ALBANY CITY COUNCIL

AGENDA

Monday, August 5, 2024
4:00 p.m.

Council Chambers, City Hall
333 Broadalbin Street SW
Watch on YouTube: https://www.youtube.com/user/cityofalbany

Please help us get Albany's work done.
Be respectful and refer to the rules of conduct posted by the main door to the Chambers and on the website.

1. Call to order and roll call

2. Business from the public

3. Housing policy options – Anne Catlin [Pages 2-30]
   Discussion

4. Pacific Power conversion agreement – Sophie Adams [Pages 31-41]
   Discussion

5. League of Oregon Cities legislative priorities – Peter Troedsson [Pages 42-60]
   Direction

6. Business from the council

7. City manager report

8. Adjournment

This meeting is accessible to the public via video connection. The location for in-person attendance is accessible to people with disabilities. If you have a disability that requires accommodation, please notify city staff at least 48 hours in advance of the meeting at: cityclerk@albanyoregon.gov.

Testimony provided at the meeting is part of the public record. Meetings are recorded, capturing both in-person and virtual participation, and are posted on the City website.

MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager PT 7/30
Matthew Ruettgers, Community Development Director MR

FROM: Beth Freelander, Planner II BF
Anne Catlin, Comprehensive Planning Manager alc

DATE: July 26, 2024, for the August 5, 2024, City Council Work Session

SUBJECT: Housing Policy Options

Relates to Strategic Plan theme: Great Neighborhoods

Action Requested:

Staff requests that the city council approve further exploration and adoption of three policy recommendations outlined in the Housing Implementation Plan. These policies include a City Surplus Property Policy, Affordable Housing Tax Abatement Program, and the Construction Excise Tax.

Discussion:

In 2023, the city council adopted the Housing Implementation Plan (HIP) which outlined actionable strategies and policies to encourage the development of needed housing types including affordable housing. As a part of this adoption, priority strategies and policies were identified, including three policy tools: the City Surplus Land Policy, the Tax Abatement Program, and the Construction Excise Tax (CET). These are further described in the attached Housing Policies Background Report. In addition, House Bill 2001 (2019), the middle housing bill, requires cities to consider property tax exemptions, waiving or deferring systems development charges, and assessing a CET, as tools to increase the affordability of middle housing. The City was approved in delaying consideration of some of these tools until the process of implementing the HIP and its strategies. Staff are now analyzing the potential effect of these policies and how these policies can be shaped to achieve the desired outcomes. As a part of the policy analysis, staff are seeking council direction and input. Additionally, staff will be soliciting public input on these policy options.

As a precursor to the strategies discussed below, it is important to note in staff's conversations with affordable housing developers (market and non-profit) and other cities, numerous financial tools are often needed to make long-term affordable housing viable.

<u>City Surplus Land Policy</u>

This high-priority strategy involves providing city-owned surplus land to support affordable housing. It allows the City to directly influence the cost and location of land for affordable housing. The report details several options for implementing this strategy from first right of refusal to affordable housing developers to discounting the land in exchange for achieving housing needs.

Tax Abatement Programs

The HIP recommends consideration of the Low-Income Rental Housing 20-year tax exemption program and the Transit Supportive Multi-Unit Development (MUPTE) tax exemption program, which economic development staff have previously previewed with council and continue to work on under prior direction.

Construction Excise Tax

In 2016, the state adopted Senate Bill 1533, which enables jurisdictions to levy a one-time construction tax to fund affordable housing projects and programs. Numerous cities have adopted this tool to raise money to leverage the development of long-term affordable housing and is commonly known as the Affordable Housing CET.

The City may levy a CET on residential construction for up to one percent of the permit value; or on commercial and industrial construction, with no cap on the rate of the CET. The allowed uses for CET funding are defined by the state law; a large portion of revenues must be used for developer incentives (e.g., fee and System Development Charge (SDC) waivers, tax abatements, etc.). See Attachment B (Affordable Housing CET Statutes). A commercial/industrial CET has fewer restrictions than a residential CET. However, the intention of this policy, as described in the HIP, is to provide much needed revenue to support affordable housing development. It may also be used to assist the development of needed housing types. The exact specifications need not be decided at this time, but a clear description of eligible project types will ensure the intended public benefits are met by the CET revenue. Staff envisions developing a plan for how revenue would be used if a CET was adopted and is set to begin accruing funds. To that end, Albany's affordable housing needs would be at the forefront of that discussion.

More immediate considerations for the CET if adopted are:

- Should the CET apply to residential and/or commercial/industrial property development,
- What is an appropriate tax rate for residential and/or commercial and industrial construction, and
- What types of developments should be exempt from the tax (beyond statutory exemptions).

The Housing Implementation Plan and background reports are located online at: https://albanyoregon.gov/cd/housing/hip#documents.

Budget Impact:

None at this time. If a tax exemption program were adopted, it would impact revenue on new construction for a specified period. If a CET is adopted, it would create revenue for the city over time.

BF:AC:km

Attachments (2):

A. Housing Policies Background Report
B. Affordable Housing CET Statutes

Johnson Economics

City of Albany

ALBANY HOUSING IMPLEMENTATION PROJECT
HOUSING POLICIES BACKGROUND REPORT

Prepared for
City of Albany
July 2024

Johnson Economics, LLC
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Portland, Oregon 97205

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INTRODUCTION

This background report was completed as part of the City of Albany Housing Implementation Project. The report presents analysis of three specific policy tools that were identified as recommended strategies for further exploration in the Albany Housing Implementation Plan (HIP) completed in 2023.

The three policies analyzed here are:

1) Surplus Land for Affordable/Needed Housing
2) Tax Abatement Programs
3) Construction Excise Tax (CET)

The purpose of this analysis is to provide further context and quantitative data to assess the potential of these programs to incentivize the development of additional housing in the city of Albany. The first two programs might be used to facilitate the development of affordable housing as well as market-rate housing if it meets public needs (e.g. housing density or mixed use goals), while the CET is designed to be used specifically for affordable housing.

Encouraging the development of affordable housing that is often undersupplied by the market is the major focus of this project. A secondary goal may be to incentivize other types of development, such as mixed-use, transit-oriented, or denser housing in some planning areas such as the designated Climate Friendly Areas (CFA) or other town centers.

Financing Affordable Housing

A major focus of the HIP and related planning efforts is how to incentivize long-term affordable housing. It is important to note that most of the incentives discussed in the HIP, and the three policies discussed here, are rarely sufficient to make an affordable housing project feasible on its own. Modern affordable housing development is typically complex and time-intensive, requiring developers to line up a combination of multiple sources of funding and programs before a project becomes feasible.

Any one public program can provide a key layer in this financing plan for a housing project, without which the project may not be feasible. The contribution of City incentives can also demonstrate local support for a project that will help it secure additional funding from state or federal sources.

I. SURPLUS LAND FOR AFFORDABLE/NEEDED HOUSING

A. DESCRIPTION

This strategy involves providing City-owned or other surplus land owned by partner public agencies or institutions to support development of long-term affordable housing or other needed housing. Surplus land is any piece of real property that is no longer needed for an agency purpose. This could be an obsolete facility, parking lot, unused open space, right of way, or property acquired through foreclosure, etc.

In addition, sometimes sites that are still serving their intended purpose are larger than needed, and the unused portion could be converted to other uses. When these opportunities come up, the City can capitalize on them to support development of housing that meets public needs such as affordability, transit-oriented development, or mixed uses.

There are two major advantages to the City that come from identifying potential surplus land for housing development.

- **Control:** The first advantage is control over the parcel and what happens there. As the owner, the public agency can dictate the terms of a sale or development agreement, and typically has the patience to wait until the right project comes along. If a city would like to hold a key parcel for a housing development, there is no danger of an alternate development that doesn't meet city goals utilizing the site.

- **Land Value:** The second advantage is that the parcel itself has value that becomes an incentive for the partner developer to build the type of housing that the city would like to see. Though land costs vary widely by market and location, a rule of thumb is that land cost typically constitutes 20% of construction costs. This makes the publicly owned surplus site a valuable potential incentive to a private partner, and a tool for bridging feasibility gaps that might exist.

B. How it Works

Development of surplus land will almost always entail the City forming a partnership with a private or non-profit developer who has more experience in the development of housing. Approaches to this partnership include:

1) Sell the land at appraised value with few strings attached other than the agreed upon land use. For instance, this might achieve market-rate housing, at a typical density seen in the area, under the applicable zoning. The goal of achieving additional housing on that surplus parcel is achieved, but few additional goals.

2) Discount the land value or even donate the land in return for achieving larger public goals. Common examples are achieving affordable housing units, affordability at lower income levels, and/or increased housing density. This helps achieve housing types or building forms that wouldn't be feasible without this public contribution.

3) Allow long-term land leases (e.g. 100 years) at minimal cost to greatly reduce the land cost to the partner developer. In this scenario, the City maintains ownership of the land rather than donating it. This approach can ensure that the housing remains affordable for a longer period, or in perpetuity.

