09%
Solid Waste	Filled	29.00	31.00											
	Unfilled	12.00	10.00											26.83%
Victims Assistance	Filled	6.50	7.50											
	Unfilled	3.00	2.00											26.32%
GIS Dedicated	Filled	2.00	2.00											
	Unfilled	-	-											0.00%
Fair & Expo	Filled	11.75	11.75											
	Unfilled	5.75	5.75											32.86%
Natural Resource	Filled	2.00	2.00											
	Unfilled	-	-											0.00%
ISF - Facilities	Filled	23.75	22.75											
	Unfilled	3.00	4.00											13.08%
ISF - Admin	Filled	9.75	9.75											
	Unfilled	-	-											0.00%
ISF - BOCC	Filled	3.00	3.00											
	Unfilled	-	-											0.00%
ISF - Finance	Filled	12.00	12.00											
	Unfilled	1.00	1.00											7.69%
ISF - Legal	Filled	7.00	7.00											
	Unfilled	-	-											0.00%
ISF - HR	Filled	8.80	8.80											
	Unfilled	1.20	1.20											12.00%
ISF - IT	Filled	17.00	17.00											
	Unfilled	-	-											0.00%
ISF - Risk	Filled	3.25	3.25											
	Unfilled	-	-											0.00%
911	Filled	53.00	55.00											
	Unfilled	7.00	5.00											10.00%
Total:	Filled	1,113.28	1,111.68	-	-	-	-	-	-	-	-	-	-	
	Unfilled	131.48	133.08	-	-	-	-	-	-	-	-	-	-	
	Total	1,244.76	1,244.76	A	-	-	-	-	-	-	-	-	-	
	% Unfilled	10.56%	10.69%											10.63%

A No FTE changes



Budget to Actuals - Countywide Summary

All Departments

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	
	Budget	Actuals	%	Budget	Actuals	%		%
001 - General Fund	43,472,708	42,924,412	99%	44,408,216	1,564,913	4%	44,408,216	100%
030 - Juvenile	1,010,203	1,050,931	104%	1,014,168	42,514	4%	1,014,168	100%
160/170 - TRT	13,631,282	12,748,688	94%	12,751,790	4,045,408	32%	12,752,090	100%
200 - ARPA	105,186	26,783,955	999%	2,630,533	39,657	2%	2,630,533	100%
220 - Justice Court	525,032	518,001	99%	525,540	92,746	18%	525,540	100%
255 - Sheriff's Office	49,577,055	50,672,726	102%	58,332,752	1,118,978	2%	58,476,752	100%
274 - Health Services	57,787,985	55,638,108	96%	59,708,169	13,195,041	22%	59,476,858	100%
295 - CDD	11,675,519	9,455,886	81%	10,460,840	1,386,584	13%	9,445,030	90%
325 - Road	24,889,063	25,698,009	103%	26,673,711	5,619,398	21%	26,865,648	101%
355 - Adult P&P	6,134,018	6,295,372	103%	5,535,606	1,206,718	22%	5,535,606	100%
465 - Road CIP	1,943,063	782,549	40%	2,179,426	117,580	5%	2,198,667	101%
610 - Solid Waste	14,503,499	13,899,874	96%	15,995,411	3,294,552	21%	15,995,411	100%
615 - Fair & Expo	1,738,534	2,260,708	130%	2,343,500	301,383	13%	2,343,500	100%
616 - Annual County Fair	1,969,380	2,359,790	120%	2,324,117	2,364,048	102%	2,656,486	114%
617 - Fair & Expo Capital Reserve	7,414	317,269	999%	64,800	11,474	18%	64,800	100%
618 - RV Park	642,252	579,826	90%	530,800	105,633	20%	530,800	100%
619 - RV Park Reserve	6,298	21,589	343%	34,300	5,827	17%	34,300	100%
670 - Risk Management	3,311,477	3,297,596	100%	3,364,344	686,781	20%	3,364,344	100%
675 - Health Benefits	23,658,700	25,492,341	108%	30,654,045	4,193,589	14%	30,654,045	100%
705 - 911	13,744,678	14,120,971	103%	14,034,323	89,024	1%	14,034,323	100%
999 - Other	62,651,873	65,587,640	105%	81,637,214	11,449,343	14%	81,437,214	100%
TOTAL RESOURCES	332,985,219	360,506,240	108%	375,203,605	50,931,190	14%	374,444,331	100%

REQUIREMENTS	Fiscal Year 2023			Fiscal Year 2024			Projection	
	Budget	Actuals	%	Budget	Actuals	%		%
	-	(30,065)		-	-			
001 - General Fund	24,337,373	23,055,955	95%	25,183,057	3,843,833	15%	25,183,057	100%
030 - Juvenile	7,928,538	7,497,148	95%	8,481,279	1,131,333	13%	8,481,279	100%
160/170 - TRT	13,123,218	11,822,231	90%	6,902,223	3,474,939	50%	6,902,223	100%
200 - ARPA	23,129,361	14,392,370	62%	12,326,272	517,602	4%	12,326,272	100%
220 - Justice Court	766,183	742,670	97%	822,370	129,037	16%	822,370	100%



Budget to Actuals - Countywide Summary

All Departments

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

255 - Sheriff's Office	60,415,533	58,370,902	97%	65,642,097	9,610,061	15%	64,193,549	98%
274 - Health Services	70,979,127	62,910,082	89%	71,184,189	9,001,260	13%	61,213,163	86%
295 - CDD	11,233,304	9,466,620	84%	10,269,561	1,387,749	14%	9,590,745	93%
325 - Road	16,188,996	13,821,920	85%	17,124,761	2,686,698	16%	17,124,761	100%
355 - Adult P&P	7,575,910	6,790,874	90%	7,526,032	1,015,095	13%	7,526,032	100%
465 - Road CIP	28,387,166	16,897,136	60%	23,772,827	1,214,893	5%	23,765,779	100%
610 - Solid Waste	11,754,672	10,769,061	92%	14,355,234	1,338,116	9%	14,355,234	100%
615 - Fair & Expo	3,098,054	3,330,117	107%	3,734,327	492,986	13%	3,734,327	100%
616 - Annual County Fair	1,972,030	2,067,450	105%	2,582,856	1,650,556	64%	2,582,856	100%
617 - Fair & Expo Capital Reserve	870,000	483,310	56%	1,090,000	32,056	3%	1,090,000	100%
618 - RV Park	594,181	498,137	84%	617,131	53,833	9%	617,131	100%
619 - RV Park Reserve	100,000	5,532	6%	174,000	-	0%	174,000	100%
670 - Risk Management	5,887,806	2,915,705	50%	4,744,447	1,126,761	24%	4,764,197	100%
675 - Health Benefits	31,769,217	30,625,451	96%	32,587,213	2,408,665	7%	32,587,213	100%
705 - 911	17,709,497	13,389,893	76%	15,113,760	2,099,618	14%	15,113,760	100%
999 - Other	108,884,843	63,575,584	58%	93,357,006	6,181,495	7%	93,157,006	100%
TOTAL REQUIREMENTS	446,705,009	353,398,083	79%	417,590,642	49,396,584	12%	405,304,954	97%



Budget to Actuals - Countywide Summary

All Departments

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

TRANSFERS	Fiscal Year 2023			Fiscal Year 2024			Projection	%
	Budget	Actuals	%	Budget	Actuals	%		
001 - General Fund	(20,871,416)	(19,780,691)	95%	(20,896,159)	(3,383,292)	16%	(20,896,159)	100%
030 - Juvenile	6,452,997	6,452,997	100%	6,678,013	1,120,500	17%	6,678,013	100%
160/170 - TRT	(6,021,446)	(5,913,148)	98%	(8,575,254)	(1,112,450)	13%	(8,575,254)	100%
200 - ARPA	-	-		(5,022,145)	(2,677,740)	53%	(5,022,145)	100%
220 - Justice Court	263,217	263,217	100%	364,688	60,780	17%	364,688	100%
255 - Sheriff's Office	3,448,587	3,449,109	100%	3,378,587	608,630	18%	3,378,587	100%
274 - Health Services	8,007,942	5,850,465	73%	7,796,456	1,141,378	15%	7,796,456	100%
295 - CDD	(911,585)	(835,505)	92%	466,530	(104,433)	-22%	89,180	19%
325 - Road	(12,330,136)	(12,330,136)	100%	(12,700,000)	(7,700,000)	61%	(12,700,000)	100%
355 - Adult P&P	267,532	267,532	100%	460,950	76,826	17%	460,950	100%
465 - Road CIP	14,230,313	12,238,662	86%	12,500,000	5,000,000	40%	12,500,000	100%
610 - Solid Waste	(5,299,665)	(3,453,962)	65%	(2,613,962)	(2,326)	0%	(2,613,962)	100%
615 - Fair & Expo	704,127	621,827	88%	875,681	145,946	17%	875,681	100%
616 - Annual County Fair	(156,706)	(156,706)	100%	(34,503)	(5,750)	17%	(34,503)	100%
617 - Fair & Expo Capital Reserve	1,149,827	1,113,829	97%	824,187	220,694	27%	824,187	100%
618 - RV Park	(81,566)	(81,566)	100%	128,436	(5,262)	-4%	128,436	100%
619 - RV Park Reserve	261,750	261,566	100%	51,564	8,594	17%	51,564	100%
670 - Risk Management	(3,500)	(3,500)	100%	(3,500)	(582)	17%	(3,500)	100%
705 - 911	(59,900)	(59,900)	100%	-	-		-	
999 - Other	10,959,373	12,205,258	111%	16,320,431	6,608,487	40%	16,697,781	102%
TOTAL TRANSFERS	9,745	109,347	999%	-	-		-	



Budget to Actuals - Countywide Summary

All Departments

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

ENDING FUND BALANCE	Fiscal Year 2023			Fiscal Year 2024			
	Budget	Actuals	%	Budget	Actuals	Projection	%
	-	30,065	999%	-	-	-	
001 - General Fund	11,239,637	13,984,901	124%	12,155,000	8,325,008	12,316,222	101%
030 - Juvenile	634,663	1,528,906	241%	710,902	1,560,600	739,822	104%
160/170 - TRT	4,000,000	4,488,842	112%	1,999,500	3,946,117	1,999,800	100%
200 - ARPA	-	12,499,682	999%	-	9,343,998	-	
220 - Justice Court	22,066	38,548	175%	67,858	24,489	67,858	100%
255 - Sheriff's Office	7,024,650	11,004,027	157%	9,254,393	5,300,445	10,846,941	117%
274 - Health Services	6,045,519	12,521,139	207%	7,737,952	17,856,674	18,568,765	240%
295 - CDD	1,627,134	1,322,717	81%	1,975,730	1,217,120	1,266,183	64%
325 - Road	2,262,898	7,352,309	325%	2,370,201	2,585,010	4,492,857	190%
355 - Adult P&P	1,925,640	3,010,934	156%	1,470,524	3,279,436	1,481,512	101%
465 - Road CIP	12,334,484	23,347,907	189%	9,918,979	27,250,593	14,280,794	144%
610 - Solid Waste	556,359	2,743,514	493%	1,442,600	4,712,298	1,885,430	131%
615 - Fair & Expo	315,960	547,938	173%	238,854	517,769	48,280	20%
616 - Annual County Fair	225,358	521,488	231%	245,910	1,229,280	560,666	228%
617 - Fair & Expo Capital Reserve	1,587,183	2,757,229	174%	2,391,825	2,957,341	2,556,217	107%
618 - RV Park	82,920	166,660	201%	135,220	213,197	208,766	154%
619 - RV Park Reserve	1,340,766	1,469,559	110%	1,284,317	1,483,980	1,381,424	108%
670 - Risk Management	5,107,351	9,323,329	183%	6,616,397	8,882,767	7,919,977	120%
675 - Health Benefits	3,815,139	6,171,080	162%	3,809,575	8,230,504	4,512,413	118%
705 - 911	8,926,080	13,394,068	150%	12,122,906	11,319,837	12,250,388	101%
999 - Other	56,596,539	109,316,114	193%	105,557,249	121,015,162	107,885,284	102%
TOTAL FUND BALANCE	125,670,346	237,540,954	189%	181,505,892	241,251,625	205,269,598	113%



Budget to Actuals Report

General Fund - Fund 001

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Property Taxes - Current	34,467,173	34,606,785	100%	37,400,000	(1,091)	0%	37,400,000	100%	- A
Property Taxes - Prior	301,000	334,760	111%	318,000	110,250	35%	318,000	100%	-
Other General Revenues	3,591,874	4,310,996	120%	3,480,844	874,793	25%	3,480,844	100%	-
Assessor	964,246	713,692	74%	775,350	4,921	1%	775,350	100%	-
Clerk	2,298,566	1,451,801	63%	1,259,595	209,104	17%	1,259,595	100%	-
BOPTA	14,588	9,434	65%	10,200	-	0%	10,200	100%	-
District Attorney	1,183,942	979,152	83%	552,048	339,089	61%	552,048	100%	-
Tax Office	221,483	120,714	55%	136,000	16,180	12%	136,000	100%	-
Veterans	214,836	182,018	85%	261,179	-	0%	261,179	100%	- B
Property Management	215,000	215,058	100%	215,000	11,667	5%	215,000	100%	- C
TOTAL RESOURCES	43,472,708	42,924,412	99%	44,408,216	1,564,913	4%	44,408,216	100%	

