



**Agenda**  
**Columbia Development Authority**  
**Board Meeting**  
**1:00 PM on Wednesday, March 16, 2022**  
**In-Person at the Port of Morrow/Sand Hollow Conference Room**  
**Joining by Zoom**

Join Zoom Meeting

<https://us02web.zoom.us/j/4695989718?pwd=YXYxeGN2Y0xWNy9mV2VUM2h0YVVBUT09>

Meeting ID: 469 598 9718

Passcode: 805704

One tap mobile

[+12532158782](tel:+12532158782),4695989718#,,,,\*805704# US

Dial by your location

[+1 253 215 8782](tel:+12532158782) US (Tacoma)

Meeting ID: 469 598 9718

Passcode: 805704

**Welcome and Greetings from Chairman Jim Doherty**  
**Introductions CDA Board Members & Economic Development Updates**

- **CDA Board Members:**
- Chairman Jim Doherty, Morrow County
- Vice Chair Kim Puzey, Port of Umatilla
- Lisa Mittelsdorf, Port of Morrow
- John Shafer, Umatilla County
- Don Sampson, CTUIR
- Don Russell, Morrow County Alternate, Bob Waldher, Alternate Umatilla County, Kat Brigham, Alternate CTUIR, Robert Blanc, Alternate Port of Umatilla, Port of Morrow, Alternate Joe Taylor
- **CDA Staff:** Greg Smith, CDA Director, Debbie Pedro, CDA Admin, Ed Orloski Professional Services Contractor.
- **Elizabeth Howard and Joe Hobson** - CDA Attorney's
- **Guests Introductions** and members of the press

**Consent Agenda**

- **Old Business**
  1. CDA Board Meeting Minutes January 31, 2022
  2. Financials CDA- BEO Stmts January-February 2022 and Quickbooks Reconciliation balance \$134,610.71.



## Columbia Development Authority

- **New Business**

Greg Smith Executive Director

**Note:** If an item is to move to an Executive Session the board chairman will make the recommendation at this time.

1. MOA between the CDA and the Army and Related Matters (Preliminary Title Report, Conveyance Document (Quit Claim Deed), Legal Lots/Partition, Water Rights)
2. HB2017 Funding (ODOT/Roads) & Board Resolution
  - Port of Umtilla HB 2017 Transfer
  - ONG South Gate Access
3. IGA between the CDA and ODOT
4. One Million Dollar Transaction with Port of Morrow to Fund the Purchase of Parcel 1 from the Army & Board Resolution
5. Future Agreement to Provide Easement to County of Umatilla for NOWA Pipeline & Board Resolution
6. Demil Site

- **Executive Session**

*The session will consider information or records that are exempt by law from public inspection, including attorney-client privileged information or records, and to conduct deliberations with persons designated by the Board to negotiate the real property transactions. The executive session is being held pursuant to ORS 192.660(2)(e) and ORS 192.660(2)(f). Further pursuant to ORS 192.660(2)(f), a public body “has the authority to meet in executive session to obtain other professional legal services from its legal counsel.” Or. Dept of Justice, Attorney General’s Public Records and Meetings Manual 2019: Public Meetings, Voting § (E)(1)(h)*

*Representatives of the media and designated staff shall be allowed to attend executive session. All other members of the audience are asked to leave the room, Zoom or telephone call. Representatives of the news media are specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the executive session, except to state the general subject of the session as previously announced. No decision will be made in executive session. At the end of the executive session we may return to an open session of the board and welcome the audience back into the room, if a vote is necessary.*

- Re-enter Open Session
- Other Discussion for the Good of the Order
- Public Comment:
- Adjournment

MINUTES  
COLUMBIA DEVELOPMENT AUTHORITY  
BOARD OF DIRECTORS  
Monday, January 31, 2022  
Port of Morrow/Sand Hollow Conference Room  
Boardman, Oregon

Board members or their alternates present:

- Chairman Jim Doherty, Morrow County
- Vice Chair Kim Puzey, Port of Umatilla joined by phone
- Lisa Mittelsdorf, Port of Morrow
- John Shafer, Umatilla County
- Don Sampson, CTUIR
- Don Russell, Morrow County Alternate
- Gail Nelson, Umatilla County Alternate
- Joe Taylor, Port of Morrow Alternate

Board members absent: Alternates Bob Blanc and Kat Brigham

Staff Present:

- Smith, Greg CDA Director,
- Debbie Pedro, CDA Admin,
- Ed Orloski Professional Services Contractor.

Others Present:

Keith Ellis,  
Brad Baird,  
Steve Williams  
On the phone:  
Tamra Mabbott,  
Ryan DeGroeft,  
Tom Lineer  
Michele Lanigan

CDA Attorneys present: Elizabeth Howard and Joe Hobson

The chair called the meeting to order

Minutes A motion was made by John Shafer and seconded by Lisa Middlesdorf to approve the minutes of the December 20, 2021, Board meeting. The motion carried.

Financial Report A motion was made by John Shafer and seconded by Don Sampson to receive the December 2021 financial report. The motion carried.

HB2017 Funding Greg Smith led a discussion with CDA Engineer Brad Baird and the Board on how to utilize the funds from HB2017. The members indicated they would like to take the matter to their respective organizations to obtain guidance. The consensus was that a CDA Board meeting should be set in approximately a month to consider the use of the HB2017 funding.

The Conveyance Greg Smith shared progress on the Conveyance.

The Board meeting was adjourned to allow the Board to go into executive session.

The executive session was concluded.



279 N Main St.  
P.O. Box 39  
Heppner, OR 97836

(541)676-9125

Account Number	Deposits	Statement Date	Checks	Page
XXXX XX0123	1	January 31, 2022	0	1 of 3

COLUMBIA DEVELOPMENT AUTHORITY 3794  
PO BOX 200  
BOARDMAN OR 97818-0200

We will NEVER text or email and ask you for confidential information or account details. Please CALL your local branch if you ever receive one of these texts or emails. It's National FFA Week this month! We're proud of our area FFA members and advisors.

XXXX XX0123		Business Short Form - Public Summary					1/1/2022 - 1/31/2022	
Previous Balance	Deposits	Checks	Withdrawals	Ending Balance				
	No.	Amount	No.	Amount	No.	Amount		
133,610.71	1	500.00	0	0.00	0	0.00	134,110.71	

Deposits and Other Credits to Business Short Form - Public		
Date	Description	Amount
01-24	Boardman Branch DEPOSIT	500.00
		1 deposit for 500.00

Withdrawals and Other Debits to Business Short Form - Public	
No withdrawal activity during period	

Daily Balance Summary for Business Short Form - Public							
Date	Balance	Date	Balance	Date	Balance	Date	Balance
01-01	133,610.71	01-24	134,110.71				

Balances and Fees			
Low Balance (01-01-2022)	133,610.71	Average Balance	133,739.74
Interest Paid This Year:	0.00	Current Interest Rate:	0.00%
Interest Earned in 2021	0.00	Average Collected Balance:	133,739.74
<b>Total Assessed This Cycle:</b>		<b>Total Assessed This Year:</b>	
Total Returned Item Fees	0.00	Total Returned Item Fees	0.00
Total Overdraft Fees	0.00	Total Overdraft Fees	0.00
Service Charges	0.00	Service Charges	0.00

Statement Summary					
Account Number	Account Name	Beginning Balance	Deposits	Withdrawals	Ending Balance
XXXX XX0123	Business Short Form - Public	133,610.71	500.00	0.00	134,110.71



Checking - 0277



12:37 PM

03/15/22

**Columbia Development Authority**  
**Reconciliation Summary**  
CDA Checking Account-BEO, Period Ending 01/31/2022

---

	Jan 31, 22
Beginning Balance	133,610.71
Cleared Transactions	
Deposits and Credits - 1 item	500.00
Total Cleared Transactions	500.00
Cleared Balance	<u>134,110.71</u>
Register Balance as of 01/31/2022	134,110.71
New Transactions	
Checks and Payments - 1 item	-1,984.00
Deposits and Credits - 1 item	500.00
Total New Transactions	<u>-1,484.00</u>
Ending Balance	<u><u>132,626.71</u></u>

12:37 PM

03/15/22

**Columbia Development Authority**  
**Reconciliation Detail**  
CDA Checking Account-BEO, Period Ending 01/31/2022

Type	Date	Num	Name	Clr	Amount	Balance
<b>Beginning Balance</b>						133,610.71
<b>Cleared Transactions</b>						
<b>Deposits and Credits - 1 item</b>						
Deposit	01/24/2022		Bay West	X	500.00	500.00
Total Deposits and Credits					500.00	500.00
Total Cleared Transactions					500.00	500.00
Cleared Balance					500.00	134,110.71
Register Balance as of 01/31/2022					500.00	134,110.71
<b>New Transactions</b>						
<b>Checks and Payments - 1 item</b>						
Check	02/22/2022	1066	Special Districts Ins...		-1,984.00	-1,984.00
Total Checks and Payments					-1,984.00	-1,984.00
<b>Deposits and Credits - 1 item</b>						
Deposit	02/22/2022		Bay West		500.00	500.00
Total Deposits and Credits					500.00	500.00
Total New Transactions					-1,484.00	-1,484.00
<b>Ending Balance</b>					<b>-984.00</b>	<b>132,626.71</b>