Each property, development project, and partnership agreement is unique. The HIP outlines some of the implementation steps required if the City wishes to pursue this program. Some of the key steps are:

- Inventory City-owned land that may be suitable for housing development and determine what land is currently surplus or excess or may be deemed so in the next few years. This process should involve consultation across City departments to ensure there are no claims to individual parcels for other identified needs.
- Reach out to other public agencies and institutions, including religious institutions, that own land within Albany to determine if these entities are willing to include their lands in the inventory. Planning staff may be aware of underused land owned by other agencies in the City.
- Characterize the identified surplus parcels by appropriateness for housing development. Factors such as the Comprehensive Plan designation, zoning, size, location, environmental constraints, surrounding uses, traffic patterns, and other considerations might impact how much and what types of housing might be accommodated.
- Viable sites might be prioritized for moving forward by factors such as the magnitude of impact on housing supply and need, and strength of the location.
- Review policies and procedures related to surplus and excess lands to determine whether changes or refinements are needed to enable or encourage surplus lands to be made available for affordable housing.
- Determine the goals of the program. What types of development does the City seek to incentivize on surplus land? Targets might be a threshold housing density, affordable units as a share of total units, affordability levels by income, or a combination of these. Goals might differ based on location (e.g. a vertical mixed-use building in a designated CFA, or a middle housing project on a smaller parcel).
- The City might seek out development partners by direct solicitation from known housing developers in the region, request for letters of interest, or issue a formal request for proposals. The experience and track record of the development partner are key considerations. Because cities are not typically in the development business, they are usually not equipped to take over a failed project. In the pre-development phase, the City should require significant due diligence on the property and proposed development, including a market study that demonstrates the need for any public incentive on offer (e.g. discount on the land purchase.) Other tools, such as a CET, might help provide some additional funding for this predevelopment analysis to non-profit agencies.

C. Case Studies

Albany has some history of using surplus land for affordable housing projects. When the Albany Area Habitat for Humanity was first formed in 1993, it reached out to the City for surplus property. The City deeded two foreclosed residential lots in the Friday's Fairway subdivision (48th and Geary) to Habitat for the construction of two affordable units.

In 1996, the City deeded a one-acre property east of I-5 between Adah and Eleanor Streets to the Albany Area Habitat for Humanity. The property enabled Habitat to build 7 homes for families earning 60% or less of the area median income. Five of the 7 homes were constructed for Latina families (see Figure 1.1).

FIGURE 1.1: SURPLUS PROPERTIES DONATED TO HABITAT FOR HUMANITY (ALBANY)

Source: City of Albany

The following pages present a sample of projects in other communities where housing was developed on land owned by a public agency. In all of these cases, the land contribution was one of multiple public incentives and funding sources needed to make the projects fully feasible. The affordable housing projects typically included an allocation of Low Income Housing Tax Credits (LIHTC) or other state or federal programs. Market-rate examples often included development fee waivers and tax exemptions for multiple-dwelling unit housing or vertical housing. This pattern is likely to carry over to Albany, where surplus land can be one important component, but perhaps not the only component.

Florence, Oregon Cottages

Sources: City of Florence, DevNW

The City of Florence partnered with nonprofit DevNW to establish an affordable homeownership project on Florence's former senior center site to build 12 homes affordable to households earning 80% or less of the median income. The proposal includes a land trust model, which enables the homeowner to earn equity and create permanent affordable housing as the land is held in a trust managed by DevNW.

FINANCING: The project received a $900,000 LIFT Homeownership/Land Trust Grant from Oregon Housing and Community Services and $180,000 from the Self-Help Homeownership Opportunity Program (SHOP). DevNW also provides down payment assistance loans to homeowners.

INCENTIVES: Florence sold the lot to DevNW for $1. The sale was contingent on award of grant funds and represented the City's financial support of the project, which leveraged LIFT funds.

SONGBIRD APARTMENTS

2140 N Williams Ave, Portland, Oregon

The Songbird Apartments were built on the lots of a former county-contracted training building and a battery manufacturing facility. The manufacturing lot required a hazardous building survey and demolition as well as complete site remediation prior to development. Forty out of the 61 units are affordable at 30% AMI, while the rest are affordable at 60% AMI plus one manager's unit. Ten of the most affordable units are reserved as permanent supportive housing. The land was donated to the developer, BRIDGE Housing, by Multnomah County.

Project Name	Units	Type	Delivery
Songbird	21	Affordable (60% AMI)	2000
	40	Affordable (30% AMI)	2000
TOTAL:	*61*	*Affordable*	*2000*

FINANCING: Songbird received funding from a variety of public and private sources, including $4.5 million from the Portland Housing Bureau and $5 million from Multnomah County. The total cost was about $19 million.

INCENTIVES: Multnomah County donated the lot for development. The 40 units affordable at 30% AMI are permanently subsidized via HUD Section 8 funding. The project also received LIHTC.

THE WHY: The project began in 2015, while the city was making investments in urban renewal in this neighborhood to combat the effects of gentrification. It is subject to the N/NE Preference Policy serving area residents displaced by gentrification.

ATTWELL OFF MAIN

12790 SW Ash Ave, Tigard, Oregon

The Attwell is a large apartment complex built in Downtown Tigard, on the site of the City's former public works maintenance yard. The development was a public/private partnership between the City of Tigard and Greenlight Development. The City sold the property to Greenlight Development with housing density and commercial space requirements, in exchange for paying some pre-development costs. The project was part of the City's goal to increase housing in the Downtown, at a range of income levels, to help support a more active and vibrant town center. The project was completed in 2017 with 165 market-rate units and two ground floor commercial spaces. Greenlight sold the complex in 2018.

Project Name	Units	Type	Delivery
Atwell off Main	165	Market	2017

FINANCING: The total cost of this development was an estimated $31 million, primarily funded by the developer.

INCENTIVES: With control of this surplus public property, the City could select a private partner willing to meet the City's requirements for housing density, mixed use, and transit-oriented features. The City sold the property at appraised value, but credited much of the cost back to the developer via waived system development charges. The project also received a 10-year property tax abatement through the City's established Vertical Housing Development Zone incentive program.

THE WHY: As a requirement for developing the property, the City wanted a mixed-use project that achieved a minimum housing density goal. Attwell off Main is also considered a transit-oriented development, as the Tigard Transit Center, including a WES Station, is about a quarter mile away. The project brought additional residents to the downtown, in support of wider district planning initiatives. The project did not place an emphasis on affordable housing because the existing housing stock in the district was generally older, in lower condition, and lower cost. In addition, the market-rate project will eventually return to the tax rolls and support the local urban renewal district.

HOLLYWOOD HUB

4110 NE Halsey St, Portland, Oregon

HollywoodHUB is currently under construction on a TriMet-owned parcel, htat was formerly the Hollywood Transit Center (bus depot). The building will help create what TriMet calls "community-centered transit-oriented development." When complete, it will provide immediate access to the adjacent MAX station and three bus routes. The building will have 222 total units, with 151 units affordable at 60% AMI and 71 units affordable at 30% AMI. BRIDGE Housing, an affordable housing nonprofit, is the developer, however TriMet will maintain ownership of the land.

Project Name	Units	Type	Expected Delivery
HollywoodHUB	151	Affordable (60% AMI)	2026
	71	Affordable (30% AMI)	2026
TOTAL:	***222***	***Affordable***	***2026***

FINANCING: The Metro affordable housing bond is contributing $37 million towards the project, which will cost about $155 million in total. It is also partially funded by the Series 2020 Sustainability bonds, as well as other tax-exempt bonds.

INCENTIVES: BRIDGE Housing secured tax-exempt bonds and Low Income Housing Tax Credits (LIHTC) for this project. Additionally, TriMet will continue to own the property, eliminating land purchase cost for the developer. TriMet will contribute some transit improvements in conjunction with the project.

THE WHY: This project aims to meet TriMet's goal of encouraging and contributing to new transit-oriented development near its facilities and routes. Building housing near transit is intended to increase ridership and reinforce use the transit system. This is also in keeping with the "centers and corridors" planning pattern of the City of Portland and Metro. The site is adjacent to several types of transit, including light rail and bus service.

JESSE QUINN

1837 Pacific Ave, Forest Grove, Oregon

The site formerly hosted Times Litho, a printing company, which left the site vacant after merging with Eugene-based Northwest Web in 2006. The City of Forest Grove purchased the property in 2012, via its urban renewal agency, hoping to solicit a project to increase opportunities for living in downtown. In 2015, Tokola Properties submitted plans to develop the site in two phases. The first phase was Jesse Quinn Apartments, and the second, still in planning, will be a hotel and for-sale townhomes. The building broke ground in 2016 and was finished by 2018. In addition to 78 apartments, this mixed-use development includes extensive community amenities, including a large plaza, commercial space, and a community garden.

Project Name	Units	Type	Delivery
Jesse Quinn	78	Market	2018

FINANCING: Of the $15.5 million total cost, Metro contributed a $250,000 transit-oriented development grant. The City of Forest Grove subsidized about $90,000 in pre-development costs, including traffic and parking studies, market studies, architectural and engineering.

INCENTIVES: The Forest Grove Urban Renewal Agency transferred the property to Tokala Properties. The city agreed to split pre-development costs with the developer and provided fee waivers and abatements during the early stages of development. Total public incentives are estimated at $1.5 million.

