



Board of Commissioners
 Office: (541) 766-6800
 Fax: (541) 766-6893
 4500 SW Research Way
 Corvallis, OR 97333
 co.benton.or.us

AGENDA

(Chair May Alter the Agenda)

BENTON COUNTY BOARD OF COMMISSIONERS

Tuesday, July 18, 2023, 9 AM

How to Participate in the Board of Commissioners Meeting			
In-Person	Zoom Video	Zoom Phone Audio	Facebook LiveStream
Kalapuya Building 4500 Research Way Corvallis, OR	Click for Zoom link	Dial 1(253) 215-8782	Click for Facebook LiveStream link
	Zoom Meeting ID: 849 2136 6280		
	Zoom Passcode: 586557		

1. Opening

- 1.1 Call to Order
- 1.2 Introductions
- 1.3 Announcements

2. Review and Approve Agenda

3. Comments from the Public

Time restrictions may be imposed on public comment, dependent on the business before the Board of Commissioners. Individual comment may be limited to three minutes.

4. Work Session

- 4.1 15 minutes – Monthly COVID Update – April Holland, Health Services
- 4.2 30 minutes – Forest Stewardship Project Summary Update – Beazell Forest Harvest, East Units Harvest 2023-24 – Adam Stebbins, Jesse Ott; Natural Areas, Parks, and Events

The Board may take a brief recess between the Work Session and Business Meeting

The Board of Commissioners may call an executive session when necessary pursuant to ORS 192.660. The Board is not required to provide advance notice of an executive session. However, every effort will be made to give notice of an executive session. If an executive session is the only item on the agenda for the Board meeting, notice shall be given as for all public meetings (ORS 192.640(2)) and the notice shall state the specific reason for the executive session as required by ORS 192.660.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the Board of Commissioners Office, (541) 766-6800.

BUSINESS MEETING

5. Consent Calendar

- 5.1 Approval of the July 5, 2023 Board Meeting Minutes

6. Old Business

- 6.1 30 minutes – Benton County Sustainable Materials Management Plan Next Steps –
Darren Nichols, Community Development

7. New Business

- 7.1 20 minutes – Marys River Watershed Council Funding Request– *Rick Crager, Marilee Hoppner, Financial Services; Darren Nichols, Community Development*
- 7.2 15 minutes – Management, Confidential, and Non-represented Employee Compensation – *Tracy Martineau, Human Resources; Rick Crager, Financial Services*

8. Departmental Reports and Requests

- 8.1 20 minutes – Request for Authorization to Partner with FEMA as a Cooperating Agency – *Darren Nichols, Toby Lewis; Community Development*
- 8.2 15 minutes – Initiation of Proceedings to Vacate a Portion of North 20th Place, County Road No. 26632, Resolution No. 2023-020 – *Joe Mardis, Public Works*
- 8.3 20 minutes – Watermaster Budget Request for the 2023-2025 Biennium– *Rick Crager, Financial Services*
- 8.4 20 minutes – Intergovernmental Agreement for Placement of Benton County Juveniles in the Linn-Benton Juvenile Detention Center – *Matt Wetherell, Juvenile Department*

9. Other

ORS 192.640(1)" . . . notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects."

10. Executive Session ORS 192.660[2][a] – Employment of a Public Officer, Staff, or Agent

The Board will discuss the selection of a County Administrator.

The Board of Commissioners may call an executive session when necessary pursuant to ORS 192.660. The Board is not required to provide advance notice of an executive session. However, every effort will be made to give notice of an executive session. If an executive session is the only item on the agenda for the Board meeting, notice shall be given as for all public meetings (ORS 192.640(2)) and the notice shall state the specific reason for the executive session as required by ORS 192.660.

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**MINUTES OF THE MEETING
BENTON COUNTY BOARD OF COMMISSIONERS**

Zoom link: <https://us06web.zoom.us/j/84921366280?pwd=TzUxOmZlUVc5VlFhMGdpSmkwcUsxdz09>;

Livestream: <http://facebook.com/BentonCoGov>

Tuesday, July 18, 2023

9:00 a.m.

Present: Pat Malone, Chair; Xanthippe Augerot, Commissioner; Suzanne Hoffman, Interim County Administrator

Excused: Nancy Wyse, Commissioner; Vance Croney, County Counsel

Staff: Katie Cooper, Dawn Dale, Sheriff's Office; Rick Crager, Debbie Sessions, Finance; Tomi Douglas, Jesse Ott, Adam Stebbins, Natural Areas, Parks & Events; Cory Grogan, Public Information Officer; April Holland, Health; Toby Lewis, Darren Nichols, Daniel Redick, Inga Williams, Community Development; Amanda Makepeace, BOC Staff; Joe Mardis, Public Works; Tracy Martineau, Tammy Webb, Human Resources; Sean McGuire, Sustainability; Erika Milo, BOC Recorder; Matt Wetherell, Juvenile Department

Guests: Gloria C., Tom Cordier, Blaine Schoolfield, Mae Yih, Albany residents; John Harris, Horsepower Productions; Alex Powers, Mid-Valley Media

1. Opening:

1. Call to Order

Chair Malone called the meeting to order at 9:01 a.m.

2. Introductions

3. Announcements

No announcements were made.

2. Review and Approve Agenda

No changes were made to the agenda.

3. *Comments from the Public

Mae Yih, retired Oregon Senator and Albany resident, presented research that could help the Board make long-term policy decisions about the burial of public waste for Republic Services (RS) in Corvallis. Yih sponsors an annual essay contest for Albany High School students. The 2022 topic was "a plan for sufficient energy for the nation as we move forward replacing fossil fuel with renewable and other sources." The winning essay by Spencer Madsen recommends new technologies such as recycling plastic bags to make hydrogen gas, storage of solar and wind energy, and converting waste to energy.

Augerot noted the suggestions are timely given that the County is starting a sustainable materials planning process.

{Exhibit 1: Yih Testimony}

{Exhibit 2: Madsen Report on Renewable Energy}

Tom Cordier, Albany resident, expressed dissatisfaction with RS's lack of plastic recycling options at Coffin Butte Landfill (CBL). When China stopped accepting unsorted plastics, RS stopped accepting plastic recyclables instead of finding other markets. Cordier stated this is negligence on the part of RS, since several national companies recycle such material. Cordier encouraged the Board to hold RS accountable. Cordier asked if the waste facility near the Community of Brooks is out of capacity, and could that capacity be increased. Cordier stated that RS refuses to allow any of its collected materials to go to that facility.

Malone noted that the Board will hold discussions with RS on how the company can do a better job for the community.

Augerot added that one of the biggest challenges is finding markets for plastics; shipping the material to distant reuse facilities costs more than the product is worth. Encouraging reuse technology locally would be great. Through the County's sustainable materials management planning, which will involve people from across the area (such as the Brooks facility, Marion County, and Polk County), the Board's goal is to get better answers and reduce waste going into CBL.

4. Work Session

4.1 Monthly COVID-19 Update – April Holland, Health Services

Holland reported this is a period of low COVID-19 transmission. Staff continue to monitor testing positivity, cases, and wastewater. There were 113 COVID-19 hospitalizations statewide at the last update, down from 133 last month; the number has been below 150 for several months. Two people are hospitalized in Benton County as of last week. Statewide testing positivity increased from 4% to 7.5%. There are likely some pockets of continuing transmission. The testing positivity rate for Centers for Disease Control region 10 (Alaska, Idaho, Washington, and Oregon) is about 5%. This is not alarming, but something to watch. Statewide, 75% of wastewater monitoring locations have had no change. A few areas north of Benton County have increased signals, which is usually followed by an increase in transmission two to three weeks later. The dominant strains are still Omicron XBB sub-lineages. The County Communicable Disease team supports long-term care facilities and other residential medical facilities. The County has two COVID-19 investigators; one position ends in September 2023, while the other runs through June 2024.

In June 2023, the Food and Drug Administration advised vaccine manufacturers to update boosters with a mono-valent composition. Updated vaccines could be out in September 2023. The Advisory Committee on Immunization Practices Board convenes August 3, 2023 to determine vaccine prioritization schedule, age ranges, and dosage. Staff expect some increased demand for vaccines, but not enough to overwhelm local resources.

Augerot asked if the County or the State is using wastewater surveillance to track other viruses.

Holland replied this has been discussed statewide; there would be logistical and cost considerations in deploying to all 19 Sentinel Diagnostics reporting locations. Testing positivity data for influenza and other viruses is certainly valuable.

Augerot suggested a Sentinel system for wastewater surveillance as well.

Malone noted that while transmissions are low in the summer, cases will increase in the fall with the return to school and shift to indoor activity.

Holland concurred. The Health Department no longer measures individual cases, so these broader surveillance methods are used to keep the community apprised. Indicators are lower than in quite some time. It is a good sign that there are no new variants of concern.

4.2 Forest Stewardship Project (FSP) Summary Update – Beazell Forest Harvest, East Units Harvest 2023-24 – Adam Stebbins, Jesse Ott, Natural Areas, Parks & Events (NAPE)

Ott explained that NAPE is starting the next project in the recently updated FSP, setting the stage for improvements including an educational center, gravel on trails, more parking, and ongoing management of Beazell Memorial Forest, continuing the spirit of former owner Fred Beazell .

Stebbins reported that in 2022, the north meadow expansion and connectivity project utilized low-impact thinning, which worked well for sustainable forestry. Good progress was made in all the Resource Management Units that the County adopted in 2020, with excellent recruitment in Douglas fir-dominated units and mixed oak woodland units. Thinning will expand meadow habitat for several endangered species. The next project is in the east unit, where the consulting forester found very high quality Douglas fir and trees damaged in the 2019-21 ice storms, which provide habitat. NAPE issued a Request for Proposals (RFP) on July 14, 2023 for thinning and small regenerative clearcuts in units B24, 25, and 27. The stand needs to be restarted, or it would develop sizes unsuitable for mills. Much work has been done on Beazell structures, including road upgrades (such as culverts) and trail work. The Parks Board approved the RFP last week. Applications close on August 30, 2023. A selection committee consisting of directors, Stebbins, and a member of the Parks Board will score applications. Work will start on September 21, 2023 and end by December 15, 2024.

Responding to a question from Augerot, Ott clarified that the small culverts were not related to fish-passage.

Malone asked if some logging roads will be permanent.

Stebbins replied that the goal is to use the existing network that was improved over the last year. Entry will be from the main network. There might be some temporary hauling routes for equipment. Any access routes would be decommissioned afterwards and returned to the forest.

Malone asked if ‘low impact’ meant using equipment that minimizes soil compaction.

Stebbins confirmed that some types of harvesters create very little ground compression. Proposal scoring will include the impacts of hauling methods on the landscape.

Augerot asked how much this project will impact recreational uses, and how that is factored into timing.

Stebbins replied this project should have minimal impact on recreation, as this is a remote area without designated trails. Factors such as traffic impacts on roads and wet/dry seasons were taken into account.

Malone asked if the second ten-year plan includes Trout Mountain Forestry (TMF).

Stebbins clarified that TMF was a private forestry consultant that developed the overall FSP. The County manages every operation within that plan; in 2020, language shifted to allow the County to diversify who can bid on these projects, develop harvest plans, and oversee logging, so there is a much larger pool than having one primary forester select firms. The County also has its own sustainable forestry certificate through the Forest Stewardship Council, which oversees operations.

5. Consent Calendar

5.1 Approval of the July 5, 2023 Board Meeting Minutes

MOTION: Augerot moved to approve the Consent Calendar of July 18, 2023. Malone seconded the motion, which **carried 2-0.**

6. Old Business

6.1 Benton County Sustainable Materials Management Plan (SMMP) Next Steps – *Darren Nichols, Daniel Redick, Community Development*

Nichols thanked the public commenters; that is exactly the kind of concerns the County seeks to address and integrate into the SMMP. Nichols asked the Board to appoint a one-month task force to help staff create an RFP for consultants to develop the SMMP. The task force would include the eight extant public members of the Benton County Talks Trash (BCTT) project. This is a balanced and representative group committed to the topic. All eight have been contacted, seven have committed, and the eighth is checking schedule issues. Nichols suggested leaving an open invitation for other counties to appoint a representative to the task force. Other counties will be key partners in addressing solid waste in western Oregon. The advisory group will develop the RFP, return in mid-August 2023 for Board feedback and refinement, then issue the RFP on September 5, 2023. August/September 2023 discussion will consider later steps, the ad hoc committee structure for the SMMP process, and the process for interviewing and selecting the consultant. Staff should also consider how to brief the Board regularly over the next two to three years.

Augerot noted it could be difficult to find task force representatives from other counties within the short timeline. Augerot asked if Nichols had identified and contacted potential candidates.

Redick replied that outreach has not happened yet for this RFP, but staff spoke to other counties throughout the BCTT process, and some individuals expressed interest in participating in future. Staff want to invite others to participate after the ad hoc committee process, if possible.

Augerot will contact Linn County colleagues today and share the option at the National Association of Counties event tomorrow.

Nichols mentioned that staff have brought up the idea informally with the Association of Oregon County Planning Directors, receiving strong interest from Lane, Tillamook, Lincoln, and Marion Counties. The Board can direct staff to leave the invitation open.

Malone praised the eight candidates' willingness to continue. Malone asked about the total size of the group and how relationships between the core group and other entities might work.

Nichols recommended 12-15 participants for now. Other members such as the Department of Environmental Quality or other community members or institutions should be part of the extended SMMP planning process.

MOTION: Augerot moved to appoint the ad hoc limited term advisory task force members as recommended, including Catherine Biscoe, John Deuel, Kathryn Duvall, Christopher McMorran, Ryan McAlister, Louisa Shelby, Mary Parmigiani, Ed Pitera, and also to include county appointees as they are interested for this short-term process. Augerot amended the motion to add that the intent of the taskforce is to develop with staff and present to the Board a final draft Request For Proposals for the Sustainable Materials Management Plan not later than August 2023. Malone seconded the amended motion, which **carried 2-0.**

7. New Business

7.1 Marys River Watershed Council (MRWC) Funding Request– Rick Crager, Marilee Hoppner, Financial Services; Darren Nichols, Community Development

Crager explained that smaller grants are usually approved through the budget process, but the new process is to bring specific grants to the Board for approval. The County has traditionally given MRWC grants in past; the Board decided this was better administered through Community Development. Nichols and Crager will ensure that agreements are built for grants, which was not done in the past. This follows the pattern developed with American Rescue Plan Act funds. Staff also sought guidance on the County's expectations, desired outcomes, monitoring, and reporting.

Nichols added that the Trout-Friendly Landscapes Green Infrastructure Program will use MRWC expertise and landowners' cooperation to improve water quality. Many good efforts are underway, including an Oregon State University pilot project, the County's new Stormwater Management Policy, and updates to the FEMA flood program related to endangered species habitat; the County can harness those projects without duplicating efforts.

Crager explained that staff have applied accountability standards to Federal public grants. At minimum, there is always validation of expenditure, which can be a report. Traditionally the County had provided the grants up front, then asked for information afterwards; now there are programmatic expectations in the agreement, then the group reports on how those were met.

Augerot agreed that more structure in the grant process is needed, while being cognizant of organizational capacity. It is good to have a final report, but one that is not too burdensome.

Nichols concurred. Redick convened a meeting including Public Works and watershed partners and agencies; there was strong interest and support to develop a collaborative strategy. When staff return to the Board, there will be a better sense of how the County is spending and what the collective impacts are.

Augerot praised that direction and the plan to work with multiple area entities, including Benton County Soil and Water Conservation District (BCSWCD). It is difficult for small entities to do planning work without support, so this is a good first step.

Malone appreciated standardizing grant applications and reporting so the County can set priorities and get a bigger picture of regional efforts to improve water quality. Clear expectations help both parties.

MOTION: Augerot moved to approve funding in the amount of \$10,550 to the Marys River Watershed Council for work on a Trout-Friendly Landscape Infrastructure project. Malone seconded the motion, which **carried 2-0.**

7.2 Management, Confidential, and Non-represented Employee Compensation – Tracy Martineau, Human Resources; Rick Crager, Financial Services

Martineau explained that per Policy 22.2, the Human Resources Manager is responsible for periodically reviewing compensation and recommending changes. Martineau asked the Board to pre-approve, with a 5% limit, the County's ability to adjust salary ranges and individual pay based on the Employment Cost Index (ECI), to be published July 28, 2023, for the 12-month period ending June 30, 2023. The March 2023 increase was 5%; the upcoming increase is expected to stay the same, but that will not be confirmed till the ECI is published.

Crager added this would allow staff to make range adjustment and increases at the same time, which follows best practices. In preparation, staff forecast about a 3% increase for both years, so a budget adjustment may be needed next year. The increase recognizes the rising cost of living.

Martineau noted that the management, confidential, and non-represented employee compensation study will be completed in August 2023. Making the ECI increase now will help mitigate the study's impact. Preliminary numbers from the survey consultant indicate that Benton lags behind comparable counties in compensation.

Augerot asked if the County has some budget for mitigating the study, as well as the increases.

Crager replied the payment was part of conservative approaches that staff suggested on reserves, knowing that the County might need to use some reserves to fund the study.

Augerot expected that study-recommended increases might vary by profession, but everyone deserves the basic ECI-based increase, so this two-step process makes sense.

Responding to questions from Malone, Martineau replied that the ECI reflects quarterly increases and the previous 12-month period. When the increase is published, Payroll will make the payment retroactive to July 1, 2023.

Responding to a question from Malone, Crager added that the increase does not include electeds, but the information will be provided to the Citizens' Budget Committee, which is charged with annual/biennial adjustments. A challenge is that some County budgets are related to enterprise funds, such as the Community Health Centers (CHCs). Those budgets are based on revenue, not General Fund reserves. The increases are built in for cost but sometimes require revenue; CHCs are projected assuming increases, but funding also has to be available.

Augerot noted this may present more challenges for some enterprise-based departments; the County must work with those departments and acknowledge the cost of employment.

MOTION: Augerot moved to approve up to a 5.0% ECI adjustment effective July 1, 2023 for non-represented employee salary ranges and individual pay based on the ECI for the 12-month period ending June 30, 2023. Malone seconded the motion, which **carried 2-0.**

Martineau will notify non-represented employees of the increase.

Chair Malone recessed the meeting at 10:25 a.m. and reconvened at 10:35 a.m.

8. Departmental Reports and Requests

8.1 Request for Authorization to Partner with the Federal Emergency Management Agency (FEMA) as a Cooperating Agency – Darren Nichols, Toby Lewis; Community Development

Lewis explained that FEMA is finalizing its plan for identifying regulations to help mitigate impacts to endangered species. FEMA began an environmental impact statement to evaluate effects of regulations. Tillamook and Umatilla Counties asked FEMA to expand partnership opportunities to include local jurisdictions. FEMA also invited Benton County to participate in the drafting process as a cooperating agency. The FEMA draft agreement is not yet finalized, reviewed, or approved. Cooperating agencies help facilitate public comment as information is being drafted. Comment is optional, but this allows extra comment opportunities. Once the agreement is finalized, there will be another broadscale opportunity for public comment.

Augerot asked about time commitment and how this fits with the County's larger work. Augerot liked the variety of participating counties and was glad the agreement does not bind Benton to support what FEMA develops, but expressed concern about the capacity of Lewis and other staff.

Nichols has been reviewing Lewis's overall workload. Being a cooperating agency also allows cities in Benton County to join the work, which adds capacity. The amount of workload remains to be seen; Nichols has encouraged staff to be circumspect about how much effort they can invest. However, this is a good opportunity.

Augerot noted that FEMA's goals align well with Benton's 2040 Values, and it is important to help shape the agreement. This seems like an opportunity to build capacity for Benton and partners on water issues.

Lewis shared that Benton's primary role would be as a conduit, co-hosting public meetings so FEMA can share information with targeted groups; there will also be opportunities for technological expertise responses. The approach is very flexible and allows each agency to participate as able.

Malone stated it would serve the County well to participate and have discussions, especially with community members.

Lewis noted that Counsel reviewed the document and found it fine overall, but was not in agreement with one item about providing information. The document will require a County signature; Lewis asked if another meeting with the Board was required.

Augerot was comfortable either way. Staff may need to return if the document requires the Chair's signature.

Nichols noted that the County Administrator and/or Floodplain Administrator can sign the document, so staff would not need to come back, but could do so.

Malone commented that periodic process updates would be helpful.

Nichols asked if staff should return on an ad hoc basis any time something changes on the project.

Augerot confirmed, and asked to see FEMA's schedule when dates are specified, then decide on update frequency.

Lewis commented that she and Nichols have identified a regular update schedule on floodplain projects.

MOTION: Augerot moved to direct County staff to partner with FEMA as a Cooperating Agency during the National Environmental Policy Act review process for the National Flood Insurance Program -- Endangered Species Act Implementation in Oregon and to delegate authority to the County Administrator or Interim County Administrator and the Floodplain Program Administrator to sign the final cooperating agreement. Malone seconded the motion, which **carried 2-0.**

8.2 Initiation of Proceedings to Vacate a Portion of North 20th Place, County Road No. 26632, Resolution No. 2023-020 – Joe Mardis, Public Works

Mardis explained this is the initiation of the vacation of North 20th Place in the City of Philomath due to a recreational vehicle park the petitioner plans to build. The end of 20th Place was never built. A railroad track where 19th Street crosses makes the current property access unsafe; moving the driveway will create better sight distance. Philomath wishes to retain its easement rights for future water/sewer lines and public utilities. The park's improvements must meet County standards. This item must be submitted to Philomath for concurrence.

MOTION: Augerot moved to declare Benton County's intent that the proceedings be initiated to vacate a portion of North 20th Place, County Road No. 26632, pursuant to ORS 368.326 to 368.341, as described in Resolution #R2023-020. Malone seconded the motion, which **carried 2-0.**

8.3 Watermaster Budget Request for the 2023-2025 Biennium – Rick Crager, Financial Services

Crager requested \$5,000 per year for an Inter-Governmental Agreement (IGA) with the Oregon Water Resources Department (OWRD) to support the Watermaster position. OWRD requested funds on January 24, 2023. The item is budgeted, but still requires Board approval. One Watermaster serves Benton, Polk, and Yamhill Counties, primarily inspecting infrastructure and handling complaints. Most complaints and evaluation needs occur in spring and summer. Both other counties also contribute; the IGA simply outlines Benton's expectations. The IGA is the same amount as in the past; Crager budgeted slightly higher, so the County will save \$550.

MOTION: Augerot moved to approve \$10,000, over two years, to the Oregon Water Resources Department for assistance to our Watermaster for additional personnel support. Malone seconded the motion, which **carried 2-0.**

8.4 Intergovernmental Agreement (IGA) for Placement of Benton County Juveniles in the Linn-Benton Juvenile Detention Center (LBJDC) – Matt Wetherell, Juvenile Department

Wetherell explained this is a yearly IGA with Linn County. There has been a \$25,000 increase. Wetherell works closely with the LBJDC Director to develop these numbers. Responding to questions from Malone, Wetherell replied that the agreement has been in effect since the 1990s and is working well. Benton currently rents four beds. Detention is a last resort.

Augerot expressed appreciation for the multi-county collaboration.

MOTION: Augerot moved to approve and sign the Inter-Governmental Agreement between Linn County and Benton County that provides for placement of Benton County juveniles in the Linn-Benton Juvenile Detention Center for the period July 1, 2023 through June 30, 2024. Malone seconded the motion, which **carried 2-0.**

9. Other

No other business was discussed.

Chair Malone recessed the meeting at 11:03 a.m.

10. Executive Session Under ORS 192.660[2][a] – Employment of a Public Officer, Staff, or Agent

Chair Malone opened the Executive Session at 11:08 a.m.

The Board discussed the selection of a County Administrator.


Chair Malone exited Executive Session at 11:19 a.m. and immediately reconvened the regular meeting.

MOTION: Augerot moved to direct staff to negotiate within the parameters as discussed in Executive Session. Malone seconded the motion, which **carried 2-0.**


Malone expressed appreciation for Martineau’s efforts to recruit a new County Administrator.

11. Adjournment

Chair Malone adjourned the meeting at 11:20 a.m.



Pat Malone, Chair



Erika Milo, Recorder

** NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.*

WORK SESSIONS

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/18/23

View [Agenda Tracker](#)

Suggested Placement * Work Session

Department * Natural Areas, Parks and Events

Contact Name * Adam Stebbins

Phone Extension * 5412506209

Meeting Attendee Name * Adam Stebbins, Jesse Ott

Agenda Item Details

Item Title * Board of Commissioners Forest Stewardship Project Summary Update- Beazell Forest Harvest, East Units Harvest 2023-24

Item Involves * Check all that apply

- Appointments
- Budget
- Contract/Agreement
- Discussion and Action
- Discussion Only
- Document Recording
- Employment
- Notice of Intent
- Order/Resolution
- Ordinance/Public Hearing 1st Reading
- Ordinance/Public Hearing 2nd Reading
- Proclamation
- Project/Committee Update
- Public Comment
- Special Report
- Other

Estimated Time * 30 mins

Board/Committee Involvement * Yes
 No

**Name of
Board/Committee**

Natural Areas & Parks Advisory Board

Advertisement*

Yes

No

**Names/Dates of
Publications**

List each publication name and date

Gazette Times -TBD

Item Issues and Description

<p>Identified Salient Issues *</p> <p>Benton County Natural Areas, Parks and Events is seeking proposals from a qualified forestry contractor to complete priority forest stewardship services within the Beazell Memorial Forest East Units. This work is a continuation of the adaptive management and project implementation as described in the current Benton County Forest Resources Stewardship Plan (adopted in 2020). This will be the largest scope, size, and cost/revenue stewardship project completed within park under the stewardship plan.</p>	<p>Options *</p> <p>N/A</p>	<p>Fiscal Impact *</p> <p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>	<p>Fiscal Impact Description *</p> <p>Current rough cost estimates for all project components range from \$200-\$300,000 with a gross revenue range of \$700-850,000.</p>
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Mandated Yes No
Service? *

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.
To review the initiative, visit the website [HERE](#).

Mandated Service *
If this agenda checklist describes a mandated service or other function, please describe here.
Stewardship of Beazell Memorial Forest to achieve sustainable forestry goals.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

- Select all that apply.
- Vibrant, Livable Communities
 - Supportive People Resources
 - High Quality Environment and Access
 - Diverse Economy that Fits
 - Community Resilience
 - Equity for Everyone
 - Health in All Actions
 - N/A

Explain Core Values *

The project will provide work for local/regional natural resource contractors along with local community businesses that provide services to these private companies. The work will achieve the sustainable forestry goals of the donated property along with fulfilling the trust fund obligations of Beazell Memorial Forest - to fund systemwide upgrades and maintenance.

Focus Areas and Vision *

Select all that apply.

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

Explain Focus Areas and Vision *

The project will provide work for local/regional natural resource contractors along with local community businesses that provide services to these private companies. The work will achieve the sustainable forestry and outdoor education and recreation goals of the donated property, along with fulfilling the trust fund obligations of Beazell Memorial Forest - to fund systemwide upgrades and maintenance.

Recommendations and Motions

Item Recommendations and Motions

Staff Move forward with the Request for Proposals as described.
Recommendations*

Work Session I move to ...
Motions* NA

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Board_Update_Forest_Stewardship_East

3.11MB

Units_project_23_24_Summary.pdf

Comments (optional)

If you have any questions, please call ext.6800

**Department
Approver**

JESSE OTT

1. **Department Approval**

Comments

Signature *Jesse Ott*

BOC Final Approval

Comments

Signature *Amanda Makepeace*

2. **Counsel Approval**

Comments

Signature *Vance H. Choney*

3. **Finance Approval**

Comments

Signature *Rick Crager*

4. **County Administrator Approval**

Comments

Signature *Suzanne Hoffman*

Board of Commissioners

Forest Stewardship Project Summary Update



Bezell Forest Harvest-East Units Harvest 2023-24

Harvest Benefits

- Remove Douglas Fir in decline, to provide drought and forest fire resilience for remaining trees, along with improved wildlife habitat.
- Portion of branch slash are used as base for lowering soil impacts from the 2 machines (harvester and forwarder), along with nutrient cycling for the remaining stand.
- In addition, a select amount of branch slash will be burned within the meadow restoration area, to provide optimal substrate pH and nutrients for native seeding.



Natural Fir Reestablishment and Release within Thinning Units



Oak Release within Thinning/Small Clearcut Units

Page 14 of 14



Largest Clearcut/Regen within max age/size class unit (B 27)

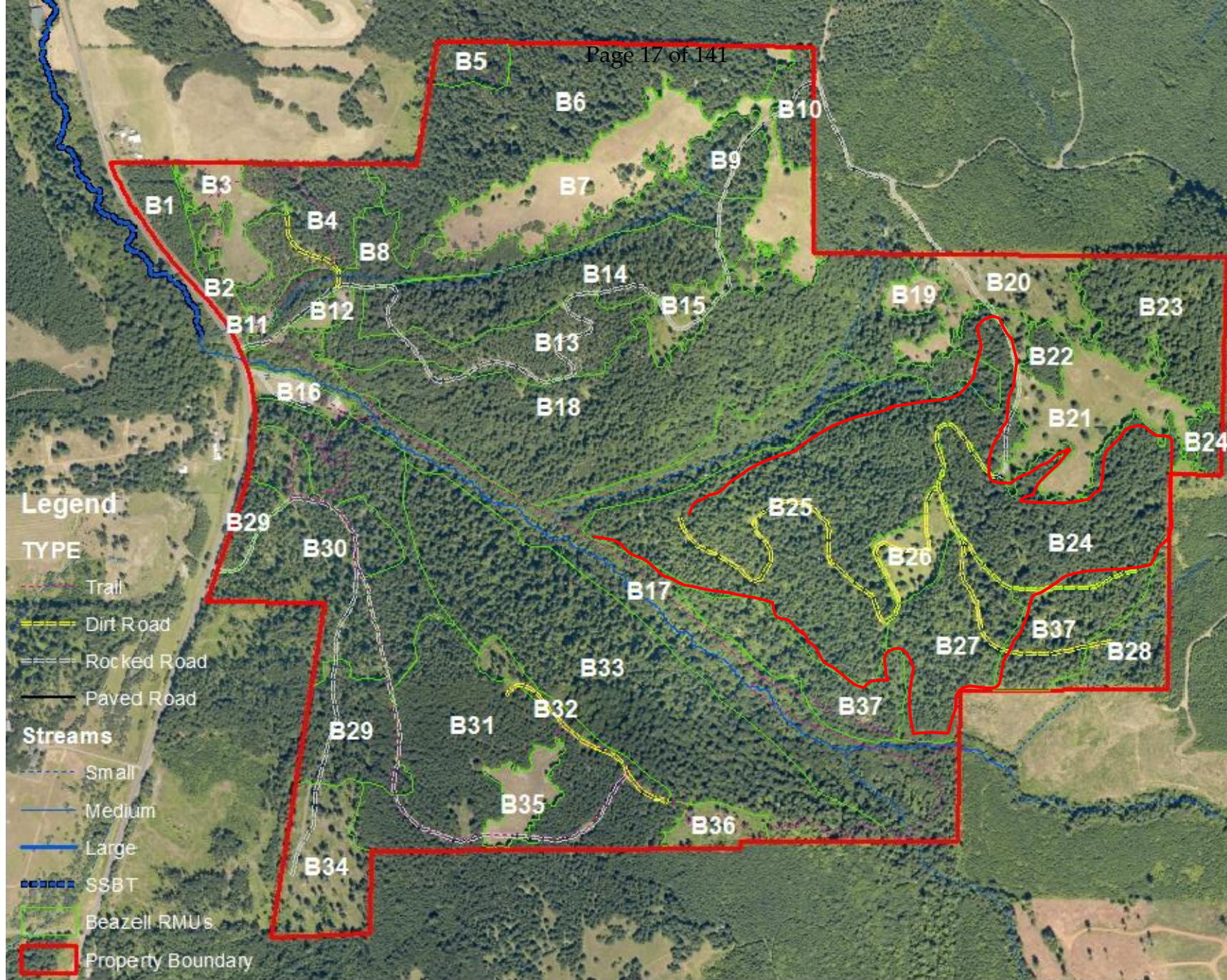
Page 15 of 141



2023-2024 Harvest Planning and Logging

Forestry Services Request Summary for Beazell Resource Management Units (B24, 25, 27)

Resource Management Unit (RMU)	Timber Harvest Layout & Harvest Area	Acres (approx.)	Estimated MBF
B24	Thinning	~30 acres	275
B25	Thinning	~40 acres	285
B27	Clearcut/Regen	~15 acres	300



Beazell Memorial Forest Infrastructure Upgrade Priorities

Page 18 of 141

- Continued Road and Trail Upgrades
- Heating System/HVAC
- Flooring within Main Hall
- Fire Suppression System
- Event Programming
- Deck replacement
- ADA access
- Parking Lot Upgrades
- Day Use well analysis and upgrades
- Standard and deferred maintenance

Draft Harvest Planning & Logging Timeline

- July 14th 2023- Approved Request Package released,
- August 30th, 2023- RFP Period Closes
- August 31st, 2023- Scoring of Proposals begins
- September 7th, 2023- Scoring of Proposals ends, Contractor Selected
- September 7th, 2023- Scoring of Bids ends, Contractor Selected
- September 7th , 2023- Development of Personal Services Contract with Selected Contractor
- September 21st, 2023 - Contracted work begins
- December 15th, 2024- Completion of all contracted services, closeout of contract.