279 N Main St.  
P.O. Box 39  
Heppner, OR 97836

(541)676-9125

Account Number	Deposits	Statement Date	Checks	Page
XXXX XX0123	1	February 28, 2022	0	1 of 2

COLUMBIA DEVELOPMENT AUTHORITY 4793  
PO BOX 200  
BOARDMAN OR 97818-0200

We will NEVER text or email and ask you for confidential information or account details. Please CALL your local branch if you ever receive one of these texts or emails. March is National Agriculture Month! We thank all our ag producers and those who support this industry. #AgDay22

XXXX XX0123		Business Short Form - Public Summary					2/1/2022 - 2/28/2022	
Previous Balance	Deposits	Checks		Withdrawals		Ending Balance		
	No.	Amount	No.	Amount	No.	Amount		
134,110.71	1	500.00	0	0.00	0	0.00	134,610.71	

Deposits and Other Credits to Business Short Form - Public		
Date	Description	Amount
02-23	Boardman Branch DEPOSIT	500.00
		1 deposit for 500.00

Withdrawals and Other Debits to Business Short Form - Public	
No withdrawal activity during period	

Daily Balance Summary for Business Short Form - Public							
Date	Balance	Date	Balance	Date	Balance	Date	Balance
02-01	134,110.71	02-23	134,610.71				

Balances and Fees			
Low Balance (02-01-2022)	134,110.71	Average Balance	134,217.85
Interest Paid This Year:	0.00	Current Interest Rate:	0.00%
Interest Earned in 2021	0.00	Average Collected Balance:	134,217.85
<b>Total Assessed This Cycle:</b>		<b>Total Assessed This Year:</b>	
Total Returned Item Fees	0.00	Total Returned Item Fees	0.00
Total Overdraft Fees	0.00	Total Overdraft Fees	0.00

Statement Summary						
Account Number	Account Name	Beginning Balance	Deposits	Withdrawals	Ending Balance	
XXXX XX0123	Business Short Form - Public	134,110.71	500.00	0.00	134,610.71	
	<b>Totals</b>	<b>134,110.71</b>	<b>500.00</b>	<b>0.00</b>	<b>134,610.71</b>	



Checking - 0277





12:38 PM

03/15/22

**Columbia Development Authority**  
**Reconciliation Summary**  
CDA Checking Account-BEO, Period Ending 02/28/2022

---

	Feb 28, 22
Beginning Balance	134,110.71
Cleared Transactions	
Deposits and Credits - 1 item	500.00
Total Cleared Transactions	500.00
Cleared Balance	<u>134,610.71</u>
Uncleared Transactions	
Checks and Payments - 1 item	-1,984.00
Total Uncleared Transactions	-1,984.00
Register Balance as of 02/28/2022	<u>132,626.71</u>
Ending Balance	132,626.71

12:38 PM

03/15/22

**Columbia Development Authority**  
**Reconciliation Detail**  
CDA Checking Account-BEO, Period Ending 02/28/2022

Type	Date	Num	Name	Clr	Amount	Balance
<b>Beginning Balance</b>						134,110.71
<b>Cleared Transactions</b>						
<b>Deposits and Credits - 1 item</b>						
Deposit	02/22/2022		Bay West	X	500.00	500.00
Total Deposits and Credits					500.00	500.00
Total Cleared Transactions					500.00	500.00
Cleared Balance					500.00	134,610.71
<b>Uncleared Transactions</b>						
<b>Checks and Payments - 1 item</b>						
Check	02/22/2022	1066	Special Districts Ins...		-1,984.00	-1,984.00
Total Checks and Payments					-1,984.00	-1,984.00
Total Uncleared Transactions					-1,984.00	-1,984.00
Register Balance as of 02/28/2022					-1,484.00	132,626.71
<b>Ending Balance</b>					<b>-1,484.00</b>	<b>132,626.71</b>

# **#1 Memorandum of Agreement/Status of United States Army Conveyance Update**

Staff Report

COLUMBIA DEVELOPMENT AUTHORITY

BOARD OF DIRECTORS

To: Columbia Development Authority (CDA)

From: CDA Staff  
Elizabeth Howard and Joe Hobson, Attorneys Representing CDA

Date: March 14, 2022

## **Memorandum of Agreement/Status of United States Army Conveyance Update**

The United States provided an updated Draft Memorandum of Agreement (MOA) to CDA on February 18, 2022. The Draft MOA included Exhibits A to J:

Exhibit A – Legal Descriptions Parcel 1 (9511.37 acres) and Parcel 2 (28.07 acres)

Exhibits A-1 – CDA Parcels 1 and 2 (Figure)

Exhibit B – Form of Deed

Exhibit C – Description of Existing Easements 2-16-22

Exhibit D – Description of Army Retained Easements USACE 2-16-22

Exhibit E – July 25-26, 2016 MOA CDA + OMD Water – Camp Umatilla

Exhibit F UMCD PA Amendment 1 (Final, Signed Nov 10, 2021)

Exhibit G 2020 05 13 Umatilla List of Permits

Exhibit H 2018 01 03 Umatilla Annual Acct Approv Pkg

Exhibit I Lease DACA 67-1-20-40 Executed 27Nov2019

Exhibit J 2021 12 21 UMCD EES Final review

### **Next Steps:**

- CDA to provide comments/further edits of MOA and the exhibits to US Army – in process
- Preliminary Title Reports & Chain of Title Report – in process

# **#1 Memorandum of Agreement/Status of United States Army Conveyance Update**

- Obtain map of easements (Anderson Perry preparing) & evaluate easements needed – in process
- CDA to negotiate easements/license agreements with Army
- CDA & OMD to confirm agreement to use & repair railroads – initial conversations had in Q1. Further conversations forthcoming.
- Confirm updated needs & initiate water rights transfer applications - initial conversations underway with CDA engineer (Anderson Perry)
- Army & DEQ to record the final EES
- CDA to work with Army & Counties on partition/subdivision – needs further work and discussion
- CDA to evaluate limitations on use associated with environmental conditions and access (roads & rail) before accepting deed & proceeding to Closing for Parcel 1

## **Transfer of Title/Form of Deed**

Schwabe has complete drafts for discussion with the Army regarding proposed changes to the proposed Quit Claim Deed. The proposed changes would ensure that CDA receives what is called a “good and sufficient deed,” which is a deed that actually conveys whatever title is held by the grantor, including after acquired title, and estops the grantor and its successors from asserting that the grantor had, at the date of the deed, an estate or interest in the land less than that estate or interest which this deed purports to convey. In other words it is a complete conveyance rather than just a release of any interest. That is the usually the bare minimum for a real estate transaction. You only use a release (which in Oregon is called a quit claim deed) when the grantor probably doesn’t have any interest in the land in the first place.

With this form of deed, CDA would not be asking for any warranties of title, which is a step beyond good and sufficient. CDA will look to the title policies and the insurance they provide for what CDA would get with a warranty deed. That is not an exact trade off, but the title insurance coverage will likely be all that is available to provide warranty as to title in this case.

Schwabe is running the proposed deed language changes by the title companies to make sure our suggestions will suffice for their purposes of issuing CDA title insurance. We can discuss the proposed changes with the United States Army once the title companies have reviewed and concurred with the language as being sufficient to insure title.

There are many conditions and restrictions in the proposed deed. They will all be a part of the title going forward. Some may make it more difficult to develop or sell. That may make it worth less in real terms. Whether they are acceptable is a business decision not a legal decision. The Board will need to carefully review those restrictions before they make the decision to approve and execute the MOA.

# **#1 Memorandum of Agreement/Status of United States Army Conveyance Update**

## **Legal Lot Issues**

Oregon law prohibits the sale of parcels of land that were not created in accordance with the laws of the county in which the parcel of land is located (i.e., unlawfully created lots). See ORS 92.016(1).

The sale of an unlawfully created lot raises three issues. First, selling an unlawfully created lot is a Class C misdemeanor and the purchaser of the lot is provided with statutory remedies against the Seller which include damages, equitable relief, and attorney's fees. ORS 92.018, ORS 92.990. Second, the sale of an unlawfully created lot does not change the status of the lot once title is vested in the buyer; which means the lot will be still be deemed unlawfully created when title vests in the buyer and the new owner cannot sell it without violating Oregon law. Third, local jurisdictions consider unlawfully created lots to be zoning violations and generally refuse to issue any building or development permits until the violation is remedied.

Issues number two and three are most pertinent to CDA related to the purchase of property from the Army. If the CDA takes title to an unlawfully created lot, it will not be able to convey the lot to another party without violating Oregon law and it will be unable to (lawfully) obtain any permitting until the lawful lot issue is resolved. The inability to convey or permit a lot will result in potentially significant delays in CDA's currently contemplated transactions following acquisition of the property from the Army. Equally important, this could create a situation wherein CDA could take title to property that it might not be able to further subdivide or convey.

Note: Lawful lot status is not generally covered by a title insurance policy and CDA's recourse for being sold an unlawfully created lot would be to evaluate and pursue statutory remedies against the Army. We obviously want to avoid a situation where CDA would even have to consider such a course.

