



This meeting is being recorded for public review on the City of Millersburg website.

Rules of Conduct for Public Meetings

No person shall be disorderly, abusive, or disruptive of the orderly conduct of the meeting. Microphones will be muted and webcams will be turned off for remote participants unless called upon to speak or during public comment period.

Persons shall not comment or testify without first receiving recognition from the presiding officer and stating their full name and city of residence.

During public hearings no person shall present irrelevant, immaterial, or repetitious testimony or evidence.

There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the meeting. If online participant(s) disrupt the meeting, the participant(s) microphone and webcam will be turned off. If disruption continues, the participant(s) will be removed from the meeting.

CITY COUNCIL REGULAR MEETING

In-Person Meeting with Remote Access Available

Millersburg City Hall
4222 NE Old Salem Road, Millersburg OR 97321
August 13, 2024 @ 6:30 p.m.

Agenda

Remote access for the meeting is available. Instructions for joining the meeting can be found at <https://www.millersburgoregon.gov/citycouncil/page/city-council-regular-meeting-40>. If you do not have access to a phone or computer, or need additional support, please contact City Hall prior to 5:00 p.m. on Monday, August 12, 2024.

Meeting link to join via computer:
<https://aspenuc.accessionmeeting.com/j/11597014359>
Phone number to join meeting: 503-212-9900
Meeting ID: 115 9701 4359

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL
- D. CHANGES AND ADDITIONS TO THE AGENDA
- E. CONSENT AGENDA
 - 1) Approval of July 9, 2024, City Council Meeting Minutes
Action: _____
- F. GUEST PRESENTATIONS
 - 1) Linn County Sheriff's Office Monthly Report
 - 2) Albany Fire Department Quarterly Report
- G. PUBLIC COMMENT

The public has the opportunity to address the Council during "Public Comment" while in the virtual meeting by virtually signaling by unmuting first, then those who call in will be acknowledged, or if the public prefers, may send written comments by email to cityclerk@millersburgoregon.gov. Please limit comments to one page and include your name and address. Emails received before 5:00 p.m. on the day of the meeting will be included and read into the record for comments by the Council.

- H. COUNCIL MEMBER AND STAFF COMMENTS
- I. CITY MANAGER'S REPORT

- 1) Project Updates
- 2) Public Meetings Virtual Platform Change
- 3) LOC Legislative Priorities

J. CITY ATTORNEY'S REPORT

K. UNFINISHED BUSINESS

L. NEW BUSINESS

- 1) Gordon Trucking Enterprise Zone Request – Resolution 2024-14
Action: _____
- 2) Budget Transfer Resolution – Resolution 2024-15
Action: _____
- 3) FEMA Pre-Implementation Compliance Measures (PICM) for the National Flood Insurance Program – Information Only
- 4) Simpson Park – Information Only

M. CLOSING COUNCIL COMMENT

N. ADJOURNMENT

Upcoming Meetings & Events:

For a schedule of meetings and events, visit the City's website calendar at <https://www.millersburgoregon.gov/meetings>

The meeting is accessible to the disabled. If you have a disability that requires accommodation to attend or participate, please notify the Millersburg City Hall in advance by calling 458-233-6300.



CITY COUNCIL REGULAR MEETING MINUTES

July 9, 2024 @ 5:30 p.m.

A. CALL TO ORDER Meeting called to order by Mayor Scott Cowan at 5:31 p.m.

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

Councilors Present: Mayor Scott Cowan, Councilors Dave Harms, and Mark Raum.

Councilors Absent: Councilors Mike Hickam and John Sullivan

Staff Present: Kevin Kreitman, City Manager; Janelle Booth, Assistant City Manager/City Engineer; Matt Straite, Community Development Director; Alan Sorem, City Attorney; Sheena Dickerman, City Recorder

D. CHANGES AND ADDITIONS TO THE AGENDA

None

5:31 p.m.

E. CONSENT AGENDA

1) Approval of June 11, 2024, City Council Regular Meeting Minutes

5:32 p.m.

Action: **Motion to adopt the consent agenda with as presented made by Councilor Mark Raum; seconded by Councilor Dave Harms.**

Mayor Scott Cowan: Aye

Councilor Mark Raum: Aye

Councilor John Sullivan: Aye

Motion PASSED: 3/0

F. GUEST PRESENTATIONS

5:32 p.m.

1) Linn County Sheriff's Office Monthly Report

Deputy Steven Frambes, LCSO, reviewed the monthly LCSO report. He shared there were no property crimes in residential areas but have seen some in business related areas and industries. There was a crash on Old Salem and both drivers received citations for the crash. A motorcycle eluded them. For warrants arrested three were at Love's, a DUI, and two for riding the train.

Frambes said that LCSO received over 100 plus fireworks calls in the County over the 4th of July. Deputies were inundated with calls from Hoodoo to Harrisburg and up to Mill City. Harrisburg had between 12,000 to 15,000 people at their parade. There was a DUI, fights, a missing person, a kidnapping call and a shooting incident, and several crashes on the 4th of July. He stated that it is the worst night to work in law enforcement. He said fireworks are a big thing for communities. He will bring the numbers for Millersburg to the August meeting. He explained that it is hard for deputies to respond to those calls unless the deputy is in the area and not tied up. He explained that deputies

have to organize priority calls. He explained that when deputies are spread thin, such as the 4th of July, fireworks calls are not a top priority.

Mayor Cowan asked when does slow happen on the 4th of July. Frambes replied that deputies were working on calls from the day before. Cowan said, concerning fireworks, unfortunately people aren't respectful to their neighbors and with shootings, domestic and higher priority calls it is understandable. Frambes added that it wasn't that deputies wouldn't respond to fireworks, but on the 4th of July when everyone is shooting them up in the County, injury and personal safety will come first. Cowan said Albany Police received 50 to 60 firework complaint calls and Albany Fire Department had four responses for fireworks. Frambes mentioned the size of the County, which is a large area to cover.

Councilor Dave Harms asked regarding the theft, if he was seeing it in the County as a whole or is Millersburg higher. Frambes replied no this is not limited to Millersburg. In general everything deputies deal with peaks in the summer. There are longer days and people are out longer and they see an uptick in calls; theft, DUI's, domestic calls, fights, and crashes. He added that the thefts in the area are likely tied to one or two people that break into four or five cars in a parking lot. He explained if everyone had their vehicles broken into there is a separate report created for each one. It is staying out of the residential areas.

Councilor Mark Raum asked if there was any correlation to when school is let out. Frambes replied they do not see a lot of juveniles creating crimes. They do see crashes, traffic violations, curfew violations, and things not reported to LCSO but on social media such as egging houses and "ding-dong ditches".

Raum asked how many deputies were on duty for 4th of July. Frambes replied they had almost everyone. He worked 17 hours but mostly worked in Harrisburg. LCSO structures that so many deputies work that event and are designated for that event, and they cannot leave. Mill City had a fireworks show that deputies went to. On regular patrol there were eight deputies but 20 to 25 were working all the other events. It was so busy that they could have had 100 deputies on the road.

G. PUBLIC COMMENT

5:41 p.m.

Renee Chapman, Tuscan Lane, asked for better communication with the community. She said that her and her husband have asked for email communication on upcoming public meetings and questioned if it was working correctly. She said that today, on Facebook, they found out a large slurry seal project would be coming to their neighborhood on Friday. She listened to last month's Council meeting where Janelle Booth said it would happen sometime this summer but there was no definitive date. She said looking at the website it said the contractor would be contacting residences to inform them of the project and give more information. She has not received anything. On the website there was information on a door hanger, which they had not received. She stated they are on the block that will receive no access to the outside or if they are outside, they will have no access to their home. Cowan

thanked her for coming to communicate her concerns and letting the City know how it could communicate and check email notifications.