CONSENT CALENDAR

**MINUTES OF THE MEETING
BENTON COUNTY BOARD OF COMMISSIONERS**

Zoom link:

<https://us06web.zoom.us/j/89212916073?pwd=b2RBOUIZY0czTjhURncrcitwSG1ldz09;%C2%A0Meeting>

Livestream: <http://facebook.com/BentonCoGov>

Tuesday, July 5, 2023

9:00 a.m.

Present: **Pat Malone**, Chair; **Xanthippe Augerot**, Commissioner; **Nancy Wyse**, Commissioner; **Vance Croney**, County Counsel; **Suzanne Hoffman**, Interim County Administrator

Staff: **Rick Crager**, **Debbie Sessions**, Finance; **Patrick Depa**, Community Development; **Cory Grogan**, Public Information Officer; **John Haroldson**, District Attorney; **Amanda Makepeace**, BOC Staff; **Joe Mardis**, **Gary Stockhoff**, Public Works; **Erika Milo**, BOC Recorder; **Darren Nichols**, Community Development; **Jef Van Arsdall**, Sheriff

Guests: **Lori Coppentrath**, DLR Group; **Nate Conroy**, Regional Accelerator & Innovation Network; **Phil Ermer**, **Bill Kughn**, **Cornelia Levy-Bencheton**, **Justin Paterson**, **Marge Popp**, **Bob Stone**, **Levi Warriner**, residents; **John Harris**, Horsepower Productions; **Alex Powers**, Mid-Valley Media; **Jerry Sorte**, Corvallis-Benton Economic Development Office

1. Opening:

1. Call to Order

Chair Malone called the meeting to order at 9:00 a.m.

2. Introductions

3. Announcements

No announcements were made.

2. Review and Approve Agenda

No changes were made to the agenda.

3. *Comments from the Public

Bill Kughn, resident, expressed disappointment that the assembly did not recite the Pledge of Allegiance. Kughn stated that Benton County Ballot Measure 2-130 is contributing funds to the General Fund for a new Courthouse (NCH), whereas the measure was intended to fund health, safety, and corrections services. Kughn asked if this constituted a misappropriation of funds.

Augerot replied that a portion of the Local Option Levy goes to the General Fund, but most goes to public safety and public health. Measure 2-130 was written to give that flexibility, which has been standard practice for Benton County.

Counsel confirmed Augerot's remark and stated there has been no misappropriation of funds. Counsel suggested that Kughn contact Crager for additional details.

Phil Ermer, resident, stated that given the failure of Ballot Measure 2-140, the Board must provide Benton County residents an opportunity to voice their opinion about the proposed NCH. Funding for the District Attorney's Office (DAO) and NCH came from Resolution #R2023-003, passed on March 7, 2023 without public comment. Sources of funds for those projects included Bond Measure 2-130, of which millions of dollars were siphoned off to the General Fund. Capital investment in the NCH is not health and safety services. Ermer requested a full accounting of these funds. A lower cost and more sustainable option is to renovate the Historic Courthouse (HCH) per the June 30, 2018 seismic evaluation and the October 2, 2020 summary by consultants DLR Group, which showed ways to make the HCH seismically ready, space-enhanced, accessibility-compliant, and utilities-upgraded for millions of dollars less than the property taken by eminent domain. Funds saved can be used for an upgraded jail. New construction generates carbon dioxide. A completely renovated HCH could be a showcase of sustainable community.

{Exhibit 1: Phil Ermer Public Comment}

4. Consent Calendar

4.1 In the Matter of Appointment to the Ridgewood Road District: Katherine Robertson, Order #D2023-055

4.2 In the Matter of Approving the June 20, 2023 Board Meeting Minutes

4.3 In the Matter of Approving the June 6, 2023 Board Meeting Minutes

MOTION: Augerot moved to approve the Consent Calendar of July 5, 2023. Malone seconded the motion, which **carried 2-0**. Wyse abstained due to insufficient opportunity to review the minutes.

5. Public Hearing

PH 1 In the Matter of Vacating Two Portions of Coon Road, Order #D2023-054 – Joe Mardis, Public Works

Chair Malone opened the Public Hearing at 11:00 a.m.

Staff Report

Mardis explained that the owners of the abutting property want to do a subdivision plat. A survey found portions of the existing road outside of the original right-of-way (ROW). These are original wagon roads, which the County does not need. Public Works will improve the portion of the road outside the existing ROW. The ground will be added to the owners' property, bringing the lot size to two acres so it can be divided later. The plat will dedicate the new ROW to the County; once vacation occurs, the Board Chair will sign and the plat will be recorded.

Public Comment

No comment was offered.

MOTION: Augerot moved to vacate two portions of Coon Road, County Road No. 45800, as described in the vacation order, pursuant to ORS 368.326 to 368.341, Order #D2023-054. Wyse seconded the motion, which **carried 3-0**.

Chair Malone closed the Public Hearing at 11:04 a.m.

6. Old Business

6.1 Bond Measure 2-140, Proposal for Continuing Community Engagement – *Suzanne Hoffman, Interim County Administrator*

Hoffman explained that on June 20, 2023, the Board directed staff to make a plan to collect and analyze feedback regarding the failure of the Justice Systems Improvement Program (JSIP) bond measure. This will inform future Board decisions. The Board directed staff to gather email and social media feedback over two to three months, and to conduct a broad community survey and five to seven focus groups. Hoffman and Brenda Downum, Justice Systems Improvement Project communications consultant, drafted the proposal (see packet). The timeline extends through October, including a path after collecting the information, but is open to adjustment. The timeframe was extended to allow greater participation. The current contract with Downum will cover those activities; depending on how the Board proceeds, a future contract may be needed.

Augerot thanked Hoffman and Downum for the plan, which addresses the areas the Board asked for. Augerot felt it was good to slow down to make the right decisions. The timeline might be altered. It may be up to two years before another bond measure can be submitted. A thorough process will show what the community will support for a new Correctional Facility, which is a high priority need.

Hoffman shared that the Board may choose different timelines; this is just one suggestion. Downum emphasized not only gathering community engagement to inform Board decisions, but also keeping engagement active from the decision point to a new bond measure.

Malone approved of the proposal. The County has done its best throughout the process to get the best advice and hear from the most voices. Hopefully this process will provide a clearer roadmap to another bond measure.

7. New Business

7.1 Discussion Regarding District Attorney's Office and Courthouse Co-location Options – *Gary Stockhoff, Public Works; Rick Crager, Financial Services*

Stockhoff presented three options to locate the new District Attorney's Office (DAO) and new Courthouse (NCH):

- **Option 1:** As planned, co-locate DAO and NCH on the new site, then work with the Courts to develop a square footage amount and configuration that fits the budget. The County and the State are short of funds for this option, which includes the programmed area the County started with several years ago, the whole amount the State wants. These costs, the schedule, and the challenges that the County has faced are related to site factors that were unanticipated in the initial assessment. Staff are still determining a source of fiber optic for the site; the State has its own network. These budget projections assume the worst; hopefully some contingencies will decrease in future.
- **Option 2:** DAO located elsewhere, not at the NCH, and not necessarily at the Historic Courthouse (HCH), possibly another facility. In this case, the County budget would be in reasonably good shape, with leftover funds for more DAO improvements or other JSIP needs. The State also still needs funds; with this option, the State would share the costs 50/50. (This is not the case with Option 1.)
- **Option 3:** Do not build. This relates to the County's recent bond sale/purchase, and also to possible seismic improvements at the HCH. Projecting to spring 2024, DLR Group's

updated cost estimate is about \$15 million for the seismic upgrade. An additional \$8-9 million of improvements would be needed inside. This does not include anything about the old jail, which would have to be removed. The NCH would probably be sited on the northwest corner of the HCH block. This option was assessed before and ruled out because there is not enough funding to renovate the HCH and build an NCH, which would still be necessary since State funds must go towards a new facility.

Crager noted that there are now verifiable resource numbers. The County's bond sale is done, and the State legislative process is over. Project costs continue to grow. Some people say that the State can find more funds if necessary, but future funds are not guaranteed. The State wants 37,500 square feet in the NCH, leaving a significant deficit on the County side. If the State has a shortfall, additional bonded proceeds would not be available until 2026 or 2027.

Crager explained that Option 3 creates many issues: if the County uses its tax-exempt resources completely on the DAO/NCH or elsewhere, State resources would not be provided unless the County can meet the State's standard. Regarding Options 2 and 3, the County has already spent nearly \$3 million on the project, anticipating reimbursement from the State or the County's tax-exempt resources. If the project is pulled from the site and the project scope changes (which the Resolution allows), the County cannot use the tax-exempt bond funds, so the County would have spent funds on a site that will not be built; the State will not reimburse resources the County expended for the State. In Option 3, the State would also use tax-exempt resources, and probably have to do the same thing. So the County might have to use \$3 million of reserves that were already spent. Tax-exempt debt has an expenditure timeline; the County has 36 months to spend at least 80% of the proceeds. If the County does not meet that requirement, there is a risk of the County's issued bonds becoming taxable, increasing debt service. The County's financial rating was just upgraded, but if the County uses reserves and risks not meeting the requirements, ratings will decrease.

Stockhoff clarified that in the presented budget being presented, Option 1 is a full buildout of what the Court wants; Option 2 would fit the County's budget at about 32,000 square feet. Construction has been moved to at least spring 2024; staff are still working on land use and an the Oregon Department of Transportation agreement. Cost escalation has calmed, but these estimates are based on recent trends, and there are still unknowns.

Augerot summarized: Option 1 continues the intended path, working with the Courts to reduce their square footage in the NCH to align with the budget, and keeping the DAO in the NCH. This can be done, but Oregon Judicial Department (OJD) and the District Court might not be happy. Option 2: leave the DAO out of the NCH, which provides more County funding flexibility, but leaves the issue of where to house the DAO, and is not as operationally efficient. The County does not have an alternate site. It is appealing to keep using the HCH, but the County does not have \$23 million for the seismic retrofit and interior refurbishing. The HCH does not meet State standards, and the State will not fund renovations. The County is boxed in.

Crager explained that Option 2 allows the County to meet the needs of a standalone NCH, but still leaves the State short of space, and the State would need more funds than it has committed so far. After these estimates are met, there would be about \$7 million of funds left. The HCH cost estimate does not include any expansion. The County would still need to find \$7.5 million for the DAO.

Stockhoff added that because the HCH is a historic structure, the paperwork and time required before the County could renovate would push the project close to the spending deadline.

Crager noted that Option 2 makes it easier to do what the State wants, but still poses considerable risk.

Stockhoff shared that State cost estimates on Court furniture, fixtures, and equipment (FFE) are still to be determined. The County estimated the DAO cost at \$2 million, but the State Courts are about four times larger. The State portion is not listed in this budget. Hopefully both parties can reach a compromise cost.

Crager noted that FFE is not a capitalized expense, so OJD's resource must also must be tax-exempt. State resources for that purpose are not currently on the table.

Malone asked whether it was still possible to negotiate with OJD about area and arrive at a number between 31,000 and 37,000 square feet. Reducing NCH square footage helps both parties' budgets.

Stockhoff replied the discussion is still in process; the architects proposed a square footage amount, but the State has not responded. Crager wants to show the State the funding gap to encourage the State to work towards a resolution on square footage. The District Attorney has given up all possible space. The State's 36 months to expend 80% of its tax-exempt funds started in March 2023.

Malone commented that in earlier discussions of best practices, it was found that 35 of 36 Oregon County Courthouses have a co-located DAO. At that time, the Board agreed to follow best practices in the NCH. All three options have funding gaps. The Board committed to JSIP Phase 1 and should strive to achieve that. If the State provides its share of the funding gap, can the County find additional resources for the remainder?

Crager replied that Option 1 offers a balance of sources and uses. If OJD will reduce square footage as suggested, the budget is fine. Staff have built in contingency escalation. These are the only resources available. The one big con in Option 1 is the need for negotiation with the State. The County needs to tell OJD that the County is \$4.1 million short with currently committed resources.

Stockhoff noted there is a proposed number around 34,000 square feet. The County has met State standards, as shown in the master funding agreement. The sticking point was the judges' chambers; at the last meeting, the State agreed to that. The main problem now is configuration..

Augerot preferred Option 1 as presented. Augerot was now less hopeful about finding alternatives than in the past. It would be challenging to find another site and start over within the timeline.

Wyse asked if Augerot still wanted to co-locate the DAO and NCH.

Augerot confirmed, as outlined in Option 1.

Malone concurred.

MOTION: Augerot moved to have staff proceed with Option 1, and to negotiate further with Oregon Judicial Department to get us to where we need to be in order to fit within our budget. Wyse seconded the motion, which **carried 3-0.**

7.2 Initiation of a Legislative Process to Amend the Adair Village Urban Growth Boundary (UGB) – Patrick Depa, Darren Nichols, Community Development

Depa explained that this 0.12-acre property will be added to the UGB expansion that the City of Adair Village completed last year. This piece is owned by Oregon Dept of Fish & Wildlife (ODFW) and zoned Exclusive Farm Use, similar to another property Adair incorporated last year. Because the piece was not included in advertisements and legal notices, it must be added through the same legislative process as the rest. A staff report will refer to the original justification of findings and address this as a map correction. Weidel Trust is in talks with ODFW about acquiring this land. This will allow improvements on southern Riles Road and completion of the next phases of Calloway Creek.

Nichols added this was an oversight that Adair found only recently.

MOTION: Wyse moved to direct the County Planning Official to initiate the Benton County legislative process to consider the proposed amendment of the County’s Comprehensive Plan Map and Zoning Map to expand the City of Adair Village’s Urban Growth Boundary (UGB) by 0.12 acres. Augerot seconded the motion, which **carried 3-0.**

8. Departmental Reports & Requests

8.1 Economic Development Office - Intergovernmental Agreement (IGA) 502736: Contract Extension for Fiscal Year 2024 – Rick Crager, Financial Services; Jerry Sorte, Corvallis-Benton Economic Development Office

Crager presented a contract amendment for the IGA with the Corvallis-Benton Economic Development Office (CBEDO). The County budget approved biennial funding for CBEDO. Staff now request a one-year extension due to staffing transitions in CBEDO. The County wants to continue sub-contracting with the Regional Accelerator & Innovation Network (RAIN) and the Small Business Development Center (SBDC), which have run through the City of Corvallis.

Sorte explained that Corvallis is hiring a new Economic Development Manager and hopes to resume projects soon. The proposed 2024 work plan focuses on CBEDO’s core services: marketing and managing enterprise zones (such as the Benton-Corvallis and City of Philomath Enterprise Zones), providing business assistance, and managing the RAIN and SBDC contracts. Sorte to report to the Board later this month about the Business Grant Fund, which includes funds for the South Corvallis Business Hub.

Augerot noted that former CBEDO Director Kate Porsche was supporting Adair Village with tax-increment financing for an Urban Renewal District (URD). Augerot asked if that was still within CBEDO’s capacity.

Sorte replied that the new manager will continue URD work for the Cities of Adair, Monroe, Philomath, and unincorporated areas.

Wyse mentioned that Monroe and Philomath might be seeking help with that.

Malone asked about the status of Airport Industrial Park (AIP), as there has been talk of removing the County from that operation to streamline processes. Malone asked if the amount

the County pays for CBEDO staffing had been adjusted since the directorship has been vacant since December 2022.

Crager replied that the proposed contract uses the same up-front payment as previously. Staff accounted for savings in this year's model. An adjustment could be explored if there are possible savings that have not been diverted to other applicants.

Sorte noted he is not involved with hiring decisions and he has prioritized economic development work in the absence of a director. Sorte to report on the AIP later in July 2023.

Crager shared that the contract pays for services delivered and is not designated for each service or staff person. Sorte is still responsible for delivering a contracted service.

Malone's main concern was not the funds, but missing opportunities due to lack of staff.

Wyse and Malone thanked Sorte for keeping the doors open.

MOTION: Augerot moved to approve a \$148,472 amendment to Intergovernmental Agreement 502736 with the City of Corvallis to provide economic development services to Benton County for the period July 1, 2023 through June 30, 2024. Wyse seconded the motion, which **carried 3-0.**

9. Other

Malone received a June 20, 2023 email from Judy Smith, resident, regarding the Measure 110 (M110) Referral. Malone asked if the Board has any interest in signing on to the referral, and whether anything on that topic went through the Oregon Legislature.

Augerot confirmed the second question. There were mainly language changes to improve the process of making grants to the Behavioral Health Resource Network (BHRN), not changes to the structure of M110. Augerot commented that although there are public safety concerns about M110, the BHRNs should be given a chance to work, to show whether defelonization of those street drugs makes a difference by getting people into longer-term treatment. Augerot was not ready to refer M110 back to voters yet.

Malone agreed; referrals can often have unintended consequences, and Malone would prefer for the Legislature to work it through. Malone asked if any Commissioners would like to attend the Good Samaritan Regional Medical Center 75th Anniversary Celebration on August 26, 2023.

Augerot was interested, although there is another celebration that day. Augerot mentioned that an email from April Holland, Health Department, asked one Commissioner to participate in the State Executive Order on Homelessness Mental Health Advisory Committee. Staff are waiting for a Commissioner to serve as liaison and respond to the request. Augerot suggested herself or Wyse.

Hoffman noted that Holland will speak on this topic at the health services update tomorrow, which might be a better opportunity to decide.

Chair Malone recessed the meeting at 10:31 a.m. and reconvened at 10:35 a.m.

10. Executive Session

Chair Malone recessed the regular Board Meeting at 10:35 a.m. and immediately entered Executive Session under ORS 192.660[2][a] – Employment of a Public Officer, Staff, or Agent.

The Board discussed selection of a new County Administrator.

Chair Malone exited Executive Session at 10:47 a.m. and immediately reconvened the regular Board Meeting. Chair Malone recessed the meeting at 10:48 a.m. and reconvened at 11:00 a.m. with Public Hearing 1.

11. Adjournment

After Public Hearing 1, Chair Malone adjourned the meeting at 11:04 a.m.

Pat Malone, Chair

Erika Milo, Recorder

** NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.*

OLD BUSINESS

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/18/23

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Community Development

Contact Name * Darren Nichols

Phone Extension * 5417666394

Meeting Attendee Name * Darren Nichols, Daniel Redick

Agenda Item Details



Item Title * Benton County Sustainable Materials Management Plan Next Steps

- Item Involves *** Check all that apply
- Appointments
 - Budget
 - Contract/Agreement
 - Discussion and Action
 - Discussion Only
 - Document Recording
 - Employment
 - Notice of Intent
 - Order/Resolution
 - Ordinance/Public Hearing 1st Reading
 - Ordinance/Public Hearing 2nd Reading
 - Proclamation
 - Project/Committee Update
 - Public Comment
 - Special Report
 - Other

Estimated Time * 30 minutes

Board/Committee Involvement * Yes No

Name of Board/Committee Benton County Talks Trash (BCTT)

Workgroup Members

Advertisement *

Yes

No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues*

This agenda item addresses:

- Board action in response to BCTT Workgroup recommendations;
- Regional long-range sustainable materials management planning;
- Appointment of an advisory taskforce to support the Board's decision on a request for proposals to assist in development of a regional long-range sustainable materials management plan; and
- Board support for best practices in community engagement and collaborative regional governance.

Options*

The Board may choose to:

- appoint the advisory taskforce as proposed;
- appoint an amended taskforce; or
- postpone taking action at this time.

Fiscal Impact*

- Yes
 No

Mandated Service? *
 Yes
 No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Mandated Service *
 If this agenda checklist describes a mandated service or other function, please describe here.

While the Board is not required by law to appoint a taskforce or to pursue a regional long-range sustainable management plan, Benton County is required to uphold its statutory obligations to the State of Oregon and its commitments under a landfill franchise agreement and solid waste collection franchise agreement.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *
 Select all that apply.

- Vibrant, Livable Communities
- Supportive People Resources
- High Quality Environment and Access
- Diverse Economy that Fits
- Community Resilience
- Equity for Everyone
- Health in All Actions
- N/A

Explain Core Values *
 Regional long-range sustainable materials management aligns with many, if not all, of the Board's adopted goals in the 2040 Healthy Communities Initiative. Solid waste and sustainable materials management, including disposal, are important factors in the environmental, social, and economic well-being of Benton County and the mid-Willamette Valley.

Focus Areas and Vision *
 Select all that apply.

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

**Explain Focus Areas
and Vision
Selection***

Regional long-range sustainable materials management aligns with many, if not all, of the Board's adopted goals in the 2040 Healthy Communities Initiative. Solid waste and sustainable materials management, including disposal, are important factors in the environmental, social, and economic well-being of Benton County and the mid-Willamette Valley. The production, collection, and management of materials in the waste shed impact nearly aspect of the Benton County community.

Recommendations and Motions

Item Recommendations and Motions

Staff

Recommendations*

Staff recommends the Board appoint an ad hoc advisory taskforce to assist with the preparation and development of a request for proposals to solicit interest from qualified consultants to assist in developing a sustainable materials management plan.

Meeting Motions*

I move to ...

. . . appoint the ad hoc advisory taskforce members as recommended, including [read member list], and direct staff to convene the taskforce and develop and present to the Board a final draft request for proposals not later than August 2023.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Comments (optional)

Community Development staff are currently reaching out to prospective advisory task force members to confirm availability and willingness to participate.

A final draft list of proposed members will be available for Board and public review prior to the Board's July 18 regular meeting.

If you have any questions, please call ext.6800

Department Approver

MAURA KWIATKOWSKI

1.

Department Approval

Comments

Signature

Darren Nichols

2.

Counsel Approval

Comments

Signature

Vance H. Choney

3.

County Administrator Approval

Comments

Signature

Suzanne Hoffman

4.

BOC Final Approval

Comments

Signature

Aranda Makepeace



Community Development Department

Office: (541) 766-6819
4500 SW Research Way
Corvallis, OR 97333
co.benton.or.us/cd

M E M O R A N D U M

TO: Benton County Board of Commissioners

**FR: Darren Nichols, Community Development Director
Daniel Redick, Solid Waste Program Coordinator**

DT: July 14, 2023

RE: Sustainable Materials Management Plan – RFP Development Process

Request for Proposal (RFP) – Development Process – Advisory “Task Force”

At the Board of Commissioners’ Goal Setting Session July 11th, the Board directed staff to prepare a proposed list of community participants to serve on a temporary task force to help the County refine a request for proposal for outside consultants to develop a Sustainable Materials Management Plan (SMMP) Request for Proposal (RFP).

The recent [BCTT workgroup members](#) serve as a balanced and representative group with knowledge of the process to date and the work group’s recommendations who work well together and are committed to continue to serve the Board on sustainable materials issues. For these reasons, staff recommends the Board appoint the following to serve on a temporary task force as those members are available:

- The eight “Public” members of the BCTT solid waste process work group. That group includes:
 - o Catherine Biscoe
 - o John Deuel
 - o Kathryn Duvall
 - o Christopher McMorran
 - o Ryan McAlister
 - o Mary Parmigiani
 - o Ed Pitera
 - o Louisa Shelby; and

- Representatives from Oregon counties that contribute to the Willamette Valley waste shed and Coffin Butte landfill, including but not limited to those counties that participated in the BCTT process.

Staff have reached out to the individuals listed above and received several positive responses. Staff will continue to reach out to two remaining individuals in advance of the Board meeting July 18, 2023.

Recommended Board Action

Staff recommends that the Board:

1. appoint the community members listed above, as well as any Oregon County representatives willing to serve, to a temporary task force to help the County refine a request for proposal for outside consultants to develop a Sustainable Materials Management Plan (SMMP) Request for Proposal (RFP); and
2. Direct staff to work with the temporary task force to complete the “Next Steps” outlined below.

Next Steps

At its July 11 meeting, the Board reviewed and generally supports the following next steps in approaching an RFP. Staff continues to welcome any additional discussion and direction:

1. *Call for an exploratory advisory group / task force (7/11/23) –*
 - a. Staff recommended the Board appoint a regionally representative task force to work with staff to review and provide recommendations for the SMMP RFP development.
 - b. The Board asked staff to develop a regionally representative list of possible key participants for Board appointment, including members of the BCTT work group and other counties.
2. *Appoint task force members (7/18/23) –*
 - a. The Board considers the regional list of interested key participants and appoints members.
3. *Convene “advisory group” to review and discuss draft RFP, make recommendations (7/24/23-8/11/23) –*
 - a. The temporary task force meets 2-3 times to discuss the RFP draft and provide recommendations.
 - b. Staff incorporates feedback into updated RFP drafts.
 - c. Staff works with the temporary task force in an iterative draft development process.
 - d. Staff and temporary task force develop recommendations for:
 - i. additional community engagement, following BCTT findings and recommendations.
 - ii. methods to leverage other jurisdictions, solutions, and resources.
 - iii. specifically referencing and implementing BCTT recommendations where appropriate.
4. *Board RFP Review and priorities (8/15/23) –*
 - a. The Board reviews the temporary task force’s updated recommended RFP draft and directs staff to make any necessary changes.
 - b. The Board provides direction on any appropriate priority topics for the plan and the RFP.
5. *RFP release (9/5/23) –*
 - a. The Board reviews/refines and directs staff to release the finalized RFP.

NEW BUSINESS

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/18/23

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Finance

Contact Name * Rick Crager

Phone Extension * 6246

Meeting Attendee Name * Rick Crager, Darren Nichols, Marilee Hoppner

Agenda Item Details

Item Title * Discussion and Decision Regarding Marys River Watershed Council

- Item Involves *** Check all that apply
- Appointments
 - Budget
 - Contract/Agreement
 - Discussion and Action
 - Discussion Only
 - Document Recording
 - Employment
 - Notice of Intent
 - Order/Resolution
 - Ordinance/Public Hearing 1st Reading
 - Ordinance/Public Hearing 2nd Reading
 - Proclamation
 - Project/Committee Update
 - Public Comment
 - Special Report
 - Other

Estimated Time * 20 minutes

Board/Committee Involvement * Yes No

Advertisement*

Yes

No

Item Issues and Description

Identified Salient Issues *

The Community Development Department would like to request input from the Commissioners with regard to the level of accountability and expectations.

Options *

Obtain approval.

Discuss expectations of outcomes and accountability; Financial Services would like to propose accountability similar to American Rescue Plan Act (ARPA)-approved grants, including financial statements and closeout reports.

Fiscal Impact *

- Yes
- No

Fiscal Impact *

The Marys River Watershed Council is requesting \$10,550 to provide funding to continue its work alongside partners in Benton County in developing a Trout Friendly Landscapes green infrastructure program across Benton County's streams and their headwaters.

Mandated
Service? *

- Yes
 No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values *

Select all that apply:

- Vibrant, Livable Communities
- Supportive People Resources
- High Quality Environment and Access
- Diverse Economy that Fits
- Community Resilience
- Equity for Everyone
- Health in All Actions
- N/A

Explain Core Values
Selections *

This program, which would improve water quality by implementing green stormwater infrastructure on private lands (such as commercial, industrial, apartment complexes, church and school sites and so on), would help to create vibrant, livable communities with high quality environment that keep health in all actions into account through improved water quality, reduced flood impacts and minimized pollutants that enter waterways and often place vulnerable populations at disproportionate risk to environmental health hazards (equity for everyone). This program would help build community resilience by decreasing risk of flooding through taking a system-wide approach.

Focus Areas and
Vision *

Select all that apply:

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

Explain Focus Areas
and Vision *

Improving wetland function and addressing pollutant inputs higher in stream systems will reduce flood and water quality impacts in urban reaches where green stormwater facilities will further improve these conditions. Mary's River Watershed Council would work collaboratively on a voluntary basis with landowners and business owners to encourage green solutions within a diverse economy that fits a strong community desire to support businesses that are proactive in environmental stewardship and protection.

Recommendations and Motions

Item Recommendations and Motions

Staff

Recommendations *

Staff recommends approval of the funding request. Staff also recommends treating these funding requests similar to that of ARPA requests, including documentation, financial statements, and closeout reports.

Meeting Motions *

I move to ...

...approve funding in the amount of \$10,550 to the Marys River Watershed Council for work on a Trout-friendly Landscape Infrastructure project.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

MRWC 2023 Funding request.docx

37.71KB

Comments (optional)

If you have any questions, please call ext.6800

Department Approver

RICHARD CRAGER

1.

Department Approval

Comments

Signature

Rick Crager

2.

Counsel Approval

Comments

Signature

Vance H. Choney

2.

County Administrator Approval

Comments

Signature

Suzanne Hoffman

3.

BOC Final Approval

Comments

Signature

Amanda Makepeace



County Funding Request

Section 1: Requesting Organization Information

Name of Organization

Marys River Watershed Council

Type of Organization

Non Profit Business Government Agency

Amount Requested

\$ 10,550

Section 2: Request Type

Event Funding

Event Name:

Event Location:

Purpose of Event:

Educational Entertainment Fundraising

Advocacy Other _____

Overall Budget:

\$

Average Attendance:

Entrance Fee Charged:

Yes No Amount(s) _____

Vendor Fee Charged:

Yes No Amount(s) _____

Operational Support

Population to be Served:

Benton County residents and businesses

Location of Services:

Benton County, Oregon

Use of County Funding:

Personnel Materials Other - Travel and business outreach expenses

Services to be Provided:

MRWC proposes to use these funds to support MRWC work for urban waters green stormwater infrastructure program.

Capital Needs

Project or Need:

Location:



County Funding Request

Total Cost of Project or Amount to be Raised:	\$10,550
Non-Governmental Funding Raised/Committed:	\$10,550
Estimated Completion Date:	June 30, 2025

Section 3: County Priority (see instructions)

MRWC requests the Benton County Commission to consider providing funding to continue our work alongside partners in Benton County in developing a Trout Friendly Landscapes green infrastructure program across Benton County's streams and their headwaters. This program, which would improve water quality by implementing green stormwater infrastructure on private lands (such as commercial, industrial, apartment complexes, church and school sites and so on) would help us to create vibrant, livable communities with high quality environment that keep health in all actions into account through improved water quality, reduced flood impacts and minimized pollutants that enter waterways, and often put vulnerable populations at disproportionate risk to environmental health hazards (equity for everyone). This program would help us to build community resilience by decreasing risk of flooding through taking a system-wide approach. Improving wetland function and addressing pollutant inputs higher in stream systems will reduce flood and water quality impacts in urban reaches, where green stormwater facilities will further improve these conditions. We would work collaboratively on a voluntary basis with landowners and business owners to encourage green solutions within a diverse economy that fits a strong community desire to support businesses that are proactive in environmental stewardship and protection.

Funding will support MRWC personnel time and meeting expenses associated with coordinating a technical advisory group for further development of this program within Benton County. Project collaborators include representatives from the City of Philomath and the City of Corvallis, as well as Oregon State University, Benton County Public Works, Oregon Department of Fish and Wildlife, Corvallis Sustainability Coalition Water Action Team, and Benton Soil and Water Conservation District, all of whom have been participants in MRWC's Oak Creek Stakeholder Engagement process from which a desire for this program has grown. Benton County funds would also provide matching funds for planned grant submissions to support a pilot project.

Section 4: Other Funding Sources

Name	Type	Amount	Description of In Kind
Technical Advisory team in-kind hours	<input type="checkbox"/> Monetary <input checked="" type="checkbox"/> In Kind	\$2,000	Technical advisory team members from Oregon State University as well as local municipalities and partner nonprofits have pledged support and are helping to advise the development of this program. This effort and these connections began out of MRWC's Oak Creek stakeholder engagement process.
Oregon Watershed Enhancement Board	<input checked="" type="checkbox"/> Monetary <input type="checkbox"/> In Kind	\$15,000 (<i>planned</i>)	Planned OWEB Small Grant application to support a pilot project, location to be determined by technical advisory team.



County Funding Request

Section 5: Past County Support Received

Year	Type	Description	Amount	In Kind
2022	<input type="checkbox"/> Event <input checked="" type="checkbox"/> Operational <input type="checkbox"/> Capital	Benton County Commission support for the urban green stormwater infrastructure program	\$10,000	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2023	<input type="checkbox"/> Event <input checked="" type="checkbox"/> Operational <input type="checkbox"/> Capital	Benton County Public Works IGA for contracting with MRWC for MRWC to help with planting work at multiple Benton County culvert replacements.	\$9,000	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2017 onward	<input type="checkbox"/> Event <input checked="" type="checkbox"/> Operational <input type="checkbox"/> Capital	Consultations with Benton County Public Works and Benton County Planning staff to assist with floodplain permitting efforts.	Varying	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Event <input type="checkbox"/> Operational <input type="checkbox"/> Capital			<input type="checkbox"/> Yes <input type="checkbox"/> No

Previous In Kind Support Information:

Labor

Number of County Staff: 4

Estimated Hours Provided: 26

County Department: Benton County Public Works (Gordon Kurtz, Doug Sackinger, and Rich Spofford) and Benton County Planning (Toby Lewis, 4 hours)

Services Provided: Participation over the course of the Oak Creek Stakeholder engagement process, as well as assistance with GIS mapping and collaborations on planting and other riparian efforts.

Materials

Value of Materials Provided: \$16,380

Description of Materials Provided:

Surplused concrete bridge slabs donated by Benton County Public Works to support Upper Marys mainstem fish passage barrier removal.

Previous In Kind Support Information continued...