There are two potential solutions to this situation: 1) a partition of the Property such that Parcel 1 is a lawful unit of land when it is conveyed to CDA; 2) confirmation that Parcel 1 is composed of multiple lawful units of land that can be validated as such by the Counties post-conveyance. The second option is a harder, and potentially, less viable option for CDA, as it will want to have all property it receives deemed to be a lawfully established unit of land in order to achieve its redevelopment purposes.

Under Oregon law, a "lawfully established unit of land" is either (1) A unit of land created pursuant to ORS 92.010 to 92.192; or (2) A unit of land created: (a) "in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations"; or (b) "by deed or land sale contract, if they were no applicable planning, zoning or subdivision or partition ordinances or regulations." ORS 92.010(3)(a). A lawfully established unit of land is not a unit of land created solely to establish a separate tax account. ORS 92.010(3)(b).

Determining whether a lot was lawfully created is accomplished by a searching the chain of title to determine when the lot was created in its current configuration (i.e., current legal description). The next step is to match the configuration to a corresponding plat map, partition, or boundary line adjustment that created the configuration, which should be recorded in the official records of

## #1 Memorandum of Agreement/Status of United States Army Conveyance Update

the county. Stated simply, the current legal description needs to be matched with the process that created it and then it needs to be confirmed that the process was a lawful one per the county subdivision regulations. Note: this process likely does not apply to the Depot property.

Lots that were created prior January 1, 2007 and prior to the enactment of a given county's subdivision requirements can be validated as lawfully created lots. ORS 92.176(6) ("A county or city may not approve an application to validate a unit of land under this section if the unit of land was unlawfully created on or after January 1, 2007."). For Umatilla County, the subdivision requirements were enacted on July 19, 1972. Umatilla County Development Code 152.003, Definitions, Lot. For Morrow County, the subdivision requirements were enacted on June 6, 1980. Morrow County Zoning Ordinance Section 1.030, Definitions, Parcel. A parcel is not an unlawfully created lot if it existed in its current configuration prior to the enactment date for the given county. This can be determined by checking the deeds in the chain of title to determine the point in time at which a lot came into existence in its current configuration and then comparing that date to county subdivision enactment date.

Here, the immediate issue is that the parcel the United States Army seeks to convey most immediately (Parcel 1), as well as the parcel it seeks to retain and later convey (Parcel 2) are not lots created prior to the enactment of either county's subdivision requirements or prior to 2007. Rather, they would be newly created parcels with a legal description based on a recorded survey performed for the United States Army.

As noted above, CDA has two potential options to address this issue and ensure it takes title to lawful units of land: 1) obtain the Army's cooperation to conduct a pre-conveyance partition/subdivision; or 2) determine the number and configuration of currently existing lawfully created units of land within Parcel 1 and, assuming those will be workable for the CDA's redevelopment purposes, obtain the Counties confirmation that they will validate those units of land post-conveyance. The later would likely be a more complicated and potentially less useful exercise than the subdivision/partition option.

### Excerpts of ORS Ch. 92

ORS 92.010 (3) (a) "Lawfully established unit of land" means:

- (A) A lot or parcel created pursuant to ORS 92.010 (Definitions for ORS 92.010 to 92.192) to 92.192 (Property line adjustment); or
- (B) Another unit of land created:
  - (i) In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations; or
  - (ii) By deed or land sales contract, *if there were no applicable planning, zoning or subdivision or partition ordinances or regulations.*

(3)(b) "Lawfully established unit of land" does not mean a unit of land created solely to establish a separate tax account.

ORS 92.176 (1) A county or city may approve an application to validate a unit of land that was created by a sale that did not comply with the applicable criteria for creation of a unit of land if the unit of land:

# **#1 Memorandum of Agreement/Status of United States Army Conveyance Update**

- (a) Is not a lawfully established unit of land; and
  - (b) Could have complied with the applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold.
- (2) Notwithstanding subsection (1)(b) of this section, a county or city may approve an application to validate a unit of land under this section if the county or city approved a permit, as defined in ORS 215.402 (Definitions for ORS 215.402 to 215.438 and 215.700 to 215.780) or 227.160 (Definitions for ORS 227.160 to 227.186), respectively, for the construction or placement of a dwelling or other building on the unit of land after the sale. If the permit was approved for a dwelling, the county or city must determine that the dwelling qualifies for replacement under the criteria set forth in ORS 215.755 (Other forestland dwellings) (1)(a) to (e).  
\*\*\*
- (5) A unit of land becomes a lawfully established parcel when the county or city validates the unit of land under this section if the owner of the unit of land causes a partition plat to be recorded within 90 days after the date the county or city validates the unit of land.

## **Considerations for Partition or Subdivision**

Umatilla County and Morrow County both define a partition as “[t]o divide an area or tract of land into two or three parcels within a calendar year.” This generally means one partition per tract per calendar year to stay at or under the three parcel limitation. A division of land into more than three parcels is a subdivision in both Umatilla and Morrow Counties.

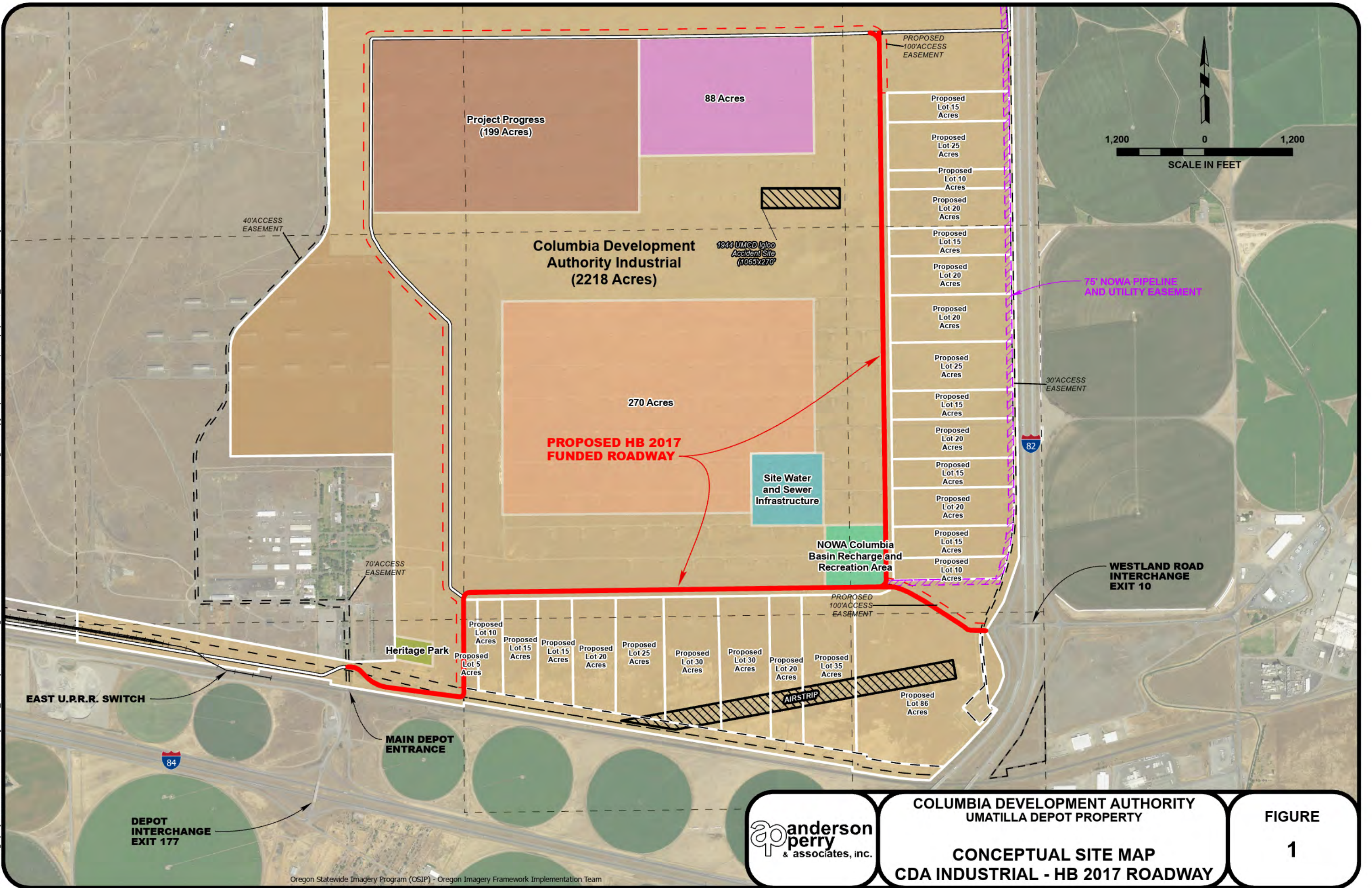
This language appears to limit the number of partitions that may occur across the Depot Property in a calendar year (this is subject to confirmation by the county planners). This has potentially limiting implications for CDA’s plans to develop the property post-acquisition, particularly because the CDA has obligations to transfer at least one additional parcel to the CTUIR shortly after conveyance of Parcel 1 and will likely need to have other parcels created in 2022.