Assistant City Manager Janelle Booth acknowledged that the notice on social media could have been earlier and would have liked to have had it out earlier. The date is based on when the contractor is available. She could have pushed back on the date but there is a window to fit it in of weather in the summer. Chapman asked how long Booth knew it was going to happen. Booth replied about a week and agreed the information should have been out sooner. She has talked to multiple people who had called today and left their contact information. The contractor will be providing door hangers 48 hours in advance, tomorrow. Most of the information is what is on the website. They will put up signs. There will be walking paths to get out of the homes. There is one street that looks like it will be done and staff will make sure they hold that back from the end so residents can walk around the end of it. These projects are inconvenient. It will be posted that the roads will be closed all day, in reality the contractor will start to reopen them as soon as the project is set enough to be on it. She had talked to the contractor today and with the current weather conditions the slurry seal is setting in approximately two hours, when it is normally six hours.

Booth mentioned she had talked with someone who had mobility issues, and staff is willing to provide shuttling via a golf cart on the sidewalks to get people to where they need to be. Staff needs to know if that is a need. She apologized for the inconvenience. Chapman mentioned her husband has some mobility issues and if they were to park somewhere on Millersburg Drive they would be in the bike lane. Booth replied the recommendation would be to park on Tuscan Loop, Navajo and Trask. She did not recommend parking on Millersburg Drive or Woods Road, because it's bike lanes and no shoulder, for safety concerns. Staff will talk to law enforcement about understanding that people could park there for that day.

Chapman said she thought with the current weather that it wouldn't take that long to set and if it was done at 5 p.m., and took eight hours, it would be 1 a.m. Booth clarified the timeframe is to have it all done, set, and be out of the neighborhoods by 5 p.m. She added with the weather they will be starting right at 7 a.m.

Chapman reiterated the general communication with the community could be better and if someone wanted to be a volunteer to be the City's PIO (Public Information Officer).

City Manager Kevin Kreitman stated that everything that is put out is posted to the website; the City's calendar has announcements for meetings and is the best location for City information. The City encourages people to check the website. Staff will check to see what is going on with the notifications that residents signed up for.

Cowan thanked her for coming and agreed that it could have been communicated sooner. He apologized for it. He said the projects are difficult to work with from the City's end and for community members.

Kreitman added that the City Council meetings are always the second Tuesday of the month and the City doesn't always have Planning Commission meetings, but

when there are meetings they are the first Tuesday of the month. Cowan added that Council meetings are typically 6:30 p.m. The last two months have been an exception.

H. PUBLIC HEARINGS **5:50 p.m.**
None

I. COUNCIL MEMBER AND STAFF COMMENTS **5:50 p.m.**
None

J. CITY MANAGER'S REPORT **5:50 p.m.**

1) Projects Update-
Transition Parkway

Booth said bid openings for Transition Parkway are Thursday, July 11. Staff pushed it back, it was going to be two weeks earlier but had more questions and felt it was more appropriate to respond during the bidding period and not have to make a change order later. There will be no awarding of a bid tonight. She said a special Council meeting may need to be scheduled unless Council decided it could wait until August. The meeting could possibly be July 22 or July 30. Staff will reach out once bids are received.

Booth showed a map of the streets of the slurry seal project that would be taking place on Friday, July 12. She explained that due to the size and the budget of the project, it is a small slurry seal project. If there was more work they would have alternated streets. It is inconvenient for the residents. The road will be closed for periods of times for the day. Cowan asked if it was a larger project if it could have been a little easier logistically for people. Booth replied possibly if there was two days' worth of work. The project is under \$100,000.

K. CITY ATTORNEY'S REPORT **5:53 p.m.**

City Attorney Alan Sorem said the City owns approximately 70 acres of land immediately west of the railroad tracks. It is zoned Industrial. He said Booth and Kreitman went to the title company today to sign the closing documents on the access easement that has been under contract since February. Staff had not been able to fully execute and record it until now. Staff expects it to record this week. He said the City will be going to the Planning Commission tonight to listen to deliberations because the access road for the land goes outside of the City limits and the Urban Growth Boundary. Community Development Director Matt Straite clarified that this would be the Linn County Planning Commission. Sorem said staff will listen to their recommendations and hopefully they will recommend approval. Staff has it scheduled to be before the Board of County Commissioners a week from today on July 16, 2024, in the morning, to have the second hearing. There are two hearings for these types of land use cases, where they will rule on the issues before them which is under the Statewide Planning Goals, is it ok to have this Urban driveway outside of the UGB. There are still outreach efforts; there was an open house with the co-

applicant Timberlab. Staff are having ongoing discussions with everybody regarding support of the project. Hopefully by next month it will have gone through the Board hearing and been voted on and the oral decision reduced into written findings of fact, conclusions of law, which can then be the final decision.

L. UNFINISHED BUSINESS **5:54 p.m.**
None

M. NEW BUSINESS **5:54 p.m.**
None

N. CLOSING COUNCIL COMMENT **5:55p.m.**
Raum said that if someone missed the drone show, it was a cool event. It was fun, enjoyable and he saw a lot of citizens cheering and enjoying it. Cowan agreed. Kreitman said there were approximately 600 to 700 people. Cowan thanked Ann Hilman, point person of the drone show, and the Events Committee for their work. He said she did a great job as the point person. He thanked the staff for their assistance.

Cowan said National Night Out is scheduled for August 6, 2024, from 5 p.m. to 8 p.m. at the park.

Doug Iverson, Planning Commission Chair, asked for clarification that it was August 6, 2024. Cowan affirmed and invited all the Planning Commission to attend afterwards.

Kreitman mentioned that Straite was posting a video of the drone show on the website. Straite shared he is working on it. It will be on the City's YouTube. Kreitman added that the City does have a YouTube site.

O. ADJOURNMENT Mayor Scott Cowan adjourned the regular meeting at **5:58 p.m.**

Respectfully submitted:

Reviewed by:

Sheena Dickerman
City Recorder

Kevin Kreitman
City Manager

*Presentation materials or documents discussed at the meeting that are not in the agenda packet are archived in the record. Documents from staff are posted to the website after the meeting. Documents submitted by the public are available by emailing cityclerk@millersburgoregon.gov.



LINN COUNTY SHERIFF'S OFFICE

Michelle Duncan, Sheriff

1115 S.E. Jackson Street, Albany, OR 97322

Albany, OR. 97322

Phone: 541-967-3950

www.linnsheriff.org

2024

MONTHLY REPORT TO THE CITY OF MILLERSBURG FROM THE LINN COUNTY SHERIFF'S OFFICE

FOR THE MONTH OF:

JULY

| | |
|---|------------|
| TRAFFIC CITATIONS: ----- | 4 |
| TRAFFIC WARNINGS: ----- | 6 |
| TRAFFIC CRASHES: ----- | 2 |
| ARRESTS MADE: ----- | 5 |
| COMPLAINTS/INCIDENTS INVESTIGATED:----- | 137 |

TOTAL HOURS SPENT:

MILLERSBURG

160.75 hours

CONTRACT HOURS= 153 HOURS

**Michelle Duncan,
Sheriff, Linn County**

By: Sgt. Steven Frambes



CITY OF MILLERSBURG

QUARTERLY REPORT

AUGUST 13, 2024



| City of Millersburg Total Responses | | | | |
|--|------------|------------|------------|------------|
| Month | FY 21 | FY 22 | FY 23 | FY24 |
| July | 17 | 35 | 20 | 25 |
| August | 26 | 34 | 24 | 30 |
| September | 28 | 27 | 22 | 18 |
| October | 29 | 26 | 25 | 21 |
| November | 21 | 20 | 35 | 19 |
| December | 30 | 24 | 34 | 17 |
| January | 29 | 24 | 22 | 40 |
| February | 26 | 22 | 20 | 13 |
| March | 21 | 19 | 24 | 20 |
| April | 28 | 24 | 20 | 31 |
| May | 36 | 20 | 26 | 30 |
| June | 23 | 16 | 31 | 36 |
| Total | 314 | 291 | 303 | 300 |
| FY24 Projection 260 | | | | |