Fee Waiver

Type of Fee: _____

County Department Waiving Fee: _____



County Funding Request

Amount Regularly Charged: \$ _____

Waived Amount: \$ _____

Transportation

County Department Providing Service: _____

Number of Vehicles Used: _____

Estimated Number of Trips: _____

Estimated Number of Riders: _____

County Use Only Below This Line

Review:

<i>Department</i>	<i>Reviewed</i>	<i>Date</i>	<i>Comments</i>
Financial Services	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	<input type="checkbox"/> Yes <input type="checkbox"/> No		
County Administrator	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Staff Recommendation:

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/18/23

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Human Resources

Contact Name * Tracy Martineau

Phone Extension * 5417666389

Meeting Attendee Name * Tracy Martineau; Rick Crager, CFO

Agenda Item Details

Item Title * Management, Confidential, and Non-represented Employee Compensation

Item Involves * Check all that apply

- Appointments
- Budget
- Contract/Agreement
- Discussion and Action
- Discussion Only
- Document Recording
- Employment
- Notice of Intent
- Order/Resolution
- Ordinance/Public Hearing 1st Reading
- Ordinance/Public Hearing 2nd Reading
- Proclamation
- Project/Committee Update
- Public Comment
- Special Report
- Other

Estimated Time * 15 minutes

Board/Committee Involvement * Yes
 No

Advertisement*

Yes

No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues *

**Personnel Rule 22.2 Periodic Review of Compensation Plan:

The Human Resources Manager shall periodically review the pay plan and, if necessary, make recommended revisions to the Board of Commissioners. At least annually, the Human Resources Manager will determine and recommend to the Board of Commissioners the percentage of change to the pay schedule necessary to maintain pay equity comparable to area economic conditions. With Board of Commissioners' approval, the pay schedule may be adjusted upward or downward; and employee rates may be adjusted upward or downward by the same amount, not to exceed the maximum rate of the newly assigned grade. **

From 2019 to present, management and confidential employees have been eligible for annual pay increases of 3% to 4%. For the past several years, the Commissioners have approved salary range adjustments based on the 12-month Employment Cost Index (ECI); however, individual employee pay was not adjusted. The ECI measures the change in the cost of labor, free from the influence of employment shifts among occupations and industries.

Between step increases and cost of living adjustments (COLAs), represented employees are currently eligible for annual pay increases of up to 8%.

The ECI for the 12-month period ending in March was 5.0%. This represents the highest wage inflation in decades, and for the 12-month period ending June 30, we expect it to be between 4.5% and 5%. The ECI for this period will be published July 28.

Human Resources staff are currently working with a consultant performing a compensation study for management, confidential, and non-represented employees. Preliminary data indicates several of these classifications are lagging the market average in compensation and threaten the County's ability to retain and attract high performers. The compensation study is expected to be completed in August, and we will bring data from the study and options to the Board for implementing the results at that time. Workforce shortages are expected to continue; and for the County to be competitive in talent acquisition, we recommend the Board approve adjusting non-represented employee salary ranges and individual pay by the ECI index for the 12-month period ending June 30, 2023, with a maximum adjustment of 5.0%

An adjustment at this time will help to mitigate the future impact of implementing the outcome of the compensation study. We are requesting your approval in advance of the ECI information (with a not to exceed amount of 5.0%) in order to process salary changes quickly and efficiently.

Options *

1. Approve up to a 5.0% ECI adjustment effective July 1, 2023 for non-represented employee salary ranges and individual pay based on the ECI for 12-month period ending June 30, 2023.
2. Adjust the salary ranges and pay by some other amount.
3. Do not approve up to a 5.0% ECI adjustment effective July 1, 2023 for non-represented employee salary ranges and individual pay based on the ECI for the 12-month period ending June 30, 2023.

Fiscal Impact *

- Yes
 No

To be provided by the Chief Financial Officer.

**Fiscal Impact
Description***

2040 Thriving Communities Initiative

Mandated Service?* Yes
 No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values*

Select all that apply.

- Vibrant, Livable Communities
- Supportive People Resources
- High Quality Environment and Access
- Diverse Economy that Fits
- Community Resilience
- Equity for Everyone
- Health in All Actions
- N/A

Explain Core Values Selections* Internal organizational action related to employees.

Focus Areas and Vision*

Select all that apply.

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

Explain Focus Areas and Vision Selection* Internal organizational action related to employees.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations* The Interim County Administrator, Chief Financial Officer, and Human Resources Director recommend approval.

Meeting Motions* I move to ...
...approve up to a 5.0% ECI adjustment effective July 1, 2023 for non-represented employee salary ranges and individual pay based on the ECI for the 12-month period ending June 30, 2023.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments






Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Comments (optional)

If you have any questions, please call ext.6800

**Department
Approver**

TRACY MARTINEAU

<p>1.</p> <p><u>Department Approval</u></p> <p>Comments</p> <p>Signature </p>	<p>5.</p> <p><u>BOC Final Approval</u></p> <p>Comments</p> <p>Signature </p>
<p>2.</p> <p><u>Counsel Approval</u></p> <p>Comments</p> <p>Signature </p>	
<p>3.</p> <p><u>Finance Approval</u></p> <p>Comments</p> <p>Signature </p>	
<p>4.</p> <p><u>County Administrator Approval</u></p> <p>Comments</p> <p>Signature </p>	

DEPARTMENTAL REPORTS AND REQUESTS

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/18/23

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Community Development

Contact Name * Toby Lewis

Phone Extension * 6296

Meeting Attendee Name * Toby Lewis, Darren Nichols

Agenda Item Details



Item Title * Request for Authorization to Partner with FEMA as a Cooperating Agency

Item Involves *

- Check all that apply
- Appointments
 - Budget
 - Contract/Agreement
 - Discussion and Action
 - Discussion Only
 - Document Recording
 - Employment
 - Notice of Intent
 - Order/Resolution
 - Ordinance/Public Hearing 1st Reading
 - Ordinance/Public Hearing 2nd Reading
 - Proclamation
 - Project/Committee Update
 - Public Comment
 - Special Report
 - Other

Estimated Time * 20 minutes

Board/Committee Involvement *
 Yes
 No

Advertisement*

Yes

No

Item Issues and Description

Identified Salient Issues *

Board direction regarding whether to proceed with a request to the Federal Emergency Management Agency (FEMA) for Cooperating Agency status as a means of:

- Reviewing and providing feedback on FEMA's draft Implementation Plan for National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) Integration;

- Reviewing and providing feedback on FEMA's development of supporting technical guidance documents to accompany the plan; and/or

- Partnering with FEMA to facilitate public outreach for targeted outreach and solicitation of community feedback on the plan and supporting documentation.

Issue:

The implementation of court mandated regulations to ensure that development within Oregon's mapped flood hazard areas is compliant with ESA requirements for protection of certain listed species will impact Benton County and County property owners. This summer (2023) FEMA will begin finalizing mandated development standards and drafting technical documents that identify methods for local compliance.

As a Cooperating Agency, Benton County would be allowed to review early draft documents, solicit public comment, and provide feedback prior to release of the documents for public comment. Without Cooperating Agency status, the county would not have opportunity to provide input during the drafting of the final plan and supporting technical guidance documents.

The attached memorandum discusses the opportunity to request Cooperating Agency status and identifies potential staffing needs if the County pursues such a request.

1. Take no action; or

2. Direct staff to request Cooperating Agency status; or

3. Direct staff to pursue any other option the Board deems appropriate.

Options *

Fiscal Impact *

- Yes
- No

2040 Thriving Communities Initiative

Mandated Service?* Yes No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Mandated Service Description* If this agenda checklist describes a mandated service or other function, please describe here.

Upon completion of FEMA's National Environmental Policy Act (NEPA) review process, the Department of Land Conservation and Development (DLCD) will require County documentation of adopted regulations that ensure that authorized development in the floodplain is consistent with Endangered Species Act regulations.

FEMA expects to begin a phased approach to working with communities (after the final plan and supporting documentation are approved) for implementation of required development standards in 2025.

- Communities with existing adopted regulations that comply with the final requirements will be able to complete a documentation checklist as verification.

- Communities that have adopted non-compliant regulations, or have not yet adopted regulations, will be required to adopt compliant regulations in order to continue participating in the National Flood Insurance Program.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values* Select all that apply.

- Vibrant, Livable Communities
- Supportive People Resources
- High Quality Environment and Access
- Diverse Economy that Fits
- Community Resilience
- Equity for Everyone
- Health in All Actions
- NA

Explain Core Values Selections* While the decision to request Cooperating Agency status is not required, the implementation of development standards that ensure protection of endangered species habitat in flood hazard areas will be required.

Implementing such standards helps ensure environmental health which protects and benefits aquatic species, improves vegetation and land health, and encourages healthy interactions between humans and the environment.

**Focus Areas and
Vision ***

Select all that apply.

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

**Explain Focus Areas
and Vision
Selection ***

Improved riparian and floodplain habitat functionality provides environmental and natural resource benefits as well as maintaining natural areas for outdoor recreation and enjoyment.

Minimization of structural development within mapped flood hazard areas also leads to improved community safety and improved emergency preparedness.

Recommendations and Motions

Item Recommendations and Motions

Staff

Recommendations *

Staff recommends that the Board of County Commissioners formally authorize Benton County to cooperate with the US Department of Homeland Security Federal Emergency Management Agency (FEMA) as a Cooperating Agency for the preparation of an Environmental Impact Statement (EIS) and associated technical guidance for the National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) Integration in Oregon, including signing of a Memorandum of Agreement with FEMA as a Cooperating Agency.

Meeting Motions *

I move to ...
... direct County staff to partner with FEMA as a Cooperating Agency during the National Environmental Policy Act review process for the National Flood Insurance Program - Endangered Species Act Implementation in Oregon.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

1_2023-07-05_Memo_Request for Authorization_Cooperating Agency Status_FEMA NFIP-ESA BiOp.pdf	168.84KB
2_Benton County OR - FEMA BiOp comment letter - May 6 2023 SIGNED.pdf	152.62KB
3_2023-04-25_Memo_FEMA NFIP-ESA Compliance Update.pdf	240.4KB
4_2023-06-22_Draft FEMA NFIP-ESA Oregon Cooperating Agency MOA shared.pdf	322.78KB

Comments (optional) If you have any questions, please call ext.6800

Department Approver DARREN NICHOLS

1.

Department Approval

Comments

Signature

Darren Nichols

2.

Counsel Approval

Comments

Signature

Vance H. Croney

3.

County Administrator Approval

Comments

Signature

Suzanne Hoffman

4.

BOC Final Approval

Comments

Signature

Amarda Makepeace



MEMORANDUM

DATE: July 5, 2023

TO: Benton County Board of Commissioners

FROM: Suzanne Hoffman, Interim County Administrator
 Toby Lewis, Floodplain Administrator – Benton County Community Development

SUBJECT: Request for authorization to partner with FEMA as a Cooperating Agency for development of regulations consistent with a court mandated Biological Opinion for integrating the National Flood Insurance Program (NFIP) and the federal Endangered Species Act (ESA)

Staff presented this item to the Board on May 2, 2023. As directed by the Board, staff submitted a comment letter regarding the Federal Emergency Management Agency (FEMA) Biological Opinion Proposed Action as outlined in the Draft Implementation Plan for Oregon (attached). The letter identified potential concerns and requested clarification of various topics, technical assistance on a variety of topics, and expressed a continued desire for opportunities to partner with FEMA as the National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) and Draft Implementation Plan are finalized. (Copies of the memorandum prepared for the May 2 meeting and the comment letter are attached for reference.)

In the next phase of the EIS process, FEMA will work with the National Marine Fisheries Service (NMFS) and the Department of Land Conservation and Development (DLCD) to finalize the Implementation Plan and create supporting technical guidance documents such as: a model ordinance, clear standards for the four implementation paths, clear guidance regarding how to determine if a buffer less than 170 feet is appropriate and how to modify it, clear guidance on specific mitigation and development metrics, etc.). Upon completion of the final Implementation Plan (including the supporting technical guidance documents), FEMA will circulate the final draft for public review and comment; this is estimated to occur sometime during late summer/fall 2023.

Cooperating Agency Status and Opportunities

During the recent comment period, two Oregon counties requested partnership with FEMA in the capacity of Cooperating Agency (CA) status: Tillamook and Umatilla. CA status is typically granted only to state and federal agencies. Due to the unique nature of this EIS, however, participation as a CA is also authorized for local jurisdictions for this project. Upon learning of this opportunity, county staff requested additional information.

FEMA provided a draft NFIP-ESA Cooperating Agency Memorandum of Agreement (attached). CA status allows the County opportunities to review and comment during the drafting process and before documents are publicly released. Based on conversations with FEMA, this status could also allow the County to facilitate direct, efficient communication between FEMA, community members and interest groups, and local jurisdictions. Using the Cooperating Agency status:

- Benton County could provide a forum to host a series of presentations. (FEMA prefers a virtual or hybrid format to allow agency staff to attend remotely.)
- The sessions would begin with a FEMA presentation of draft content to be reviewed, followed by an opportunity for attendees to ask questions and provide feedback.
- Follow-up comments could also be provided during a specified timeframe after each session.
- Multiple sessions, targeted to specific interest groups could be held on each topic to broaden communication and community feedback. For example, groups could include tribes, agricultural producers, landowners, local governments, historically underrepresented groups, real estate professionals, and others.
- Benton County could also invite staff from other local jurisdictions to attend the sessions.

The sessions will provide opportunity for targeted community outreach, facilitation and input as federal regulations are drafted. These conversations will help further explore the appropriate balance between protecting significant habitat and mitigating impacts to development and properties.

Active participation as outlined above will be accomplished through:

- Identifying key participants and target audiences,
- Coordination with FEMA and interest groups for hosting sessions, and
- Reviewing and providing meaningful local feedback on documents produced by FEMA.

The County will be listed on the Final Implementation Plan as a Cooperating Agency. The County will not be obligated to comment on all sections of the implementation plan and supporting documentation. If the County has no comments on a section or is not able to comment within a specified timeframe, there will not be any penalty. Any comments provided by the County will be incorporated into the final document; any comments in opposition to the final language will also be noted.

Staff expects that cooperation will facilitate community input during the drafting process. The additional input opportunities will lead to more comprehensive understanding of the wide-ranging effects that may be caused by implementation of development standards.

Recommended Actions

Staff recommends that the Board of County Commissioners formally authorize Benton County to cooperate with the US Department of Homeland Security Federal Emergency Management Agency (FEMA) as a Cooperating Agency for the preparation of an Environmental Impact Statement (EIS) and associated technical guidance for the National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) Integration in Oregon, including signing of a Memorandum of Agreement with FEMA as a Cooperating Agency.

Cc: State of Oregon, Department of Land Conservation & Development
Local jurisdictions in and around Benton County
Benton County Departments: Assessment, Health, NAPE, PW, Sheriff's Office



Community Development Department

Office: (541) 766-6819
360 SW Avery Avenue
Corvallis, OR 97333

co.benton.or.us/cd

Comment Letter

DATE: May 4, 2023
TO: Science Kilner, US Federal Emergency Management Agency (FEMA), Region X
FROM: Suzanne Hoffman, Interim County Administrator
Toby Lewis, Floodplain Administrator
SUBJECT: Scoping Comment regarding FEMA Docket 2023-0007
Proposed Action, as outlined in FEMA Draft Implementation Plan for National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) Integration in Oregon

Dear FEMA colleagues:

Thank you for this opportunity to provide feedback on the Proposed Action for National Flood Insurance Plan – Endangered Species Act Integration in Oregon. Please accept these comments into the record and please reach out as needed with any follow-up communications.

County staff presented FEMA’s request for comments to the Board of Commissioners on April 4, and presented the issue again, with FEMA staff, on May 2, 2023. The Board recommended that the County continue monitoring the Federal Emergency Management Agency (FEMA) Draft Implementation Plan and engage with FEMA, the Department of Land Conservation and Development (DLCD), and the National Marine Fisheries Service (NMFS) and directed its staff to provide constructive feedback at relevant points, including at this time.

General Background

The issue is complex and multi-faceted. While staff provided several potential options to the Board of Commissioners as responses to the current activity surrounding FEMA’s request for comments to help inform the Proposed Action and Environmental Impact Statement (EIS) review process, it is difficult to identify a specific path appropriate for Benton County without conducting substantial public outreach and impacts analyses.

FEMA is requesting comments from local jurisdictions on expected impacts of the proposed ESA-compliant requirements. The eventual roll-out of documenting and/or adopting ESA-compliant regulations will result in numerous, and likely passionate, conversations with property owners who care deeply about the effects of new regulations on their land. The County must be able to conduct specific and proactive public outreach and conversations as development standards are drafted and considered.

Identification of specific impacts of local implementation of the proposed requirements to ensure ESA-compliant development in Oregon flood hazard areas is difficult to quantify for several reasons, including:

- The extended timeline to implementation now spans 14 years, with a multi-year community implementation schedule estimated to begin in 2025;

- The creation of new regulatory standards that comply with the Endangered Species Act and Oregon's land use system puts substantial burden on local governments that may not be fully equipped with staff capacity and expertise to evaluate policy options and potential impacts;
- The lack of specific language in the draft implementation plan that identifies what the requirements will be; and
- The iterative cycle needed for development, review, and feedback regarding the viability of implementing the proposed regulatory standards at a variety of jurisdictional levels and across varying geographic regions in Oregon.

Several other Oregon counties and communities have expressed concerns regarding the potential requirements identified in the Draft Implementation Plan and have identified items such as:

- Uncertainty around the requirements to be implemented,
- Increased regulatory standards for some portions of the mapped flood hazard area,
- Impacts to residential development as well as agricultural and forest practices,
- Inability to divide and/or build on some parcels,
- Cost of compliance with the proposed regulations when building or altering structures,
- Restrictions on impervious surfaces as well as on road and driveway construction,
- Potential effects on property values, and
- Consequences of non-compliance when the Implementation Plan becomes final.

Specific Comment/Requests

- The most significant impact is the implementation of a riparian overlay buffer on all waterways. ***Please provide clarity and a clear explanation for the buffer, as well as any areas of flexibility and the process for evaluating and establishing flexible standards where appropriate.***
- Benton County values a healthy environment, clean water and habitat conservation. Benton County also values and supports local farm and forest managers, and the flexibility those stewards need to comply with floodplain protections and produce valuable local products. ***Please provide technical assistance to evaluate the most appropriate pathways for achieving both a "clear and objective" option, and one or more alternate "flexible" options for achieving floodplain habitat.***
- In order to develop a successful plan, Benton County needs to hear from those most affected by the new FEMA regulations. ***Please provide technical assistance to Benton County and other local jurisdictions to effectively engage the affected community(ies); and to determine the most appropriate pathway(s) for successfully implementing the plan.***
- Benton County will need specific expertise and capacity to develop and implement new floodplain habitat regulations. The County will also likely need to develop and strengthen its existing partnerships with FEMA and with other federal, state, local and tribal agencies. ***Please provide assistance to Benton County to develop and adopt new regulations; please also provide assistance evaluating the staffing and other resource needs of our local floodplain program.***

Thank you again for inviting feedback from the local and regional communities who will be implementing the plan to protect Endangered Species and other important natural resources, while also protecting lives and property from flood damage.

Please reach out with any questions or suggestions as we work together to develop and implement successful floodplain regulations.

Respectfully,



Suzanne Hoffman
Interim County Administrator



Toby Lewis
Floodplain Administrator

Cc. Benton County Board of Commissioners
Benton County Community Development Director
County Floodplain Files



MEMORANDUM

DATE: April 25, 2023

TO: Benton County Board of Commissioners
 Suzanne Hoffman, Interim County Administrator

FROM: Toby Lewis, Senior Floodplain Administrator – Benton County Community Development

SUBJECT: FEMA Draft Implementation Plan for National Flood Insurance Program (NFIP)-Endangered Species Act (ESA) Integration

This item was last presented to the Board on April 4, 2023, with a staff recommendation to continue monitoring the Federal Emergency Management Agency (FEMA) Draft Implementation Plan and engage with FEMA, the Department of Land Conservation and Development (DLCD), and the National Marine Fisheries Service (NMFS) to provide constructive feedback at relevant points. Additional information received since that date has prompted a second update on this topic to request Board direction regarding the desired path for Benton County in response to FEMA's request for comments (due by May 5) on the Draft Implementation Plan.

Background

Identification of specific impacts at a local level that implementation of upcoming requirements to ensure ESA-compliant development in Oregon flood hazard areas have been difficult to identify due to several factors, including:

- The extended timeline from initiation to implementation which now spans 14 years, with a multi-year community implementation schedule estimated to begin in 2025.
- The complexities of creating new regulatory standards that both comply with Endangered Species Act requirements to limit or prohibit development in areas of significant habitat and work within Oregon's land use system to identify options for mitigation of impacts.
- The lack of specific language during the ongoing drafting phase that identifies what the requirements will be.
- The iterative cycle needed for development, review, and feedback regarding the viability of implementing the proposed regulatory standards at a variety of jurisdictional levels and across the varying geographic regions in Oregon.

As a result of a settlement agreement reached in 2010¹, FEMA began consultation with NMFS to develop a programmatic set of standards to ensure that individual floodplain development actions

¹ National Marine Fisheries Service. *Endangered Species Act (ESA) Section 7(a)(2) Jeopardy and Destruction or Adverse Modification of Critical Habitat Biological Opinion and Section 7(a)(2) "Not Likely to Adversely Affect" Determination for the Implementation of the National Flood Insurance Program in the State of Oregon.* (April 14, 2016) NMFS Consultation Number NWR-2011-3197.

authorized by local governments through their continued participation in the National Flood Insurance Program (NFIP) do not further jeopardize listed species or their critical habitat areas. The Draft Implementation Plan outlines standards that FEMA – in consultation with NMFS, DLCD, and ongoing community outreach efforts – has identified as the best approach for meeting the intent of “no net loss”² to three key habitat functions: flood storage, water quality, and riparian vegetation. The goal is to ensure no net loss of habitat functions through a three-step approach:

1. **Avoid** impacts to listed species habitat wherever possible by not developing.
2. **Limit and/or minimize** unavoidable impacts through specific construction, siting, and design standards that encourage or require low impact development methods.
3. **Mitigate** any remaining unavoidable impacts through restoration and conservation efforts such as stormwater management features or habitat enhancement projects.

Recently FEMA has hosted several in-person and virtual scoping meetings to discuss the Draft Implementation Plan, collect feedback and concerns from communities and members of the public, and provide answers to questions about the current project status. A copy of the slide deck presented during the scoping meetings is attached to the agenda checklist for reference.

Several Oregon communities have expressed concerns regarding the potential requirements identified in the Draft Implementation Plan and have identified items such as:

- Uncertainty around exact requirements to be implemented,
- Increased regulatory standards for some portions of the mapped flood hazard area,
- Impacts to residential development as well as agricultural and forestry practices,
- Inability to divide and/or build on some parcels,
- Cost of compliance with the proposed regulations when building or altering structures,
- Restrictions on impervious surface creation as well as on road and driveway construction,
- Potential effects on property values, and
- Consequences of non-compliance when the Implementation Plan becomes final.

On April 24, the Association of Oregon Counties hosted a meeting for local jurisdictions. Although scheduling conflicts prevented Benton County staff from attending, we have requested a recording of the presentation and key points, and we will continue to monitor the conversation as it progresses.

Local Impacts

The Draft Implementation Plan identifies objectives and measures for implementation to ensure protection of the three key habitat functions. A table identifying the objectives, measures, and an assessment of current Benton County requirements is attached.

Based on conversations during FEMA’s scoping meetings, it became clear that the proposed implementation measures, as currently drafted, could have significantly more impact to property development in Benton County’s flood hazard areas than was originally anticipated.

Riparian Overlay Buffer: The most significant impact anticipated is the implementation of a riparian overlay buffer on all waterways within a mapped flood hazard area. The boundary of the overlay buffer would be measured horizontally from the Ordinary High Water line and would extend for 170 feet or to the edge of the mapped flood hazard area, whichever is smaller. As proposed, development authorized within this overlay buffer could still be allowed but would require higher mitigation metrics than

² “No net loss” is identified as mitigation on-site, within the same reach, or in the same watershed with different mitigation ratios.

development outside of the overlay buffer area. Reduction of the 170-foot distance could be assessed in collaboration with FEMA but would require a biological assessment.

There are approximately 500 miles of waterways within Benton County's mapped flood hazard areas. Initial impact estimates indicate that application of the proposed overlay buffer would cause higher mitigation standards to be applied to approximately 1,300 structures, approximately 200 of which are dwellings.

Mitigation Metrics: Based on current understanding, all permitted activities for development in a mapped flood hazard area will require some form of mitigation and it is expected that the level of mitigation will vary depending on factors such as distance to a waterway and whether the work is for new development vs. redevelopment (i.e. replacement of a structure, expansion of a structure, conversion of impervious surface to a vegetated swale, etc.).

For the purposes of managing mapped flood hazard areas, as well as the proposed implementation of ESA-compliant regulations, the term “development” is defined as:

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials.³

According to the Draft Implementation Plan, ESA-compliant mitigation will not be required for:

- Maintenance, repair, or remodel of existing buildings, facilities, and utilities within their existing footprints (other than those that constitute substantial repairs and improvements);
- Resurfacing of roads;
- Lawn care, gardening, removal of noxious weeds, replacement of non-native vegetation with native vegetation, or removal of hazard trees;
- Forest and agricultural practices that do not involve filling, grading, or construction of levees or structures; and
- General agriculture and silviculture practices carried out in compliance with applicable permits and regulations, including removal of vegetation and normal soil disturbances associated with these practices.

One of the mitigation metrics identified is compensatory storage, measured by volume and area, to offset impacts to flood storage, water quality, and/or riparian vegetation caused by a development project. Notable considerations identified in the Draft Implementation Plan regarding establishment of mitigation metrics include:

- Compensatory mitigation for the loss of flood storage function is common in Oregon communities; however, it can be difficult to implement effectively. Effective mitigation must account for factors such as hydrological connection, proximity, elevation, and potential for loss of function of the mitigation site over time.
- Local compensatory mitigation requirements often only address offsets for fill that is added to the floodplain for elevation of structures. However, other types of development actions that displace or reduce flood storage capacity – such as the foundation of a new building, rip rap, or capping projects in the waterway – would also need to be mitigated.⁴

³ 44 CFR § 59.1 – Definitions

⁴ NMFS. *Biological Opinion*, 290

Recommended Actions

The issue is complex and multi-faceted. While staff has identified four potential options in the agenda checklist as responses to the current activity surrounding FEMA's request for comments to help inform the NEPA review process, it is difficult to identify a specific recommended path.

The balance between needs for protection of significant habitat and how/when to implement requirements to create those protective measures vs. impacts to development and property owner experiences is a fine line that requires careful thought and consideration. Further compounding this issue is the fact that the Draft Implementation Plan does not contain specific metrics for local jurisdictions to be able to respond to at this time; those will be developed at a later date.

FEMA's current request is for comments from local jurisdictions on expected impacts of the proposed ESA-compliant requirements; however, it is important to note that there will be additional feedback requests as the process continues. The next comment period will occur after the draft Environmental Impact Statement is released; this is estimated to occur sometime during late summer/fall 2023.

Regardless of the response chosen, the eventual roll-out of documenting and/or adopting ESA-compliant regulations will result in numerous, and likely passionate, conversations with property owners who care deeply about the effects of new regulations that impact how, where, and whether development is allowed to occur on their land.

The best advice staff has to offer is that specific and proactive public outreach will be a needed part of those conversations as development standards are drafted and considered.

Identified objectives and implementation measures for protection of key habitat functions

Objective	Measures for Implementation	Current Benton County Requirements
Where possible, avoid new development in areas of greatest flood risk and habitat value for listed species	Prohibition of new land divisions that create lots or parcels without buildable area <i>outside</i> of the SFHA	<i>This measure was implemented in 2011.</i>
	Avoidance measure(s) to steer new development ⁵ away from part or all of the SFHA	<i>This measure is partially implemented.</i> - <i>When available land exists on a property, new dwellings are required to be built outside of mapped flood hazard areas.</i> <i>Additional adjustments may be needed.</i>
Avoid flood-related erosion and protect habitat values of native vegetation in areas immediately surrounding waterways	Creation of a vegetated setback or corridor for all aquatic features with mapped SFHA	<i>This measure is partially implemented.</i> - <i>Benton County requires a 50-foot setback from waterways within a mapped flood hazard area.</i> <i>Expansion of this setback to 170 feet (with mitigation standard metrics) may be required.</i>
Limit and/or mitigate new development impacts to flood storage in the SFHA	Requirement to use structural elevation rather than fill in the floodplain, where possible, and to mitigate all development impacts to flood storage	<i>Although this measure is not currently implemented, Benton County does require elevation of some types of development on post or pier construction rather than crawlspace foundation.</i> <i>Additional adjustments may be needed.</i>
Limit and/or mitigate new development impacts to water quality in the SFHA through the addition of impervious surface	Implementation of binding stormwater policies and/or programs, including a. A quantitative post-construction stormwater performance standard, and b. Prioritization of low-impact development and nonstructural approaches to stormwater management	<i>The recent implementation of Benton County’s stormwater regulations for MS4 compliance should address most of this measure.</i> <i>Additional adjustments may be needed.</i>
Effectively offset any remaining new development impacts to the 3 floodplain functions	Effective compensatory mitigation of all remaining impacts	<i>This measure is not currently implemented.</i>

⁵ As stated in the Draft Implementation Plan: “This measure need not apply to redevelopment of previously developed parcels within the SFHA, where redevelopment has the potential to *decrease* negative impacts to natural floodplain functions over time. FEMA and its agency partners recognize that for parcels that are already highly impacted by past development, redevelopment consistent with modern code and design standards can actually reduce impacts to the three floodplain functions, compared to the existing level of impact. Any new impacts, for example an increase to total impervious area or removal of riparian vegetation, would still be subject to minimization and mitigation requirements.”

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MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE
DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)
AND

<Insert City or County Name Here>

AS A COOPERATING AGENCY FOR
PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT (EIS) FOR
THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) – ENDANGERED
SPECIES ACT (ESA) INTEGRATION IN OREGON (PLAN)

I. Introduction

This Memorandum of Agreement (MOA) establishes a cooperating agency relationship between the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) and the <insert city or county name here> for the preparation of an Environmental Impact Statement (EIS) and associated technical guidance for the National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) Integration in Oregon (the Plan).

On March 6, 2023, FEMA published a Notice of Intent (NOI) to prepare an EIS ([88 FR 13841](#)). The NOI describes the background, proposed action area, purpose and need, proposed action and alternatives, summary of expected impacts, and the schedule for decision making. In accordance with 40 C.F.R § 1501.10, FEMA anticipates completing the EIS and Record of Decision (ROD) within two years from the issuance of the March 2023 NOI.

FEMA is the Federal lead agency for development of the EIS. FEMA recognizes that the City/County has both jurisdiction in local floodplain management and special expertise in applying floodplain development standards to properties within the Special Flood Hazard Area (SHFA).

This MOA is intended to clarify and define the roles and responsibilities of the City/County and FEMA (the Parties) in preparation of the EIS.

II. Purposes

The purposes of this MOA are:

- A. To designate the City/County as a Cooperating Agency in the EIS process under the National Environmental Policy Act (NEPA).
- B. To establish a framework for cooperation and coordination between the Parties to ensure the timely development of technical guidance and accompanying EIS for implementing the Plan.

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- C. To recognize that FEMA is the Federal lead agency with responsibility under the NEPA, ESA, National Flood Insurance Act (NFIA), and all other applicable federal statutes and Executive Orders.
- D. To recognize that FEMA is the Federal lead agency for the development and completion of the EIS and accompanying Record of Decision (ROD).
- E. To describe the respective roles, responsibilities, authority, and expertise of each of the Parties.

III. Authorities and Definitions

This MOA is being entered into pursuant to NEPA, 42 U.S.C. Section 4331, *et seq.*, the Council on Environmental Quality's NEPA regulation regarding Cooperating Agencies, 40 C.F.R §§ 1501.8 and 1508.1(e), the *DHS Instruction Manual 023-01-001-01, Revision 01, Implementation of the National Environmental Policy Act (NEPA)* November 6, 2014, and *FEMA Instruction 108-1-1, Instruction on Implementation of the Environmental Planning and Historic Preservation Responsibilities and Program Requirements* October 10, 2018.

40 C.F.R. § 1501.8 Cooperating agencies.

(a) The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any Federal agency with jurisdiction by law shall be a cooperating agency. In addition, upon request of the lead agency, any other Federal agency with special expertise with respect to any environmental issue may be a cooperating agency. A State, Tribal, or local agency of similar qualifications may become a cooperating agency by agreement with the lead agency.

This MOA uses the definition of Cooperating Agency in 40 C.F.R. § 1508.1(e):
Cooperating agency means any Federal agency (and a State, Tribal, or local agency with agreement of the lead agency) other than a lead agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action that may significantly affect the quality of the human environment.

IV. Roles and Responsibilities

A. FEMA Responsibilities:

1. As the Federal lead agency, FEMA retains final responsibility for the preparation and content of all planning and NEPA documents, which includes the technical guidance documents, case studies, model ordinance, and the Draft EIS, Final EIS, and the ROD.
2. FEMA's responsibilities include coordinating the project review, determining the Purpose and Need for the proposed plan, selecting alternatives for detailed analysis, presenting the effects of the proposed alternatives, selecting the preferred alternative, and determining

appropriate mitigation measures. In meeting these responsibilities, FEMA will follow all applicable federal statutory and regulatory requirements.