As a practical matter, a subdivision vs partition application is likely similar in terms of timeline although local governments often have more strict requirements of subdivisions than they do of partitions. Both must result in a recorded plat. Both Counties’ deadlines are the same for partitions and subdivisions: 150 days.

In Morrow County, both partitions and subdivisions appear to require planning commission approval. In Umatilla County, a subdivision would require a planning commission hearing. A subdivision application will likely need to be filed in each county.

In order to proceed in an orderly fashion, and address the lawful unit of land requirement, we are recommending that the board consider forming a subcommittee of professional & CDA staff to form a plan for subdivision application with each county that could be coordinated with the Army pre-conveyance of Parcel 1 to CDA.

\\LGSVR6\gis\projects\ColumbiaDev\Authority\98.01\_UmatDepot\SitePlanning\Essential GIS Data\AGOL\_ArcGISPro Publishing\Hardcopy Map Production (98.01)\_aprx\_98.01\_HB2017\_Roadway\_1/19/2022 7:32 AM.dchristman



anderson perry & associates, inc.

**COLUMBIA DEVELOPMENT AUTHORITY  
UMATILLA DEPOT PROPERTY**

**CONCEPTUAL SITE MAP  
CDA INDUSTRIAL - HB 2017 ROADWAY**

**FIGURE  
1**





#2

## **PLANNING DEPARTMENT**

---

---

March 14, 2022

MEMO

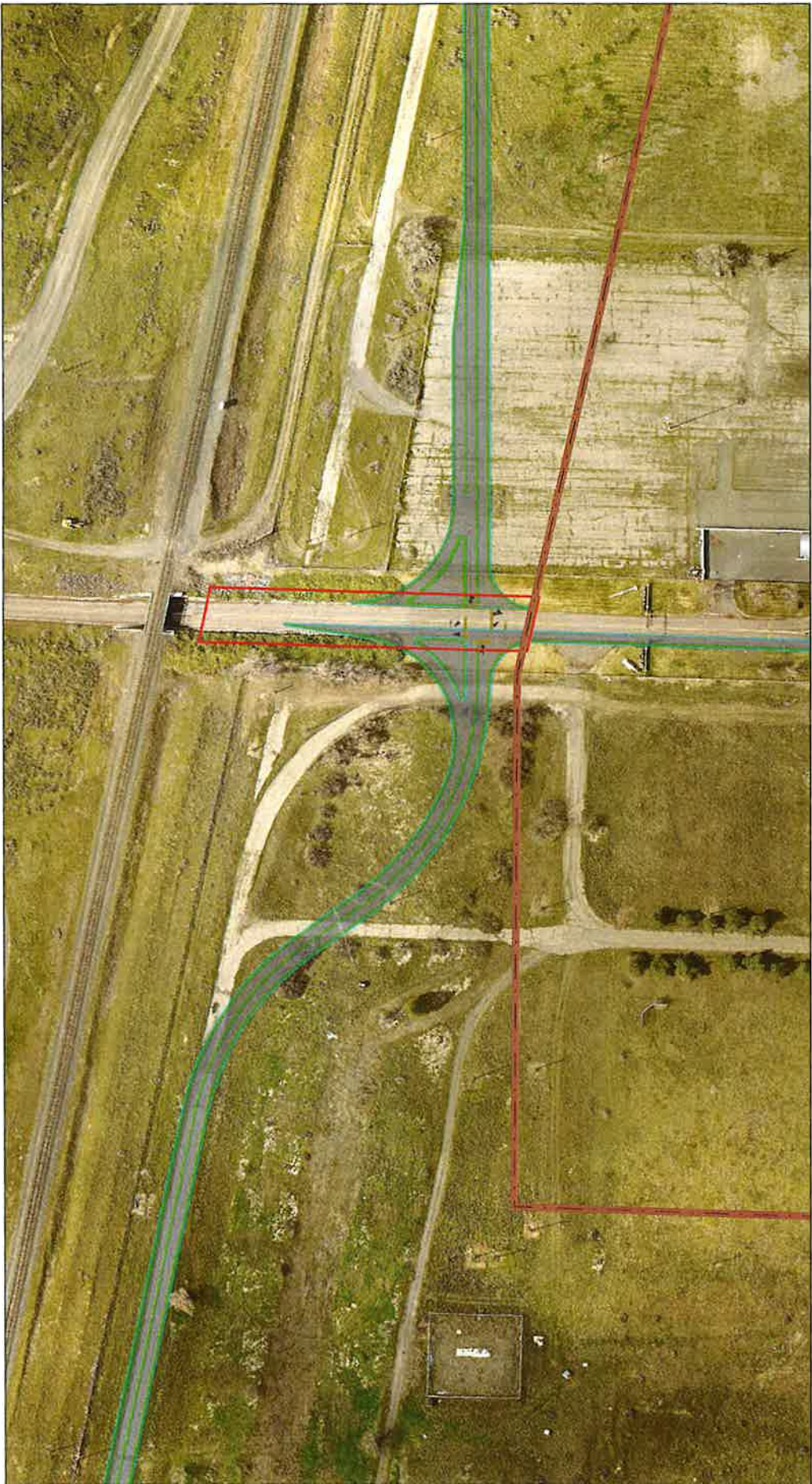
TO: Jim Doherty, Chair, Columbia Development Authority  
Columbia Development Authority Members  
CC: Greg Smith, CDA Director  
Debbie Pedro, CDA Economic Development  
FROM: Tamra Mabbott, Morrow County Planning Director  
Bob Waldher, Umatilla County Planning Director

RE: Access to Army Depot

At the request of CDA Chair Doherty, we reviewed existing access easements for the Army Depot. Upon transfer there will be only one location where CDA has legal access, the east entry at the end of Lamb Road and Interstate 82.





The historical main entryway, known as the I-84 or south gate entrance, currently provides access. However, once the transfer occurs, that physical roadway will not allow traffic to travel north beyond the existing guard buildings. The attached map from Oregon Military Department (OMD) illustrates the boundary line (in red) of the OMD ownership. For security purposes, general traffic will not be allowed to continue north.

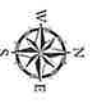
The OMD map also includes a preliminary engineer drawing of possible roadway/intersection alignment that, if constructed, would provide physical as well as legal access to South Patrol Road.



**Camp Umatilla  
Road Easement  
Rights-Of-Way  
Permanent and  
Proposed Road  
Junction**



- Legend**
-  Camp Umatilla Oregon
  -  Proposed Road Junction
  -  Easements
  -  Roads, RIGHTS-OF-WAY IN PERPETUITY



No warranty is made by the Oregon Military Department as to the accuracy, reliability or completeness of these data for individual use or aggregate use with other data. This map is a "living document" in that it is intended to change as new data become available and is incorporated into the Enterprise GIS database.

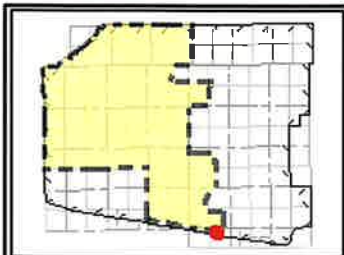
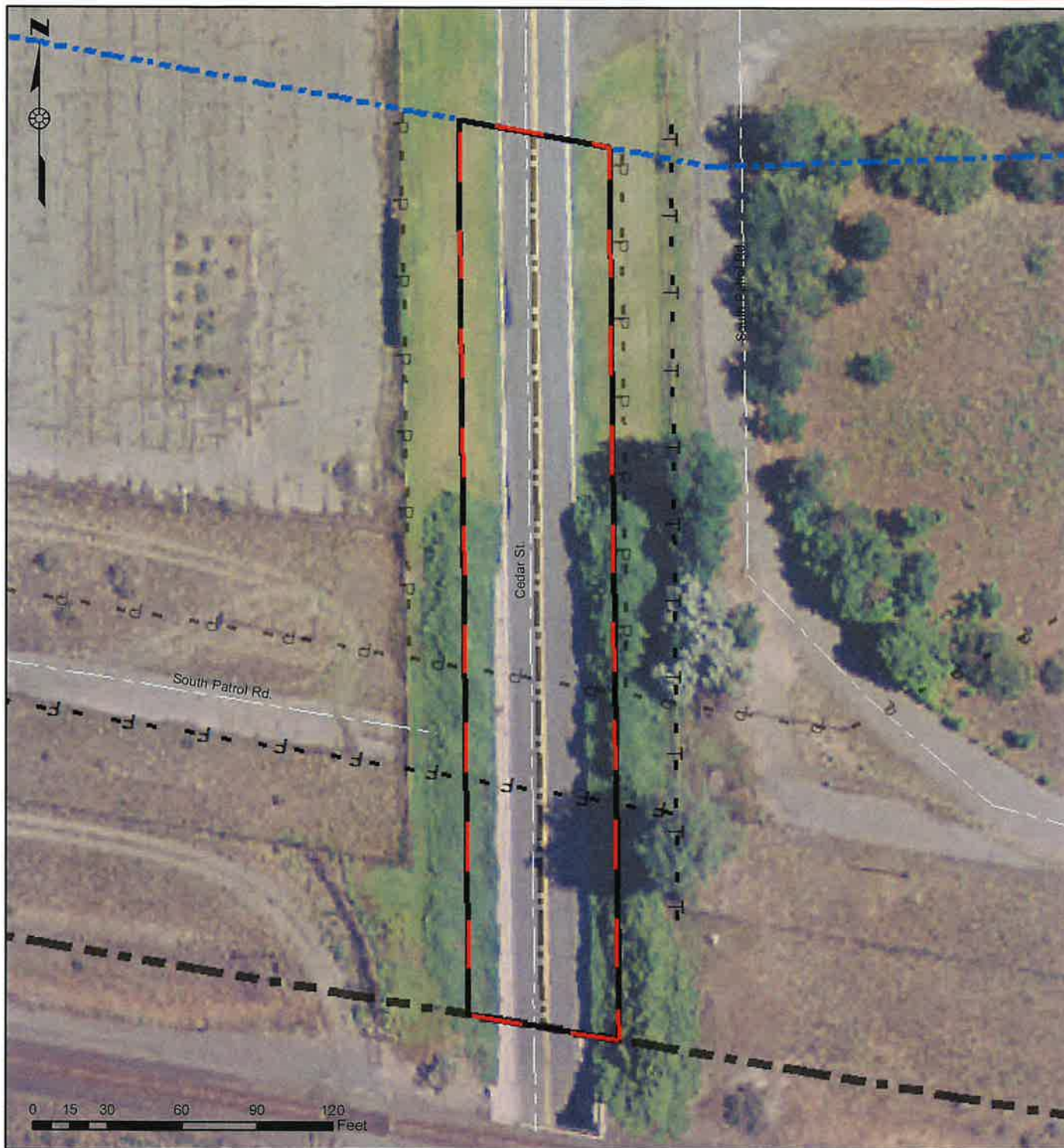
Map Author: C. Anderson,  
JFHQ OMD AG-ES  
POC Dan Stevens  
Project: Camp Umatilla  
NWS 1584 UTR 2007 111