| Albany Fire Department Total Responses | | | | |
|---|----------------|----------------|----------------|----------------|
| Month | FY 21 Total | FY 22 Total | FY 23 Total | FY 24 Total |
| July | 858 | 1,070 | 992 | 1,001 |
| August | 884 | 1,048 | 968 | 1,018 |
| September | 893 | 1,010 | 920 | 862 |
| October | 866 | 958 | 972 | 957 |
| November | 824 | 941 | 970 | 891 |
| December | 876 | 945 | 1,158 | 970 |
| January | 883 | 911 | 1,007 | 1118 |
| February | 817 | 829 | 914 | 816 |
| March | 795 | 853 | 880 | 936 |
| April | 926 | 864 | 905 | 922 |
| May | 905 | 896 | 891 | 995 |
| June | 922 | 936 | 924 | 973 |
| Total | 10,449 | 11,291 | 11,501 | 11,459 |
| FY24 Projection 11,398 | | | | |

| Millersburg Response Times Average 911 Call Received to Arrival Time | | | | |
|---|-------|-------|------|------|
| | FY 21 | FY 22 | FY23 | FY24 |
| All Incidents | 7:34 | 7:41 | 7:31 | 7:43 |

| <i>Call Type</i> | Count |
|---------------------------------------|--------------|
| <i>LIFT ASSIST</i> | 35 |
| <i>FALL</i> | 32 |
| <i>SICK PERSON</i> | 26 |
| <i>FIRE ALARM ACTIVATION</i> | 23 |
| <i>CHEST PAIN</i> | 18 |
| <i>UNKNOWN MEDICAL PROBLEM</i> | 18 |
| <i>UNCONSCIOUS FAINTING</i> | 13 |
| <i>STROKE CVA</i> | 11 |
| <i>TRAUMA INJURY</i> | 10 |
| <i>BREATHING PROBLEM</i> | 8 |
| <i>SMALL MISC FIRE</i> | 8 |
| <i>HEMORRHAGE BLEED</i> | 8 |
| <i>HEART PROBLEMS</i> | 7 |
| <i>ODOR INVESTIGATION</i> | 7 |
| <i>OD POISONING</i> | 7 |
| <i>CARDIAC ARREST</i> | 6 |
| <i>STRUCTURE FIRE</i> | 4 |
| <i>SMOKE INVESTIGATION</i> | 4 |
| <i>ABDOMINAL PAIN</i> | 4 |
| <i>DIABETIC PROBLEM</i> | 4 |
| <i>CAR FIRE</i> | 4 |
| <i>PUBLIC ASSISTANCE</i> | 4 |
| <i>ASSAULT, RAPE, VIOLENT TRAUMA</i> | 3 |
| <i>SMALL NATURAL COVER FIRE</i> | 3 |
| <i>POWER TELE POLE FIRE</i> | 2 |
| <i>COLD OR HEAT EXPOSURE</i> | 1 |
| <i>LARGE MISC FIRE</i> | 1 |
| <i>BURN COMPLAINT</i> | 1 |
| <i>WIRE DOWN</i> | 1 |
| <i>CHOKING</i> | 1 |
| <i>HEADACHE</i> | 1 |
| <i>ALLERGY, HIVES, REACTION STING</i> | 1 |
| <i>STABBING GUNSHOT</i> | 1 |
| Grand Total | 300 |



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HEALTH & WELFARE · PROFESSIONALISM & TEAMWORK



TO: Millersburg City Council
VIA: Kevin Kreitman, City Manager
FROM: City Staff
DATE: August 5, 2024, for Council Meeting August 13, 2024
SUBJECT: Project Updates Memo

Monthly Update on Projects:

Staff are currently in the process of implementing many projects and activities in the city to address objectives of the Strategic Plan, direction from Council, and needs staff have identified.

An overview of several specific tasks and projects is provided below.

Transition Parkway

The construction contract for Schedules A and B was awarded to Emery and Sons Construction Group LLC. Staff are now working with the contractor to complete contracting and schedule a preconstruction conference. Construction is anticipated to start in the fall of 2024, pending the contractor's construction schedule.

Timberlab

Work continues to finalize the Purchase and Sales Agreement and Development Agreement. Closing on the property sale is expected to occur by the end of September. The Settlement Agreement for the access road between Timberlab and interested parties has been signed. Linn County approved the Goal Exception for the access and notice of the approval went out on July 30th. Timberlab is hopeful they can begin site work in early September.

Old Salem Road Weed Abatement

Linn County Administrator, Darrin Lane reached out to staff regarding issues with weeds along Old Salem Road, specifically Tansy Ragwort. This weed is difficult to control with herbicide and requires hand pulling/removal in most cases. A significant amount of this weed is present from the rail undercrossing on Old Salem Road to approximately Conser Road. Lane has asked if the City would be willing to share in costs associated with the use of County inmate crews for the removal of the weeds. We have shared with Lane that the City is willing to participate in the endeavor.

You may have also noticed that Linn County has recently had members of the County Road Department and inmate crews clearing vegetation overgrowth off the sidewalks along Old Salem Road from Morningstar Road south. Our new Ventrac grounds maintenance equipment will provide us the capability to sweep sidewalk and multi-use path areas. With this equipment, the City hopes to assist Linn County in keeping debris off the sidewalks along Old Salem Road, as well as other high use walking areas within the City.

Memo

Date: July 15, 2024

To: Linn County Enterprise Zone Co-Sponsors
Roger Nyquist Linn County
Kevin Kreitman City of Millersburg

From: John Pascone, President

Subject: Gordon FTL Enterprise Zone Application and Action
Approving an Extended Tax Abatement Agreement

Gordon Trucking/Freightliner, located in Millersburg, is investing an estimated \$18 million in facility expansion and new equipment in order to expand their operation. This is phase 1, phase 2 might include a 100,000 sf spec building.

They have completed an Enterprise Zone Authorization Application dated July 9, 2024.

Under regular enterprise zone exemption rules the company is required to add 10% to their existing workforce in the zone, which is 2, they are planning on adding 15 new employees with this investment.

The regular property tax exemption is for 3 years.

For companies that agree to hire and pay wages and benefits in excess of 150% of Linn County's Average Annual Wage, the firm can qualify for an additional 2 years. The current required wage number can be found in the agreement.

Attached is a draft resolution which approves the Extended Agreement which needs to be passed by each co-sponsor. The zone manager (me) and the county assessor's representative (Mark Wilkinson) cannot officially approve the company's application until the resolutions are approved by the co-sponsors.

Please contact me if you have any questions. When you have the matter scheduled let me know and I will attend to present it on behalf of the company.

Thank you,

John

RESOLUTION NO. 2024-14

A RESOLUTION APPROVING AN EXTENDED PROPERTY TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF MILLERSBURG, A COSPONSOR OF THE LINN COUNTY ENTERPRISE ZONE, AND GORDAN FTL

WHEREAS, Gordan FTL is investing almost \$8 million in capital improvements; and,

WHEREAS, Gordon FTL is required to add 2 new employees, but plans to add 15, and any new employees will be paid as required and described in the next paragraph: and,

WHEREAS, Gordon FTL anticipates providing average wage and benefits to these employees, if any, equal to or greater than 150 percent of the Linn County average, as required under ORS 285C.160; and,

WHEREAS, Gordon FTL is located in Linn County, has applied to extend the property tax abatement for which it qualifies through its inclusion in the Linn County Enterprise Zone; and,

WHEREAS, The City of Millersburg has requested support of this agreement, a copy of which is attached hereto as “Attachment A” and incorporated herein, from the other cosponsor, Linn County, of the Linn County Enterprise Zone; and,

WHEREAS, the City of Millersburg is a cosponsor of the Linn County Enterprise Zone;

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILLERSBURG, OREGON, that the attached Extended Abatement Agreement is hereby approved.

Effective date: This Resolution shall be effective upon its approval and adoption.

Duly passed by the Council this 13th day of August, 2024.

Scott Cowan
Mayor

ATTEST:

Sheena Dickerman
City Recorder

Agreement for Oregon Enterprise Zone Extended Abatement

AGREEMENT WITH THE LINN COUNTY ENTERPRISE ZONE SPONSORS TO EXTEND PROPERTY TAX EXEMPTION TO FIVE CONSECUTIVE YEARS IN TOTAL FOR CAPITAL INVESTMENT BY GORDON TRUCK CENTERS, INC.