REQUIREMENTS	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Assessor	5,910,478	5,399,847	91%	6,189,597	922,263	15%	6,189,597	100%	-
Clerk	2,432,710	2,097,784	86%	2,351,515	291,623	12%	2,351,515	100%	-
BOPTA	92,177	82,482	89%	97,522	17,620	18%	97,522	100%	-
District Attorney	10,979,839	10,906,005	99%	11,630,172	1,647,062	14%	11,630,172	100%	-
Medical Examiner	438,702	320,660	73%	461,224	32,253	7%	461,224	100%	-
Tax Office	905,262	834,177	92%	940,770	192,253	20%	940,770	100%	-
Veterans	809,390	758,852	94%	919,283	114,817	12%	919,283	100%	-
Property Management	508,359	418,403	82%	539,558	64,623	12%	539,558	100%	-
Non-Departmental	2,260,456	2,237,744	99%	2,053,416	561,319	27%	2,053,416	100%	-
TOTAL REQUIREMENTS	24,337,373	23,055,955	95%	25,183,057	3,843,833	15%	25,183,057	100%	

TRANSFERS	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Transfers In	260,000	260,439	100%	97,290	16,214	17%	97,290	100%	- D
Transfers Out	(21,131,416)	(20,041,130)	95%	(20,993,449)	(3,399,506)	16%	(20,993,449)	100%	-
TOTAL TRANSFERS	(20,871,416)	(19,780,691)	95%	(20,896,159)	(3,383,292)	16%	(20,896,159)	100%	

FUND BALANCE	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Beginning Fund Balance	12,975,718	13,897,135	107%	13,826,000	13,987,221	101%	13,987,222	101%	161,222 E
Resources over Requirements	19,135,335	19,868,457		19,225,159	(2,278,921)		19,225,159		0
Net Transfers - In (Out)	(20,871,416)	(19,780,691)		(20,896,159)	(3,383,292)		(20,896,159)		-
TOTAL FUND BALANCE	\$ 11,239,637	\$ 13,984,901	124%	\$ 12,155,000	\$ 8,325,008	68%	\$ 12,316,222	101%	\$ 161,222

- A** Current year taxes received primarily in November, February and May
- B** Oregon Dept. of Veteran's Affairs grant reimbursed quarterly
- C** Interfund land-sale management revenue recorded at year-end
- D** Final payment to the General Fund from Finance Reserves for ERP Implementation
- E** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Juvenile - Fund 030

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
OYA Basic & Diversion	525,049	459,333	87%	476,611	-	0%	476,611	100%	-
ODE Juvenile Crime Prev	123,000	107,720	88%	106,829	-	0%	106,829	100%	-
Leases	86,000	90,228	105%	90,228	15,640	17%	90,228	100%	-
Gen Fund-Crime Prevention	89,500	89,500	100%	89,500	-	0%	89,500	100%	-
Inmate/Prisoner Housing	55,000	127,050	231%	75,000	9,360	12%	75,000	100%	-
Miscellaneous	42,500	66,375	156%	56,500	7,092	13%	56,500	100%	-
DOC Unif Crime Fee/HB2712	49,339	50,462	102%	52,000	-	0%	52,000	100%	-
Interest on Investments	6,815	29,441	432%	37,500	7,008	19%	37,500	100%	-
OJD Court Fac/Sec SB 1065	15,000	12,420	83%	15,000	2,740	18%	15,000	100%	-
Food Subsidy	10,000	13,116	131%	10,000	-	0%	10,000	100%	-
Contract Payments	8,000	5,285	66%	5,000	674	13%	5,000	100%	-
TOTAL RESOURCES	1,010,203	1,050,931	104%	1,014,168	42,514	4%	1,014,168	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Personnel Services	6,292,271	5,995,923	95%	6,872,231	896,279	13%	6,872,231	100%
Materials and Services	1,527,992	1,394,738	91%	1,599,048	235,053	15%	1,599,048	100%	-
Capital Outlay	108,275	106,487	98%	10,000	-	0%	10,000	100%	-
TOTAL REQUIREMENTS	7,928,538	7,497,148	95%	8,481,279	1,131,333	13%	8,481,279	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In- General Funds	6,529,064	6,529,064	100%	6,798,630	1,133,102	17%	6,798,630	100%
Transfers Out	-	-	-	(45,000)	-	0%	(45,000)	100%	-
Transfers Out-Veh Reserve	(76,067)	(76,067)	100%	(75,617)	(12,602)	17%	(75,617)	100%	-
TOTAL TRANSFERS	6,452,997	6,452,997	100%	6,678,013	1,120,500	17%	6,678,013	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	1,100,001	1,522,125	138%	1,500,000	1,528,919	102%	1,528,920	102%
Resources over Requirements	(6,918,335)	(6,446,217)	-	(7,467,111)	(1,088,818)	-	(7,467,111)	-	0
Net Transfers - In (Out)	6,452,997	6,452,997	-	6,678,013	1,120,500	-	6,678,013	-	-
TOTAL FUND BALANCE	\$ 634,663	\$ 1,528,906	241%	\$ 710,902	\$ 1,560,600	220%	\$ 739,822	104%	\$28,920

^A Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

TRT - Fund 160/170

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Room Taxes	13,580,874	12,652,871	93%	12,630,000	4,031,036	32%	12,630,000	100%	- A
Interest on Investments	50,408	95,656	190%	121,790	14,192	12%	121,790	100%	-
Miscellaneous	-	161		-	181		300		300
TOTAL RESOURCES	13,631,282	12,748,688	94%	12,751,790	4,045,408	32%	12,752,090	100%	300

REQUIREMENTS	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
COVA	3,675,886	3,417,576	93%	3,378,641	398,282	12%	3,378,641	100%	- B
Grants & Contributions	5,600,000	4,600,000	82%	3,000,000	3,000,000	100%	3,000,000	100%	- C
Administrative	225,508	183,956	82%	262,395	33,560	13%	262,395	100%	-
Interfund Charges	3,574,573	3,574,573	100%	213,587	35,598	17%	213,587	100%	-
Software	47,251	46,125	98%	47,600	7,500	16%	47,600	100%	-
TOTAL REQUIREMENTS	13,123,218	11,822,231	90%	6,902,223	3,474,939	50%	6,902,223	100%	-

TRANSFERS	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Transfer Out - RV Park	(20,000)	(20,000)	100%	(20,000)	(3,332)	17%	(20,000)	100%	-
Transfer Out - Annual Fair	(75,000)	(75,000)	100%	(75,000)	(12,500)	17%	(75,000)	100%	-
Transfer Out - Justice Court	(263,217)	(263,217)	100%	(364,688)	(60,780)	17%	(364,688)	100%	-
Transfer Out - Health	(418,417)	(418,417)	100%	(368,417)	(61,402)	17%	(368,417)	100%	-
Transfer Out - F&E Reserve	(501,683)	(465,685)	93%	(462,119)	(77,018)	17%	(462,119)	100%	- D
Transfer Out - General County Reserve	-	-		(723,720)	(120,620)	17%	(723,720)	100%	-
Transfer Out - F&E	(1,091,342)	(1,019,042)	93%	(1,009,023)	(168,168)	17%	(1,009,023)	100%	-
Transfer Out - Courthouse Debt Service	-	-		(1,900,500)	-	0%	(1,900,500)	100%	-
Transfer Out - Sheriff	(3,651,787)	(3,651,787)	100%	(3,651,787)	(608,630)	17%	(3,651,787)	100%	-
TOTAL TRANSFERS	(6,021,446)	(5,913,148)	98%	(8,575,254)	(1,112,450)	13%	(8,575,254)	100%	-

FUND BALANCE	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Beginning Fund Balance	9,513,382	9,475,532	100%	4,725,187	4,488,098	95%	4,725,187	100%	0 E
Resources over Requirements	508,064	926,457		5,849,567	570,469		5,849,867		300
Net Transfers - In (Out)	(6,021,446)	(5,913,148)		(8,575,254)	(1,112,450)		(8,575,254)		-
TOTAL FUND BALANCE	\$ 4,000,000	\$ 4,488,842	112%	\$ 1,999,500	\$ 3,946,117	197%	\$ 1,999,800	100%	\$300

- A** Trending lower than last year
- B** Payments to COVA based on a percent of TRT collections
- C** Includes contributions of \$2M to Sunriver Service District and \$1M to Mt. Bachelor
- D** The balance of the 1% F&E TRT is transferred to F&E reserves
- E** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

ARPA – Fund 200

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Local Assistance & Tribal Consistency	-	2,311,073		2,311,073	-	0%	2,311,073	100%	-
Interest on Investments	105,186	293,106	279%	319,460	39,657	12%	319,460	100%	-
State & Local Coronavirus Fiscal Recovery Funds	-	24,179,776		-	-		-		-
TOTAL RESOURCES	105,186	26,783,955	999%	2,630,533	39,657	2%	2,630,533	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Services to Disproportionately Impacted Communities	15,394,824	11,535,828	75%	6,538,263	336,653	5%	6,538,263	100%
Administrative	4,317,328	144,531	3%	4,208,310	20,137	0%	4,208,310	100%	-
Infrastructure	1,634,710	775,262	47%	766,410	83,256	11%	766,410	100%	-
Public Health	882,922	997,337	113%	560,926	77,556	14%	560,926	100%	-
Negative Economic Impacts	899,577	927,155	103%	252,363	-	0%	252,363	100%	-
Expenditures	-	12,257	999%	-	-		-		-
TOTAL REQUIREMENTS	23,129,361	14,392,370	62%	12,326,272	517,602	4%	12,326,272	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers Out	-	-		(5,022,145)	(2,677,740)	53%	(5,022,145)	100%
TOTAL TRANSFERS	-	-		(5,022,145)	(2,677,740)	53%	(5,022,145)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	23,024,175	108,098	0%	14,717,884	12,499,682	85%	14,717,884	100%
Resources over Requirements	(23,024,175)	12,391,584		(9,695,739)	(477,945)		(9,695,739)		0
Net Transfers - In (Out)	-	-		(5,022,145)	(2,677,740)		(5,022,145)		-
TOTAL FUND BALANCE	-	\$ 12,499,682	999%	-	\$ 9,343,998	999%	-		\$0



Budget to Actuals Report

Justice Court - Fund 220

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Court Fines & Fees	525,000	517,489	99%	525,000	92,552	18%	525,000	100%	-
Interest on Investments	32	513	999%	540	194	36%	540	100%	-
TOTAL RESOURCES	525,032	518,001	99%	525,540	92,746	18%	525,540	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Personnel Services	604,648	592,149	98%	651,767	90,239	14%	651,767	100%
Materials and Services	161,535	150,522	93%	170,603	38,798	23%	170,603	100%	- ^A
TOTAL REQUIREMENTS	766,183	742,670	97%	822,370	129,037	16%	822,370	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In - TRT	263,217	263,217	100%	364,688	60,780	17%	364,688	100%
TOTAL TRANSFERS	263,217	263,217	100%	364,688	60,780	17%	364,688	100%	-

Resources over Requirements	(241,151)	(224,669)		(296,830)	(36,291)		(296,830)		0
Net Transfers - In (Out)	263,217	263,217		364,688	60,780		364,688		-
TOTAL □	\$ 22,066	\$ 38,548	175%	\$ 67,858	\$ 24,489	36%	\$ 67,858	100%	\$0

^A One time yearly software maintenance fee paid in July for entire fiscal year

^B Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Sheriff's Office - Fund 255

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
LED #1 Property Tax Current	30,282,049	30,424,303	100%	37,860,124	-	0%	37,860,124	100%	- A
LED #2 Property Tax Current	13,400,541	13,405,210	100%	15,110,056	-	0%	15,110,056	100%	- B
Sheriff's Office Revenues	5,307,630	6,093,977	115%	4,583,572	949,802	21%	4,727,572	103%	144,000
LED #1 Property Tax Prior	330,000	277,442	84%	330,000	93,517	28%	330,000	100%	-
LED #1 Interest	89,119	283,971	319%	264,000	32,047	12%	264,000	100%	-
LED #2 Property Tax Prior	145,000	114,469	79%	120,000	40,109	33%	120,000	100%	-
LED #2 Interest	22,716	73,353	323%	65,000	3,503	5%	65,000	100%	-
Revenue Not Assigned	-	-	-	-	-	-	-	-	-
TOTAL RESOURCES	49,577,055	50,672,726	102%	58,332,752	1,118,978	2%	58,476,752	100%	144,000

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Digital Forensics	808,610	856,836	106%	1,221,145	252,688	21%	1,337,763	110%
Concealed Handgun Licenses	335,044	345,454	103%	624,277	60,943	10%	443,303	71%	180,974
Rickard Ranch	264,871	278,671	105%	334,232	85,213	25%	335,799	100%	(1,567)
Sheriff's Services	5,863,885	5,196,628	89%	5,771,949	904,550	16%	6,024,633	104%	(252,684)
Civil/Special Units	1,168,300	1,102,770	94%	1,019,021	141,606	14%	1,104,690	108%	(85,669)
Automotive/Communications	3,765,888	3,635,006	97%	4,574,918	618,964	14%	4,483,541	98%	91,377
Detective	3,583,825	4,105,601	115%	4,774,538	734,565	15%	4,499,286	94%	275,252
Patrol	14,880,315	14,859,060	100%	16,270,641	2,682,164	16%	17,112,021	105%	(841,380)
Records	904,493	687,442	76%	855,590	92,501	11%	697,640	82%	157,950
Adult Jail	22,809,320	20,840,030	91%	23,784,474	2,875,762	12%	21,615,842	91%	2,168,632
Court Security	424,769	598,098	141%	600,590	84,201	14%	579,354	96%	21,236
Emergency Services	829,997	545,417	66%	808,931	88,338	11%	549,521	68%	259,410
Special Services	2,047,792	2,374,489	116%	2,779,458	425,715	15%	2,933,704	106%	(154,246)
Training	1,907,588	1,987,087	104%	1,537,498	282,244	18%	1,506,617	98%	30,881
Other Law Enforcement	820,836	958,312	117%	634,835	280,609	44%	919,835	145%	(285,000)
Non - Departmental	-	-	0%	50,000	-	0%	50,000	100%	-
TOTAL REQUIREMENTS	60,415,533	58,370,902	97%	65,642,097	9,610,061	15%	64,193,549	98%	1,448,548

