

**UMATILLA CITY COUNCIL MEETING
AGENDA
COUNCIL CHAMBERS 700 6TH STREET, UMATILLA, OR 97882
OCTOBER 4, 2022
7:00 PM**

1. **MEETING CALLED TO ORDER**

2. **ROLL CALL**

3. **PLEDGE OF ALLEGIANCE**

4. **APPROVAL OF AGENDA**

5. **CITY MANAGER'S REPORT**

5.1 [Project Path Memorandum from Planning Commission](#) *Suggested Action: Chair McLane will present the Memorandum*

5.2 [Umatilla County Regional Trail Plan Update](#) *Suggested Action: Planning Commissioner & City Representative for the Regional Trail Plan Project, Kelly Nobles, will provide updates on the Regional Trail Plan.*

Link to plan:

<https://drive.google.com/file/d/1QE5Ldcdb4XEesGcYBtEeFDHy-Cn3l03P/view?usp=sharing>

5.3 [General Announcements](#) *Suggested Action: n/a*

6. **PUBLIC COMMENT** Public Comment is an opportunity for citizens to express opinions, raise issues, and provide information to the City Council. Comments presented during this segment should be on city-related issues and not on items that are scheduled for a Public Hearing on the same evening's agenda. If you wish to speak, please provide the requested information on the Sign-Up Sheet, being sure to note the topic on which you will speak. When called to the podium, begin by stating your name and address. You will have five minutes to speak, unless otherwise instructed.

7. **CONSENT AGENDA**

8. **PUBLIC HEARING**

8.1 Public Hearing on CDBG Projects *Suggested Action: No Action Needed*

8.2 [Water Tower Street Vacation SV-2-22](#) *Suggested Action: The applicant in this matter, City of Umatilla, seek approval of a street vacation for an abandoned portion of Driver Ave. The Planning Commission held a public hearing and made a recommendation of approval to City Council at their September 27th, 2022 meeting. A sample motion is provided below:*

I move to approve Water Tower Street Vacation SV-2-22 and adopt the staff report as the

Councils findings.

9. **NEW BUSINESS**

- 9.1 **Planning Commission Appointment** *Suggested Action: Mayor Dedrick reviewed four applications for planning commission and recommends appointing Carol Jones to the Planning Commission.*

Suggest motion:

I move to approve Mayor Dedrick's recommendation to appoint Carol Jones to the Planning Commission.

- 9.2 **First reading of ordinance no. 860- AN ORDINANCE AMENDING CHAPTER 11 OF THE CITY OF UMATILLA ZONING ORDINANCE AND TITLE 4 OF THE CODE OF ORDINANCES OF THE CITY OF UMATILLA. THE AMENDMENTS REMOVE RESTRICTIONS FOR POULTRY WITHIN CITY LIMITS AND ESTABLISH A PERMIT SYSTEM FOR THE KEEPING OF POULTRY IN RESIDENTIAL ZONES.**
Suggested Action: The Council approved City of Umatilla Zone Change ZC-2-22 at their September 6, 2022, council meeting. Ordinance 860 will implement City of Umatilla Zone Change ZC-2-22 amending Chapter 11 of the City of Umatilla Zoning Ordinance and Title 4 of the Code of Ordinances of the City of Umatilla. Staff recommends a motion for a first reading by title only of Ordinance No. 860.
- 9.3 **Adoption of ordinance no. 860- AN ORDINANCE AMENDING CHAPTER 11 OF THE CITY OF UMATILLA ZONING ORDINANCE AND TITLE 4 OF THE CODE OF ORDINANCES OF THE CITY OF UMATILLA. THE AMENDMENTS REMOVE RESTRICTIONS FOR POULTRY WITHIN CITY LIMITS AND ESTABLISH A PERMIT SYSTEM FOR THE KEEPING OF POULTRY IN RESIDENTIAL ZONES.**
Suggested Action: The Council approved City of Umatilla Zone Change ZC-2-22 at their September 6, 2022, council meeting. Ordinance 860 will implement City of Umatilla Zone Change ZC-2-22 amending Chapter 11 of the City of Umatilla Zoning Ordinance and Title 4 of the Code of Ordinances of the City of Umatilla. Staff recommends a motion to approve Ordinance No.860
- 9.4 **Resolution No. 07-2023 - A resolution accepting a technical assistance grant in the amount of \$42,640 from the U.S. Department of Transportation (DOT) through the Pipeline and Hazardous Materials Safety Administration (PHMSA)** *Suggested Action: Motion to approve Resolution No. 07-2023*
- 9.5 **Resolution No. 08-2023 - A resolution accepting a grant in the amount of \$1,441,004 from the U.S. Department of Commerce's Economic Development Administration (EDA) for construction of the Umatilla Business Center** *Suggested Action: Motion to approve Resolution No. 08-2023*
- 9.6 **Resolution 09-2023. A Resolution approving the execution of a Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc. (PDX 194).**
Suggested Action: Motion to approve Resolution No 09-2023.

The City of Umatilla and Amazon Data Services (ADS) have a more than decade long relationship and partnership of establishing data centers in the City of Umatilla. Additionally, City Council adopted their 2021-2023 City Council Goals, of which, Objective 2.1 states to "Continue to strongly support and encourage the development of

data centers" and Objective 2.3 states to "Reduce barriers to economic growth." Approving the Long-Term Enterprise Zone Abatement Agreement (LTREZ) meets both of these Council goals and creates significant economic development for our community and region. The payments in lieu of taxes are more significant than past agreements with the creation of the Community Development Contribution. This agreement contains a new provision that Amazon will pay their proportionate share for voter approved qualifying bonds which include those for public utilities, public educational services, fire services, public health services or public safety services. This agreement also provides annual funding earmarked for Public Safety and Education intended to help support some of our other local agency partners.

- 9.7 [Resolution 10-2023. A Resolution approving the execution of a Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc. \(PDX 260\).](#) *Suggested Action: Motion to approve Resolution No 10-2023.*

The City of Umatilla and Amazon Data Services (ADS) have a more than decade long relationship and partnership of establishing data centers in the City of Umatilla. Additionally, City Council adopted their 2021-2023 City Council Goals, of which, Objective 2.1 states to "Continue to strongly support and encourage the development of data centers" and Objective 2.3 states to "Reduce barriers to economic growth." Approving the Long-Term Enterprise Zone Abatement Agreement (LTREZ) meets both of these Council goals and creates significant economic development for our community and region. The payments in lieu of taxes are more significant than past agreements with the creation of the Community Development Contribution. This agreement contains a new provision that Amazon will pay their proportionate share for voter approved qualifying bonds which include those for public utilities, public educational services, fire services, public health services or public safety services. This agreement also provides annual funding earmarked for Public Safety and Education intended to help support some of our other local agency partners.

- 9.8 [Resolution 11-2023. A Resolution approving the execution of an intergovernmental agreement \(IGA\) with Umatilla County for the distribution of the additional obligations payment and community development contribution made by Amazon Data Services, Inc. from the Long-Term Rural Enterprise Zone \(LTREZ\) agreement for PDX 194.](#) *Suggested Action: Motion to Approve Resolution No. 11-2023.*

The City of Umatilla, Amazon Data Services (ADS), and Umatilla County continue to work together in partnership to bring living wage jobs to the City of Umatilla and Umatilla County and to seek opportunities for economic development. This agreement creates the required Distribution Agreement between the City and the County for the distribution of fee proceeds (payments in lieu of taxes) from payments made by ADS for an all-new data center to be located inside the City limits of Umatilla.

- 9.9 [Resolution 12-2023. A Resolution approving the execution of an intergovernmental agreement \(IGA\) with Umatilla County for the distribution of the additional obligations payment and community development contribution made by Amazon Data Services, Inc. from the Long-Term Rural Enterprise Zone \(LTREZ\) agreement for PDX 260.](#) *Suggested*

Action: Motion to Approve Resolution No. 12-2023.

The City of Umatilla, Amazon Data Services (ADS), and Umatilla County continue to work together in partnership to bring living wage jobs to the City of Umatilla and Umatilla County and to seek opportunities for economic development. This agreement creates the required Distribution Agreement between the City and the County for the distribution of fee proceeds (payments in lieu of taxes) from payments made by ADS for an all-new data center to be located inside the City limits of Umatilla.

- 9.10 [Resolution No. 13-2023 - A resolution authorizing the Mayor to sign a Memorandum of Understanding with the City of Hermiston and Umatilla County to provide general consensus on the preferred future bridge location across the Umatilla River](#) *Suggested Action: Motion to approve Resolution No. 13-2023.*

10. **PUBLIC COMMENT**

11. **DISCUSSION ITEMS**

12. **MAYOR'S MESSAGE**

13. **COUNCIL INFORMATION & DISCUSSION**

14. **RECESS TO EXECUTIVE SESSION**

15. **EXECUTIVE SESSION**

- 15.1 [Potential Litigation - ORS 192.660\(2\)\(h\) Authorizes council to consult with its counsel regarding current litigation or litigation likely to be filed. Media members must be excluded if the member is a party to the litigation.](#) *Suggested Action: n/a*

16. **ADJOURN** This institution is an equal opportunity provider. Discrimination is prohibited by Federal law. Special accommodations to attend or participate in a city meeting or other function can be provided by contacting City Hall at (541) 922-3226 or use the TTY Relay Service at 1-800-735-2900 for appropriate assistance.

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CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Project Path Memorandum from Planning Commission	Meeting Date: 2022-10-04
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Department: Community Development	Director: Brandon Seitz	Contact Person: Jacob Foutz	Phone Number:
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Cost of Proposal: NA	Fund(s) Name and Number(s): N/A
Amount Budgeted: NA	

Reviewed by Finance Department: No	Previously Presented: NA
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Attachments to Agenda Packet Item:

[Signed memo to CC from PC\(Project Path\).pdf](#)

Summary Statement: Chair McLane will present the Memorandum

Consistent with Council Goals: Goal 1: Promote a Vibrant and Growing Community by Investing in and Support of Quality of Life Improvements.



City of Umatilla

700 6th Street, PO Box 130, Umatilla, OR 97882
City Hall (541) 922-3226 Fax (541) 922-5758

MEMORANDUM TO CITY COUNCIL FROM PLANNING COMMISSION

TO: Mayor Dedrick and City Council Members

David Stockdale, City Manager

Nanci Sandoval, City Recorder

FROM: Chair McLane and Planning Commission Members

DATE: September 27, 2022

RE: CU-1-22, Project path pedestrian access.

At its August 23, 2022 regular meeting, the Planning Commission held a public hearing and unanimously approved a Conditional Use application (CU-1-22) that is commonly referred to as Project Path (Practical Assistance through Transitional Housing).

This meeting was heavily attended, the Planning Commission heard testimony from eighteen different individuals with varying positions of support, opposition, and even neutral comments. The Commission heard many arguments for and against, some which were applicable to land use law and others not. The Commission understands and takes seriously its responsibility to make its decisions based on clear and objective criteria that is legally adopted by the City.

However, this does not discredit concerns that are brought up by the public that cannot be addressed as part of the land use application. One of these such concerns which resounds with the Commission is that of pedestrian safety for those who will access the services being provided by Project Path. Not all users of the facility will choose to access the facility by vehicular modes of transportation, therefore relying on other multi-modal forms of transportation.

As the site for Project Path lays within the City of Umatilla Light-Industrial Zone on Lind Road, there are no facilities that can safely accommodate pedestrians to and from the site. The Planning Commission strongly urges the City Council to look at ways in which the City of Umatilla can provide multi-modal forms of transportation to the Project Path site.

In our discussions as a commission it became clear that there is no one easy solution, many may need to be discussed and pondered. One such solution that could be applied in this situation would be to adopt a route from the subject site, South to Bensel Road and West down to Old River Road, as part of the City of Umatilla's master trail plan which could then connect in with the Umatilla County Regional Trail Plan.

We feel the great responsibility to ensure all members of our community can be safe as they access the facilities and services that they need. We hope you will take our recommendation, and plan for a way to ensure that this facility can be equitably accessed.

Sincerely,

Chair McLane, Umatilla Planning Commission


X
Bruce McLane
Planning Commission Chair

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Umatilla County Regional Trail Plan Update	Meeting Date: 2022-10-04
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Department: Community Development	Director: Brandon Seitz	Contact Person: Jacob Foutz	Phone Number:
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Cost of Proposal: NA	Fund(s) Name and Number(s): N/A
Amount Budgeted: NA	

Reviewed by Finance Department: No	Previously Presented: NA
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Attachments to Agenda Packet Item:

Summary Statement:

Planning Commissioner & City Representative for the Regional Trail Plan Project, Kelly Nobles, will provide updates on the Regional Trail Plan.

Link to plan:

<https://drive.google.com/file/d/1QE5Ldcdb4XEesGcYBtEeFDHy-Cn3l03P/view?usp=sharing>

Consistent with Council Goals:

Goal 1: Promote a Vibrant and Growing Community by Investing in and Support of Quality of Life Improvements.

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title:

General Announcements

Meeting Date:

2022-10-04

Department:

City Administration

Director:

David Stockdale

Contact Person:

Dave Stockdale

Phone Number:

Cost of Proposal:

n/a

Fund(s) Name and Number(s):

N/A

Amount Budgeted:

n/a

Reviewed by Finance Department:

No

Previously Presented:

n/a

Attachments to Agenda Packet Item:

Summary Statement:

n/a

Consistent with Council Goals:

N/A

CITY OF UMATILLA

Public Notice and Notice of Public Hearing

The City of Umatilla is completing two Public Works Final Design projects for water and sewer extension funded with Community Development Block Grant funds from the Oregon Business Development Department. The location of the project is the Power City and Brownell neighborhoods. It is estimated that the project has benefited at least 7,672 persons of whom 53.53 percent are low or moderate income.

A public hearing will be held by the Umatilla City Council at 7:00 p.m. on October 4, 2022, at 700 6th Street, Umatilla, OR 97882.

The purpose of the hearing is for the City Council to obtain residents' views about the project and to take comments about the local government's performance. Written comments are also welcome and must be received by October 3, 2022, at 700 6th Street, Umatilla, OR 97882. Both oral and written comments will be reviewed by the City Council.

The location of the public hearing is accessible to the disabled. Please let Nanci Sandoval at 541-922-3226 know if you need any special accommodations to attend or participate in the hearing.

More information about the Oregon Community Development Block Grant program and the project is available for public review at Umatilla City Hall, 700 6th Street, Umatilla, OR 97882, during regular office hours. Advance notice is requested.

CIUDAD DE UMATILLA

Aviso Público y Noticia de Audiencia Pública

La Ciudad de Umatilla está completando dos proyectos de Diseño Final de Obras Públicas para extensión de agua y alcantarillado financiados con fondos de Subvención para el Desarrollo Comunitario del Departamento de Desarrollo Comercial de Oregón. La ubicación del proyecto son los barrios de Power City y Brownell. Se estima que el proyecto ha beneficiado al menos a 7,672 personas de las cuales el 53.53 por ciento son de ingresos bajos o moderados.

Se realizará una audiencia pública por parte del Ayuntamiento de Umatilla a las 7:00 p.m. el 4 de octubre de 2022 en 700 6th Street, Umatilla, OR 97882.

El propósito de la audiencia es para que el Concejo Municipal obtenga opiniones de los residentes sobre el proyecto y tome comentarios sobre el desempeño del gobierno local. Los comentarios escritos también son bienvenidos y deben recibirse antes del 3 de octubre de 2022 en 700 6th Street, Umatilla, OR 97882. El Concejo Municipal revisará los comentarios orales y escritos.

El lugar de la audiencia pública es accesible para minusválidos. Informe a Nanci Sandoval al 541-922-3226 si necesita adaptaciones especiales para asistir o participar en la audiencia.

Más información sobre el programa de Subsidios para el Desarrollo Comunitario de Oregón y el proyecto está disponible para revisión pública en el Ayuntamiento de Umatilla, 700 6th Street, Umatilla, OR 97882, durante el horario de oficina habitual. Se solicita aviso previo.

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Water Tower Street Vacation SV-2-22	Meeting Date: 2022-10-04
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Department: Community Development	Director: Brandon Seitz	Contact Person: JF	Phone Number:
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Cost of Proposal: NA	Fund(s) Name and Number(s): N/A
Amount Budgeted: NA	

Reviewed by Finance Department: No	Previously Presented: NA
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Attachments to Agenda Packet Item:

[SV-2-22 City of Umatilla Report and Recommendation.docx](#)

[Notice Map UPDATED ROW.pdf](#)

<p><u>Summary Statement:</u></p> <p>The applicant in this matter, City of Umatilla, seek approval of a street vacation for an abandoned portion of Driver Ave. The Planning Commission held a public hearing and made a recommendation of approval to City Council at their September 27th, 2022 meeting. A sample motion is provided below:</p> <p>I move to approve Water Tower Street Vacation SV-2-22 and adopt the staff report as the Councils findings.</p>

<p><u>Consistent with Council Goals:</u></p> <p>Goal 5 : Perform at the Highest Levels of Operational Excellence</p>



City of Umatilla Planning Commission
REPORT AND RECOMMENDATION
for
STREET VACATION SV-2-22

DATE OF HEARING: September 27, 2022

REPORT PREPARED BY: Jacob Foutz, Senior
Planner

I. GENERAL INFORMATION AND FACTS

Applicant: City of Umatilla
P.O Box 130
Umatilla, Oregon 97882

Type of Review: Petition for Street Vacation of Public Street

Area Requested for Vacation: West of Lind road, which run perpendicular to HWY 395.

Adjacent Land Use(s): Surrounding Land Use is Light industrial and General rural.

II. NATURE OF REQUEST/APPLICABLE STATE REGULATIONS; COMPREHENSIVE PLAN AND ZONING ORDINANCE PROVISIONS

The applicant in this matter, City of Umatilla, seek approval of a street vacation for an abandoned portion of Driver Ave. Due to the fact that the City of Umatilla does not have review standards or procedures adopted as part of its municipal code, the City must follow the requirements under ORS chapter 271 for considering a request to vacate a street or public way. To the extent that any Comprehensive Plan policies or provisions apply to the request, such as the street being identified as a necessary component of the transportation system plan, such factors must be considered when deciding whether to approve or deny the request. Under ORS chapter 271, approval or denial of a request for a street vacation is not a land use decision and cannot be appealed as such. However, pursuant to ORS 271.130(4) any property owner affected by a decision approving a vacation may appeal the City's decision to circuit court.

III. Analysis

ORS Chapter 217

ORS Chapter 271 addresses the requirements and procedures for any person seeking to vacate a street and the review standards on which a decision to approve or deny a request must be based. The criteria applicable to this request are shown in underlined text and the responses are shown in standard text. All of the following criteria must be satisfied in order for this request to be approved.

ORS 271.130 Vacation on city governing body's own motion

The city governing body may initiate vacation proceedings authorized by ORS 271.080 (Vacation in incorporated cities) and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110 (Notice of hearing), but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080 (Vacation in incorporated cities), object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.

No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.

Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice court in civil cases.

Findings: This street vacation has been initiated by the City of Umatilla to vacate the ROW for the extension of water to the power city area. Notice has been given as directed in ORS 271.110.

Conclusion: The street vacation of a portion of Driver Ave has been initiated by the City and has been noticed correctly according to ORS 271.110.

ORS 271.110 Notice of hearing.

- (1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two

consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.

- (2) Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, “Notice of Street Vacation,” “Notice of Plat Vacation” or “Notice of Plat and Street Vacation,” as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.
- (3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor.

Findings: The City’s official newspaper for providing public notice is the East Oregonian. The City published a notice of the application for the proposed street vacation in the East Oregonian on September 13, 2022 and September 20, 2022. On September 12, 2022, the City posted a public notice of street vacation signs at each end of the area proposed to be vacated. The initial hearing before the City Planning Commission will be held on September 27, 2022.

Conclusion: The City published in the East Oregonian notice of the proposed street vacation once each week for two consecutive weeks prior to the hearing and posted public notice of street vacation signs at each end of the area proposed to be vacated.

ORS 271.120 Hearing; determination

At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

Findings: The required public notice requirements were addressed and found to be met. In order to complete review of this provision, the City must decide whether the “public interest will be prejudiced by the vacation” if approved, and whether any reservations are necessary to protect the public interest.

Conclusion: The portion that has been proposed to be vacated has been abandoned not used for ROW for many years, and it is in the public interest to vacate the unused portion so it can be utilized in delivering water and sewer services to the surrounding area.

B. City of Umatilla Comprehensive Plan

To the extent that any Comprehensive Plan policies, transportation system plans or other plan provisions apply to the area proposed for vacation, the City must give consideration to those in determining whether the public interest will be prejudiced or whether any reservations are necessary.

Findings: City staff reviewed the pertinent portions of the Comprehensive Plan; no portions of the plan will be adversely affected.

Conclusion: No Comprehensive Plan or implementing provisions of the Plan will be adversely affected by approving the vacation of the abandoned and unused portion of Driver Ave.

IV. SUMMARY AND RECOMMENDATION

The applicant, City of Umatilla, has met the procedural requirements for their request to vacate an abandoned and unused portion of Driver Ave. In addition, the City finds the area proposed to be vacated as not needed by the public.

Therefore, based on the information in Sections I and II of this report, and the applicable State and City regulations, findings of fact and conclusions contained in Section III, the Umatilla City Planning Commission recommends approval of this request, SV-2-22, to vacate a portion of Driver Ave subject to the conditions under Section V of this report.

V. CONDITIONS OF APPROVAL

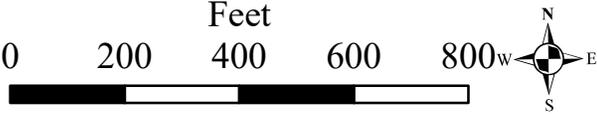
1. The applicants shall have one year from the date of this approval to complete all subsequent requirements for recording the ordinance adopted by the City Council that is necessary to give legal effect to the street vacation.
2. Failure to comply with all conditions of approval contained in Section V of this report will result in nullification of the approval granted herein.

VI. EXHIBITS

Exhibit A – Map showing area of street proposed to be vacated.



SV-2-22 WATER TOWER STREET VACATION



- Legend**
- UPDATED ROW VACATION PROPOSAL
 - Required 400 Feet
 - Real properties affected
 - Old proposal
 - Tax Lots 4_05_22

MAP DISCLAIMER: No warranty is made as to the accuracy, reliability or completeness of this data. Map should be used for reference purposes only. Not survey grade or for legal use. Created by Jacob Foutz, on 9/9/2022

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Planning Commission Appointment	Meeting Date: 2022-10-04
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Department: City Administration	Director: Brandon Seitz	Contact Person: Nanci Sandoval	Phone Number:
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Cost of Proposal: NA	Fund(s) Name and Number(s): N/A
Amount Budgeted: NA	

Reviewed by Finance Department: No	Previously Presented: NA
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Attachments to Agenda Packet Item:

[PC_Applications_Redacted.pdf](#)

Summary Statement:

Mayor Dedrick reviewed four applications for planning commission and recommends appointing Carol Jones to the Planning Commission.

Suggest motion:

I move to approve Mayor Dedrick's recommendation to appoint Carol Jones to the Planning Commission.

Consistent with Council Goals:

Goal 4: Increase Public Involvement, Create a Culture of Transparency with the Public, and Enhance Cultural Diversity.

Submission information

Form: [Committee Appointment Form](#) [1]
Submitted by Visitor (not verified)
Fri, 08/05/2022 - 7:30am
208.65.218.190

Full Name

Kinda Faye Arbogast

Please indicate which category you are seeking

Appointment

Which committees are you interested in?

- City Council
- Library Board
- Planning Commission
- Transient Room Tax Committee

How long have you lived in Umatilla?