The sponsors of the Linn County Enterprise Zone comprising the governing bodies of the City of Millersburg and Linn County (hereinafter "The Zone Sponsor") and GORDON TRUCK CENTERS, INC (hereinafter "The Firm") do hereby enter into an agreement for extending the period of time in which The Firm shall receive an exemption from ad valorem taxes on its investment in qualified property in the Linn County Enterprise Zone contingent on certain special requirements, under ORS 285C.160.

The Zone Sponsors and The Firm jointly acknowledge that: subject to submission and approval of an application for authorization and the satisfaction of other requirements under ORS 285C.050 to 285C.250, The Firm is eligible for three years of complete exemption on its qualified property under ORS 285C.175(2)(a); nothing in this agreement shall modify or infringe on that three-year exemption or the requirements thereof, and, that this agreement becomes null and void if The Firm does not qualify for these three years of exemption on some such property.

The Zone Sponsor does hereby grant to The Firm an extension to that property tax abatement, as allowed under ORS.285C.175(2)(b), of an additional two years on the property that initially qualifies in the Linn County Enterprise Zone in the assessment year beginning on January 1, 2026 and, thus, sets a total period of exemption of five consecutive years in total, during which statutory requirements for the standard three-year enterprise zone exemption must also continue to be satisfied.

CONFIRMATION OF STATUTORY PROVISIONS

In order for qualified property to be exempt from ad valorem taxes for the additional two years of enterprise zone exemption as granted herein, The Firm agrees herewith that under 285C.160(3)(a)(A)(i) or (ii) and (b), in accordance with OAR 123-674-0060:

1. For each year of the entire exemption period, The Firm's new employees shall receive an average level of compensation equal to or greater than 150 percent of the county average annual wage, such that:

a. Compensation includes benefits such as employer provided insurance that can be monetized and do not arise from a payroll tax or similar government mandate.
and

b. Except as revised under ORS 285C.160(4), the county wage is set at the time of authorization, accordingly, the 2023* average wage for Linn County is \$54,773 for which 150% equals \$82,160.

* Note: this is the year of the study, the rate applies until August 2025; it is published by the Oregon Employment Dept. as Average Annual Wage by County- 7/17/2024.

2. During the additional two years, the average annual wage received by The Firm's new employees shall also be equal to or greater than the current county average wage based on the most recent, final figure at the time.

3. The Firm's 'new employees' for the purposes of these requirements comprise only employees hired for and working full-time, year-round, non-temporary jobs that are created and filled for the first time after the date of application for authorization but on or before December 31 of the first full year of initial exemption, and that are performed within the current boundaries of the Linn County Enterprise Zone and engaged a majority of their time in The Firm's eligible operations according to ORS 285C.135 and 285C.200(7), regardless if any such employee is leased, contracted for or otherwise obtained through an external agent, provided that they are hired by and employed directly by The Firm.

4. That under ORS 285C.160(2): School Support Fee

- a. The Firm shall pay to the Greater Albany Public School District (hereinafter, "the district") in [each of] the additional [year/two years] an amount equal to the entirety of the property taxes not owed in such year by the Firm due to the exemption, multiplied by the rate for the school support fee established between the district and The Zone Sponsor for purposes of chapter 298, Oregon Laws 2023, which is 15 percent.
- b. The school support fee amount shall be based on information provided each year by The Zone Sponsor, and The Firm shall expect notice from the district by December 1 of each year about making payment.
- c. Payment of the school support fee shall be due in full on December 31 of each year, such that after 60 days, payment is deemed delinquent.
- d. If more than 60 days following the date of delinquency, the delinquent fee payment has not been cured, the school district will give written notice to the office of the assessor for Linn County, and any outstanding fee amount, and future taxes on property otherwise still subject to exemption shall be due to the county tax collector or payable through subsequent property tax bill.
- e. Delinquency is cured if the school district receives payment in full by April 15th.

5. That under ORS 123-668-3000: Requisite Openness & Communication

- a. This written agreement has been posted online on the Linn County website for the required 21 days prior to execution and becoming effective.

LOCAL ADDITIONAL REQUIREMENTS

For The Firm to receive the five years of enterprise zone abatement granted herein, The Zone Sponsor and The Firm agree that The Firm shall meet the following additional requirement(s) as reasonably requested by The Zone Sponsor under ORS 285C.160(a)(B):

1. The Firm will make a payment, as described in #4 below, as a public safety fee, on the assessed value of the new investment effected by the approval of this abatement each year of the total abatement (five years).
2. Public safety includes police, fire, and EMS services paid for by the City of Millersburg.

3. Payment must be received by April 1st of each year of the abatement. If payment is not received, The Firm is not eligible for the tax abatement for the year the financial contribution is not made.
4. Funds will be paid to the City of Millersburg based on \$2.61/\$1000 of the abated assessed value for the provision of public safety service, as set at the time of this authorization, for the duration of this agreement.

ACCEPTING FOR THE CITY OF MILLERSBURG, A ZONE SPONSOR OF THE LINN COUNTY ENTERPRISE ZONE:

Signature

Date Signed

ACCEPTING FOR GORDON TRUCK CENTERS, INC

Signature

Date Signed

The other Zone Sponsor: Linn County has approved this Agreement by passing a separate Resolution.



TO: Millersburg City Council
VIA: Kevin Kreitman, City Manager
FROM: Janelle Booth, Assistant City Manager/City Engineer
DATE: August 8, 2024, for the August 13, 2024, Council Meeting
SUBJECT: Budget Transfer Resolution for Fiscal Year 2024-2025 Budget

Action Requested:

Adoption of the proposed attached Resolution 2024-15.

Discussion:

The fiscal year (FY) 2024-25 budget was adopted on June 11, 2024. In the resolution adopting the budget, transfers from the Parks SDCs were shown as an expense within Parks and Recreation, a program within the General Fund.

Oregon budgeting law requires that transfers be appropriated separately from other expenses. Therefore, the transfer from Parks SDCs, in the amount of \$205,000, needs to be subtracted from the Parks and Recreation appropriation and added to the General Fund Transfers appropriation.

The LB-1 form and the budget document correctly showed these appropriations at the time of budget adoption, it was only incorrect in the resolution. The total budget resources and requirements do not change. The attached resolution corrects the budget adoption and appropriation resolution.

Budget Impact:

None.

Recommendation:

Approval of proposed Resolution 2024-15.

Attachment(s):

Resolution 2024-15

RESOLUTION NO. 2024-15

A TRANSFER RESOLUTION CORRECTING APPROPRIATION AUTHORITY

WHEREAS, the City Council adopted Resolution 2024-07 on June 11, 2024, and,

WHEREAS, appropriations for Parks SDCs transfers were shown as a Parks and Recreation expense and not as a General Fund Transfer; and,

WHEREAS, Parks and Recreation appropriations should decrease by \$205,00; and,

WHEREAS, General Fund Transfers appropriations should increase by \$205,00; and,

WHEREAS, the LB1 and the Budget document correctly showed General Fund Transfer appropriations; and,

WHEREAS, the total budget resources and requirements do not change.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILLERSBURG, OREGON, that amounts for the purposes shown below are appropriated as follows:

| <u>GENERAL FUND</u> | <u>ADOPTED</u> |
|-----------------------------|-----------------------|
| PARKS AND RECREATION | 333,240 |
| TRANSFERS | 318,686 |

Effective date: This Resolution shall be effective upon its approval and adoption.

Duly passed by the Council this 13th day of August, 2024.

Scott Cowen
Mayor

ATTEST:

Sheena Dickerman
City Recorder



TO: Millersburg City Council
VIA: Kevin Kreitman, City Manager
FROM: Matt Straite, Community Development Director
DATE: August 8, 2024, for the August 13, 2024, City Council Meeting
SUBJECT: FEMA Pre-Implementation Compliance Measures (PICM) for the National Flood Insurance Program

Action Requested:

FEMA is requiring Communities to select one of three identified paths to comply with a federal lawsuit initiated by EPA against FEMA's National Flood Insurance Program (NFIP).