THE WHY: The departure of the Times Litho company left a large, underutilized block in downtown Forest Grove. This project is the first modern mixed-use building in the city, which, city officials hope, will be the catalyst for more of these kinds of developments. The development is in support of downtown and urban renewal plan goals.

THE RIVER DISTRICT

Downtown Eugene, Oregon

The River District was first conceptualized in 2007. Historically, the property was occupied by Eugene Water & Electric Board (EWEB), housing their headquarters, warehouse, and repair shops. As EWEB prepared for a relocation across the city, the City of Eugene began work on a master plan, which was finalized in 2009 and approved by EWEB in 2010. In early 2018, the city finalized their purchase of the 16 acres, and in 2020, Atkins Dame was retained to develop the multifamily portion of the district. Over 600 market-rate units in four projects are anticipated by 2029.

Project Name	Units	Type	Expected Delivery
Heartwood	94	Market	Completed 2024
The Portal	130	Market	2025
The Landing	237	Market	2026
The Parker	200	Market	2026
TOTAL:	*661*	*Market*	*2026*

FINANCING: Atkins Dame bought the sites for a total of $11.1 million from 2021 to 2024. The entire project is estimated to cost $139 million, $26 million of which will come from the City's Urban Renewal Agency, mostly via public infrastructure, including waterfront park improvements.

INCENTIVES: The city approved Multi-Unit Property Tax Exemption (MUPTE) for all four of the projects, exempting Atkins Dame from taxes on the new buildings for 10 years. In selecting the private partner, the City ensured that the developer would meet the goals of the master plan, and help build out the high-density, mixed-use neighborhood as envisioned.

THE WHY: The City of Eugene described the site as "completely underutilized" under its prior industrial use. The district has excellent riverfront location and is adjacent to the downtown. The master plan increases the density and number of uses and will make the area much more active while providing housing in a key location. Retail stores, a restaurant, and a hotel are also planned under a different developer.

II. TAX ABATEMENT PROGRAMS

A. DESCRIPTION

Tax abatements are reductions in property taxes for housing. Abatements may include full or partial tax exemptions or freezes on the assessed value of properties. Abatements are often provided to non-profit corporations or private developers in exchange for developing affordable housing or other desired housing types (such as mixed-use). Property tax abatements can also be applied to housing in distressed areas, or for rehabilitated housing. Property tax abatements reduce ongoing operating costs for housing projects, which can be greatly beneficial for affordable housing finances.

The state currently authorizes tax abatements for various types of housing and affordable housing through several programs outlined in the Oregon Revised Statutes (ORS).

The City of Albany adopted the Nonprofit Low-Income Housing Tax Credit in 1993, which enables the City to exempt affordable housing developed by non-profit agencies from City taxes, although annual renewal by the non-profit recipient is required. Because the City of Albany makes up less than 51% of the taxing district, only City taxes are exempt, unless the non-profit seeks approval from other taxing entities.

As part of the HIP planning process, the City expressed interest in two other high-priority tax abatement programs:

1) **Low-Income Rental Housing (ORS 307.515 – 307.537).** The state authorizes a 20-year tax abatement for any entity that provides regulated affordable housing, including nonprofits and for-profit developers, making it more widely applicable than the City's current program. The statutes outline similar eligibility requirements, in that eligible properties must be offered for rent to low-income persons (at or below 60% AMI) or held for the purpose of developing low-income rental housing.

   Key advantages of this abatement program are that it is available to more than just non-profits and it does not require annual renewal. In contrast, recipients of the City's current non-profit tax abatement need to seek renewal every year by City Council, which can be a time-consuming process.

2) **Transit-Supportive Multi-Unit Development (ORS 307.600 – 307.637).** This abatement(known as "MUPTE" in some communities) is an abatement for multiple-unit housing in corridors and centers that support transit. Eligible development must be located in transit-oriented areas and have multiple units (middle housing or multi-family) but may include ground floor commercial space. The abatement can be provided for up to 10 years, and only applies to new residential construction, and not land or any commercial portions.

   The City has broad discretion as to how to structure the program and define affordability requirements. The abatement program does not have to be provided only for affordable housing but can be used to achieve greater density, mixed use, or transit-oriented development at market rates.

B. Considerations

A major consideration when offering multiple tax abatement programs is if they overlap, they might compete for use by applicant developers. The abatement program seen as providing the greatest benefit with the lowest cost/concessions from the developer is likely to be utilized much more than the others.

For this reason, the city should consider adopting one abatement intended mostly for affordable housing, and one intended for mostly transit-oriented development or other goals. The **Low-Income Rental Housing** tax abatement, lasting 20 years, will be attractive to those seeking to provide affordable housing, including non-profit agencies and for-profit developers specializing in tax credit projects. The **MUPTE** could be focused on transit-adjacent areas and the soon-to-be-designated climate friendly areas (CFAs). While the City could require a limited affordability component as part of the MUPTE program, projects that are intended to be fully affordable are likely to opt for the former abatement program.

C. Impact on Project Feasibility

Tax abatements work by lowering operating costs in the first years of the property's operation. This helps projects that might otherwise not be feasible due to high development costs or low achievable rents/pricing, which is often the case for affordable housing, taller buildings, or mixed use buildings. The hope is that the availability of the tax abatement helps tip a development from one form to another, or from market-rate to affordable.

The usage of tax abatement programs by private developers will generally be related to the underlying market forces already present in the community. For instance, if some areas or neighborhoods are on the cusp of seeing denser housing development, then a MUPTE will likely see greater usage, amplifying the benefits such as more housing and mixed uses near transit. However, if a neighborhood is not ready for higher density housing, this incentive is unlikely to make it desirable to a private developer. For that reason, focusing the multiple-dwelling unit housing or transit-supportive programs where they already enjoy some support is recommended.

Low-income housing tax abatements are typically used by agencies or developers who are already interested in providing this form of housing. The abatement can be an integral part of the complex financing and incentive package that is typically required to make a low-income housing project feasible. These abatements can help achieve more low-income housing by making it feasible for some projects to increase their unit count and even encouraging some market-rate projects to include affordable units.

<u>Current Market Conditions</u>

In the current market environment, housing development is facing serious headwinds. Years of increased costs for materials and labor have combined with higher interest rates to make development much harder to pencil out. This has been seen in plunging rates of new home building over the last two years. On the

West Coast, new apartment construction fell by more than half between 2022 and 2023, as even rising rent levels are increasingly insufficient to support costs. Albany and other parts of the mid-Willamette Valley have bucked this trend with on-going apartment construction, but it is yet to be seen if somewhat reduced multiple dwelling permitting in 2022 and 2023 will lead to slower construction in years ahead.

In this environment, the tools available to public agencies have more limited impact, as the size of the "feasibility gap" is larger than in recent history. This includes the tools and policies discussed in the HIP. However, cities have the advantage of being able to plan for the long term; presumably future real estate cycles will moderate, and feasibility will improve. Establishing these programs now will ensure they are ready when needed.

City vs. General Participation

Generally, only the City's portion of the taxes would be included in the tax abatement unless it seeks agreement from the boards of other taxing districts, that in combination with City make up 51% or more of the total tax levy. In the case of Albany, this would mean seeking approval of the school district, and/or some combination of the county and other districts. While this may seem cumbersome, extending a tax abatement to the full levy (100%) greatly increases its impact as a development incentive. The City's standard levy rate is roughly 30% of the total levy, so inclusion of the other jurisdictions can increase the impact three-fold.

Preliminary Feasibility Assessment

Johnson Economics performed basic pro forma development modeling on a range of building types to assess the potential impact of tax abatements. Abatements were modeled for the total levy (100%), and the City's levy (30%).

- **Mid-rise and Mixed Use Housing:** Except in Albany's downtown, the current market climate is not favorable to the development of housing forms that include structured parking, or a shift from wood construction to more expensive concrete and steel construction. This will limit feasible housing types to three-story wood construction (e.g. the Banks or Timberridge Place), either with surface parking, or parking reductions. (Middle housing forms such as townhomes and duplexes are also feasible, but this analysis focuses on multiple-dwelling unit housing.)

  The analysis indicates that tax abatements alone are likely not sufficient to make denser housing forms feasible. However, an abatement like the MUPTE might be attractive to low-rise developers to include some share of affordable units in their project.

  Higher-density housing on infill lots, such as in the downtown, are likely to require a combination of higher achievable rent levels and moderating construction costs to get closer to feasibility. As they approach that point, a tax abatement will incentivize this type of development, while achieving the program's required public benefits. A combination of public contributions from other sources such as urban renewal can also help to bridge the feasibility gap sooner.

- **Affordable Housing:** Preliminary modeling estimates that a low-income housing tax abatement would likely be sufficient to make a project viable at 80% of AMI. Reaching an affordability level of 60% AMI, as required by the Low Income Rental Housing tax abatement, is feasible with a combination of other programs commonly used in affordable housing development, including LIHTC, Section 8, CET incentives, etc. This tax abatement could have a major impact on improving the feasibility of these projects.

Public Benefits (Affordability)

Tax abatements should be offered to a developer in return for guaranteeing that the project meets certain public goals. Detailing those goals beforehand and being clear on the main intent of the program is important for both internal and external stakeholders. For low-income housing abatements, the public benefit is generally the affordability itself, without additional requirements placed on the project.