12 years

List any additional qualifications

Address

[REDACTED]

Phone Number

[REDACTED]

Email

[REDACTED]

Source URL: <https://www.umatilla-city.org/node/2001/submission/5963>

Links

[1] <https://www.umatilla-city.org/bc/webform/committee-appointment-form>

Submission information

Form: [Committee Appointment Form](#) [1]
Submitted by Visitor (not verified)
Sat, 08/06/2022 - 10:05am
199.182.203.203

Full Name

Teresa (Tess) E. Snyder

Please indicate which category you are seeking

Appointment

Which committees are you interested in?

Planning Commission

How long have you lived in Umatilla?

6/2018

List any additional qualifications

I have worked at the management level for over 45 years and have good planning, communication, critical thinking and organizational skills. Have been involved in many personal/volunteer construction projects over the past 30 years. I'm excited to watch the continued transformation of Umatilla since I moved here and it would be rewarding to be involved in the decision making process of the revitalization of our community moving forward.

Address

[REDACTED]

Phone Number

[REDACTED]

Email

[REDACTED]

Source URL: <https://www.umatilla-city.org/node/2001/submission/5967>

Links

[1] <https://www.umatilla-city.org/bc/webform/committee-appointment-form>

Submission information

Form: [Committee Appointment Form](#) [1]
Submitted by Visitor (not verified)
Fri, 08/05/2022 - 9:08pm
97.120.90.200

Full Name

Verónica Gutierrez

Please indicate which category you are seeking

Appointment

Which committees are you interested in?

- Budget Committee
- City Council
- Library Board
- Parks and Recreation Committee
- Planning Commission

How long have you lived in Umatilla?

12 years

List any additional qualifications

Address

[REDACTED]

Phone Number

[REDACTED]

Email

[REDACTED]

Source URL: <https://www.umatilla-city.org/node/2001/submission/5965>

Links

[1] <https://www.umatilla-city.org/bc/webform/committee-appointment-form>

Submission information

Form: [Committee Appointment Form](#) [1]
Submitted by Visitor (not verified)
Sat, 08/06/2022 - 7:57am
75.164.223.108

Full Name

Carol Jones

Please indicate which category you are seeking

Appointment

Which committees are you interested in?

- Budget Committee
- City Council
- Library Board
- Parks and Recreation Committee
- Planning Commission
- Transient Room Tax Committee

How long have you lived in Umatilla?

5 years this time but I've lived here 30 years of my life all together. I graduated here.

List any additional qualifications

I was a manager for Walmart for 19 years in Transportaion and security. I have very good office skills and can help with organizing. I currently am following my life long dream of working with adults with special needs out of Eastern Oregon Support Services Brokerage in Hood River, but my clients are in Hermiston. I do not shy away from hard work in spite of my non-physical work history. I just want to help where I'm needed.

Address

[REDACTED]

Phone Number

[REDACTED]

Email

[REDACTED]

Source URL: <https://www.umatilla-city.org/node/2001/submission/5966>

Links

[1] <https://www.umatilla-city.org/bc/webform/committee-appointment-form>

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: First reading of ordinance no. 860- AN ORDINANCE AMENDING CHAPTER 11 OF THE CITY OF UMATILLA ZONING ORDINANCE AND TITLE 4 OF THE CODE OF ORDINANCES OF THE CITY OF UMATILLA. THE AMENDMENTS REMOVE RESTRICTIONS FOR POULTRY WITHIN CITY LIMITS AND ESTABLISH A PERMIT SYSTEM FOR THE KEEPING OF POULTRY IN RESIDENTIAL ZONES.	Meeting Date: 2022-10-04
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Department: Community Development	Director: Brandon Seitz	Contact Person: Jacob Foutz	Phone Number:
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Cost of Proposal: NA	Fund(s) Name and Number(s): N/A
Amount Budgeted: NA	

Reviewed by Finance Department: No	Previously Presented: NA
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Attachments to Agenda Packet Item:

Summary Statement: The Council approved City of Umatilla Zone Change ZC-2-22 at their September 6, 2022, council meeting. Ordinance 860 will implement City of Umatilla Zone Change ZC-2-22 amending Chapter 11 of the City of Umatilla Zoning Ordinance and Title 4 of the Code of Ordinances of the City of Umatilla. Staff recommends a motion for a first reading by title only of Ordinance No. 860.

Consistent with Council Goals: N/A
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CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Adoption of ordinance no. 860- AN ORDINANCE AMENDING CHAPTER 11 OF THE CITY OF UMATILLA ZONING ORDINANCE AND TITLE 4 OF THE CODE OF ORDINANCES OF THE CITY OF UMATILLA. THE AMENDMENTS REMOVE RESTRICTIONS FOR POULTRY WITHIN CITY LIMITS AND ESTABLISH A PERMIT SYSTEM FOR THE KEEPING OF POULTRY IN RESIDENTIAL ZONES.	Meeting Date: 2022-10-04
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Department: Community Development	Director: Brandon Seitz	Contact Person: Jacob Foutz	Phone Number:
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Cost of Proposal: NA	Fund(s) Name and Number(s): N/A
Amount Budgeted: NA	

Reviewed by Finance Department: No	Previously Presented: NA
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Attachments to Agenda Packet Item:

[Ord No. 860.docx](#)

[ZC-2-22 CC report and Decision.docx](#)

[ZC-2-22 Draft Text Change.docx](#)

Summary Statement: The Council approved City of Umatilla Zone Change ZC-2-22 at their September 6, 2022, council meeting. Ordinance 860 will implement City of Umatilla Zone Change ZC-2-22 amending Chapter 11 of the City of Umatilla Zoning Ordinance and Title 4 of the Code of Ordinances of the City of Umatilla. Staff recommends a motion to approve Ordinance No.860

Consistent with Council Goals: N/A
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ORDINANCE NO. 860

AN ORDINANCE AMENDING CHAPTER 11 OF THE CITY OF UMATILLA ZONING ORDINANCE AND TITLE 4 OF THE CODE OF ORDINANCES OF THE CITY OF UMATILLA. THE AMENDMENTS REMOVE RESTRICTIONS FOR POULTRY WITHIN CITY LIMITS AND ESTABLISH A PERMIT SYSTEM FOR THE KEEPING OF POULTRY IN RESIDENTIAL ZONES.

WHEREAS, the City of Umatilla Planning Commission duly considered the goals and policies of the Comprehensive Plan and requirements of the Zoning Ordinance as those applied to the application during public hearing held on August 23, 2022 and subsequently recommended approval of the request to the City Council; and

WHEREAS, the Umatilla City Council conducted a public hearing on September 6, 2022 to consider the Planning Commission's recommendation for zone change ZC-2-22 and adopted the Planning Commission's findings and conclusions as its own in approving the application, as contained in the *Umatilla City Council Report and Decision for Zone Change ZC-2-22*.

NOW THEREFORE, THE CITY OF UMATILLA DOES ORDAIN AS FOLLOWS:

Section 1. The Umatilla City Council does hereby adopt the findings and conclusions recommended by the City Planning Commission as its own in support of this amendment to the Umatilla Zoning Ordinance and Code of Ordinances, as contained in the *Umatilla City Council Report and Decision for Zone Change ZC-2-22*.

Section 2. Title ten – Zoning of the City Code of the City of Umatilla is hereby amended to read as follows:

TITLE 10 - ZONING

Chapter 11

Sec. 10-11-14.

Backyard Poultry Standards

- A. A permit shall be obtained from the City prior to the keeping of poultry. A permit is issued to the property and renters must obtain written approval from the property owner to apply for a permit.
- B. The keeping of poultry shall be limited to the purpose of egg collection for personal, non-commercial use.
- C. No more than (6) birds are allowed on any one parcel, and the keeping of a rooster is prohibited.
- D. Poultry shall only be kept upon property occupied by a single-family dwelling.
- E. Poultry may not be slaughtered or killed except pursuant to the lawful order of state or county health officials, or for the purpose of euthanasia (for example due to an injury or sickness) when surrendered to a licensed veterinarian for such purpose, or as otherwise expressly permitted by law.
- F. Poultry shall be kept in an enclosed coop or run at all times.
- G. No person shall sell eggs or engage in poultry breeding or fertilizer production for commercial purposes.
- H. All poultry shall be housed in a coop, poultry feed shall be kept in rodent and raccoon proof containers.
- I. Poultry and coops shall only be located in a rear yard.

J. Poultry coops shall be limited to eighty (80') square feet and the highest point of the coop shall be no more than six feet tall above grade.

K. Poultry coops shall be kept clean, dry, free of vermin and noticeable odors, and in good repair. Waste must be collected and removed from the subject property on a regular basis.

L. Poultry coop and/or run shall be setback a minimum ten feet from all property lines.

Section 3. Title four – Code of ordinances of the City of Umatilla is hereby amended to read as follows:

TITLE 4 – PUBLIC HEALTH AND SAFETY

Chapter 1

Sec. 4-1-5-18.

Raising livestock, ~~poultry~~ or exotic, wild or dangerous animals prohibited.

No person may raise or keep livestock, ~~poultry~~, exotic, wild or dangerous animals in the City. "Livestock" means horses, mules, jackasses, cattle, llamas, alpacas, sheep, goats, swine, ~~domesticated fowl~~ and furbearing animals bred and maintained commercially or otherwise, within outdoor pens, cages and hutches. "Exotic, wild or dangerous animal" means any animal which is not commonly domesticated, or which is not native to North America, or a domesticated or wild animal which because of its size, disposition or its vicious, venomous, wild or predatory nature, or its other characteristics, could constitute an unreasonable danger to human life or property. "~~Poultry~~" includes ~~domesticated fowl, chickens, ducks, turkeys or geese or any other bird raised for meat or eggs.~~

ADOPTED by the City Council this _____ day of _____, 2022.

Council members voting yes: _____

Council members voting no: _____

Absent Council members: _____

Abstaining Council members: _____

And **SIGNED** by the Mayor this _____ day of _____, 2022.

Mary Dedrick, Mayor

ATTEST:

Nanci Sandoval, City Recorder



**UMATILLA CITY COUNCIL
REPORT AND DECISION
FOR
ZONE CHANGE ZC-2-22**

DATE OF DECISION: September 6th, 2022

REPORT PREPARED BY: Jacob Foutz, Senior Planner

I. GENERAL INFORMATION AND FACTS

Applicant: City of Umatilla, 700 6th Street, Umatilla, OR 97882.

Land Use Review: Zone Change application to amend Chapter 11 of the City of Umatilla Zoning Ordinance, and Title 4 of the Code of Ordinances of the City of Umatilla. The amendments will remove restrictions for poultry within City limits and establish a permit system for the keeping of poultry in residential zones.

II. NATURE OF REQUEST AND GENERAL FACTS

At the request of the City Council, the City of Umatilla is proposing to amend Chapter 11 of the City of Umatilla Zoning Ordinance, and Title 4 of the Code of Ordinances of the City of Umatilla. The amendments will remove restrictions for poultry within City limits and establish a permit system for the keeping of poultry in residential zones.

III. ANALYSIS

The criteria applicable to this request are shown in underlined text and the responses are shown in standard text. All of the following criteria must be satisfied in order for this request to be approved.

CUZO 10-13-3: AMENDMENTS TO THE ZONING TEXT OR MAP:

- A. Type IV Procedure: Amendments to the zoning title text or official map are considered a type IV procedure. A map change may be legislative or quasi-judicial, depending on the number of properties and area involved. A text change is always a legislative decision.
- B. Initiation Of Application: An application may be initiated by a property owner or authorized agent, the planning commission, or the city council.
- C. Narrative, Identification Required: An application shall include a narrative that demonstrates compliance with the approval criteria and a site and vicinity map identifying the property and adjacent properties. A traffic impact analysis (TIA), pursuant to section 10-11-10 of this title, shall also be submitted with all plan and zoning amendment applications.
- D. Approval Criteria: An amendment to this title or official map shall comply with the following criteria:
 1. The proposed designation is consistent with and supports the purposes of the portions of

the city's comprehensive plan not proposed for amendment, or circumstances have changed to justify a change in the comprehensive plan.

Findings: The proposed text amendments support the purposes of the City of Umatilla Comprehensive plan including but not limited to chapters 1 and 2.

Conclusion: The proposed code changes are consistent with and support the city's comprehensive plan.

2. The proposed change will not affect the land supply for the existing zoning designation as related to projected need for the particular land use.

Findings: The proposed text amendment would not affect the land supply for any existing zoning designation.

Conclusion: The proposed text amendment will not change the existing zoning designations for any property within the City's Urban Growth Boundary (UGB). Therefore, the proposed text amendment will not affect the land supply of the existing zoning designations.

3. The proposed designation will not negatively impact existing or planned public facilities and services. In particular, pursuant to the Oregon transportation planning rule, proposed text and map amendments shall determine whether the proposed change will significantly affect a collector or arterial transportation facility and must comply with the requirements of Oregon administrative rule (OAR) 660-012-0060 as applicable. In the I-82/U.S. 730 interchange area management plan (IAMP) management area, proposed access shall be consistent with the access management plan in section 7 of the IAMP.

Findings: The text amendment will not change the permitting process for new development proposed in any zoning districts within the City of Umatilla. There is no new development proposed therefore it is not possible to determine if existing or planned public facilities or services will be affected. The proposed changes as they stand will not affect any collector or arterial transportation facility within the City of Umatilla in a significant way.

Conclusion: The proposed text amendment to remove restrictions for poultry within City limits and establish a permit system for the keeping of poultry in residential zones will not affect any collector or arterial transportation facility within the City of Umatilla in a significant way.

4. The site is suitable for the proposed use, considering the topography, adjacent streets, access, size of the site, availability of public facilities, and any other pertinent physical features.
5. Other sites in the city or the vicinity are unsuitable for the proposed use. In other words, ownership and desire to develop a particular use in themselves provide insufficient rationale for changing a zoning designation that does not support the interests of the city as a whole.

Findings: The intent of these standards are to show that a proposed amendment is necessary to accommodate a proposed use and to show that other sites within the City are not readily available to develop the propose use. The proposed text change is to remove restrictions for poultry within City limits and establish a permit system for the keeping of

poultry in residential zones. The proposed change would apply to a variety of properties located throughout the City not a specific site.

Conclusion: The proposed amendment will apply to properties located throughout the City not a specific property. Therefore, analysis to determine if a specific site is suitable for the proposed use or other sites located throughout the city are not suitable is not necessary or applicable.

IV. SUMMARY AND RECOMMENDATION

The applicant, City of Umatilla, is proposing to amend Chapter 11 of the City of Umatilla Zoning Ordinance, and Title 4 of the Code of Ordinances of the City of Umatilla. The amendments will remove restrictions for poultry within City limits and establish a permit system for the keeping of poultry in residential zones. The request appears to meet all of the applicable criteria and standards for this type of request. Therefore, based on the information in Sections I and II of this report, and the above criteria, findings of fact and conclusions addressed in Section III, Umatilla City Council **APPROVES** Zone Change (ZC-2-22).

VI. EXHIBITS

Exhibit A – Option 1 Permit and Draft Text Changes

Exhibit B – Option 2 Permit and Draft Text Changes

Exhibit C – Option 3 Permit and Draft Text Changes

Underlined language proposed to be added; ~~Strikethrough~~ language proposed for deletion by
Zone Change application ZC-2-22

TITLE 10 - ZONING

Chapter 11

Sec. 10-11-14.

Backyard Poultry Standards

A. A permit shall be obtained from the City prior to the keeping of poultry. A permit is issued to the property and renters must obtain written approval from the property owner to apply for a permit.

B. The keeping of poultry shall be limited to the purpose of egg collection for personal, non-commercial use.

C. No more than (6) birds are allowed on any one parcel, and the keeping of a rooster is prohibited.

D. Poultry shall only be kept upon property occupied by a single-family dwelling.

E. Poultry may not be slaughtered or killed except pursuant to the lawful order of state or county health officials, or for the purpose of euthanasia (for example due to an injury or sickness) when surrendered to a licensed veterinarian for such purpose, or as otherwise expressly permitted by law.

F. Poultry shall be kept in an enclosed coop or run at all times.

G. No person shall sell eggs or engage in poultry breeding or fertilizer production for commercial purposes.

H. All poultry shall be housed in a coop, poultry feed shall be kept in rodent and raccoon proof containers.

I. Poultry and coops shall only be located in a rear yard.

J. Poultry coops shall be limited to eighty (80') square feet and the highest point of the coop shall be no more than six feet tall above grade.

K. Poultry coops shall be kept clean, dry, free of vermin and noticeable odors, and in good repair. Waste must be collected and removed from the subject property on a regular basis.

L. Poultry coop and/or run shall be setback a minimum ten feet from all property lines.

TITLE 4 – PUBLIC HEALTH AND SAFETY

Chapter 1

Sec. 4-1-5-18.

Raising livestock, ~~poultry~~ or exotic, wild or dangerous animals prohibited.

No person may raise or keep livestock, ~~poultry~~, exotic, wild or dangerous animals in the City. "Livestock" means horses, mules, jackasses, cattle, llamas, alpacas, sheep, goats, swine, ~~domesticated fowl~~ and furbearing animals bred and maintained commercially or otherwise, within outdoor pens, cages and hutches. "Exotic, wild or dangerous animal" means any animal which is not commonly domesticated, or which is not native to North America, or a domesticated or wild animal which because of its size, disposition or its vicious, venomous, wild or predatory nature, or its other characteristics, could constitute an unreasonable danger to human life or property. "Poultry" ~~includes domesticated fowl, chickens, ducks, turkeys or geese or any other bird raised for meat or eggs.~~

DRAFT

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Resolution No. 07-2023 - A resolution accepting a technical assistance grant in the amount of \$42,640 from the U.S. Department of Transportation (DOT) through the Pipeline and Hazardous Materials Safety Administration (PHMSA)	Meeting Date: 2022-10-04
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Department: Finance & Administrative Services	Director: Melissa Ince	Contact Person: Brandon Seitz	Phone Number:
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Cost of Proposal: \$42,640 Amount Budgeted: \$98,700	Fund(s) Name and Number(s): General Fund - 01
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Reviewed by Finance Department: Yes	Previously Presented: N/A
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Attachments to Agenda Packet Item:

[RES 07-2023.docx](#)

[PHMSA Grant Agreement.pdf](#)

Summary Statement: Motion to approve Resolution No. 07-2023

Consistent with Council Goals: Goal 3: Enhance and Cultivate Relationships and Partnerships.
--

RESOLUTION NO. 07-2023

A RESOLUTION ACCEPTING A TECHNICAL ASSISTANCE GRANT IN THE AMOUNT OF \$42,640 FROM THE U.S. DEPARTMENT OF TRANSPORTATION (DOT) THROUGH THE PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)

WHEREAS, two hazardous pipelines travel through the City of Umatilla; and

WHEREAS, understanding the locations of the hazardous pipelines in relation to the City's infrastructure, recreation and transportation corridors will help the City address other issues such as safety, climate change and challenges facing rural transportation networks; and

WHEREAS, the proposed project will allow the city to create a comprehensive GIS-driven risk assessment and asset management system, coordinate with the pipeline operators to determine pipeline exposure and locations, organize information between the City, Umatilla County and pipeline companies to help understand the risks associated with the hazardous pipeline and how to educate themselves and the public and prepare an emergency evacuation zone and hazardous pipeline evacuation area map for City and County Emergency Management; and

WHEREAS, the City, in collaboration with our Engineer of Record, J U B Engineers, submitted a PHMSA technical assistance grant application to fund the project; and,

WHEREAS, the DOT provided notice of award to the City for a PHMSA grant in the amount of \$42,640; and,

NOW, THEREFORE, the Umatilla City Council hereby resolves that:

1. The City of Umatilla does hereby accept the terms of this agreement and delegates authority to the City Manager to sign and execute the agreement and any necessary future amendments.
2. The City Manager's signature on the agreement shall be ratified to the effective date of September 28, 2022.

PASSED by the Council and **SIGNED** by the Mayor this 4th day of October 2022.

Mary Dedrick, Mayor

ATTEST:

Nanci Sandoval, City Recorder

ASSISTANCE AGREEMENT

1. Award No. 693JK32240011PTAG	2. Modification No.	3. Effective Date	4. CFDA No. 20.710
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5. Awarded To UMATILLA OR CITY OF Attn: Kasey Hansen 700 6TH ST UMATILLA OR 978829509	6. Sponsoring Office PIPELINE AND HAZARDOUS MATERIALS SA Office of Pipeline Safety (PHP) 1200 New Jersey Avenue SE, East Bldg, 3rd Washington DC 20590	7. Period of Performance 09/30/2022 through 09/29/2023
---	--	---

8. Type of Agreement <input checked="" type="checkbox"/> Grant <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Other	9. Authority 49 U.S.C 60130	10. Purchase Request or Funding Document No. PH956-22-0164
---	--------------------------------	---

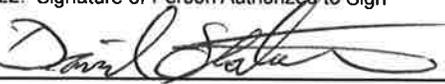
11. Remittance Address UMATILLA OR CITY OF Attn: Kasey Hansen PO BOX 130 UMATILLA OR 97882	12. Total Amount Govt. Share: \$42,640.00 Cost Share : \$0.00 Total : \$42,640.00	13. Funds Obligated This action: \$42,640.00 Total : \$42,640.00
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14. Principal Investigator	15. Program Manager Hung Nguyen (202) 366-0568	16. Administrator PIPELINE AND HAZARDOUS MATERIALS SA Acquisition Services Division 1200 New Jersey Avenue SE, East Bldg, 3rd Washington DC 20590
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17. Submit Payment Requests To PHMSA Delphi eInvoicing System https://einvoice.esc.gov	18. Paying Office FAA/MMAC/PHMSA HQ 272F AMK 316 6500 S. MacArthur Blvd Oklahoma City OK 73169	19. Submit Reports To See Article VIII
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20. Accounting and Appropriation Data
1400322DB0.2022.OEGRT01020.50D0106000.41010.61000000.0000000000.0000000000.0000000000.0000000000

21. Research Title and/or Description of Project

For the Recipient		For the United States of America	
22. Signature of Person Authorized to Sign 	25. Signature of Grants/Agreements Officer DWAYNE F CROSS	Digitally signed by DWAYNE F CROSS	
23. Name and Title <i>David Stockdale, City Manager</i>	24. Date Signed <i>9/28/22</i>	26. Name of Office DWAYNE F CROSS	Date: 20220928 Signed 08:54:00 -04'00'

CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED
693JK32240011PTAG

PAGE OF
2 | 2

NAME OF OFFEROR OR CONTRACTOR
UMATILLA OR CITY OF

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
00001	<p>UEI: C39DZU2V5P93 Delivery: 1 Days After Award Delivery Location Code: PHMSA PHP-50 State Programs 1200 New Jersey Avenue, SE E21-321 Washington DC 20590 USA</p> <p>2022 Technical Assistance Grant Award GIS MAPPING, TRAINNG, AND PUBLIC OUTREACH Obligated Amount: \$42,640.00</p> <p>The obligated amount of award: \$42,640.00. The total for this award is \$42,640.00.</p>				42,640.00

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Article I. Award Information

Section 1.01 Recipient Information

Recipient: City of Umitilla

UEI#: C39DZU2V5P93

POC: **Kasey Hanson**

Section 1.02 Awarding Agency Information

U.S. Department of Transportation (US DOT)

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Acquisition Services Division, PHF-20

1200 New Jersey Avenue, SE, Room E22-317

Washington, D.C. 20590

Primary Contact - Agreement Administrator (AA):

Dwayne Cross

Telephone: (202) 366-4429

E-mail: Dwayne.Cross@dot.gov

Section 1.03 Basic Award Information

Funding Opportunity Title: Technical Assistance Grants (TAG)

Funding Opportunity Number: 693JK322NF0004

CFDA Number: 20.710

Award Type: Grant Agreement

Award Number: **693JK32240011PTAG**

Project Title: **Technical Assistance Grant**

Grant Period: Twelve (12) months from the effective date of award

Grant Amount: **\$42,640.00**

Article II. Background, Purpose, Authority

Section 2.01 Statute and Program Authority

The TAG program was first authorized in the Pipeline Safety Improvement Act of 2002 (Public Law 107-355) and is codified at 49 U.S.C. 60130. This section, titled: "Pipeline Safety Information Grants to Communities" authorizes the Secretary of Transportation to make grants to local communities and groups of individuals (not including for-profit entities) for technical assistance relating to pipeline safety. The TAG program was reauthorized by the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 (Public Law 109-468), the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Public Law 112-90), and the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2016 (Public Law 114-183).