Discussion:

The attached letter from FEMA provides a larger overview of the background. In summary, EPA filed a suit against FEMA indicating that FEMA practices for the NFIP did not conform with Endangered Species Act (ESA). A Biological Opinion was performed that outlined a set of requirements for FEMA to comply with. As a City which is part of the National Flood Insurance Program, we will have to select a pathway to meet new FEMA processing requirements. The release of the Final NFIP ESA Implementation Plan is anticipated by 2026, with full implementation of the final plan expected to be in 2027.

To address communities' concerns on meeting the expectations of the plan and to provide communities with the support needed to incorporate ESA considerations in our permitting of development in the floodplain, FEMA is requiring the City to select a path to comply. NFIP participating communities in Oregon must select one of the Pre-Implementation Compliance Measures (PICM) pathways identified below:

- (1) adopt a model ordinance that considers impacts to species and their habitat and requires mitigation to a no net loss standard;
- (2) choose to require a habitat assessment and mitigation plan for development on a permit-by-permit basis; or,
- (3) put in place a prohibition on floodplain development in the Special Flood Hazard Area (SFHA).

Communities must pick a PICM pathway by **December 1, 2024**. If a community fails to inform FEMA of its selection, they will default to the permit-by-permit PICM pathway (number 2 above).

Budget Impact:

All options will require a Development Code revision and staff time to implement. We would also note the new requirements will result in increased costs for those developing property within the floodplain.

Recommendation:

No decision needed at this time, staff will provide additional information at the meeting.

Attachment(s):

- FEMA Letter dated July 15, 2024



FEMA

July 15, 2024

Scott Cowan
4222 Northeast Old Salem Road
Albany, Oregon 97321

Dear Scott Cowan:

The purpose of this letter is to announce the start of the United States Department of Homeland Security's Federal Emergency Management Agency's (FEMA) Pre-Implementation Compliance Measures (PICM) for National Flood Insurance Program (NFIP) participating communities in Oregon. The intent of PICM is to ensure the continued existence of threatened or endangered species in compliance with the Endangered Species Act (ESA). These measures include coordination with communities to provide appropriate technical assistance, help identify available resources, deliver trainings, and facilitate workshops to ensure on-going community participation in the NFIP. These pre-implementation compliance measures will assist communities in preparing for the Final NFIP-ESA Implementation Plan by helping them develop short and long-term solutions to ensure their on-going participation in the NFIP.

FEMA is currently conducting a National Environmental Policy Act (NEPA) evaluation of impacts associated with the Oregon NFIP-ESA Implementation Plan. FEMA developed this plan, in part, due to a Biological Opinion in 2016 from National Marine Fisheries Services. The Biological Opinion recommended specific measures for FEMA to take to avoid jeopardizing endangered species, including interim compliance measures. The release of the Final Implementation Plan (Plan) is anticipated by 2026, following the Record of Decision in the Environmental Impact Statement (EIS) process, then FEMA will fully implement the Plan in 2027.

FEMA has heard concerns from several communities regarding challenges they are facing to meet the expectations of this Plan. To provide communities with the support needed to incorporate ESA considerations to their permitting of development in the floodplain, FEMA will inform, educate, and support our Oregon NFIP participating communities through the PICM before the Final Implementation Plan is released.

NFIP participating communities in Oregon must select one of the PICM pathways which include the following: (1) adopt a model ordinance that considers impacts to species and their habitat and requires mitigation to a no net loss standard; (2) choose to require a habitat assessment and mitigation plan for development on a permit-by-permit basis; or (3) putting in place a prohibition on floodplain development in the Special Flood Hazard Area (SFHA). Communities must pick a PICM pathway by December 1, 2024. If a community fails to inform FEMA of its selection, they will default to the permit-by-permit PICM pathway. Communities will be required to report their floodplain development activities to FEMA beginning in January of 2025. Failure to report may result in a compliance visit.

As a part of the PICM, FEMA will implement a delay in the processing of two types of Letters of Map Changes in the Oregon NFIP-ESA Implementation Plan area, specifically Letters of Map Changes associated with the placement of fill in the floodplain: Conditional Letter of Map Revision Based on Fill (CLOMR-F) and Letter of Map Revision Based on Fill (LOMR-F) requests. This action was specifically requested by NMFS in their 2016 Biological Opinion and serves to remove any perceived programmatic incentive of using fill in the floodplain. This delay in processing will begin on August 1, 2024, and will be in place until the Final Implementation Plan is released.

Your community's ongoing participation in the NFIP is critical, as it provides access to flood insurance for property owners, renters, and businesses. In City Of Millersburg there are currently 17 of NFIP policies in force representing \$4772000 in coverage for your community.

FEMA will be conducting informational virtual webinars this summer to provide an overview and status update for the Oregon NFIP-ESA integration, introduce the Pre-Implementation Compliance Measures, and provide an opportunity for Oregon NFIP floodplain managers to ask questions of FEMA staff. In the fall, FEMA will hold workshops to provide in-depth opportunities for local technical staff to work with FEMA technical staff, to understand and discuss issues relating to the PICM.

The webinars will be held virtually over Zoom. The information at each webinar is the same so your jurisdiction only needs to attend one. You can register for a webinar using the links below.

- Wednesday, July 31 at 3-5pm PT: <https://kearnswest.zoom.us/meeting/register/tZEkc-murjstGdPJiFioethjRk-id8N-k0hj>
- Tuesday, August 13 at 9:30-11:30am PT: <https://kearnswest.zoom.us/meeting/register/tZAod-istrTsqGN0KqckRLPPEaZuu4rv96lcR>
- Thursday, August 15 at 2-4pm PT: https://kearnswest.zoom.us/meeting/register/tZlqcOGpqDojHtTXaa946aI9dMpCTcJIH_zt
- Wednesday, August 21 at 12:30-2:30pm PT: <https://kearnswest.zoom.us/meeting/register/tZYqcuGsrD8rH9DZO22vG0v9KrNzVeUZA9gy>

FEMA will also develop a questionnaire to allow communities to identify how they currently incorporate or plan to incorporate ESA considerations, both in the short-term and long-term. To assist communities in making this determination, FEMA will be offering guidance on the potential pathways that help ensure current compliance. Communities will also be asked to help identify what technical assistance and training would be most beneficial. Feedback from this questionnaire will drive FEMA's engagement and outreach.

Upon completion of the Environmental Impact Statement review and determination, the Final Implementation Plan will be distributed along with several guidance documents and a series of Frequently Asked Questions. FEMA will also be starting NFIP Compliance Audits, in which we will be reviewing permits issued by communities for development in the floodplain and will expect the community to be able to demonstrate what actions are being taken to address ESA considerations.

If you have any questions, please contact us through our project email address fema-r10-mit-PICM@fema.dhs.gov. Thank you for your community's on-going efforts to reduce flood risk in your

Cowan
July 15 2024
Page 3

community and for your support as we worked toward these milestones.

Sincerely,

A handwritten signature in blue ink, appearing to read "Willie G. Nunn", with a horizontal line extending to the right.

Willie G. Nunn
Regional Administrator
FEMA Region 10

cc: KevinKreitman, EFO, City Of Millersburg
John Graves, Floodplain Management and Insurance Branch Chief
Deanna Wright, Oregon State National Flood Insurance Program Coordinator

Enclosure: Pre-Implementation Compliance Measures Fact Sheet

Pre-Implementation Compliance Measures Overview

Beginning this summer, FEMA will assist communities with coming changes to the National Flood Insurance Program (NFIP) in Oregon.

Why are the changes needed?

As the result of a Biological Opinion issued by the National Marine Fisheries Service, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in Special Flood Hazard Areas. Changes are needed to protect the habitat of several species of fish and the Southern Resident killer whales to comply with the Endangered Species Act (ESA). FEMA outlined these changes in the [draft Oregon NFIP-ESA Implementation Plan](#).

Current status

FEMA is evaluating proposed changes to the NFIP outlined in the Implementation Plan through an environmental impact statement (EIS), in compliance with the National Environmental Policy Act (NEPA).