# Camp Umatilla National Guard Training Center Utility & Access Tracts

## Tract 102E-3 (0.49 Ac.)



- |             |             |          |
|-------------|-------------|----------|
| Boundary    | Access      | Gas      |
| UCD         | Telephone   | Railroad |
| Bldg. Areas | Fiber Optic | Sewer    |
| Water       | Electrical  |          |

DISCLAIMER - While the United States Army Corps of Engineers, (hereinafter referred to as USACE) has made a reasonable effort to ensure the accuracy of the maps and associated data, it should be explicitly noted that USACE makes no warranty, no representation or guarantee, either express or implied, as to the content, sequence, accuracy, timeliness or completeness of any of the data provided herein. The USACE, its officers, agents, employees or servants shall assume no liability for any failure for any errors, omissions, or inaccuracies in the information provided regardless of how caused. The USACE, its officers, agents, employees or servants shall assume no liability for any decisions made or actions taken or not taken by the user of the maps and associated data in reliance upon any information or data furnished here. By using these maps and associated data the user does so entirely at their own risk and explicitly acknowledges that he/she is aware of and agrees to be bound by this disclaimer and agrees not to present any claim or demand of any nature against the USACE, its officers, agents, employees or servants in any forum whatsoever for any damages of any nature whatsoever that may result from or may be caused in any way by the use of the maps and associated data.

A162-G043020

**AGREEMENT FOR SERVICES  
Interagency Agreement  
Industrial Property Road Improvements  
Columbia Development Authority (CDA)**

**THIS AGREEMENT** is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT," and the Columbia Development Authority (CDA), acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually as "Party" and collectively as "Parties."

**RECITALS**

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, a state agency may enter into agreements with units of local government for the performance of any or all functions and activities that state agency, its officers, or agents have the authority to perform.
2. This Agreement is between ODOT and The Columbia Development Authority (CDA), which is comprised of the following agencies: Morrow County, Umatilla County, Confederated Tribes of the Umatilla Indian Reservation, Port of Morrow, and Port of Umatilla. The group was formally known as the Local Redevelopment Authority (LRA). The CDA is a collective group, whose mission is to stimulate economic and residential development to advance the overall quality of life in the former Umatilla Army Depot Area.

The Parties therefore agree as follows:

**TERMS OF AGREEMENT**

1. Under such authority, State and Agency agree that Agency or their Consultant/Contractor shall develop roadways within the former Umatilla Army Depot that will connect to the Westland Road Interchange, on the east and westbound off-ramps at Army Depot at Exit 177 off of Interstate 84 (I-84). Construction shall include constructing access roads within into the ~~Interstate~~ Industrial Park, hereinafter referred to as "Project." Location is as shown in attached "Exhibit A," and by this reference, made a part hereof.
2. The Project will be financed at an estimated cost of \$7,000,000 in state funding. Agency shall be responsible for any nonparticipating costs, and Project costs beyond the estimate. PE funding shall be released, upon re securing right of entry from Army Depot. Construction funding shall be released to CDA, upon transfer of property from the Army.

Commented [PKE1]: The plan is to develop roadways within the former Umatilla Army Depot to make connection to the Westland Road Interchange on I-82.

## AGENCY OBLIGATIONS

1. Agency, or its Consultant/Contractor shall construct road improvements as described in Paragraph 1 of Terms of Agreement.
2. Agency shall obtain permission to work on Army Depot property prior to starting Preliminary Engineering work. As verification of right of entry, Agency shall obtain documentation from the Army, in the form of a right of entry or permit document. Once Army grants Agency right to enter, State shall release Preliminary Engineering (PE) Funds to Agency.
3. Agency shall submit invoices for the eligible actual costs incurred on behalf of the Project directly to State's Project Manager listed in this Agreement for review and approval. Such invoices shall be in a form identifying the Project, key number, the Agreement number, the Project phase and amount charged to each (such as preliminary engineering, right of way, and construction), the invoice number, and will itemize all expenses for which reimbursement is claimed. Invoices shall be presented for periods greater than one month, based on actual expenses incurred and must clearly specify the percentage of completion of the Project. Agency shall also include with the invoice a Project progress report or summary that describes work accomplished for the period being invoiced and work expected for the next invoicing period. Travel expenses will not be reimbursed.
4. Agency shall be responsible for securing transfer of property from the Army. Upon transfer of property, Agency shall notify State, and State shall release Construction funds upon transfer of property from the Army to Agency.
5. Agency, or its Consultant/Contractor, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates in accordance with current state and federal laws and regulations; obtain all required permits; be responsible for all utility relocations; advertise for bid proposals; award all contracts; perform all construction engineering; and make all contractor payments required to complete Project.
6. Right of way is not anticipated for this Project, should right of way become necessary, State and Agency shall enter into a separate Right of Way Services Agreement.
7. **Americans with Disabilities Act Compliance:**
  - a. **State Highway: For portions of the Project located on or along the State Highway System or a State-owned facility ("state highway"):**
    - i. Agency shall utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with

Commented [PKE2]: If needed, ROW acquisition will be done in accordance to state statute.

Agency/State  
Agreement No.73000-00003436

Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;

- ii. Agency shall follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
  - iii. At Project completion, Agency shall send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form and to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:  
  
<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>
  - iv. Agency shall promptly notify ODOT of Project completion and allow ODOT to inspect Project sidewalks, curb ramps, and pedestrian-activated signals located on or along a state highway prior to acceptance of Project by Agency and prior to release of any Agency contractor.
  - v. Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs, comply with ODOT standards, and include accessibility features equal to or better than the features present in the existing pedestrian facility. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, disability organizations, and ODOT at least 10 days prior to the start of construction.
- b. Local Roads: For portions of the Project located on Agency roads or facilities that are not on or along a state highway:
- i. Agency shall ensure that the Project, including all sidewalks, curb ramps, and pedestrian-activated signals, is designed, constructed and maintained in compliance with the ADA.
  - ii. Agency may follow its own processes or may use ODOT's processes for design, construction, or alteration of Project sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current Curb Ramp Inspection form, available at:

Agency/State  
Agreement No.73000-00003436

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>;

Additional ODOT resources are available at the above-identified link. ODOT has made its forms, processes, and resources available for Agency's use and convenience.

- iii. Agency assumes sole responsibility for ensuring that the Project complies with the ADA, including when Agency uses ODOT forms and processes. Agency acknowledges and agrees that ODOT is under no obligation to review or approve Project plans or inspect the completed Project to confirm ADA compliance.
  - iv. Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone. Any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian route. Agency shall also ensure that advance notice of any temporary pedestrian route is provided in accessible format to the public, people with disabilities, and disability organizations prior to the start of construction.
- c. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
- i. Pedestrian access is maintained as required by the ADA,
  - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
  - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
  - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
  - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
8. Maintenance obligations in this section shall survive termination of this Agreement.
9. Upon completion of the Project, Agency shall at its own expense, maintain, operate, and provide power as needed on the improvements made as part of this Agreement, at a minimum level that is consist with normal depreciation and/or

service demand and throughout the useful life of the Project. State and Agency agree that the useful life of this Project is defined as seventy-five (75) years. Maintenance and power responsibilities shall survive any termination of the Project. ~~Agency shall not be responsible for the maintenance of off ramps connected to I-84, these shall remain the responsibility of the State. No work is anticipated on ODOT right of way; should any Project features be installed or constructed on ODOT right of way, then Agency and ODOT will enter into a separate Agreement to address maintenance obligations; prior to work being done.~~

Commented [BGP\*G3]: Is this correct?