For projects consisting of mostly market-rate units, providing the public benefits will almost always entail an extra cost to the developer. Because a tax abatement is a valuable incentive, placing some requirements upon it makes sense. However, the requirements cannot be so excessive that the real or perceived cost will outweigh the benefits in the developer's mind.

There are a range of public benefit requirements under consideration for a potential MUPTE program in Albany. *The parameters of this program are still under discussion and all details are preliminary and subject to change.* Rules under consideration would allow the applicant for the MUPTE abatement to choose between providing some share of units affordable at either 80% of 60% of AMI or paying a fee-in-lieu.

- **Affordable Units:** Making 30% of units affordable at 80% AMI or making 15% of units affordable at 60% AMI would both create a similar downward impact on annual net operating income (NOI). However, the decrease in NOI would be more than offset by the reduction in operating costs from the tax abatement. This would make providing either of these public benefits feasible options for the developer, while still providing a benefit over a market rate project without an abatement. As modeled, the impacts are similar, so the preference between the 80% AMI and 60% AMI options may depend on other factors.

- **Fee-in-Lieu:** Another possibility is offering a fee-in-lieu payment option to the developer. The developer includes no affordable units on site but pays this fee to the City to be used on other affordable housing programs. The amount of the fee-in-lieu must be carefully calibrated so it reflects a comparable cost to providing the affordable housing on site.

  For instance, if the fee is set at 20% of foregone taxes, the recipient is still receiving an 80% tax abatement essentially for building market rate multi-family housing. This will likely be more attractive, and lower cost over time, than providing affordable housing on site. Preliminary modeling indicates that the *fee-in-lieu should be set at closer to 50% to 60% of foregone taxes* to have a similar cost impact on the development than providing the affordable units.

Public Benefits (Other)

In addition to affordability requirements, the preliminary MUPTE program is considering a menu of additional public benefits to require of applicants. These might include a broad range of options, from providing public spaces and transit amenities, to achieving green building certification. The cost of providing each of these options is hard to quantify, as each project will be unique and the exact standards to meet for each are still undefined.

In 2007, Johnson Economics completed an assessment of the City of Portland's floor area ratio (FAR) density bonus and transfer system. Over the years, many new options for earning an FAR bonus had been added until there were 18 public benefits that could be provided in return for an FAR bonus, and 6 to qualify for an FAR transfer. The City perceived that many of these options were never used, even as this system had gotten too complicated to track and administer.

Some major takeaways from the study of this system were:

- Developers will naturally gravitate towards the least costly public benefit and leave more costly options unused. Because of the wide variety of options, the cost to deliver each is likely to vary widely.
- Because of this dynamic, the priority of the public benefit options should be considered. Is the unused option really the community's highest priority, while the widely used option was not as high a priority?
- Options offered will need to have standards established to assess when they are being met. The development community will value clarity and specificity in what is expected.
- The cost of the options in addition to the affordable housing public benefit will potentially impact how attractive the tax abatement program is to use. Because the costs are hard to quantify at this time, it is difficult to estimate where this threshold might be. It could be that the program needs some trial and error to determine which if any are too costly to be practical.

III. CONSTRUCTION EXCISE TAX

A. DESCRIPTION

Construction excise tax (CET) is a one-time tax on construction projects that can be used to fund affordable housing projects and programs. This is one of the few options for generating dependable, locally controlled funding for affordable housing.

According to state statutes, the tax may be imposed on improvements to real property that result in a new structure or additional square footage in an existing structure. Cities and counties may levy a CET on residential construction for up to 1% of the permit value, or on commercial and industrial construction, with no cap on the rate of the CET.

The allowed uses for CET funding are defined by the state law. The City may retain 4% of the funds to cover administrative costs. If the City implements a residential CET, the funds remaining must be allocated as follows:

- 50% must be used for developer incentives (e.g., fee and SDC waivers or reductions, tax exemptions, financing, etc.)
- 35% may be used flexibly for affordable housing programs, as defined by the jurisdiction.
- 15% flows to Oregon Housing and Community Services (OHCS) for homeowner programs.

If the City implements a CET on commercial or industrial uses, 50% of the funds must be used for affordable housing programs as defined by the jurisdiction and the remaining funds (minus any administrative costs) are unrestricted.

B. HOW IT WORKS

Funds raised from a CET may be used to capitalize a new affordable housing fund or may be co-mingled with other funds available for the same purpose (e.g. CDBG funding). The statutory restrictions on how the funds are used make it inefficient to use CET funding to directly build affordable housing. Effective programs leverage these funds to facilitate the affordable housing projects of partners who are generally accessing greater funding from the state or other sources.

As the CET funding grows, it can allow for the City to offer a range of incentives to affordable housing developers without loss of revenue to the City. For instance, the fund can reimburse the City for system development charges that are waived on the development. Other potential uses are to help fund pre-development needs such as site studies and remediation. This can help fill gaps in project financing that can otherwise be challenging for affordable housing developers to fill.

Many Oregon cities have adopted a CET for affordable housing with a range of tax levels. These cities have now built a track record of collecting and using these funds, with minimal impacts to the rate of development activity. The record seems to indicate that in attractive development markets, the CET is not a deterrent.

Figure 3.1 shows the CET taxing level in a variety of Oregon cities. Some choose a CET at the maximum allowed 1% for residential construction, but many have adopted a lower levy. For commercial construction, where there is no limit to the rate of the CET, the highest adopted rate is 1.5% (Corvallis) with many choosing to limit it to 1%.

FIGURE 3.1: ADOPTED CET PROGRAMS, SAMPLE OREGON CITIES

	Residential	Commercial	Adoption
Bend	0.33%	0.33%	2006
Corvallis	1%	1.5%	2016
Eugene	0.5%	0.5%	2019
Grants Pass	0.5%	1%	2021
McMinnville	1%	1%	2022
Medford	0.33%	0.33%	2018
Milwaukie	1%	1%	2017
Newburg	1%	1%	2020
Newport	1%	1%	2017

Source: Cities, Johnson Economics LLC

Cities have some flexibility in defining what types of development will be assessed the CET. The CET may apply to either residential or commercial or both. Statute requires cities to exempt affordable housing projects for households earning up to 80% AMI. The City may also set a minimum permit value for qualified improvements. For instance, Grants Pass exempts permits under $50k in value, and Milwaukie exempts those under $100k in value. Cities can also exempt certain needed housing types such as multi-family.

It is important to set expectations of the planned uses of CET funding, both for program applicants, and for other agencies and partners who may see this as a possible new funding source for other uses. For applicants, it is important that the CET does not come be seen as a substitute for traditional funding sources of affordable housing such as tax credits or HUD programs. Also note that it may take a few years for the CET fund to grow to an effective size.