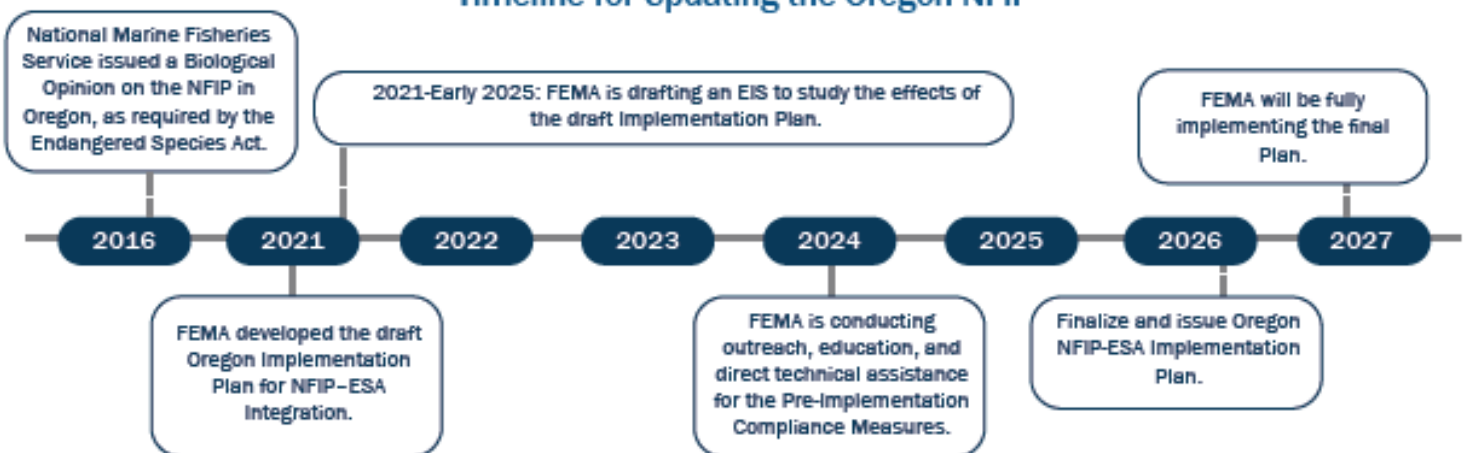
The National Flood Insurance Program serves to protect lives and property, while reducing costs to taxpayers due to flooding loss.

What is “no net loss”?

Any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.

The Final Implementation Plan is anticipated by 2026 following the Record of Decision in the EIS process, then FEMA will fully implement the plan in 2027. Until then, communities need to begin taking action to protect habitat and achieve “no net loss.” FEMA is offering several resources for communities to learn more and implement interim measures, called Pre-Implementation Compliance Measures (PICMs).

Timeline for Updating the Oregon NFIP



What can communities do to comply with these changes?

Oregon communities participating in the NFIP can take short-term measures to comply with ESA requirements, known as PICMs. FEMA developed these measures in response to concerns from communities about the time and resources needed to meet requirements and ensure their future good standing in the NFIP. By implementing these measures now, communities will be better prepared for compliance audits, which will begin when the Final Implementation Plan is in place.

Communities can select one of the following three PICMs:

- Prohibit all new development in the floodplain.
- Incorporate the ESA into local floodplain ordinances.
- Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve “no net loss.”

Communities must report to FEMA on their implementation of interim measures.

In addition to the above measures, as of August 1, 2024, FEMA is temporarily suspending processing applications for Letters of Map Revision based on Fill (LOMR-Fs) and Conditional Letters of Map Revision based on Fill (CLOMR-Fs) in NFIP communities to avoid potentially negative effects on ESA-listed species.

FEMA is here to support your community.

FEMA is offering several resources to assist communities in preparing for the Oregon NFIP-ESA Implementation Plan.

- **Informational Webinars (Summer 2024):** Learn about what FEMA is doing to revise the Implementation Plan and receive an introduction to the PICMs.
- **Questionnaire (Summer 2024):** Share what floodplain management measures your community is currently implementing to comply with the ESA, which PICMs you’re most interested in, and what support you need. Your feedback will help us plan the fall workshops and identify needs for technical assistance.
- **Workshops (Fall 2024):** Get an in-depth look at PICMs and talk through questions and concerns with FEMA staff.
- **Technical Assistance (Begins in Fall 2024):** Get support from FEMA to begin implementing PICMs.

Learn more and participate

Visit www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration to read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov



TO: Millersburg City Council
FROM: Kevin Kreitman, City Manager
DATE: August 5, 2024, for the August 13, 2024, City Council Meeting
SUBJECT: Simpson Park Transient Issues

Action Requested: Council Information.

Discussion: Linn County Sheriff's Office (LCSO) asked us to assist them in contacting the City of Albany to secure permission for authority to remove transients who have established habitation in areas of Simpson Park, which is located in the City of Millersburg, but on property under the management of the City of Albany through an agreement with Simpson Timber. Linn County Sheriff's Office has responded to numerous crime issues at the site, and contacts are often with individuals who have arrest warrants. Additionally, these individuals have taken up residency with makeshift structures resulting in significant trash, fire, and environmental hazards which raise considerable safety concerns.

The Council may recall that Simpson Timber granted a deed of conservation easement over industrial zoned property within the City of Millersburg, that was previously the industrial site of a former plywood mill and log ponds, representing approximately 129.02 acres, to the City of Albany in 1997 for an extension of Albany's Park system along the Willamette River. A portion of the easement language is included below (the full easement is included as an attachment).

The easement was granted to the City of Albany to accomplish the following:

- To identify, preserve and protect in perpetuity and to enhance by mutual agreement the Conservation Values of the Protected Property.
- To enter upon the Protected Property at any time for the purpose of carrying out the requirements of the easement and to assure compliance with the easement.
- To allow the public access to conduct recreational activities which are not inconsistent with the conservation values protected by the easement. Examples of permitted recreational activities include, but are not limited to biking, hiking, bird watching and fishing.
- For the benefit of the public, to allow persons or groups to enter upon the Protected Property for educational and scientific purposes to observe and study on the protected property.
- To enter upon the Protected Property at such other times as are necessary if there is reason to believe that a violation of the Easement is occurring, for the purpose of enforcing the provisions of this Easement.
- To enjoin any use of, or activity on, the Protected Property, which is inconsistent with this Easement, and undertake or cause to be undertaken the restoration of such areas or features of the Protected Property as may be damaged by activities contrary to the provisions of hereof...

After initially reaching out to Albany, a subsequent meeting was held with staff from the City of Albany (Parks, APD, AFD, Public Works), LCSO, and Millersburg. A plan has been put forward as follows:

- Week of August 12th – Albany to begin noticing camps, will work with Chance and Helping Hands to go on site to talk with people about options.
- Week of September 16th – Begin camp breakdown and clean-up. Anticipated it will take a couple of weeks based on the amount of garbage.
- Albany is looking at the potential use of a current grant to assist with costs associated with the project.
- Albany Parks is looking at the potential clearing of brush, post clean up to assist with keeping folks from returning.

A follow up meeting is planned for the week of August 12th.

Budget Impact: N/A

Recommendation: N/A, information only at this time.

Attachment(s):

1997-08-13 Simpson Park Conservation Easement.pdf

GRANT DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 13th day of August, 1997, by Simpson Timber Company, having an address at 1201 Third Avenue, Suite 4900, Seattle, WA 98101-3045 ("Simpson"), in favor of the City of Albany, a Political Subdivision of the State of Oregon, having an address at 250 Broadalbin, Albany, OR 97321 ("the City").

I. RECITALS

Simpson is the owner in fee simple of that certain real property (hereinafter the "Protected Property") in Oregon, more particularly described in Exhibit "A" (legal description) and shown on Exhibit "B" (site plan), which are attached hereto and incorporated herein by this reference.

The Protected Property possesses natural, scenic, open space, educational, and recreational values (collectively, "Conservation Values") of great importance to Simpson, the people of Linn County and the people of Oregon.

The Protected Property consists of approximately 129.02 acres of property with the Conservation Values as detailed in Exhibit C.

The Conservation Values of the Protected Property include but are not limited to those documented in an inventory of relevant features of the Protected Property on file at the offices of the City and incorporated herein by this reference ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that provide, collectively, an accurate representation of the Protected Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant.