Commented [PKE4]: Awaiting maps from Anderson Perry, but not expecting any work on the interchange ramps. WE can probably say that no work is anticipated on ODOT ROW, however, if any project features are installed on ODOT ROW will necessitate a separate maintenance IGA or amendment to this agreement prior to installation

10. Agency or its Consultant/Contractor shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
12. Utility relocation or reconstruction may or may not be an eligible Project expense according to the following standard:
  - a. The expense is an eligible expense if the owner of the utility facility possesses a property right for its location on the public right of way.
  - b. The expense is not an eligible expense if the owner of the utility facility does not possess a property right for its location, but the facility exists on the public right of way solely under the permission of the Agency or other road authority, whether that permission is expressed or implied, and whether written or oral.
13. If Agency enters into a construction contract for performance of work for the Project, then Agency will include provisions in that contract requiring its contractor to comply with the following:
  - a. Contractor and Agency shall name State as a third party beneficiary of the resulting contract.
  - b. Contractor shall indemnify, defend and hold harmless State from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, sub-contractors, or agents under the resulting contract.
  - c. Commercial General Liability. Contractor shall obtain, at Contractor's expense,

Commented [PKE5]: Lets leave this in.



Agency/State  
Agreement No.73000-00003436

and keep in effect during the term of the resulting contract, Commercial General Multco Contract# DCS-IGA-E-10211-2019 Page 9 Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to State. This insurance shall include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage shall be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence shall not be less than  \$1,000,000  \$2,000,000  \$5,000,000 for each job site or location. Each annual aggregate limit shall not be less than  \$1,000,000  \$2,000,000  \$4,000,000  10,000,000.

Commented [PKE6]: Running the tool, I get 1M auto for each site and 1 M for combined single limit.  
Commented [BGP\*G7]: Ok changed this

- d. Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$1,000,000.
- e. Additional Insured Endorsement. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the resulting contract will include State and its divisions, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under the resulting contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
- f. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to State. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of the resulting contract and shall be grounds for immediate termination of the resulting contract and this Agreement.

14. Agency's Project Manager for this Agreement is Greg Smith, CDA Director, PO Box 200, Boardman, Oregon 97818. Phone: (541) 481-3693. [columbiadirector@gmail.com](mailto:columbiadirector@gmail.com), or assigned designee upon individual's absence.

**STATE OBLIGATIONS**

- 1. State shall allow CDA to enter onto State right of way, in order for CDA to perform duties set forth in this Agreement.
- 2. Upon completion of the Project, State shall be responsible to maintain east and westbound off ramps at ~~Exit 177~~ Westland Road Interchange.

Commented [PKE8]: This needs to be the Westland Road interchange, I-82. Probably can be removed if CDA confirms all work is internal to the property.  
Commented [BGP\*G9]: Ok?

Agency/State  
Agreement No.73000-00003436

3. In consideration for the services performed under this Agreement, State shall reimburse Agency eligible costs for the Project, up to the maximum amount of state funds committed for the Project, in Terms of Agreement, Paragraph 2 of this Agreement. Reimbursements shall be made by State within forty-five (45) days of State's approval of a request for reimbursement from Agency, except that final payment will be withheld until the State's Project Manager has completed final project inspection and project acceptance.
4. State shall release Preliminary Engineering (PE) funding upon verification from CDA of Army Depot's granted access to property.
5. State shall release Construction (CON) funding upon CDA securing property transfer from the Army.
6. State's contact for this Project is: Local Agency Liaison, Michelle Tragesser, Oregon Department of Transportation, 3012 Island Avenue, La Grande, Oregon 97850. Phone: (541) 963-1353, [michelle.tragesser@odot.state.or.us](mailto:michelle.tragesser@odot.state.or.us), or assigned designee upon individual's absence.
7. **Term of Agreement; Effective Date.** The term of this Agreement shall begin on the date all required signatures are obtained ("Effective Date") and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the Effective Date, whichever is sooner. Maintenance obligations shall survive termination of this Agreement.

. **Termination.** This Agreement may be terminated by mutual written consent of all Parties. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:

- i. If Agency fails to provide the services called for by this Agreement within the time specified herein or any extension thereof.
- ii. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
- iii. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to fund its obligations for performance of this Agreement.
- iv. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is

prohibited or if State is prohibited from paying for such services from the planned funding source.

- a. Any termination of this Agreement shall not extinguish or prejudice any rights or obligations accrued to the Parties prior to termination.
8. **Certification.** Each Party certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on its behalf, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind that Party.
9. **No Substitutions or Assignments.** Agency shall not assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without first obtaining the written consent of State. State's consent to any subcontract (or other delegation of duties) does not relieve Agency of any of its duties or obligations under this Agreement. This Agreement is binding upon and inures to the benefit of each of the Parties, and, except as otherwise provided, their permitted legal successors and assigns.
10. **No Third Party Beneficiaries.** Agency and State are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This provision survives termination of the Agreement.
11. **Waiver; Amendment.** No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision. This provision survives termination of the Agreement.
12. **Notice.** Except as otherwise expressly provided in this Agreement, all notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Project Manager at the physical address or email address set forth in Exhibit F, or to such other addresses as either Party may indicate pursuant to this paragraph. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective when the sender receives confirmation of receipt from the recipient (not an auto-reply). Except as set forth above in this paragraph, the Parties may agree to provide operational notices such as delivery, acceptance or rejection of services or deliverables by email as may be mutually agreed in Exhibit A.

Agency/State  
Agreement No.73000-00003436

13. **Severability.** The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions 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. This provision survives termination of the Agreement.
14. **Counterparts.** This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
15. **Integration.** This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

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

Agency/State  
Agreement No.73000-00003436

**CDA**, by and through its

By \_\_\_\_\_  
Director

Date \_\_\_\_\_

By \_\_\_\_\_  
Chairman

Date \_\_\_\_\_

**STATE OF OREGON**, by and through  
its Department of Transportation

By \_\_\_\_\_  
Director

Date \_\_\_\_\_

**LEGAL REVIEW APPROVAL (If required  
in Agency's process)**

By \_\_\_\_\_  
Agency Counsel

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
State Traffic/Roadway Engineer

Date \_\_\_\_\_

By \_\_\_\_\_  
Region 5 Manager

Date \_\_\_\_\_

**Agency Contact:**

Greg Smith, CDA Director  
PO Box 200  
Boardman, Oregon 97818  
(541) 481-3693  
[columbiadirector@gmail.com](mailto:columbiadirector@gmail.com)

**State Contact:**

Michelle Tragesser, Local Agency Liaison  
Oregon Department of Transportation  
3012 Island Avenue  
La Grande, Oregon 97850  
(541) 963-1353  
[Michelle.tragesser@odot.state.or.us](mailto:Michelle.tragesser@odot.state.or.us)

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney General (If Over  
\$150,000)

Date \_\_\_\_\_

### EXHIBIT TCD – TERMS, CONDITIONS AND DEFINITIONS

**THIRD PARTY CLAIMS:** The following paragraphs 1 through 4 shall survive termination of the Agreement.

1. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
2. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
3. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

Agency/State  
Agreement No.73000-00003436

4. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

State (ODOT) shall, upon execution of this Agreement, enter the required data into its Electronic Procurement System, per ORS 190.115.

#### **RECORDS**

The Parties acknowledge and agree that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Parties which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of the Project and final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by the requesting party. This provision survives termination of the Agreement.

#### **INDEPENDENT CONTRACTOR; EMPLOYMENT COSTS**

1. Agency shall perform the services under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
2. State reserves the right (i) to determine and modify the delivery schedule for the services and (ii) to evaluate the quality of the services; however, State may not and will not control the means or manner of Agency's performance. Agency is responsible for determining the appropriate means and manner of performing the services.
3. Agency understands and agrees that it is not an "officer," "employee," or "agent" of the State of Oregon, as those terms are used in ORS 30.265 or otherwise.

#### **WORKERS COMP**

All employers, including the Agency and Agency's contractors, if any, that employ subject workers, as defined in ORS 656.027, who work under this Agreement in the State of Oregon shall comply with ORS [656.017](#) and shall provide the required Workers' Compensation Insurance coverage, unless such employers are exempt under ORS [656.126\(2\)](#). The coverage shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 for each accident. Agency shall ensure that each of its contractors complies with these requirements.

#### **SUBCONTRACTOR REQUIREMENTS & INDEMNIFICATION**

1. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold

harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260 (Claims), to the extent such Claims are caused, or alleged to be caused by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that State shall, in all instances, except to the extent Claims arise from the negligent or willful acts or omissions of State, be indemnified from and against all Claims caused or alleged to be caused by the contractor or subcontractor.

2. Any such indemnification shall also provide that neither Agency's contractor or subcontractor nor any attorney engaged by Agency's contractor or subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Agency's contractor or subcontractor is prohibited from defending the State of Oregon, or that Agency's contractor or subcontractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor or subcontractor if the State of Oregon elects to assume its own defense.
3. Agency shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from State.