Section 2.02 Statement of Purpose

Pipeline safety is a shared responsibility and informed communities play a vital role in the safety and reliability of pipeline operations. The Pipeline Safety Information Grants to Communities: Technical Assistance Grants (TAG) provides funding to local communities and groups of individuals for technical assistance related to pipeline safety. The program also provides opportunities that strengthen the depth and quality of public participation in the safe development and operation of pipelines in and around communities. Technical assistance is defined as engineering or other scientific analysis of pipeline safety issues.

Section 2.03 Background

Since program inception in 2009, PHMSA has awarded almost \$10 million for 198 individual technical assistance projects. TAG awards have funded a broad range of activities, including: improvement of local pipeline emergency response capabilities; improvement of safe digging or damage prevention programs; development of pipeline safety information resources; implementation of local land use practices that enhance pipeline safety; community and pipeline awareness campaigns; and, public participation in official proceedings pertaining to pipeline safety. A summary of the TAG awards, including final reports from completed grant projects, is available at <http://primis.phmsa.dot.gov/tag>.

Article III Expected Program Outputs

PHMSA's mission is to "protect people and the environment by advancing the safe transportation of energy and other hazardous materials essential to daily life." The City of Umatilla will align with PHMSA's mission through the following goals: prepare, protect, educate, and collaborate.

Prepare –The City of Umatilla works closely with the Federal Emergency Management Agency (FEMA), the Department of Land Conservation and Development, the Oregon Office of Emergency Management, and regional cities and districts to plan, prepare, and reduce consequences if an incident does occur in their community.

Protect – Protect residents, visitors, infrastructure, the hazardous pipelines, and the environment by being mindful and promoting a culture of safety.

Educate – Educate and investigate new technologies for improving the assessment, detection, and control of pipeline risks. Expand public awareness by leveraging technology and implementing a "call 811 before you dig" campaign.

Collaborate –Continuously improve communication plans and processes between pipeline operators, City and county agencies, the public, and others whose mission it is to ensure the security of critical infrastructure and hazardous pipelines.

Article IV Deliverables

Section 4.01 Incorporation of Recipient Application

The Recipient's application and project plan dated **4/27/2022** are incorporated by reference into this Grant Agreement.

The Recipient is responsible for accomplishing the objectives, tasks and deliverables of this Grant Agreement, and for performing the tasks and the deliverables outlined in the Recipient's project plan.

Section 4.02 Reports

The recipient must submit the following reports:

- Mid-Term Progress Report;
- Mid-Term Financial Status Report.
- Final Report;
- Final Financial Status Report.

See Article VIII (Reports) for additional information about the reporting requirements.

Section 4.03 Dissemination of Technical Findings

The Recipient must make available any technical findings to the relevant pipeline operators in the Recipient's area and have open communication with local pipeline operators, local communities and other interested parties.

Article V Grant Officials

Refer to the Award Terms and Conditions (Attachment 1), Item 1 (Definitions), for a detailed description of each official’s responsibilities below.

Agreement Officer (AO)

Mr. Dwayne Cross
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Acquisition Services Division, PHF-20
1200 New Jersey Avenue, SE, E22-317
Washington, D.C. 20590
Telephone: (202) 366-4429
Fax: (202) 366-7974
E-mail: dwayne.cross@dot.gov

Agreement Administrator (AA)

Mr. Dwayne Cross
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Acquisition Services Division, PHF-20
1200 New Jersey Avenue, SE,
Washington, D.C. 20590
Telephone: (202) 366-4429
E-mail: dwayne.cross@dot.gov

Agreement Officer’s Representative (AOR)

Ms. Hung Nguyen
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Telephone: 202.366-0568
E-mail: Hung.Nguyen@dot.gov

Principal Investigator (PI)

Kasey Hanson
khansen@jub.com

Article VI Terms and Conditions

The Recipient must comply with, and spend funds consistent with all the terms and conditions of this award, including the Award Terms and Conditions in **Attachment 1** and any other terms and conditions specified in this document. Attachment 1, Award Terms and Conditions, is incorporated into this Agreement.

Article VII Special Terms and Conditions

Section 7.01 Modifications

Modifications to this Grant may be made only in writing and specifically referred to as a modification to this Grant. The Agreement Officer may unilaterally sign an administrative modification. All other modifications must be signed by both the Recipient and the Agreement Officer.

Section 7.01 Travel

Any travel necessary to carry out the objectives of this agreement must use the most economical form of transportation available. All travel is to be scheduled sufficiently in advance, to the extent practicable, to take advantage of offered discount rates. Travel and per diem authorized under this

grant agreement must not exceed those in the Government Travel Regulations currently in effect. Current per diem rates can be found at: <http://www.gsa.gov/perdiem>.

Section 7.03 Contractor/Sub-recipient Agreements

If a contractor or sub-recipient (sub-awardee) performs a function on the Recipient's behalf, then the terms and conditions of the contractual arrangement, or award, and the qualifications of the contractor or sub-recipient are subject to review by PHMSA. This information must be provided to PHMSA within 30 days after the date of awarded grant. The contract or sub-award must be made in accordance with the Recipient's procurement procedures for obtaining outside services.

Article VIII Reports

Section 8.01 Mid-Term Progress Report

During the performance of the grant agreement the Recipient must provide a letter-type written report to the AOR and the AA. The report must include the following:

1. A comparison of actual accomplishments to the objectives established for the period.
2. Where the output of the project can be quantified, a computation of the cost per unit of output.
3. The reasons for slippage if established objectives were not met.

The Progress Report should cover all activities through the first 6 months of grant performance (March 2021) and this report must be submitted to the AOR and the AA via e-mail, no later than 30 days after the end of the initial 6th month (*See Attachment 2A "Sample Progress Report Template" for a sample template for submitting progress reports.*)

Section 8.02 Mid-term Federal Financial Status Report

During the performance of the grant, the Recipient must submit a mid-term Federal Financial Report, Standard Form 425 (SF-425), to report the status of funds. In addition to the SF-425, the Recipient should provide the breakdown of costs for each object class category (Personnel, Fringe Benefits, Travel, Equipment, Supplies, Contractual, Other, and Indirect Costs). The Mid-term Federal Financial Report should cover all activities through the first 6 months of grant performance and this report must be submitted to the AOR and the AA via e-mail, no later than 30 days after the end of the 6th month (March 2021).

Section 8.03 Final Report

At the end of the grant period, the Recipient must provide a letter-type *final* report to the AOR and the AA describing the results of all activities undertaken as a result of this grant. The report must include the following:

1. A comparison of actual accomplishments to the objectives established for the period.
2. Where the output of the project can be quantified, a computation of the cost per unit of output.
3. The reasons for slippage if established objectives were not met.

The Final Report must be submitted to the AOR and the AA via e-mail, no later than 90 days after the grant period end date (see Section 1.03). *See Attachment 2B "Sample Final Report Template" for a sample template for submitting final reports.*

Section 8.04 Final Federal Financial Status Report

At the end of the grant period, the Recipient must submit a *Final* Federal Financial Report, Standard Form 425 (SF-425), to report the status of all funds. In addition to the SF-425, the Recipient should

provide the breakdown of costs for each object class category (Personnel, Fringe Benefits, Travel, Equipment, Supplies, Contractual, Other, and Indirect Charges). The Final Federal Financial Report must be submitted to the AOR and the AA via e-mail, no later than 90 days after the grant period end date (see Section 1.03). If possible, this report should be submitted, along with the Final Report, within 30 days after the grant period end date.

Article IX Consideration and Payment

Section 9.01 Request for Advance/Reimbursement

A request for an advance or reimbursement must comply with the requirements in 2 CFR 200.305. Each request **must** be submitted through the Delphi eInvoicing system and include a completed Standard Form 270 (SF-270), "*Request for Advance or Reimbursement*" as an attachment in the system. Upon execution of the grant award, recipients, in accordance with their project plan, may request up to 50% of the total federally funded amount of the award. The remaining amount may be requested, upon receipt and approval, (by the PHMSA Agreement Officer) of the "Mid-Term Progress Report."

All Recipients must be registered in the System for Award Management (SAM) to receive payments on their invoices. For information on how to register, visit SAM at:
<https://www.sam.gov/portal/public/SAM/>.

See Attachment 1 "Award Terms and Conditions" for additional payment requirements.

Article X American Materials Required (PHMSA August 2017)

If articles, materials or supplies are required: Only unmanufactured articles, materials, and supplies that have been mined or produced in the United States, and only manufactured articles, materials, and supplies that have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States, shall be acquired under this award unless PHMSA determines their acquisition to be inconsistent with the public interest or their cost to be unreasonable.

This requirement does not apply:

- 1) to articles, materials, or supplies for use outside the United States;
- 2) if articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; and
- 3) to manufactured articles, materials, or supplies procured under any contract with an award value that is not more than the micro-purchase threshold.

Article XI Attachments

- Attachment 1 – Award Terms and Conditions
- Attachment 2A – Template: Mid-Term Progress Report
- Attachment 2B – Template: Final Report

**Department of Transportation
Pipeline and Hazardous Materials Safety Administration (PHMSA)
Hazardous Materials Grants**

**Grant and Cooperative Agreement
Terms and Conditions**

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1. Definitions

- a) **Recipient** – A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term “recipient” does not include subrecipients.
- b) **Program Authorizing Official (PAO)** – The PAO is the delegated authority to execute the grant agreement. Should any changes to the scope, budget, schedule, or any other terms become necessary, the PAO in coordination with the AO has the authority to amend the award agreement.
- c) **Agreement Officer (AO)** – The AO has the authority to obligate the Government to the expenditures of Federal funds under this award.
- d) **Grant Specialist (GS)** – The GS is responsible for the daily administration of the award. The GS is NOT AUTHORIZED to change the scope, budget, specifications, and terms and conditions as stated in the award, to make any commitments that otherwise obligates the Government or authorize changes which affect the award budget, delivery schedule, period of performance, or other terms and conditions.
- e) **Recipient Authorized Grantee Official** – The individual with the Recipient organization who has authority to legally and financially bind the organization. It is the Recipient’s responsibility to follow their agency’s policies and procedures for ensuring that authorized officials are up to date, sign the grant agreement, and endorse any prior approval actions.
- f) **Recipient Project Director** – The individual designated by the recipient who is responsible for the technical direction of the program or project.

2. Recipient Responsibilities

In accepting a PHMSA financial assistance award (grant or cooperative agreement), the Recipient assumes legal, financial, administrative, and programmatic responsibility for administering the award in accordance with the laws, rules, regulations, and Executive Orders governing grants and cooperative agreements, and these Award Terms and Conditions, including responsibility for complying with any provisions included in the award.

3. Compliance with Award Terms and Conditions

Submission of an application constitutes the Recipient’s agreement to comply with and spend funds consistent with all the terms and conditions of this award. If PHMSA determines that noncompliance by the Recipient cannot be remedied by imposing additional conditions, PHMSA may take one or more of the following actions, as appropriate in the circumstances:

- a) Temporarily withhold cash payments pending correction of the deficiency by the Recipient.
- b) Disallow all, or part of, the cost of the activity or action not in compliance.
- c) Wholly or partly suspend or terminate the Federal award.
- d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180.
- e) Withhold further Federal awards for the project or program.
- f) Take other remedies that may be legally available.

4. Order of Precedence

Any inconsistency or conflict in the terms and conditions specified in this award will be resolved according to the following order of precedence:

- a) The Federal statute authorizing this award or any other Federal statutes, laws, regulations or directives directly affecting performance of this award.
- b) Terms and Conditions of this award.

5. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200)

The recipient (and any sub-recipients) must comply with these requirements including the cost principles which apply to the recipient, and the audit requirements the recipient must follow. A recipient which expends \$750,000 or more of federal funds, in the recipient's fiscal year, must have an audit conducted.

[2 CFR 200](#) is incorporated by reference into this award

6. Restrictions on Use of Funds for Lobbying, Support of Litigation, or Direct Advocacy
The Recipient and its contractors may not use grant funds for lobbying in direct support of litigation, or in direct advocacy for, or against, a pipeline construction or expansion project.

The Recipient and its contractors may not conduct political lobbying, as defined in the statutes, regulations, and [2 CFR 200.450](#)—“Lobbying,” within the Federally-supported project. The Recipient and its contractors may not use Federal funds for lobbying specifically to obtain grants and cooperative agreements. The Recipient and its contractors must comply with 49 CFR 20, U.S. Department of Transportation “New Restrictions on Lobbying.”

[49 CFR 20](#) is incorporated by reference into this award.

7. Nondiscrimination

The Recipient must comply with Title VI of the Civil Right Act of 1964, which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, be subject to discrimination under any program or activity receiving Federal financial assistance. The Recipient must comply with 49 CFR 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964”

[49 CFR 21](#) is incorporated by reference into this award.

In an effort to ensure that all Recipients of PHMSA funds are aware of their responsibilities under the various civil rights laws and regulations, the PHMSA Office of Civil Rights has developed an information tool and training. These documents are found on the PHMSA website at <https://www.phmsa.dot.gov/about-phmsa/civil-rights/grant-recipient-information>. If you should have any questions concerning your responsibilities under the External Civil Rights Program, please contact Rosanne Goodwill, Civil Rights Director, at 202-366-9638 or by e-mail at rosanne.goodwill@dot.gov.

8. Government-wide Debarment and Suspension (Non-procurement)

The Recipient must review the “list of parties excluded from federal procurement or non-procurement programs” located on the System for Award Management (SAM) website before entering into a sub-award. <https://www.sam.gov> No sub-award may be issued to an

entity or person identified in the “list of parties excluded from federal procurement or non-procurement programs.”

2 CFR 1200 “Non-procurement Suspension and Debarment” is incorporated by reference into this award.

The Recipient must inform the PAO if the recipient suspends or debar a sub-awardee.

9. Drug-Free Workplace

The Recipient must comply with the provisions of Public Law 100-690, Title V, Subtitle D, “Drug-Free Workplace Act of 1988,” which require the Recipient to take steps to provide a drug-free workplace. The Recipient must comply with **49 CFR 32**, “Government-wide Requirements for Drug Free Workplace (Financial Assistance)” which is incorporated by reference into this award.

10. eInvoicing (PHMSA June 2018)

Recipients of PHMSA grants and cooperative agreements must use the DOT Delphi eInvoicing System.

a) Recipients’ Requirements:

Recipients must:

- i. have internet access to register and submit payment requests through the Delphi eInvoicing system.
- ii. submit payment requests electronically, and receive payment electronically.

b) System User Requirements:

- i. Contact the assigned grant specialist directly to sign up for the system. PHMSA will provide the recipient’s name and email address to the DOT Financial Management Office. The DOT Financial Management Office will then invite the recipient to sign up for the system.
- ii. DOT will send the recipient a User Account Application form to verify identity. The recipient must complete the form, and present it to a Notary Public for verification. The recipient will return the notarized form as follows:

Via U.S. Postal Service (certified):

DOT Enterprise Services Center
FAA Accounts Payable, AMZ-100
PO Box 25710
Oklahoma City, OK 73125

Via FedEx or UPS:

DOT Enterprise Services Center
MMAC-FAA/ESC/AMZ-150
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169

Note: Additional information, including training materials, and helpdesk support can be found on the DOT Delphi eInvoicing website

(<http://www.transportation.gov/cfo/delphi-einvoicing-system.html>)

c) Waivers

DOT Financial Management officials may, on a case by case basis, waive the requirement to register, and use, the electronic payment system. Waiver request forms can be obtained on the DOT eInvoicing website (<http://www.transportation.gov/cfo/delphi-einvoicing-system.html>) or by contacting the PHMSA Agreement Officer. Recipients must explain why they are unable to use or access the internet to submit payment requests.

11. Payments

Reimbursement payments will be made after the electronic receipt via the DOTeInvoicing System of "Request for Advance or Reimbursement" (Standard Form SF-270).

- a) Method of payment
 - i) The Government will make all payments under this agreement by electronic funds transfer (EFT), except as provided by paragraph (a)(ii) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.
 - ii) If the Government is unable to release one or more payments by EFT, the Recipient agrees either to –
 - i) Accept payment by check or some other mutually agreeable method of payment; or
 - ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph d. of this clause).
- b) Recipient's EFT information. The Government will make payment to the Recipient using the EFT information contained in the System for Award Management (SAM) database. If the EFT information changes, the Recipient is responsible for providing the updated information into the System for Award Management (SAM) at: <https://www.sam.gov>
- c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.
- d) Suspension of payment. If the Recipient's EFT information in the SAM database is incorrect, the Government is not obligated to make payment to the Recipient under this agreement until the correct EFT information is entered into the SAM database. An invoice or agreement-financing request is not a proper invoice for the purpose of prompt payment under this agreement.
- e) Recipient EFT arrangements. If the Recipient has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the SAM database, and the Recipient has not notified the Government of the payment receiving point applicable to this agreement, the Government will make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the SAM database.
- f) Liability for uncompleted or erroneous transfers.
 - i) If an uncompleted or erroneous transfer occurs because the Government used the Recipient's EFT information incorrectly, the Government remains responsible for –
 - i) Making a correct payment;
 - ii) Paying any prompt payment penalty due; and

- iii) Recovering any erroneously directed funds.
- ii) If an uncompleted or erroneous transfer occurs because the Recipient's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and –
 - i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Recipient is responsible for recovery of any erroneously directed funds; or
 - ii) If the funds remain under the control of the payment office, the Government will not make payment, and the provisions of paragraph d. of this clause apply.
- g) EFT and prompt payment. A payment will have been made in a timely manner in accordance with the prompt payment terms of this agreement if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.
- h) EFT and assignment of claims. If the Recipient assigns the proceeds of this agreement, the Recipient must require, as a condition of any such assignment, that the assignee register in the SAM database and be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause will apply to the assignee as if it were the Recipient. EFT information that shows the ultimate recipient of the transfer to be other than the Recipient, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph d. of this clause.
- i) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Recipient's financial agent.
- j) Payment information. The payment or disbursing office will forward to the Recipient available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Recipient to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph a. of this clause, the Government will mail the payment information to the remittance address contained in the SAM database.

12. Advance Payment

49 CFR § 110.50 authorizes PHMSA to issue advance payments to grant recipients. Recipient must receive prior approval from PHMSA and must meet the required criteria for advance payments to be made.

- a) Recipient must possess financial management systems that meet the standards for fund control and accountability as established in 2 CFR 200.302 for awards issued after that date. Recipient must ensure that advance payment requests are limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements in carrying out the purpose of the approved program or project.
- b) Recipient must deposit and maintain advance payments in insured accounts whenever

possible unless the recipient receives less than \$120,000 in federal awards from all sources or can demonstrate the best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances. \$250 for awards issued prior to December 26, 2014.

- c) Recipient submits advance payments based on cash payment needs and not accrued liabilities.
- d) Recipient must remain in compliance with the terms and conditions of their award.
- e) Recipient is not indebted to the United States Government.
- f) Recipient's SAM.gov registration is current and active at the time of the advance payment request.
- g) The recipient maintains supporting documentation in their files and makes them available upon request to PHMSA in order to determine if the costs adhere to the applicable cost principles, statutes and regulations. PHMSA will also monitor to ensure grantee has not requested advance payments beyond immediate disbursing needs and that excess balances were promptly returned to the Treasury.

13. Advance Payment Process

To request an advance payment, log into the DOT Electronic Payment System (Delphi E-Invoicing), create and submit a standard invoice, and complete an SF270 form with the Advance Payment Request. This process is similar to requesting a reimbursement. The grant specialist assigned to your account will receive an email generated from the system with the invoice details.

- a) Advance payments must be fully disbursed (example: checks written, signed, and issued to the payees) within 30 days of the date you receive the advance funds from the U.S. Treasury.
- b) Advance payment requests should be submitted no earlier than 10 business days prior to the beginning of the period for which the funds are requested.
- c) PHMSA will check for all of the following criteria:
 - i. Your award balance is sufficient to meet the advance amount requested.
 - ii. Evaluations will be based on cash payments and not on accrued liabilities.
 - iii. You have satisfied program requirements including submission of required federal financial reports for prior quarters/periods.
 - iv. The request is for allowable expenditures.

14. Adherence to Original Project Objectives and Budget Estimates

- a) The Recipient is responsible for any commitments or expenditures it incurs in excess of the funds provided by an award. Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award, *and only with the written approval of the Program Authorizing Official or delegate.*

- b) The Recipient must submit any proposed change, that requires PHMSA's written approval, 30 days prior to the requested effective date of the proposed change. PHMSA will not approve any change to the award during the last 30 days of the award period.

15. Prior Approvals

- a) The following expenditures require the PAO's advance written approval:
 - i) Changes in the scope, objective, or key personnel referenced in the Recipient's proposal.
 - ii) Change in the project period. PHMSA must receive this request no later than 30 calendar days prior to the end of the project period. The Recipient must submit a revised budget indicating the planned use of all unexpended funds during the extension period.
- b) The Recipient must submit a revised financial estimate and plan for i) and ii) above.
- c) The PHMSA will notify the Recipient in writing within 30 calendar days after receipt of the request for revision or adjustment whether the request has been approved.

16. Contracting with Small Businesses, Small Minority-Disadvantaged Businesses, and Small Businesses which are Women-Owned, Veteran-Owned, Disabled Veteran-Owned or located in HubZone Areas

- a) It is the Department of Transportation (DOT) policy to award a fair share of contracts to small businesses, small minority-disadvantaged business, and small businesses which are women-owned, veteran-owned, disabled veteran-owned or located in a HubZone. DOT is strongly committed to the objectives of this policy and encourages all Recipients of its Grants and Cooperative Agreements to take affirmative steps to ensure such fairness on the awarding of any subcontracts.
- b) The Recipient and any Sub-recipients are encouraged to take all necessary affirmative steps to assure that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone are used when possible.
- c) Affirmative steps include:
 - i) Placing qualified small businesses, small minority-disadvantaged businesses, and small businesses which are women owned, veteran-owned, disabled veteran-owned, or located in a HUBZone on solicitation lists;
 - ii) Assuring that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned or located in a HUBZone are solicited whenever they are potential sources;
 - iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone;
 - iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and Using the services and assistance of the U.S. Small Business Administration and the Office of the Small and Disadvantaged Business Utilization of the Department of Transportation, as appropriate.

17. Seat Belt Use Policies and Programs

In accordance with Executive Order 13043, the Recipient is encouraged to adopt on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this presidential initiative. For information on how to implement such a program or for statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's website at www.nhtsa.dot.gov. Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in Washington, D.C. dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to help with technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 85 percent seat belt use. NETS can be contacted at 1-888-221-0045 or visit its website at www.trafficsafety.org.

18. Ban on Text Messaging While Driving

a) *Definitions.* The following definitions are intended to be consistent with the definitions in DOT Order 3902.10 and the E.O. For clarification purposes, they may expand upon the definitions in the E.O.