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfer In - TRT	3,651,787	3,651,787	100%	3,651,787	608,630	17%	3,651,787	100%
Transfer In - General Fund	70,000	70,000	100%	-	-	-	-	-	-
Transfers Out - Debt Service	(273,200)	(272,678)	100%	(273,200)	-	0%	(273,200)	100%	-
TOTAL TRANSFERS	3,448,587	3,449,109	100%	3,378,587	608,630	18%	3,378,587	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	14,414,541	15,253,094	106%	13,185,151	13,182,898	100%	13,185,151	100%
Resources over Requirements	(10,838,478)	(7,698,176)	-	(7,309,345)	(8,491,083)	-	(5,716,797)	-	1,592,548
Net Transfers - In (Out)	3,448,587	3,449,109	-	3,378,587	608,630	-	3,378,587	-	-
TOTAL FUND BALANCE	\$ 7,024,650	\$ 11,004,027	157%	\$ 9,254,393	\$ 5,300,445	57%	\$ 10,846,941	117%	\$ 1,592,548

- A** Current year taxes received primarily in November, February and May
- B** Current year taxes received primarily in November, February and May
- C** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Health Services - Fund 274

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
State Grant	22,223,536	18,578,578	84%	22,647,996	4,904,018	22%	22,151,705	98%	(496,291)
OHP Capitation	12,882,624	12,088,181	94%	16,494,114	3,028,902	18%	16,494,114	100%	-
State Miscellaneous	8,901,719	7,751,386	87%	6,267,385	2,281,257	36%	6,430,292	103%	162,907
OHP Fee for Service	3,232,620	5,287,409	164%	4,947,581	481,295	10%	4,957,331	100%	9,750
Local Grants	2,332,031	2,054,936	88%	1,567,894	1,292,475	82%	1,491,751	95%	(76,143)
Environmental Health Fees	1,238,499	1,335,280	108%	1,478,906	50,920	3%	1,478,906	100%	-
Federal Grants	2,615,634	2,390,105	91%	1,440,560	295,928	21%	1,331,317	92%	(109,243)
Patient Fees	615,644	748,534	122%	1,087,790	98,971	9%	1,087,790	100%	-
Other	1,169,317	1,976,339	169%	1,061,371	390,629	37%	1,339,080	126%	277,709
State - Medicaid/Medicare	807,530	1,197,300	148%	1,034,491	98,277	10%	1,034,491	100%	-
Medicaid	430,863	746,146	173%	431,000	89,042	21%	431,000	100%	-
Vital Records	300,000	354,158	118%	315,000	38,595	12%	315,000	100%	-
Interest on Investments	97,750	390,781	400%	262,007	93,291	36%	262,007	100%	-
State - Medicare	337,614	234,401	69%	209,500	29,382	14%	209,500	100%	-
Liquor Revenue	177,574	161,412	91%	177,574	-	0%	177,574	100%	-
State Shared- Family Planning	125,000	152,985	122%	158,000	22,060	14%	158,000	100%	-
Interfund Contract- Gen Fund	127,000	127,000	100%	127,000	-	0%	127,000	100%	-
Divorce Filing Fees	173,030	63,178	37%	-	-	-	-	-	-
TOTAL RESOURCES	57,787,985	55,638,108	96%	59,708,169	13,195,041	22%	59,476,858	100%	(231,311)

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Administration Allocation	-	-	-	-	-	-	-	-
Expenditures	-	92,830	999%	-	-	-	-	-	-
Personnel Services	50,658,752	48,187,764	95%	50,019,129	7,092,462	14%	48,911,113	98%	1,108,016
Materials and Services	19,393,800	14,218,182	73%	20,817,560	1,876,512	9%	21,386,852	103%	(569,292)
Capital Outlay	926,575	411,307	44%	347,500	32,286	9%	401,500	116%	(54,000)
TOTAL REQUIREMENTS	70,979,127	62,910,082	89%	71,184,189	9,001,260	13%	70,699,465	99%	484,724

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In- General Fund	6,608,245	5,648,912	85%	6,780,140	1,130,004	17%	6,780,140	100%
Transfers In- OHP Mental Health	1,473,586	345,442	23%	1,930,573	-	0%	1,930,573	100%	-
Transfers In - TRT	418,417	418,417	100%	368,417	61,402	17%	368,417	100%	-
Transfers Out	(492,306)	(562,306)	114%	(1,282,674)	(50,028)	4%	(1,282,674)	100%	-
TOTAL TRANSFERS	8,007,942	5,850,465	73%	7,796,456	1,141,378	15%	7,796,456	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	11,228,719	13,942,649	124%	11,417,516	12,521,515	110%	12,508,614	110%
Resources over Requirements	(13,191,142)	(7,271,974)	-	(11,476,020)	4,193,782	-	(11,222,607)	-	253,413
Net Transfers - In (Out)	8,007,942	5,850,465	-	7,796,456	1,141,378	-	7,796,456	-	-
TOTAL FUND BALANCE	\$ 6,045,519	\$ 12,521,139	207%	\$ 7,737,952	\$ 17,856,674	231%	\$ 9,082,463	117%	\$ 1,344,511



Budget to Actuals Report

Health Services - Admin - Fund 274

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
OHP Capitation	367,074	367,074	100%	435,349	79,808	18%	435,349	100%	-
Interest on Investments	97,750	390,781	400%	262,007	93,291	36%	262,007	100%	-
State Grant	379,180	142,133	37%	160,000	-	0%	160,000	100%	-
Other	160,495	33,725	21%	9,000	132,385	999%	134,649	999%	125,649 A
Federal Grants	454,405	592,179	130%	-	-	-	-	-	-
TOTAL RESOURCES	1,458,904	1,525,892	105%	866,356	305,485	35%	992,005	115%	125,649

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Personnel Services	6,738,820	6,093,176	90%	6,519,513	950,654	15%	7,020,346	108%
Materials and Services	6,998,683	6,730,295	96%	7,527,129	1,218,131	16%	7,696,191	102%	(169,062)
Capital Outlay	12,000	-	0%	43,750	-	0%	43,750	100%	-
Administration Allocation	(11,228,846)	(11,228,846)	100%	(12,589,086)	-	0%	(12,589,086)	100%	-
TOTAL REQUIREMENTS	2,520,656	1,594,625	63%	1,501,306	2,168,786	144%	2,171,201	145%	(669,895)

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In- OHP Mental Health	80,771	80,771	100%	81,250	-	0%	81,250	100%
Transfers Out	(230,635)	(230,635)	100%	(300,174)	(50,028)	17%	(300,174)	100%	-
TOTAL TRANSFERS	(149,864)	(149,864)	100%	(218,924)	(50,028)	23%	(218,924)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	3,884,332	4,007,465	103%	3,665,544	3,788,869	103%	3,786,844	103%
Resources over Requirements	(1,061,752)	(68,732)	-	(634,950)	(1,863,301)	-	(1,179,196)	-	(544,246)
Net Transfers - In (Out)	(149,864)	(149,864)	-	(218,924)	(50,028)	-	(218,924)	-	-
TOTAL FUND BALANCE	\$ 2,672,716	\$ 3,788,869	142%	\$ 2,811,670	\$ 1,875,540	67%	\$ 2,388,724	85%	(\$422,946)

Projections include estimated adjustments for anticipated unearned revenue. Exact amounts will be finalized at fiscal year-end.

- A** Includes carryforward of \$125k in unspent FY23 PacificSource Behavioral Health Workforce Diversity Grant.
- B** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Health Services - Behavioral Health - Fund 274

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
State Grant	15,718,843	12,660,784	81%	17,043,491	4,847,165	28%	16,647,068	98%	(396,423) A
OHP Capitation	12,515,550	11,721,107	94%	16,058,765	2,949,094	18%	16,058,765	100%	-
State Miscellaneous	8,027,373	7,063,393	88%	5,398,674	2,280,621	42%	5,585,633	103%	186,959
OHP Fee for Service	3,214,360	5,256,164	164%	4,927,331	477,369	10%	4,927,331	100%	-
Local Grants	1,475,139	1,262,473	86%	1,348,943	793,104	59%	1,118,641	83%	(230,302)
Federal Grants	2,017,169	1,636,693	81%	1,285,560	259,047	20%	1,165,581	91%	(119,979)
Other	719,670	730,175	101%	631,245	105,334	17%	631,245	100%	-
Patient Fees	519,344	607,872	117%	448,500	75,815	17%	448,500	100%	-
Medicaid	430,863	746,146	173%	431,000	89,042	21%	431,000	100%	-
State - Medicare	337,614	234,401	69%	209,500	29,382	14%	209,500	100%	-
Liquor Revenue	177,574	161,412	91%	177,574	-	0%	177,574	100%	-
Interfund Contract- Gen Fund	127,000	127,000	100%	127,000	-	0%	127,000	100%	-
Divorce Filing Fees	173,030	63,178	37%	-	-	-	-	-	-
TOTAL RESOURCES	45,453,529	42,270,797	93%	48,087,583	11,905,973	25%	47,527,838	99%	(559,745)

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
Administration Allocation	8,265,132	8,265,132	100%	9,521,531	-	0%	9,521,531	100%	-
Expenditures	-	92,830	999%	-	-	-	-	-	-
Personnel Services	32,453,031	31,307,705	96%	31,872,043	4,540,484	14%	29,695,916	93%	2,176,127
Materials and Services	9,948,652	5,531,099	56%	11,084,085	498,032	4%	11,322,503	102%	(238,418)
Capital Outlay	497,443	219,861	44%	160,250	26,398	16%	225,250	141%	(65,000)
TOTAL REQUIREMENTS	51,164,258	45,416,627	89%	52,637,909	5,064,914	10%	50,765,200	96%	1,872,709

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
Transfers In- General Fund	2,231,439	1,440,767	65%	2,231,439	371,896	17%	2,231,439	100%	-
Transfers In- OHP Mental Health	1,392,815	264,671	19%	1,529,358	-	0%	1,529,358	100%	-
Transfers Out	(152,921)	(196,921)	129%	(481,000)	-	0%	(481,000)	100%	-
TOTAL TRANSFERS	3,471,333	1,508,517	43%	3,279,797	371,896	11%	3,279,797	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
Beginning Fund Balance	4,788,795	6,317,144	132%	3,989,589	4,680,206	117%	4,670,902	117%	681,313 B
Resources over Requirements	(5,710,729)	(3,145,830)	-	(4,550,326)	6,841,060	-	(3,237,362)	-	1,312,964
Net Transfers - In (Out)	3,471,333	1,508,517	-	3,279,797	371,896	-	3,279,797	-	-
TOTAL FUND BALANCE	\$ 2,549,399	\$ 4,679,830	184%	\$ 2,719,060	\$ 11,893,162	437%	\$ 4,713,337	173%	\$1,994,277

Projections include estimated adjustments for anticipated unearned revenue. Exact amounts will be finalized at fiscal year-end.

- A** Projections less than budgeted primarily related to Aid & Assist funding compared to previous year (\$215K) and OHA contracting directly with provider for Crook and Jefferson counties for MCAT services rather than being a pass-thru entity (\$72K).
- B** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Health Services - Public Health - Fund 274

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
State Grant	6,125,513	5,775,661	94%	5,444,505	56,853	1%	5,344,637	98%	(99,868) A
Environmental Health Fees	1,238,499	1,335,280	108%	1,478,906	50,920	3%	1,478,906	100%	-
State - Medicaid/Medicare	807,530	1,197,300	148%	1,034,491	98,277	10%	1,034,491	100%	-
State Miscellaneous	874,346	687,993	79%	868,711	636	0%	844,659	97%	(24,052)
Patient Fees	96,300	140,662	146%	639,290	23,157	4%	639,290	100%	-
Other	289,152	1,212,439	419%	421,126	152,909	36%	573,186	136%	152,060
Vital Records	300,000	354,158	118%	315,000	38,595	12%	315,000	100%	-
Local Grants	856,892	792,463	92%	218,951	499,371	228%	373,110	170%	154,159
State Shared- Family Planning	125,000	152,985	122%	158,000	22,060	14%	158,000	100%	-
Federal Grants	144,060	161,233	112%	155,000	36,881	24%	165,736	107%	10,736
OHP Fee for Service	18,260	31,245	171%	20,250	3,926	19%	30,000	148%	9,750
TOTAL RESOURCES	10,875,552	11,841,419	109%	10,754,230	983,584	9%	10,957,015	102%	202,785

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Administration Allocation	2,963,714	2,963,714	100%	3,067,555	-	0%	3,067,555	100%
Personnel Services	11,466,901	10,786,883	94%	11,627,573	1,601,324	14%	12,194,851	105%	(567,278)
Materials and Services	2,446,466	1,956,788	80%	2,206,346	160,349	7%	2,368,158	107%	(161,812) B
Capital Outlay	417,132	191,446	46%	143,500	5,888	4%	132,500	92%	11,000
TOTAL REQUIREMENTS	17,294,213	15,898,830	92%	17,044,974	1,767,561	10%	17,763,064	104%	(718,090)

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In- General Fund	4,376,806	4,208,145	96%	4,548,701	758,108	17%	4,548,701	100%
Transfers In - TRT	418,417	418,417	100%	368,417	61,402	17%	368,417	100%	-
Transfers In- OHP Mental Health	-	-	-	319,965	-	0%	319,965	100%	-
Transfers Out	(108,750)	(134,750)	124%	(501,500)	-	0%	(501,500)	100%	-
TOTAL TRANSFERS	4,686,473	4,491,812	96%	4,735,583	819,510	17%	4,735,583	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	2,555,592	3,618,039	142%	3,762,383	4,052,440	108%	4,050,868	108%
Resources over Requirements	(6,418,661)	(4,057,412)	-	(6,290,744)	(783,977)	-	(6,806,049)	-	(515,305)
Net Transfers - In (Out)	4,686,473	4,491,812	-	4,735,583	819,510	-	4,735,583	-	-
TOTAL FUND BALANCE	\$ 823,404	\$ 4,052,440	492%	\$ 2,207,222	\$ 4,087,973	185%	\$ 1,980,402	90%	(\$226,820)

Projections include estimated adjustments for anticipated unearned revenue. Exact amounts will be finalized at fiscal year-end.