#### **RIGHT OF ENTRY**

1. Agency grants State the right to enter onto Agency right of way for the performance of duties as set forth in this Agreement.
2. State grants Agency the right to enter onto State right of way for the performance of duties as set forth in this Agreement.
3. Agency shall obtain a miscellaneous permit to occupy State right of way through the State District 12 Office prior to the performance of services.



Agency/State  
Agreement No.73000-00003436

**GOVERNING LAW; VENUE; CONSENT TO JURISDICTION:**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws. Any claim, action, suit or proceeding (collectively, "Claim") between the State and Agency that arises from or relates to the Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCY HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon. This provision survives termination of the Agreement.

**COMPLIANCE WITH LAW**

Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. For those portions of the Project performed within the State of Oregon, Agency shall require its contractors to comply with the laws of the State of Oregon.

**NON-APPROPRIATION**

The State of Oregon's payment obligations under this Agreement are conditioned upon ODOT's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. Agency is not entitled to receive payment under this Agreement from any part of Oregon state government other than ODOT. Nothing in this Agreement is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. This provision survives termination of the Agreement.

## REMEDIES

1. Agency default.
  - a. In the event Agency is in default under this Agreement, ODOT may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (i) termination of this Agreement, (ii) reducing or withholding payment for work or deliverables that Agency has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (iii) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, including for interest within the limits of ORS 293.462, and (iv) exercise of its right of recovery of overpayments under this Agreement or setoff, or both.
  - b. These remedies are cumulative to the extent the remedies are not inconsistent, and ODOT may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
2. ODOT default.
  - a. In the event ODOT is in default under this Agreement or in the event ODOT terminates this Agreement, Agency's sole remedy will be:
    - i. For work compensable at a stated rate: A claim for unpaid invoices for work completed according to the requirements and acceptance criteria of this Agreement and for authorized expenses incurred and interest within the limits of ORS 293.462, less any claims ODOT has against Agency,
    - ii. For deliverable-based work: A claim for the sum designated for completing the deliverable multiplied by the percentage of work completed and accepted by Agency, plus authorized expenses incurred, and interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims ODOT has against Agency.
  - b. In no event will ODOT be liable to Agency for any expenses related to termination of this Agreement, including attorney fees. If previous amounts paid to Agency exceed the amount due to Agency, Agency shall promptly pay any excess to ODOT.
3. The rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies at law or in equity.
4. This provision survives termination of the Agreement.

Agency/State  
Agreement No.73000-00003436

**EXHIBIT A**  
**STATEMENT OF WORK AND DELIVERABLE SCHEDULE**  
**PROJECT: Industrial Property Road Improvements**  
**PROJECT DESCRIPTION and OVERVIEW of SERVICES**

Agency or their Consultant/Contractor shall construct improvements on the east and westbound off-ramps at Army Depot Exit 177 off of Interstate 84 (I-84). Construction shall include straightening the existing off-ramps and constructing access roads into the Interstate Industrial Park

**1. Agency Responsibilities**

Agency, or its Consultant/Contractor shall construct road improvements as described in Paragraph 1 of Terms of Agreement.

Agency/State  
Agreement No.73000-00003436

**PROJECT LOCATION MAP**

The Project location and approximate limits are shown on the following **map**.

Commented [BGP\*G10]: I will attach this when received.

**EXHIBIT B - COMPENSATION AND PAYMENT PROVISIONS**

**AGENCY OBLIGATIONS**

1. Agency shall present invoices for 100 percent of Eligible Costs incurred by Agency on behalf of the Project directly to State's project manager for review and approval. Under no conditions shall State's obligations exceed \$7,000,000 including all expenses.
  - a. Such invoices shall be in a form identifying the Project and agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not less than one month duration, based on actual expenses incurred.

Eligible Costs are reasonable and necessary actual costs incurred by the Agency in performance of the Project.

- b. Travel expenses will not be reimbursed.

**STATE OBLIGATIONS**

1. In consideration for the services performed under this Agreement, State agrees to reimburse Agency for Eligible Costs within forty-five (45) days of receipt and approval by State of monthly Project invoices. State agrees to pay Agency a maximum amount of \$7,000,000. Said maximum amount shall include reimbursement for all expenses. Travel Expenses will not be reimbursed.

Agency/State  
Agreement No.73000-00003436

**EXHIBIT D - SPECIAL TERMS AND CONDITIONS  
RESERVED**

## **#4 Staff Report** Port of Morrow Acquisition of 640 Acres/EDC Application

Staff report

COLUMBIA DEVELOPMENT AUTHORITY

BOARD OF DIRECTORS

Meeting Date: March 16, 2022

Agenda Item: Port of Morrow Acquisition of 640 Acres EFU Land Pursuant to EDC Application

### **QUESTION PRESENTED**

Should the Columbia Development Authority ("CDA") sell 640 acres of exclusive farm use zoned land located in Morrow County, Oregon (the "Property") to the Port of Morrow (the "Transaction")?

### **BACKGROUND**

CDA is currently in negotiations with the United States Army to acquire approximately 9,511.37 acres of real property located in Umatilla and Morrow County, Oregon (the "Acquisition"). As part of the Acquisition, it is anticipated that CDA will take title to the 640 acres of exclusive farm use zoned land described as Tract C on that certain survey prepared by Ferguson Surveying and Engineering, dated November 30, 2015, and held by the Morrow County Surveyor as Survey No. 2016-1752D.

The Transaction was specifically contemplated by the CDA and was a necessary predicate to obtaining the United State Army's acceptance of the Economic Development Conveyance (EDC) Application for the Umatilla Army Chemical Depot. That approval was issued by the Deputy Assistant Secretary of the Army on February 18, 2022.

The EDC Application, dated 02.23.2015, documents the plan and agreement that the POM would purchase Tract C in order for the CDA to complete the Acquisition in a number of ways and places. It specifically provides as follows on p. 10:

#### **THE REDEVELOPMENT PLAN**

The Redevelopment Plan calls for the creation of a 7,500 acre National Guard training facility, 5,678 acre multiple-use refuge, and approximately 3,856 acres of industrial/agriculture/right-of-way redevelopment acreage.

The preferred strategy with the greatest net benefit to regional employment involves a multi-parcel land exchange for parcels located in the Morrow County portion of UMCD. Those employment implications are discussed in the next section. A summary of the major individual parcel applications with redevelopment potential is as follows (refer to reference map below):

\*\*\*

## **#4 Staff Report** Port of Morrow Acquisition of 640 Acres/EDC Application

**Parcel C – 639 acres, Morrow County:** This parcel is proposed to be purchased by the Port of Morrow from the Army at a purchase price in excess of established regional values as part of the larger “less than fair market value” EDC package request. It would be part of a proposed land exchange and utilized for agricultural production. The market value for the parcel is \$1,500 per acre or a total of \$960,000. Subject to final approval by the Port of Morrow Board of Directors and acceptable terms, the Port of Morrow is currently proposing a purchase price of \$1 million as part of the EDC request.

And, the following on p. 15:

### **ECONOMIC DEVELOPMENT CONVEYANCE REQUEST**

The express objective of this EDC request is family-wage job generation to mitigate for the loss of 1,477 high wage positions at UMCD. The Columbia Development Authority based upon development constraints, infrastructure investment requirements, property liabilities, and market conditions as described in the EDC application, is requesting a “below market value” Economic Development Conveyance for approximately 9,534 acres (5,678 Refuge and 3,856 Industrial/Ag. areas). It is proposed that Parcel “C” – 639 acres located in Morrow County - would be purchased by the Port of Morrow as part of the negotiated EDC at an anticipated sale price of \$1 million.

And, the following on p. 45:

#### **4.2.1 Source of Funds**

The 20-year business plan has identified sources and uses of funds required to operate, maintain, and implement the redevelopment program. The sources of funds will consist mainly from land sales and lease revenue, and will total some \$13.2 million over 20 years.

**Land Sales:** The demand for agricultural land in the region is strong. The sale of the 639 acres of agricultural land in Morrow County will bring in approximately \$960,000 based upon the average value of \$1,500 per acre. The Port of Morrow has expressed a desire to purchase the parcel from the Army on behalf of the CDA for \$1 million as part of a “less than market value” EDC package.

This above fair market value market value consideration for the agriculture land in Morrow County that the Port of Morrow agreed to pay in 2015, was essential to obtaining the United State Army’s acceptance of the CDA’s request for the United States to convey the Depot lands for economic development by the CDA.

Additional background concerning the necessity of the Port of Morrow’s purchase of this property for \$1mm was specifically reported during the March 10, 2015 Board Meeting, starting at minute 1.56 in the recording. There, the executive director of the CDA, Don Chance, reported that the Washington D.C. BRAC office was made comfortable with the final CDA EDC Application because the Army had received confirmation of the Port of Morrow’s willingness to purchase the 640 acres of agricultural land. In other



#### **#4 Staff Report** Port of Morrow Acquisition of 640 Acres/EDC Application

words, the Port of Morrow's commitment to purchase the 640 acres for \$1 million in order to fund the purchase of property from the U.S. Army was a necessary predicate for obtaining the approval of Army to proceed with any conveyance of the Depot property to the CDA.