3. To the fullest extent consistent with its responsibilities as Federal lead agency, FEMA will consider the comments, recommendations, data, and/or analyses provided by the Cooperating Agency in the development of the technical guidance and the EIS, giving particular consideration to those topics on which the Cooperating Agency's special expertise, knowledge, and experience in local floodplain development and oversight.
4. FEMA will provide the Cooperating Agency with electronic copies of documents to the fullest extent practicable, taking into consideration the effect such releases may have on FEMA's ability to withhold this information from other parties, and in consideration of FEMA's authorities and responsibilities to not disclose and/or to protect certain non-public and/or sensitive data, FEMA will provide the Cooperating Agency with copies of the documents underlying the EIS relevant to the Cooperating Agency's responsibilities, including technical reports, data, analyses, comments received, working drafts related to environmental reviews, and the Draft and Final EIS.
5. FEMA will work with the Cooperating Agency to participate in public or targeted stakeholder meetings, as reasonable, that the Cooperating Agency organizes during the development of the Draft EIS and associated technical guidance documents.
6. FEMA retains final responsibility for making all decisions contained in the ROD.

B. Cooperating Agency Responsibilities:

1. The Cooperating Agency is recognized as having both jurisdiction in local floodplain management and special expertise in applying floodplain development standards for properties within the Special Flood Hazard Area (SHFA).
2. The Cooperating Agency may provide information, comments, and technical expertise to FEMA regarding those elements of the proposed plan, and the data and analyses supporting them, for which it has special expertise.
3. The Cooperating Agency will participate in coordination meetings, as possible, with a preference for virtual meetings. As the County's resources allow, and within the areas of special expertise, the Cooperating Agency will commit personnel to provide timely input relevant to the environmental review (analysis for direct, indirect and cumulative effects),

and timely review and comment on working drafts of the accompanying technical guidance and model ordinance.

4. The Cooperating Agency shall raise issues as early in the process as reasonably feasible to avoid delay and inefficiency.
5. Within the areas of special expertise, and as resources allow, the Cooperating Agency may also participate in the activities identified in **Attachment A**.
6. The Cooperating Agency will use its own funds for activities in furtherance of this MOA. In no event is the Cooperating Agency obligated under this MOA to incur any expense, except as it may choose to do so, in furtherance of its participation under this MOA.
7. The Cooperating Agency may submit independent public comments on the Draft EIS when it is published.

C. Responsibilities of both Parties

1. In all instances involving questions regarding content or relevance of environmental data and analyses, evaluation, and wording in preparing the EIS and ROD, FEMA shall make the final determination on the inclusion, deletion, or modification of such items in the document.
2. FEMA and all Cooperating Agencies will be identified on the cover page of the Draft and Final EISs (40 C.F.R. § 1502.11(a)).
3. The Parties agree to comply with the planning and meeting schedule provided in **Attachment B**, which includes the schedule for EIS milestones, timeframes for Cooperating Agency's reviews and submissions, and input points (described in Section V).
4. Each Party agrees to fund its own expenses associated with this process.
5. Each Party agrees to informally communicate with each other and other relevant agencies throughout the process to ensure that issues are raised as soon as possible and shared among all agencies.

V. Input Points

- A. At each input point, FEMA will request written comments from Cooperating Agencies, who in turn may provide comments or opt out of that particular input point.
- B. Input by an agency at an input point does not imply that the Cooperating agency agrees with or embraces the information or product. Rather, the Cooperating agency provides input that FEMA will evaluate, and, if applicable, reflect in the

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technical guidance product or applicable EIS chapter (see VI.F.2 below). Alternatively, a Cooperating Agency can elect not to provide input and submit formal comments when the Draft EIS is published.

- C. The lack of a response in writing from a Cooperating Agency to a FEMA request for input, within the designated timeframe as listed in **Attachment B**, will be treated as the Cooperating Agency having no comments. The Cooperating Agency may submit formal comments when the Draft EIS is published.

VI. Other Provisions

- A. Effect of MOA. This MOA shall take effect as to the Cooperating Agency when signed by the Cooperating Agency and by FEMA.
- B. Modification of the MOA. This MOA may be modified by written agreement of the parties.
- C. Withdrawal from the MOA. Any party may withdraw from the MOA with 30 days written notice to the other party, effectively terminating the Cooperating Agency relationship for the purposes of the EIS.
- D. Termination. If not terminated earlier, this MOA will end 60 days after the ROD for the EIS is signed by FEMA.
- E. Authorities not altered. Nothing in this MOA alters, limits, or supersedes the authorities and responsibilities of any Party on any matter within its respective jurisdiction.
- F. Records Management. FEMA owns the rights to all data/records produced as part of this MOA. FEMA will maintain the administrative record for all records.
- G. Management of Information. The Parties acknowledge that all supporting materials and draft documents will become part of the administrative record and may be subject to the disclosure requirements of the Freedom of Information Act (FOIA). The Cooperating Agency agrees to keep all documents, including drafts, provided by FEMA in accordance with its Cooperating Agency status and pursuant to this MOA confidential to the extent allowable by state law. The Cooperating Agency will provide notice to FEMA before disclosing any document required by state law to be disclosed to outside parties that has been shared with the Cooperating Agency in accordance with its Cooperating Agency status and pursuant to this MOA.
- H. Financial Obligations. Nothing in this MOA shall require any of the Parties to assume any obligation or expend any sum in excess of any authorization or available appropriations. No liability shall accrue to DHS or FEMA for failure to perform any obligation under this MOA in the event that funds are not appropriated or allotted. This MOA is not a funds obligating document.

- I. Liability of the Cooperating Agency. It is acknowledged that the Cooperating Agency may have limited fiscal, staff, and other resources to devote to the performance of its obligations hereunder. Consequently, the Cooperating Agency may not be able to fully or timely perform its obligations hereunder. By executing this MOA, the Cooperating Agency commits only to participate to the extent that it reasonably determines to be feasible. No liability shall accrue to the Cooperating Agency for failure to perform any obligation under this MOA.
- J. Reservation of Rights. The Cooperating Agency waives no rights under NEPA or other law to comment upon, dispute, or otherwise challenge the EIS.
- K. Immunity and Defenses Retained. Each Party retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOA.
- L. The Parties agree to participate in this planning process in good faith and make all reasonable efforts to resolve disagreements. Where procedural or substantive disagreements may impede effective and timely completion of the technical guidance and EIS, the Parties agree to utilize the facilitation and conciliation procedures described below:
 - 1. Joint fact-finding. Where the Parties disagree on matters of scientific information, data collection, or analysis, they will use their best, good-faith efforts to agree on mediation procedures to be employed to prepare a neutral assessment of the contested scientific issues.
 - 2. Documenting Disagreement or Inconsistency. Where the Parties disagree on substantive elements of the EIS (such as analysis of effects), and these disagreements cannot be resolved, FEMA will include a summary of the Cooperating Agency's views in the Draft EIS and the Final EIS and ROD.

VI. Conclusion

In signing this MOA, the undersigned recognize and accept the roles and responsibilities assigned to each party. Each of the parties agrees to pursue maximum cooperation and communication to ensure that the EIS fully comply with all applicable State and Federal requirements and minimizes duplication of effort and project delays.

ACCORDINGLY, the parties have signed this MOA on the dates set forth below, to be effective for all purposes as of the date last signed. The signatures may be executed using counterpart original documents.

FEMA

Cooperating Agency

Date

Date

Attachment A – Cooperating Agency Activities

	Step	Potential Activities of Cooperating Agencies (CoAg) within their areas of expertise
1	Work planning and coordination	Provide input on work plan; identify CoAg coordination opportunities; identify significant issues and potential resolutions; identify relevant local and regional organizations and interest groups; liaise with other communities and stakeholders.
2	NEPA Scoping Analysis	Assist in addressing scoping comments; review and comment on draft Scoping chapter of EIS (40 C.F.R. § 1502.17).
3	Collect data and analyses and examples	Identify data needs; collect data; provide data and technical analyses to FEMA; provide project examples for the technical guidance products
4	Cumulative Impacts	Identify connected, similar, and cumulative actions and their impacts.
5	Develop implementation criteria	Provide advice on the proposed implementation criteria (no net loss of three habitat functions) and implementation pathways (A-D).
6	Provide input	Provide input on technical guidance products, case studies, EIS appendices, and Preliminary Draft EIS before it is made available to the public. Provide input on a rolling basis as sections or chapters are made available.
7	Identify effects of alternatives	Provide effects analysis within the CoAg's expertise; suggest mitigation or avoidance measures for adverse effects.
8	Recommend the preferred alternative	Collaborate with FEMA in evaluating alternatives and in developing criteria for selecting the preferred alternative; [FEMA selects the final preferred alternative.]
9	Ensure diversity of viewpoints are captured	Identify substantive areas of the EIS with which the CoAg disagrees, and review FEMA's summary of the Cooperating Agency's views before publication in the Draft EIS, Final EIS and ROD (see MOA section VI.L.2).
10	Response to Comments	Review comments on the Draft EIS within the CoAg's expertise and provide assistance in preparing FEMA's responses.

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Attachment B – Tasks, Meetings, and Input Points

40 C.F.R. § 1501.7 requires lead agencies to develop the EIS schedule in consultation with cooperating and participating agencies, as soon as practicable. This attachment is the first draft; the Parties will refine it at the first kickoff meeting and add specific dates. This attachment also identifies “input points” as described in Section V above.

Task	Timeframe	Dates¹
Participate in kickoff and work planning meeting ² with FEMA and contractor	1 day	
Review and comment on the Technical Guidance workplan **	5 days	
Review and comment on the EIS workplan **	5 days	
Review and comment on Introduction and Purpose & Need chapters **	2 weeks	
Review and comment on the Alternatives Chapter of the EIS **	2 weeks	
Participate in the workshop to plan content for technical guidance products	1 day	
Review and comment on the case studies ³ that will inform the technical guidance documents and EIS analyses.	4 weeks each	
Review and comment on the four technical guidance documents ⁴ **	4 weeks each	
Review and comment on the Scoping chapter of Draft EIS (40 C.F.R. § 1502.17). **	2 weeks	
Review and comment on the eight technical reports for the EIS appendices. ⁵	4 weeks each	
Review and comment on each draft EIS chapters on direct, indirect, and cumulative impacts **	4 weeks each	
Review and comment on the EIS Summary	5 days	
Final review and comment on the Draft EIS	2 weeks	
Review and comment on the Summary of submissions chapter of the Final EIS (40 C.F.R. § 1502.17). **	10 days	
Review and comment on any new technical reports developed for the final EIS **	2 weeks each	
Review and comment on any substantial changes to technical reports or EIS chapters **	2 weeks each	
Final review and comment on the Final EIS	2 weeks	
Review and comment on the draft Record of Decision (ROD).	2 weeks	

** Review and comment will be followed with the final version

¹ Dates will be updated in the workplan

² All meetings are virtual unless noted

³ Case Studies will describe the implementation steps for targeted sectors and describe the potential impacts on those sectors. Sectors may include ports, agriculture, forestry, restoration projects, and/or residential.

⁴ Specific topics will be determined in the workshop. FEMA anticipates Riparian Buffer Zone Review, 2) Habitat Assessment instructions (Pathway C), 3) Model Ordinance, 4) Standard Ordinance Checklist (Pathway B), & 5) Community Compliance Plan (Pathway C).

⁵ Specific topics will be determined in the workshop. FEMA anticipates chapters on 1) Terrestrial Species, 2) Aquatic Species, 3) Floodplains, 4) Soils, 5) Water Quality, 6) Socio-economic Resources (i.e., individual and community impacts), 7) Opportunity Costs (i.e., changes/lost opportunities in zoning, development, land use), and 8) Environmental Justice / Equity

Attachment C – Agency Representatives

FEMA

- Primary: Portia Ross, FEMA Environmental Officer, portia.ross@fema.dhs.gov
- Technical Floodplain Management: John Graves, Floodplain Management & Insurance Branch Chief, john.graves@fema.dhs.gov
- Technical Environmental: Galeeb Kachra, Senior Environmental Specialist, FEMA Region 10, galeeb.kachra@fema.dhs.gov

Cooperating Agency

- Primary:
- Technical Floodplain Management:
- Technical Environmental:
- Technical Socioeconomic & Land Use:

Preliminary DRAFT for Discussion Only

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/18/23

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Public Works

Contact Name * Joe Mardis

Phone Extension * 6285

Meeting Attendee Name * Joe Mardis

Agenda Item Details

Item Title * Resolution No. R2023-020 in the Matter of Initiating Proceeding to vacate a portion of N. 20th Place, County Road No. 26632.

Item Involves * Check all that apply

- Appointments
- Budget
- Contract/Agreement
- Discussion and Action
- Discussion Only
- Document Recording
- Employment
- Notice of Intent
- Order/Resolution
- Ordinance/Public Hearing 1st Reading
- Ordinance/Public Hearing 2nd Reading
- Proclamation
- Project/Committee Update
- Public Comment
- Special Report
- Other

Estimated Time * 15 min

Board/Committee Involvement * Yes
 No

Advertisement*

Yes

No

Item Issues and Description

Identified Salient Issues

A petition was filed with Benton County Public Works by Glorietta Bay LLC, and the owners of the property abutting N. 20th Place, County Road No. 26632. The Daniel J. McCabe and Reitha Pauline McCabe Trust, which is 100 percent of the vacation of the street right-of-way of N. 20th Place will provide a safer location of an existing driveway near the railroad track crossing of N. 19th Street, a better site distance along N 19th Street for a new proposed driveway for the development of a recreational vehicle park. As part of the vacation process, the westerly 48 feet should be reserved for existing and future utility easements to the City of Philomath and public franchise utilities. The vacation will allow structures to be built within the area. There is no physical road built within said portion of area proposed to be vacated.

Benton County Public Works sees no future need for the proposed portion of right of way, which will not be detrimental to the public or adjacent landowners and will not deprive any of the abutting owners' access to their property.

Approve or deny the initiation of the proceedings to vacate a portion of N 20th Place, County Road No. 26632.

- Yes
- No

Fiscal Impact

Options

2040 Thriving Communities Initiative

Mandated Service?* Yes No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Mandated Service Description* If this agenda checklist describes a mandated service or other function, please describe here.
The vacation of the right of way will make the transportation network safer and more livable for the surrounding communities.

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values* Select all that apply.
 Vibrant, Livable Communities
 Supportive People Resources
 High Quality Environment and Access
 Diverse Economy that Fits
 Community Resilience
 Equity for Everyone
 Health in All Actions
 N/A

Explain Core Values Selections* The vacation of the right of way will make the transportation network safer and more livable for the surrounding communities.

Focus Areas and Vision* Select all that apply.
 Community Safety
 Emergency Preparedness
 Outdoor Recreation
 Prosperous Economy
 Environment and Natural Resources
 Mobility and Transportation
 Housing and Growth
 Arts, Entertainment, Culture, and History
 Food and Agriculture
 Lifelong Learning and Education
 N/A

Explain Focus Areas and Vision Selection* The vacation of the right of way will make the transportation network safer and more livable for the surrounding communities.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations* It is recommended by staff to initiate the proceedings to vacate the portion of N. 20th Place.

Meeting Motions* I move to ...
..... declare Benton County's intent that the proceedings be initiated to vacate a portion of N. 20th Place, County Road No. 26632, pursuant to ORS 368.326 to 368.341, as described in Resolution No. R2023-020.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

4173_001.pdf

4.35MB

Comments (optional) The cost of the vacation was charged to Glorietta Bay LLC by Benton County.

If you have any questions, please call ext.6800

**Department
Approver**

GARY STOCKHOFF

1.

Department Approval

Comments

Signature

Gary Stockhoff

2.

Counsel Approval

Comments

Signature

Vance H. Choney

3.

County Administrator Approval

Comments

Signature

Suzanne Hoffman

4.

BOC Final Approval

Comments

Signature

Hanna Kwiatkowski

**BEFORE THE BENTON COUNTY BOARD OF COMMISSIONERS FOR THE
STATE OF OREGON, FOR THE COUNTY OF BENTON**

**In the Matter of Initiating Proceeding)
to vacate a portion of N. 20th) RESOLUTION NO. R2023-020
Place County Road No. 26632)**

**THE ABOVE ENTITLED MATTER COMING NOW FOR
THE CONSIDERATION OF THE BOARD AND,**

IT APPEARING TO THE BOARD,

Pursuant to ORS 368.326 to 368.341 Benton County makes a declaration of intent to initiate proceedings to vacate N. 20th Place, County Road 26632, as shown on a map as Exhibit "A" and described in the petition as Exhibit "A-1" for the following reasons:

1. Vacation of a portion of N. 20th Place would not be detrimental to the public or adjacent landowners.
2. The vacation of the street right ofway of N. 20th Place will provide a safer location of an exiting driveway near the railroad track crossing of N. 19th Street, a better site distance along N. 19th Street for a new proposed driveway and will allow structures to be built within said vacated area for the development of a recreational vehicle park.
3. Benton County Public Works sees no future need for the portion of legal right of way that does not include an existing road built to city or county standards.
4. The vacation will not deprive any of the abutting landowner's access to their property.

Pursuant to ORS 368.326 to ORS 368.366 proceedings to be undertaken to vacate a portion of N. 20th Place, County Road 26632, as shown on the map as Exhibit "A" and described in the petition as Exhibit "A-1."

Pursuant to ORS 368.346(1) when the vacation proceedings are initiated, the County Engineer shall examine said road and file a written report.

THEREFORE, IT IS HEREBY RESOLVED that the Benton County Board of Commissioners have declared their intent and that the proceedings be initiated to vacate a portion of N. 20th Place, County Road No. 26632, as described above.

Approved this 18th day of July, 2023.

Signed this 18th day of July, 2023.

BENTON COUNTY BOARD OF COMMISSIONERS

Pat Malone, Chair

Xanthippe Augerot, Vice Chair

Nancy Wyse, Commissioner

Approved as to Form:

County Counsel

PETITION TO VACATE

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR THE STATE OF OREGON, FOR THE COUNTY OF BENTON**

In the Matter of the Vacation of a portion of)
N. 20th Place County Road No. 26632)
Benton County, Oregon)

I, the owner of, Gloietta Bay LLC, an Oregon Limited Liability Company, petition the Board of County Commissioners of Benton County, Oregon, to vacate a portion of N. 20th Place, more particularly described as follows:

See Exhibit "A" (see attached map)

The particular circumstances that justify granting a vacation of the described property are: (i.e. how the property is currently being used, condition of the property, reasons for requesting the vacation.)

See Exhibit "B"

Petitioners request that after the giving of notice as required by law, a hearing be held on this petition before the Board of County Commissioners, and that an order be entered vacating the said road more particularly described above in Exhibit "A".

Names and addresses of all persons owning any real property abutting County right-of-way proposed to be vacated: (Any property on either side of a public roadway from the property proposed to be vacated is also considered to be abutting property.)

Name and Address	Map and Tax Lot Number	Deed Reference
<u>Glorietta Bay LLC</u> <u>100 Ferry ST. NW</u> <u>Albany, OR 97321</u>	<u>12512 TL 200</u>	<u>2019-583369</u>

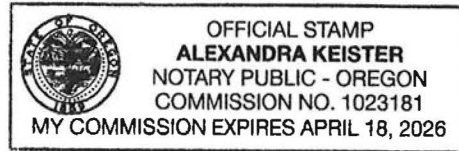
Petitioners Signature



STATE OF OREGON) ss
COUNTY OF BENTON)

Personally appeared the above named Scott Lepman as
Managing Member, of Glorietta Bay LLC acknowledged the foregoing
instrument to be their voluntary act and deed.

Alexandra Heister
Notary Public of Oregon



Petitioners request that after the giving of notice as required by law, a hearing be held on this petition before the Board of County Commissioners, and that an order be entered vacating the property more particularly described above.

Dated this 9th day of May, 2023

Name and Address	Tax Lot Number	Deed Reference
<u>Daniel J. McCabe and</u>	<u>12612 TL 501</u>	<u>2020-599478</u>
<u>Reitha Pauline McCabe, co-Trustees of the Daniel J. McCabe and Reitha Pauline McCabe Revocable Living Trust</u>		
<u>12960 NW Blackberry LN Seal Rock, OR 97376</u>		

Petitioners Signature

[Handwritten Signature]

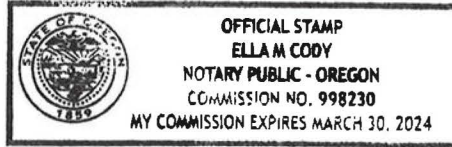
Reitha Pauline McCabe

STATE OF OREGON) ss
COUNTY OF BENTON)

Lincoln

Personally appeared the above named Daniel J. McCabe and Reitha Pauline McCabe as co-Trustees of the Daniel J. McCabe and Reitha Pauline McCabe Revocable Living Trust acknowledged the foregoing instrument to be their voluntary act and deed.

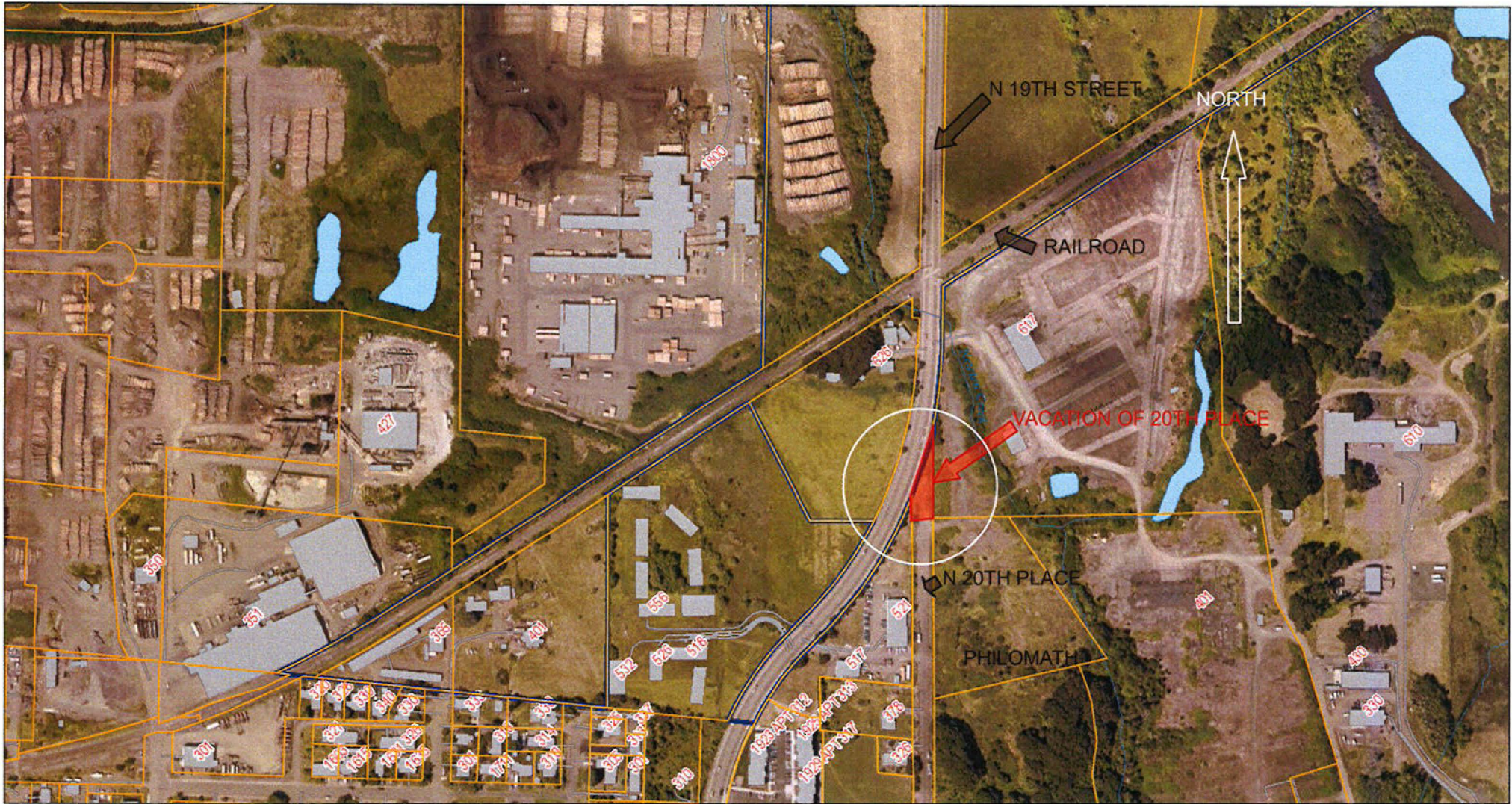
[Handwritten Signature]
Notary Public of Oregon



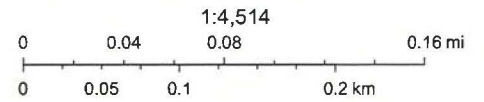
Petitioners request that after the giving of notice as required by law, a hearing be held on this petition before the Board of County Commissioners, and that an order be entered vacating the property more particularly described above.

Dated this MAY day of 19, 2023.

VACATION OF 20TH PLACE



6/14/2023, 10:08:38 AM



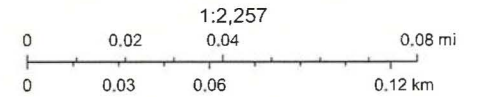
Benton County Public Works - County Surveyor, Benton County, Oregon, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, County of Benton, Bureau of Land

Benton County, Oregon
MAY NOT BE SUITABLE FOR LEGAL, ENGINEERING, OR SURVEY PURPOSES

VACATION OF 20TH PLACE



6/14/2023, 9:56:17 AM



Benton County Public Works - County Surveyor, Benton County, Oregon, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, County of Benton, Bureau of Land

Benton County, Oregon
MAY NOT BE SUITABLE FOR LEGAL, ENGINEERING, OR SURVEY PURPOSES



MAP OF
VACATION
EXHIBIT "A"

GLORIETTA BAY, LLC
TAX LOT 200
TAX MAP 12612
2019-583369

GLT PROPERTIES, LLC
TAX LOT 100
TAX MAP 12601

N. 19TH ST.
(70') R/W
CR 26632

GEORGIA PACIFIC
WOOD PRODUCTS, LLC
TAX LOT 2400
TAX MAP 12612A

LUKE ELLEN C
TAX LOT 2400
TAX MAP 12612

M-97992-88

PROPOSED STREET VACATION
AREA: 0.16± ACRES

POINT OF BEGINNING

FD 1" IR
(5/8" IR) C.S. 5910
S89°03'39"E 0.67' FROM
(0.17' WEST OF R/W)

N. 20th PLACE
(C.R. 26632)
(60') R/W

PROPOSED STREET VACATION
AREA: 0.04± ACRES

NORTHERN
TAX LOT 25
TAX MAP 12

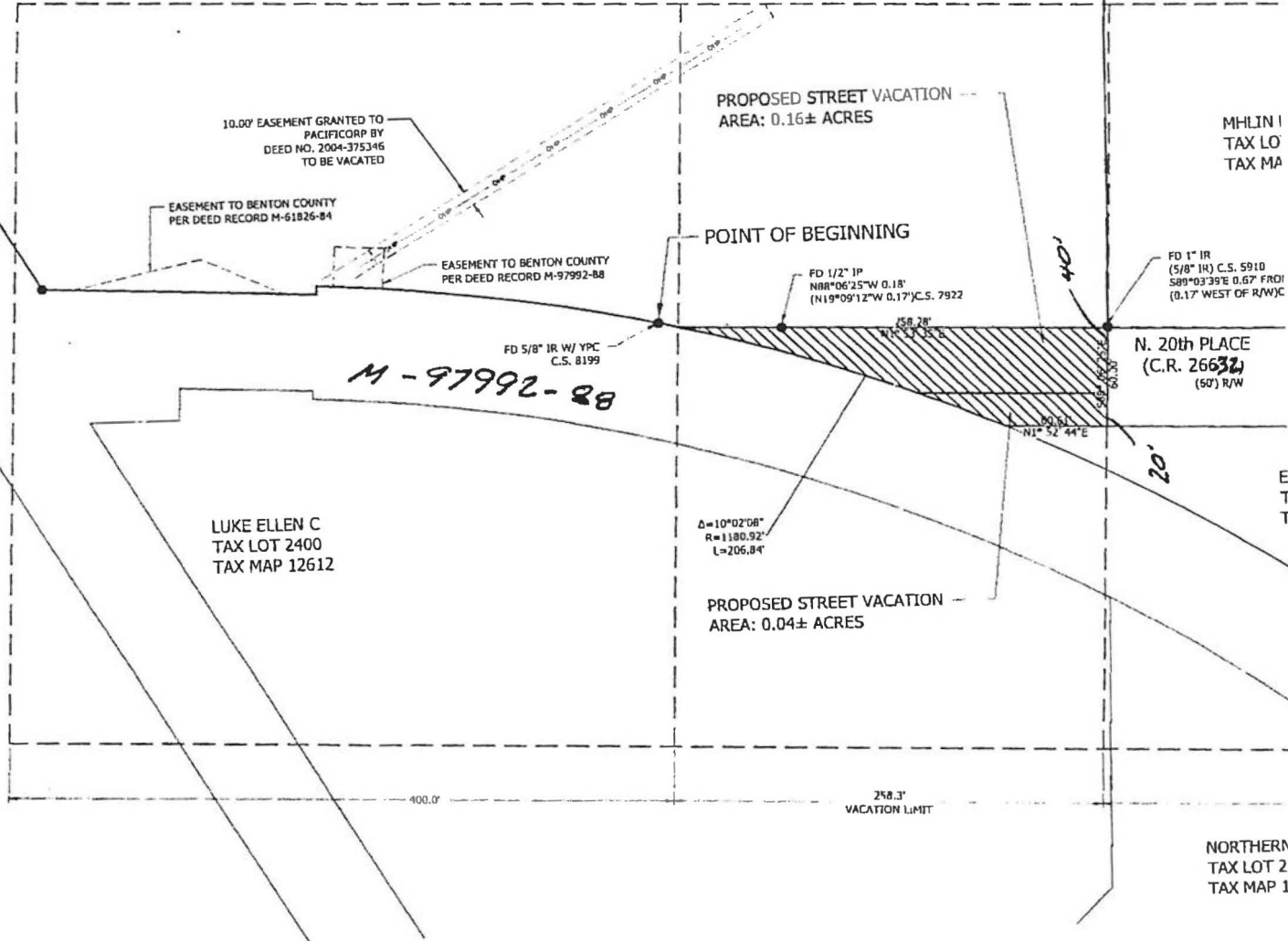


Exhibit 'A-1'
Legal Description for
Area of Street Vacation

AN AREA OF LAND IN THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 12 SOUTH, RANGE 6 WEST OF THE WILLAMETTE MERIDIAN IN THE CITY OF PHILOMATH, BENTON COUNTY, OREGON DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY OF NORTH 20TH PLACE (BENTON COUNTY ROAD NO. 26632 AND NORTH 19TH STREET); THENCE ALONG SAID COMMON RIGHT OF WAY, ON A 1180.92 FOOT RADIUS CURVE TO THE RIGHT FOR 206.84 FEET (CHORD BEARS SOUTH 18°46'40" WEST 206.58 FEET); THENCE LEAVING THE NORTH 19TH STREET RIGHT OF WAY AND CONTINUING ALONG THE WEST RIGHT OF WAY OF NORTH 20TH PLACE, SOUTH 01°53'35" WEST 60.61 FEET; THENCE LEAVING SAID WEST RIGHT OF WAY, SOUTH 88°06'25" EAST 60.00 FEET TO A POINT ON THE EAST RIGHT OF WAY OF NORTH 20TH PLACE; THENCE ALONG SAID RIGHT OF WAY NORTH 01°53'35" EAST 258.28 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED AREA CONTAINS ±0.20 ACRES.