- A** Projections over budget primarily related to carryforward of OHA COVID funds to be expended by June 2024.
- B** Expenditures above budget related to delayed renovations at the North County Campus (\$374K).
- C** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Community Development - Fund 295

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Admin - Operations	153,445	154,886	101%	157,300	22,982	15%	157,300	100%	-
Code Compliance	1,171,592	915,867	78%	1,124,181	131,154	12%	895,181	80%	(229,000) A
Building Safety	4,821,160	4,118,192	85%	3,991,388	554,188	14%	4,010,538	100%	19,150
Electrical	1,022,005	769,054	75%	902,175	139,997	16%	902,175	100%	-
Onsite Wastewater	1,017,678	718,263	71%	923,880	149,080	16%	867,420	94%	(56,460)
Current Planning	2,425,334	1,966,872	81%	2,304,562	250,880	11%	1,771,562	77%	(533,000) A
Long Range Planning	1,064,305	812,752	76%	1,057,354	138,304	13%	840,854	80%	(216,500) A
TOTAL RESOURCES	11,675,519	9,455,886	81%	10,460,840	1,386,584	13%	9,445,030	90%	(1,015,810)

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Admin - Operations	3,432,980	3,085,363	90%	3,241,288	481,311	15%	3,102,216	96%
Code Compliance	805,614	714,049	89%	743,931	98,499	13%	666,791	90%	77,140 B
Building Safety	2,538,721	1,866,742	74%	2,088,542	253,646	12%	2,090,805	100%	(2,263) C
Electrical	641,837	538,383	84%	583,718	76,634	13%	589,077	101%	(5,359) C
Onsite Wastewater	753,369	754,829	100%	865,670	112,844	13%	755,315	87%	110,355 B
Current Planning	2,062,044	1,613,571	78%	1,857,735	238,671	13%	1,659,686	89%	198,049 B
Long Range Planning	998,739	893,682	89%	888,677	126,143	14%	726,855	82%	161,822 B
TOTAL REQUIREMENTS	11,233,304	9,466,620	84%	10,269,561	1,387,749	14%	9,590,745	93%	678,816

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In - CDD Operating Fund	-	-	-	510,105	-	0%	510,105	100%
Transfers in - General Fund	160,000	139,916	87%	100,000	-	0%	100,000	100%	- D
Transfers In - CDD Electrical Reserve	-	108,670	-	86,721	-	0%	22,712	26%	(64,009) E
Transfers Out	(112,619)	(112,619)	100%	(107,544)	(17,918)	17%	(107,544)	100%	-
Transfers Out - CDD Reserve	(958,966)	(971,472)	101%	(122,752)	(86,515)	70%	(436,093)	355%	(313,341) F
TOTAL TRANSFERS	(911,585)	(835,505)	92%	466,530	(104,433)	-22%	89,180	19%	(377,350)

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	2,096,504	2,168,956	103%	1,317,921	1,322,717	100%	1,322,718	100%
Resources over Requirements	442,215	(10,734)	-	191,279	(1,165)	-	(145,715)	-	(336,994)
Net Transfers - In (Out)	(911,585)	(835,505)	-	466,530	(104,433)	-	89,180	-	(377,350)
TOTAL FUND BALANCE	\$ 1,627,134	\$ 1,322,717	81%	\$ 1,975,730	\$ 1,217,120	62%	\$ 1,266,183	64%	(\$709,547)

- A** YTD revenue collection is lower than anticipated due to reduced permitting volumes resulting in reduced building valuations
- B** Projections reflect unfilled positions and increased health benefits costs
- C** Projections reflect increased health benefits costs
- D** Quarterly transfer for hearings officer actual cost of service
- E** Transfer in from reserves anticipated to balance the division
- F** Transfer out projection increased due to reduced expenditures related to unfilled FTE
- G** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Road - Fund 325

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Motor Vehicle Revenue	19,483,147	20,563,619	106%	20,648,483	3,091,908	15%	20,648,483	100%	-
Federal - PILT Payment	2,200,000	2,239,616	102%	2,240,000	2,394,054	107%	2,394,054	107%	154,054
Other Inter-fund Services	1,311,901	1,232,001	94%	1,450,015	44,085	3%	1,450,015	100%	-
Cities-Bend/Red/Sis/La Pine	403,731	969,028	240%	763,171	-	0%	763,171	100%	-
Federal Reimbursements	-	7,641	-	689,703	-	0%	689,703	100%	-
Sale of Equip & Material	426,000	385,036	90%	614,500	64,942	11%	614,500	100%	-
Interest on Investments	54,172	105,203	194%	138,031	19,540	14%	138,031	100%	-
Miscellaneous	77,610	65,385	84%	73,808	3,289	4%	73,808	100%	-
Mineral Lease Royalties	50,000	105,306	211%	50,000	-	0%	87,883	176%	37,883 A
Assessment Payments (P&I)	-	5,175	-	6,000	1,580	26%	6,000	100%	-
Forest Receipts	882,502	-	0%	-	-	-	-	-	-
State Miscellaneous	-	20,000	-	-	-	-	-	-	-
TOTAL RESOURCES	24,889,063	25,698,009	103%	26,673,711	5,619,398	21%	26,865,648	101%	191,937

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Personnel Services	7,802,271	7,346,958	94%	8,406,468	1,153,130	14%	8,406,468	100%
Materials and Services	8,246,700	6,384,958	77%	8,600,033	1,531,093	18%	8,612,188	100%	(12,155)
Capital Outlay	140,025	90,004	64%	118,260	2,475	2%	106,105	90%	12,155
TOTAL REQUIREMENTS	16,188,996	13,821,920	85%	17,124,761	2,686,698	16%	17,124,761	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers Out	(12,330,136)	(12,330,136)	100%	(12,700,000)	(7,700,000)	61%	(12,700,000)	100%
TOTAL TRANSFERS	(12,330,136)	(12,330,136)	100%	(12,700,000)	(7,700,000)	61%	(12,700,000)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	5,892,967	7,806,356	132%	5,521,251	7,352,309	133%	7,451,969	135%
Resources over Requirements	8,700,067	11,876,089	-	9,548,950	2,932,700	-	9,740,887	-	191,937
Net Transfers - In (Out)	(12,330,136)	(12,330,136)	-	(12,700,000)	(7,700,000)	-	(12,700,000)	-	-
TOTAL FUND BALANCE	\$ 2,262,898	\$ 7,352,309	325%	\$ 2,370,201	\$ 2,585,010	109%	\$ 4,492,857	190%	\$2,122,656

A Actual payment higher than budget

B Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Adult P&P - Fund 355

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
DOC Grant in Aid SB 1145	4,734,453	4,734,453	100%	4,116,464	1,183,613	29%	4,116,464	100%	-
CJC Justice Reinvestment	892,038	943,172	106%	943,172	-	0%	943,172	100%	-
DOC Measure 57	244,606	271,606	111%	256,815	-	0%	256,815	100%	-
Interest on Investments	18,151	63,625	351%	75,230	14,514	19%	75,230	100%	-
Interfund- Sheriff	50,000	50,000	100%	50,000	8,333	17%	50,000	100%	-
Gen Fund/Crime Prevention	50,000	50,000	100%	50,000	-	0%	50,000	100%	-
State Miscellaneous	123,453	179,530	145%	22,607	-	0%	22,607	100%	-
Oregon BOPPPS	20,318	-	0%	20,318	-	0%	20,318	100%	-
Electronic Monitoring Fee	500	889	178%	500	258	52%	500	100%	-
Miscellaneous	500	2,099	420%	500	-	0%	500	100%	-
TOTAL RESOURCES	6,134,018	6,295,372	103%	5,535,606	1,206,718	22%	5,535,606	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Personnel Services	5,683,822	5,042,967	89%	5,907,511	751,287	13%	5,907,511	100%
Materials and Services	1,883,614	1,739,432	92%	1,618,521	263,808	16%	1,618,521	100%	-
Capital Outlay	8,475	8,475	100%	-	-	-	-	-	-
TOTAL REQUIREMENTS	7,575,910	6,790,874	90%	7,526,032	1,015,095	13%	7,526,032	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In- General Funds	536,369	536,369	100%	536,369	89,394	17%	536,369	100%
Transfers Out	(199,560)	(199,560)	100%	-	-	-	-	-	-
Transfer to Vehicle Maint	(69,277)	(69,277)	100%	(75,419)	(12,568)	17%	(75,419)	100%	-
TOTAL TRANSFERS	267,532	267,532	100%	460,950	76,826	17%	460,950	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	3,100,000	3,238,905	104%	3,000,000	3,010,987	100%	3,010,988	100%
Resources over Requirements	(1,441,892)	(495,502)	-	(1,990,426)	191,623	-	(1,990,426)	-	0
Net Transfers - In (Out)	267,532	267,532	-	460,950	76,826	-	460,950	-	-
TOTAL FUND BALANCE	\$ 1,925,640	\$ 3,010,934	156%	\$ 1,470,524	\$ 3,279,436	223%	\$ 1,481,512	101%	\$10,988

^A Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Road CIP - Fund 465

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
State Miscellaneous	1,818,500	127,458	7%	1,704,116	-	0%	1,704,116	100%	-
Interest on Investments	124,563	337,583	271%	475,310	98,339	21%	475,310	100%	-
Miscellaneous	-	317,508		-	19,241		19,241		19,241
TOTAL RESOURCES	1,943,063	782,549	40%	2,179,426	117,580	5%	2,198,667	101%	19,241

REQUIREMENTS	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Materials and Services	127,640	127,640	100%	132,770	22,128	17%	132,770	100%	-
Capital Outlay	28,259,526	16,769,496	59%	23,640,057	1,192,765	5%	23,633,009	100%	7,048
TOTAL REQUIREMENTS	28,387,166	16,897,136	60%	23,772,827	1,214,893	5%	23,765,779	100%	7,048

TRANSFERS	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Transfers In	14,230,313	12,238,662	86%	12,500,000	5,000,000	40%	12,500,000	100%	-
TOTAL TRANSFERS	14,230,313	12,238,662	86%	12,500,000	5,000,000	40%	12,500,000	100%	-

FUND BALANCE	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Beginning Fund Balance	24,548,274	27,223,832	111%	19,012,380	23,347,907	123%	23,347,907	123%	4,335,527
Resources over Requirements	(26,444,103)	(16,114,587)		(21,593,401)	(1,097,313)		(21,567,113)		26,288
Net Transfers - In (Out)	14,230,313	12,238,662		12,500,000	5,000,000		12,500,000		-
TOTAL FUND BALANCE	\$ 12,334,484	\$ 23,347,907	189%	\$ 9,918,979	\$ 27,250,593	275%	\$ 14,280,794	144%	\$4,361,815

A Actual payment higher than budget

B Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Road CIP (Fund 465) - Capital Outlay Summary by Project