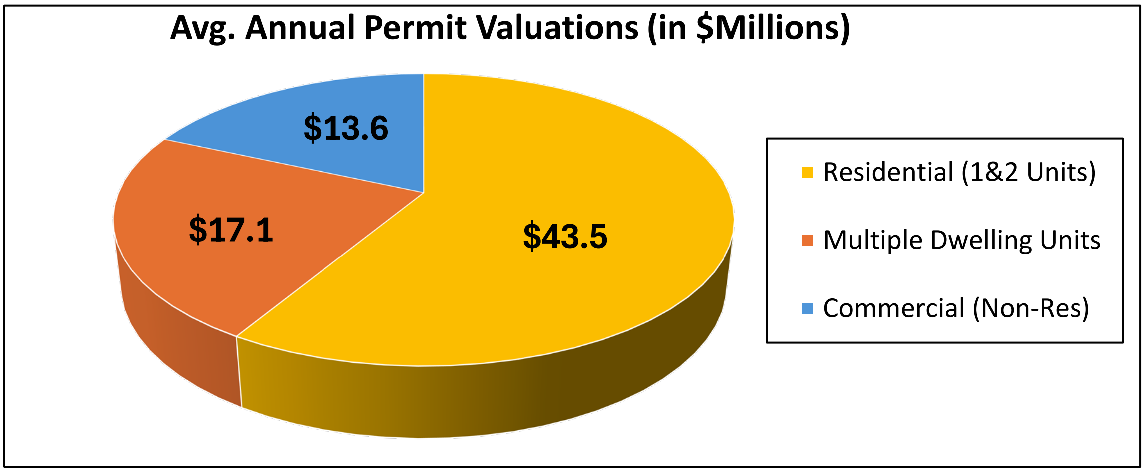
C. ESTIMATED CET REVENUE

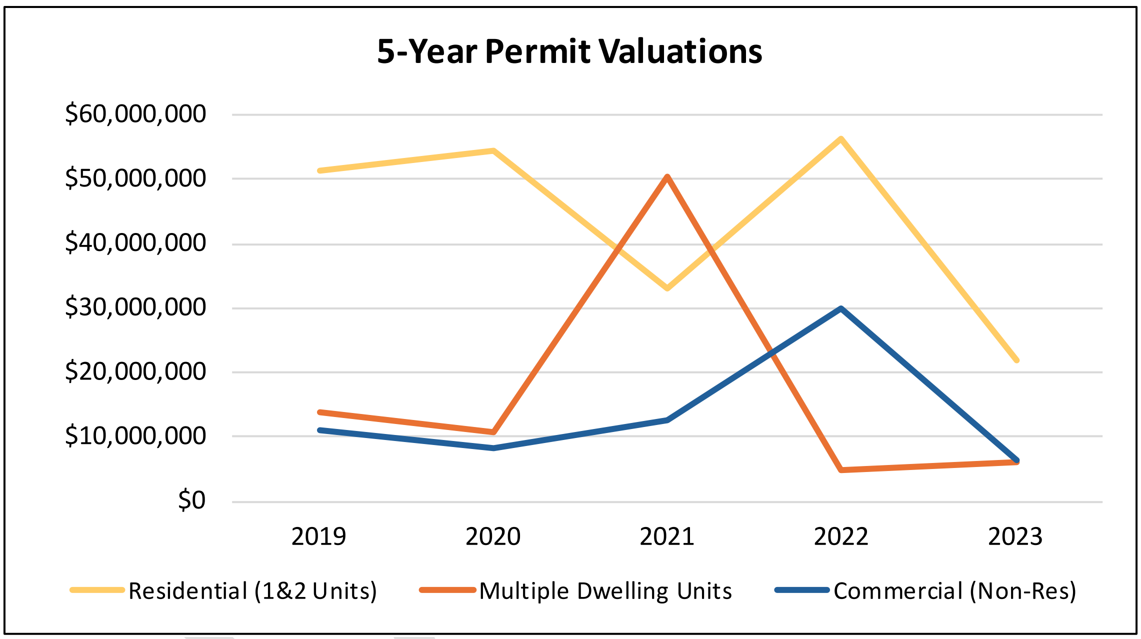
In order to assess the potential revenue generation from a CET in Albany, the value of permits for the prior five years was analyzed and used to estimate average annual permit values for residential and commercial development.

Based on how City permit data is broken out, the categories examined were Residential (1&2 units), Multiple Dwelling Residential (3+ units), and Commercial (non-residential). Figure 3.2 shows the five-year variation experienced in these categories, and the average annual valuation over the period.

Residential development experienced the largest average permit valuation, followed by multiple-dwelling unit housing development, and commercial development.

FIGURE 3.2: AVERAGE ANNUAL AND FIVE-YEAR PERMIT VALUATIONS, CITY OF ALBANY (2019 – 2023)





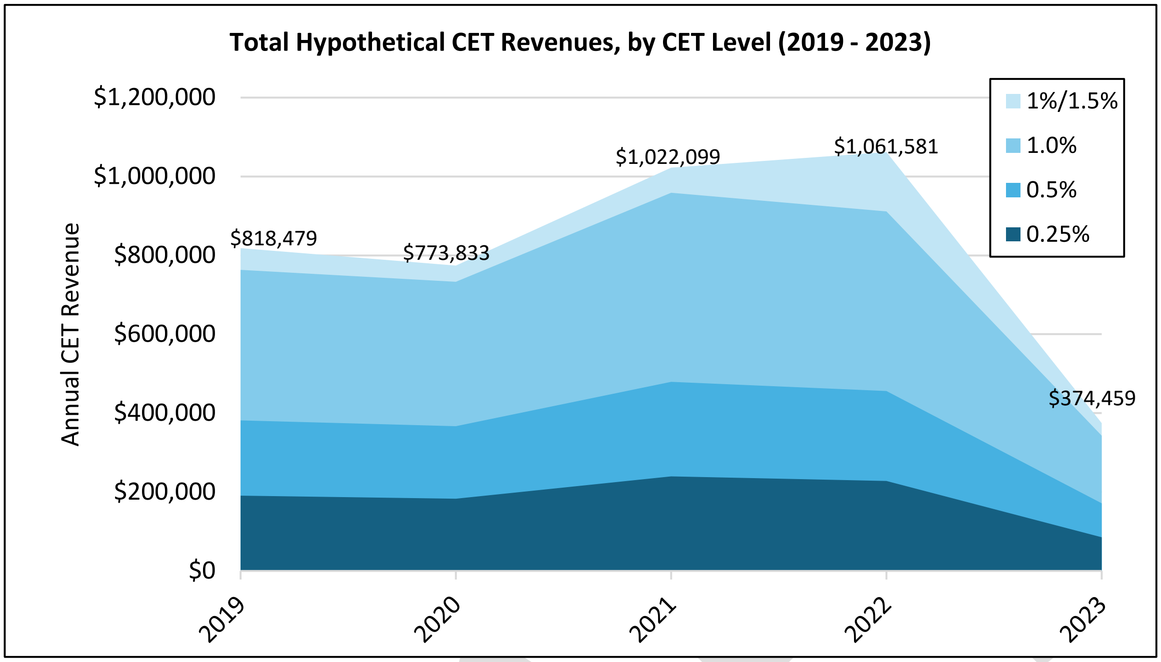
Source: City of Albany permits, Johnson Economics LLC

A range of potential CET levels were applied to these permit valuations to determine what the hypothetical revenue generation might have been if a CET had been in place. The following potential CET levels were tested:

- 0.25% Residential & Commercial
- 0.5% Res. & Comm.
- 1.0% Res. & Comm.
- 1.0% Res. & 1.5% Comm.

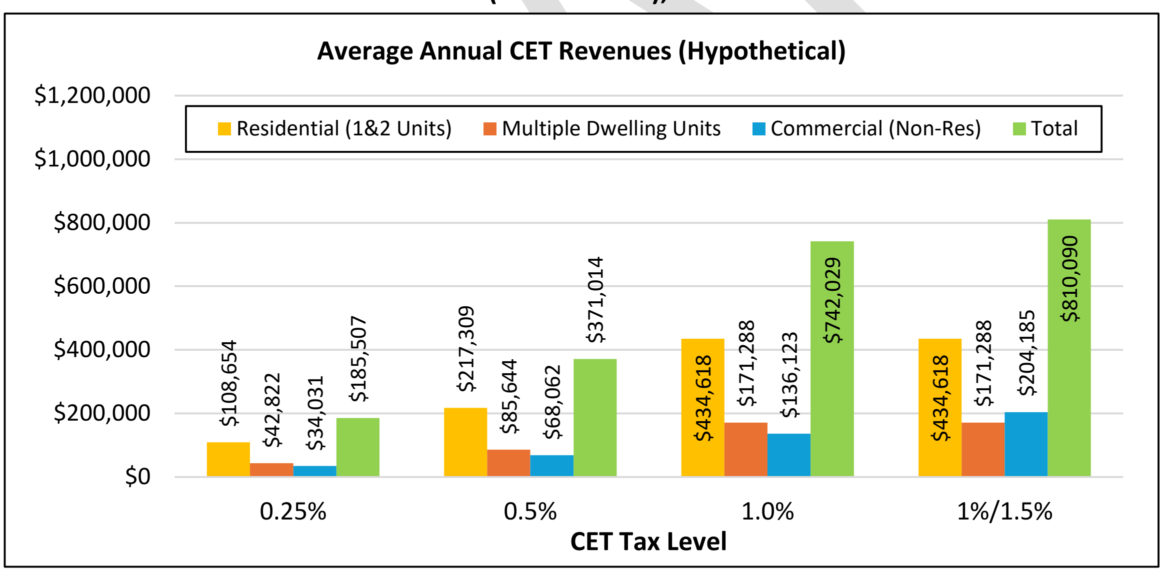
Figures 3.3 and 3.4 show the hypothetical CET revenue over the five-year period, and in the average year.