“Driving”-

- i) Means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.
- ii) It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

“Text messaging” --- means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

b) In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, financial assistance recipients and subrecipients of grants and cooperative agreements are encouraged to:

- 1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving--
 - i) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or
 - ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.
- 2) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as--
 - i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

c) *Assistance Awards*. All recipients and subrecipients of financial assistance to include: grants, cooperative agreements, loans and other types of assistance, shall insert the substance of this clause, including this paragraph (c), in all assistance awards.

19. Rights in Technical Data

Rights to intangible property under this agreement are governed in accordance with [2 CFR 200.315](#) - "Intangible Property."

20. Notice of News Releases, Public Announcements, and Presentations

The Recipient must have the PAO's prior approval for all press releases, formal announcements, or other planned written issuance containing news or information concerning this Agreement before issuance.

21. Violation of Award Terms

If the Recipient has materially failed to comply with any term of the award, the PAO may suspend, terminate, or take other remedies as may be legally available and appropriate in the circumstances. If PHMSA determines that a grantee's application contains material errors, false, fictitious, misleading, or fraudulent statements or claims, PHMSA may choose to not award a grant; or terminate an awarded grant, in whole or in part, consistent with 2 CFR 200.

22. Reporting Fraud, Waste, or Abuse

The DOT Inspector General maintains a toll-free hotline for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. Such reports are kept confidential and callers may decline to give their names if they choose to remain anonymous. The number is: (800) 424-9071.

The mailing address is:

DOT Inspector General Hotline

1200 New Jersey Ave SE

West Bldg. 7th Floor

Washington, DC 20590

Email: hotline@oig.dot.gov

Web: <http://www.oig.dot.gov/Hotline>

23. Reporting Grantee Executive Compensation/First Tier Sub-Awards (PHMSA Oct, 2010)

a) *Definitions*. As used in this provision:

"Executive" means an officer or any other employee in a management position.

"First-tier sub-award" means an award issued directly by the prime Awardee to a sub-awardee to provide support for the performance of any portion of the substantive project or program for which the award was received. A sub-award includes an agreement that the prime Awardee or a sub-awardee considers a contract.

"Total compensation" means the cash and noncash dollar value earned by the executive during the Awardee's preceding fiscal year and includes the following:

i) Salary and bonus.

ii) Awards of stock, stock options, and stock appreciation rights.

iii) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v) Above-market earnings on deferred compensation which is not tax-qualified.

vi) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

b) **System for Award Management (SAM).** As a recipient of a Federal award you are required to register in the System for Award Management (SAM) at: <https://www.sam.gov>

c) **Notification to Sub-Awardees.** Awardees are required to report information on sub-awards. The law requires all reported information be made public; therefore, the Awardee is responsible for notifying its sub-awardees that the required information will be made public.

d) **Reporting of First-Tier Sub-Awards.** By the end of the month following the month of award of a first-tier sub-award with a value of \$25,000 or more, the Awardee shall report the information below at <http://www.fsrs.gov> for each first-tier sub-award. (The Awardee shall follow the instructions at <http://www.fsrs.gov> to report the data.) If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to report subcontractor awards. If a sub-awardee, in the previous tax year had gross income from all sources under \$300,000, the Awardee does not need to report awards made to that sub-awardee.

i) Unique identifier (9-digit Data Universal Numbering System (DUNS) number) for the sub-awardee receiving the award, and for the sub-awardee's parent company, if the sub-awardee has a parent company.

ii) Name of the sub-awardee.

iii) Amount of the sub-award.

iv) Date of the sub-award.

v) A description of the effort being provided under the sub-award, including the overall purpose and expected outcome or result of the sub-award.

vi) Sub-award number (assigned by the Awardee).

vii) Sub-awardee's physical address including street address, city, state, country, 9-digit zip code, and congressional district.

viii) Sub-awardee's primary performance location including street address, city, state, country, 9-digit zip code, and congressional district.

ix) The prime award number (assigned by PHMSA)

x) Awarding agency name. (PHMSA)

xi) Funding agency name. (PHMSA)

xii) Government awarding office code. (56)

xiii) Treasury account symbol (TAS) as reported in Federal Assistance Award Data System.

xiv) The applicable North American Industry Classification System (NAICS) code.

e) **Reporting Executive Compensation of Awardee.** If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to its executive compensation.

By the end of the month following the month of receipt of a prime award, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for the Awardee's preceding completed fiscal year at <https://www.sam.gov> if, in the Awardee's preceding fiscal year, the Awardee received:

- i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- ii) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

f) **Reporting Executive Compensation of Sub-Awardees.** If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to report the executive compensation of sub-awardees. If a sub-awardee, in the previous tax year had gross income from all sources under \$300,000, the Awardee does not need to report the executive compensation of that sub-awardee.

By the end of the month following the month of a first-tier sub-award with a value of \$25,000 or more, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for each first-tier sub-awardee for the sub-awardee's preceding completed fiscal year at <http://www.fsrs.gov>, if in the sub-awardee's preceding fiscal year, the sub-awardee received:

- i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- ii) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation

information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

24. 811, Call Before You Dig Program (PHMSA June 2014)

Damage to pipelines during excavation is a leading cause of accidents resulting in serious injuries and fatalities, but these accidents are preventable, and you can help in preventing them.

811 is designated as the national call-before-you-dig number. Every state has a one-call law requiring excavators to have underground utilities marked before digging.

There are five steps to safer digging:

- 1) Make a free call to 811 a few days before digging.
- 2) Wait the required time – which is prescribed in state law but generally two to three days.
- 3) Locate/mark the utilities accurately. (This step applies to underground facility/utility owners.)
- 4) Respect the marks.
- 5) Dig with care.

The recipient is encouraged to adopt the “811, Call Before You Dig” program for its employees when digging on company-owned, leased, or personally-owned property. For information on how to implement such a program please visit the *811 – Call Before You Dig* section of Pipeline and Hazardous Materials Safety Administration’s (PHMSA’s) website at www.phmsa.dot.gov.

25. Access to Electronic and Information Technology (PHMSA DEC 2013)

Each Electronic and Information Technology (EIT) product or service, furnished under this award, must be in compliance with the Electronic and Information Technology Accessibility Standard (36 CFR 1194), which implements Section 508 of the Rehabilitation Act of 1973, codified at 29 U.S.C. § 794d. The PHMSA Office of Civil Rights will respond to any questions, and will certify Section 508 compliance for the requirement. You can reach the PHMSA Office of Civil Rights at phmsa.civilrights@dot.gov, or 202-366-9638.

26. Combating Trafficking in Persons (PHMSA JULY 2016)

PHMSA may terminate grants, cooperative agreements, or take any of the other remedial actions authorized under 22 U.S.C. 7104(g), without penalty, if the grantee or any sub-grantee, engages in, or uses labor recruiters, brokers, or other agents who engage in-

- a) severe forms of trafficking in persons;
- b) the procurement of a commercial sex act during the period of time that the grant, or cooperative agreement is in effect;
- c) the use of forced labor in the performance of the grant or cooperative agreement; or
- d) acts that directly support or advance trafficking in persons, including the following acts:

- i) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents.
- ii) Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless-
 - 1) exempted from the requirement to provide or pay for such return transportation by the Federal department or agency providing or entering into the grant, or cooperative agreement; or
 - 2) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action.
- iii) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.
- iv) Charging recruited employees unreasonable placement or recruitment fees, such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited.
- v) Providing or arranging housing that fails to meet the host country housing and safety standards.

27. Prohibition on Awarding to Entities that Require Certain Internal Confidentiality Agreements (PHMSA FEB 2015)

- a) The Recipient shall not require employees or subcontractors seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.
- b) The Recipient shall notify employees that the prohibitions and restrictions of any internal confidentiality agreements covered herein are no longer in effect.
- c) The prohibition in paragraph (a) above does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- d) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (P.L. 113-235), use of funds appropriated (or otherwise made available) under that or any other Act may be prohibited, if the Government determines that the Recipient is not in compliance with the provisions herein.

The Government may seek any available remedies in the event the Recipient fails to comply with the provisions herein.

28. Copyrights

PHMSA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal government purposes:

- a) The copyright in any work developed under a grant, sub award, or contract under a grant or sub award; and
- b) Any rights of copyright to which a Recipient, sub recipient or a contractor purchases ownership with grant support.

29. Reporting

- a) *Biannual Federal Financial Report (FFR) (SF-425)* – The mid-year FFR provides an update on the status of funds for the first half of the performance period. This report is cumulative. The biannual FFR is due no later than 11:59pm Eastern Standard Time (EST), April 30th and December 30th of the performance year.
- b) *Biannual Performance Report* – The biannual performance report (form OMB Control Number: 2137-0586) provides the status of the activities performed during the first half of the performance period. The biannual performance report is due no later than 11:59pm Eastern Standard Time (EST), April 30th and December 30th of the performance year.
- c) *End of year financial report* – The end of year FFR closes-out the financial reporting for the performance period. An end of year FFR is due no later than 11:59pm Eastern Standard Time (EST), 90 days after the end of the performance period.
- d) *End of year performance report* – The final performance report (form OMB Control Number: 2137-0586) provides the status of the activities performed during the entire performance period. The end of year performance report is due no is due no later than 11:59pm Eastern Standard Time (EST), 90 days after the end of the performance period.

A request for extension of the due date for a mid and end of year reports must be made in writing to PHMSA no later than 15 days before the reports are due. The request must include the reason for the request and the requested due date.

Note: The following is a sample reporting template for submitting the Mid-Term Progress Reports. This format is suggested and preferred; however, the use of the report is within the grantee's discretion.

**2022 TAG Program Grant Mid-Term Progress Report
CFDA Number: 20.710**

Award Number: *[From Article I, Section 1.03 of your agreement]*

Project Title: *[From Article I, Section 1.03 of your agreement]*

Date Submitted: *[Date of report submission]*

Submitted by: *[Who is submitting; can be more than one person]*

Specific Objective(s) of the Agreement
(list the objectives of your grant project)

Expected Program Outputs
(Cut and paste your programs expected outputs)

Accomplishments for this period (Item 1 under Article VIII, Section 8.01 Progress Report: "A comparison of actual accomplishments to the objectives established for the period.")

[How are you progressing on each of the items/elements provided in the "Specific Objectives" and "Expected Program Outputs"? Start with an overall description followed by item-by-item or element-by-element detail if possible.]

Quantifiable Metrics/Measures of Effectiveness (Item 2 under Article VIII, Section 8.01 Progress Report: "Where the output of the project can be quantified, a computation of the cost per unit of output.")

[This is difficult to explain across the board, but we're trying to get a gauge for how effective this grant work is in improving your program. If your grant is more data oriented, you likely had some sort of metrics in mind to improve upon. If so, what were those metrics and how is the data looking now compared to when the program started? If you pitched something more along the lines of public awareness, then how many stakeholders have you been able to reach? Even if you don't have the metrics fully defined, put whatever you can here. If you provided training, how many students successfully passed the final exam?]

Issues, Problems or Challenges (Item 3 under Article VIII, Section 8.01 Progress Report: "The reasons for slippage if established objectives were not met. ")

[If the project is progressing on schedule, simply state that there are no issues, problems or challenges to report. If there have been delays for any reason, explain what they are and how that may impact the grant work]

Mid-term Financial Status Report

**Technical Assistance Grant 2022
Mid-Term Report Template
ATTACHMENT 2A**

[Per the instructions in Article VIII, Section 8.02 of your agreement (included below), the financial status report should be submitted to the Agreement Administrator (AA) and the Agreement Officer's Representative (AOR). Please see instructions below and include supporting documentation such as invoices, receipts, spreadsheets, etc. However, if there are any issues with the Financial Status Report or additional explanation is needed, please provide that information here. If there are any delays for whatever reasons, these should be communicated to the AA and AOR in advance.

From Article VIII, Section 8.02 of your agreement: "During the performance of the grant, the Recipient must submit a mid-term Federal Financial Report, Standard Form 425 (SF-425), to report the status of funds. In addition to the SF-425, the Recipient should provide the breakdown of costs for each object class category (Personnel, Fringe Benefits, Travel, Equipment, Supplies, Contractual, Other, and Indirect Charges)]

Plans for Next Period (Remainder of Grant)

[In most cases, this section should just mention your plans for the remainder of the project. However, if you anticipate changing the scope of the executed agreement or any reason, to include a no cost extension, modification, removal or addition of budget items, please explain here.]

Requests of the AO, AA, or AOR

[In most instances, any questions or actions requested of the AAO, AA, or AOR, such as grant modifications, should be addressed in advance of filing the report. If this is the case, simply state "No actions requested at this time" or explain any actions that are currently in process. However, please use this section to discuss these issues.

Note: The following is a sample reporting template for submitting the Final Reports. This format is suggested and preferred; however, the use of the report is within the grantee's discretion.

**2022 TAG Program Grant Final Report
CFDA Number: 20.710**

Award Number: *[From Article I, Section 1.03 of your agreement]*

Project Title: *[From Article I, Section 1.03 of your agreement]*

Date Submitted: *[Date of report submission]*

Submitted by: *[Who is submitting; can be more than one person]*

Specific Objective(s) of the Agreement

[list the objectives of your grant project]

Expected Program Outputs

[Cut and paste from Article III. Workscope of your agreement.]

Accomplishments for the grant period (Item 1 under Agreement Article VIII, Section 8.03

Final Report: “A comparison of actual accomplishments to the objectives established for the period.”)

[How did you progress on each of the items/elements provided in the “Specific Objectives” and “Workscope”? How did your progress compare with established objectives? Start with an overall description followed by item-by-item or element-by-element detail if possible.]

Quantifiable Metrics/Measures of Effectiveness (Item 2 under Article VIII, Section 8.03

Final Report: “Where the output of the project can be quantified, a computation of the cost per unit of output.”)

[This may be difficult to explain for every grant project, but we're trying to get a sense of how effective this grant work has been in improving your damage prevention program. If your grant is more data oriented, you likely had some sort of metrics in mind to improve upon. If so, what were those metrics and how does the data look now compared to when the program started? If you're doing something along the lines of enforcement that involves incident review, how many cases have you been able to review/close and/or fines collected compared to before the grant work? If you are working on something more along the lines of public awareness, how many stakeholders have you been able to reach? Even if you don't have the metrics fully defined, put whatever you can here.]

Issues, Problems or Challenges (Item 3 under Article VIII, Section 8.03 Final Report: “The reasons for slippage if established objectives were not met.”)

[If the project has successfully concluded on schedule, simply state that there are no issues, problems or challenge to report. If there have been delays for any reason, explain what they are and how they have impacted the grant work. For instance, with some States, even after an

**Technical Assistance Grant 2022
Final Report Template
ATTACHMENT 2B**

agreement is in place, it has to be sent back to the Governor's office for approval, which takes more time than originally anticipated. Even if work began immediately after the agreement was in place, other delays could have been caused by personnel changes or issues that arose as the project progressed.]

Final Financial Status Report

[Per the instructions in Article VIII, Section 8.03 of your agreement (included below), the financial status report should be submitted with this final report to the Agreement Administrator (AA) and the Agreement Officer's Representative (AOR). Please see instructions below and include supporting documentation such as invoices, receipts, spreadsheets, etc. However, if there are any issues with the Financial Status Report or additional explanation is needed, please provide that information here. If there are any delays for whatever reasons, these should be communicated to the AA and AOR in advance.

From Article VIII, Section 8.04 of your agreement: "At the end of the grant period, the Recipient must submit a Final Federal Financial Report, Standard Form 425 (SF-425), to report the status of all funds. In addition to the SF-425, the Recipient should provide the breakdown of costs for each object class category (Personnel, Fringe Benefits, Travel, Equipment, Supplies, Contractual, Other, and Indirect Charges). The Final Financial Status Report must be submitted to the AOR and the AA via e-mail, no later than 90 days after the grant period end date (see Section 1.03). If possible this report should be submitted, along with the Final Report, within 30 days after the grant period end date."]

Requests of the AOR and/or PHMSA

[In most cases, any questions or actions requested of the AOR and PHMSA (such as grant modifications) should have been addressed in advance of filing the report. If this is the case, simply state "No actions requested at this time" or explain any actions that are currently in process. However, if something has come up recently, or if you haven't been able to discuss with the AOR yet, please describe here.]

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title:

Resolution No. 08-2023 - A resolution accepting a grant in the amount of \$1,441,004 from the U.S. Department of Commerce's Economic Development Administration (EDA) for construction of the Umatilla Business Center

Meeting Date:

2022-10-04

Department:

Finance & Administrative Services

Director:

Melissa Ince

Contact Person:

Melissa Ince

Phone Number:

Cost of Proposal:

\$1.4 million

Amount Budgeted:

\$1.4 million

Fund(s) Name and Number(s):

Capital Reserve - 05

Reviewed by Finance Department:

Yes

Previously Presented:

3/1/22

Attachments to Agenda Packet Item:

[RES 08-2023.docx](#)

[EDA Grant Agreement CD-450.pdf](#)

Summary Statement:

Motion to approve Resolution No. 08-2023

Consistent with Council Goals:

Goal 2: Promote Economic Development and Job Growth.

RESOLUTION NO. 08-2023

A RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$1,441,004 FROM THE U.S. DEPARTMENT OF COMMERCE'S ECONOMIC DEVELOPMENT ADMINISTRATION (EDA) FOR CONSTRUCTION OF THE UMATILLA BUSINESS CENTER

WHEREAS, the City has been working on the Umatilla Business Center project for more than five years, starting with the procurement of the old post office building and continuing with conceptual and engineered designs; and

WHEREAS, it is the desire of the City to design and construct the Umatilla Business Center through the utilization of as much grant and private funding as possible, utilizing no debt, if possible; and

WHEREAS, the City Council has adopted goals to the support of new and small businesses, with specific goals to construct this facility and to support minority business owners; and

WHEREAS, this project, once completed with repurpose the old Post Office, construct new street and park improvements, install a new parking lot, incorporate a multi-purpose Community Room space available to all of the community, and provide programs and trainings available to its tenants and other local businesses; and

WHEREAS, the EDA's mission is to lead the Federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy; and

WHEREAS, the EDA believes this investment will provide needed infrastructure to support business growth leading to a robust regional economy; and

NOW, THEREFORE, be it resolved that the City of Umatilla does hereby accept the terms of this grant agreement and delegates authority to the Finance & Administrative Services Director to sign and execute the agreement and any necessary future amendments.

PASSED by the Council and **SIGNED** by the Mayor this 4th day of October 2022.

Mary Dedrick, Mayor

ATTEST:

Nanci Sandoval, City Recorder

FINANCIAL ASSISTANCE AWARD

FEDERAL AWARD ID NUMBER

RECIPIENT NAME

PERIOD OF PERFORMANCE

STREET ADDRESS

FEDERAL SHARE OF COST

\$

CITY, STATE, ZIP CODE

RECIPIENT SHARE OF COST

\$

AUTHORITY

TOTAL ESTIMATED COST

\$

CFDA NO. AND NAME

PROJECT TITLE

This Award Document (Form CD-450) signed by the Grants Officer constitutes an obligation of Federal funding. By signing this Form CD-450, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, the Form CD-450 must be signed by an authorized representative of the Recipient and returned to the Grants Officer. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw this Award offer and de-obligate the funds.

DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS

R & D AWARD

FEDERAL-WIDE RESEARCH TERMS AND CONDITIONS, AS ADOPTED BY THE DEPT. OF COMMERCE

SPECIFIC AWARD CONDITIONS

LINE ITEM BUDGET

2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR § 1327.101

48 CFR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES

MULTI-YEAR AWARD. PLEASE SEE THE MULTI-YEAR SPECIFIC AWARD CONDITION.

OTHER(S): _____

SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER

DATE

PRINTED NAME, PRINTED TITLE, AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

DATE

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Resolution 09-2023. A Resolution approving the execution of a Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc. (<i>PDX 194</i>).	Meeting Date: 2022-10-04
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Department: City Administration	Director: David Stockdale	Contact Person: David Stockdale	Phone Number:
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Cost of Proposal: n/a	Fund(s) Name and Number(s): General Fund - 01
Amount Budgeted: n/a	

Reviewed by Finance Department: Yes	Previously Presented: n/a
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Attachments to Agenda Packet Item:

[RES 09-2023 PDX194 EZ.docx](#)

[PDX_194_LTREZ_Agreement.docx](#)

[PDX 194 - PDX 260 MAP.pdf](#)

Summary Statement:

Motion to approve Resolution No 09-2023.

The City of Umatilla and Amazon Data Services (ADS) have a more than decade long relationship and partnership of establishing data centers in the City of Umatilla. Additionally, City Council adopted their 2021-2023 City Council Goals, of which, Objective 2.1 states to "Continue to strongly support and encourage the development of data centers" and Objective 2.3 states to "Reduce barriers to economic growth." Approving the Long-Term Enterprise Zone Abatement Agreement (LTREZ) meets both of these Council goals and creates significant economic development for our community and region. The payments in lieu of taxes are more significant than past agreements with the creation of the Community Development Contribution. This agreement contains a new provision that Amazon will pay their proportionate share for voter approved qualifying bonds which include those for public utilities, public educational services, fire services, public health services or public safety services. This agreement also provides annual funding earmarked for Public Safety and Education intended to help support some of our other local agency partners.

Consistent with Council Goals:

Goal 2: Promote Economic Development and Job Growth.

RESOLUTION NO. 09-2023

A RESOLUTION APPROVING THE EXECUTION OF A LONG-TERM RURAL ENTERPRISE ZONE ABATEMENT AGREEMENT WITH AMAZON DATA SERVICES, INC. (PDX 194).

WHEREAS, the City Council of the City of Umatilla is the sponsor of the Greater Umatilla Enterprise Zone; and

WHEREAS, the Board of County Commissioners of Umatilla County and the City Council of the City of Umatilla in August 2020 co-adopted Resolutions to amend the Greater Umatilla Enterprise Zone to become equal co-sponsors of the Greater Umatilla Enterprise Zone, a process that is currently pending; and

WHEREAS, Amazon Data Services, Inc. has agreed to invest more than \$200,000,000 to develop more than 250,000 square feet of data center facilities within the zone; and

WHEREAS, Amazon Data Services, Inc. has requested a Long-term Rural Enterprise Zone Abatement pursuant to ORS 285C.409(1); and

WHEREAS, Amazon Data Services, Inc. agrees to adhere to all requirements of an agreement for Long-Term Rural Enterprise Zone Abatement with Umatilla County and the City of Umatilla, as well as any applicable laws of the State of Oregon relating to Long-Term Rural Enterprise Zone Abatement; and

WHEREAS, the Agreement for Long-Term Rural Enterprise Zone Abatement requires Amazon Data Services, for the term of the agreement, to invest more than \$200 million, provide employee compensation greater than 130 percent of the Umatilla County average wage, and pay the required fees to the zone over the term of the agreement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UMATILLA:

1. That the form, terms, and provisions of the draft of the Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, entered by Amazon Data Services, and the City of Umatilla, and the transactions contemplated thereby, providing for, among other things, establishing Amazon Data Services' investment in a new data center facility and related employment, and the Long-Term Rural Enterprise Zone Abatement pursuant to Oregon Revised Statute, copies of which have been presented to and reviewed by the City Council be, and they are, in all respects, hereby approved and adopted; and
2. The City Manager of the City of Umatilla is hereby authorized to execute and deliver the Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc., substantially in the form heretofore approved and adopted with such changes, additions, deletions and modifications as such executing officer or officers may approve,

such execution to be conclusive evidence of such approval and of the authorization thereof by the City Council; and

3. The City Manager of the City of Umatilla is hereby authorized and directed to prepare, execute, deliver, acknowledge and file such additional documents, agreements, certificates, forms, receipts and other instruments, in the name of and on behalf of the City of Umatilla and under its corporate seal, if so desired, and to take all such other actions as such officer or officers shall, in his or her or their sole discretion, approve in order to carry out the transactions heretofore approved and perform and discharge the City of Umatilla's obligations under or in connection with the Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc., such actions and execution to be conclusive evidence of such approval and of the authorization thereof by the City Council.
4. Effective Date. This Resolution is effective, immediately upon its passage, as of the date and year set out below.