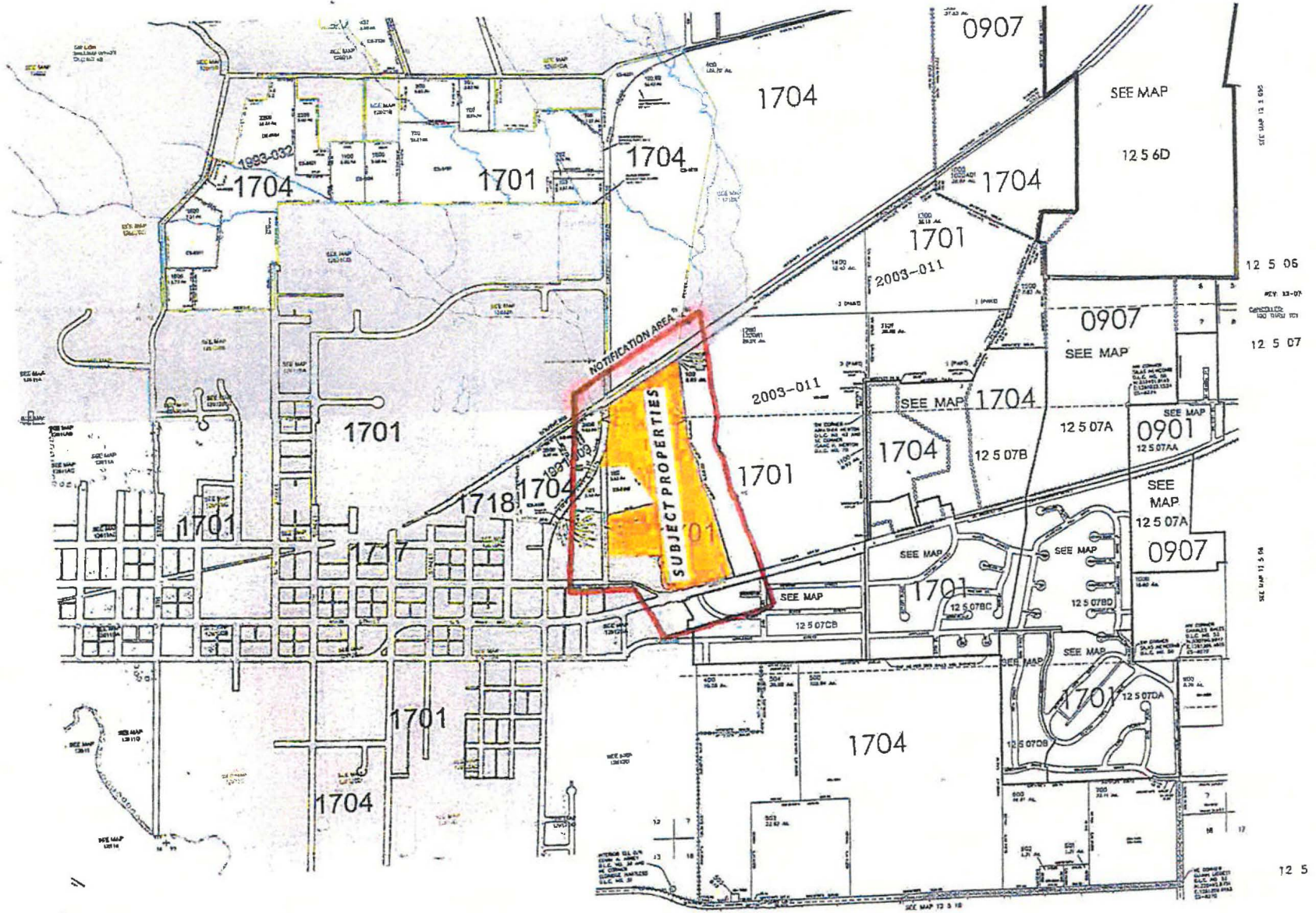
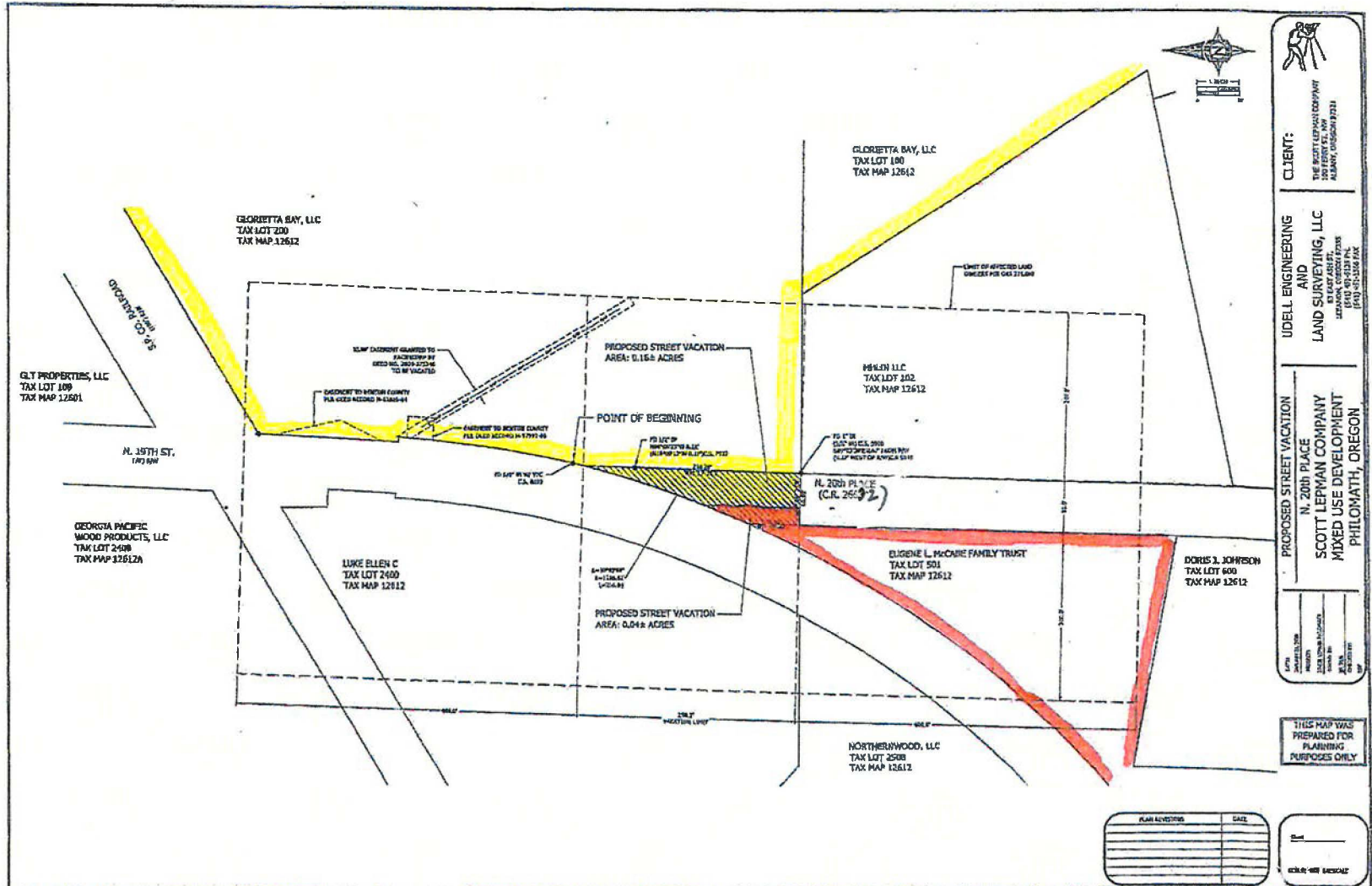


Exhibit 'A-2'
Composite Assessor's Tax Maps
For Entire Glorietta Bay Project



CLIENT:
THE SCOTT LERMAN COMPANY
ALBANY, OREGON 97321

UDEL ENGINEERING AND LAND SURVEYING, LLC
BY: JACOB LERMAN
JULY 15, 2011
(503) 933-3131
(503) 933-3166 FAX

PROPOSED STREET VACATION
N. 20th PLACE
SCOTT LERMAN COMPANY
MIXED USE DEVELOPMENT
PHILOMATH, OREGON

DATE: 07/15/11
DRAWN BY: JACOB LERMAN
CHECKED BY: JACOB LERMAN
SCALE: AS SHOWN

THIS MAP WAS PREPARED FOR PLANNING PURPOSES ONLY

PLAN NUMBER	DATE

Exhibit 'A-3a'
Proposed Street Vacation
with Affected Properties
(Civil Drawing W-1)

Exhibit 'B'

**FINDINGS APPLYING TO THE
BENTON COUNTY DEVELOPMENT CODE CRITERIA
FOR STREET VACATION APPROVAL FOR THE VACATION OF
APPROXIMATELY 8,712 SQUARE FEET OF NORTH 20TH PLACE**

Applicants: Scott Lepman dba Glorietta Bay LLC; 100 Ferry Street NW; Albany, OR 97321 and Daniel J. and Reitha Pauline McCabe co-trustees of the Daniel J. and Reitha Pauline McCabe Revocable Trust; 12960 NW Blackberry Lane; Seal Rock, OR 97376

Applicants' Primary Contact: Candace Ribera, Development Coordinator for Scott Lepman Company; 100 Ferry Street NW; Albany, OR 97321

Civil Engineer: Brian Vandetta, Udell Engineering and Surveying; 63 East Ash Street; Lebanon OR 97355

Surveying. David Schlosser, Northstar Surveying; 720 NW 4th Street; Corvallis OR 97330 and Kyle Latimer, Udell Engineering and Surveying; 63 East Ash Street; Lebanon OR 97355

Reason for Proposed Vacation. The Vacation of 0.20 acre (8,712 square feet) of street right-of-way of North 20th Place is to provide for the relocation of the current existing access driveway location to a safer location from the railroad track crossing and providing better sight-distance on the curve of the street (see Exhibit 'D-1' - Enlargement of Existing Conditions Tax Lot 200 In Area of Proposed Street Vacation and Exhibit 'F' - Proposed Site and Dimensioning Plan for Recreational Vehicle Park).

Proposed Planned Development Access and Circulation: Proposed vehicular and pedestrian access to the property containing the Self-Storage Facility, the Recreational Vehicle and Boat Storage Facility and the Industrial Flex Space development will be from Southwest Main Street (Corvallis Newport Highway)(see Exhibit 'G' – Composite Site Plan for Self-Storage and Recreational Vehicle and Boat Storage Facilities, Recreational Vehicle Park, and Industrial Flex-Space Development) with secondary access from the southern private easement accessway to a future public road located within the abutting property to the east [REDACTED]. Vehicular and pedestrian access to the property containing the Recreational Vehicle Park will be from North Nineteenth Street with a secondary gated fire access drive from the proposed northern private accessway easement on Tax Lot 100 to a future public road located on the abutting property to the east (Tax Lot 1200, Benton County Assessor's Map 12507).

Abutting Properties to the Proposed Vacated Area. (See Exhibit 'E' – Proposed Street Vacation with Affected Parties.) Tax Lot 200, Benton County Assessor's Map 12612 (Glorietta Bay, LLC – signature obtained) containing 15.30 acres and currently addressed as 617 North 19th Street; Tax Lot 102, Benton County Assessor's Map 12507 (MHLIN LLC – signature obtained) containing 3.82 acres with an unassigned address on North 20th Place; and Tax Lot 501, Benton County Assessor's Map 12612, Tax Lot 501 (Daniel J. McCabe and Reitha Pauline McCabe Revocable Living Trust – signatures obtained) containing 2.18 acres and addressed as 517 to 521 North 19th Street.

Properties Within 200 Feet Parallel and 400 feet from Terminus of Proposed Vacation. (See Exhibit 'E' – Proposed Street Vacation with Affected Parties.) Tax Lot 200, Benton County Assessor's Map 12612 (Glorietta Bay, LLC – signature obtained) containing 15.30 acres and currently addressed as 617 North 19th Street; Tax Lot 501, Benton County Assessor's Map 12612, Tax Lot 501 (Daniel J. McCabe and Reitha Pauline McCabe Revocable Living Trust – signatures obtained) containing 2.18 acres and addressed as 517 to 521 North 19th Street. Tax Lot 102, Benton County Assessor's Map 12507 (MHLIN LLC – signature obtained) containing 3.83 acres with an unassigned address on North 20th Place; Tax Lot 2400 Benton County Assessor's Map 12612 (Ellen C. Luke – signature obtained) containing 4.08 acres and addressed as 626 North 19th Street; Tax Lot 2400, Benton County Assessor's Map 12612A (Georgia Pacific Wood Products, LLC – signature obtained) containing 10.38 acres with an unassigned address on North 19th Street; Tax Lot 100, Benton County Tax Map 12601 (GLT Properties LLC – signature obtained) containing 58.42 acres with an unassigned address on North 19th Place; and Tax Lot 2500, Benton County Assessor's Map 12612 (Northernwood, LLC – signature obtained) containing 9.32 acres with an unassigned address on North 19th Street.

Submitted Attachments.

1. Exhibit 'A-1' Legal Description for Area of Street Vacation
2. Exhibit 'A-2' Composite Assessor's Tax Maps for Entire Glorietta Bay Project
3. Exhibit 'A-3a' Composite Assessor's Maps with Notified Properties and Applicants' Properties
4. [REDACTED] [REDACTED]
5. Exhibit 'B' Findings Document for the Vacation of 8,712 Square Feet of North 20th Place
6. Exhibit 'C' Existing Philomath Comprehensive Plan and Zoning Map
7. Exhibit 'D' Existing Conditions Tax Lot 200 Prior to Construction of Underground Utilities
8. Exhibit 'D-1' Enlargement of Existing Conditions Tax Lot 200 In Area of Proposed Street Vacation
9. Exhibit 'E' Proposed Street Vacation with Affected Properties
10. Exhibit 'F' Proposed Site and Dimensioning Plan for Recreational Vehicle Park
11. Exhibit 'G' Composite Site Plan for Self-Storage and Recreational Vehicle and Boat Storage Facilities, Recreational Vehicle Park, and Industrial Flex-Space Development
12. Exhibit 'H' Recreational Vehicle Park Public Easements and Location of Private Trail Within RV Park

Reason for Requested Street Vacation. The requested street vacation is to provide a safe entry from North 19th Street, a designated Minor Arterial Street to the proposed Recreational Vehicle Park (see Exhibit 'D-1' – Enlargement of Existing Conditions Tax Lot 200 in Area of Proposed Street Vacation). Twentieth Place lies within the City of Philomath but the right-of-way is under the jurisdiction of Benton County, as 20th Place has not been improved to City Standards. The proposed Recreational Vehicle Park will be constructed in one Phase and will consist of 175 RV spaces, a 3,904 square foot Office/Manager's Quarters, a 7,142 square foot Community Center, and 2 detached 247.5 square foot restroom buildings (see Exhibit 'F' - Proposed Site and Dimensioning Plan for Recreational Vehicle Park).

A private walking/biking trail that encircles the Park will be provided (see Exhibit 'H' – Proposed Site and Dimensioning Plan for Recreational Vehicle Park) for the tenants of the proposed RV Park. A 16-foot-wide easement will be dedicated to the City of Philomath for the future construction of a public trail that will run from North 19th Street, a Minor Arterial Street, to the City Park located adjacent to North 20th Place and Southwest Main Street, a Principal Arterial Street (see Exhibit 'G' – Composite Site Plan for Self-

Storage and Recreational Vehicle and Boat Storage Facilities, Recreational Vehicle Park, and Industrial Flex-Space Development).

A public sidewalk will be constructed adjacent to North 19th Street from the west right-of way line of the proposed vacation area of North 20th Place and a public easement will be dedicated to Benton County for the construction of the joint use pedestrian/bikeway that lies to the north of the intersection of the public trail easement granted to the City of Philomath (see Exhibit 'H' – Recreational Vehicle Park Public Easements and Location of Private Trail Within RV Park).

SUPPORTIVE FINDINGS:

1. The proposed right-of-way vacation includes the right-of-way from the northeast corner of the intersection of North 20th Place with North 19th Street to a point 258.28 feet south along the east right-of-way line and 60.61 feet along the west right-of-way line (see Exhibit 'A-1' – Legal Description for Area of Street Vacation).
2. The subject right-of-way is currently owned by Benton County and North 20th Place has not been constructed to City Standards.
3. A Utility Easement will be retained over the entire or a part of the vacated area for access to existing and future public and private utilities that are or will be located in the area of the right-of-way vacation.
4. The western 20-feet of the vacated area will revert to the abutting Tax Lot 501, Benton County Assessor's Map 12612 (see Exhibit 'E' – Proposed Street Vacation with Affected Properties).
5. Philomath's Transportation Plan does not identify North 20th Place as being part of the city's arterial/collector street system, nor is it identified as a critical local street. The street is currently barricaded at its connection to North 19th Street, a designated Minor Arterial Street on the Benton County Transportation Plan and a Major Collector Street on the City of Philomath's Transportation Plan.
6. The proposed Recreational Vehicle Park will take access from North 19th Street, a recently improved Minor Arterial Street under the jurisdiction of Benton County. The street was recently improved to Benton County standards but does not have sidewalks. A sidewalk and a pedestrian/bikeway will be provided adjacent to North 29th Avenue as part of the development of the Recreation Vehicle Park (see Exhibit 'H' - Recreational Vehicle Park Easements). In the future, the public pedestrian/bikeway will go from North 19th Street to the City Park located adjacent to Southwest Main Street (see Exhibit 'G' – Composite Site Plan for Self-Storage and Recreational Vehicle and Boat Storage Facilities, Recreational Vehicle Park, and Industrial Flex-Space Development).
7. The following existing and possible future public and private utility locations are relevant to the proposed right-of-way vacation (see Exhibit 'D' - Existing Conditions Tax Lot 200):
 - a. Public Sanitary Sewer. Sanitary sewer utility maps indicated that there is no sanitary sewer mains in the right-of-way. However, the area to the north of North 19th Street needs to be served and the possibility of use of this right-of-way for an extension of a public sanitary

line requires that a utility easement over almost the entire right-of-way being vacated be retained in order to accommodate a future public 24" diameter trunk sanitary sewer line.

- b. Public Water. There is an existing 12-inch water line within the west side of the existing right-of-way. The City will need to retain a utility easement over this line.
- c. Public Storm Drainage. There is no public storm drainage within the existing right-of-way to be vacated. There is a public storm drainage system in the North 19th Street right-of-way that will provide drainage in the vicinity. It is the applicant's belief that no easement provision is necessary for public storm drainage.
- d. Private Underground Power. The one call utility-locate showed no evidence of buried private power in the vicinity of the proposed street vacation. However, an 8-foot-wide utility easement will be dedicated adjacent to the east side of North 19th Street as part of the proposed Planned Development occurring on Tax Lots 100 and 200 owned by Glorietta Bay, LLC.
- e. Private Overhead Power. The private overhead power is along the west side of 20th Place.
- f. Private Gas Line. There is a 4-inch-high pressure gas line according to the NW Natural Gas maps that is 15 feet east of the centerline of North 20th Place.
- g. Private Phone Line. The one call utility-locate showed a buried phone line just west of the west right-of-way of North 20th Place.

SUPPORTIVE CONCLUSIONS:

- 1. Private utilities exist within both sides of the area proposed for vacation. The City will retain a utility easement over much of the right-of-way being vacated to accommodate existing and future private utility needs. Maintaining a utility easement benefitting the City of Philomath for much of the vacated area proposed to be vacated will assure that the proposed vacated area will not have a negative effect on any existing or future public or private utility. This can be assured by a condition of approval.
- 2. The proposed vacation does not conflict with Benton County's or the City of Philomath's Transportation System Plan. Public sidewalks will be provided adjacent to the east right-of-line of North 19th Street in compliance with Benton County and/or City of Philomath Standards. This can be assured by a condition of approval.

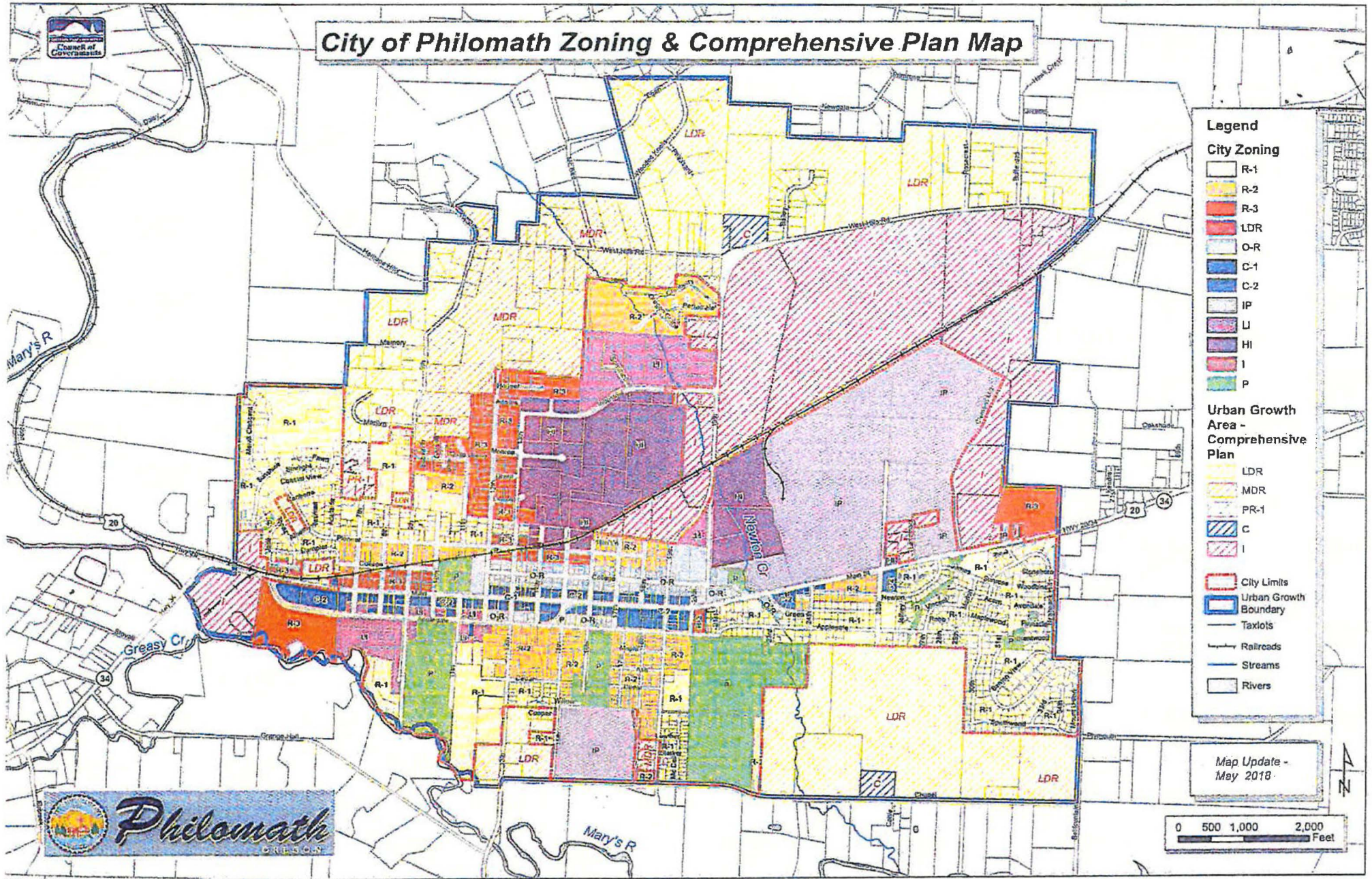


Exhibit 'C'
Existing Comprehensive Plan
and Zoning Map



GEORGIA PACIFIC
WOOD PRODUCTS LLC
TAX LOT 2400
TAX MAP 12612A

EASEMENT TO BENTON COUNTY
PER DEED RECORD M-61826-B4

S.P. CO. RAILROAD
(100') R/W

N. 19TH ST.
(70') R/W

S.P. CO. RAIL
(100') R/W

GLORIETTA BAY, LLC
TAX LOT 200
TAX MAP 12612

$\Delta = [10^{\circ}05'25"]$
 $(10^{\circ}05'24")$ C.S. 8199
 $R = [1180.92']$
 $(1180.92')$ C.S. 8199
 $L = [207.97']$
 $(207.96')$ C.S. 8199
 $LC = [118^{\circ}07'12" E 207.70']$
 $(55^{\circ}56'42" W 207.70')$ C.S. 8199

$S06^{\circ}55'30" E 5.00'$
 $(589^{\circ}06'00" E 5.00')$ C.S. 8199

EASEMENT TO
BENTON COUNTY
PER DEED RECORD
M-97992-B8

10.00' EASEMENT
GRANTED TO
PADIFICORP BY
DEED NO. 2004-375346
FD 5/8" IR W/ YPC
C.S. 8199

$\Delta = [0^{\circ}31'03"]$
 $R = [1357.47']$
 $L = [12.26']$
 $LC = [113^{\circ}27'45" E 12.26']$

SD CI
RIM EL 263.27
FD 1/2" IP
 $N88^{\circ}04'25" W 0.18'$
 $(119^{\circ}09'12" W 0.17')$ C.S. 7922

(E) SPEED 25

(E) SIDEWALK

N. 20TH PLACE
(C.R. 26632)
(60') R/W

FD 1" IR
(5/8" IR) C.S. 5910
 $S89^{\circ}03'39" E 0.67'$ FROM R/W
 $(0.17'$ WEST OF R/W) C.S. 5910

MPLH LLC
TAX LOT 102
TAX MAP 12612

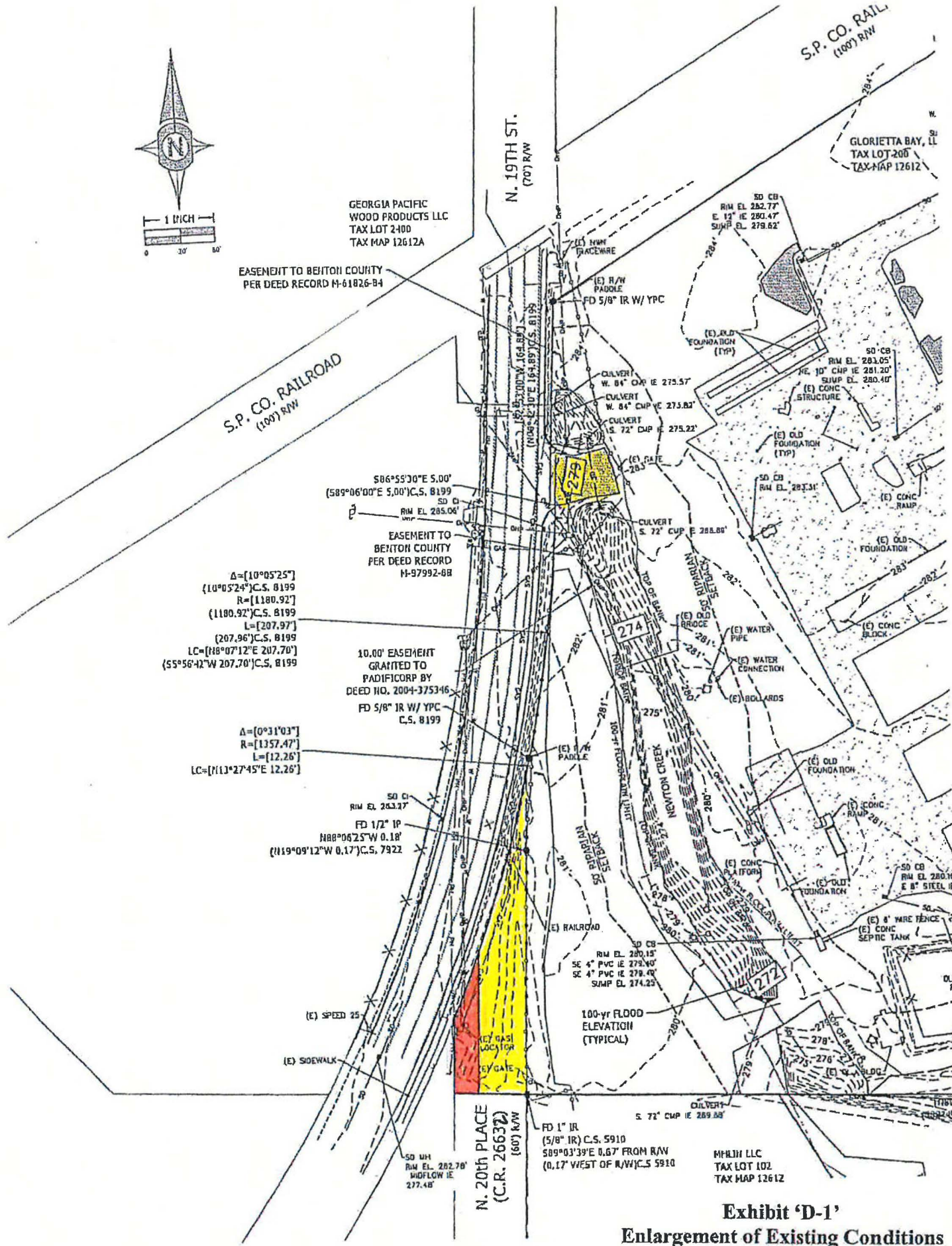


Exhibit 'D-1'
Enlargement of Existing Conditions
Tax Lot 200 In Area of Proposed
Street Vacation

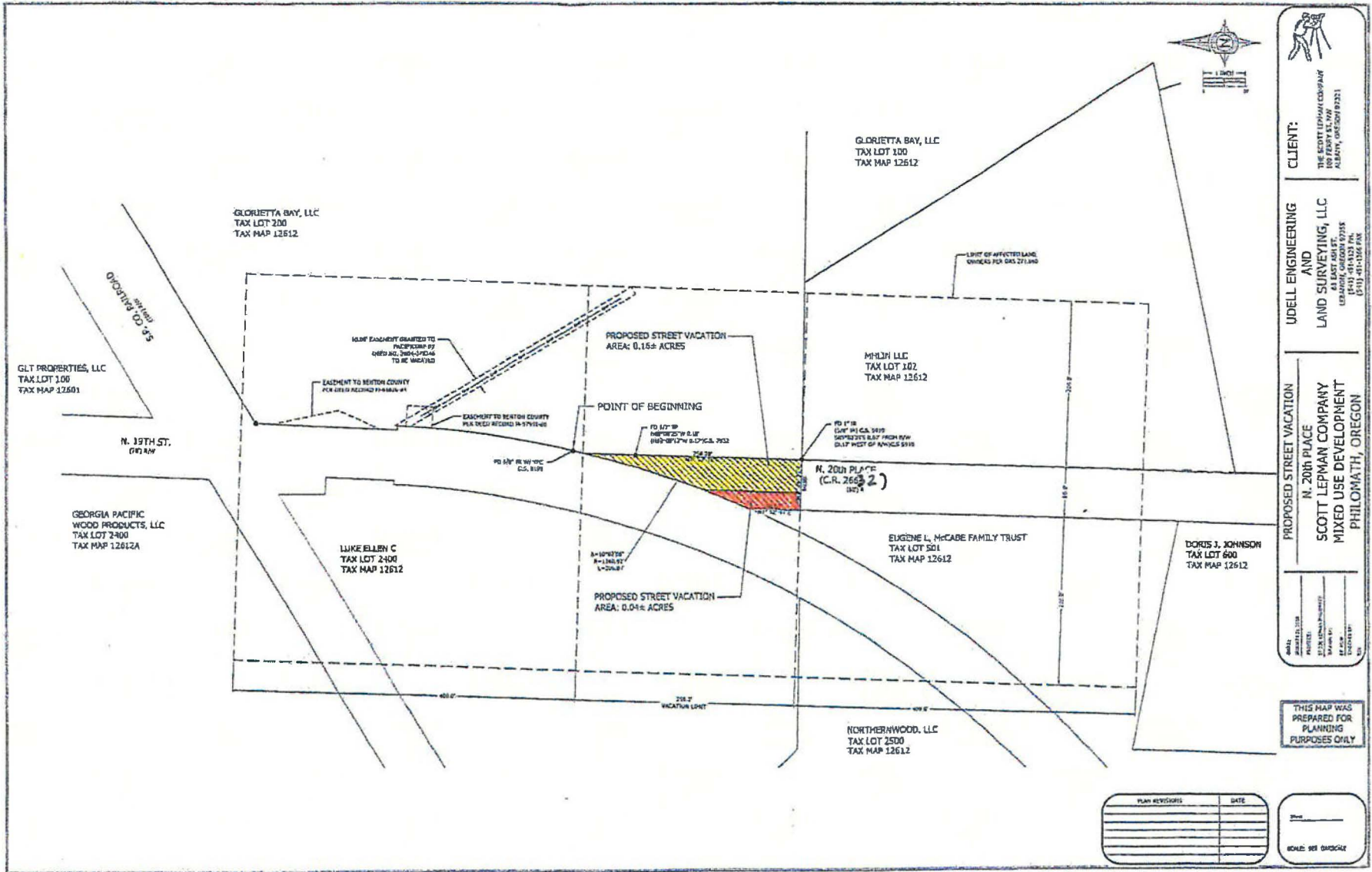
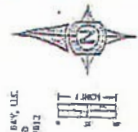
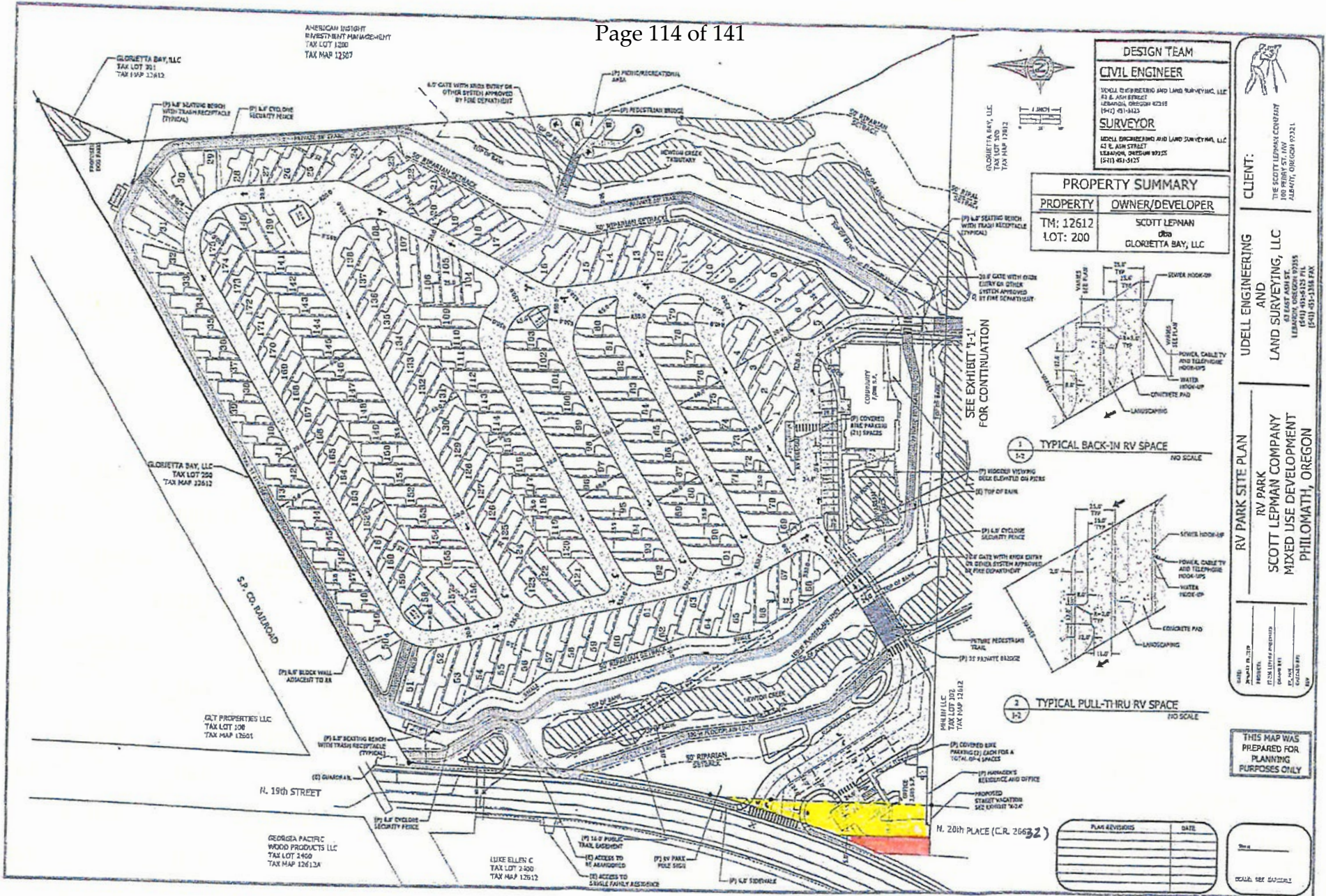