FIGURE 3.3: HYPOTHETICAL REVENUES OVER LAST FIVE YEARS, AT DIFFERING CET LEVELS



Source: City of Albany permits, Johnson Economics LLC

FIGURE 3.4: AVERAGE ANNUAL CET REVENUE (HYPOTHETICAL), AT DIFFERING CET LEVELS

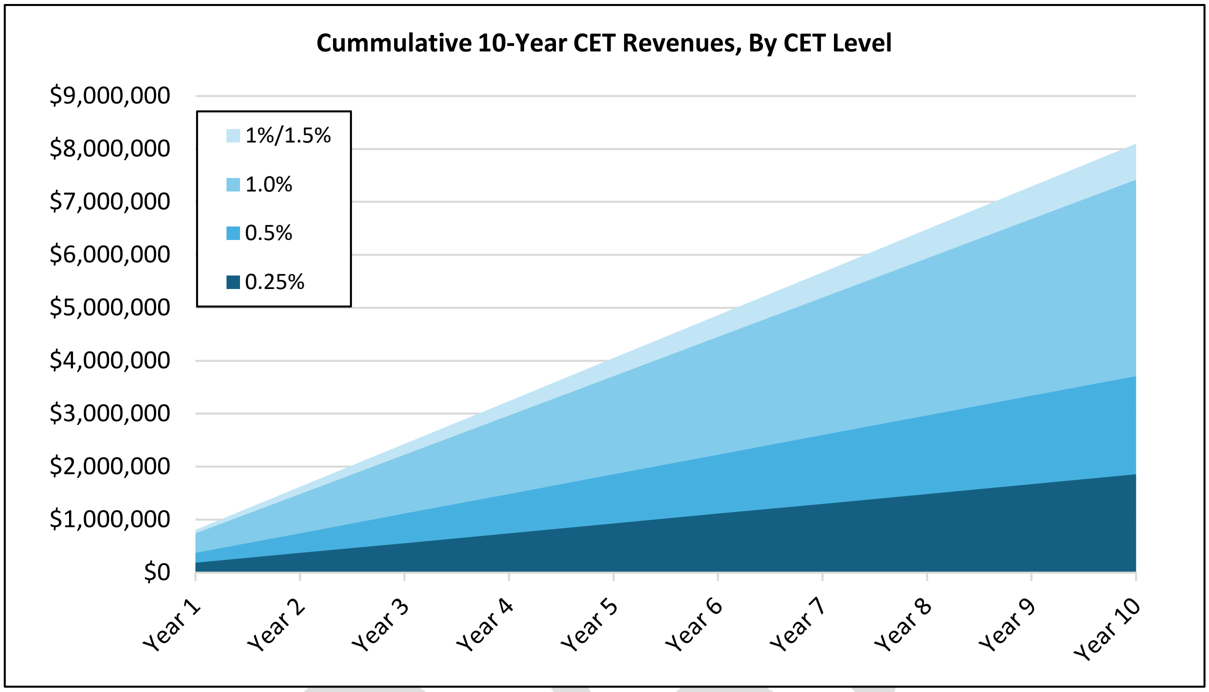


Source: City of Albany permits, Johnson Economics LLC

At 0.25%, the CET would generate under $200k in the average year, while at 1%, it could generate nearly $750k. (Note that during the prior HIP process these calculations were performed for a different five-year period between 2016 and 2021 and arrived at very similar estimates.) However, as Figure 3.3 illustrates, revenue can fluctuate significantly year to year. The CET program revenues and growth of the affordable housing fund will be subject to outside forces in the real estate market including general economic cycles and interest rates.

Figure 3.5 shows a projection of 10-year revenue generation at the different rates.

FIGURE 3.5: AVERAGE ANNUAL CET REVENUE (HYPOTHETICAL), AT DIFFERING CET LEVELS



Source: City of Albany permits, Johnson Economics LLC

D. CONSIDERATIONS

As one would expect, the revenue generation is directly proportional to the rate at which the CET is set. A higher CET level will generate greater revenue faster and provide more leverage to a city's affordable housing program.

The decision on where to set the CET is ultimately a policy choice. Pro forma modeling of the addition of a CET at 1% does not impact modeled development sufficiently to be a major deterrent, or to render feasible development forms infeasible. This seems to be the experience of other Oregon cities that have adopted CET programs, and none were identified that have revoked their CET after adoption. As more cities have adopted a CET, developers also become more familiar with this tax.

As noted, these funds should be used to leverage greater funding that an experienced affordable housing developer brings to the table from state and federal sources. The local incentives act as one component of the stack of financing and incentives that make the project viable, allow for placing additional public performance requirements on the project, and demonstrate local support that helps with applications for other funding. It also advertises Albany as a community that is supportive of partnering in affordable housing development.

E. CET Case Studies

The following are a limited number of examples of CET being used to help facilitate affordable housing production. These cases are from Corvallis, one of the early adopters of the CET that now have sufficient experience to have built up their CET fund and learned lessons on how most effectively to use it. Corvallis reports that it took roughly 3 years for CET funding to build to an effective level. The City generally uses these funds to leverage even greater funds from other sources such as the state. The investment at the local level becomes proof of local support that improves the recipient's odds of securing other funding.

Rivergreen Landing Apartments
3350 SE Midvale Dr. Corvallis, Oregon

Builder/Owner: Green Light/Home First LLC; greenlighthousing.com

Description: Located in the Willamette Landing Neighborhood of South Corvallis, The Rivergreen Landing Apartments is a 60-unit development that will have a mix of 1, 2 and 3-bedroom family units affordable to serve renters earning at or below 60% of Area Median Income (AMI). 5.5 acre site.

Project Cost: $22.6 million; $6.82 million in permanent loan by developer.

Incentives: City of Corvallis CET funds of $400k helped to leverage $6.4 million in state Local Innovation Fast Track (LIFT) funds, $6 million in Low Income Housing Tax Credits-4% (LIHTC).

The Why: Benton County is projected to need an additional 4,590 affordable housing units, many of which are needed in Corvallis. The development is strengthened by significant community support and input from a diverse group of partners and stakeholders including the City of Corvallis, Casa Latinos Unidos, NAACP, Corvallis School District, League of Women Voters, and Boys & Girls Club, and Linn Benton Housing Authority. What results is thoughtful design input, tenant referral, and culturally specific resident services from experienced local community organizations that ultimately benefit future residents.

Union at Pacific
150 SW Wake Robin Ave, Corvallis, Oregon

Builder/Owner: The Annex Group®, a leading workforce, affordable and student housing developer from Indianapolis, IN.

Description: The Annex Group plans to develop a new affordable housing community in Corvallis, Oregon. Union at Pacific Highway will offer 174 one, two, and three-bedroom unit options available to households whose income level is at or below 60 percent of the area median income (AMI). The three-story community will be on 7 acres.

Project Cost: $56 million; with $24 million in permanent loan by developer.

Incentives: City of Corvallis CET funds of $500k helped to leverage $6 million in Oregon Soft Funds, $15.5m in Low Income Housing Tax Credits-4%, (LIHTC).

Partners on the project include: Oregon Housing and Community Services, the City of Corvallis, the Linn-Benton Housing Authority, Avenue5 Residential for property management, Structure Development Advisors as the LIHTC consultant, KTGY for architecture, and DEVCO Engineering, Inc. for civil engineering. Piper Sandler placed the tax-exempt bonds and NDC provided over $19 million in tax credit equity.

3rd Street Commons
1480 SW 3rd Street, Corvallis, Oregon

Owner/Developer: Corvallis Housing First

Description: 47 units of Permanent Supportive Housing located on a 1.33 acres site owned by CHF south of downtown Corvallis and Oregon State University. Development to include: 6 studio bedroom units (310-315 sq ft) and 41 one-bedroom units (550 sq ft), a community space and offices for partner services. This site, originally known as the Budget Inn, was purchased through the Project Turnkey program, funded by the Oregon Community Foundation and the State of Oregon to address the need for non-congregate shelter spaces for people experiencing homelessness during the pandemic. Since opening in 2021, the site has been operated by Unity Shelter, who have served over a hundred people, with a focus on serving people of color, LGBTQ+, and those with significant vulnerability due to physical or mental health conditions or substance use disorders. The current buildings will be demolished making way for the new project, with construction starting in late 2024.

Project Cost: $22 million

Financial Incentives: City of Corvallis CET funds of only $45k helped to leverage $5 million in direct appropriations from the state, and $3m from the Federal government, funds are pending from Oregon Housing and Community Services, and Corvallis HOME.

Partners: City of Corvallis, Community Health Clinics of Linn and Benton Counties, NAACP, CSC, Samaritan, Benton County, Corvallis Daytime Drop-In Cener, Casa Latinos Unidos, Project Help.

Affordable Housing Construction Excise Tax Statutes

ORS 320.192 City or county ordinance or resolution to impose tax

- **requirements**
- **payment of taxes**

(1) The governing body of a city or county may impose a construction tax by adoption of an ordinance or resolution that conforms to the requirements of this section and ORS 320.195 (Deposit of revenues).

(2)(a) A tax may be imposed on improvements to residential real property that result in a new residential structure or additional square footage in an existing residential structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate of the tax. The tax may not exceed one percent of the permit valuation for residential construction permits issued by the city or county either directly or through the Building Codes Division of the Department of Consumer and Business Services.

(3)(a) A tax may be imposed on improvements to commercial and industrial real property, including the commercial and industrial portions of mixed-use property, that result in a new structure or additional square footage in an existing structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate and base of the tax.

(4) Taxes imposed pursuant to this section shall be paid at the time specified in ORS 320.189 (Payment of taxes) to the city or county that imposed the tax.

(5)(a) This section and ORS 320.195 (Deposit of revenues) do not apply to a tax described in ORS 320.171 (Restriction on construction tax imposed by local government, local service district or special government body) (2).

(b) Conformity of a tax imposed pursuant to this section by a city or county to the requirements of this section and ORS 320.195 (Deposit of revenues) shall be determined without regard to any tax described in ORS 320.171 (Restriction on construction tax imposed by local government, local service district or special government body) (2) that is imposed by the city or county. [2016 c.59 §8]

> **ORS 320.189 Payment of Taxes**
> Construction taxes must be paid by the person undertaking the construction at the time that a permit authorizing the construction, or the expansion of square footage of a facility or building is issued. [2007 c.829 §8; 2009 c.534 §5]

ORS 320.195 Deposit of Revenues: Required Uses

(1) As soon as practicable after the end of each fiscal quarter, a city or county that imposes a construction tax pursuant to ORS 320.192 shall deposit the construction tax revenues collected in the fiscal quarter just ended in the general fund of the city or county.

(2) Of the revenues deposited pursuant to subsection (1) of this section, the city or county may retain an amount not to exceed four percent as an administrative fee to recoup the expenses of the city or county incurred in complying with this section.