PASSED by the City Council and **SIGNED** by the Mayor this 4th day of October, 2022.

Mary Dedrick, Mayor

ATTEST:

Nanci Sandoval, City Recorder

AGREEMENT FOR LONG-TERM RURAL ENTERPRISE ZONE TAX ABATEMENT

This agreement for Long-Term Rural Enterprise Zone Tax Abatement ("Agreement") is executed by GREATER UMATILLA ENTERPRISE ZONE BOARD, representing the sponsor entities UMATILLA COUNTY, OREGON ("Umatilla County"), the CITY OF UMATILLA, OREGON ("City of Umatilla"), and Amazon Data Services, Inc. (the "Company"). Umatilla County and City of Umatilla are referenced collectively in this Agreement as "Sponsors." In this Agreement, each of the Sponsors and the Company are sometimes individually referenced as a "Party" and collectively referenced as the "Parties."

RECITALS

The Sponsors have established the Greater Umatilla Enterprise Zone (the "Zone") pursuant to Oregon Revised Statute (ORS) 285C.045, *et seq.*

With the aid of tax incentives from the Sponsors, the Company, either directly or through an affiliate, intends to make investments in the Zone by building and operating one or more new data centers located in the Zone.

The Company has previously made significant investments in the Zone that have contributed to long-term investment and employment in the Zone.

The Company and the Sponsors desire to enter into this Agreement to encourage the Company to continue to make investments in the Zone and to streamline and simplify the reporting and administration of tax abatements made available to the Company.

The Company has timely and properly filed the Oregon Form OR-AP-CERT, Oregon Enterprise Zone Certificate Application – Long-Term Rural Tax Incentive, 150-310-073 ("Application") with respect to the Facility (as defined below).

The Company has executed a first-source hiring agreement, pursuant to ORS 285C.215, regarding the new permanent jobs to be created in Umatilla County upon completion and operation of the Facility.

NOW, THEREFORE, in recognition of the foregoing recitals, in consideration of the covenants contained herein, and in accordance with ORS 285C.400 through 285C.420, the Parties hereby agree as follows:

AGREEMENT

- I. **The Facility:** The "Facility" will consist of investments in data centers to be developed by the Company or its affiliates and located in the Zone, which will include the land, real property improvements, machinery and equipment, related personal property, and related support facilities and buildings, which may be installed, constructed, added, or placed in service in the Zone during the term of this Agreement. The Facility site is located in the Zone on (A) Parcel 2 of Partition Plat 2021-32, Records of Umatilla County, Oregon, lying in the South-half of Section 29, Township 5 North, Range 28 East, Willamette Meridian, Umatilla County, Oregon (consisting of approximately 194.65 acres), and (B) a portion of the Cleaver Land, LLC parcel as described in Instrument No. 2011-5770267, Records of Umatilla County, Oregon, lying in a portion of the Northeast quarter of the Northwest quarter of Section 32, Township 5 North, Range 28 East, Willamette Meridian, Umatilla

County, Oregon and described as the portion of the Northeast quarter of the Northwest quarter of said Section 32, lying East of the Easterly right-of-way line of Powerline Road (consisting of approximately 39.34 acres) (collectively (A) and (B), the "Partition Plat"). No addresses are currently attached to this location. Additional addresses may be attached to the Partition Plat for data centers developed in the Zone during the term of this Agreement.

- II. **Exemption for the Facility:** The Sponsors jointly acknowledge and agree that, upon approval of the Company's Application, and upon certification by the Sponsors and the Umatilla County Assessor, and conditioned upon the satisfaction of other requirements under ORS 285C.400 through 285C.420 and this Agreement, the Facility will be exempt from ad valorem property tax on the Facility as provided in ORS 285C.409(1). The property tax exemption granted by this Agreement will to the maximum extent permitted by law exempt from all ad valorem property taxation the real property improvements, personal property improvements, and tangible and intangible personal property (excluding land, as set forth in ORS 285C.409(5)(a)) comprising or installed, constructed, added or otherwise placed at the Facility site, all as set forth in ORS 285C.409 and Oregon Administrative Rule (OAR) 123-690-0100(2) and 123-690-6200.
- III. **Term of Exemption:** Pursuant to ORS 285C.409(1), and conditioned upon the satisfaction of other requirements under ORS 285C.400 through 285C.420 and this Agreement, the Facility will be exempt from *ad valorem* property tax as follows:
 - A. For the first tax year following the calendar year in which the Company is certified or after which construction of the Facility commences, whichever event occurs later;
 - B. For each subsequent tax year in which the Facility is not yet in service as of the assessment date; and
 - C. For a period of 15 consecutive property tax years commencing as of the first tax year in which the Facility is in service as of the assessment date (the "Exemption Period"). As used in this Agreement, "in service" has the same meaning as "in service" as defined in OAR 123-690-0100(3).
 - 1. The Company shall notify the Umatilla County Assessor upon the Facility's receipt of the permit to occupy and use the Facility for its intended purpose within 90 days of such receipt.
- IV. **Scope of Exemption:** Pursuant to ORS 285C.409(1) and subject to Section II, the Company and its affiliates are entitled to exemption from ad valorem property tax with respect to all qualified property, whether leased or owned and whether tangible or intangible, of the Company and its affiliates used in connection with the development, construction, and operation of the Facility, including without limitation all subsequent Facility investments as described in OAR 123-690-6200.
- V. **Obligations of the Company:** The Company will comply with the following conditions as authorized under ORS 285C.403(3)(c):
 - A. **Statutory and Administrative Requirements:** The Company agrees to comply with the requirements of ORS 285C.409 and 285C.412([5]) as well as those provided in OAR Chapter 123, Division 690.

B. Additional Obligations: As established solely under this Agreement, the Parties agree to the additional obligations set forth below:

1. **Annual Improvement Payment ("AIP"):** For each year of the Exemption Period, the Company shall pay to the Sponsors an AIP for each data center within the Facility that is issued, and maintains, a permit to occupy and use such data center (a "Qualifying DC"). The AIP for each Qualifying DC is equal to \$5 per square foot thereof; provided, however, that the AIP for each of the first 4 Qualifying DCs that is at least 180,000 square feet is equal to a minimum of \$1 million regardless of their square footage; provided further, that the minimum total AIPs for each year of the Exemption Period will be \$2,000,000. The references to data center square footage in this paragraph refer to the gross square footage within the exterior walls of each data center building.
2. **Additional Annual Fee ("AAF"):** For each year of the Exemption Period, the Company shall pay to the Sponsors an AAF equal to the amount calculated by applying the tax code area ad valorem property tax rate to the AAF Base Amount set forth in Appendix 1.
3. **Public Safety Impact Fee ("PSIF"):** For each year of the Exemption Period, the Company shall pay to the Sponsors a PSIF in the amount set forth in Appendix 1.
4. **Student Success Fee ("SSF"):** For each year of the Exemption Period, the Company shall pay to the Sponsors an SSF in the amount set forth in Appendix 1.
5. **Community Development Contribution ("CDC"):** Within 60 days after the Company has commenced construction, within the meaning of ORS 285C.409(1)(a), of the first new Qualifying DC within the Facility, the Company shall pay to the Sponsors a CDC in the amount of \$5,000,000. The Parties acknowledge that the CDC is intended to assist with costs of capital improvement projects within the tax districts included in the consolidated tax code area in which the Facility is located, which may include payment or defeasance of debt service on, or redemption of, outstanding bonded indebtedness issued for such purposes under applicable law. Nothing in this Section V.B.5 shall modify, extend, waive, or otherwise affect the exemption provided under this Agreement, or constitute an obligation of the Company to support the payment of or satisfy any such bonded indebtedness, or compel the Sponsors to use the CDC for this purpose.
6. **Fee Payment Instructions:** The Company shall make the AIP, AAF, PSIF, SSF, and CDC payable to the "Umatilla County Assessor." The Company shall deposit the AIP, AAF, PSIF and SSF to the Umatilla County Assessor on or before November 15 of each year of the Exemption Period.
 - a. The mailing address for all payments is: Umatilla County Assessor, 216 SE 4th St., Pendleton, OR 97801.
7. **Payment Reduction for Charitable Payment:** The Company may make payments to or for the benefit of charities or non-profit entities that benefit

the City of Umatilla, or residents of the City of Umatilla, and that are reasonably approved by the Sponsors (a "Charitable Payment"). If the Company makes a Charitable Payment, the Company may reduce its payments due under this Section V.B on a dollar-for-dollar basis in an amount equal to the Charitable Payment made during each year, up to a total reduction each year in the amount of \$150,000; provided, however, the first \$25,000 of Charitable Payment made each year will not result in any reduction in the payments due by the Company under this Section V.B.

8. **Permit Fees:** The Company will pay all standard building permit and other permit fees related to the Facility. The Company further agrees that if it has a choice between obtaining an equivalent permit, license, or similar approval for the Facility from either a local governmental entity or a state entity, the Company will obtain the permit, license, or similar approval from the local governmental entity.
9. **Payments Generally:** With respect to the Facility, and to the fullest extent permitted by applicable law, the Company will not be required to pay sums to any local taxing authority in which the Facility is located other than the AIP, AAF, PSIF, SSF, and CDC due under this Section V.
10. **Future Bonding.**
 - a. During each year of the Exemption Period, the Company will contribute an amount to the Sponsors (the "Bond Contribution") to be used solely for the payment or prepayment of debt service on newly-issued general obligation bond indebtedness incurred to finance public utilities, public educational services, fire services, public health services, or public safety services, and issued pursuant to voter approval of a measure passed on or after the date of this Agreement by any taxing district included in the consolidated tax area in which the Facility is located (a "Qualifying Bond"). The annual Bond Contribution will be equal to 100% of the aggregate amount the Company would have been assessed with respect to such Qualifying Bonds for all property owned by the Company within the taxing district subject to the Qualifying Bond but for the exemption pursuant to this Agreement and any other exemption for property owned by the Company within such taxing district. The Company will not unreasonably object to any local measures for Qualifying Bonds.
 - b. Following voter approval of a Qualifying Bond and prior to the issuance date of any such Qualifying Bond, the Company, the Sponsors, and the Umatilla County Assessor will collaborate to ensure that (a) Bond Contributions are expended solely to prepay or to make debt service payments on Qualifying Bonds, (b) tax levy rates imposed on taxpayers are adjusted to take into account any Bond Contributions, and (c) Bond Contributions do not violate any tax-exemption requirements for Qualifying Bonds. The Parties will enter into additional agreements to implement these provisions.

VI. Obligations of Sponsors: Sponsors will comply with the following conditions:

- A. Resolutions:** Within 30 days of the Effective Date (as defined below), the governing body of each of Umatilla County and City of Umatilla will adopt resolutions approving and authorizing the execution of this Agreement. Such resolutions will serve to approve the Facility for a property tax exemption under ORS 285C.409 and constitute the resolutions described in ORS 285C.403(3)(a).
- B. Certification:** Within 5 days of satisfaction of the criteria set forth under ORS 285C.403(3), Sponsors and the Umatilla County Assessor will request confirmation from the Oregon Business Development Department of administrative sufficiency and confirmation of the County's conformity with ORS 285C.400(3) and the County's status as a "qualified rural county" within the meaning of ORS 285C.400 and 285C.412. Within 30 days of receipt of confirmation from the Oregon Business Development Department, Sponsors and the Umatilla County Assessor will approve and countersign the Application submitted by the Company, thereby certifying the Company as eligible for the property tax exemption contemplated by this Agreement.
- C. Tax Exemption:** Sponsors hereby set the period of the property tax exemption for the Facility for purposes of ORS 285C.409(1)(c) to be 15 consecutive tax years, beginning with the first tax year in which the Facility is in service as of the assessment date.
- D. Allocation of Payments:** Sponsors are solely responsible for the allocation, budgeting, division, and disposition of any payment due under this Agreement, including any portions that may be due or payable to any other jurisdiction. In no event shall the Company have any liability in connection with any disagreement, error, or conflict related to the division, allocation, or distribution of such amounts. In no event will the Company have any liability or obligation to any other person with respect to any payment due under this Agreement after the Company has discharged its duty to pay as set forth in Section V above, and Sponsors shall hold the Company harmless with respect to any claims to the contrary.
- E. Sponsors' Support:** Sponsors will support the Company in the Company's efforts to qualify for and obtain other tax incentives in connection with the Facility, including by promptly executing such letters or other documentation of support as may be reasonably requested by the Company, but Sponsors make no warranty with respect to its ability to affect any outcome in such regards.

VII. Termination Rights: Each Party may terminate this Agreement as follows:

- A. The Company's Termination Right:** The Company may elect to terminate this Agreement for any reason or no reason by delivery of written notice thereof to Sponsors. Upon delivery of any such notice, this Agreement will be of no further force or effect and no party will have any further rights or obligations hereunder, except for obligations owing and unpaid on the date of termination.
- B. Sponsors' Termination Right:** If the Company fails to make any payment required under this Agreement within 30 days of the due date of such payment, or fails to fulfill any other obligation of this Agreement within 30 days of written notice specifying the obligation which is in default, Sponsors may terminate the Agreement upon written notice to the Company. Such notice must provide an

additional 60 days in which the Company may cure any such payment deficiency or default. Notwithstanding the foregoing, Sponsors may not terminate the Agreement if the Company's failure to pay is due to the error of any Sponsor.

- C. Mutual Termination Right:** The Parties may terminate this Agreement at any time upon mutual written agreement of termination.

VIII. Confidentiality:

- A.** The Parties acknowledge that this Agreement is a public record subject to Oregon's public records laws. The Sponsors agree that their staff, representatives and agents will exercise the utmost discretion in oral and written communications regarding the Facility and will provide information internally only to those individuals who need the information to facilitate the Parties' performance under this Agreement. If any person or entity requests any data, documents, or notes about the Company or its business practices (other than this Agreement) that are related to this Agreement or its tax exemption ("Confidential Information"), whether by court order, subpoena, Oregon Public Records Request, or other reason, the Sponsors shall not release any such information except as consistent with the following provisions:

1. The Sponsors shall notify the Company within 3 business days of the receipt of such request;
2. if the Company elects to challenge or appeal the release of such information, the Company shall notify the Sponsors within 9 business days of receipt of the request, and the Company shall assume all responsibilities, costs, and expenses for such defense; and
3. if the Company does not notify the Sponsors within 9 business days of receipt of such request, the Sponsors shall be authorized to release the requested information to the requester to the extent required by law, and the Sponsors shall have no liability to the Company for such release of such Confidential Information.

Notwithstanding the above, the Sponsors agree to cooperate with the Company in any challenge or appeal to a court order, subpoena, public records request, or other applicable law requiring the release of Confidential Information. The Company shall indemnify and hold the Sponsors harmless for all costs and expenses incurred in the challenge or appeal to the release of such Confidential Information, including court and appeal costs and the Sponsors' attorney's fees and expenses. Nothing in this section requires the Parties to refuse to disclose such Confidential Information after a final order, including any appeal, by a competent judicial authority. If Oregon law is amended to require responses to public records requests be made less than 12 business days from the request, the number of business days specified in Paragraphs (1) and (2) of this Section VIII.A shall be reduced to 2 business days, and the number of business days to respond to a public records request as mandated by Oregon law less 2 business days, respectively.

IX. Miscellaneous Provisions:

- A. Effective Date:** This Agreement becomes effective on the date at which this Agreement has been signed by all of the Parties.
- B. Assignment:** None of the Parties may assign this Agreement without the prior written consent of the other Parties, except that the Company may assign this Agreement to any of its affiliates, or to a new entity without the prior written consent of the other Parties. Subject to the foregoing, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Nothing in this Agreement shall be deemed to constitute a restriction or condition on the ability of the Facility owner to freely sell, transfer or assign ownership of the improvements or the underlying land or any portion thereof or any ownership interest in the Facility owner at any time.
- C. Amendment:** This Agreement may be amended only by a written document signed by the Party against whom enforcement is sought.
- D. Waiver:** No waiver will be binding on a Party unless it is in writing and signed by the Party making the waiver. A Party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.
- E. Notices:** All notices and communications relating to this Agreement shall be in writing and shall be personally delivered or sent by registered or certified mail, return receipt requested, or delivered by nationally recognized express courier service. Such notices and other communications shall be effective upon receipt if hand delivered, 3 business days after mailing if sent by mail, and 1 business day after dispatch if sent by express courier, to the following addresses:

<p><u>If to the Company:</u></p> <p>Amazon.com, Inc. 410 Terry Ave. N Seattle, WA 98109 Attn: Infrastructure Global Expansion, Economic Development</p> <p><u>With copies to:</u> Amazon.com, Inc. Attn: General Counsel P.O. Box 81226 Seattle, WA 98108</p>	<p><u>If to Sponsors:</u></p> <p>Umatilla County Assessor 216 SE 4th St. Pendleton, OR 97801</p> <p><u>With copies to:</u> City of Umatilla Attn: Greater Umatilla Enterprise Zone Manager PO Box 130 Umatilla, OR 97882</p>
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A copy of all notices and communications relating to this Agreement shall also be sent, on or before the date in which they become effective, by email to:

<p><u>If to the Company:</u></p> <p>Aws-econ-dev@amazon.com &</p>	<p><u>If to Sponsors:</u></p>
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- F. Limitation of Liability:** Notwithstanding anything to the contrary in this Agreement, neither the Company, nor any of its affiliates, shall be liable for: (a) any indirect, reliance, exemplary, incidental, speculative, punitive, special, consequential or similar damages that may arise in connection with this Agreement, (b) any lost or foregone tax revenues, or (c) any damages, liabilities, fees, costs, expenses, penalties, diminishments in value, losses or payments (including any lost or foregone tax revenues) that exceed, in the aggregate, the lesser of (i) the financial benefit realized by the Company under this Agreement and (ii) \$3,000,000.
- G. Force Majeure:** A Party will not be deemed to be in breach, material breach, default or otherwise in violation of any term of this Agreement to the extent such Party's action, inaction or omission is the result of a Force Majeure Event. The Company and Sponsors agree to use commercially reasonable efforts to promptly resolve any Force Majeure Event that adversely and materially impacts their performance under this Agreement. A Force Majeure Event pauses a Party's performance obligation for the duration of the event, but does not excuse it. "Force Majeure Event" means any event or occurrence that is not within the control of such Party or its affiliates and prevents a Party from performing its obligations under this Agreement, including without limitation, any act of God; act of a public enemy; war; riot; sabotage; blockage; embargo; failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority; labor strike, lockout or other labor or industrial disturbance (whether or not on the part of agents or employees of any Party); civil disturbance; terrorist act; power outage; fire, flood, windstorm, hurricane, earthquake or other casualty; any law, order, regulation or other action of any governing authority; any action, inaction, order, ruling moratorium, regulation, statute, condition or other decision of any governmental agency having jurisdiction over a Party hereto, over the Facility or over a Party's operations.
- H. Severability:** The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provision shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. It is the intent of the Parties that, in the event a clause or provision is stricken, that there be added as part of this Agreement a clause or provision as similar in terms as may be possible, legal, and enforceable so as to provide a comparable property tax exemption and comparable payments as provided for in this Agreement.
- I. Governing Law:** This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement.
- J. Venue:** Any action, suit, or proceeding arising out of the subject matter of this Agreement will be litigated in courts located in Umatilla County, Oregon. Each Party consents and submits to the jurisdiction of any local, state, or federal court located in Umatilla County, Oregon.

- K. Attorney's Fees:** If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Agreement, or otherwise in connection with the subject matter of this Agreement, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, action, suit, or proceeding, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court. Notwithstanding the foregoing, each Party's maximum liability under this Section IX(K) is \$75,000 and in no event will any Party be obligated by this Section IX(K) to pay an amount in excess of \$75,000.
- L. Entire Agreement:** This Agreement contains the entire understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the Parties with respect to the subject matter of this Agreement.
- M. Signatures:** This Agreement may be signed in one or more counterparts, each of which is an original, and all of which together constitute only one agreement between the Parties. A signature page delivered by fax or electronic mail will be considered an original signature page. At the request of a Party, the other Parties will confirm delivery of a signature page (whether by fax or electronic mail) by delivering an original signature page to the requesting Party.
- N. Waiver of Jury Trial:** WITH RESPECT TO ANY PROCEEDING OR ACTION ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE), THE PARTIES KNOWINGLY, INTENTIONALLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE THEIR RIGHT TO TRIAL BY JURY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT IT HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, IT MAKES THIS WAIVER KNOWINGLY AND VOLUNTARILY, AND IT HAS DECIDED TO ENTER INTO THIS AGREEMENT IN CONSIDERATION OF, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, have executed this Agreement on the date shown below.

Dated this _____ day of _____, 2022.

Umatilla County

John Shafer, Chair

George Murdock

Dan Dorran

City of Umatilla

David Stockdale, City Manager and Enterprise Zone Manager

Attest:

Nanci Sandoval, City Recorder

Amazon Data Services, Inc.

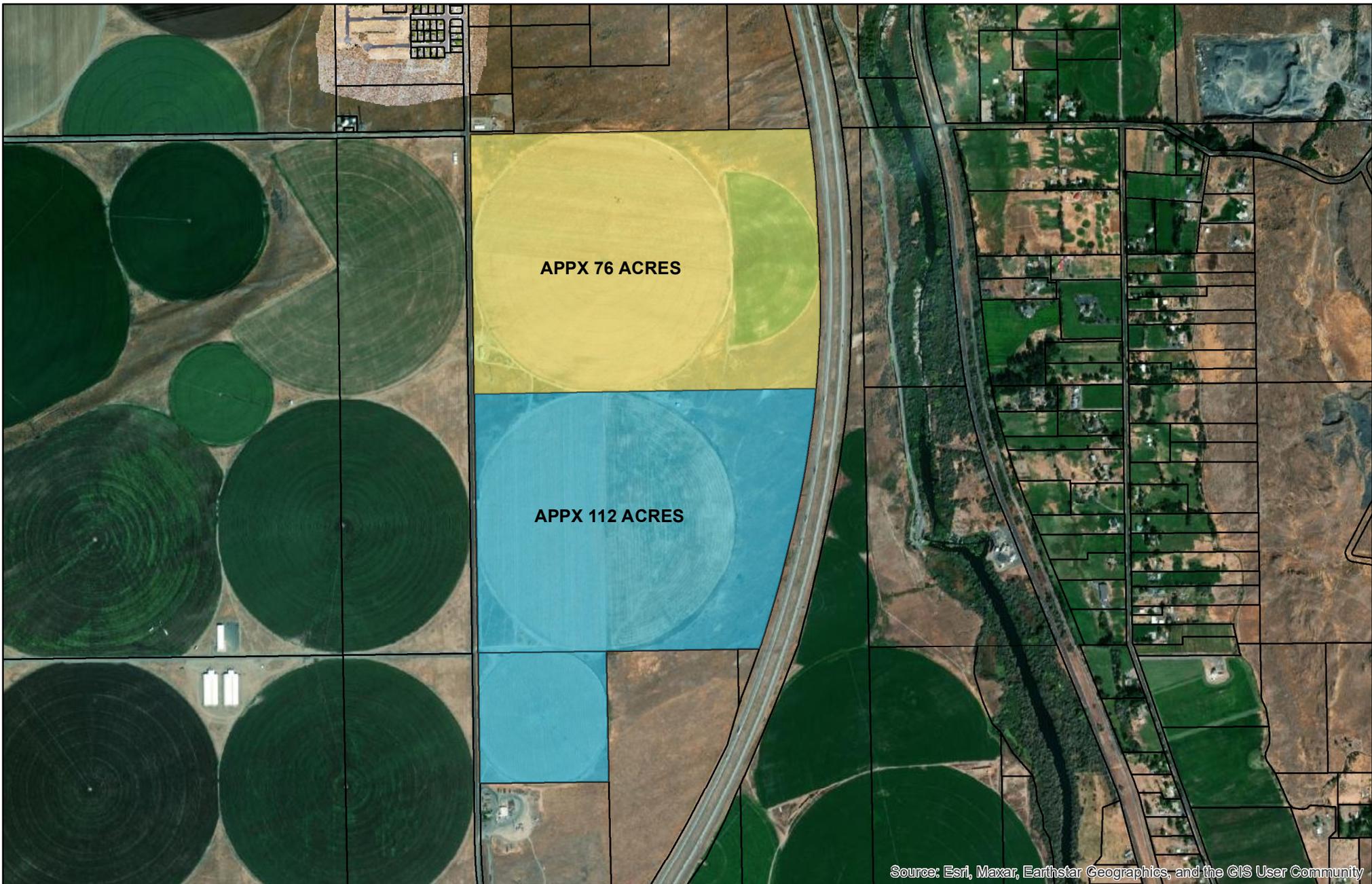
Dated this _____ day of _____, 2022.