Exhibit 'E'
Proposed Street Vacation
with Affected Properties



DESIGN TEAM
CIVIL ENGINEER
 UDELL ENGINEERING AND LAND SURVEYING, LLC
 63 S. ASH STREET
 ALBANY, OREGON 97321
 (503) 881-8122

SURVEYOR
 UDELL ENGINEERING AND LAND SURVEYING, LLC
 63 S. ASH STREET
 ALBANY, OREGON 97321
 (503) 881-8122

PROPERTY SUMMARY

PROPERTY	OWNER/DEVELOPER
TM: 12612	SCOTT LEPMAN
LOT: 200	OR02 GLORIETTA BAY, LLC



CLIENT:
 THE SCOTT LEPMAN COMPANY
 1000 W. 10TH STREET
 ALBANY, OREGON 97321

UDELL ENGINEERING AND LAND SURVEYING, LLC
 63 S. ASH STREET
 ALBANY, OREGON 97321
 (503) 881-8122 FAX

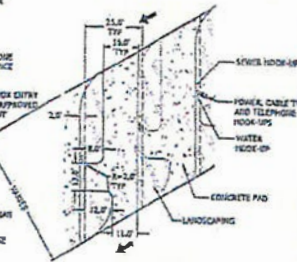
RV PARK SITE PLAN
 RV PARK
 SCOTT LEPMAN COMPANY
 MIXED USE DEVELOPMENT
 PHILLOMATH, OREGON

DATE: _____
 PREPARED BY: _____
 CHECKED BY: _____
 DRAWN BY: _____
 DATE: _____

THIS MAP WAS PREPARED FOR PLANNING PURPOSES ONLY



1 TYPICAL BACK-IN RV SPACE
 1/2" = 1' NO SCALE

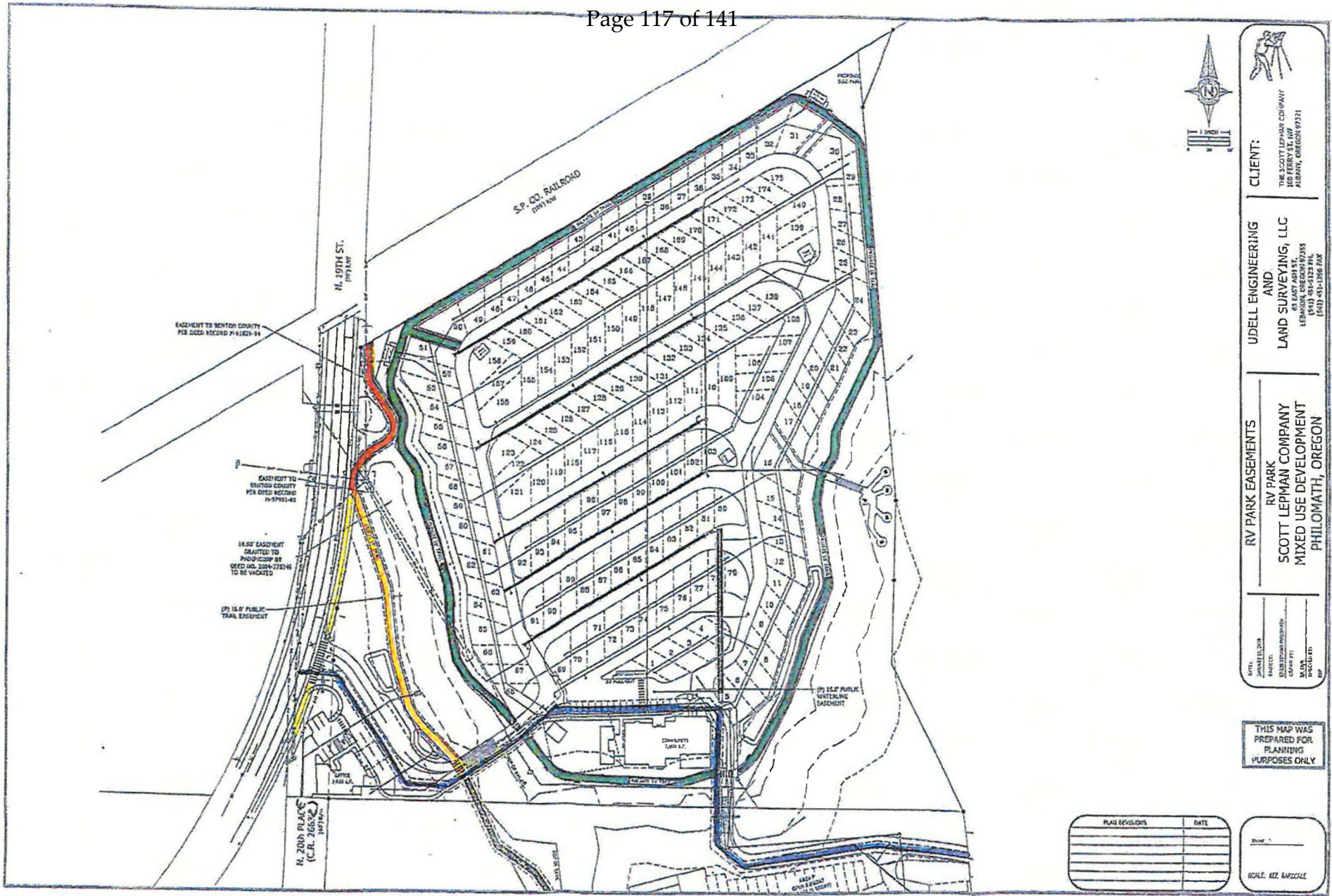


2 TYPICAL PULL-THRU RV SPACE
 1/2" = 1' NO SCALE

PLAN REVISIONS	DATE

Scale: SEE EXHIBIT

Exhibit 'F'
Proposed Site and Dimensioning Plan
for Recreational Vehicle Park



CLIENT:
 THE SCOTT LEPMAN COMPANY
 100 FERRY ST, NW
 ALBANY, OREGON 97321

UDELL ENGINEERING
 AND
 LAND SURVEYING, LLC
 1000 W. 10TH ST. S.W.
 ALBANY, OREGON 97321
 (503) 951-1222 P.H.
 (503) 951-1266 FAX

RV PARK EASEMENTS
 RV PARK
 SCOTT LEPMAN COMPANY
 MIXED USE DEVELOPMENT
 PHILOMATH, OREGON

DATE: 11/11/2014
 PROJECT: RV PARK EASEMENTS
 DRAWN BY: M. J. JONES
 CHECKED BY: M. J. JONES

THIS MAP WAS
 PREPARED FOR
 PLANNING
 PURPOSES ONLY

PLAN REVISIONS	DATE

SCALE: AS SHOWN

Exhibit 'H'
Recreational Vehicle Park Public
Easements and Location of
Private Trail Within RV Park.

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/18/23

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Finance

Contact Name * Rick Crager

Phone Extension * 6246

Meeting Attendee Name * Rick Crager

Agenda Item Details

Item Title * Watermaster Budget Request for FY 2023-2025

Item Involves * Check all that apply

- Appointments
- Budget
- Contract/Agreement
- Discussion and Action
- Discussion Only
- Document Recording
- Employment
- Notice of Intent
- Order/Resolution
- Ordinance/Public Hearing 1st Reading
- Ordinance/Public Hearing 2nd Reading
- Proclamation
- Project/Committee Update
- Public Comment
- Special Report
- Other

Estimated Time * 20 minutes

Board/Committee Involvement * Yes No

Advertisement*

Yes

No

Item Issues and Description

Identified Salient Issues *
 The funding requested is part of the State and County cooperative funding effort to protect and manage the water resources in Benton County.

Options *
 Approve the funding request, or
 Decline the funding request.

Fiscal Impact *
 Yes
 No

Fiscal Impact *
 The watermaster is requesting \$5,000 per year (for two years) to help protect and manage the water resources in Benton County. This funding will allow the watermaster to utilize the temporary assistant in Benton County. It is extremely beneficial to have an assistant during the spring and summer months because they help provide better services to the County in many ways, including providing more prompt and thorough service during the extremely busy time of the year. Prompt response to information requests is a high priority for this office. It is very important to be able to respond to complaints during times of regulation because a situation can change or worsen if too much time elapses before a site visit can be made.

2040 Thriving Communities Initiative

Mandated Service?* Yes No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values*

Select all that apply.

- Vibrant, Livable Communities
- Supportive People Resources
- High Quality Environment and Access
- Diverse Economy that Fits
- Community Resilience
- Equity for Everyone
- Health in All Actions
- N/A

Explain Core Values Selections*

This office assists the general public and the real estate community in their need for essential and accurate information about water rights and wells during property transactions. It is also responsible for inspecting well construction and abandonment, monitoring in-stream water rights and stream flows, distributing water to assure it is used in accordance with existing water rights, conducting dam safety inspections, and regulating illegal uses of water. The office also provides technical assistance to Watershed Councils, municipalities, the agricultural community, the Soil and Water Conservation District, Benton County Planning Department, and other organizations.

Focus Areas and Vision*

Select all that apply.

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

Explain Focus Areas and Vision Selection*

District 22 has one Watermaster and covers the majority of Polk, Benton and Yamhill County. District 22 contains 6,736 water rights with a total of 9,120 points of diversion. There are 14 dams located in Benton County that require inspection every one, three, or six years depending on the hazard rating of the dam. The purpose of these inspections is to evaluate the general condition of the structure to help assure that it is being operated and maintained in a responsible manner for the protection of downstream life and property.

Recommendations and Motions

Item Recommendations and Motions

Staff

Staff recommends approval of the funding request.

Recommendations *

Meeting Motions *

I move to ...

...approve \$10,000, over two years, to the Oregon Water Resources Watermaster for additional personnel support.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Benton FY 2023-25 Request Watermaster.pdf 115.95KB

Comments (optional)

If you have any questions, please call ext.6800

Department Approver

RICHARD CRAGER

1.

Department Approval

Comments

Signature

Rick Crager

2.

Counsel Approval

Comments

Signature

Vance H. Choney

2.

County Administrator Approval

Comments

Signature

Suzanne Hoffman

3.

BOC Final Approval

Comments

Signature

Hanna Kwiatkowski



January 24, 2023

TO: Benton County Budget Committee

FROM: Joel Plahn, District 22 Watermaster

RE: FY 2023-2025 Assistant Watermaster Budget Request

The District 22 Watermaster budget request for the upcoming fiscal years is \$5,000 per year. This funding is part of the State and County cooperative funding effort to protect and manage the water resources in Benton County. The following information details the services provided by this office and provides some background about the responsibilities of the Watermaster's office.

District 22 has one Watermaster and covers the majority of Polk, Benton and Yamhill County. District 22 contains 6,736 water rights with a total of 9,120 points of diversion. There are 14 dams located in Benton County that require inspection every one, three or six years depending on the hazard rating of the dam. The purpose of these inspections is to evaluate the general condition of the structure to help assure that it is being operated and maintained in a responsible manner for the protection of downstream life and property.

This office assists the general public and the real estate community in their need for essential and accurate information about water rights and wells during property transactions. It is also responsible for inspecting well construction and abandonment, monitoring in-stream water rights and stream flows, distributing water to assure that it is used in accordance with existing water rights, conducting dam safety inspections, and regulating illegal uses of water. This office also provides technical assistance to Watershed Councils, municipalities, the agricultural community, the Soil and Water Conservation District, Benton County Planning Department, and other organizations.

This funding will allow me to utilize the temporary assistant for my district in Benton County. It is extremely beneficial to have an assistant during the spring and summer months because they help provide better services to the County in many ways, including providing more prompt and thorough service during the extremely busy time of the year. Prompt response to information requests is a high priority for this office. It is very important to be able to respond to complaints during times of regulation because the situation can change or worsen if too much time elapses before a site visit can be made.

Marys River, including tributaries, has a total of 593 water rights with 772 points of diversion. Like most years, hundreds of staff hours are spent measuring and regulating streams within the Marys River Basin.

The Department has received multiple inquiries regarding ground water use in Benton County over the past year. We continue to investigate complaints and are actively looking at ways to address groundwater concerns within the County.

Your support of the District 22 Watermaster's office would be greatly appreciated. In the upcoming years I hope to hire an Assistant Watermaster to assist in carrying out the duties and activities described above. The table below describes water right data per county within District 22. Please contact me at 503-508-2394 or joel.m.plahn@water.oregon.gov if you would like more detailed information on the District's duties, activities, or responsibilities.

<u>County</u>	<u>Total Water Rights</u>	<u>Total Irrigation Water Rights</u>	<u>Irrigation Acres</u>
Benton	1,366	944	80,044
Polk	2,426	1,324	66,200
Yamhill	2,944	1,877	84,596

BOC Agenda Checklist Master

Agenda Placement and Contacts

Suggested Agenda Date 07/18/23

View [Agenda Tracker](#)

Suggested Placement * BOC Tuesday Meeting

Department * Juvenile

Contact Name * Matt Wetherell

Phone Extension * 6064

Meeting Attendee Name * Matt Wetherell

Agenda Item Details

Item Title * Intergovernmental Agreement for Placement of Benton County Juveniles in the Linn-Benton Juvenile Detention Center

Item Involves * Check all that apply

- Appointments
- Budget
- Contract/Agreement
- Discussion and Action
- Discussion Only
- Document Recording
- Employment
- Notice of Intent
- Order/Resolution
- Ordinance/Public Hearing 1st Reading
- Ordinance/Public Hearing 2nd Reading
- Proclamation
- Project/Committee Update
- Public Comment
- Special Report
- Other

Estimated Time * 10 minutes

Board/Committee Involvement * Yes
 No

Advertisement*

Yes

No

Issues and Fiscal Impact

Item Issues and Description

Identified Salient Issues*

Approval of an Intergovernmental Agreement (IGA) between Linn County and Benton County that provides for placement of Benton County juveniles in the Linn-Benton Juvenile Detention Center for the period July 1, 2023 through June 30, 2024.

Options*

1. Approve and sign the IGA
2. Do not approve the IGA

Fiscal Impact*

- Yes
- No

2040 Thriving Communities Initiative

Mandated Service?* Yes No

2040 Thriving Communities Initiative

Describe how this agenda checklist advances the core values or focus areas of 2040, or supports a strategy of a departmental goal.

To review the initiative, visit the website [HERE](#).

Values and Focus Areas

Check boxes that reflect each applicable value or focus area and explain how they will be advanced.

Core Values*

Select all that apply.

- Vibrant, Livable Communities
- Supportive People Resources
- High Quality Environment and Access
- Diverse Economy that Fits
- Community Resilience
- Equity for Everyone
- Health in All Actions
- N/A

Explain Core Values Selections*

Public Safety.

Focus Areas and Vision*

Select all that apply.

- Community Safety
- Emergency Preparedness
- Outdoor Recreation
- Prosperous Economy
- Environment and Natural Resources
- Mobility and Transportation
- Housing and Growth
- Arts, Entertainment, Culture, and History
- Food and Agriculture
- Lifelong Learning and Education
- N/A

Explain Focus Areas and Vision Selection*

Maintaining beds at the Linn-Benton Juvenile Detention Center for the placement of Benton County juveniles engaging in delinquent activity provides community safety through an immediate intervention to behaviors contrary to community safety.

Recommendations and Motions

Item Recommendations and Motions

Staff Recommendations* Staff recommends approval of the IGA.

Meeting Motions* I move to ...
... approve and sign the internal governmental agreement between Linn County and Benton County that provides for placement of Benton County juveniles in the Linn-Benton Juvenile Detention Center for the period July 1, 2023 through June 30, 2024.

Attachments, Comments, and Submission

Item Comments and Attachments

Attachments

Upload any attachments to be included in the agenda, preferably as PDF files. If more than one attachment / exhibit, please indicate "1", "2", "3" or "A", "B", "C" on the documents.

Benton Co. Bed 2023-224 IGA FY23-24.pdf 1.41MB

Comments (optional) If you have any questions, please call ext. 6064.

If you have any questions, please call ext.6800

Department Approver

MATT WETHERELL

<p>1. Department Approval</p> <hr/> <p>Comments</p> <p>Signature <i>MATT WETHEPELL</i></p>	<p>5. BOC Final Approval</p> <hr/> <p>Comments</p> <p>Signature <i>Amanda Matepeace</i></p>
<p>2. Counsel Approval</p> <hr/> <p>Comments</p> <p>Signature <i>Vance H. Choney</i></p>	
<p>3. Finance Approval</p> <hr/> <p>Comments</p> <p>Signature <i>Rick Crager</i></p>	
<p>4. County Administrator Approval</p> <hr/> <p>Comments</p> <p>Signature <i>Hanna Kwiatkowski</i></p>	

INTERGOVERNMENTAL AGREEMENT
(Pursuant to Resolution & Order No. 2023-224)

THIS AGREEMENT is made and entered into by and between **LINN COUNTY**, acting by and through its Linn-Benton Juvenile Detention Facility, a department of Linn County Government (hereinafter referred to as “Linn”), a political subdivision of the State of Oregon, of P.O. Box 100, Albany, Oregon, 97321, and **BENTON COUNTY**, acting by and through its Benton County Juvenile Department, a department of Benton County Government (hereinafter referred to as “Benton”), a political subdivision of the State of Oregon.

BRIEF PROGRAM ABSTRACT: Placement of Benton County juveniles in the Linn-Benton Juvenile Detention Center.

AMOUNT NOT TO EXCEED: \$445,655

WHEREAS, Benton County (Benton) requires the work and services described herein, and Linn agrees to perform all the work and services described herein, now, therefore, IT IS AGREED:

1. **Term of Intergovernmental Agreement.** This Agreement shall be effective and services required hereunder shall commence on July 1, 2023 and shall terminate on June 30, 2024, unless otherwise terminated or extended as provided herein.
2. **Consideration.** Benton shall pay Linn \$445,655 in four (4) equal payments of \$111,414 each within thirty (30) days of billing. Payments shall be made in September and December 2023, and March and May 2024. An additional rate of \$305.25 per detention bed per day shall apply as outlined in Section 4(a)(viii). Payment shall be made after submission by Linn of a satisfactory invoice to Benton demonstrating work performed by Linn to the satisfaction of Benton during the prior quarter.
3. **Definitions.**
 - a. “Benton juvenile” means a person who, as adjudicated as a juvenile and/or alleged to have committed a crime, under the age of 18 years of age, and for the purpose of this agreement, persons placed at the request of authorized personnel from Benton.
 - b. “Center” means the Linn-Benton Juvenile Detention Center.
 - c. “Center Capacity” means twenty (20) juveniles placed in the Center at any given time.
 - d. “Detention Day” means a period of at least ‘5 hours in a day’ beginning the day the Benton juvenile is admitted to the Center.
4. **Scope of Services.** In consideration of the mutual promises contained herein, the parties agree as follows:
 - a. **Linn Obligations.** Linn agrees to perform the services regarding the placement of Benton juvenile(s) in accordance with the following terms and conditions;

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b. Bed Space; Admissions; Conditions.

- i. Any Benton juvenile shall be admitted:
 - (1) Upon placement by an authorized member of Benton or designee who meets the criteria as set forth in ORS 419C.145; or
 - (2) Upon order of any court of competent jurisdiction to require detention of such Benton juvenile.
- ii. Subject to Section 2 (a)(vii), Linn shall reserve for the exclusive use of Benton, on a continuous 24-hour-per-day-basis, at least four (4) bed spaces within the Center for Benton juveniles.
- iii. In the event there is a demand for bed space by Linn, Linn may require Benton to vacate any bed in excess of four (4) beds following a five-hour (5) notice.
- iv. In the event there is a demand for bed space by Benton, Benton may require Linn to vacate any bed in excess of sixteen (16) beds following a five-hour (5) notice.
- v. Linn shall have discretion to refuse to accept any Benton juvenile where it reasonably believes such placement does not comply with:
 - (1) Lawful requirements;
 - (2) Center regulations;
 - (3) When Benton's population exceeds four (4) beds; or
 - (4) When it appears that the physical condition of the Benton juvenile requires immediate medical attention.
- vi. In all situations of refusal, Linn shall immediately contact Benton by phone regarding basis for refusal.
- vii. Linn shall make every effort to serve Benton above the four beds when excessive bed space exists.
- viii. At the end of the 2023-2024 fiscal year, actual detention days used by Benton will be calculated as follows:
 - (1) If Benton's use exceeds 1,460 detention days, Linn shall bill Benton at the rate of \$305.25 per bed per day.
 - (2) If Linn uses more than 5,840 detention days, Benton may request reimbursement either in the form of a check or in the form of a credit toward the 2024-2025 intergovernmental agreement based on the 2023-2024 daily rate.

c. Supervision Services:

- i. Benton juveniles shall receive the quality, level and manner of care and supervision by Linn as furnished to detained juveniles from within Linn County.
- ii. Linn shall assign a detention staff person to each Benton juvenile as a liaison to track progress of youths toward disposition of the Benton juvenile, to implement such arrangements as may be required to facilitate expeditious release, and to coordinate planning for disposition.
- iii. No Linn staff person shall be required to provide those counseling services customarily furnished to Benton juveniles preparatory to any adjudicative or dispositional process.
- iv. The determination that emergency services need to be called or emergency action needs to be taken is the sole discretion of Linn. Linn shall provide Benton with immediate notice as soon as reasonably practicable after emergency services or action has been administered, and Benton shall be directly responsible for any expenses connected herewith.

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- d. **Release Services:**
 - i. Linn shall release Benton juveniles only upon notification by persons authorized by Benton as pursuant to court order, and only to such person, persons, or agency as such notification or order may direct; provided, however, that Linn, upon written notice to Benton County Juvenile Department, may act to require release of any Benton juvenile it reasonably believes has been detained in excess of any statutory period prescribed for such temporary custody.
 - ii. No provision contained in this Agreement is intended to relieve Benton from the duty to monitor the period that a Benton juvenile is detained in Center under this Agreement, and it shall be the responsibility of Benton to defend and hold Linn harmless from any claim of detention in excess of lawful limits brought by or on behalf of any Benton juvenile.
5. **Benton Obligations.** Benton agrees to perform in accordance with the following terms and conditions:
- a. Benton shall comply with ORS 419A.059.
 - b. Benton shall provide Linn current information as to the identities of persons authorized to place Benton juveniles as provided herein.
 - c. Benton shall provide transportation for all Benton juveniles to and from the Center at no expense to Linn.
 - d. Benton shall provide any required written evidence of authorization or other reports necessary to detain or release any Benton juvenile.
 - e. Benton shall be directly responsible for all expenses reasonably incurred by Linn providing emergency medical, dental or psychological services, including transportation therefore, on behalf of any Benton juvenile.
 - f. Benton shall upon prior notification by Linn, Benton shall be directly responsible for any expenses reasonably incurred in the care and supervision of a Benton juvenile which would exceed the level of care and supervision customarily furnished to detained Benton juveniles, including but not limited to, prescription medication, specially tailored clothing or custom footwear, prosthesis, remedial tutoring, eyeglasses, dentures, hearing aids, and similar devices.
 - g. Benton shall provide all pre- and post- adjudicative counseling services for Benton juveniles placed with Linn for detention and such notification as may be required to any Benton juveniles' parents or legal guardians prior to placement with Linn.
 - h. Benton shall furnish immediately to Linn, in writing, judicial orders of placement, social history, visitation restrictions, and specialized programming which would affect detention care and supervision of a Benton juvenile.
 - i. Benton shall upon request by Linn, Benton shall reduce the population of Benton juveniles in excess of four (4) beds, if Linn capacity is exceeded.
 - j. Benton shall participate in a yearly administrative planning and review of the Center for the purpose of maintaining sound practice and procedure by March 30, 2023.
6. **Declaration of the nature of the contractual relationship.** Benton and Linn are independent contractors and not employees of or agents of each other. Neither party shall be responsible for any claims, demands or causes of action of any kind or character arising in favor of any person, on account of personal injuries, or death, or damage to property occurring, growing out of, incident to, or resulting directly or indirectly from the operations or activities of the other party.
7. **Representations and Warranties.**
- a. **Linn Representations and Warranties.** Linn represents and warrants to Benton that:
 - i. Linn is a unit of local government duly organized and validly existing under the laws and jurisdiction of the State of Oregon. Linn has the power and authority to enter into and perform this Agreement pursuant to ORS 190.003 to 190.130;

#503554

- ii. The making and performance by Linn of this Agreement: (a) has been duly authorized by all necessary action of Linn; (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any Linn ordinance or other organizational document; and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Linn is party or by which Linn may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Linn of this Agreement, other than those that have already been obtained;
- iii. This Agreement has been duly executed and delivered by Linn and constitutes a legal, valid and binding obligation of Linn enforceable in accordance with its terms;
- iv. Linn has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Linn will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade, or profession; and
- v. Linn shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

b. Benton Representations and Warranties. Benton represents and warrants to Linn that:

- i. Benton is a unit of local government duly organized and validly existing under the laws and jurisdiction of the State of Oregon. Benton has the power and authority to enter into and perform this Agreement pursuant to ORS 190.003 to 190.130;
- ii. The making and performance by Benton of this Agreement: (a) has been duly authorized by all necessary action of Benton; (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency; and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Benton is party or by which Benton may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Benton of this Agreement, other than those that have already been obtained; and
- iii. This Agreement has been duly executed and delivered by Benton and constitutes a legal, valid and binding obligation of Benton enforceable in accordance with its terms.

8. Amendments. This Agreement may be amended to the extent permitted by applicable statutes, administrative rules, ordinances, and Linn County Code. No amendment shall bind either party unless in writing and signed by both parties.

9. Insurance.

- a. **Workers Compensation.** To the extent applicable, each party represents and warrants that it maintains and will maintain in full force and effect coverage sufficient to meet the requirements of Oregon workers' compensation law.
- b. **General Liability.** To the extent applicable, each party represents and warrants that it maintains and will maintain in full force and effect liability insurance covering activities and operations described in this Agreement for the duration of the Agreement.
- c. **Professional Liability.** To the extent applicable, each party shall obtain and at all times keep in effect professional liability insurance as required by law.

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- 10. Indemnification.** To the fullest extent permitted by law, and in accordance with Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, each party shall indemnify, defend, save, and hold harmless the other party and its officers, employees and agents from and against all claims, suits, actions, liabilities, damages, losses, or expenses, arising out of the acts or omissions of the party, its officers, agents, or employees performing under this Agreement.
- 11. Compliance with Laws.** Each party agrees to comply with all federal, state, and local laws, codes, regulations, and ordinances applicable to the provision of services under this Agreement, including, without limitation, the provisions of ORS 279B.220 through 279B.235 and the provisions of: (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 (Pub L No 101-336), ORS 659.425, and all amendments of and regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.
- 12. Termination.**
- a. For Convenience.** Either party may terminate this Agreement without specifying any reason for termination by giving written notice of intent to terminate, in writing, mailed at least thirty (30) days before the intended termination date to the party at the party's address given above. Such termination shall be without liability or penalty. No such termination shall prejudice any obligations or liabilities of either party already accrued prior to the effective date of termination.
 - b. For Cause.** It is further agreed that either party may immediately terminate this Agreement without liability or penalty for any of the following causes:
 - i.** A party breaches any of the provisions of this Agreement and fails to remedy said breach within thirty (30) days of its receipt of written notice of the breach;
 - ii.** A party lacks lawful funding, appropriations, limitations, or other expenditure authority at levels sufficient to allow either party to perform in accordance with the provisions of this Agreement; or
 - iii.** Federal, state, or local laws, regulations, or guidelines are modified or interpreted in such a way that the services under this Agreement are thereafter prohibited.
 - c. Force Majeure.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God, and/or war, which is beyond the party's reasonable control. The affected party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Agreement. Either party may terminate this Agreement upon written notice after determining such delay or default will reasonably prevent successful performance of this Agreement.
- 13. Waiver.** The failure of either party to enforce any provision of this agreement shall not constitute a waiver by that party of that or any other provision of this agreement, or the waiver by that party of the ability to enforce that or any other provision in the event of any subsequent breach.
- 14. Records Maintenance; Access.** Both parties shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, both parties shall maintain any other records pertinent to this Agreement in such a manner as to clearly document both parties' performance hereunder. Parties acknowledge and agrees that Linn, the Oregon Secretary of State's Office, the Federal Government and their duly authorized representatives shall have access to such fiscal records and all other documents that are pertinent to this Agreement for the purpose of performing audits and examinations and making copies, transcripts and excerpts. All such fiscal records and documents shall be retained by parties for a minimum of six (6) years (except as required longer by law) following final payment and termination of this Agreement, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.

15. **Assignment; Delegation; Successors.** Neither party shall assign, delegate, nor transfer any of its rights or obligations under this Agreement without the other party's prior written consent. A party's written consent does not relieve the other party of any obligations under this Agreement, and any assignee, transferee, or delegate is considered the agent of that party. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to the Agreement and their respective successors and assigns.
16. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court or tribunal of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision, and the obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
17. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. No waiver, consent, modification or change of terms or provisions of this Agreement 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 Agreement.
18. **Governing Law, Jurisdiction, Venue, & Attorney Fees.** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflict of laws rules or doctrines. Any claim, action, suit, or proceeding (collectively, "the claim") between Linn (and/or any other agency or department of Linn County) and Benton that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Linn County for the State of Oregon. Provided, however, if the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Each party hereby consents to the in personam jurisdiction of said courts. Each party shall at all times be responsible for the party's attorney fees, costs, and disbursements in regards to the claim, including any appeals.
19. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid, addressed to the parties at the addresses first set forth below. Any notice or other communication shall be deemed to be given at the expiration of forty-eight (48) hours after the deposit in the United States mail. The addresses to which notices or other communications shall be mailed may be changed from time to time by giving written notice to the other party as provided in this section.

a. Linn Contact Information

Torri Lynn, Director
Linn County Juvenile Department
P.O. Box 100
Albany, OR 97321
(541) 967-3853
tlynn@co.linn.or.us

b. Benton Contact Information

Matt Wetherell, Director
Benton County Juvenile Department
4077 SW Research Way
Corvallis, OR 97333
(541) 766-6064

#503554

- 20. **Counterparts.** This Agreement and any subsequent amendments may be executed in any number of counterparts (including by facsimile, PDF, or other electronic transmission), each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one agreement binding on all parties.
- 21. **Survival.** All rights and obligations shall cease upon termination of this agreement, except for those rights and obligations that by their nature or express terms survive termination of this agreement. Termination shall not prejudice any rights or obligations accrued to the parties prior to termination.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by the duly authorized persons whose signature appear below. Each party, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Each person signing this Agreement represents and warrants to have the authority to execute this agreement

BENTON COUNTY BOARD OF COMMISSIONERS

LINN COUNTY BOARD OF COMMISSIONERS

ABSENT

Pat Malone, Chairman

Roger Nyquist, Chairman

Nancy Wyse, Commissioner



William C. Tucker, Vice Chair

Xan Augerot, Commissioner



Sherrie Sprenger, Commissioner

Date

4-27-2023

Date

APPROVED AS TO CONTENT:

Matt Wetherell, Director
Benton County Juvenile Department

APPROVED AS TO CONTENT:

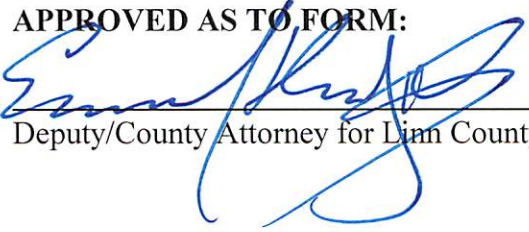


Torri Lynn, Director
Linn County Juvenile Department

APPROVED AS TO FORM:

Vance M. Croney
Benton County Counsel

APPROVED AS TO FORM:



Deputy/County Attorney for Linn County

#503554



LINN COUNTY JUVENILE DEPARTMENT

104 4th SW, Room 200 / PO Box 100

Albany OR 97321

Phone: 541-967-3853 Fax: 541-967-4268



DATE: April 14, 2023
TO: Matt Wetherell, Director, Benton County Juvenile Department
FROM: Tracy Rieker, Officer Manager, Linn County Juvenile Department
RE: BENTON COUNTY-LBDJC IGA FY23-24 RATE SHEET

Mr. Wetherell,

Below you will find the operating costs for the Linn-Benton Juvenile Detention Center as proposed for fiscal year 2023-2024, as well as the proposed cost to Benton County for (4) beds at the Linn-Benton Juvenile Detention Center;

Changes to the calculation in bed rate:

- * Maintain 10% percent of Director's salary.
- * Maintain 10% of the Office Manager's salary.
- * Maintain elimination of the long-standing 1.5% Administrative (Indirect) cost from the IGA entirely.
- * Linn Co. Juvenile is under-spending our Detention Budget for the current 22-23 fiscal year by an estimated \$83,000; so Linn is giving Benton a 20% credit (4 of 20 total beds) on these unspent funds of \$16,600.00.
- * As per the contract, Benton Co. will receive a meal credit in the amount of \$1,145.00 for FY23-24.
- * Linn Co. Juvenile received approximately \$51,750.00 in detention bed revenue last calendar year from Lincoln County. Linn is giving Benton a credit on this revenue of 20% (4 of 20 beds) totaling \$10,350.00.