CDA recognizes that a recent appraisal of the Property (Tract C/640 acres) has not been performed and that the purchase price paid by Port of Morrow, and received by CDA, may be less than today's fair market value of the Property where it to be appraised. However, the \$1 million purchase price is higher than the fair market value of the Property at the time of the EDC Application, and would have been higher than the fair market value of the Property if the Acquisition had occurred in 2015 as originally anticipated.

CDA has weighed the potentially lower than fair market value purchase price now, in 2022, against the benefits of having the earlier commitment from the Port of Morrow to purchase the 640 acres above the fair market value in order to fund the consideration for the Acquisition and the fact that the Army's acceptance of the Economic Development Conveyance Application was predicated on this commitment in 2015.

CDA has analyzed their authority and concluded that they have the statutory authority to enter into the Transaction. CDA, as an intergovernmental entity, is vested with the powers, rights, and duties held by each separate party to the agreement. ORS 190.030. Four political subdivisions are CDA members and political subdivisions have the authority to sell, exchange, or convey property so long as the property is not needed for public use. ORS 271.310(1). The sale may be to a "governmental body or private individual or corporation." *Id.* The Port of Morrow is a governmental entity, and, for purposes of ORS Chapter 271 – Use and Disposition of Public Lands Generally, a political subdivision. ORS 271.005(3). Thus, CDA has a statutory basis of authority for entering into the Transaction.

CDA anticipates contracting to enter into the Transaction prior to the Acquisition due to the need to fund the Acquisition consideration. To receive the Transaction purchase price prior to the Acquisition, CDA will need to require that that Port of Morrow pay the purchase price prior to CDA obtaining title to the Property.

CDA recognizes that the proposed timing of the Transaction places risk on CDA in that they will be committing themselves to sell Property that they do not yet hold title to, and on the Port of Morrow in that they will be paying the purchase price in advance of CDA becoming the vested owner of the Property. CDA is analyzing contract terms to account for this risk; for example, a closing condition predicated on successful completion of the Acquisition, an independent escrow based refund mechanism in the event the Acquisition does not close within a stated time frame, and interim liability provisions to account for the time between execution of a sale agreement for the Transaction and the Acquisition.

#### **RECOMMENDATIONS**

CDA staff recommends that CDA approve the Transaction in order to complete the Acquisition in a timely manner and in consideration of the expectations of the CDA, the POM and the Army when the Economic Development Conveyance Application was finalized and later approved by the Army.

## **#4 Staff Report** Port of Morrow Acquisition of 640 Acres/EDC Application

### **DRAFT RESOLUTION FOR CONSIDERATION**

BE IT RESOLVED that the CDA shall enter into an agreement to sell the 640 acres of exclusive farm use zoned land described as Tract C on that certain survey prepared by Ferguson Surveying and Engineering, dated November 30, 2015, and held by the Morrow County Surveyor as Survey No. 2016-1752D, to the Port of Morrow for \$1 million, which amount shall be paid by the Port of Morrow to the CDA prior to the transfer of title of Tract C to the CDA such that CDA can acquire the 9,511.37 acres of real property located in Umatilla and Morrow County, Oregon from the United State Army for redevelopment purposes (the "Transaction").

BE IT FURTHER RESOLVED that Greg Smith, in his capacity as executive director, is directed by the Board to negotiate the terms of the above-described Transaction with the Port of Morrow and to present the final agreement to the Board for final review and approval at its next regularly scheduled board meeting.

# #5 Staff Report Umatilla County Water Recharge System Easement

Staff Report

COLUMBIA DEVELOPMENT AUTHORITY

BOARD OF DIRECTORS

Meeting Date: March 16, 2022

Agenda Item: Umatilla County Water Recharge System Easement Agreement

## QUESTION PRESENTED

Should the Columbia Development Authority (“CDA”) agree to enter into an easement agreement with Umatilla County for the construction, access, and use of a water recharge system that is proposed to be located, in part, on property to be transferred by the United States Army to CDA?

## BACKGROUND

CDA is currently in negotiations with the United States Army to acquire approximately 9,511.37 acres of real property located in Umatilla and Morrow County, Oregon, which is commonly referred to as Parcel 1. The transfer of Parcel 1 to CDA is not likely to occur for some time, and at least another 60 days.

For financing and funding purposes associated with the Ordnance Multi-Use Water Project, Umatilla County is seeking CDA’s confirmation that it will sell and record an easement agreement in favor of Umatilla County, or its designee, following the acquisition of Parcel 1.

The proposed easement would be a total of 149.2 acres, and located in the area depicted on Exhibit A to this Staff Report. The easement area will be for a portion of the mainline, laterals, monitoring and recovery wells, infiltration gallery (recharge basin) and associated infrastructure (altogether the “water recharge system”). The proposed easement would be perpetual and would be for the construction, access to and maintenance of the water recharge system.

The easement agreement would be negotiated by CDA staff and brought to the Board for final review and approval. Upon execution, the easement would be recorded as an encumbrance against the property.

The easement would need to be executed and recorded prior to transfer of the property to the CTUIR as the water recharge system and easement area are proposed to be located in the area to be transferred by CDA to CTUIR.

CDA recognizes that an appraisal of the easement area has not been performed and that the price paid for the easement, and received by CDA, may be less than the current fair market value of the easement area as a result. CDA has weighed the potentially lower than fair market value price for the easement area against the benefits of the multi-use water project and the economic development and expansion it will support within Umatilla and Morrow County.

CDA, as an intergovernmental entity, is vested with the powers, rights, and duties held by each separate party to the agreement. ORS 190.030. Four political subdivisions are CDA members and political

## **#5 Staff Report Umatilla County Water Recharge System Easement**

subdivisions have the authority to sell, exchange, or convey property so long as the property is not needed for public use. ORS 271.310(1). The sale may be to a “governmental body or private individual or corporation.” *Id.* Umatilla County is a governmental entity, and, for purposes of ORS Chapter 271 – Use and Disposition of Public Lands Generally, a political subdivision. ORS 271.005(3). Thus, CDA has a statutory basis of authority for entering into the easement agreement with Umatilla County.

### **RECOMMENDATIONS**

CDA staff recommends that the Board adopt a resolution confirming its intent to execute and record an easement agreement in favor of Umatilla County for the planned water recharge system in the (approximate) area depicted in Exhibit A, and that the easement be recorded prior to the transfer of lands to CTUIR.

CDA staff further recommends that Greg Smith and Elizabeth Howard work with Umatilla County to negotiate the easement agreement and bring it back to the Board for final approval.

### **DRAFT RESOLUTION FOR CONSIDERATION**

BE IT RESOLVED that the Columbia Development Authority (“CDA”) shall, upon acquisition of Parcel 1, execute and record an easement in favor of Umatilla County for the pipelines, wells, and recharge basin associated with a water recharge system to be located in Umatilla County, as generally depicted in Exhibit A attached to this Resolution No. \_\_\_\_ - \_\_\_\_\_.

BE IT FURTHER RESOLVED that CDA Staff are directed by the Board to negotiate the terms of the above-described easement agreement with Umatilla County and to present it to the Board for final review and approval its next regularly scheduled board meeting, with the easement agreement to be executed and recorded after conveyance of Parcel 1 to the CDA.

# #5 Staff Report Umatilla County Water Recharge System Easement

## Exhibit A



## # 6 Demil Site

Staff report

COLUMBIA DEVELOPMENT AUTHORITY

BOARD OF DIRECTORS

Meeting Date: March 16, 2022

Agenda Item: Demil Site Due Diligence Agreement and Letter of Intent

### QUESTION PRESENTED

Should the Columbia Development Authority (CDA) direct its staff to negotiate an agreement to govern a due diligence process related to the “Demil Site”?

### BACKGROUND

**CDA staff will recommend that the Board go into executive session for this agenda item to consider information or records that are exempt by law from public inspection, including attorney-client privileged information or records, and to conduct deliberations with persons designated by the Board to negotiate the real property transactions. The executive session will be held pursuant to ORS 192.660(2)(e) and ORS 192.660(2)(f). Further pursuant to ORS 192.660(2)(f), a public body “has the authority to meet in executive session to obtain other professional legal services from its legal counsel.” Or. Dept of Justice, Attorney General’s Public Records and Meetings Manual 2019: Public Meetings, Voting § (E)(1)(h)**

CDA is negotiating to acquire certain real property from the United States Army. The Property includes an area of land referred to as the “Demil Site”. CDA is exploring the possibility of leasing the Demil Site to a third party following the acquisition of Parcel 1 from the United States.

In connection with its evaluation of the Demil Site, the third party wishes to conduct its own due diligence process to determine whether the site is suitable for its purposes and to have exclusive access to the site for that purpose. CDA staff and the third party are negotiating an agreement to provide for and facilitate that process.

### RECOMMENDATIONS

CDA staff recommends that the Board approve the following resolution.

### DRAFT RESOLUTION FOR CONSIDERATION

BE IT RESOLVED that CDA staff is directed to continue to work to negotiate an agreement with the third party interested in leasing the Demil Site in order to provide for and facilitate the third party’s due diligence process. CDA staff shall present any negotiated agreement to the CDA Board of Directors for approval before the agreement may go into effect.