Appendix 1*

Tax Year	AAF Base Amount**	PSIF Payment Amount	SSF Payment Amount
2023	27,318,175	54,636	54,636
2024	28,137,720	56,275	56,275
2025	28,981,852	57,964	57,964
2026	29,851,307	59,703	59,703
2027	30,746,847	61,494	61,494
2028	31,669,252	63,339	63,339
2029	32,619,330	65,239	65,239
2030	33,597,909	67,196	67,196
2031	34,605,847	69,212	69,212
2032	35,644,022	71,288	71,288
2033	36,713,343	73,427	73,427
2034	37,814,743	75,629	75,629
2035	38,949,185	77,898	77,898
2036	40,117,661	80,235	80,235
2037	41,321,191	82,642	82,642
2038	42,560,827	85,122	85,122
2039	43,837,651	87,675	87,675
2040	45,152,781	90,306	90,306
2041	46,507,364	93,015	93,015
2042	47,902,585	95,805	95,805
2043	49,339,663	98,679	98,679
2044	50,819,853	101,640	101,640
2045	52,344,448	104,689	104,689
2046	53,914,782	107,830	107,830
2047	55,532,225	111,064	111,064
2048	57,198,192	114,396	114,396
2049	58,914,138	117,828	117,828
2050	60,681,562	121,363	121,363
2051	62,502,009	125,004	125,004
2052	64,377,069	128,754	128,754
2053	66,308,381	132,617	132,617
2054	68,297,632	136,595	136,595
2055	70,346,561	140,693	140,693
2056	72,456,958	144,914	144,914
2057	74,630,667	149,261	149,261

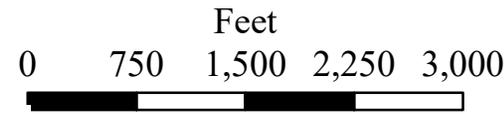
* For the avoidance of doubt, any payments only apply during the Exemption Period.

** Amount of payment will be calculated by applying the applicable tax code area ad valorem property tax rate to the AAF Base Amount.



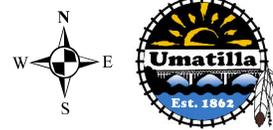
Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

**AMAZON DATA SERVICES, INC.
LONG TERM RURAL ENTERPRISE ZONE PROPERTY LOCATIONS**



Legend

- South Campus (194)
- North Campus (260)
- Tax Lots 4_05_22



MAP DISCLAIMER: No warranty is made as to the accuracy, reliability or completeness of this data. Map should be used for reference purposes only. Not survey grade or for legal use. Created by Jacob Foutz, on 9/30/2022

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Resolution 10-2023. A Resolution approving the execution of a Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc. (<i>PDX 260</i>).	Meeting Date: 2022-10-04
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Department: City Administration	Director: David Stockdale	Contact Person: David Stockdale	Phone Number:
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Cost of Proposal: n/a	Fund(s) Name and Number(s): General Fund - 01
Amount Budgeted: n/a	

Reviewed by Finance Department: Yes	Previously Presented: n/a
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Attachments to Agenda Packet Item:

[RES 10-2023 PDX260 EZ.docx](#)

[PDX 260 - LTREZ Agreement.docx](#)

[PDX 194 - PDX 260 MAP.pdf](#)

Summary Statement:

Motion to approve Resolution No 10-2023.

The City of Umatilla and Amazon Data Services (ADS) have a more than decade long relationship and partnership of establishing data centers in the City of Umatilla. Additionally, City Council adopted their 2021-2023 City Council Goals, of which, Objective 2.1 states to "Continue to strongly support and encourage the development of data centers" and Objective 2.3 states to "Reduce barriers to economic growth." Approving the Long-Term Enterprise Zone Abatement Agreement (LTREZ) meets both of these Council goals and creates significant economic development for our community and region. The payments in lieu of taxes are more significant than past agreements with the creation of the Community Development Contribution. This agreement contains a new provision that Amazon will pay their proportionate share for voter approved qualifying bonds which include those for public utilities, public educational services, fire services, public health services or public safety services. This agreement also provides annual funding earmarked for Public Safety and Education intended to help support some of our other local agency partners.

Consistent with Council Goals:

Goal 2: Promote Economic Development and Job Growth.

RESOLUTION NO. 10-2023

A RESOLUTION APPROVING THE EXECUTION OF A LONG-TERM RURAL ENTERPRISE ZONE ABATEMENT AGREEMENT WITH AMAZON DATA SERVICES, INC. (PDX 260).

WHEREAS, the City Council of the City of Umatilla is the sponsor of the Greater Umatilla Enterprise Zone; and

WHEREAS, the Board of County Commissioners of Umatilla County and the City Council of the City of Umatilla in August 2020 co-adopted Resolutions to amend the Greater Umatilla Enterprise Zone to become equal co-sponsors of the Greater Umatilla Enterprise Zone, a process that is currently pending; and

WHEREAS, Amazon Data Services, Inc. has agreed to invest more than \$200,000,000 to develop more than 250,000 square feet of data center facilities within the zone; and

WHEREAS, Amazon Data Services, Inc. has requested a Long-term Rural Enterprise Zone Abatement pursuant to ORS 285C.409(1); and

WHEREAS, Amazon Data Services, Inc. agrees to adhere to all requirements of an agreement for Long-Term Rural Enterprise Zone Abatement with Umatilla County and the City of Umatilla, as well as any applicable laws of the State of Oregon relating to Long-Term Rural Enterprise Zone Abatement; and

WHEREAS, the Agreement for Long-Term Rural Enterprise Zone Abatement requires Amazon Data Services, for the term of the agreement, to invest more than \$200 million, provide employee compensation greater than 130 percent of the Umatilla County average wage, and pay the required fees to the zone over the term of the agreement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UMATILLA:

1. That the form, terms, and provisions of the draft of the Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, entered by Amazon Data Services, and the City of Umatilla, and the transactions contemplated thereby, providing for, among other things, establishing Amazon Data Services' investment in a new data center facility and related employment, and the Long-Term Rural Enterprise Zone Abatement pursuant to Oregon Revised Statute, copies of which have been presented to and reviewed by the City Council be, and they are, in all respects, hereby approved and adopted; and
2. The City Manager of the City of Umatilla is hereby authorized to execute and deliver the Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc., substantially in the form heretofore approved and adopted with such changes, additions, deletions and modifications as such executing officer or officers may approve,

such execution to be conclusive evidence of such approval and of the authorization thereof by the City Council; and

3. The City Manager of the City of Umatilla is hereby authorized and directed to prepare, execute, deliver, acknowledge and file such additional documents, agreements, certificates, forms, receipts and other instruments, in the name of and on behalf of the City of Umatilla and under its corporate seal, if so desired, and to take all such other actions as such officer or officers shall, in his or her or their sole discretion, approve in order to carry out the transactions heretofore approved and perform and discharge the City of Umatilla's obligations under or in connection with the Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc., such actions and execution to be conclusive evidence of such approval and of the authorization thereof by the City Council.
4. Effective Date. This Resolution is effective, immediately upon its passage, as of the date and year set out below.

PASSED by the City Council and **SIGNED** by the Mayor this 4th day of October, 2022.

Mary Dedrick, Mayor

ATTEST:

Nanci Sandoval, City Recorder

AGREEMENT FOR LONG-TERM RURAL ENTERPRISE ZONE TAX ABATEMENT

This agreement for Long-Term Rural Enterprise Zone Tax Abatement ("Agreement") is executed by GREATER UMATILLA ENTERPRISE ZONE BOARD, representing the sponsor entities UMATILLA COUNTY, OREGON ("Umatilla County"), the CITY OF UMATILLA, OREGON ("City of Umatilla"), and Amazon Data Services, Inc. (the "Company"). Umatilla County and City of Umatilla are referenced collectively in this Agreement as "Sponsors." In this Agreement, each of the Sponsors and the Company are sometimes individually referenced as a "Party" and collectively referenced as the "Parties."

RECITALS

The Sponsors have established the Greater Umatilla Enterprise Zone (the "Zone") pursuant to Oregon Revised Statute (ORS) 285C.045, *et seq.*

With the aid of tax incentives from the Sponsors, the Company, either directly or through an affiliate, intends to make investments in the Zone by building and operating one or more new data centers located in the Zone.

The Company has previously made significant investments in the Zone that have contributed to long-term investment and employment in the Zone.

The Company and the Sponsors desire to enter into this Agreement to encourage the Company to continue to make investments in the Zone and to streamline and simplify the reporting and administration of tax abatements made available to the Company.

The Company has timely and properly filed the Oregon Form OR-AP-CERT, Oregon Enterprise Zone Certificate Application – Long-Term Rural Tax Incentive, 150-310-073 ("Application") with respect to the Facility (as defined below).

The Company has executed a first-source hiring agreement, pursuant to ORS 285C.215, regarding the new permanent jobs to be created in Umatilla County upon completion and operation of the Facility.

NOW, THEREFORE, in recognition of the foregoing recitals, in consideration of the covenants contained herein, and in accordance with ORS 285C.400 through 285C.420, the Parties hereby agree as follows:

AGREEMENT

- I. **The Facility:** The "Facility" will consist of investments in data centers to be developed by the Company or its affiliates and located in the Zone, which will include the land, real property improvements, machinery and equipment, related personal property, and related support facilities and buildings, which may be installed, constructed, added, or placed in service in the Zone during the term of this Agreement. The Facility site is located in the Zone on Parcel 1 of Partition Plat 2021-32, Records of Umatilla County, Oregon, located in a portion of the East-half of the West-half and the East-half of Section 29, Township 5 North, Range 28 East, Willamette Meridian, City of Umatilla, Umatilla County, Oregon (consisting of approximately 211.91 acres) (the "Partition Plat"). No addresses are currently attached to this location. Additional addresses may be attached to the Partition Plat for data centers developed in the Zone during the term of this Agreement.

- II. Exemption for the Facility:** The Sponsors jointly acknowledge and agree that, upon approval of the Company's Application, and upon certification by the Sponsors and the Umatilla County Assessor, and conditioned upon the satisfaction of other requirements under ORS 285C.400 through 285C.420 and this Agreement, the Facility will be exempt from ad valorem property tax on the Facility as provided in ORS 285C.409(1). The property tax exemption granted by this Agreement will to the maximum extent permitted by law exempt from all ad valorem property taxation the real property improvements, personal property improvements, and tangible and intangible personal property (excluding land, as set forth in ORS 285C.409(5)(a)) comprising or installed, constructed, added or otherwise placed at the Facility site, all as set forth in ORS 285C.409 and Oregon Administrative Rule (OAR) 123-690-0100(2) and 123-690-6200.
- III. Term of Exemption:** Pursuant to ORS 285C.409(1), and conditioned upon the satisfaction of other requirements under ORS 285C.400 through 285C.420 and this Agreement, the Facility will be exempt from *ad valorem* property tax as follows:
- A.** For the first tax year following the calendar year in which the Company is certified or after which construction of the Facility commences, whichever event occurs later;
 - B.** For each subsequent tax year in which the Facility is not yet in service as of the assessment date; and
 - C.** For a period of 15 consecutive property tax years commencing as of the first tax year in which the Facility is in service as of the assessment date (the "Exemption Period"). As used in this Agreement, "in service" has the same meaning as "in service" as defined in OAR 123-690-0100(3).
 - 1.** The Company shall notify the Umatilla County Assessor upon the Facility's receipt of the permit to occupy and use the Facility for its intended purpose within 90 days of such receipt.
- IV. Scope of Exemption:** Pursuant to ORS 285C.409(1) and subject to Section II, the Company and its affiliates are entitled to exemption from ad valorem property tax with respect to all qualified property, whether leased or owned and whether tangible or intangible, of the Company and its affiliates used in connection with the development, construction, and operation of the Facility, including without limitation all subsequent Facility investments as described in OAR 123-690-6200.
- V. Obligations of the Company:** The Company will comply with the following conditions as authorized under ORS 285C.403(3)(c):
- A. Statutory and Administrative Requirements:** The Company agrees to comply with the requirements of ORS 285C.409 and 285C.412([5]) as well as those provided in OAR Chapter 123, Division 690.
 - B. Additional Obligations:** As established solely under this Agreement, the Parties agree to the additional obligations set forth below:
 - 1. Annual Improvement Payment ("AIP"):** For each year of the Exemption Period, the Company shall pay to the Sponsors an AIP for each data center within the Facility that is issued, and maintains, a permit to occupy and use such data center (a "Qualifying DC"). The AIP for each Qualifying DC is

equal to \$5 per square foot thereof; provided, however, that the AIP for each of the first 4 Qualifying DCs that is at least 180,000 square feet is equal to a minimum of \$1 million regardless of their square footage; provided further, that the minimum total AIPs for each year of the Exemption Period will be \$2,000,000. The references to data center square footage in this paragraph refer to the gross square footage within the exterior walls of each data center building.

2. **Additional Annual Fee ("AAF"):** For each year of the Exemption Period, the Company shall pay to the Sponsors an AAF equal to the amount calculated by applying the tax code area ad valorem property tax rate to the AAF Base Amount set forth in Appendix 1.
3. **Public Safety Impact Fee ("PSIF"):** For each year of the Exemption Period, the Company shall pay to the Sponsors a PSIF in the amount set forth in Appendix 1.
4. **Student Success Fee ("SSF"):** For each year of the Exemption Period, the Company shall pay to the Sponsors an SSF in the amount set forth in Appendix 1.
5. **Community Development Contribution ("CDC"):** Within 60 days after the Company has commenced construction, within the meaning of ORS 285C.409(1)(a), of the first new Qualifying DC within the Facility, the Company shall pay to the Sponsors a CDC in the amount of \$5,000,000. The Parties acknowledge that the CDC is intended to assist with costs of capital improvement projects within the tax districts included in the consolidated tax code area in which the Facility is located, which may include payment or defeasance of debt service on, or redemption of, outstanding bonded indebtedness issued for such purposes under applicable law. Nothing in this Section V.B.5 shall modify, extend, waive, or otherwise affect the exemption provided under this Agreement, or constitute an obligation of the Company to support the payment of or satisfy any such bonded indebtedness, or compel the Sponsors to use the CDC for this purpose.
6. **Fee Payment Instructions:** The Company shall make the AIP, AAF, PSIF, SSF, and CDC payable to the "Umatilla County Assessor." The Company shall deposit the AIP, AAF, PSIF and SSF to the Umatilla County Assessor on or before November 15 of each year of the Exemption Period.
 - a. The mailing address for all payments is: Umatilla County Assessor, 216 SE 4th St., Pendleton, OR 97801.
7. **Payment Reduction for Charitable Payment:** The Company may make payments to or for the benefit of charities or non-profit entities that benefit the City of Umatilla, or residents of the City of Umatilla, and that are reasonably approved by the Sponsors (a "Charitable Payment"). If the Company makes a Charitable Payment, the Company may reduce its payments due under this Section V.B on a dollar-for-dollar basis in an amount equal to the Charitable Payment made during each year, up to a total reduction each year in the amount of \$150,000; provided, however,

the first \$25,000 of Charitable Payment made each year will not result in any reduction in the payments due by the Company under this Section V.B.

8. **Permit Fees:** The Company will pay all standard building permit and other permit fees related to the Facility. The Company further agrees that if it has a choice between obtaining an equivalent permit, license, or similar approval for the Facility from either a local governmental entity or a state entity, the Company will obtain the permit, license, or similar approval from the local governmental entity.
9. **Payments Generally:** With respect to the Facility, and to the fullest extent permitted by applicable law, the Company will not be required to pay sums to any local taxing authority in which the Facility is located other than the AIP, AAF, PSIF, SSF, and CDC due under this Section V.
10. **Future Bonding.**
 - a. During each year of the Exemption Period, the Company will contribute an amount to the Sponsors (the "Bond Contribution") to be used solely for the payment or prepayment of debt service on newly-issued general obligation bond indebtedness incurred to finance public utilities, public educational services, fire services, public health services, or public safety services, and issued pursuant to voter approval of a measure passed on or after the date of this Agreement by any taxing district included in the consolidated tax area in which the Facility is located (a "Qualifying Bond"). The annual Bond Contribution will be equal to 100% of the aggregate amount the Company would have been assessed with respect to such Qualifying Bonds for all property owned by the Company within the taxing district subject to the Qualifying Bond but for the exemption pursuant to this Agreement and any other exemption for property owned by the Company within such taxing district. The Company will not unreasonably object to any local measures for Qualifying Bonds.
 - b. Following voter approval of a Qualifying Bond and prior to the issuance date of any such Qualifying Bond, the Company, the Sponsors, and the Umatilla County Assessor will collaborate to ensure that (a) Bond Contributions are expended solely to prepay or to make debt service payments on Qualifying Bonds, (b) tax levy rates imposed on taxpayers are adjusted to take into account any Bond Contributions, and (c) Bond Contributions do not violate any tax-exemption requirements for Qualifying Bonds. The Parties will enter into additional agreements to implement these provisions.

VI. Obligations of Sponsors: Sponsors will comply with the following conditions:

- A. **Resolutions:** Within 30 days of the Effective Date (as defined below), the governing body of each of Umatilla County and City of Umatilla will adopt resolutions approving and authorizing the execution of this Agreement. Such resolutions will serve to approve the Facility for a property tax exemption under ORS 285C.409 and constitute the resolutions described in ORS 285C.403(3)(a).

- B. Certification:** Within 5 days of satisfaction of the criteria set forth under ORS 285C.403(3), Sponsors and the Umatilla County Assessor will request confirmation from the Oregon Business Development Department of administrative sufficiency and confirmation of the County's conformity with ORS 285C.400(3) and the County's status as a "qualified rural county" within the meaning of ORS 285C.400 and 285C.412. Within 30 days of receipt of confirmation from the Oregon Business Development Department, Sponsors and the Umatilla County Assessor will approve and countersign the Application submitted by the Company, thereby certifying the Company as eligible for the property tax exemption contemplated by this Agreement.
- C. Tax Exemption:** Sponsors hereby set the period of the property tax exemption for the Facility for purposes of ORS 285C.409(1)(c) to be 15 consecutive tax years, beginning with the first tax year in which the Facility is in service as of the assessment date.
- D. Allocation of Payments:** Sponsors are solely responsible for the allocation, budgeting, division, and disposition of any payment due under this Agreement, including any portions that may be due or payable to any other jurisdiction. In no event shall the Company have any liability in connection with any disagreement, error, or conflict related to the division, allocation, or distribution of such amounts. In no event will the Company have any liability or obligation to any other person with respect to any payment due under this Agreement after the Company has discharged its duty to pay as set forth in Section V above, and Sponsors shall hold the Company harmless with respect to any claims to the contrary.
- E. Sponsors' Support:** Sponsors will support the Company in the Company's efforts to qualify for and obtain other tax incentives in connection with the Facility, including by promptly executing such letters or other documentation of support as may be reasonably requested by the Company, but Sponsors make no warranty with respect to its ability to affect any outcome in such regards.

VII. Termination Rights: Each Party may terminate this Agreement as follows:

- A. The Company's Termination Right:** The Company may elect to terminate this Agreement for any reason or no reason by delivery of written notice thereof to Sponsors. Upon delivery of any such notice, this Agreement will be of no further force or effect and no party will have any further rights or obligations hereunder, except for obligations owing and unpaid on the date of termination.
- B. Sponsors' Termination Right:** If the Company fails to make any payment required under this Agreement within 30 days of the due date of such payment, or fails to fulfill any other obligation of this Agreement within 30 days of written notice specifying the obligation which is in default, Sponsors may terminate the Agreement upon written notice to the Company. Such notice must provide an additional 60 days in which the Company may cure any such payment deficiency or default. Notwithstanding the foregoing, Sponsors may not terminate the Agreement if the Company's failure to pay is due to the error of any Sponsor.
- C. Mutual Termination Right:** The Parties may terminate this Agreement at any time upon mutual written agreement of termination.

VIII. Confidentiality:

A. The Parties acknowledge that this Agreement is a public record subject to Oregon's public records laws. The Sponsors agree that their staff, representatives and agents will exercise the utmost discretion in oral and written communications regarding the Facility and will provide information internally only to those individuals who need the information to facilitate the Parties' performance under this Agreement. If any person or entity requests any data, documents, or notes about the Company or its business practices (other than this Agreement) that are related to this Agreement or its tax exemption ("Confidential Information"), whether by court order, subpoena, Oregon Public Records Request, or other reason, the Sponsors shall not release any such information except as consistent with the following provisions:

1. The Sponsors shall notify the Company within 3 business days of the receipt of such request;
2. if the Company elects to challenge or appeal the release of such information, the Company shall notify the Sponsors within 9 business days of receipt of the request, and the Company shall assume all responsibilities, costs, and expenses for such defense; and
3. if the Company does not notify the Sponsors within 9 business days of receipt of such request, the Sponsors shall be authorized to release the requested information to the requester to the extent required by law, and the Sponsors shall have no liability to the Company for such release of such Confidential Information.

Notwithstanding the above, the Sponsors agree to cooperate with the Company in any challenge or appeal to a court order, subpoena, public records request, or other applicable law requiring the release of Confidential Information. The Company shall indemnify and hold the Sponsors harmless for all costs and expenses incurred in the challenge or appeal to the release of such Confidential Information, including court and appeal costs and the Sponsors' attorney's fees and expenses. Nothing in this section requires the Parties to refuse to disclose such Confidential Information after a final order, including any appeal, by a competent judicial authority. If Oregon law is amended to require responses to public records requests be made less than 12 business days from the request, the number of business days specified in Paragraphs (1) and (2) of this Section VIII.A shall be reduced to 2 business days, and the number of business days to respond to a public records request as mandated by Oregon law less 2 business days, respectively.

IX. Miscellaneous Provisions:

- A. Effective Date:** This Agreement becomes effective on the date at which this Agreement has been signed by all of the Parties.
- B. Assignment:** None of the Parties may assign this Agreement without the prior written consent of the other Parties, except that the Company may assign this Agreement to any of its affiliates, or to a new entity without the prior written consent of the other Parties. Subject to the foregoing, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Nothing in this Agreement shall be deemed to constitute a restriction or condition on the ability of the Facility owner to freely sell, transfer or

assign ownership of the improvements or the underlying land or any portion thereof or any ownership interest in the Facility owner at any time.