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.67%
Year Completed

	Fiscal Year 2024					
	Budget	Actuals	%	Projection	%	\$ Variance
Terrebonne Refinement Plan	\$ 5,119,310	\$ -	0%	\$ 5,119,310	100%	\$ -
Hunnel Rd: Loco Rd to Tumalo Rd	1,569,800	170,286.72	11%	2,518,373	160%	(948,573)
Transportation System Plan Update		3,443.66		27,256		(27,256)
Gribbling Rd Bridge	704,116	-	0%	692,000	98%	12,116
Smith Rock Way Bridge Replace	1,417,429	-	0%	1,417,429	100%	-
Deschutes Mkt Rd/Hamehook Round	250,000	246,876.85	99%	250,000	100%	-
Powell Butte Hwy/Butler Market RB	2,642,402	24,800.75	1%	2,642,402	100%	-
Wilcox Ave Bridge #2171-03 Replacement	160,000	-	0%	160,000	100%	-
Paving of Rosland Rd: US 20 to Draf		386,479.98		386,480		(386,480)
Hamehook Rd Bridge #16181 Rehabilitation	595,000	-	0%	350,000	59%	245,000
NW Lower Bridge Way: 43rd St to Holmes Rd	1,290,000	-	0%	320,000	25%	970,000
Northwest Way: NW Coyner Ave to NW Altmeter Wy	556,000	-	0%	556,000	100%	-
Slurry Seal 2023		357,325.00		357,325		(357,325)
Terrebonne Wastewater System Phase 1	1,000,000	-	0%	1,000,000	100%	-
Tumalo Reservoir Rd: OB Riley to Sisemore Rd	300,000	-	0%	300,000	100%	-
Local Road Pavement Preservation	200,000	-	0%	200,000	100%	-
US20: Locust St	1,000,000	-	0%	1,000,000	100%	-
Paving Butler Market - Hamehook to Powell Butte	320,000	1,494.88	0%	1,494,879	467%	(1,174,879)
Old Bend Rdm Hwy - US 20 to Tumalo	1,210,000	2,057.25	0%	1,295,556	107%	(85,556)
Paving Of Horse Butte Rd	460,000	-	0%	460,000	100%	-
Paving Of Obr Hwy: Tumalo To Helmho	3,000,000	-	0%	1,800,000	60%	1,200,000
Paving Of Spring River Rd: S Centur	510,000	-	0%	280,000	55%	230,000
Slurry Seal 2024	300,000	-	0%	120,000	40%	180,000
La Pine Uic Stormwater Improvements	240,000	-	0%	240,000	100%	-
S Century Dr / Spring River Rd Roun	177,000	-	0%	177,000	100%	-
S Century Dr / Huntington Rd Rounda	169,000	-	0%	169,000	100%	-
Local Access Road Bridges	150,000	-	0%	150,000	100%	-
FY 23 Guardrail Improvements	150,000	-	0%	-	0%	150,000
Signage Improvements	150,000	-	0%	150,000	100%	-
TOTAL CAPITAL OUTLAY	\$ 23,640,057	1,192,765	5%	\$ 23,633,009	100%	\$ 7,048



Budget to Actuals Report

Solid Waste - Fund 610

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Franchise Disposal Fees	7,210,000	7,006,324	97%	8,000,000	1,389,362	17%	8,000,000	100%	- A
Private Disposal Fees	3,337,000	2,944,356	88%	3,450,000	665,814	19%	3,450,000	100%	- A
Commercial Disp. Fee	3,234,000	3,026,577	94%	3,310,000	982,927	30%	3,310,000	100%	-
Franchise 3% Fees	305,000	363,105	119%	565,000	68,159	12%	565,000	100%	- B
Yard Debris	290,000	305,516	105%	400,000	106,079	27%	400,000	100%	-
Miscellaneous	70,000	140,837	201%	173,000	53,253	31%	173,000	100%	-
Interest on Investments	30,498	43,342	142%	60,410	15,621	26%	60,410	100%	-
Special Waste	15,000	62,756	418%	30,000	11,876	40%	30,000	100%	- C
Recyclables	12,000	7,060	59%	7,000	1,462	21%	7,000	100%	-
Leases	1	1	100%	1	-	0%	1	100%	-
TOTAL RESOURCES	14,503,499	13,899,874	96%	15,995,411	3,294,552	21%	15,995,411	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Personnel Services	3,277,684	3,139,678	96%	4,108,983	491,780	12%	4,108,983	100%
Materials and Services	6,473,358	5,716,762	88%	7,683,911	654,147	9%	7,683,911	100%	-
Capital Outlay	264,000	181,603	69%	260,000	192,190	74%	260,000	100%	-
Debt Service	1,739,630	1,731,017	100%	2,302,340	-	0%	2,302,340	100%	-
TOTAL REQUIREMENTS	11,754,672	10,769,061	92%	14,355,234	1,338,116	9%	14,355,234	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	SW Capital & Equipment Reserve	(5,299,665)	(3,453,962)	65%	(2,613,962)	(2,326)	0%	(2,613,962)	100%
TOTAL TRANSFERS	(5,299,665)	(3,453,962)	65%	(2,613,962)	(2,326)	0%	(2,613,962)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	3,107,198	3,066,662	99%	2,416,385	2,758,187	114%	2,859,215	118%
Resources over Requirements	2,748,827	3,130,814		1,640,177	1,956,436		1,640,177		0
Net Transfers - In (Out)	(5,299,665)	(3,453,962)		(2,613,962)	(2,326)		(2,613,962)		-
TOTAL FUND BALANCE	\$ 556,359	\$ 2,743,514	493%	\$ 1,442,600	\$ 4,712,298	327%	\$ 1,885,430	131%	\$442,830

- A** Total disposal fee projections reflect management's best estimate of revenues to be collected; disposal tons are typically higher in the summer with reductions in winter. July Commercial revenue includes payment for the prior Hwy 97 bypass disposal charges.
- B** Annual fees due April 15, 2024; received year-to-date monthly installments from Republic
- C** Revenue source is unpredictable and dependent on special clean-up projects of contaminated soil and asbestos (i.e. stormwater control sediment and debris)
- D** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Fair & Expo - Fund 615

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Events Revenue	745,759	948,145	127%	1,050,000	117,051	11%	1,050,000	100%	-
Food & Beverage	745,000	1,048,507	141%	991,000	116,203	12%	991,000	100%	-
Rights & Signage	105,000	97,159	93%	105,000	62,616	60%	105,000	100%	-
Horse Stall Rental	49,000	78,825	161%	100,000	-	0%	100,000	100%	-
Storage	65,000	45,551	70%	50,000	-	0%	50,000	100%	-
Camping Fee	20,000	23,500	118%	22,500	737	3%	22,500	100%	-
Interest on Investments	5,221	15,485	297%	22,000	3,095	14%	22,000	100%	-
Miscellaneous	3,554	3,536	99%	3,000	1,682	56%	3,000	100%	-
TOTAL RESOURCES	1,738,534	2,260,708	130%	2,343,500	301,383	13%	2,343,500	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Expenditures	-	-	-	1,000	-	0%	1,000	100%
Personnel Services	1,256,902	1,313,682	105%	1,748,441	232,836	13%	1,748,441	100%	-
Personnel Services - F&B	170,247	85,623	50%	148,510	2,573	2%	148,510	100%	-
Materials and Services	965,684	1,168,230	121%	1,221,986	202,332	17%	1,221,986	100%	-
Materials and Services - F&B	603,950	661,314	109%	514,200	55,246	11%	514,200	100%	-
Debt Service	101,270	101,267	100%	100,190	-	0%	100,190	100%	-
TOTAL REQUIREMENTS	3,098,054	3,330,117	107%	3,734,327	492,986	13%	3,734,327	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In - Room Tax	1,101,342	1,019,042	93%	1,009,023	168,168	17%	1,009,023	100%
Transfers In - Park Fund	30,000	30,000	100%	30,000	5,000	17%	30,000	100%	-
Transfers Out	(427,215)	(427,215)	100%	(163,342)	(27,222)	17%	(163,342)	100%	-
TOTAL TRANSFERS	704,127	621,827	88%	875,681	145,946	17%	875,681	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	971,352	995,519	102%	754,000	563,425	75%	563,426	75%
Resources over Requirements	(1,359,520)	(1,069,409)	-	(1,390,827)	(191,603)	-	(1,390,827)	-	0
Net Transfers - In (Out)	704,127	621,827	-	875,681	145,946	-	875,681	-	-
TOTAL FUND BALANCE	\$ 315,960	\$ 547,938	173%	\$ 238,854	\$ 517,769	217%	\$ 48,280	20%	(\$190,574)

^A Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Annual County Fair - Fund 616

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Concessions and Catering	625,000	815,458	130%	790,000	834,867	106%	834,870	106%	44,870
Gate Receipts	710,000	782,364	110%	775,000	1,036,218	134%	1,036,219	134%	261,219
Carnival	385,000	433,682	113%	430,000	245,809	57%	430,000	100%	-
Commercial Exhibitors	80,000	117,100	146%	118,200	114,091	97%	118,200	100%	-
Fair Sponsorship	61,000	99,655	163%	92,500	54,861	59%	92,500	100%	-
State Grant	53,167	53,167	100%	53,167	-	0%	53,167	100%	-
Rodeo Sponsorship	24,000	22,430	93%	30,000	40,351	135%	42,000	140%	12,000
R/V Camping/Horse Stall Rental	20,000	17,520	88%	17,250	31,495	183%	31,496	183%	14,246
Interest on Investments	2,713	13,169	485%	13,500	3,314	25%	13,500	100%	-
Merchandise Sales	3,500	3,245	93%	2,500	1,070	43%	2,500	100%	-
Livestock Entry Fees	5,000	1,925	39%	2,000	1,940	97%	2,000	100%	-
Miscellaneous	-	75		-	33		34		34
TOTAL RESOURCES	1,969,380	2,359,790	120%	2,324,117	2,364,048	102%	2,656,486	114%	332,369

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
Personnel Services	169,445	185,165	109%	276,531	28,574	10%	276,531	100%	-
Materials and Services	1,802,585	1,882,285	104%	2,306,325	1,621,982	70%	2,306,325	100%	-
TOTAL REQUIREMENTS	1,972,030	2,067,450	105%	2,582,856	1,650,556	64%	2,582,856	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
Transfer In - TRT 1%	75,000	75,000	100%	75,000	12,500	17%	75,000	100%	-
Transfers Out	(231,706)	(231,706)	100%	(109,503)	(18,250)	17%	(109,503)	100%	-
TOTAL TRANSFERS	(156,706)	(156,706)	100%	(34,503)	(5,750)	17%	(34,503)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
Beginning Fund Balance	384,715	385,854	100%	539,152	521,538	97%	521,539	97%	(17,613) ^A
Resources over Requirements	(2,650)	292,340		(258,739)	713,492		73,630		332,369
Net Transfers - In (Out)	(156,706)	(156,706)		(34,503)	(5,750)		(34,503)		-
TOTAL FUND BALANCE	\$ 225,358	\$ 521,488	231%	\$ 245,910	\$ 1,229,280	500%	\$ 560,666	228%	\$314,756

^A Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Annual County Fair - Fund 616

CY23 YTD August 31, 2023 (unaudited)

	Fair 2022	Fair 2023 Actuals to Date	2023 Projection
RESOURCES			
Gate Receipts	\$ 782,364	\$ 1,036,218	\$ 1,036,218
Carnival	433,682	245,809	245,809
Commercial Exhibitors	436,292	436,160	436,160
Livestock Entry Fees	1,925	1,940	1,940
R/V Camping/Horse Stall Rental	17,392	31,495	31,495
Merchandise Sales	3,245	1,070	1,070
Concessions and Catering	497,366	512,798	512,798
Fair Sponsorship	126,300	84,957	84,957
TOTAL FAIR REVENUES	\$ 2,298,566	\$ 2,350,446	\$ 2,350,446
OTHER RESOURCES			
State Grant	53,167	-	-
Interest	5,794	10,449	14,449
Miscellaneous	-	108	108
TOTAL RESOURCES	\$ 2,357,526	\$ 2,361,003	\$ 2,365,003
REQUIREMENTS			
Personnel	102,763	119,892	173,408
Materials & Services	1,722,703	1,781,044	2,155,168
TOTAL REQUIREMENTS	\$ 1,825,466	\$ 1,900,936	\$ 2,328,577
TRANSFERS			
Transfer In - TRT 1%	68,750	50,000	75,000
Transfer Out - F&E Reserve	(96,540)	(134,108)	(170,608)
Transfer Out - Fair & Expo	-	-	-
TOTAL TRANSFERS	\$ (27,790)	\$ (84,108)	\$ (95,608)
Net Fair	\$ 504,270	\$ 375,959	\$ (59,182)
Beginning Fund Balance on Jan 1	\$ 448,151	\$ 952,421	\$ 952,421
Ending Balance	\$ 952,421	\$ 1,328,381	\$ 893,240



Budget to Actuals Report

Fair & Expo Capital Reserve - Fund 617

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Interest on Investments	7,414	39,492	533%	64,800	11,474	18%	64,800	100%	-
Local Government Payments	-	277,777		-	-		-		-
TOTAL RESOURCES	7,414	317,269	999%	64,800	11,474	18%	64,800	100%	-

REQUIREMENTS	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Materials and Services	495,000	100,309	20%	343,555	32,056	9%	343,555	100%	-
Capital Outlay	375,000	383,000	102%	746,445	-	0%	746,445	100%	-
TOTAL REQUIREMENTS	870,000	483,310	56%	1,090,000	32,056	3%	1,090,000	100%	-

TRANSFERS	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Transfers In - TRT 1%	501,683	465,685	93%	462,119	77,018	17%	462,119	100%	-
Transfers In - Fair & Expo	416,437	416,438	100%	152,565	25,426	17%	152,565	100%	-
Transfers In - Annual County Fair	231,706	231,706	100%	109,503	18,250	17%	109,503	100%	-
Transfers In - Fund 165	-	-		100,000	100,000	100%	100,000	100%	-
TOTAL TRANSFERS	1,149,827	1,113,829	97%	824,187	220,694	27%	824,187	100%	-

FUND BALANCE	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Beginning Fund Balance	1,299,942	1,809,440	139%	2,592,838	2,757,229	106%	2,757,230	106%	164,392
Resources over Requirements	(862,586)	(166,040)		(1,025,200)	(20,581)		(1,025,200)		0
Net Transfers - In (Out)	1,149,827	1,113,829		824,187	220,694		824,187		-
TOTAL FUND BALANCE	\$ 1,587,183	\$ 2,757,229	174%	\$ 2,391,825	\$ 2,957,341	124%	\$ 2,556,217	107%	\$164,392

- A** Capital Outlay appropriations are a placeholder should viable projects be recommended and approved for construction
- B** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