2023-2024 Total Linn-Benton Juvenile Detention Operating Budget	\$ 2,343,389
+10% of LCJD Director's Salary/10% of Office Manager Salary	\$ 20,784
	\$ 2,364,173
Meal credit	- \$1,145
Lincoln Co. Bed Revenue	- \$51,750
Unspent FY22-23 Detention Budget	- \$83,000
	\$ 2,228,278
Adjusted Total Detention Cost for Benton Co. FY23-24	\$ 2,228,278
Benton County Costs for 2023-2024 Fiscal Year (20% of total cost)	\$ 445,655
<i>(represents 4 beds per day for 365 days or 1,460 days of care)</i>	
Quarterly Breakdown	\$ 111,414
Daily Bed Cost	\$ 305.25

FY22-23 Benton Contract totaled \$420,968; with credits, total increase to budget for FY23-24 is only \$24,687.

If there are any questions regarding these figures, please feel free to contact me.

Kind Regards,
 Tracy Rieker
 Office Manager
 Linn County Juvenile Department

cc: Torri Lynn
 cc: Kevin Husk
 cc: Debbie Hernandez
 cc: Darrin Lane

#503554

INTERGOVERNMENTAL AGREEMENT
(Pursuant to Resolution & Order No. 2023-224)

THIS AGREEMENT is made and entered into by and between **LINN COUNTY**, acting by and through its Linn-Benton Juvenile Detention Facility, a department of Linn County Government (hereinafter referred to as “Linn”), a political subdivision of the State of Oregon, of P.O. Box 100, Albany, Oregon, 97321, and **BENTON COUNTY**, acting by and through its Benton County Juvenile Department, a department of Benton County Government (hereinafter referred to as “Benton”), a political subdivision of the State of Oregon.

BRIEF PROGRAM ABSTRACT: Placement of Benton County juveniles in the Linn-Benton Juvenile Detention Center.

AMOUNT NOT TO EXCEED: \$445,655

WHEREAS, Benton County (Benton) requires the work and services described herein, and Linn agrees to perform all the work and services described herein, now, therefore, IT IS AGREED:

1. **Term of Intergovernmental Agreement.** This Agreement shall be effective and services required hereunder shall commence on July 1, 2023 and shall terminate on June 30, 2024, unless otherwise terminated or extended as provided herein.
2. **Consideration.** Benton shall pay Linn \$445,655 in four (4) equal payments of \$111,414 each within thirty (30) days of billing. Payments shall be made in September and December 2023, and March and May 2024. An additional rate of \$305.25 per detention bed per day shall apply as outlined in Section 4(a)(viii). Payment shall be made after submission by Linn of a satisfactory invoice to Benton demonstrating work performed by Linn to the satisfaction of Benton during the prior quarter.
3. **Definitions.**
 - a. “Benton juvenile” means a person who, as adjudicated as a juvenile and/or alleged to have committed a crime, under the age of 18 years of age, and for the purpose of this agreement, persons placed at the request of authorized personnel from Benton.
 - b. “Center” means the Linn-Benton Juvenile Detention Center.
 - c. “Center Capacity” means twenty (20) juveniles placed in the Center at any given time.
 - d. “Detention Day” means a period of at least ‘5 hours in a day’ beginning the day the Benton juvenile is admitted to the Center.
4. **Scope of Services.** In consideration of the mutual promises contained herein, the parties agree as follows:
 - a. **Linn Obligations.** Linn agrees to perform the services regarding the placement of Benton juvenile(s) in accordance with the following terms and conditions;

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b. Bed Space; Admissions; Conditions.

- i. Any Benton juvenile shall be admitted:
 - (1) Upon placement by an authorized member of Benton or designee who meets the criteria as set forth in ORS 419C.145; or
 - (2) Upon order of any court of competent jurisdiction to require detention of such Benton juvenile.
- ii. Subject to Section 2 (a)(vii), Linn shall reserve for the exclusive use of Benton, on a continuous 24-hour-per-day-basis, at least four (4) bed spaces within the Center for Benton juveniles.
- iii. In the event there is a demand for bed space by Linn, Linn may require Benton to vacate any bed in excess of four (4) beds following a five-hour (5) notice.
- iv. In the event there is a demand for bed space by Benton, Benton may require Linn to vacate any bed in excess of sixteen (16) beds following a five-hour (5) notice.
- v. Linn shall have discretion to refuse to accept any Benton juvenile where it reasonably believes such placement does not comply with:
 - (1) Lawful requirements;
 - (2) Center regulations;
 - (3) When Benton's population exceeds four (4) beds; or
 - (4) When it appears that the physical condition of the Benton juvenile requires immediate medical attention.
- vi. In all situations of refusal, Linn shall immediately contact Benton by phone regarding basis for refusal.
- vii. Linn shall make every effort to serve Benton above the four beds when excessive bed space exists.
- viii. At the end of the 2023-2024 fiscal year, actual detention days used by Benton will be calculated as follows:
 - (1) If Benton's use exceeds 1,460 detention days, Linn shall bill Benton at the rate of \$305.25 per bed per day.
 - (2) If Linn uses more than 5,840 detention days, Benton may request reimbursement either in the form of a check or in the form of a credit toward the 2024-2025 intergovernmental agreement based on the 2023-2024 daily rate.

c. Supervision Services:

- i. Benton juveniles shall receive the quality, level and manner of care and supervision by Linn as furnished to detained juveniles from within Linn County.
- ii. Linn shall assign a detention staff person to each Benton juvenile as a liaison to track progress of youths toward disposition of the Benton juvenile, to implement such arrangements as may be required to facilitate expeditious release, and to coordinate planning for disposition.
- iii. No Linn staff person shall be required to provide those counseling services customarily furnished to Benton juveniles preparatory to any adjudicative or dispositional process.
- iv. The determination that emergency services need to be called or emergency action needs to be taken is the sole discretion of Linn. Linn shall provide Benton with immediate notice as soon as reasonably practicable after emergency services or action has been administered, and Benton shall be directly responsible for any expenses connected herewith.

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- d. **Release Services:**
 - i. Linn shall release Benton juveniles only upon notification by persons authorized by Benton as pursuant to court order, and only to such person, persons, or agency as such notification or order may direct; provided, however, that Linn, upon written notice to Benton County Juvenile Department, may act to require release of any Benton juvenile it reasonably believes has been detained in excess of any statutory period prescribed for such temporary custody.
 - ii. No provision contained in this Agreement is intended to relieve Benton from the duty to monitor the period that a Benton juvenile is detained in Center under this Agreement, and it shall be the responsibility of Benton to defend and hold Linn harmless from any claim of detention in excess of lawful limits brought by or on behalf of any Benton juvenile.
5. **Benton Obligations.** Benton agrees to perform in accordance with the following terms and conditions:
- a. Benton shall comply with ORS 419A.059.
 - b. Benton shall provide Linn current information as to the identities of persons authorized to place Benton juveniles as provided herein.
 - c. Benton shall provide transportation for all Benton juveniles to and from the Center at no expense to Linn.
 - d. Benton shall provide any required written evidence of authorization or other reports necessary to detain or release any Benton juvenile.
 - e. Benton shall be directly responsible for all expenses reasonably incurred by Linn providing emergency medical, dental or psychological services, including transportation therefore, on behalf of any Benton juvenile.
 - f. Benton shall upon prior notification by Linn, Benton shall be directly responsible for any expenses reasonably incurred in the care and supervision of a Benton juvenile which would exceed the level of care and supervision customarily furnished to detained Benton juveniles, including but not limited to, prescription medication, specially tailored clothing or custom footwear, prosthesis, remedial tutoring, eyeglasses, dentures, hearing aids, and similar devices.
 - g. Benton shall provide all pre- and post- adjudicative counseling services for Benton juveniles placed with Linn for detention and such notification as may be required to any Benton juveniles' parents or legal guardians prior to placement with Linn.
 - h. Benton shall furnish immediately to Linn, in writing, judicial orders of placement, social history, visitation restrictions, and specialized programming which would affect detention care and supervision of a Benton juvenile.
 - i. Benton shall upon request by Linn, Benton shall reduce the population of Benton juveniles in excess of four (4) beds, if Linn capacity is exceeded.
 - j. Benton shall participate in a yearly administrative planning and review of the Center for the purpose of maintaining sound practice and procedure by March 30, 2023.
6. **Declaration of the nature of the contractual relationship.** Benton and Linn are independent contractors and not employees of or agents of each other. Neither party shall be responsible for any claims, demands or causes of action of any kind or character arising in favor of any person, on account of personal injuries, or death, or damage to property occurring, growing out of, incident to, or resulting directly or indirectly from the operations or activities of the other party.
7. **Representations and Warranties.**
- a. **Linn Representations and Warranties.** Linn represents and warrants to Benton that:
 - i. Linn is a unit of local government duly organized and validly existing under the laws and jurisdiction of the State of Oregon. Linn has the power and authority to enter into and perform this Agreement pursuant to ORS 190.003 to 190.130;

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- ii. The making and performance by Linn of this Agreement: (a) has been duly authorized by all necessary action of Linn; (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any Linn ordinance or other organizational document; and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Linn is party or by which Linn may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Linn of this Agreement, other than those that have already been obtained;
 - iii. This Agreement has been duly executed and delivered by Linn and constitutes a legal, valid and binding obligation of Linn enforceable in accordance with its terms;
 - iv. Linn has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Linn will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade, or profession; and
 - v. Linn shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.
- b. **Benton Representations and Warranties.** Benton represents and warrants to Linn that:
- i. Benton is a unit of local government duly organized and validly existing under the laws and jurisdiction of the State of Oregon. Benton has the power and authority to enter into and perform this Agreement pursuant to ORS 190.003 to 190.130;
 - ii. The making and performance by Benton of this Agreement: (a) has been duly authorized by all necessary action of Benton; (b) does not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency; and (c) does not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Benton is party or by which Benton may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Benton of this Agreement, other than those that have already been obtained; and
 - iii. This Agreement has been duly executed and delivered by Benton and constitutes a legal, valid and binding obligation of Benton enforceable in accordance with its terms.
8. **Amendments.** This Agreement may be amended to the extent permitted by applicable statutes, administrative rules, ordinances, and Linn County Code. No amendment shall bind either party unless in writing and signed by both parties.
9. **Insurance.**
- a. **Workers Compensation.** To the extent applicable, each party represents and warrants that it maintains and will maintain in full force and effect coverage sufficient to meet the requirements of Oregon workers' compensation law.
 - b. **General Liability.** To the extent applicable, each party represents and warrants that it maintains and will maintain in full force and effect liability insurance covering activities and operations described in this Agreement for the duration of the Agreement.
 - c. **Professional Liability.** To the extent applicable, each party shall obtain and at all times keep in effect professional liability insurance as required by law.

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- 10. Indemnification.** To the fullest extent permitted by law, and in accordance with Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, each party shall indemnify, defend, save, and hold harmless the other party and its officers, employees and agents from and against all claims, suits, actions, liabilities, damages, losses, or expenses, arising out of the acts or omissions of the party, its officers, agents, or employees performing under this Agreement.
- 11. Compliance with Laws.** Each party agrees to comply with all federal, state, and local laws, codes, regulations, and ordinances applicable to the provision of services under this Agreement, including, without limitation, the provisions of ORS 279B.220 through 279B.235 and the provisions of: (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 (Pub L No 101-336), ORS 659.425, and all amendments of and regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.
- 12. Termination.**
- a. For Convenience.** Either party may terminate this Agreement without specifying any reason for termination by giving written notice of intent to terminate, in writing, mailed at least thirty (30) days before the intended termination date to the party at the party's address given above. Such termination shall be without liability or penalty. No such termination shall prejudice any obligations or liabilities of either party already accrued prior to the effective date of termination.
 - b. For Cause.** It is further agreed that either party may immediately terminate this Agreement without liability or penalty for any of the following causes:
 - i.** A party breaches any of the provisions of this Agreement and fails to remedy said breach within thirty (30) days of its receipt of written notice of the breach;
 - ii.** A party lacks lawful funding, appropriations, limitations, or other expenditure authority at levels sufficient to allow either party to perform in accordance with the provisions of this Agreement; or
 - iii.** Federal, state, or local laws, regulations, or guidelines are modified or interpreted in such a way that the services under this Agreement are thereafter prohibited.
 - c. Force Majeure.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God, and/or war, which is beyond the party's reasonable control. The affected party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Agreement. Either party may terminate this Agreement upon written notice after determining such delay or default will reasonably prevent successful performance of this Agreement.
- 13. Waiver.** The failure of either party to enforce any provision of this agreement shall not constitute a waiver by that party of that or any other provision of this agreement, or the waiver by that party of the ability to enforce that or any other provision in the event of any subsequent breach.
- 14. Records Maintenance; Access.** Both parties shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, both parties shall maintain any other records pertinent to this Agreement in such a manner as to clearly document both parties' performance hereunder. Parties acknowledge and agrees that Linn, the Oregon Secretary of State's Office, the Federal Government and their duly authorized representatives shall have access to such fiscal records and all other documents that are pertinent to this Agreement for the purpose of performing audits and examinations and making copies, transcripts and excerpts. All such fiscal records and documents shall be retained by parties for a minimum of six (6) years (except as required longer by law) following final payment and termination of this Agreement, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.

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15. **Assignment; Delegation; Successors.** Neither party shall assign, delegate, nor transfer any of its rights or obligations under this Agreement without the other party's prior written consent. A party's written consent does not relieve the other party of any obligations under this Agreement, and any assignee, transferee, or delegate is considered the agent of that party. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to the Agreement and their respective successors and assigns.
16. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court or tribunal of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision, and the obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
17. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. No waiver, consent, modification or change of terms or provisions of this Agreement 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 Agreement.
18. **Governing Law, Jurisdiction, Venue, & Attorney Fees.** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflict of laws rules or doctrines. Any claim, action, suit, or proceeding (collectively, "the claim") between Linn (and/or any other agency or department of Linn County) and Benton that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Linn County for the State of Oregon. Provided, however, if the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Each party hereby consents to the in personam jurisdiction of said courts. Each party shall at all times be responsible for the party's attorney fees, costs, and disbursements in regards to the claim, including any appeals.
19. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid, addressed to the parties at the addresses first set forth below. Any notice or other communication shall be deemed to be given at the expiration of forty-eight (48) hours after the deposit in the United States mail. The addresses to which notices or other communications shall be mailed may be changed from time to time by giving written notice to the other party as provided in this section.

a. Linn Contact Information

Torri Lynn, Director
Linn County Juvenile Department
P.O. Box 100
Albany, OR 97321
(541) 967-3853
tlynn@co.linn.or.us

b. Benton Contact Information

Matt Wetherell, Director
Benton County Juvenile Department
4077 SW Research Way
Corvallis, OR 97333
(541) 766-6064

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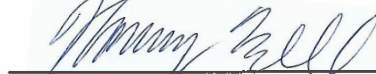
20. **Counterparts.** This Agreement and any subsequent amendments may be executed in any number of counterparts (including by facsimile, PDF, or other electronic transmission), each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one agreement binding on all parties.
21. **Survival.** All rights and obligations shall cease upon termination of this agreement, except for those rights and obligations that by their nature or express terms survive termination of this agreement. Termination shall not prejudice any rights or obligations accrued to the parties prior to termination.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in duplicate by the duly authorized persons whose signature appear below. Each party, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Each person signing this Agreement represents and warrants to have the authority to execute this agreement

BENTON COUNTY BOARD OF COMMISSIONERS



Pat Malone, Chairman



Nancy Wyse, Commissioner



Xan Augerot, Commissioner

Xanthippe
July 18, 2023

Date

LINN COUNTY BOARD OF COMMISSIONERS

ABSENT

Roger Nyquist, Chairman



William C. Tucker, Vice Chair



Sherrie Sprenger, Commissioner

6-27-2023

Date

APPROVED AS TO CONTENT:

Matt Wetherell, Director
Benton County Juvenile Department

APPROVED AS TO FORM:



Vance M. Croney
Benton County Counsel

APPROVED AS TO CONTENT:



Torri Lynn, Director
Linn County Juvenile Department

APPROVED AS TO FORM:



Deputy/County Attorney for Linn County

#503554



LINN COUNTY JUVENILE DEPARTMENT

104 4th SW, Room 200 / PO Box 100

Albany OR 97321

Phone: 541-967-3853 Fax: 541-967-4268



DATE: April 14, 2023
TO: Matt Wetherell, Director, Benton County Juvenile Department
FROM: Tracy Rieker, Officer Manager, Linn County Juvenile Department
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Kind Regards,
Tracy Rieker
Office Manager
Linn County Juvenile Department

cc: Torri Lynn
cc: Kevin Husk
cc: Debbie Hernandez
cc: Darrin Lane

Benton County Commission meeting
4500 SW Research Way, Corvallis, Oregon

July 18, 2023

Chair Malone and Commissioners Wyse and Augerot:

For the record, my name is Mae Yih, retired Oregon state senator, my address is 34465 Yih Lane, NE, Albany. I am here to present research information that might be useful in your decisions regarding the burial of public waste for the Republic Waste Disposal Service in Corvallis.

This information is a result of an essay contest I have sponsored every year since 2009 for Albany high school senior students. The purpose of the contest is to encourage the study of science and critical thinking. Essay topics have ranged from the uses of rare metals, energy independence, nuclear energy, and many others.

In 2022, the essay contest topic was “A Plan for Sufficient Energy for the Nation as We Move Forward Replacing Fossil Fuel with Renewable & Other Sources.” The new technologies recommended by Spencer Madsen, the essay winner, could be useful for your consideration. I encouraged Spencer to present his essay to you, but due to a family vacation conflict he is unable to do so.

I am now presenting the essay to you so that you can consider the new technologies stated in the essay as you make your long-term policy decision. These new technologies include:

Recycling of plastic bags to hydrogen gas,
Storage of solar and wind energy, and
Converting waste to energy, such as being accomplished at a facility in Brooks, Oregon.

In view of all the opposition you have received during the past year in further expansion of land use for burial of public waste, I, as a

concerned citizen, believe it's important to present the essay and research information for your study and consideration. Should you or your staff have questions, I would urge you to contact Spencer, or Dr David Alman, Assistant Director for Materials Engineering & Manufacturing at the National Energy Technology Laboratory in Albany, who served as a judge of the essay contests.

Thank you for your time and attention. I'm happy to try to answer any questions you may have.

I also would appreciate hearing from you when your decisions are made.

A copy of my testimony today is being emailed to Dr.David Alman and Spencer Madsen for their information

Enclosure: Essay 2022 "A Plan for Sufficient Energy for the Nation as We Move Forward Replacing Fossil Fuel with Renewable & other Sources" by Spencer Madsen

Cc: Dr. David Alman, Assistant Director for Materials Engineering & Manufacturing, National Energy Technology Laboratory ,1450 SW Queen Avenue Albany, OR 97321

Spencer Madsen, 606 NW Cascade Falls Ct. Albany, OR 97321

Spencer Madsen
April 4th, 2022

Table of contents

Section headings:	Page numbers:
Make nuclear and solar power our friends	1-3
Six forms of energy in the U.S. and relative percentages in sectors	3-5
Dominant forms of energy in the U.S.	5-6
Green energy in the U.S.	6-7
Energy waste and how to better utilize it	7-8
Strengths and Weaknesses	8-10
Nuclear energy	10-11
Fusion energy	12-13
Conclusion	13

A Plan for Sufficient Energy for the Nation as We Move Forward Toward Replacing Fossil Fuel with Renewable Energy and Other Sources

A change is needed to reduce the amount of CO₂ emissions across the globe. The planet's heat is slowly rising due to the emissions that trap greenhouse gasses inside the atmosphere, so a more sustainable form of energy is needed to achieve a sustainable environment if we wish to continue on as we are. This change will be brought about by a plan that has a large emphasis on nuclear, solar, and fusion energy; these energies will specifically impact the industrial sector and have a ripple effect on the rest of the sectors. A major producer of clean energy is nuclear power. Nuclear power is the use of heating up water with uranium, and this water then turns into steam that rises. As the steam rises, it turns a turbine and generates electricity. This form of energy conversion is safe and does not produce greenhouse gasses. Therefore, it does not contribute to the heating of the planet's average temperature, which has risen by five degrees since 1980. Nuclear power plants do not rely on various climates like many other kinds of energy.

Unfortunately, solar energy is reliant on sunlight, and it cannot save energy or store it in any sort of battery besides lithium¹. This makes it ineffective and requires an alternative if it is not in a constantly sunny location. When there is sunlight, the use of solar farms is extremely effective; however, nuclear power has shown its capability without the need for specific weather conditions. This creates immense opportunities to place these reactors in various parts of the nation because they can thrive and supply electricity anywhere. These reactors use an element that is finite, known as uranium.

These reactors don't necessarily need to take up huge spaces either. The implementation of pebble reactors can benefit cities because they are less expensive as well as efficient. They produce roughly 110 megawatts each which means that 30,000 average homes could be powered by that reactor. Therefore, funds must be allocated from the governments of the world for this necessity. If we place the instigation of these nuclear plants ahead of social reform then we may be able to save humanity from a more desolate path that lies ahead. In 2024, the process of building the plants will begin as well as the solar panels in drier regions. These drier regions will have solar farms that will power the city's industrial, regional, and transportation sectors.

One of the biggest threats to the environment is road transport because it is responsible for 20% of all carbon emissions across the world. The fuel needed for transporting billions of people across the world is largely reliant on a substance known as petroleum. The amount of petroleum alone in the United States is roughly 90%, but this cannot last forever. Even today, we see prices of this precious oil skyrocket as the world swiftly drinks it up by the millions. The problem with running out, whenever it happens, is that if the world is anywhere near as reliant on fossil fuels at that point as we are now, it'll cause an epic economic collapse. As fossil fuels grow more and more scarce, prices will skyrocket. That will cause a furious rush to develop renewable energy technology, but it may be too late at that point to prevent a worldwide economic meltdown². It is best to avoid that, so the implementation of another form of energy for transportation must present itself. This new form of energy is powered by a limitless energy source: the sun.

This is why it is essential for all governments to begin changing their desired goals and fulfilling the need of switching to a different source of energy. With the resources we now have, these forms of clean energy will then begin to power our industrial sector which will have an impact on the rest of the sectors. This will take precedent for car production across the U.S. For example, cars are made in the industrial sector, and they have moved to the transportation sector

¹ "Solar Energy Disadvantages: Cons of Solar Power (Examples)." *Ecavo*, 29 Nov. 2021, <https://ecavo.com/solar-energy-disadvantages/>.

² Better Meets Reality. "Will We Run out of Resources on Earth in the Future, & What Will Happen if We Do?" *Better Meets Reality*, 30 Dec. 2021, <https://bettermeetsreality.com/will-we-run-out-of-resources-on-earth-future-what-will-happen-if-we-do/#:~:text=Resources%20are%20more%20likely%20to%20run%20out%20and,the%20resource%20quicker%20than%20it%20is%20being%20renewed.>

afterward when they assist in transporting goods and people. Electric cars cannot currently exist without putting carbon dioxide into the atmosphere because the factories used are oftentimes gas-powered or powered by another kind of fossil fuel. If we can use nuclear energy and renewable resources to power roughly 20% of the factories by 2034 (primarily those related to the manufacturing of vehicles) then we can begin producing more electric cars that will overturn the number of gas cars. Many car companies are already making progress in this regard. Ford is one company that is in alignment with this goal; they are currently planning on creating 100 percent renewable energy for all manufacturing plants by 2035³.

With this implementation, there will be a standard set by all car companies to transition to purely electric by 2060. There will no longer be gas cars available because factories will be required to switch to electricity by 2060; however, the driving of gas cars will not be banned. The amount of CO₂ emitted from gas cars was roughly three billion metric tons in 2020, and this has been steadily rising over the last few decades. This is a concern because it shows that the number of gas-driven cars is exceedingly greater than that of electric, so this plan will create benefits for the environment while ensuring sustainability for the future.

Six forms of energy in the U.S. and relative percentages in sectors

Currently, The four sectors of the U.S. are transportation, residential, commercial, and industrial. These different sectors are part of what comprises our nation and allow for the fundamental aspects of civilization. Energy is required to power these sectors because energy is required to power just about everything; it even powers the grass we stand on. These forms of energy are various depending on the different regions or states they are in. For example, Oregon is a prime user of hydroelectric power and has paved its way for using renewable resources by having a large sum of 50% of energy being hydroelectric power⁴. This is significant, considering that the amount of renewable resources in many other regions is abysmal. This is significantly different from the state of Texas which holds a total of twenty-three dams⁵. These dams power roughly one percent of the state's overall energy consumption, and this is because of the lack of natural resources in regard to the number of rivers. Texas has an advantage when it comes to solar energy, and much more energy from the sun powers the four sectors than hydropower. In all, renewable resources make up roughly 68% of all energy used in Oregon in 2021⁶. This is drastically different from the rest of the United States which comprises 20% renewable resources

³ "Sustainability - Further with Ford: Ford Motor Company." *Sustainability - Further with Ford | Ford Motor Company*, <https://corporate.ford.com/microsites/fordtrends/sustaining-sustainability.html>.

⁴ "Energy in Oregon." *State of Oregon: Energy in Oregon - Renewable Portfolio Standard*, <https://www.oregon.gov/energy/energy-oregon/Pages/Renewable-Portfolio-Standard.aspx#:~:text=Hydropower%20facilities%20make%20up%20a%20large%20and%20important,encourage%20the%20development%20of%20new%20renewable%20electricity%20resources.>

⁵ Accounts, Texas Comptroller of Public. *Texas' Electricity Resources*, <https://comptroller.texas.gov/economy/fiscal-notes/2020/august/ercot.php>.

⁶ "Energy in Oregon." *State of Oregon: Energy in Oregon - Renewable Portfolio Standard*, <https://www.oregon.gov/energy/energy-oregon/Pages/Renewable-Portfolio-Standard.aspx#:~:text=Hydropower%20facilities%20make%20up%20a%20large%20and%20important,encourage%20the%20development%20of%20new%20renewable%20electricity%20resources.>

and 80% non renewable as of 2021⁷. These energies go into a variety of sectors that were previously mentioned, but the sector most reliant on energy is the industrial sector.

Industrial

The industrial sector is considered one of the three sectors that make up a nation's economy. Its function is that of a producer of manufactured goods and tools for construction. Understandably, we find that there is a need for energy to fuel various necessities for the functioning of this sector. Factories must have the energy to create the products we use, and this energy comes from various sources. Primarily, these sources of energy consist of natural gas, coal, biomass, and a few other renewable resources. These energies encompass about 32% of all energy that is used in the U.S. today. The energy that is used is more than any other sector; however, it is used more efficiently (in the United States) than in many developing countries⁸.

The U.S. industrial sector uses a variety of energy sources including natural gas and petroleum, such as distillate and residual fuel oils and hydrocarbon gas liquids. This fossil fuel has weaved its way into just about everything we do and we have become a country that's fairly reliant on it.

The renewable sources that can be found in the United States industrial system are somewhat scarce in comparison to nonrenewable resources. Some of these renewable resources consist of biomass, solar, and hydropower.

Perhaps the most common kind of worldwide nonrenewable resource is coal. Coal is an extremely common form of energy in the industrial sector, and it has been this way because it was one of the first forms of energy that spurred the industrial revolution. Coal was essential to the use of the steam engine which increased the number of workers as well as the production rate of the products during the 1960s. Today, the number of coal producers has dwindled.

U.S. coal production totaled 534.3 million tons in 2020, the lowest annual total since 1965, data from the U.S. Energy Information Administration shows⁹. This reduction in coal usage has hurt the employees, but the effect on the environment has been substantial. The majority of coal is used in the industrial sector and this is out of 92% that is used for overall electricity creation.

Residential

In the United States, the residential sector uses roughly 21% of our energy. There are various forms of energy used by citizens in the U.S. Some of these energy systems consist of

⁷ "Energy in Oregon." *State of Oregon: Energy in Oregon - Renewable Portfolio Standard*, <https://www.oregon.gov/energy/energy-oregon/Pages/Renewable-Portfolio-Standard.aspx#:~:text=Hydropower%20facilities%20make%20up%20a%20large%20and%20important,encourage%20the%20development%20of%20new%20renewable%20electricity%20resources>.

⁸March 03, 2021 Carolina Herrera. "Mexico Energy Law Goes against North American Climate Action." *NRDC*, 3 Mar. 2021, <https://www.nrdc.org/experts/carolina-herrera/mexico-energy-law-counter-north-america-climate-action>.

⁹ "U.S. Energy Information Administration - EIA - Independent Statistics and Analysis." *Today in Energy - U.S. Energy Information Administration (EIA)*, <https://www.eia.gov/todayinenergy/detail.php?id=4415>.

solar power, natural gas, etc. Interestingly enough, many companies that supply these basic energy necessities have government mandates that create regulations on the amount of money a person can pay for energy. This is because energy has become a necessity for most citizens. This sector allows every homeowner to have an impact on the type of energy that they specifically use.

Electricity is used in almost all homes, and retail electricity purchases accounted for roughly 43% of the total residential sector energy consumption in 2020. Natural gas, which was used in 58% of homes in 2015, accounted for 42% of residential sectors' energy that was directly used by the consumer in 2020¹⁰. Petroleum was the next most-consumed energy source in the residential sector in 2020, accounting for 8% of total residential sector energy end-use. The ever-famous petroleum also is commonly used in the residential sector, and its forms include heating oil, kerosene, and liquefied petroleum gas, which is mostly propane. Lastly, renewable energy sources, geothermal energy, solar energy, and wood fuels, accounted for about 7% of residential sector energy end-use in 2020.

Commercial

Unlike the industrialization sector, the commercial sector consists of nonmanufacturing buildings. These buildings include schools, hospitals, hotels, etc. The commercial sector consumes approximately 19% of the energy in the U.S. currently.

An energy-consuming sector that consists of service-providing facilities and equipment for businesses; Federal, State, and local governments; and other private and public organizations, such as religious, social, or fraternal groups. The commercial sector includes institutional living quarters. It also includes sewage treatment facilities. Common uses of energy associated with this sector include space heating, water heating, air conditioning, lighting, refrigeration, cooking, and running a wide variety of other equipment¹¹. The wide array of uses in this section has a large variety of sources of energy because of the various buildings that constitute being a part of the commercial sector. Therefore, there is not as pressing a need to implement various forms of energy in this sector as it is for industrial and transportation.

The energy used to power all of this equipment is largely geothermal, nuclear energy, and various types of fossil fuels like natural gas. These forms of energy power cities and the hotels that we commonly sleep in. Office buildings were reportedly the largest consumers of energy a decade ago in the commercial sector. This is primarily because of the amount of lighting that is used in commercial buildings.

Geothermal energy is the heat that comes from the sub-surface of the earth. It can be found as far down as the earth's hot molten rock, magma¹². To produce power from geothermal energy, wells are dug a mile deep into underground reservoirs to access the steam and hot water there, which can then be used to drive turbines connected to electricity generators.

¹⁰ "Frequently Asked Questions (Faqs) - U.S. Energy Information Administration (EIA)." *Frequently Asked Questions (FAQs) - U.S. Energy Information Administration (EIA)*, <https://www.eia.gov/tools/faqs/faq.php?id=92&t=4>.

¹¹ "Energy Data Facts." *Residential Program Guide*, <https://rpsc.energy.gov/energy-data-facts>.

¹² "Geothermal Energy's Role in Addressing the Climate Crisis." *Energy.gov*, <https://www.energy.gov/eere/geothermal/geothermal-energys-role-addressing-climate-crisis>.

Implementation of Geothermal energy is a prime solution for educational institutions because of the lower operating costs that contribute to many schools' poor excuse for a budget. In addition, school campuses have parking lots, sports fields, and park areas available that are perfect for ground loops and leveraging the land for another use¹³.