Simpson intends that the Conservation Values of the Protected Property be preserved and maintained by uses that do not significantly impair or interfere with those Conservation Values. Current uses which are compatible with the Conservation Values, include fishing, hiking, nature and wildlife observation, and other recreational uses.

Simpson is owner in fee of the Protected Property except as set forth in Exhibit D list of permitted exceptions. Simpson has the right to identify, protect, and preserve in perpetuity the Conservation Values of the Protected Property, and desires to transfer such rights to the City.

The City is a publicly supported municipal organization

The City agrees by accepting this grant to honor the intentions of Simpson stated herein and to preserve and protect in perpetuity the Conservation Values of the Protected Property for the benefit of this generation and the generations to come.

Return to: City of Albany - Recorder
P.O. Box 490, Albany, OR 97321

II. CONVEYANCE AND CONSIDERATION

For the reasons stated above, and in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, Simpson hereby voluntarily grants and conveys to the City a conservation easement in perpetuity over the Protected Property, consisting of the rights in the Protected Property, hereinafter enumerated, subject only to the restrictions set forth herein ("Easement").

This conveyance is a conveyance of an interest in real property under the provisions of ORS 271.725, and is made an absolute, unconditional, unqualified, and completed gift subject only to the mutual covenants and terms, conditions, and restrictions hereinafter set forth, and for no other consideration whatsoever.

Simpson expressly intends that this Easement runs with the land and that this Easement shall be binding upon Simpson's personal representatives, heirs, successors, and assigns.

III. PURPOSE

It is the purpose of this Easement to assure that the Protected Property will be retained forever predominately in its natural, scenic, and open space condition and to prevent any use of the Protected Property that will significantly impair or interfere with the Conservation Values of the Protected Property. Simpson intends that this Easement will confine the use of the Property to such activities that are consistent with this purpose.

IV. RIGHTS CONVEYED TO THE CITY

To accomplish the purpose of this Easement the following rights are conveyed to the City by this Easement.

- A. To identify, preserve and protect in perpetuity and to enhance by mutual agreement the Conservation Values of the Protected Property.
- B. To enter upon the Protected Property at any time for the purpose of carrying out the requirements of this Easement and to assure compliance with this Easement.
- C. To allow the public access to the Protected Property to conduct recreational activities which are not inconsistent with the conservation values protected by this easement. Examples of permitted recreational activities include, but are not limited to, biking, hiking, bird watching and fishing.
- D. For the benefit of the public, to allow persons or groups to enter upon the Protected Property for educational and scientific purposes to observe and study on the Protected Property.

E. To enter upon the Protected Property at such other times as are necessary if there is reason to believe that a violation of the Easement is occurring, for the purposes of enforcing the provisions of this Easement.

F. To enjoin any use of, or activity on, the Protected Property which is inconsistent with this Easement, and undertake or cause to be undertaken the restoration of such areas or features of the Protected Property as may be damaged by activities contrary to the provisions hereof, all in accordance with Section IX.

G. To assign, convey, or otherwise transfer the City's interest in the Protected Property in accordance with Section XIII herein.

H. To maintain, renovate, expand, or replace existing roads, paths and trails that are necessary for conservation or related recreational purposes which are not inconsistent with the conservation values protected by this easement.

I. To remove construction materials such as rocks, dirt, sand, and gravel. Such materials may be taken from the site identified on Exhibit B, provided that such material is used only to carry out other permitted activities on the Protected Property and will not interfere with the Conservation Values of the Protected Property.

J. To maintain, or alter, existing ditches to protect existing roads, trails or improve water flow to enhance the Conservation Values on the Protected Property.

K. To charge such fees for access to or use of the Protected Property as the City may deem necessary to defray the costs of capital improvements or other expenditures made to protect, preserve, or enhance the Protected Property.

L. To make such improvements or alterations to the Protected Property as may be necessary or desirable, in the judgment of the City, to enhance the conservation and recreation values of the Protected Property which are not inconsistent with the conservation values protected by this easement.

V. LIMITATIONS ON DUTY TO FUND

It is recognized that limitations in available funding, community resources, and personnel may limit the City's ability to make any particular improvements or enhancements to the Protected Property at any particular time. The City shall retain complete discretion concerning the expenditure of public funds for any purpose relative to the Protected Property including those enumerated in paragraph IV.

VI. PROHIBITED USES

A. General. Any use of, or activity on, the Protected Property inconsistent with the purposes of the Easement is prohibited, and Simpson and the City acknowledge and agree

that they will not conduct, engage in or permit any such use or activity. Without limiting the generality of the foregoing, the following uses of, or activities on, the Protected Property, though not an exhaustive list of inconsistent uses or activities, are inconsistent with the purposes of this Easement and shall be prohibited, except as expressly provided in Section VI below:

- B. Subdivision. The legal or "de facto" subdivision of the Protected Property.
- C. Feedlots. The establishment and maintenance of a commercial feedlot. For the purposes of this Easement, a commercial feedlot is a confined area or facility within which the land is not grazed or cropped at least annually and which is used to receive livestock that has been raised off the Protected Property for feeding and fattening for market.
- D. Alteration of Land. The alteration of the surface of the land, including, without limitation, the excavation or removal of soil, sand, gravel, rock, peat, or sod, except as deemed necessary by the City to preserve, or promote the Conservation Values of the Protected Property.
- E. Removal of Trees and Other Vegetation. The pruning, cutting down, or other destruction or removal of live and dead trees and other vegetation located in the Protected Property, except as deemed necessary by the City to preserve or protect the Conservation Values of the Protected Property or to conduct educational or research activities consistent with the purpose of the Easement.
- F. Signs. The placement of signs, billboards, or other advertising material on the Protected Property. This restriction shall not, however, preclude the placement of signs, notices or other informational writings which, among other things, acknowledge the contributions of individuals, governments, or enhancement of the Protected Property.

VII. PERMITTED USES

General. Simpson reserves for itself and its heirs, successors, and assigns, any use of, or activity on, the Protected Property which is not inconsistent with the purposes of the Easement and which is not prohibited herein. Without limiting the generality of the foregoing, Simpson specifically reserves for itself and its heirs, successors, and assigns, the following uses and activities:

- A. Fences. To construct and maintain fences within or around the property provided that the design and location shall not interfere with the Conservation Values and the Protected Property.
- B. Emergencies. To undertake other activities necessary to protect public health or safety of the environment on the Protected Property, or which are actively required by and subject to compulsion of any governmental agency with authority to require such

activity, provided that any such activity shall be conducted so that interference with the Conservation Values of the Protected Property will be minimized.

C. Testing. To conduct surface or subsurface testing as deemed necessary by Simpson.

D. Remediation and Restoration. To conduct any remediation or restoration as deemed necessary by Simpson.

VIII. NOTICE AND APPROVAL

Whenever notice is required under this Agreement the City shall notify Simpson in writing not less than thirty (30) days prior to the date the City intends to undertake the use or activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Simpson to make an informed judgment as to its consistency with the purpose of this Easement.

Where Simpson's approval is required, Simpson shall grant or withhold its approval in writing within thirty (30) days of receipt of Simpson's written request for approval.

If Simpson or the City must undertake emergency action to protect health or safety on the Property or must act by and subject to compulsion of any governmental agency, Simpson or the City may proceed with such action without the City's approval.

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing either served personally or sent by first class mail, postage prepaid, addressed to as follows:

To: Simpson Timber Company
1201 Third Avenue
Suite 4900
Seattle, WA 98101-3045

To: City of Albany
PO Box 490
Albany, OR 97321

or to such address as either party from time to time shall designate by written notices to the other.

IX. SIMPSON PARTICIPATION IN PRESERVATION PLANNING

The City shall plan for the preservation, enhancement, and improvement of the Protected Property in time intervals not to exceed 10 years. Each such plan shall be submitted to Simpson for approval. Simpson will review and respond to the plan within 90 days of receipt. Simpson's approval of the City's preservation plan shall not be unreasonably withheld. The review and approval of the City's preservation plan as referred to above shall satisfy all consultation and coordination obligations referred to in the body of this Easement.