RV Park - Fund 618

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
RV Park Fees < 31 Days	605,000	548,219	91%	500,000	102,474	20%	500,000	100%	-
RV Park Fees > 30 Days	13,000	10,249	79%	12,500	-	0%	12,500	100%	-
Cancellation Fees	14,000	8,636	62%	7,000	102	1%	7,000	100%	-
Washer / Dryer	4,200	5,560	132%	5,000	1,306	26%	5,000	100%	-
Miscellaneous	3,750	2,907	78%	2,500	227	9%	2,500	100%	-
Interest on Investments	552	2,764	501%	2,300	782	34%	2,300	100%	-
Vending Machines	1,750	1,492	85%	1,500	742	49%	1,500	100%	-
TOTAL RESOURCES	642,252	579,826	90%	530,800	105,633	20%	530,800	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Personnel Services	111,153	82,265	74%	91,328	16,222	18%	91,328	100%
Materials and Services	259,755	192,600	74%	303,173	37,611	12%	303,173	100%	-
Debt Service	223,273	223,272	100%	222,630	-	0%	222,630	100%	-
TOTAL REQUIREMENTS	594,181	498,137	84%	617,131	53,833	9%	617,131	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In - Park Fund	160,000	160,000	100%	160,000	-	0%	160,000	100%
Transfers In - TRT Fund	20,000	20,000	100%	20,000	3,332	17%	20,000	100%	-
Transfer Out - RV Reserve	(261,566)	(261,566)	100%	(51,564)	(8,594)	17%	(51,564)	100%	-
TOTAL TRANSFERS	(81,566)	(81,566)	100%	128,436	(5,262)	-4%	128,436	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	116,415	166,536	143%	93,115	166,660	179%	166,661	179%
Resources over Requirements	48,071	81,689		(86,331)	51,800		(86,331)		0
Net Transfers - In (Out)	(81,566)	(81,566)		128,436	(5,262)		128,436		-
TOTAL FUND BALANCE	\$ 82,920	\$ 166,660	201%	\$ 135,220	\$ 213,197	158%	\$ 208,766	154%	\$73,546

^A Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

RV Park Reserve - Fund 619

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Interest on Investments	6,298	21,589	343%	34,300	5,827	17%	34,300	100%	-
TOTAL RESOURCES	6,298	21,589	343%	34,300	5,827	17%	34,300	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Materials and Services	-	-	-	100,000	-	0%	100,000	100%
Capital Outlay	100,000	5,532	6%	74,000	-	0%	74,000	100%	-
TOTAL REQUIREMENTS	100,000	5,532	6%	174,000	-	0%	174,000	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfer In - RV Park Ops	261,750	261,566	100%	51,564	8,594	17%	51,564	100%
TOTAL TRANSFERS	261,750	261,566	100%	51,564	8,594	17%	51,564	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	1,172,718	1,191,937	102%	1,372,453	1,469,559	107%	1,469,560	107%
Resources over Requirements	(93,702)	16,056		(139,700)	5,827		(139,700)		0
Net Transfers - In (Out)	261,750	261,566		51,564	8,594		51,564		-
TOTAL FUND BALANCE	\$ 1,340,766	\$ 1,469,559	110%	\$ 1,284,317	\$ 1,483,980	116%	\$ 1,381,424	108%	\$97,107

- A** Capital Outlay appropriations are a placeholder
- B** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Risk Management - Fund 670

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Workers' Compensation	1,234,761	1,226,486	99%	1,111,585	192,978	17%	1,111,585	100%	-
General Liability	892,681	892,681	100%	935,832	155,972	17%	935,832	100%	-
Unemployment	430,179	344,950	80%	439,989	189,918	43%	439,989	100%	A
Property Damage	419,566	419,566	100%	418,028	69,671	17%	418,028	100%	-
Vehicle	248,764	248,764	100%	226,710	37,785	17%	226,710	100%	-
Interest on Investments	49,346	148,514	301%	200,000	35,701	18%	200,000	100%	-
Claims Reimbursement	25,000	6,476	26%	20,000	-	0%	20,000	100%	-
Skid Car Training	10,000	8,899	89%	10,000	4,260	43%	10,000	100%	-
Process Fee- Events/ Parades	1,000	1,260	126%	2,000	495	25%	2,000	100%	-
Miscellaneous	180	-	0%	200	-	0%	200	100%	-
TOTAL RESOURCES	3,311,477	3,297,596	100%	3,364,344	686,781	20%	3,364,344	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Workers' Compensation	1,580,000	1,493,702	95%	1,880,000	179,442	10%	1,880,000	100%
General Liability	3,000,000	470,875	16%	1,200,000	333,821	28%	1,100,000	92%	100,000
Insurance Administration	607,558	602,653	99%	714,197	242,258	34%	714,197	100%	-
Vehicle	200,000	194,089	97%	400,000	58,071	15%	400,000	100%	-
Property Damage	300,248	99,913	33%	300,250	313,169	104%	420,000	140%	(119,750)
Unemployment	200,000	54,473	27%	250,000	-	0%	250,000	100%	-
TOTAL REQUIREMENTS	5,887,806	2,915,705	50%	4,744,447	1,126,761	24%	4,764,197	100%	(19,750)

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers Out - Vehicle Replacement	(3,500)	(3,500)	100%	(3,500)	(582)	17%	(3,500)	100%
TOTAL TRANSFERS	(3,500)	(3,500)	100%	(3,500)	(582)	17%	(3,500)	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	7,687,180	8,944,938	116%	8,000,000	9,323,329	117%	9,323,330	117%
Resources over Requirements	(2,576,329)	381,891		(1,380,103)	(439,980)		(1,399,853)		(19,750)
Net Transfers - In (Out)	(3,500)	(3,500)		(3,500)	(582)		(3,500)		-
TOTAL FUND BALANCE	\$ 5,107,351	\$ 9,323,329	183%	\$ 6,616,397	\$ 8,882,767	134%	\$ 7,919,977	120%	\$1,303,580

A Unemployment collected on first \$25K of employee's salary in fiscal year

B Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

Health Benefits - Fund 675

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance
	Budget	Actuals	%	Budget	Actuals	%			
Internal Premium Charges	19,908,221	20,496,601	103%	25,899,034	3,684,087	14%	25,899,034	100%	-
COIC Premiums	1,547,778	1,951,365	126%	1,963,363	155,262	8%	1,963,363	100%	-
Employee Co-Pay	1,282,015	1,247,607	97%	1,247,416	202,148	16%	1,247,416	100%	-
Retiree / COBRA Premiums	595,000	982,424	165%	1,019,288	90,015	9%	1,019,288	100%	-
Prescription Rebates	175,000	528,990	302%	280,000	-	0%	280,000	100%	A
Claims Reimbursement & Other	55,000	109,282	199%	124,944	32,766	26%	124,944	100%	-
Interest on Investments	95,686	176,071	184%	120,000	29,311	24%	120,000	100%	-
TOTAL RESOURCES	23,658,700	25,492,341	108%	30,654,045	4,193,589	14%	30,654,045	100%	-

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Health Benefits	26,597,563	25,451,039	96%	26,697,663	1,912,186	7%	26,697,663	100%
Deschutes On-Site Pharmacy	3,779,608	3,807,986	101%	4,287,997	383,173	9%	4,287,997	100%	- B
Deschutes On-Site Clinic	1,212,497	1,205,226	99%	1,415,279	99,431	7%	1,415,279	100%	- B
Wellness	179,549	161,200	90%	186,274	13,875	7%	186,274	100%	- B
TOTAL REQUIREMENTS	31,769,217	30,625,451	96%	32,587,213	2,408,665	7%	32,587,213	100%	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	11,925,656	11,304,191	95%	5,742,743	6,445,580	112%	6,445,581	112%
Resources over Requirements	(8,110,517)	(5,133,111)		(1,933,168)	1,784,924		(1,933,168)		0
Net Transfers - In (Out)	-	-		-	-		-		-
TOTAL FUND BALANCE	\$ 3,815,139	\$ 6,171,080	162%	\$ 3,809,575	\$ 8,230,504	216%	\$ 4,512,413	118%	\$702,838

- A** Budget estimate is based on claims which are difficult to predict
- B** Amounts are paid 1 month in arrears
- C** Final Beginning Fund Balance will be determined after the final close of FY23



Budget to Actuals Report

911 - Fund 705 and 710

FY24 YTD August 31, 2023 (unaudited)

09/27/2023 Item #17.

16.7%
Year Complete

RESOURCES	Fiscal Year 2023			Fiscal Year 2024			Projection	%	\$ Variance	
	Budget	Actuals	%	Budget	Actuals	%				
Property Taxes - Current Yr	10,402,834	10,493,701	101%	10,932,000	-	0%	10,932,000	100%	-	A
Telephone User Tax	1,668,000	1,881,374	113%	1,827,530	-	0%	1,827,530	100%	-	B
Interest on Investments	67,515	237,842	352%	312,321	48,684	16%	312,321	100%	-	
Police RMS User Fees	237,221	244,437	103%	244,435	-	0%	244,435	100%	-	C
Contract Payments	153,292	167,764	109%	167,765	4,000	2%	167,765	100%	-	
User Fee	140,445	146,863	105%	148,820	2,200	1%	148,820	100%	-	
Data Network Reimbursement	120,874	158,228	131%	145,852	449	0%	145,852	100%	-	
State Reimbursement	810,000	622,177	77%	93,000	-	0%	93,000	100%	-	D
Property Taxes - Prior Yr	80,000	90,291	113%	90,000	30,812	34%	90,000	100%	-	
Property Taxes - Jefferson Co.	39,497	38,104	96%	40,500	452	1%	40,500	100%	-	
Miscellaneous	25,000	40,191	161%	32,100	2,428	8%	32,100	100%	-	
TOTAL RESOURCES	13,744,678	14,120,971	103%	14,034,323	89,024	1%	14,034,323	100%	-	

REQUIREMENTS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Personnel Services	8,606,196	7,891,350	92%	9,032,045	1,195,842	13%	9,032,045	100%
Materials and Services	4,088,201	3,151,021	77%	4,250,715	567,796	13%	4,230,715	100%	20,000
Capital Outlay	5,015,100	2,347,522	47%	1,831,000	335,980	18%	1,851,000	101%	(20,000)
TOTAL REQUIREMENTS	17,709,497	13,389,893	76%	15,113,760	2,099,618	14%	15,113,760	100%	-

TRANSFERS	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Transfers In	1,750,000	1,750,000	100%	1,950,000	-	0%	1,950,000	100%
Transfers Out	(1,809,900)	(1,809,900)	100%	(1,950,000)	-	0%	(1,950,000)	100%	-
TOTAL TRANSFERS	(59,900)	(59,900)	100%	-	-	-	-	-	-

FUND BALANCE	Budget	Actuals	%	Budget	Actuals	%	Projection	%	\$ Variance
	Beginning Fund Balance	12,950,799	12,722,890	98%	13,202,343	13,330,430	101%	13,329,825	101%
Resources over Requirements	(3,964,819)	731,078		(1,079,437)	(2,010,594)		(1,079,437)		0
Net Transfers - In (Out)	(59,900)	(59,900)		-	-		-		-
TOTAL FUND BALANCE	\$ 8,926,080	\$ 13,394,068	150%	\$ 12,122,906	\$ 11,319,837	93%	\$ 12,250,388	101%	\$127,482

- A** Current year taxes received primarily in November, February and May
- B** Telephone tax payments are received quarterly
- C** Invoices are mailed in the Spring
- D** State GIS reimbursements are received quarterly
- E** Final Beginning Fund Balance will be determined after the final close of FY23



BOARD OF
COMMISSIONERS

AGENDA REQUEST & STAFF REPORT

MEETING DATE: September 27, 2023

SUBJECT: Request for reconsideration of Mountain View petition to incorporate

RECOMMENDED MOTION:

Move approval of a Board Order denying the request to reconsider the petition to incorporate a new city of Mountain View.

BACKGROUND AND POLICY IMPLICATIONS:

Following the required public hearing on September 20, 2023 on the petition submitted to incorporate a new city of Mountain View, the Board voted to deny the petition. On September 22, a request for reconsideration was submitted.

BUDGET IMPACTS:

None

ATTENDANCE:

Will Groves, Planning Manager
Stephanie Marshall, Assistant County Counsel

9/22/2023

Please Review

Dear Commissioners, County Legal, and the Public,

I am writing to you on behalf of the concerned citizens who share our vision for the incorporation of Mountain View. We have meticulously reviewed the proceedings of the recent hearing concerning this matter and respectfully request a reconsideration of the Board of County Commissioners' vote, permitting the petition to advance with a ballot measure. We note that recent votes, such as the one pertaining to destination resorts, have exhibited a similar need for review.

With profound respect for the established legal framework, we seek to direct your attention to the pertinent Oregon Revised Statutes (ORS) that govern incorporation. Below, we have thoughtfully presented these statutes, thoughtfully identifying the non-applicable ORS sections with a single-line strike-through for clarity. We respectfully recommend that your legal counsel undertakes a comprehensive examination of this essential ORS information.

During the aforementioned hearing, we observed certain disparities that, in our perception, overlooked relevant state laws. In light of these concerns, we strongly recommend considering the precedent set by the case of *Millersburg Dev. Corp. v. Mullen*, 14 Or. App. 614 (1973)). We believe this case offers invaluable insights worthy of your attention.

Additionally, we wish to draw your attention to the case of *1000 Friends of Oregon v. Wasco County*, underscoring the necessity for a precise interpretation of the exemptions to Goal 14 in relation to Goals 3 and 4, as delineated in Goal 2 Part II. We firmly assert that upon meticulous reflection, you will find substance in our contention that procedural errors or violations during the initial vote present a legitimate rationale for reconsideration.