Transportation

The transportation sector accounts for the energy used to transport the populace and products. These forms of transportation include air freight, logistics, airlines, marine, road and rail, and transportation infrastructure. Most forms of transportation take a variety of energy, and much of this energy consists of renewable and non-renewable resources. Some of these sources of energy are used each and every day. Gasoline has seen a rise in price due to its scarcity. Transportation has arguably a more direct impact on the day-to-day lives of all citizens because it is necessary for everyone.

Petroleum has a direct effect on many forms of energy. Its byproducts include products made from crude oil and from natural gas processing, including gasoline, distillate fuels (mostly diesel fuel), jet fuel, residual fuel oil, and propane. Petroleum and its various forms accounted for roughly 90% of the energy used for transportation as of 2020¹⁴. Of that 90%, gasoline contributed to 56% of all energy-related transportation, and gasoline is a residual of petroleum. Its dependence is something that must be fixed, and the first step is switching to electric: an option that we already have available.

Dominant forms of Energy in the U.S.

Natural Gas

It's no secret that Americans heavily rely on natural gas, but few grasp the amount of natural gas that is actually used. This amount is actually roughly 31.8 % of all energy used in the United States. To understand how heavily reliant we have become on this material we must understand how much the average person relies on natural gas. This natural gas is used by roughly one-half of the populace in the U.S. as the main heat source for their homes.

With a huge abundance of natural gas energy, the main users of natural gas are in the southern part of the U.S. This is especially accurate when it comes to powering homes and industries. These parts of the U.S. are subject to natural monopolies. These natural monopolies are governed and regulated by our own government for various reasons. The primary reason includes the right for all people to have things like a warm home and running water. Therefore, these companies are restricted from raising the prices without a concrete reason.

Petroleum

The amount of petroleum is a whopping 28%, and Petroleum and crude oil are considered fossil fuels because they are mixtures of hydrocarbons that formed from the remains of animals and plants that lived millions of years ago in a marine environment before the existence of dinosaurs.

¹³ "Geothermal Energy's Role in Addressing the Climate Crisis." *Energy.gov*, <https://www.energy.gov/eere/geothermal/geothermal-energys-role-addressing-climate-crisis>.

¹⁴ *Fossil Energy Study Guide: Natural Gas*.
https://www.energy.gov/sites/prod/files/2014/02/f8/HS_NatGas_Studyguide_draft2.pdf.

Over millions of years, the remains of these animals and plants were covered by layers of sand, silt, and rock. Heat and pressure from these layers turned the remains into what we now call crude oil or petroleum. The word petroleum means rock oil or oil from the earth for this reason, and petroleum can be found in 32 states all across the United States¹⁵. Specifically, Texas and parts of the south of the United States have found large expanses of crude oil. When it comes to crude oil, the United States is the world's biggest supplier with millions of barrels being mined in just 2019. This form of energy is extremely successful and supplies roughly 8% of the world's GDP¹⁶.

Coal

Coal has been a part of human history for centuries, from stories of Santa to tribes using it as fuel for our fires. Layers of dirt and rock covered the plants over millions of years. The resulting pressure and heat turned the plants into the substance we call coal.

Coal is a combustible black or brownish-black sedimentary rock with a high amount of carbon and hydrocarbons. Coal is classified as a nonrenewable energy source because it takes millions of years to form; therefore, there is a limited amount of coal available at all times. Coal contains the energy stored by plants that lived hundreds of millions of years ago and this energy is heated to create steam that is used to turn a turbine which generates electricity. Coal is still an essential aspect of energy production and has been used in every economic sector that we know of, but our reliance on it has grown smaller after we have learned of its impact on the environment. This reduction was very recent, and in the year 2020, we have seen coal consumption be as low as it was in 1949.

In 2020, coal consumption was about 477 million short tons and the lowest percentage share of total U.S. energy consumption since at least 1949. Coal production in 2020 was 534 tons¹⁷. This production has dropped due to the more competitive costs of wind and solar energy as well as the inexpensiveness of natural gas. It is of utmost importance that a different form of energy takes its place.

Green energy in the U.S.

Green energy, which includes green electricity like renewable resources, is clean energy. This means it is produced with little-to-no environmental impact and does not dispense greenhouse gases into the air that contribute to global warming, the way fossil fuels do. Green energy sources include wind, geothermal, hydro, and solar energy.

Currently, the nation's energy consists of 78% fossil fuels, 8.9% nuclear energy, and 12.5% renewable sources. In 2019, renewables surpassed coal in the amount of energy provided

¹⁵ "U.S. Energy Information Administration - EIA - Independent Statistics and Analysis." *Today in Energy - U.S. Energy Information Administration (EIA)*, <https://www.eia.gov/todayinenergy/detail.php?id=4415>.

¹⁶ *The Environmental Impacts of Coal - Greenpeace*. <https://www.greenpeace.org/static/planet4-aotearoa-stateless/2018/05/enviro-impacts-of-coal.pdf>.

¹⁷ "Clean Energy." *Energy.gov*, <https://www.energy.gov/clean-energy>.

to the U.S. and continued this trend in 2020¹⁸. This monumental growth is a step in the right direction. The growth of wind energy has been rapid, leading to it being one of the fastest-growing renewable resources in recent years, and it even contributes to 4.6% of the total energy used in the U.S.

Another energy that is consistently used in the U.S. is geothermal energy. Geothermal energy comes from the heat in Earth's interior¹⁹. The heat that is released from the earth is used to generate electricity in over twenty-seven countries. Unfortunately, there are limits to Geothermal energy's usefulness because its power can only be drawn from tectonic plates.

The debate about whether or not nuclear energy is renewable is still up in the air. The process of fission splits uranium atoms and uses this power to heat up water into steam. This steam turns a turbine and generates electricity. The definition of nuclear energy is something that can replenish itself indefinitely. There is only a finite amount of uranium so it cannot be considered renewable, but for the purpose of reducing pollution, it is certainly clean energy. For instance, the wind will always blow as long as our planet exists, so there is a clear juxtaposition between renewable and non-renewable energy like nuclear power.

Fortunately, plastic waste has found a purpose, unlike wasteful lights. Plastic waste has been able to convert into a gas through a process known as gasification. In the gasification process, materials aren't combusted. A highly controlled amount of oxygen or steam reacts with the waste and turns it into a gaseous mixture of carbon monoxide hydrogen and other elements. This synthetic gas can then be converted into things like diesel, hydrogen, or ethanol²⁰. This is an expert way for waste in our nation to be used for something beneficial instead of simply releasing methane into the atmosphere.

An alternative to gasification is the combustion of materials. Nonhazardous materials are brought to a facility where it is combusted in a specialized chamber, creating steam that drives a turbine that makes electricity. These emission systems cool, collect and clean combustion gases, and this is all monitored to comply with state standards. Metals like steel and aluminum are then recovered. The remaining materials are then placed in a landfill²¹.

As one can see, green energy comes in many shapes and sizes. Green energy options consist of Biomass, solar energy, wind energy, geothermal, and all resources that do not have a limitation. The percentage of what we consider "green" energy is found to be less than the majority. With all of the different renewable energies combined, there is still much less than nonrenewable energy.

¹⁸ Terry Gibb, Michigan State University Extension. "Greenhouse Gasses: Their Impact on Climate Change." *MSU Extension*, 21 Jan. 2022, https://www.canr.msu.edu/news/greenhouse_gases_their_impact_on_climate_change.

¹⁹ *Geothermal Energy Benefits*, <http://large.stanford.edu/courses/2015/ph240/mikkelsen1/>.

²⁰ Covanta. "Waste-to-Energy." *Covanta*, <https://www.covanta.com/what-we-do/waste-to-energy?hsLang=en>.

²¹ Covanta. "Waste-to-Energy." *Covanta*, <https://www.covanta.com/what-we-do/waste-to-energy?hsLang=en>.

Thankfully, there are many other renewable energies that are not powered by energy that could disrupt the earth's inner heat. Renewable energy sources accounted for about 12.6%²² of total U.S. energy consumption and about 19.8% of electricity generation for the year of 2020.

In Oregon, we see a lot of energy that comes from dams and harnessing energy through the water²³. Oregon has a lot of rivers that are used to harness the strength of water, and this is extremely useful because water is several times denser than air. This means that more energy can come from it because there is more force that is stored and has its kinetic energy stored and held. This energy is held in reservoirs and they are numerous across Oregon numbering more than 1,100. There is a process of using water to push the kinetic energy

Energy Waste and Rejection

The wasted energy in the United States is considered and proven to be in greater quantities than in all other countries. Converting waste-to-energy power plants is a growing solution to the large amount of wasted energy that is not being incorporated thoroughly. There are even studies done to try to shrink the size of the solar panel so they can retain more energy. In speaking to Professor Blunk, his opinion on the development of more efficient forms of energy. He explained that it is essential for the world economy to move onto solar energy and renewables.

Some of the energy waste comes from the loss of energy transference of solar panels. If there is a way to store this energy then it would not be wasted. In fact, there is an insurmountable potential for the future if the ability to control renewable resources is achieved. The Vice President of the United States, Al Gore, even stated: The wind and the sun and the earth itself provide the fuel that is free, in amounts that are effectively limitless²⁴. These forms of energy would be better wasted because it does not come at the expense of the environment and the source does not become finite.

From lights left on to nuclear meltdowns, waste is evident all across America. This is especially true when it comes to the amount of energy that is wasted on lights that are needlessly left on. In the U.S. alone, there is about 3 billion dollars worth of total wasted light. These lights are not being used by any person and are therefore considered useless. There are 15 million tons of CO₂ required to make the outdoor lighting system work. This lighting is used to help people see outside during the night and use our finite resources, like natural gas, that end up serving no purpose in particular.²⁵

Rejection of energy comes from inefficiency in the various sectors. The transportation sector has been ill-performing for the past few decades. There are always more ways to improve the capability of machines to capture energy. Car exhaust could become a better source than

²² "U.S. Energy Information Administration - EIA - Independent Statistics and Analysis." *Today in Energy - U.S. Energy Information Administration (EIA)*, <https://www.eia.gov/todayinenergy/detail.php?id=4415>.

²³ Hennigan, Tom, and Jean Lightner. *The Ecology Book*. Master Books, 2013.

²⁴ Hennigan, Tom, and Jean Lightner. *The Ecology Book*. Master Books, 2013.

²⁵ "Light Pollution Wastes Energy and Money." *International Dark-Sky Association*, 19 July 2016, <https://www.darksky.org/light-pollution/energy-waste/>.

controls energy so not as much exhaust would be evident. Tesla is a good example of an energy-efficient car with batteries powered by electricity. These cars cost less than half as much to operate as gas, and Gas cars lose most of the fuel energy in the engine as a form of heat.

The United States continues to lose energy constantly. In 2011 there was a total loss of roughly 290000 PJ of energy, that was wasted that year according to Forbes magazine²⁶. To put into perspective, this was more energy than was used efficiently during the entirety of that year.

Strengths and Weaknesses

Solar energy

For starters, what is solar energy? To discover what solar energy is, we must first find what it means. The process of solar energy relies on energy from the sun. This energy is turned into electricity with tools and the first solar cell panel was built by investor Charles Fritts in the U.S. There are two types of panels that capture the energy of the sun, and these panels are known as solar PV panels and solar thermal panels²⁷.

These panels are only functional under the ideal setting which consists of constant sunlight. They are also not able to store energy well because they are built to convert and then transmit electricity and there are acres of land required to produce a fairly large sum of energy. One way to store solar energy is to use the **electricity** from solar cells to provide the energy needed for **electrolysis**. Electrolysis is the process of splitting water to hydrogen and oxygen, but it requires energy for conversion. The energy for electrolysis can come from fossil, nuclear, or intermittent renewable sources like solar or wind. The hydrogen from the electrolysis can be stored and used later to produce clean electricity in a hydrogen fuel cell or a hydrogen turbine. When electrolysis is powered by solar (or wind) energy, the renewable energy can be stored for use when the solar cell is not operating (such as at night). Solar and wind energy could also be stored in batteries.

One can expect a typical solar panel in the United States to generate about 2 kWh per day, which saves an average of \$0.36 on electricity costs per day. The conversion comes indirectly as it uses lenses or mirrors to create heat²⁸.

Unfortunately, Solar energy is only beneficial in certain parts of the world. This is because it is very inefficient at storing the energy it creates, so there must be constant sunlight to have a benefit that will not be completely reliant on natural gas. This is also necessary so that the installation of the panels will not be at a loss.

Thankfully, solar energy is a vast and limitless resource that is evidently able to pay for itself because it does not require a corporation to supply the elements like natural gas. This

²⁶]Savitz, Eric. "America: The Worldwide Leader in Wasting Energy." *Forbes*, Forbes Magazine, 22 Feb. 2013, <https://www.forbes.com/sites/ciocentral/2013/02/22/america-the-worldwide-leader-in-wasting-energy/>.

²⁷ "Solar-plus-Storage 101." *Energy.gov*, <https://www.energy.gov/eere/solar/articles/solar-plus-storage-101>.

²⁸ "Solar Energy Disadvantages: Cons of Solar Power (Examples)." *Ecavo*, 29 Nov. 2021, <https://ecavo.com/solar-energy-disadvantages/>.

energy comes from the sun and does not produce any greenhouse gases that could one day be detrimental to the planet in the future. This form of energy could be used to supply the average household with energy and is quick to pay off depending on the environment of the home.

Wind energy

Like solar energy, wind energy is the fastest-growing energy source in the world, with the United States aiming to produce 20 percent of its electricity by wind power by 2030. Wind turbines use the wind to make electricity through kinetic energy. The wind turns the propeller-like blades of a turbine around a rotor, which spins a generator and creates electricity from the kinetic energy that is found in the movement²⁹.

On the con side, wind turbines can be noisy and unappealing (aesthetically), and can sometimes negatively impact the physical environment around them. Similar to solar power, wind power is also reliant on weather and a set of conditions to actually provide benefit through energy. The wind is also not very dense so the amount of energy that it supplies requires a lot of wind, but when building something so high up this wind could affect the environment of the ecosystem because of the way it impacts the flocks. Furthermore, the wind does not blow reliably, so the turbines of wind energy only function at roughly thirty percent capacity.

On the pro side, the wind is a clean, renewable energy source, and is one of the most cost-effective sources of electricity. This energy can also be used for homeowners who want to have energy producers, and this form of energy eventually pays itself off.

Biomass energy

Biomass is the burning of waste materials that is turned into heat and electricity. Most biomass materials consist of plants and trees that store energy from photosynthesis. This energy is released when the substances are burned; they are then reverted back to carbon dioxide and water. Alternatively, when biomass is burned there is heat released which is then used to turn water into steam. This steam then turns into a turbine that builds up kinetic energy and produces electricity³⁰. This electricity is minuscule, but there is very little expense in return for this energy.

The amount of energy produced by fossil fuels far exceeds that of biomass. The biomass we use is also not necessarily a clean source of energy. When Biomass is burned and releases CO₂ there is some air particle pollution released. The method of cultivating fuel by chopping down trees will create environmental damage. The world is already short on its sources of oxygen and this would further the need to create deforestation which can affect the ecosystem dramatically.

Our society has a habit of producing things such as waste, garbage, wood, and manure³¹. These things can cause damage to our planet and destroy habitats when we simply leave them in

²⁹ "Wind Energy Pros and Cons." *EnergySage*, <https://www.energysage.com/about-clean-energy/wind/pros-cons-wind-energy/>.

³⁰ Hennigan, Tom, and Jean Lightner. *The Ecology Book*. Master Books, 2013.

³¹ McFarland, Kevin. "Biomass Advantages and Disadvantages." *SynTech Bioenergy*, SynTech Bioenergy, 11 Apr. 2019, <https://www.syntechbioenergy.com/blog/biomass-advantages-disadvantages>.

landfills, so the solution is to turn these things into energy. Biomass energy does not produce more carbon than is already in the atmosphere. This is considered a net-zero CO₂ emission fuel. CO₂ is released when converting the waste to energy, but there is still CO₂ being absorbed during the photosynthesis process of the conversion. This means that the use of biomass is clean energy because it does not pollute the planet any more than it already has.

Moreover, the amount of landfills in the world has developed into a serious problem for ecosystems. These will supply biomass with material and opportunities for sustainability because there is so much available in our world to use as fuel. This form of energy is exceedingly useful because it costs less than fossil fuels to produce energy. The energy that it produces can be in various forms, and these forms include gas and electricity.

Biomass is found in less developed countries more often because it is much more accessible and less expensive to build biofuel sources than it would be to craft large windmills or solar panels.

Nuclear Energy

Nuclear energy can be planted anywhere as an alternative to fossil fuels and other non-renewable sources of energy. This form of energy does not require a specific landscape and only needs land to create the device. The use of uranium makes it possible to place it in any part of the U.S., and there is clean energy to be found in its use³². The use of smaller nuclear powers can help provide the capability to those in smaller nations as well. These nations would have a chance at something more affordable because there are various forms a nuclear reactor can take. There are a number of ways we can implement nuclear energy in place of nonrenewable energy. One of the more affordable methods is a pebble bed reactor and a small nuclear reactor. The reactor produced heat by passing helium gas through the reactor core consisting of uranium fuelled pebbles³³. A steam generator was used to generate electricity through a conventional steam-electric plant.

The first pebble-bed reactor ever developed was made in Germany. Germany built a small pebble bed reactor but it suffered some early mechanical and political problems that eventually led to its shutdown³⁴. The attraction to this technology is its safety, simplicity in operation, modularity, and economics. The pebble bed reactor uses pebbles known as pyrolytic graphite which are used to extract heat when an inert gas passes through them. This is done until criticality is reached and then steam turns a turbine which generates electricity. The pebble-bed

³² *Is Nuclear Energy Renewable Energy?*, <http://large.stanford.edu/courses/2012/ph241/chowdhury2/>.

³³ "Nuclear Energy - How Energy Works." *Duke Energy*, <https://www.duke-energy.com/Energy-Education/How-Energy-Works/Nuclear-Power#:~:text=Nuclear%20Power,-Close&text=Nuclear%20energy%20originates%20from%20the,turbine%20generator%20to%20generate%20electricity.&text=And%2C%20with%20no%20carbon%20emissions,energy%20resource%20for%20the%20future.>

³⁴ "Doe Explains...nuclear Fusion Reactions." *Energy.gov*, <https://www.energy.gov/science/doe-explainsnuclear-fusion-reactions#:~:text=In%20a%20fusion%20reaction%2C%20two,The%20leftover%20mass%20becomes%20energy.&text=DT%20fusion%20produces%20a%20neutron%20and%20a%20helium%20nucleus.>

reactor is a fairly small reactor that can be placed in almost any city, and it has the capability of running at forty-five percent capacity compared to a regular reactor of thirty-three percent that can be found in large reactors³⁵. This describes a greater efficiency that can be found in the different kinds of reactors.

There are also small modular reactors that are factory-made. These are not as common, but they still have an output of about 1000 megawatts³⁶. The small modular reactors are known as SMRs, and these reactors have the capability of moving from place to place with ease because of their size. This means that this would be extremely beneficial for remote locations because it won't cost a lot to bring a reactor to a desert, and with fewer materials, this can now be mass-produced. With fewer materials comes less time it takes to put such an endeavor together. One company known as NuScale is a pioneer in the field of small modular reactors, and they are actively trying to improve the efficiency and reliability of smaller nuclear reactors. In the past ten years, this company has done research across twenty different universities³⁷. Unfortunately, the cost of electricity is expected to be fairly more expensive than that of the large reactor because the amount of electricity it produces is much smaller. Contrary to this, many studies show that the amount of energy in relation to the cost of constructing the plant is greater for the small reactor than it would be for the large reactor³⁸. Much of this is circumstantial, but there is evidently much benefit to either form of energy.

The nuclear reactor is a temporary fix that could provide a large amount of value for now. The solution provides clean energy with very few nuclear meltdowns, but this is not to say that it is impossible. The waste that is released stains the earth and the construction of these large reactors takes extensive amounts of time. This is certainly not renewable because there is a lack of materials that will fuel any nuclear reactor, but this clean implementation of energy will impact the present day and decades to come. Many other countries have found great success in this regard, and there is a Professor at OSU named David Blunk who shared his opinion on the various kinds of energy. He sees nuclear energy as a stepping stone in the right direction and believes that it could be the most important resource we possess to have an immediate change in the environment.

Fusion Energy

³⁵ Glenna, Drew M. "Thermal Fluids Simulation near Wall of Pebble Bed Reactor." *Thermal Fluids Simulation Near Wall of Pebble Bed Reactor*, 1 May 2020, <https://conservancy.umn.edu/handle/11299/213036>.

³⁶ "Doe Explains...nuclear Fusion Reactions." *Energy.gov*, <https://www.energy.gov/science/doe-explainsnuclear-fusion-reactions#:~:text=In%20a%20fusion%20reaction%2C%20two,The%20leftover%20mass%20becomes%20energy.&text=DT%20fusion%20produces%20a%20neutron%20and%20a%20helium%20nucleus>.

³⁷ "Technology." *Technology | NuScale Power*, <https://www.nuscalepower.com/technology>.

³⁸ "Doe Explains...nuclear Fusion Reactions." *Energy.gov*, <https://www.energy.gov/science/doe-explainsnuclear-fusion-reactions#:~:text=In%20a%20fusion%20reaction%2C%20two,The%20leftover%20mass%20becomes%20energy.&text=DT%20fusion%20produces%20a%20neutron%20and%20a%20helium%20nucleus>.

Fusion energy could either be our saving grace from world collapse or an unfortunate waste of time, money and manpower. The idea of fusion energy has been a concept with which we can potentially gain more energy with something as common as hydrogen. This takes energy from fusion particles and this is somewhat similar to building a source of energy like the sun. The sun produces energy when it condenses the nuclei of the atoms in its center. This is theoretical and believed to be unusable because it would be too expensive. After all, it is estimated to cost roughly ten billion dollars to build one, and building something that is likely to fail is questionable, but this is a very high-risk high-reward scenario. There is not a power source large enough to implement something that runs off of the energy of the atoms it comprises. The sun is able to do this because its density is so massive that energy is created when the different atoms are heated because of the pressure in their cores that forces nuclei to create heavier nuclei.

The goal is to make plasma hot enough to fuse. Plasma is found in stars and on earth in the form of lightning. Inertial confinement and magnetic confinement are two ways that we can make this plasma hot enough so that it can create its own energy.

Furthermore, fusion power could be one of the very few sustainable options to completely replace fossil fuels as the world's primary energy source. Fusion offers the potential for predictable, safe power with no carbon emissions and fuel sources lasting for millions of years³⁹. However, it is notoriously difficult to achieve in a controlled, steady-state fashion. The most promising path is via magnetic confinement in a device called a tokamak. A magnetic confinement fusion power plant requires many different sciences, technology, and engineering challenges to be met simultaneously. Despite these difficulties, there is still progress being made in the fusion sector. There was recently a group known as Avalanche which was once part of the Blue Origin team. This group was working on miniature reactors so that the theory of fusion energy can become a reality⁴⁰. There is progress made in the understanding of ignition for handheld fusion reactors and this step forward is very positive for the future of the planet⁴¹. This understanding will lead to further steps in the process of energy conversion. In fact, it is the first of many important steps to the successful implementation of the first nuclear reactor.

Fusion reactors use hydrogen for fuel, so if we were able to get a fusion reactor up and running then we could use the vast amount of hydrogen we have at our disposal to power our different sectors instead of coal. Large-scale fusion reactors using hydrogen isotopes as fuel are under development in several places in the world. These types of fusion reactors use tritium as fuel for the Tritium plus Deuterium reaction⁴². However, tritium is not a sustainable fuel because

³⁹ "How Fusion Works." *Culham Centre for Fusion Energy*, 16 June 2020, <https://ccfe.ukaea.uk/fusion-energy/how-fusion-works/#:~:text=Home%20%2F%20Fusion%20energy%20%2F%20How%20fusion%20works,where%20hydrogen%20nuclei%20are%20combined%20to%20form%20helium.>

⁴⁰ "Fusion Power You Can Hold in Your Hands." *Avalanche Energy Designs*, <https://www.avalanche.energy/index.html>.

⁴¹ "Fusion Power You Can Hold in Your Hands." *Avalanche Energy Designs*, <https://www.avalanche.energy/index.html>.

⁴² "How Does Nuclear Fusion Work?" *SHINE Technologies*, 4 Mar. 2022, <https://www.shinefusion.com/nuclear-fusion/how-does-nuclear-fusion-work/>.

it likely will require is very unstable and the two more neutrons than usual make it a dangerous material due to its radioactivity the main risks of release to the environment during tritium production, transport, and refueling operations. Deuterium is also used for fusion reactors and it is more common than tritium because it can be found in seawater⁴³. This kind of hydrogen is stable, but this is contrary to tritium which is said to have a known amount of twenty kilograms. This substance is primarily found in nuclear warheads which is why it is not an ideal partner for the fusion reactor⁴⁴. Hydrogen three is another substance that could potentially be beneficial to fusion reactors, but this substance is extremely rare. Fortunately, there is a large quantity of energy that is found on the moon, and developing a way to receive material from the moon could be extremely beneficial if it meant that we could harness the hydrogen three isotope. A large benefit of the fusion reactor is the safety aspect that it presents because, in regards to the failure of a reactor, it would not explode and wreak havoc on the environment. A fusion reactor's plasma would slow and cool once the fusion cycle stops because a fusion chamber heats itself up with magnetic forces that collide with the hydrogen.

Conclusion

The various forms of energy covered are highly versatile; evidently, they all have their faults. It has become clear that the most essential forms of energy are fusion, nuclear and solar. Wind energy is much too ineffective and geothermal ends up hurting the earth by affecting the heat in the tectonic plates. Fusion energy is the golden goose that will one day provide energy for our planet. There are currently research organizations working toward this task, and it is too profitable not to put the wealth behind it. There must be a construction process as soon as possible to discover if we can have a chance at a clean form of energy that can be built anywhere with no repercussions. Furthermore, instead of using uranium for warheads, it would be important for us to use it to power civilizations and rely on nuclear energy in its various forms because it can be built practically anywhere with very few repercussions⁴⁵. Solar energy has a vast energy supply with easy access to sunlight and potentially little change to the ecosystem. These can be implemented into homes and are even expected to power cars simply by covering them in solar panels. Simple innovations make a difference, but to achieve survival there must be a reconstruction of our reliance on fossil fuels.

It has become evident that change in the conduct of our environment is necessary for progression towards further civilization. It would be irresponsible and even bring the early destruction of life on our planet if we allow our corruption to enter the atmosphere and eventually reflect that of the planet Venus. It would be a plausible tragedy to see our planet

⁴³ Kurzgesagt, director. *YouTube*, YouTube, 10 Nov. 2016, <https://www.youtube.com/watch?v=mZsaaturR6E>. Accessed 4 Apr. 2022.

⁴⁴ "Fact Sheet: Developing a Bold Vision for Commercial Fusion Energy." *The White House*, The United States Government, 16 Mar. 2022, <https://www.whitehouse.gov/ostp/news-updates/2022/03/15/fact-sheet-developing-a-bold-vision-for-commercial-fusion-energy/>.

⁴⁵ "How Does Nuclear Fusion Work?" *SHINE Technologies*, 4 Mar. 2022, <https://www.shinefusion.com/nuclear-fusion/how-does-nuclear-fusion-work/>.

become an oven of radiation that results in no more life on earth, and our earth is an oasis of life that can only be kept in its condition if we preserve its resources and atmosphere.

Bibliography/references

Accounts, Texas Comptroller of Public. *Texas' Electricity Resources*,
<https://comptroller.texas.gov/economy/fiscal-notes/2020/august/ercot.php>.

“Clean Energy.” *Energy.gov*, <https://www.energy.gov/clean-energy>.

Covanta. “Waste-to-Energy.” *Covanta*,
<https://www.covanta.com/what-we-do/waste-to-energy?hsLang=en>.

“Doe Explains...nuclear Fusion Reactions.” *Energy.gov*,
<https://www.energy.gov/science/doe-explainsnuclear-fusion-reactions#:~:text=In%20a%20fusion%20reaction%2C%20two,The%20leftover%20mass%20becomes%20energy.&text=DT%20fusion%20produces%20a%20neutron%20and%20a%20helium%20nucleus>.

“Energy Data Facts.” *Residential Program Guide*,
<https://rpsc.energy.gov/energy-data-facts>.

“Energy in Oregon.” *State of Oregon: Energy in Oregon - Renewable Portfolio Standard*, <https://www.oregon.gov/energy/energy-oregon/Pages/Renewable-Portfolio-Standard.aspx#:~:text=Hydropower%20facilities%20make%20up%20a%20large%20and%20important,en courage%20the%20development%20of%20new%20renewable%20electricity%20resource s.>

Fossil Energy Study Guide: Natural Gas.

https://www.energy.gov/sites/prod/files/2014/02/f8/HS_NatGas_Studyguide_draft2.pdf.

“Frequently Asked Questions (Faqs) - U.S. Energy Information Administration (EIA).”

Frequently Asked Questions (FAQs) - U.S. Energy Information Administration (EIA), <https://www.eia.gov/tools/faqs/faq.php?id=92&t=4>.

“Fact Sheet: Developing a Bold Vision for Commercial Fusion Energy.” *The White House*, The United States Government, 16 Mar. 2022,

<https://www.whitehouse.gov/ostp/news-updates/2022/03/15/fact-sheet-developing-a-bold-vision-for-commercial-fusion-energy/>.

Glenna, Drew M. “Thermal Fluids Simulation near Wall of Pebble Bed Reactor.” *Thermal Fluids Simulation Near Wall of Pebble Bed Reactor*, 1 May 2020,

<https://conservancy.umn.edu/handle/11299/213036>.

“How Does Nuclear Fusion Work?” *SHINE Technologies*, 4 Mar. 2022,

<https://www.shinefusion.com/nuclear-fusion/how-does-nuclear-fusion-work/>.

“How Fusion Works.” *Culham Centre for Fusion Energy*, 16 June 2020,

<https://ccfe.ukaea.uk/fusion-energy/how-fusion-works/#:~:text=Home%20%2F%20Fusion%20energy%20%2F%20How%20fusion%20works,where%20hydrogen%20nuclei%20are%20combined%20to%20form%20helium.>

“Fusion Power You Can Hold in Your Hands.” *Avalanche Energy Designs*,

<https://www.avalanche.energy/index.html>.

“Geothermal Energy's Role in Addressing the Climate Crisis.” *Energy.gov*,

<https://www.energy.gov/eere/geothermal/geothermal-energys-role-addressing-climate-crisis>

Hennigan, Tom, and Jean Lightner. *The Ecology Book*. Master Books, 2013.

Is Nuclear Energy Renewable Energy?,

<http://large.stanford.edu/courses/2012/ph241/chowdhury2/>.

Kurzgesagt, director. *YouTube*, YouTube, 10 Nov. 2016,

<https://www.youtube.com/watch?v=mZsaaturR6E>. Accessed 4 Apr. 2022.

“Light Pollution Wastes Energy and Money.” *International Dark-Sky Association*, 19 July 2016, <https://www.darksky.org/light-pollution/energy-waste/>.

March 03, 2021 Carolina Herrera. “Mexico Energy Law Goes against North American Climate Action.” *NRDC*, 3 Mar. 2021, <https://www.nrdc.org/experts/carolina-herrera/mexico-energy-law-counter-north-america-climate-action>.

McFarland, Kevin. “Biomass Advantages and Disadvantages.” *SynTech Bioenergy*, SynTech Bioenergy, 11 Apr. 2019, <https://www.syntechbioenergy.com/blog/biomass-advantages-disadvantages>.

“Nuclear Energy - How Energy Works.” *Duke Energy*, <https://www.duke-energy.com/Energy-Education/How-Energy-Works/Nuclear-Power#:~:text=Nuclear%20Power,-Close&text=Nuclear%20energy%20originates%20from%20the,turbine%20generator%20to%20generate%20electricity.&text=And%2C%20with%20no%20carbon%20emissions,energy%20resource%20for%20the%20future>.

Savitz, Eric. “America: The Worldwide Leader in Wasting Energy.” *Forbes*, Forbes Magazine, 22 Feb. 2013, <https://www.forbes.com/sites/ciocentral/2013/02/22/america-the-worldwide-leader-in-wasting-energy/>.

“Solar Energy Disadvantages: Cons of Solar Power (Examples).” *Ecavo*, 29 Nov. 2021, <https://ecavo.com/solar-energy-disadvantages/>.

“Solar-plus-Storage 101.” *Energy.gov*, <https://www.energy.gov/eere/solar/articles/solar-plus-storage-101>.

The Environmental Impacts of Coal - Greenpeace. <https://www.greenpeace.org/static/planet4-aotearoa-stateless/2018/05/enviro-impacts-of-coal.pdf>.

Unwin, Jack, et al. “Top Ten US States by Wind Energy Capacity.” *Power Technology*, 28 July 2020, <https://www.power-technology.com/analysis/us-wind-energy-by-state/>.

“U.S. Energy Information Administration - EIA - Independent Statistics and Analysis.” *Today in Energy - U.S. Energy Information Administration (EIA)*, <https://www.eia.gov/todayinenergy/detail.php?id=4415>.

“Wind Energy Pros and Cons.” *EnergySage*, <https://www.energysage.com/about-clean-energy/wind/pros-cons-wind-energy/>.