X. DISPUTE RESOLUTION

If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purpose of this Easement, the parties shall meet together to discuss the dispute and attempt resolution. Thereafter, either party may refer the dispute to mediation or arbitration by request made in writing upon the other. Within thirty (30) days of the receipt of such a request and acceptance by the other party, the parties shall select a single mediator or arbitrator to hear the matter.

XI. THE CITY'S REMEDIES

A. Notice of Failure. If the City determines that Simpson is in violation of the terms of this Easement or that a violation is threatened, the City shall give written notice to Simpson of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the purpose of this Easement.

B. Simpson's Failure to Respond: If Simpson:

1. Fails to cure the violation within (30) days after receipt of notice thereof from the City; or

2. Under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, fails to begin curing such violation within the thirty (30) day period or to continue diligently to cure such violation until finally cured;

C. The City's Action. The City may bring action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of the Easement or injury to any Conservation Values protected by this Easement, and to require the restoration of the Protected Property to the condition that existed prior to any such injury.

D. Nature of Remedy. The City's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement, and Simpson agrees that the City's remedies at law for any violation of the terms of this Easement are inadequate and that the City shall be entitled to the injunctive relief described in this

section both prohibitive and mandatory, in addition to such other relief to which the City may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. The City's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

In the event the City must enforce the terms of this Easement, the costs of restoration and the City's reasonable enforcement expenses, including attorney's fees, shall be borne by Simpson or those of its heirs, successors, or assigns, against whom a judgment is entered. If Simpson prevails in any judicial proceeding initiated by the City to enforce the terms of the Easement, Simpson's cost of suit, including attorney's fees, shall be borne by the City.

Nothing contained in this Easement shall be construed to entitle the City to bring any action against Simpson to abate, correct, or restore any condition on the Protected Property or to recover damages for any injury to or change in the Protected Property resulting from causes beyond Simpson's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Simpson under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes.

Upon request by Simpson, the City shall within thirty (30) days execute and deliver to Simpson any document, including an estoppel certificate, which certifies Simpson's compliance or lack thereof with any obligation of Simpson contained in this Easement and otherwise evidences the status of this Easement as requested by Simpson.

XII. COSTS, LIABILITIES, TAXES, AND INDEMNIFICATION

If circumstances arise under which the Protected Property incurs a casualty (as defined by section 165(c)(3) of the Internal Revenue Code of 1986, as amended) all casualty loss proceeds, whether from insurance tax benefits, or some other source, resulting from such loss and attributable to destruction of the Conservation Values of the Protected Property shall be applied to restore those Conservation Values of the Protected Property to their condition immediately preceding the casualty. If the Protected Property's post-casualty value and economic utility are diminished to an extent which renders such use of the proceeds towards restoration futile or economically impractical, the City shall have the option to terminate or extinguish the Easement in accordance with Section XI herein. Exercise by the City of the option herein provided shall not be determined a relinquishment of any claim to the casualty loss proceeds which would have gone towards restoration of the Protected Property of the City had not exercised such option.

Simpson shall pay before delinquency all taxes, assessments, fees, charges of whatever description levied on or assessed against the Protected Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish the City with satisfactory evidence of payment upon request. The City is authorized but in no event obligated to make or advance any payment of taxes, upon three (3) days prior written notice to Simpson, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Simpson at the maximum rate allowed by law.

XIII. SUBSEQUENT TRANSFER OR EXTINGUISHMENT

If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which the City shall be entitled shall be the proceeds remaining after the satisfaction of prior claims to any proceeds from any sale, exchange, or involuntary conversion of all or any portion of the Protected Property. The City shall use all such proceeds in a manner consistent with the conservation purposes of this Easement. If the Easement is taken, in the whole or in the part, by the exercise of the power of eminent domain, the City shall be entitled to compensation in accordance with applicable law.

Simpson agrees (1) to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself in all or a portion of the Protected Property, including without limitation a leasehold interest, and (2) to describe this Easement in and append it to, any executory contract for the transfer of any interest in the Protected Property. Simpson further agrees to give written notice to the City of the transfer of any interest of at least thirty (30) days prior to the date of such transfer. Such notice to the City shall include the name, address, and telephone number of the prospective transferee

of his or her representative. The failure of Simpson to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

XIV. AMENDMENT

If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Simpson and the City are free to jointly amend this Easement; provided that no amendment shall be allowed that shall affect the qualification of this Easement or the status of the City under any applicable laws, including ORS 271 or Section 170(h) of the Internal Revenue Code of 1986, as amended, and any amendment shall be consistent with the purpose of this Easement, and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of the City, County, State, and any other jurisdiction in which such recording is required.

XV. ASSIGNMENT

A. Assignment. This Easement is transferable, but the City may assign its rights and obligations under this easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under ORS271 (or any successor provision then applicable). As a condition of such transfer, the City shall require that the Conservation Purposes that this Easement is intended to advance continue to be carried out by the transferee. The City shall notify Simpson in writing at Simpson's last known address, in advance of such assignment.

B. Succession. If at any time it becomes impossible for the City to ensure compliance with the covenants contained herein and the City has not named a successor organization, or the City shall cease to exist, then its rights and duties hereunder shall become vested and fall upon the State of Oregon.

Provided that if such vesting in the entities named above is deemed to be void under the Rule Against Perpetuities, the rights and obligations under this Easement shall vest in such organization as a court of competent jurisdiction shall direct, pursuant to the applicable Oregon law and the Internal Revenue Code of 1986 and with due regard to the purposes of this Easement.

XVI. RECORDATION

The City shall record this instrument in a timely fashion in the official records of Linn County, Oregon, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Easement.

XVII. GENERAL PROVISIONS

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The interpretation and performance of this Easement shall be governed by the laws of the State of Oregon.

Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of ORS 271. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section XII herein. Nothing contained herein will result in a forfeiture or reversion of Simpson's title in any respect.

The term "Simpson" and "the City," wherever used herein, and any pronouns used in the place thereof, shall be held to mean and include, respectively the above-named Simpson, and its personal representatives, heirs, successors, and assigns, and the above-named the City, its successors and assigns.

The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.

A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

The parties may execute this instrument in two or more counterparts which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original

instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

The obligations imposed by this Easement upon Simpson shall be joint and several.

SIGNATURE AND ACKNOWLEDGMENTS

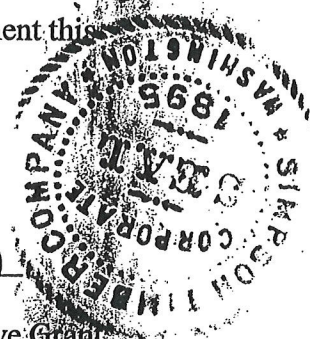
- Signed and acknowledged by Simpson and the City

TO HAVE AND TO HOLD unto the City, its successors, and assigns forever.

IN WITNESS WHEREOF, the undersigned Simpson has executed this instrument this 16th day of Sept., 1997.

Simpson Timber Company

R.P. Simpson
PRESIDENT



THE City of Albany does hereby accept the above Grant Deed of Conservation Easement.

City of Albany, Oregon

Gary Holliday, Finance Director

Dated: 9/16/97

By Gary Holliday

Its Finance Director

[include acknowledgments for all SIGNATORIES]

STATE OF OREGON,

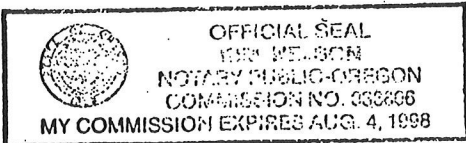
County of Sinn } ss.

FORM No. 23—ACKNOWLEDGMENT.
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BE IT REMEMBERED, That on this 16th day of September, 1997, before me, the undersigned, a Notary Public in and for the State of Oregon, personally appeared the within named Gary Holliday / G. Holliday

known to me to be the identical individual..... described in and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



Ann Nelson
Notary Public for Oregon
My commission expires Aug. 4, 1998

SCHEDULE OF EXHIBITS

- A. Legal Description of Property Subject to Easement
- B. Site Map
- C. Conservation Values

EXHIBIT A

Legal Description of Property Subject to Easement

Parcel 1 of Partition Plat No. 1996-02 recorded in City of Millersburg, Linn County,
Oregon.