(3) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use the remaining revenues received under ORS 320.192 (2) as follows:

(a) Fifty percent to fund developer incentives allowed or offered pursuant to ORS 197A.465 (5)(c) and (d) and (7);

(b) Fifteen percent to be distributed to the Housing and Community Services Department to fund home ownership programs that provide down payment assistance; and

> These funds are allocated to home buyer programs offered in the city.

(c) Thirty-five percent for programs and incentives of the city or county related to affordable housing as defined by the city or county, respectively, for purposes of this section and ORS 320.192

(4) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use 50 percent of the remaining revenues received ORS 320.192 (3) to fund programs of the city or county related to housing. [2016 c.59 §9]

ORS 197A.465 Local Requirements to develop affordable housing (Inclusionary zoning)

(1) As used in this section:

(a) "Affordable housing" means housing that is affordable to households with incomes equal to or higher than 80 percent of the median family income for the county in which the housing is built.

(b) "Multifamily structure" means a structure that contains three or more housing units sharing at least one wall, floor or ceiling surface in common with another unit within the same structure.

(2) N/A.

(3) N/A.

(4) N/A.

(5) A regulation, provision or requirement adopted or imposed under subsection (4) of this section:

(a) May not require more than 20 percent of housing units within a multifamily structure to be sold or rented as affordable housing.

(b) May apply only to multifamily structures containing at least 20 housing units.

(c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city or county, in exchange for providing the requisite number of housing units within the multifamily structure to be sold or rented at below-market rates.

(d) Must require the city or county to offer a developer of multifamily structures, other than a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one of the following incentives:

(A) Whole or partial fee waivers or reductions.

(B) Whole or partial waivers of system development charges or impact fees set by the city or county.

(C) Finance-based incentives.

(D) Full or partial exemption from ad valorem property taxes on the terms described in this subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem property taxes that uses a definition of "low income" to mean income at or below 60 percent of the area median income and for which the multifamily structure is otherwise eligible, the city or county shall allow the multifamily structure of the developer to qualify using a definition of "low income" to mean income at or below 80 percent of the area median income.

(e) N/A

(6) N/A

(7) Subsection (4) of this section does not restrict the authority of a city or county to offer developers voluntary incentives, including incentives to:

(a) Increase the number of affordable housing units in a development.

(b) Decrease the sale or rental price of affordable housing units in a development.

(c) Build affordable housing units that are affordable to households with incomes equal to or lower than 80 percent of the median family income for the county in which the housing is built.

(8) – (10) N/A.

ORS 320.173 Exemptions

Construction taxes may not be imposed on the following:

(1) Private school improvements.

(2) Public improvements as defined in ORS 279A.010 (Definitions for Public Contracting Code).

(3) Residential housing that is guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income for the area in which the construction tax is imposed, for a period of at least 60 years following the date of construction of the residential housing.

(4) Public or private hospital improvements.

(5) Improvements to religious facilities primarily used for worship or education associated with worship.

(6) Agricultural buildings, as defined in ORS 455.315 (Exemption of agricultural buildings, agricultural grading, equine facilities and dog training facilities) (2)(a).

(7) Facilities that are operated by a not-for-profit corporation and that are:

(a) Long term care facilities, as defined in ORS 442.015 (Definitions);

(b) Residential care facilities, as defined in ORS 443.400 (Definitions for ORS 443.400 to 443.455); or

(c) Continuing care retirement communities, as defined in ORS 101.020 (Definitions).

(8) Residential housing being constructed on a lot or parcel of land to replace residential housing on the lot or parcel of land that was destroyed or damaged by wildfire or another event or circumstance that is the basis for a state of emergency declared under ORS 401.165 (Declaration of state of emergency) or 401.309 (Declaration of state of emergency by city or county) or for the exercise of authority under ORS 476.510 (Short title) to 476.610 (Payment of claims). [2007 c.829 §3; 2009 c.534 §2; 2021 c.361 §1] Note: Section 2, chapter 361, Oregon Laws 2021, provides: Sec. 2. The amendments to ORS 320.173 (Exemptions) by section 1 of this 2021 Act apply to residential housing damaged or destroyed on or after January 1, 2020. [2021 c.361 §2]

MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager PT 8/1

FROM: Matthew Ruettgers, Community Development Director MR
Sophie Adams, Economic Development Manager SA
Staci Belcastro, City Engineer SB

DATE: July 23, 2024, for the August 5, 2024, City Council Work Session

SUBJECT: Pacific Power Conversion Agreement

Relates to Strategic Plan theme: Great Neighborhoods, Healthy Economy

Action Requested:

Approve, via motion, attached Conversion Agreement between Pacific Power and City of Albany.

Discussion:

The attached Conversion Agreement was prepared by Pacific Power to address the conversion of overhead power lines and associated equipment to underground along Water Avenue between Washington and Ellsworth Streets (see attached map). This work was initiated as part of the Albany Waterfront Project.

As with any development occurring within the City, the Albany Development Code (ADC) 12.390 requires that all utility lines, cables, or wires constructed upon, adjacent to, or within land subdivided or prepared for development must be placed underground. Placing franchise utilities underground keeps above ground pedestals, transformers, and wires outside the pedestrian zone and results in a safer and more accessible sidewalk.

During the design development of the Water Avenue Corridor, it was determined that undergrounding franchise utilities would be necessary within the Plaza Street section to construct an accessible, pedestrian and event-centric street consistent with the design goals of the Waterfront Project. Key economic development benefits also result; critically, this removes major barriers to the development of private property south of Water Avenue.

Pacific Corp's franchise agreement incorporated in Chapter 3.04 of the Albany Municipal Code states that the expense of underground conversion shall be paid by the grantee, Pacific Corp, but that the grantee may recover some or all its costs from customers. The attached agreement complies with the terms outlined in Pacific Corp's franchise agreement.

Budget Impact:

As a Pacific Power customer itself, the City will incur costs commensurate to other rate payers across the city as determined by Pacific Power.

SA:SB:MR:km

Attachment (1): Conversion Agreement

c: Chris Bailey, Public Works Director

CONVERSION AGREEMENT

THIS CONVERSION AGREEMENT (this "Agreement") is entered into by and between the CITY OF ALBANY, OREGON, an Oregon municipal corporation (the "City"), and PACIFICORP dba Pacific Power, an Oregon corporation ("PacifiCorp") (each individually referred to herein as a "Party" and collectively referred to herein as the "Parties").

RECITALS

A. The City is a municipal corporation organized under the laws of the State of Oregon and located in Linn and Benton Counties, Oregon.

B. PacifiCorp is an investor-owned public utility company providing electric utility service to customers residing within the municipal boundaries of the City.

C. PacifiCorp owns, operates, and maintains overhead electric distribution facilities within the City along public rights of way pursuant to a non-exclusive franchise granted by the City.

D. As part of an urban renewal project, the City's development code Article 12.390 requires that PacifiCorp convert PacifiCorp's existing overhead lines on NE Water Avenue between SW Washington and SW Ellsworth St in the City to underground facilities, as more particularly described in Exhibit A to this Agreement (the "Conversion").

E. The Parties recognize that the Conversion represents a forced conversion governed by Oregon Administrative Rule 860-022-046, PacifiCorp's Oregon Tariff Rule 13.VI.C, and as required in the PacifCorp's franchise agreement codified in Albany Municipal Code 3.04 (referred to herein collectively as the "Applicable Regulations").

F. Subject to approval by the Public Utility Commission of Oregon (the "Commission"), the Parties enter into this Agreement as provided for in the franchise agreement, which allows PacifiCorp the option to recover its Conversion Costs (as defined below) from ratepayers located within the City pursuant to the terms of this Agreement and the Applicable Regulations.

AGREEMENT

NOW THEREFORE, the City and PacifiCorp agree as follows:

1. Forced Conversion. The Conversion is a forced conversion as set forth in the Applicable Regulations.

2. Conversion Costs. In accordance with the Applicable Regulations, PacifiCorp may recover the difference in cost between constructing the new underground facilities per the Conversion and retaining the existing overhead facilities (the "Conversion Costs"). The Conversion Costs shall include, to the extent applicable, the cost of road crossings, raceways, ducts, vaults, transformer pads, other devices peculiar to underground service, plus the original cost, less depreciation, less salvage value, plus removal costs of the exhibit overhead facilities no longer used or useful by reason of the Conversion.

3. Estimated Conversion Costs. The Conversion Costs are estimated to be TWO MILLION THREE-HUNDRED-SEVENTY-NINE-THOUSAND FOUR-HUNDRED-SIXTY-EIGHT DOLLARS ($2,379,468) (the "Estimated Conversion Costs") as more particularly described in Exhibit B, attached hereto and incorporated herein.

4. Actual Conversion Costs. PacifiCorp shall accumulate all Conversion Costs actually incurred by PacifiCorp in a separate account in PacifiCorp's books (the "Actual Conversion Costs").

5. Interest. The Actual Conversion Costs shall accrue interest as of the date incurred. The rate of interest shall be equal to 5.1% (the "Interest Rate"), which is equal to the effective cost of the most recent senior security issue by PacifiCorp.

6. Recovery from Ratepayers. Under the provisions of PacifiCorp's franchise agreement, PacificCorp has elected to recover its Actual Conversion Costs from all ratepayers within the City of Albany (the "City Ratepayers").