Given the aforementioned precedent of *Millersburg Dev. Corp. v. Mullen*, we are compelled to convey our intention to pursue a Land Use Board of Appeals (LUBA) appeal if deemed necessary.

Furthermore, we wish to express our apprehension regarding the possibility that the commissioners may have applied criteria not mandated by state ORS, particularly within the context of the commissioners' role in determining "benefited land." We emphasize that this concern is underscored in the LOC white paper, and as we continue our review, we find it prudent to advocate for a thorough evaluation of the petition utilizing a quasi-judicial process.

Such a process ensures an impartial decision-making framework firmly grounded in objective evidence, rather than relying on subjective judgments.

Moreover, we wish to assert that an inaccurate historical account regarding the incorporation of La Pine may have unintentionally impacted the decision-making process. In our pursuit of transparency and to dispel any potential misperceptions, we have included a meticulously detailed historical account below for your reference. It is noteworthy that the petition to incorporate La Pine consistently progressed to the ballot during each attempt, despite marked disparities between the stated income and expenses—an aspect that you may have alluded to in the context of Mountain View's petition. This pattern of advancement holds true for the majority of incorporation petitions, with the exceptions being the highlighted cases within this correspondence.

In light of the aforementioned concerns and deliberations, we respectfully petition for a reconsideration of this matter, prior to its finalization with your signatures scheduled for next Wednesday. We acknowledge the potential necessity for a boundary reassessment to determine the lands that the Board deems as "would benefit." Moreover, we understand that it may be within your legal discretion to significantly alter the original boundaries in your revaluation. It should be noted that any significant changes to the boundaries made by the board do not have a legal effect on the original legal requirements set forth in applicable ORS. The original petition serves as the legal framework in regards to population, signatures, and other relevant legal requirements. We also duly recognize the recommendations put forth by LUBA in the case of 1000 Friends of Oregon v. Wasco County, intended to fulfill statewide planning requirements (with the exception of Goal 14 concerning Goals 3 & 4).

In the spirit of collaboration and in recognition of our shared aspirations for enhancing the social and economic conditions and development of the area, we are ready to undertake a formal withdrawal of the petition, thereby refraining from pursuing an appeal to LUBA. This commitment is contingent upon the Board of County Commissioners formally initiating a special district process, one that adheres to state law and aligns with statewide planning goals. We propose that this initiative be considered for inclusion in the forthcoming 2040 comprehensive plan, which is currently undergoing formal adoption processes. This approach would contribute to the clarity of legality and procedure, furthering the facilitation of essential improvements.

We assert that our request aligns with the principles of fairness, legality, and the pursuit of the community's best interests. We await your response with keen interest and remain open to further dialogues on this matter.

We extend our gratitude for your time and consideration.

Sincerely,

Mountain View

P.S. We would also like to bring to your attention that the letter sent by your legal counsel, Mr. Bell, indicated compliance with the requirements for a petition, thus strengthening our case and adding the relevant exemptions into the picture to address his statewide goals concern.

Chapter 221 — Organization and Government of Cities

2021 EDITION

ORGANIZATION AND GOVERNMENT OF CITIES

CITIES

INCORPORATION OF CITIES

221.010 Definitions for ORS 221.020 to 221.100. As used in ORS 221.020 to 221.100, unless the context requires otherwise:

- (1) “County court” means a county court or board of county commissioners.
- (2) “City,” except in the term “incorporated city” in ORS 221.020, means a city incorporated under ORS 221.020 to 221.100 or proposed to be incorporated.
- (3) “Population” means a city’s population as shown by the latest annual estimate made pursuant to ORS 190.520. -

ORS § 190.520
 1) Portland State University shall:
 (a) Annually estimate the population as of July 1 of each city and county within the state and no later than December 15 of each year prepare a certificate of population showing the university's estimate of the population of each city and county within the state as of July 1. The university's estimate may be based upon statistical or other pertinent data or upon an actual count. The certificate shall also indicate the results of any enumeration of cities or annexed areas made after July 1.
 (b) Annually estimate the number of persons between the ages of 4 and 20 who resided in each county as of October 25. The university shall certify such estimate to the Superintendent of Public Instruction and to the executive officer of the administrative office of each county, as defined in ORS 328.001, by January 1 of each year.
 (c) Upon an official request from a city, county, political subdivision, public corporation or state agency, cause to be conducted at the expense of the requesting party an actual count of the population of the area specified in the request and prepare a certificate of population based upon such count.
 (d) Upon the incorporation of a city, cause to be conducted at the expense of the city an actual count of the population of the city. The university shall prepare a certificate of population based upon such count. If the election of officers of the newly incorporated city is held 40 days or more before the end of the calendar quarter, the certificate shall be prepared before the end of the calendar quarter. If the election is held less than 40 days before the end of the calendar quarter, the certificate shall be prepared before the end of the calendar quarter next following the election.
 (2) All certificates prepared under this section shall be filed with the Portland State University Population Research Center.
 ORS 190.520
 Amended by 2013 Ch. 768 § 106b, eff. 8/14/2013, op. 7/1/2014.
 Formerly 221.850, 1963 c.312 §1; 1971 c.294 §11; 1993 c.98 §12; 2003 c. 14, § 89; 2007 c. 71, § 62
 ORS § 190.520 specifies that when a city incorporates, Portland State University is responsible for conducting a population count for that newly incorporated city. The timing of when this population count and certificate of population are prepared depends on when the election of officers for the newly incorporated city is held:
 1. If the election of officers of the newly incorporated city is held 40 days or more before the end of the calendar quarter, the certificate of population shall be prepared before the end of that same calendar quarter.
 2. If the election is held less than 40 days before the end of the calendar quarter, the certificate of population shall be prepared before the end of the calendar quarter immediately following the election.
 This provision ensures that accurate population data is available for newly incorporated cities in a timely manner

(4) “Urbanized area” means territory within three miles of a city. [Amended by 1965 c.579 §1; 1973 c.432 §1; 1983 c.83 §16]

221.020 Authority to incorporate. The people of an area, no part of which lies in an incorporated city and in which **150 persons reside**, may incorporate a city by approving at an

election called and held according to ORS 221.031 to 221.061 a proposition provided by those sections for incorporating the city.

221.031 Petition to incorporate; filing; form; contents; approval by boundary commission.

(1) Before circulating a petition to incorporate unincorporated territory as a city, the petitioners shall file a petition for incorporation in a form prescribed by rule of the Secretary of State with:

- (a) The county clerk of the county in which the proposed city lies; or
- (b) If the proposed city lies in more than one county, the county clerk of the county in which the largest part of its territory lies.

(2) The county clerk shall immediately date and time stamp the prospective petition and shall authorize the circulation of the petition when the economic feasibility statement required by ORS 221.035 is filed with the county clerk. The county clerk shall retain the prospective petition and economic feasibility statement and shall immediately send two copies of the prospective petition to the appropriate county court.

(3)(a) A petition for incorporation filed with the county clerk under subsection (1) of this section shall designate the name and residence address of not more than three persons as chief petitioners, who shall be electors registered within the boundaries of the proposed city.

- (b) The petition shall contain the name of the proposed city.
- (c) The petition shall include a proposed permanent rate limit for operating taxes that would generate operating tax revenues sufficient to support an adequate level of municipal services. The tax rate limit shall be expressed in dollars per thousand dollars of assessed value. The tax rate limit shall be calculated for the latest tax year for which the assessed value of the proposed city is available.

(d) There shall be attached to the cover sheet of the petition a map indicating the exterior boundaries of the proposed city. The map shall not exceed 14 inches by 17 inches in size and shall be used in lieu of a metes and bounds or legal description of the proposed city.

~~(e) If the territory proposed to be incorporated is within the jurisdiction of a local government boundary commission, the petition shall be accompanied by the economic feasibility analysis required under ORS 199.476 (1). Notwithstanding subsection (2) of this section, unless the economic feasibility analysis is approved by the local government boundary commission as provided in ORS 199.522, the county clerk shall not authorize the circulation of the petition.~~

~~(f) If the petitioners propose not to extinguish a special district pursuant to ORS 222.510 (2) or a county service district pursuant to ORS 451.585 (1), the petition shall include a statement of this proposal.~~

(4) Each sheet of signatures shall be attached to a full and correct copy of the petition for incorporation. Not more than 20 signatures on each sheet of the petition for incorporation shall be counted. The circulator shall certify on each signature sheet that the circulator witnessed the signing of the signature sheet by each individual whose signature appears on the signature sheet

and that the circulator believes each individual is an elector registered in the county. ~~If the territory proposed to be incorporated is within the jurisdiction of a local government boundary commission, each signature sheet shall contain a statement that the economic feasibility analysis for the proposed city was approved by the boundary commission, that the analysis is available for inspection at the offices of the boundary commission and that subsequent to the gathering of the petitions the boundary commission must review and finally approve the proposal prior to submission at an election.~~ [1981 c.890 §3 (enacted in lieu of 221.030); 1983 c.83 §17; 1987 c.882 §12; 1989 c.92 §29; 1997 c.541 §351; 1999 c.318 §22; 2005 c.396 §1; 2007 c.669 §3; 2007 c.848 §21; 2010 c.41 §2]

199.476 When petition for major boundary change required; when economic feasibility statement required; effect of filing petition; effect of appeal. ~~(1) When a major boundary change is initiated by a legally sufficient petition as provided by the principal Act, if the territory subject to the petition is within the jurisdiction of a boundary commission, the filing agency notwithstanding the principal Act, shall file, within 10 days after the petition is filed, a certified copy of the petition with the boundary commission having jurisdiction of the change. If the petition proposes formation, consolidation or merger of a city or district it shall be accompanied by the economic feasibility analysis and an estimate of the tax rate derived from the feasibility analysis that will be required to provide the services or functions of the proposed city or district. The analysis and estimate of the tax rate shall be prepared in cooperation with the county assessor and the Department of Revenue.~~ The analysis shall include among other items a description of the services or functions to be performed or provided by the new unit and an analysis of their relationship to other existing or needed government services. The analysis shall also include a first year line item operating budget and a projected third year line item operating budget.

~~———(2) The proceeding under the principal Act shall be suspended from the date the petition is filed with the filing agency until the date the commission files a certified copy of its final order with the filing agency. Suspension of the proceeding under this section shall not continue for more than 120 days after the date the commission receives the petition.~~

~~———(3) If a final order is not adopted within the 120 days, the petition shall be considered approved by the commission.~~

~~———(4) Notwithstanding subsection (3) of this section, if a final order of a commission is appealed for review by the Court of Appeals and a copy of the petition for judicial review is filed with the filing agency within 60 days after the date on which the final order is issued, the suspension period shall be extended and continue until the petition for judicial review is determined and the results thereof certified to the filing agency.~~

~~———(5) A determination by the board of directors of a county service district that there is a public need for the continued existence of the district shall be reviewed as provided in this section. [Formerly 199.465; 1983 c.336 §13; 1987 c.504 §10; 1987 c.882 §10; 1989 c.92 §21]~~

~~**221.032 Annexation during pendency of incorporation.** After a person files a petition for incorporation under ORS 221.031, a city or district may not commence annexation proceedings for any part of the area that is included in the boundaries of the area proposed to be incorporated until after a county court removes that part of the area from within the boundaries of the proposed city or the later of the following:~~

- ~~—— (1) The county court rejects the petition; or~~
- ~~—— (2) The voters do not approve the question of incorporation at an election called by the county court. [2007 c.669 §2]~~

~~**221.034 Incorporation of rural unincorporated community and contiguous lands.**~~

~~(1) As used in this section:~~

~~—— (a) “Neighboring city” means a city that has any part of its territory situated within three miles of the area proposed to be incorporated.~~

~~(b) “Rural unincorporated community” means a settlement with a boundary identified in an acknowledged comprehensive plan of a county and that:~~

~~—— (A) Is made up primarily of lands subject to an exception to statewide planning goals related to agricultural lands or forestlands;~~

~~—— (B) Either was identified in the acknowledged comprehensive plan of a county as a “rural community,” “service center,” “rural center,” “resort community” or similar term before October 28, 1994, or is listed in the Department of Land Conservation and Development’s “Survey of Oregon Unincorporated Communities” (January 30, 1997);~~

~~(C) Lies outside the urban growth boundary of a city or a metropolitan service district; and~~

~~(D) Is not incorporated as a city.~~

~~(e) “Urban reserve” has the meaning given that term in ORS 195.137.~~

~~—— (d) “Urban services” has the meaning given that term in ORS 195.065.~~

~~—— (2) When any of the area proposed to be incorporated as a city lies within an urbanized area, but outside the urban growth boundary of a city or a metropolitan service district:~~

~~—— (a) The area proposed to be incorporated must also be located entirely within a designated rural unincorporated community and contiguous lands subject to an exception to statewide planning goals related to agricultural lands or forestlands.~~

~~—— (b) The petition required by ORS 221.031 must be accompanied by an affidavit, signed by a chief petitioner, stating that:~~

~~—— (A) Ten percent of the electors registered within the area proposed for incorporation favor the incorporation; and~~

~~—— (B) The chief petitioners have engaged the neighboring cities in discussions concerning the effects of the proposed incorporation, including discussions specifically relating to how those cities and the proposed city will allow for expansion of urban growth boundaries and, where applicable, for creation or expansion of urban reserves.~~

~~—— (c) The economic feasibility statement required by ORS 221.035 must:~~

~~—— (A) Indicate that the proposed city must plan for and provide urban services in a cost-effective manner at the minimum level adequate to meet current needs and projected growth;~~

~~—— (B) Contain a proposed permanent rate limit for operating taxes to provide revenues for urban services; and~~

~~—— (C) Indicate that the proposed city must plan for residential development at or above the same urban density planned for an existing city, within the county, that has a similar geographic area within the existing city's urban growth boundary or, for a proposed city within three miles of Metro's boundary, a minimum urban residential density in accordance with a statewide planning goal and rules pertaining to needed housing for cities within Metro's urban growth boundary.~~

~~(d) If the proposed city will be required to complete a public facility plan and a transportation systems plan, the proposed city must demonstrate the ability to provide urban services to meet current needs and projected growth. The proposed city may meet this requirement, in whole or in part, by establishing an agreement in principle with a city or a district, as defined in ORS 195.060, to provide the urban services.~~

~~(3) If the governing body of a neighboring city determines that the proposed incorporation adversely affects that city, the governing body may ask the county court with which the petition for incorporation was filed to reject the petition and terminate the incorporation proceedings. The objections by the city to the incorporation shall be heard and considered by the county court at a public hearing held under ORS 221.040.~~

~~(4) If, at the hearing held under ORS 221.040, the county court finds that any of the requirements of subsection (2) of this section are not met or that the proposed incorporation will adversely affect a neighboring city, the county court shall provide by order for the termination of the incorporation proceedings. The order shall contain the findings of the county court relating to the proposed incorporation and the reasons for terminating the incorporation proceedings.~~

~~—— (5) In the manner provided in ORS 197.830 to 197.845, the Land Use Board of Appeals shall review, upon the petition of a party to the incorporation proceedings, the order of the county court under subsection (4) of this section. [2001 c.132 §2; 2005 c.396 §2; 2007 c.723 §8]~~

221.035 Economic feasibility statement; contents. (1) If a person intends to file a petition for incorporation under ORS 221.031 (1), the person may file a notice of intent to prepare an economic feasibility statement with the county clerk of the county in which the proposed city lies or, should it lie in more than one county, with the county clerk of the county in which the largest part of its territory lies.