- C. Amendment:** This Agreement may be amended only by a written document signed by the Party against whom enforcement is sought.
- D. Waiver:** No waiver will be binding on a Party unless it is in writing and signed by the Party making the waiver. A Party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.
- E. Notices:** All notices and communications relating to this Agreement shall be in writing and shall be personally delivered or sent by registered or certified mail, return receipt requested, or delivered by nationally recognized express courier service. Such notices and other communications shall be effective upon receipt if hand delivered, 3 business days after mailing if sent by mail, and 1 business day after dispatch if sent by express courier, to the following addresses:

<p><u>If to the Company:</u></p> <p>Amazon.com, Inc. 410 Terry Ave. N Seattle, WA 98109 Attn: Infrastructure Global Expansion, Economic Development</p> <p><u>With copies to:</u> Amazon.com, Inc. Attn: General Counsel P.O. Box 81226 Seattle, WA 98108</p>	<p><u>If to Sponsors:</u></p> <p>Umatilla County Assessor 216 SE 4th St. Pendleton, OR 97801</p> <p><u>With copies to:</u> City of Umatilla Attn: Greater Umatilla Enterprise Zone Manager PO Box 130 Umatilla, OR 97882</p>
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A copy of all notices and communications relating to this Agreement shall also be sent, on or before the date in which they become effective, by email to:

<p><u>If to the Company:</u></p> <p>Aws-econ-dev@amazon.com & contracts-legal@amazon.com</p>	<p><u>If to Sponsors:</u></p>
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- F. Limitation of Liability:** Notwithstanding anything to the contrary in this Agreement, neither the Company, nor any of its affiliates, shall be liable for: (a) any indirect, reliance, exemplary, incidental, speculative, punitive, special, consequential or similar damages that may arise in connection with this Agreement, (b) any lost or foregone tax revenues, or (c) any damages, liabilities, fees, costs, expenses, penalties, diminishment in value, losses or payments

(including any lost or foregone tax revenues) that exceed, in the aggregate, the lesser of (i) the financial benefit realized by the Company under this Agreement and (ii) \$3,000,000.

- G. Force Majeure:** A Party will not be deemed to be in breach, material breach, default or otherwise in violation of any term of this Agreement to the extent such Party's action, inaction or omission is the result of a Force Majeure Event. The Company and Sponsors agree to use commercially reasonable efforts to promptly resolve any Force Majeure Event that adversely and materially impacts their performance under this Agreement. A Force Majeure Event pauses a Party's performance obligation for the duration of the event, but does not excuse it. "Force Majeure Event" means any event or occurrence that is not within the control of such Party or its affiliates and prevents a Party from performing its obligations under this Agreement, including without limitation, any act of God; act of a public enemy; war; riot; sabotage; blockage; embargo; failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority; labor strike, lockout or other labor or industrial disturbance (whether or not on the part of agents or employees of any Party); civil disturbance; terrorist act; power outage; fire, flood, windstorm, hurricane, earthquake or other casualty; any law, order, regulation or other action of any governing authority; any action, inaction, order, ruling moratorium, regulation, statute, condition or other decision of any governmental agency having jurisdiction over a Party hereto, over the Facility or over a Party's operations.
- H. Severability:** The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provision shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. It is the intent of the Parties that, in the event a clause or provision is stricken, that there be added as part of this Agreement a clause or provision as similar in terms as may be possible, legal, and enforceable so as to provide a comparable property tax exemption and comparable payments as provided for in this Agreement.
- I. Governing Law:** This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement.
- J. Venue:** Any action, suit, or proceeding arising out of the subject matter of this Agreement will be litigated in courts located in Umatilla County, Oregon. Each Party consents and submits to the jurisdiction of any local, state, or federal court located in Umatilla County, Oregon.
- K. Attorney's Fees:** If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Agreement, or otherwise in connection with the subject matter of this Agreement, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, action, suit, or proceeding, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the

arbitrator or court. Notwithstanding the foregoing, each Party's maximum liability under this Section IX(K) is \$75,000 and in no event will any Party be obligated by this Section IX(K) to pay an amount in excess of \$75,000.

- L. Entire Agreement:** This Agreement contains the entire understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the Parties with respect to the subject matter of this Agreement.
- M. Signatures:** This Agreement may be signed in one or more counterparts, each of which is an original, and all of which together constitute only one agreement between the Parties. A signature page delivered by fax or electronic mail will be considered an original signature page. At the request of a Party, the other Parties will confirm delivery of a signature page (whether by fax or electronic mail) by delivering an original signature page to the requesting Party.
- N. Waiver of Jury Trial:** WITH RESPECT TO ANY PROCEEDING OR ACTION ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE), THE PARTIES KNOWINGLY, INTENTIONALLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE THEIR RIGHT TO TRIAL BY JURY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT IT HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, IT MAKES THIS WAIVER KNOWINGLY AND VOLUNTARILY, AND IT HAS DECIDED TO ENTER INTO THIS AGREEMENT IN CONSIDERATION OF, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, have executed this Agreement on the date shown below.

Dated this _____ day of _____, 2022.

Umatilla County

John Shafer, Chair

George Murdock

Dan Dorran

City of Umatilla

David Stockdale, City Manager and Enterprise Zone Manager

Attest:

Nanci Sandoval, City Recorder

Amazon Data Services, Inc.

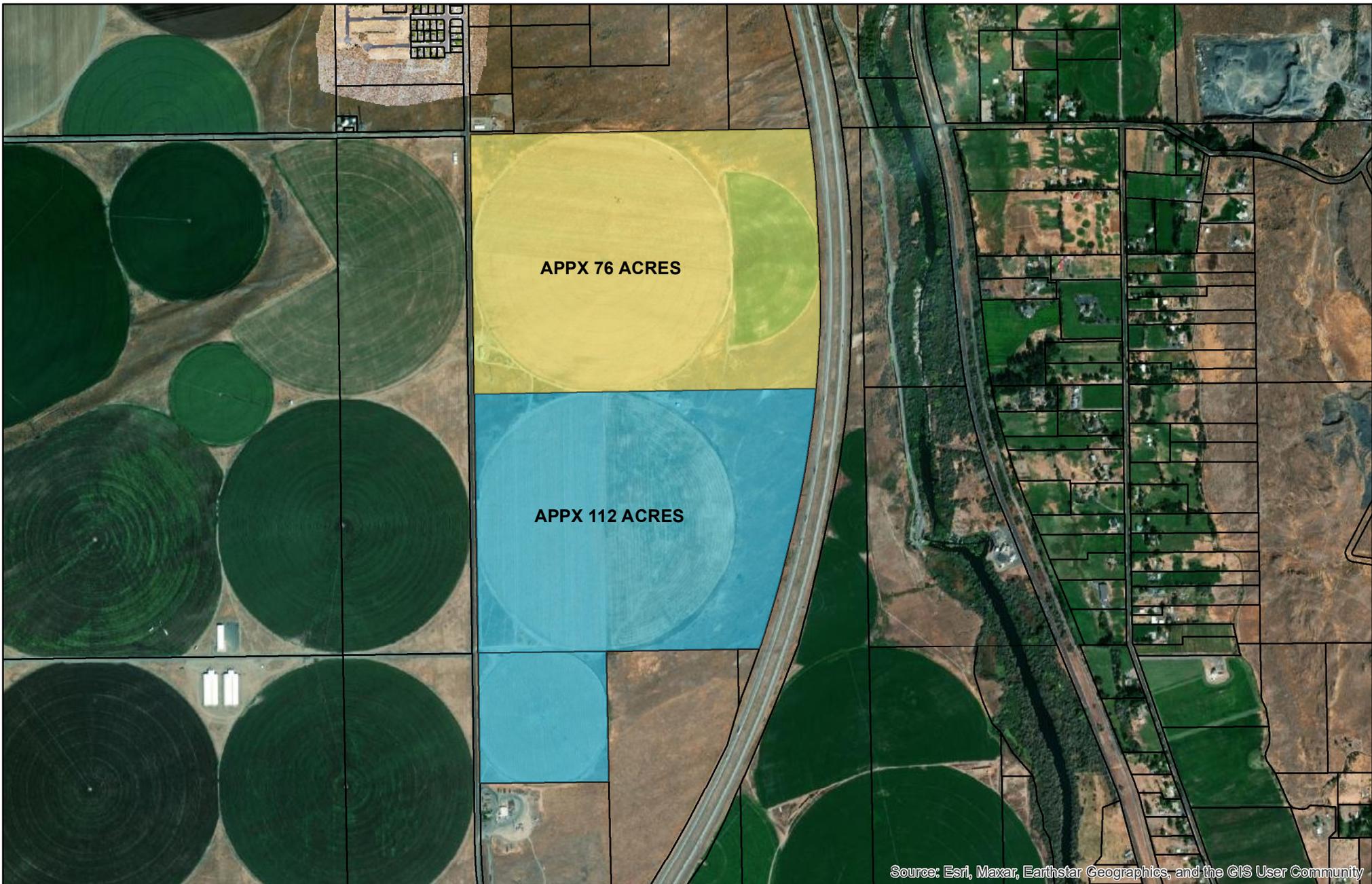
Dated this _____ day of _____, 2022.

Appendix 1*

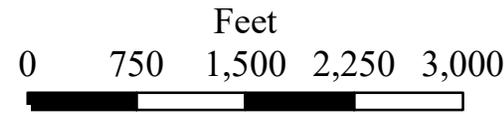
Tax Year	AAF Base Amount**	PSIF Payment Amount	SSF Payment Amount
2023	27,318,175	54,636	54,636
2024	28,137,720	56,275	56,275
2025	28,981,852	57,964	57,964
2026	29,851,307	59,703	59,703
2027	30,746,847	61,494	61,494
2028	31,669,252	63,339	63,339
2029	32,619,330	65,239	65,239
2030	33,597,909	67,196	67,196
2031	34,605,847	69,212	69,212
2032	35,644,022	71,288	71,288
2033	36,713,343	73,427	73,427
2034	37,814,743	75,629	75,629
2035	38,949,185	77,898	77,898
2036	40,117,661	80,235	80,235
2037	41,321,191	82,642	82,642
2038	42,560,827	85,122	85,122
2039	43,837,651	87,675	87,675
2040	45,152,781	90,306	90,306
2041	46,507,364	93,015	93,015
2042	47,902,585	95,805	95,805
2043	49,339,663	98,679	98,679
2044	50,819,853	101,640	101,640
2045	52,344,448	104,689	104,689
2046	53,914,782	107,830	107,830
2047	55,532,225	111,064	111,064
2048	57,198,192	114,396	114,396
2049	58,914,138	117,828	117,828
2050	60,681,562	121,363	121,363
2051	62,502,009	125,004	125,004
2052	64,377,069	128,754	128,754
2053	66,308,381	132,617	132,617
2054	68,297,632	136,595	136,595
2055	70,346,561	140,693	140,693
2056	72,456,958	144,914	144,914
2057	74,630,667	149,261	149,261

* For the avoidance of doubt, any payments only apply during the Exemption Period.

** Amount of payment will be calculated by applying the applicable tax code area ad valorem property tax rate to the AAF Base Amount.

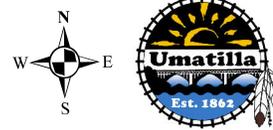


**AMAZON DATA SERVICES, INC.
LONG TERM RURAL ENTERPRISE ZONE PROPERTY LOCATIONS**



Legend

-
 South Campus (194)
 -
 North Campus (260)
 -
 Tax Lots 4_05_22



MAP DISCLAIMER: No warranty is made as to the accuracy, reliability or completeness of this data. Map should be used for reference purposes only. Not survey grade or for legal use. Created by Jacob Foutz, on 9/30/2022 **95**

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Resolution 11-2023. A Resolution approving the execution of an intergovernmental agreement (IGA) with Umatilla County for the distribution of the additional obligations payment and community development contribution made by Amazon Data Services, Inc. from the Long-Term Rural Enterprise Zone (LTREZ) agreement for PDX 194.	Meeting Date: 2022-10-04
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Department: City Administration	Director: David Stockdale	Contact Person: David Stockdale	Phone Number:
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Cost of Proposal: n/a	Fund(s) Name and Number(s): General Fund - 01
Amount Budgeted: n/a	

Reviewed by Finance Department: Yes	Previously Presented: n/a
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Attachments to Agenda Packet Item:

[RES 11-2023 PDX 194 LTREZ Distribution.docx](#)

[Umatilla LTREZ Distribution Agreement DRAFT PDX194.docx](#)

Summary Statement: Motion to Approve Resolution No. 11-2023. The City of Umatilla, Amazon Data Services (ADS), and Umatilla County continue to work together in partnership to bring living wage jobs to the City of Umatilla and Umatilla County and to seek opportunities for economic development. This agreement creates the required Distribution Agreement between the City and the County for the distribution of fee proceeds (payments in lieu of taxes) from payments made by ADS for an all-new data center to be located inside the City limits of Umatilla.

Consistent with Council Goals:

Goal 3: Enhance and Cultivate Relationships and Partnerships.

RESOLUTION NO. 11-2023

A RESOLUTION APPROVING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH UMATILLA COUNTY FOR THE DISTRIBUTION OF THE ADDITIONAL OBLIGATIONS PAYMENT AND COMMUNITY DEVELOPMENT CONTRIBUTION MADE BY AMAZON DATA SERVICES, INC. FROM THE LONG-TERM RURAL ENTERPRISE ZONE (LTREZ) AGREEMENT FOR PDX 194.

WHEREAS, the City of Umatilla (“City”) sponsors the Greater Umatilla Enterprise Zone and has determined to modify its boundary; and

WHEREAS, the Board of County Commissioners of Umatilla County and the City Council of the City of Umatilla in August 2020 co-adopted Resolutions to amend the Greater Umatilla Enterprise Zone to become equal co-sponsors of the Greater Umatilla Enterprise Zone, a process that is currently pending; and

WHEREAS, on October 4, 2022 and October 5, 2022 the City and the County, respectively, both adopted Resolutions approving the property tax exemption for the PDX 194 Data Center Facility; and

WHEREAS, Amazon Data Services, Inc. has agreed to invest more than \$200,000,000 to develop more than 250,000 square feet of data center facilities within the zone; and

WHEREAS, the City and the County are interested in encouraging investment, job creation, higher incomes for local residents, and greater diversity of economic activity; and

WHEREAS, the City and the County desire to partner together to enter into this Agreement to encourage economic development in the City of Umatilla and throughout Umatilla County; and

WHEREAS, ORS 190.010 authorizes local governments to enter into written agreements; and

WHEREAS, ORS 285C.600 through 285C.620 establishes the requirements and rules for distributions of Enterprise Zone fee proceeds.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UMATILLA:

1. That the form, terms, and provisions of the draft LTREZ Distribution Agreement for the PDX 194 Project with Umatilla County, copies of which have been presented to and reviewed by the City Council be, and in all respects, hereby approved and adopted; and
2. The City Manager is hereby authorized to execute and deliver the said Agreement, substantially in the form heretofore approved and adopted with such changes, additions, deletions and modifications as such executing officer or officers may approve, such

execution to be conclusive evidence of such approval and of the authorization thereof by the City Council; and

3. The City Manager is hereby authorized and directed to prepare, execute, deliver, acknowledge and file such additional documents, agreements, certificates, forms, receipts and other instruments, in the name of and on behalf of the City of Umatilla and under its corporate seal, if so desired, and to take all such other actions as such officer or officers shall, in her sole discretion, approve in order to carry out the transactions heretofore approved and perform and discharge the City of Umatilla's obligations under or in connection with the Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc., such actions and execution to be conclusive evidence of such approval and of the authorization thereof by the City Council.
4. Effective Date. This Resolution is effective, immediately upon its passage, as of the date and year set out below.

PASSED by the City Council and **SIGNED** by the Mayor this 4th day of October, 2022.

Mary Dedrick, Mayor

ATTEST:

Nanci Sandoval, City Recorder

LTREZ DISTRIBUTION AGREEMENT
Long-Term Rural Enterprise Zone Tax Abatement
Distribution of the Additional Obligations Payment
PDX 194

Umatilla County, a political subdivision of the State of Oregon (the “County”) and, the City of Umatilla, a municipal corporation (the “City”), enter into this agreement (“Agreement”) for allocation and distribution of the Additional Annual Improvement Payment under Long-Term Rural Enterprise Zone Tax Abatement Agreement (the “LTREZ Agreement”) this 5th day of October 2022 (the “Execution Date”) and shall be effective as of October 5, 2022 (the “Effective Date”). Each of the County and the City is referred to as a “Party” and collectively as the “Parties.”

WITNESSETH:

WHEREAS, the County, and the City have entered into a Long-Term Rural Enterprise Zone Tax Abatement Agreement dated October 5, 2022 with Amazon Data Services, Inc., (“ADS”) for projects within the Greater Umatilla Enterprise Zone for data center facilities to be developed on approximately 234 acres on Tax Lot 200 Tax Map 5N2832 and Tax Lot 2501 Tax Lot Map 5N28 located in Umatilla County and described as TLID #5N28320000200 and TLID #5N28000002501; and

WHEREAS, the LTREZ Agreement provides that ADS would, among other payments, remit to the City and County Additional Obligations Payments (“AIP”) and a Community Development Contribution (“CDC”); and

WHEREAS the purpose of this Agreement is to allocate the AIP and CDC between the County and the City and method for the distribution of the proceeds of the AIP and CDC.

NOW, THEREFORE, in consideration of the mutual covenants of the Parties, each to the other giving, the Parties do hereby agree as follows:

1. The Annual Improvement Payment (“AIP”) made under paragraph I.B.1 of the LTREZ Agreement by ADS will be divided between the Parties evenly, with each receiving 50% of the payment annually. In the event there is a payment reduction for Charitable Payment, as described in I.B.7 of the LTREZ Agreement by ADS, the amount of the reduction will be split equally between the Parties.

2. The Community Development Contribution (“CDC”) made under paragraph I.B.5 of the LTREZ Agreement by ADS will be divided between the Parties evenly, with each receiving 50% of the one-time payment.

2.1 From its share of the CDC the County will make a one-time contribution to Umatilla in the amount of five hundred thousand (\$500,000) dollars to be appropriated by City toward the Lind Road Water & Sewer Improvement Project.

3. The Additional Annual Fee made under paragraph I.B.2 of the LTREZ Agreement will be paid to the County for distribution among agreed-upon taxing entities. In the event the Parties cannot agree, the distribution will be made based upon relevant permanent rates by all taxing entities within the tax code of the Facilities, as if the Facilities were on the tax roll.

4. The Public Safety Impact Fee made under paragraph I.B.3 of the LTREZ Agreement will be paid to the County for distribution to the Umatilla County Fire District 1 for capital or equipment purchases.

5. The Student Success Fee made under paragraph I.B.4 of the LTREZ Agreement will be paid to the County for distribution to the Umatilla School District, or to its educational foundation if such exists.

6. This agreement is for the sole benefit of the Parties and nothing in this agreement, express or implied, is intended to or shall confer upon any other entity or person any legal or equitable right, benefit, remedy or expectation of payment of any nature, under or by reason of this agreement.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, hereto have executed this agreement as of the Effective Date.

UMATILLA COUNTY

CITY OF UMATILLA

John M. Shafer, Chair

Dave Stockdale, City Manager

George L. Murdock, Commissioner

Dan Dorran, Commissioner

Attest:

Nanci Sandoval, Umatilla City Recorder

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Resolution 12-2023. A Resolution approving the execution of an intergovernmental agreement (IGA) with Umatilla County for the distribution of the additional obligations payment and community development contribution made by Amazon Data Services, Inc. from the Long-Term Rural Enterprise Zone (LTREZ) agreement for PDX 260.	Meeting Date: 2022-10-04
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Department: City Administration	Director: David Stockdale	Contact Person: David Stockdale	Phone Number:
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Cost of Proposal: n/a	Fund(s) Name and Number(s): General Fund - 01
Amount Budgeted: n/a	

Reviewed by Finance Department: Yes	Previously Presented: n/a
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Attachments to Agenda Packet Item:

[RES 12-2023 PDX 260 LTREZ Distribution.docx](#)

[Umatilla LTREZ Distribution Agreement DRAFT PDX260.docx](#)

Summary Statement: Motion to Approve Resolution No. 12-2023. The City of Umatilla, Amazon Data Services (ADS), and Umatilla County continue to work together in partnership to bring living wage jobs to the City of Umatilla and Umatilla County and to seek opportunities for economic development. This agreement creates the required Distribution Agreement between the City and the County for the distribution of fee proceeds (payments in lieu of taxes) from payments made by ADS for an all-new data center to be located inside the City limits of Umatilla.

Consistent with Council Goals:

Goal 3: Enhance and Cultivate Relationships and Partnerships.

RESOLUTION NO. 12-2023

A RESOLUTION APPROVING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH UMATILLA COUNTY FOR THE DISTRIBUTION OF THE ADDITIONAL OBLIGATIONS PAYMENT AND COMMUNITY DEVELOPMENT CONTRIBUTION MADE BY AMAZON DATA SERVICES, INC. FROM THE LONG-TERM RURAL ENTERPRISE ZONE (LTREZ) AGREEMENT FOR PDX 260.

WHEREAS, the City of Umatilla (“City”) sponsors the Greater Umatilla Enterprise Zone and has determined to modify its boundary; and

WHEREAS, the Board of County Commissioners of Umatilla County and the City Council of the City of Umatilla in August 2020 co-adopted Resolutions to amend the Greater Umatilla Enterprise Zone to become equal co-sponsors of the Greater Umatilla Enterprise Zone, a process that is currently pending; and

WHEREAS, on October 4, 2022 and October 5, 2022 the City and the County, respectively, both adopted Resolutions approving the property tax exemption for the PDX 260 Data Center Facility; and

WHEREAS, Amazon Data Services, Inc. has agreed to invest more than \$200,000,000 to develop more than 250,000 square feet of data center facilities within the zone; and

WHEREAS, the City and the County are interested in encouraging investment, job creation, higher incomes for local residents, and greater diversity of economic activity; and

WHEREAS, the City and the County desire to partner together to enter into this Agreement to encourage economic development in the City of Umatilla and throughout Umatilla County; and

WHEREAS, ORS 190.010 authorizes local governments to enter into written agreements; and

WHEREAS, ORS 285C.600 through 285C.620 establishes the requirements and rules for distributions of Enterprise Zone fee proceeds.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UMATILLA:

1. That the form, terms, and provisions of the draft LTREZ Distribution Agreement for the PDX 260 Project with Umatilla County, copies of which have been presented to and reviewed by the City Council be, and in all respects, hereby approved and adopted; and
2. The City Manager is hereby authorized to execute and deliver the said Agreement, substantially in the form heretofore approved and adopted with such changes, additions, deletions and modifications as such executing officer or officers may approve, such

execution to be conclusive evidence of such approval and of the authorization thereof by the City Council; and

3. The City Manager is hereby authorized and directed to prepare, execute, deliver, acknowledge and file such additional documents, agreements, certificates, forms, receipts and other instruments, in the name of and on behalf of the City of Umatilla and under its corporate seal, if so desired, and to take all such other actions as such officer or officers shall, in her sole discretion, approve in order to carry out the transactions heretofore approved and perform and discharge the City of Umatilla's obligations under or in connection with the Long-Term Rural Enterprise Zone Abatement Agreement with Amazon Data Services, Inc., such actions and execution to be conclusive evidence of such approval and of the authorization thereof by the City Council.
4. Effective Date. This Resolution is effective, immediately upon its passage, as of the date and year set out below.

PASSED by the City Council and **SIGNED** by the Mayor this 4th day of October, 2022.

Mary Dedrick, Mayor

ATTEST:

Nanci Sandoval, City Recorder

LTREZ DISTRIBUTION AGREEMENT
Long-Term Rural Enterprise Zone Tax Abatement
Distribution of the Additional Obligations Payment
PDX 260

Umatilla County, a political subdivision of the State of Oregon (the “County”) and, the City of Umatilla, a municipal corporation (the “City”), enter into this agreement (“Agreement”) for allocation and distribution of the Additional Annual Improvement Payment under Long-Term Rural Enterprise Zone Tax Abatement Agreement (the “LTREZ Agreement”) this 5th day of October 2022 (the “Execution Date”) and shall be effective as of October 5, 2022 (the “Effective Date”). Each of the County and the City is referred to as a “Party” and collectively as the “Parties.”

W I T N E S S E T H :

WHEREAS, the County, and the City have entered into a Long-Term Rural Enterprise Zone Tax Abatement Agreement dated October 5, 2022 with Amazon Data Services, Inc., (“ADS”) for projects within the Greater Umatilla Enterprise Zone for data center facilities to be developed on approximately 212 acres on Tax Lot 2500 Tax Map 5N28 located in Umatilla County and described as TLID #5N28000002500; and

WHEREAS, the LTREZ Agreement provides that ADS would, among other payments, remit to the City and County Additional Obligations Payments (“AIP”) and a Community Development Contribution (“CDC”); and

WHEREAS the purpose of this Agreement is to allocate the AIP and CDC between the County and the City and method for the distribution of the proceeds of the AIP and CDC.

NOW, THEREFORE, in consideration of the mutual covenants of the Parties, each to the other giving, the Parties do hereby agree as follows:

1. The Annual Improvement Payment (“AIP”) made under paragraph I.B.1 of the LTREZ Agreement by ADS will be divided between the Parties evenly, with each receiving 50% of the payment annually. In the event there is a payment reduction for Charitable Payment, as described in I.B.7 of the LTREZ Agreement by ADS, the amount of the reduction will be split equally between the Parties.

2. The Community Development Contribution (“CDC”) made under paragraph I.B.5 of the LTREZ Agreement by ADS will be divided between the Parties evenly, with each receiving 50% of the one-time payment.

3. The Additional Annual Fee made under paragraph I.B.2 of the LTREZ Agreement will be paid to the County for distribution among agreed-upon taxing entities. In the event the Parties cannot agree, the distribution will be made based upon relevant permanent rates by all taxing entities within the tax code of the Facilities, as if the Facilities were on the tax roll.

4. The Public Safety Impact Fee made under paragraph I.B.3 of the LTREZ Agreement will be paid to the County for distribution to the Umatilla County Fire District 1 for capital or equipment purchases.

5. The Student Success Fee made under paragraph I.B.4 of the LTREZ Agreement will be paid to the County for distribution to the Umatilla School District, or to its educational foundation if such exists.

6. This agreement is for the sole benefit of the Parties and nothing in this agreement, express or implied, is intended to or shall confer upon any other entity or person any legal or equitable right, benefit, remedy or expectation of payment of any nature, under or by reason of this agreement.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, hereto have executed this agreement as of the Effective Date.

UMATILLA COUNTY

CITY OF UMATILLA

John M. Shafer, Chair

Dave Stockdale, City Manager

George L. Murdock, Commissioner

Dan Dorran, Commissioner

Attest:

Nanci Sandoval, Umatilla City Recorder

CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title: Resolution No. 13-2023 - A resolution authorizing the Mayor to sign a Memorandum of Understanding with the City of Hermiston and Umatilla County to provide general consensus on the preferred future bridge location across the Umatilla River	Meeting Date: 2022-10-04
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Department: City Administration	Director: David Stockdale	Contact Person: David Stockdale	Phone Number:
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Cost of Proposal: n/a	Fund(s) Name and Number(s): N/A
Amount Budgeted: n/a	

Reviewed by Finance Department: Yes	Previously Presented: 09/07/2021
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Attachments to Agenda Packet Item:

[RES 13-2023 Umatilla River Bridge MOU.docx](#)

[Umatilla River Bridge PER Executive Summary.pdf](#)

[Umatilla River Bridge Project MOU.pdf](#)

<u>Summary Statement:</u> Motion to approve Resolution No. 13-2023.

<u>Consistent with Council Goals:</u> Goal 1: Promote a Vibrant and Growing Community by Investing in and Support of Quality of Life Improvements.
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RESOLUTION NO. 13-2023

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF HERMISTON AND UMATILLA COUNTY TO PROVIDE GENERAL CONSENSUS ON THE PREFERRED FUTURE BRIDGE LOCATION ACROSS THE UMATILLA RIVER

WHEREAS, on September 7, 2021 the Umatilla City Council authorized the City Manager to sign a Memorandum of Understanding (MOU) with the City of Hermiston and Umatilla County to jointly fund a Preliminary Engineering Report (PER) examining viable options for a vehicle bridge over the Umatilla River; and

WHEREAS, through that MOU the City committed to contribute thirty thousand dollars (\$30,000) towards the PER; and

WHEREAS, the study thoroughly examined two potential locations for the future bridge: Elm and Punkin Center; and

WHEREAS, the study has concluded that the Punkin Center location would be the preferred option because it is less costly, it is more scalable, it is a more direct connection to I-82, the usage and parcel sizes or land along this route west of the river lend themselves much more readily for development in the future and it is twice as far north from the existing bridge at Highland than the Elm option which creates a new connection point, rather than a redundant one; and

WHEREAS, the three entities wish to document a consensus of the preferred option for incorporation in their respective Transportation System Plans which will allow the parties to be united and enable educated planning decisions moving forward.

NOW, THEREFORE, be it resolved that the City of Umatilla does hereby authorize the Mayor to sign the attached MOU with the City of Hermiston and Umatilla County to provide general consensus on the preferred future bridge location across the Umatilla River.

PASSED by the Council and **SIGNED** by the Mayor this 4th day of October 2022.

Mary Dedrick, Mayor

ATTEST:

Nanci Sandoval, City Recorder

UMATILLA RIVER BRIDGE
PRELIMINARY ENGINEERING REPORT

JULY 2022



Prepared for
City of Hermiston, Oregon
City of Umatilla, Oregon
Umatilla County, Oregon

DRAFT

Executive Summary

A. Introduction

This Executive Summary briefly presents the results of the Umatilla River Bridge Preliminary Engineering Report (PER) prepared by Anderson Perry & Associates, Inc., for the City of Hermiston, Oregon, in partnership with the City of Umatilla and Umatilla County. The findings outlined herein have been developed in cooperation with each of these three benefitting jurisdictions. The focus of this PER is to compare two potential locations for a bridge crossing the Umatilla River. The two locations considered are at W. Punkin Center Road and W. Elm Avenue. This PER includes a high-level analysis of the existing transportation system and how the construction of a bridge would affect the system. This PER discusses recommended improvements to the transportation system based on the traffic analysis and bridge location and provides high-level project cost estimates for each project necessitated by bridge construction for comparison purposes. Additionally, it includes a discussion of the impacts to land use and acquisition and explores environmental, permitting, and cultural resource requirements and recommendations. This Executive Summary includes a brief discussion of the transportation system analysis; recommended improvements to the transportation system; and permitting, environmental, and cultural resource requirements. This PER also includes a summary of the bridge location selected by the benefitting jurisdictions as a result of this PER. For a more detailed discussion of the information presented in this Executive Summary, refer to the individual chapters of this PER.

The benefitting jurisdictions recognize the need for this PER, as installation of an additional bridge over the Umatilla River has been included in the City of Hermiston's Transportation System Plan (TSP) since 1997. Hermiston's TSP has never identified which of the two proposed locations is the best option. This PER will act as a guide to enable the benefitting jurisdictions to ultimately select the most appropriate location for the Umatilla River Bridge.

B. Transportation System

Because constructing a new bridge across the Umatilla River will significantly impact traffic flow conditions, a transportation system analysis was conducted by Kittelson & Associates, Inc. Four scenarios were analyzed, including existing traffic conditions, projected traffic conditions in the future with no bridge constructed, projected traffic conditions in the future with a bridge constructed in line with W. Elm Avenue, and projected traffic conditions in the future with a bridge constructed in line with W. Punkin Center Road. The travel corridors are depicted on Figures 4-1A through 4-1D and 4-2A through 4-2C in Chapter 4. The Interstate 82 interchange on Powerline Road and U.S. Highway 395 is at the end of the travel corridors and is generally excluded from the scope of this PER. The analysis found that future conditions would exceed the capacity of much of the existing infrastructure. Improvements recommended in this PER include turning lanes, traffic signals, new sections of roadway, and the bridge structure itself. Furthermore, infrastructure improvements necessitate the acquisition of additional right-of-way (ROW). Total estimated project costs, including ROW acquisition, construction, engineering fees, contingencies, etc., for the various improvements discussed in this PER total approximately \$48.82 million for the Elm Avenue option and approximately \$43.6 million for the Punkin Center Road option. These costs do not include costs associated with permitting, environmental, and cultural resource requirements.

C. Land Use and Acquisition

A new bridge across the Umatilla River would fundamentally change traffic patterns and future land use. ROW acquisition would be needed to enable construction of the recommended improvements. Estimated costs discussed above include ROW acquisition and are based on properties' real market values. The recommended ROW width of the travel corridor was assumed to be 90 feet. Figures 4-1A through 4-1D and 4-2A through 4-2C in Chapter 4 show ROW acquisition locations for properties adjacent to potential future travel corridors.

Properties adjacent to each potential travel corridor have various zoning designations. Zoning designations encompass the zones identified by the City of Hermiston, City of Hermiston Comprehensive Use Plan, and Umatilla County. In Chapter 4, Figure 4-5A, City of Hermiston Zoning, shows the zoning designations of the land within city limits; Figure 4-5B, Umatilla County Zoning, shows the zoning designations of the land outside city limits and the urban growth boundary (UGB); and Figure 4-5C, Comprehensive Land Use Map, shows the zoning designations of the land outside of city limits but within the UGB. Each potential bridge location would provide access to the west side of the river and has substantial potential to encourage development along the new travel corridor. Much of the new travel corridor would pass through what is now mostly rural farmland. To further encourage development, land use and zoning designations would need to be modified to allow for more urbanized land use types such as commercial, industrial, and residential. The Elm Avenue option would provide a more direct path to the heart of the City of Hermiston, which could be advantageous for connectivity, but would come at the cost of significantly increased traffic. Although connectivity to the city center would not be directly achieved with the Punkin Center Road option, this option would generally provide more favorable traffic conditions than the Elm Avenue option.

D. Permitting, Environmental, and Cultural Resources

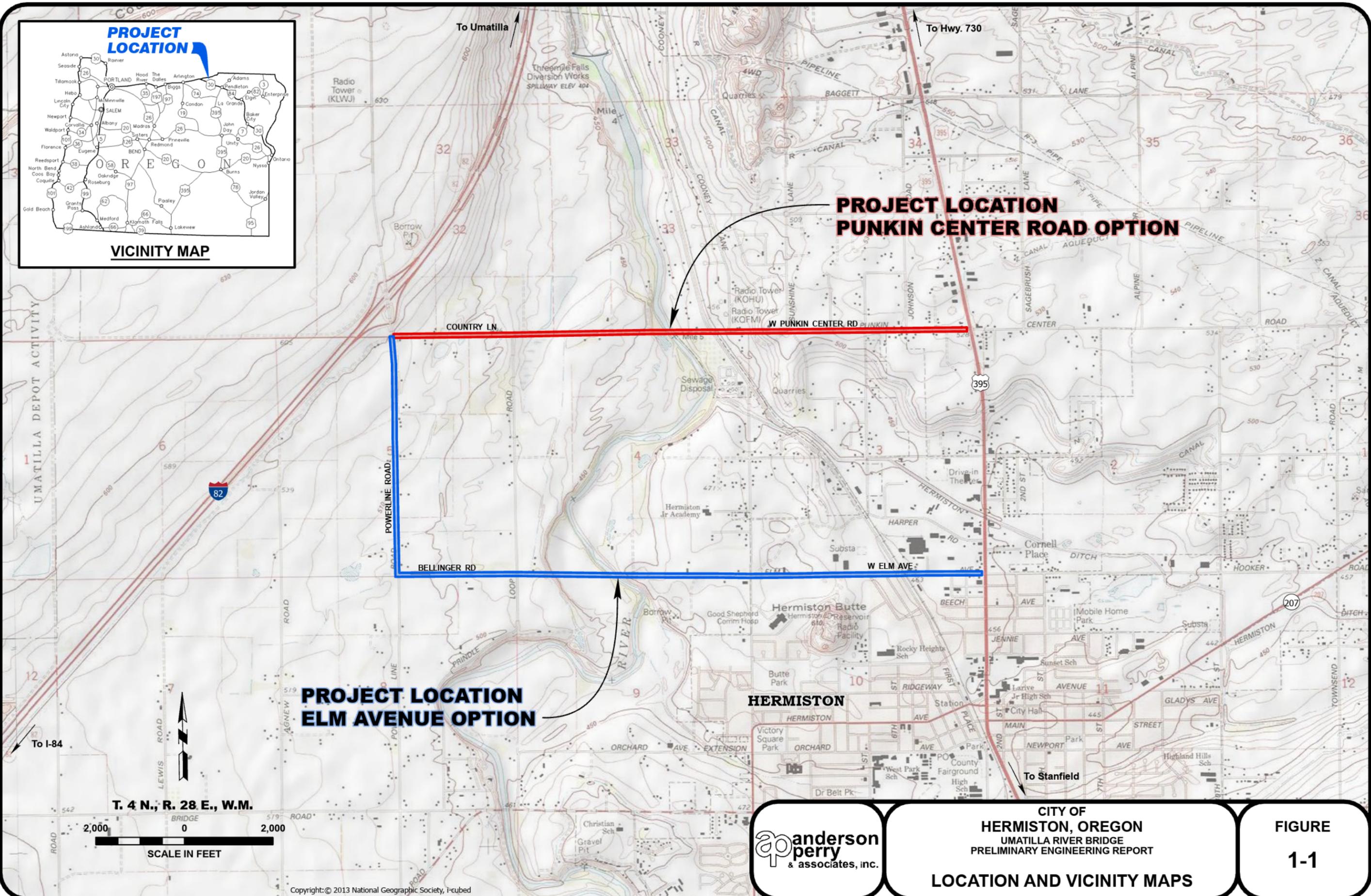
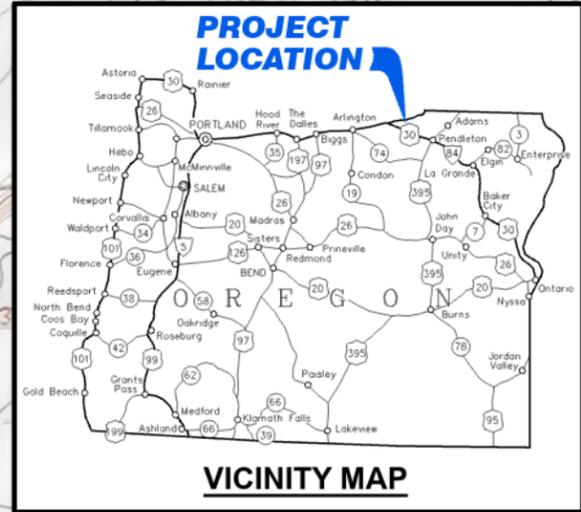
New bridge construction, to some extent, will impact local natural resources as defined and discussed in Goal 5 of Umatilla County's Comprehensive Land Use Plan. Goal 5 resources include riparian corridors, wetlands, wildlife habitat, and cultural areas. A new bridge is anticipated to impact wetlands, waterways, floodplains, and farmland. Endangered Species Act-listed species occur within the project corridor options. A new bridge would result in new impervious surfaces. Two parks, Butte Park, which is funded by the Land and Water Conservation Fund, and the disc golf course, are located adjacent to the Elm Avenue option. Several Oregon Department of Environmental Quality permitted sites are located adjacent to the project corridor options, resulting in a chance of contaminated soils being encountered during construction. A Bureau of Land Management (BLM)-owned natural area is located adjacent to the Punkin Center Road option.

Estimated costs for potential permits and environmental clearances that could be required for the new bridge total \$574,000 for the Elm Avenue option and \$624,000 for the Punkin Center Road option. The funding agency will determine which environmental permits and consultation will be required for the proposed project. If federal funding is utilized, an Environmental Assessment will be required. Since a portion of the Punkin Center Road option corridor occurs on BLM-owned land, the project may be subject to BLM National Environmental Policy Act requirements and an extensive environmental review process.

E. Selected Improvements and Project Implementation

Forthcoming.

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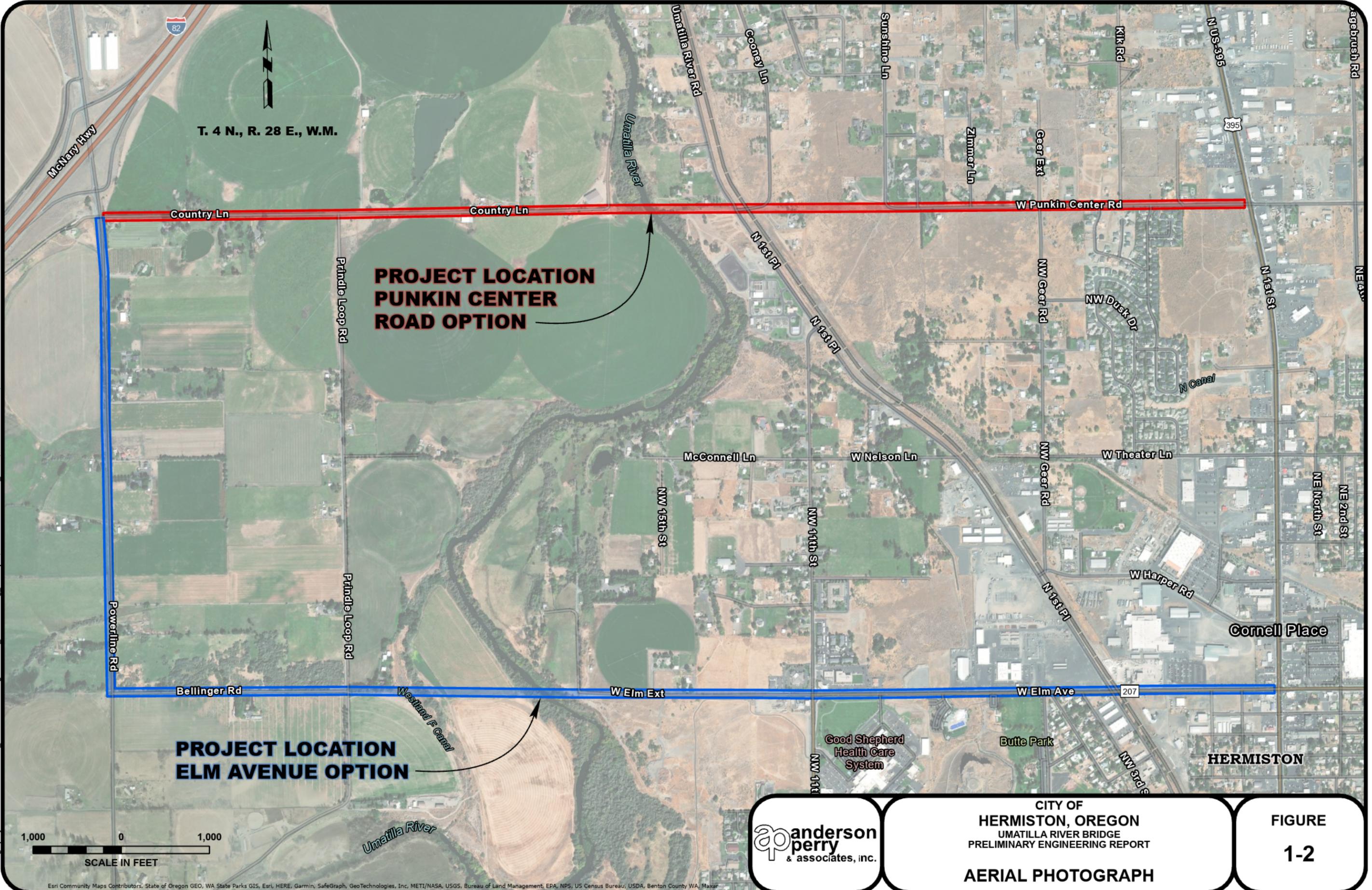
CITY OF
HERMISTON, OREGON
 UMATILLA RIVER BRIDGE
 PRELIMINARY ENGINEERING REPORT

FIGURE
1-1

LOCATION AND VICINITY MAPS

Copyright: © 2013 National Geographic Society, i-cubed

\\GIS\GIS\projects\Hermiston\736-123_UmatillaRiverBridge\736-123_UmatillaRiverBrdg_PER.aprx, PER 736-123.FIG1.2 Aerial, 6/23/2022 8:13 AM, dchristman



T. 4 N., R. 28 E., W.M.

**PROJECT LOCATION
PUNKIN CENTER
ROAD OPTION**

**PROJECT LOCATION
ELM AVENUE OPTION**

1,000 0 1,000
SCALE IN FEET

	<p>CITY OF HERMISTON, OREGON UMATILLA RIVER BRIDGE PRELIMINARY ENGINEERING REPORT</p>	<p>FIGURE 1-2</p>
	<p>AERIAL PHOTOGRAPH</p>	
	<p>HERMISTON</p>	

Esri Community Maps Contributors, State of Oregon GEO, WA State Parks GIS, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc., METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, Benton County WA, Maxar

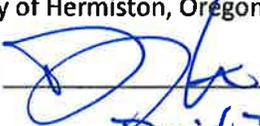
**Memorandum of Understanding
City of Hermiston, City of Umatilla, and Umatilla County
Umatilla River Bridge Preliminary Engineering Report
August 10, 2022**

The purpose of this Memorandum of Understanding (MOU) is to provide a general consensus among the City of Hermiston, the City of Umatilla, and Umatilla County, on which of the two bridge options presented in the draft Umatilla River Bridge Preliminary Engineering Report (PER) by Anderson Perry & Associates, Inc., dated August 2022, is preferred, and to agree on the next steps to begin construction of a new bridge over the Umatilla River. It is understood that this is not a final decision on bridge location, but a general consensus on which option appears to be preferred based on information provided in the PER and other currently available information.

All parties generally agree that both the Punkin Center Road and Elm Avenue options are viable and that the Punkin Center Road option, as presented in the PER, is the preferred option. Regardless of which option is ultimately constructed, all parties agree to incorporate and reference the PER in each of their respective Transportation System Plans at their next scheduled revision. This will allow all parties to be united and enable educated planning decisions to be made going forward.

These general terms as outlined herein are agreed to by each party. This MOU provides each party with assurance that all parties agree to and intend to proceed as outlined herein.

City of Hermiston, Oregon

By 

Print Name David Drobemann

Title Mayor

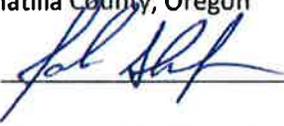
City of Umatilla, Oregon

By _____

Print Name _____

Title _____

Umatilla County, Oregon

By 

Print Name John M. Shafer

Title Chair, Board of Commissioners



CITY OF UMATILLA, OREGON

AGENDA BILL

Agenda Title:

Potential Litigation - ORS 192.660(2)(h) Authorizes council to consult with its counsel regarding current litigation or litigation likely to be filed. Media members must be excluded if the member is a party to the litigation.

Meeting Date:

2022-10-04

Department:

City Administration

Director:

David Stockdale

Contact Person:

Dave Stockdale

Phone Number:

Cost of Proposal:

n/a

Amount Budgeted:

n/a

Fund(s) Name and Number(s):

N/A

Reviewed by Finance Department:

Yes

Previously Presented:

n/a

Attachments to Agenda Packet Item:

Summary Statement:

n/a

Consistent with Council Goals:

N/A