(2) When a petition for incorporation is filed under ORS 221.031 (1), an economic feasibility statement concerning the proposed city described in the petition shall also be filed with the county clerk. The economic feasibility statement shall be prepared by the persons designated as the chief petitioners and shall form the basis for the proposed permanent rate limit

for operating taxes required by ORS 221.031 (3). The economic feasibility statement shall contain:

- (a) A description of the services and functions to be performed or provided by the proposed city;
- (b) An analysis of the relationship between those services and functions and other existing or needed government services; and
- (c) Proposed first and third year budgets for the new city demonstrating its economic feasibility. [1989 c.92 §28; 1997 c.541 §352; 2001 c.557 §3; 2007 c.669 §4]

~~**221.036 Inclusion of area within urban growth boundary in incorporation of rural unincorporated community.** For an area that includes a rural unincorporated community, as defined in ORS 221.034, if a notice of intent to prepare an economic feasibility statement is filed under ORS 221.035 (1) or a petition for incorporation is filed under ORS 221.031 (1) before all or a part of the rural unincorporated community is included in the acknowledged urban growth boundary of a metropolitan service district organized under ORS chapter 268, the incorporation may continue under the statutory requirements that apply to the incorporation of a rural unincorporated community under ORS 221.034. However, the area proposed to be incorporated may include any lands that are included in the acknowledged urban growth boundary. [2001 c.557 §5]~~

221.040 Hearing on petition to incorporate; order fixing date of election on approved petition. (1) When a petition for incorporation described in ORS 221.031 is signed by 20 percent or, in a county with a population over 300,000, by 10 percent, of the electors registered in the area proposed to be incorporated, the petition shall be filed with the county court of the county in which the proposed petition was filed under ORS 221.031. A petition shall not be accepted for filing unless all the signatures on the petition were obtained within the six-month period immediately following the date on which the petitions were filed under ORS 221.031. **Upon the filing of the petition, the county court shall fix the time and place for the hearing of such petition and shall give notice thereof by publication once each week for two successive weeks in a newspaper published in the county where the petition is filed and of general circulation within the boundaries,** and by posting the notice for the same period of time in three public places in the area proposed to be incorporated. The notice shall state the time and place of the hearing, describe the boundaries set forth in the petition and state the purpose of the petition. If any portion of the proposed incorporation of a city lies within another county or counties, then the notice shall be published in a newspaper of general circulation in each of the counties and in the same time and manner.

(2) At the time and place fixed for the hearing, or at any time and place at which the hearing may be continued or postponed, any person interested may appear and present oral or written objections to the granting of the petition, the forming of the proposed incorporated city or the estimated rate of taxation set forth in the petition. **The court may alter the boundaries as**

set forth in the petition to include all territory which may be benefited by being included within the boundaries of the proposed incorporated city, but shall not modify boundaries so as to exclude any land which would be benefited by the formation of the proposed city. No land shall be included in the proposed city which will not, in the judgment of the court, be benefited. If the court determines that any land has been improperly omitted from the proposed city and the owner has not appeared at the hearing, it shall continue the hearing and shall order notice given to the nonappearing owner requiring the owner to appear before it and show cause, if any the owner has, why the owner's land should not be included in the proposed city. The notice shall be given by publication and posting in the same manner as the original notice for hearing and for the same period. For the purposes of this subsection, "owner" means the legal owner of record except that if there is a vendee under a duly recorded contract, the vendee shall be deemed to be the owner.

(3) Upon the final hearing of the petition, the court, if it approves the petition as originally presented **or in an altered form, shall provide by order for the holding of an election relating to the incorporation of the proposed city.** The order calling the election shall fix the date of the election on the date of the next primary election or general election that is not sooner than the 90th day after the date of the order. The order shall contain:

(a) A description of the exterior boundaries of the proposed city as determined by the court. The description shall be a metes and bounds or legal description prepared by the county surveyor or county assessor. The description prepared under this paragraph shall accurately describe the exterior boundaries of the proposed city as indicated on the map filed under ORS 221.031 (3) unless those boundaries were altered by the county court, in which case the description shall accurately describe the boundaries as altered;

(b) A provision requiring the county official in charge of elections to include on the ballot for the election a description of the boundaries of the proposed city using streets and other generally recognized features and a statement of the proposed permanent rate limit for operating taxes included in the petition for incorporation of the proposed city as required by ORS 221.031, which statement shall comply with the requirements of ORS 250.035; and

(c) The date on which the election will be held in the proposed city. [Amended by 1953 c.593 §3; 1979 c.316 §9; 1981 c.890 §7; 1983 c.83 §18; 1983 c.350 §17; 1989 c.92 §30; 1995 c.712 §90; 1997 c.541 §353; 1999 c.21 §3; 2007 c.669 §5]

221.862 "Historic ghost town" defined. As used in ORS 221.862 to 221.872, "historic ghost town" means an incorporated city within this state that:

- (1) Is on land acquired under a United States patent;
- (2) Does not have a sufficient number of registered electors permanently residing within the city to fill all offices provided for under its charter; and
- (3) Is of historic interest. [1983 c.355 §1]

City of La Pine Incorporation Attempts

Several attempts have been made to incorporate the La Pine area in 1985, 1994, and 2000. The first attempt appeared on the 1985 ballot offering a proposal to incorporate the La Pine area into a city but was defeated by a vote of 65-33.⁴⁴ Nine years later, another ballot measure was presented to the voters of Deschutes County with regards to the La Pine area development. In 1994, measure 9-5 Port of La Pine Formation states that a port district proposed for the purpose of developing a viable economic base, which would interact, but not duplicate or conflict, with other governments services now available. Establishment of a port district would allow local control in development of the La Pine industrial site, currently owned by Deschutes County. The area's large population base demands a variety of services. Approval of the measure would allow formation of a special district called the Port of La Pine. A tax base of

\$51,750 would be authorized. The proposed area was 100-square miles.⁴⁵ The voters also defeated this measure. The La Pine area has taken the failed opportunities of the past and created the La Pine Community Action Team. This nonprofit organization of volunteer citizens decided to improve the community through a variety of activities. The La Pine Community Action Team (LCAT) appointed a twenty-five member incorporation committee to work on the feasibility of incorporation.⁴⁶ La Pine has much to gain from incorporation. The most important benefit appears to be self-governing. Incorporation will enable La Pine to choose their own city council from within their community. Those in favor of incorporation feel this will get more attention to the issues that need taken care of. Some of the issues concerning the La Pine area are economic development, road maintenance, parks, cemetery, recreation code enforcement, law enforcement, and sewer and water. These issues make a lot of people in the area feel things would be handled easier with a local government. The La Pine Strategic Plan from April 1996 discusses the importance of preserving the local beauty and environment while maintaining its rural identity and quality of life as explores ideas into the outcome of La Pine's future. The need for the La Pine area to become a full-service community to accommodate the increasing number of residents and tourists is imperative to its future.⁴⁷ In early 1998 the La Pine Community Action Team obtained a grant from the US Economic Development Administration to undertake a study of governance options for the La Pine area.⁴⁸ This study was actually a follow-up to

a strategic plan that had been previously developed that calls for a system of governance to be in place by the year 2000. The LCAT hired the firm of Cogan, Owens, Cogan from Portland, Oregon to undertake the task of a feasibility study of governance options. A workshop held on March 8, 1998 helped the LCAT to select three governance options for further study: incorporation of a large city, incorporation of a small city, and formation of a multipurpose county service district. Five major areas to be considered within either of these categories were the sewer, water, parks and recreation, planning and building code administration, and road repair and construction.⁴⁹

The large city option,

encompassing approximately 32-square mile area and about 7,500 people, was chosen by LCAT as the best incorporation option.⁵⁰ The 2000 November ballot will present the voters with the opportunity to decide whether it is time for La Pine to become a city. Only 3,694 registered voters are within the proposed city limits and a simple majority is needed for incorporation to pass.⁵¹ (See Appendix 1) Currently, Deschutes County provides administrative services, such as assessment and taxation, as well as a number of general government services to the area of La Pine. These services include planning, zoning, building code enforcement, health and sanitation, road construction and maintenance, and law enforcement/criminal justice services.⁵² If La Pine incorporates, these services will become the responsibility of the new city (see Appendix 2). The first years operating expenses are estimated to be \$698,550, which excludes parks, water, fire protection and sewer services since they are already established.⁵³

La Pine schools will remain part of the Bend-La Pine School District even if a new city is formed. The decision to establish a new school district is not part of the current proposal and would be addressed well after incorporation is achieved. The elementary and secondary schools located in the unincorporated area of La Pine are and will continue to be managed from the district offices located in Bend.⁵⁴ The last two decades has seen a steady growth with regards to population and development in the La Pine area.

Some of the concerns facing the

incorporation goals with regards to becoming a city are water quality, substandard roads, wild land fire hazards, and higher taxes. Water quality is an issue since there is a high water table in the region and this affects development of business and residential areas. The vast amount of unimproved roads within the proposed boundary area will become a major project for the new city to tackle. It is estimated that \$350,000 in state gas tax money would be available to the new city for road maintenance, however this would not cover the operating costs. The most unpredictable issue for a new city to deal with is wild land fire hazards.⁵⁵ Incorporation means higher property taxes for citizens in order to support the new city. LCAT is considering a permanent tax rate of \$1.50 per every \$1000 of assessed value.⁵⁶ Now the words “considering a permanent tax rate” does imply that nothing permanent has been considered. This appears to be the foremost concern for the residents of the La Pine area when considering incorporation.

¹ La Pine Chamber of Commerce.

² Phil F. Brogan, East of the Cascades (1964), 29.

³ Ibid., 14-19.

⁴ Ibid., 13.

⁵ Raymond R. Hatton, interview by author, 30 April 2000, Phone.

⁶ Ibid.

⁷ Brogan, 47.

⁸ County Historical Timeline.

⁹ Hatton.

¹⁰ Brogan, 84-85.

1
1
Friends of La Pine Library, 9-11.
1
2
Ibid., 18.
1
3
The Deschutes County Historical Society, "A History of the Deschutes County
in Oregon" (1985), 92.
1
4
Brogan 146.
1
5
The Deschutes County Historical Society. 92.
1
6
Hatton.
1
7
University of Oregon, "Old Oregon", spring 1982..
1
8
Brogan, 146.
1
9
The Deschutes County Historical Society, 93.
2
0
Friends of La Pine Library, 206.
2
1
Ibid., 209-210.
2
2
Ibid., 93.
2
3
Hatton.
2
4
Friends of La Pine Library, 3.
2
5
Ibid., 140.
2
6
Brogan, 146.
2
7
Friends of La Pine Library,
History of La Pine Pioneers
(1983), 197.
2
8
Ken Grantham, interview by author, 8 May 2000, Bend.
2
9
Friends of La Pine Library, 199.
3
0
Grantham.
3
1
Acre-foot: one acre of water, one foot deep.
3
2
The Bulletin
(Bend), 17 March 2000.
3
3
The Deschutes County Historical Society, 93.
3
4
Brogan, 146.
3
5
Hatton.
3
6
Raymond R. Hatton,
High Country of Central Oregon
(1980), 174.
3
7
The Bulletin
, 16 April 2000.
3
8
Friends of La Pine Library, 214-219.
3
9
Roger W. Olson, interview by author, 8 May 2000, Bend.
4
0
The Bulletin,
12 February 2000.
4
1
Steve Dodd, interview by author, 31 March 2000, La Pine.
4
2
Darwin H. Thurston, interview by author, 31 March 2000, La Pine.
4
3
The Bulletin
, 12 February 2000.