7. Terms of Recovery.

a. Pay-Back Period. The Actual Conversion Costs, plus interest, shall be collected from City Ratepayers within a two-year period (the "Pay-Back Period"). The Parties hereby agree and acknowledge that the Pay-Back Period is a reasonable period for recovery of the Actual Conversion Costs, plus interest, by PacifiCorp.

b. Commencement. The Pay-Back Period shall commence in calendar year 2024, subject to Commission approval.

c. Ratepayer Exaction. The Actual Conversion Costs plus accrued interest shall be collected by PacifiCorp from each Ratepayer during the Pay-Back Period in the form of a municipal exaction. The municipal exaction shall be a uniform percentage of each Ratepayer's monthly service bill shown as a separate item. The exact percentage of the exaction shall be determined once the Actual Conversion Costs have been established.

8. Commission Approval. Upon establishment of the Actual Conversion Costs, PacifiCorp shall file a modified version of PacifiCorp's existing Oregon Tariff Schedule 101 for approval with the Commission. The modified version of Schedule 101 shall set forth the municipal exaction described in Section 7.c for the City of Albany and the Payback Period. The City hereby agrees to support any request by PacifiCorp for Commission approval of such a modification to Oregon Tariff Schedule 101.

9. Trenching. The City shall provide and be responsible for all trenching, excavating and backfill required for the Conversion in accordance with PacifiCorp's standards at the City's sole cost.

10. Rights of Way. The City shall secure and record all right of way easements necessary to provide for the construction, installation, operation and maintenance of the Conversion. The cost of any such rights of way shall be included in the Conversion Costs, and such rights of way shall be granted on PacifiCorp-provided standard forms, subject to revisions acceptable to PacifiCorp.

11. Term. This Agreement shall be effective upon the date this Agreement is fully executed by both Parties and shall remain in effect until the end of the Pay-back Period approved by the Commission.

12. Notices. All notices except as otherwise provided in this Conversion Agreement shall be in writing, shall be addressed to the recipient designed below or otherwise as provided herein and shall be considered delivered if delivered in person or when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested.

If to City:	City of Albany Attn: City Engineer, Staci Belcastro 333 Broadalbin Street SW Albany, OR 97321 Phone: (541) 917-7645
If to PacifiCorp:	PacifiCorp Attn: Director, Pricing and Tariff Policy 825 NE Multnomah St, Suite 2000 Portland, OR 97232 Phone: (503) 813-5017

A Party may change its designated recipient for notices from time to time by sending a notice to the other Party in the manner specified by this Section 12.

13. No Relationship Between Parties. Nothing herein shall be construed to create an agency relationship, association, joint venture, trust, or partnership, or impose a trust or partnership covenant, obligation, or liability on or between PacifiCorp and City. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement.

14. Severability. If any provision of this Conversion Agreement is held invalid or unenforceable for any reason by a court or governmental agency of competent jurisdiction, then the objectionable portions of the provision shall be stricken, and all other provisions of Agreement shall remain unaffected and in force.

15. Attorneys' Fees. If a suit, action, or other proceeding of any nature whatsoever (including without limitation any administrative proceeding and any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney fees and all other fees, costs, and expenses actually incurred in connection therewith, at any hearing, at trial, on any appeal or any petition for review, in addition to all other amounts provided by law. Any litigation involving the terms of this Agreement shall be held in the circuit court in and for Linn County, Oregon.

16. Authorization. Each of the persons signing below represents and warrants that they have the authority to execute this Agreement on behalf of their respective entity and to bind such entity to the terms and conditions contained herein.

IN WITNESS WHEREOF, the Parties executed this Agreement as of the dates set forth below.

THE CITY OF ALBANY, OREGON	**PACIFICORP**
By:___________________________	By:___________________________
Name:_________________________	Name: _________________________
Title:__________________________	Title:__________________________
Date:__________________________	Date: _________________________

Exhibit A

Description/Drawings of Conversion Work

[Separate file.]

Exhibit B

Estimated Conversion Costs

DESCRIPTION:

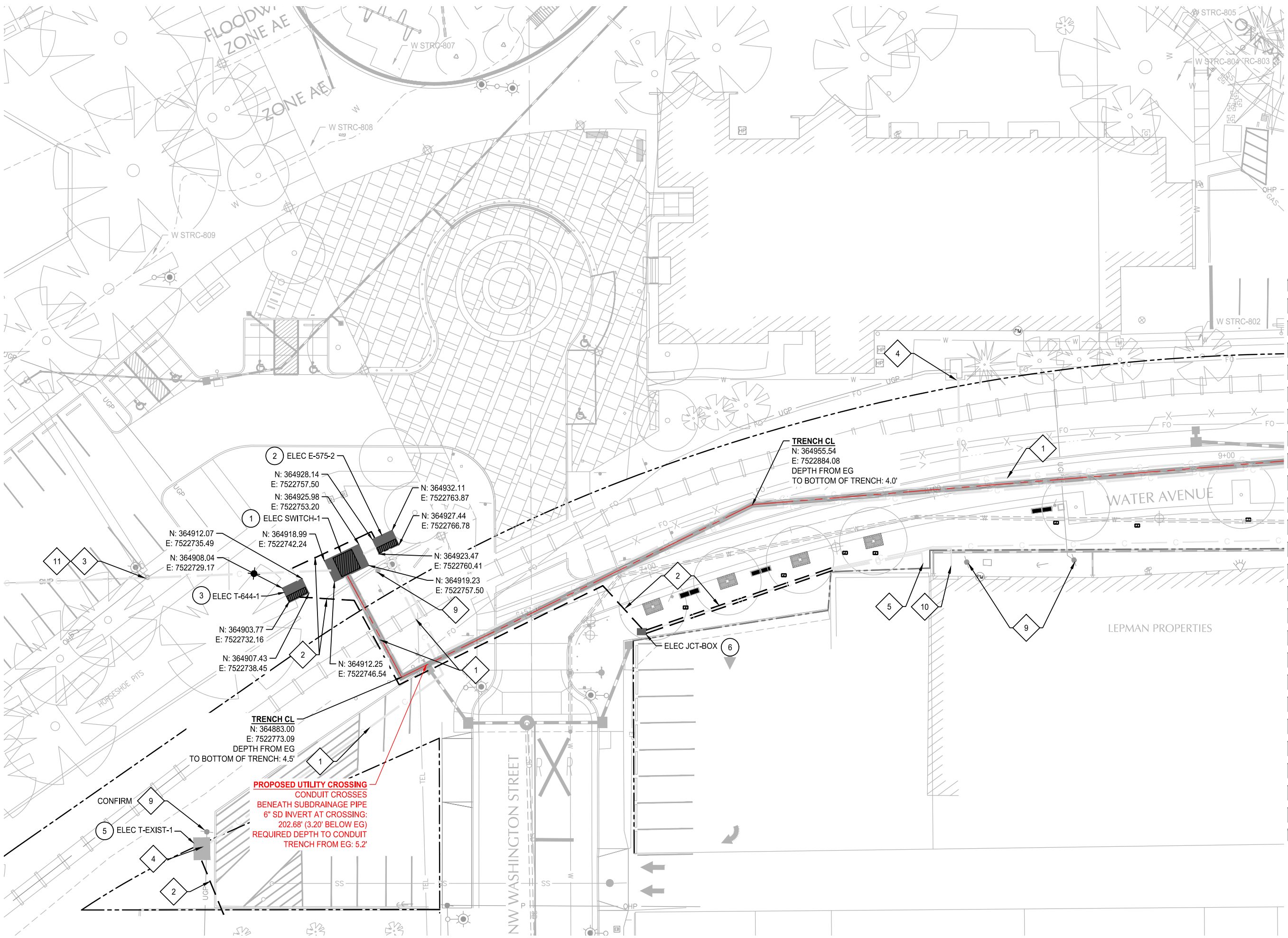
REMOVE:
1300' OF 3#2/0-CU,N#4/0 PRIMARY OH CONDUCTOR.
12 40-65' 3PHS PRIMARY POLES
125' OF #1/0-AL PRIMARY UG CABLE
INSTALL:
1600' OF (3)#1000-AL PRIMARY UG CABLE
1900' OF (3)#4/0-AL PRIMARY UG CABLE
1000' OF (3)#1/0-AL PRIMARY UG CABLE
1800' OF (1)#1/0-AL PRIMARY UG CABLE
640' OF #350-TX UG CABLE
660' OF #4-DX OH SVC
(2) PME CABINETS
(5) 3-PHS SECTIONALIZING CABINETS
(3) 600A SVC DISCONNECTS WITH 6" PRIMARY RISERS
(2) PULL VAULT ASSY
INSTALL:
(3) 50' 3PHS DEADEND POLES
(1) 65' 3PHS DEADEND POLE
(3) 35' SECONDARY POLES

PURPOSE AND NECESSITY:

CITY OF ALBANY IS REQUESTING EXISTING OVERHEAD FACILITIES TO BE LOCATED UNDERGROUND. THIS REQUIRES REMOVING 1300' OF 3-PHASE OVERHEAD FACILITIES AND REPLACING IT WITH APPROPRIATE UNDERGROUND EQUIPMENT. CITY IS CHOSING TO HAVE PACIFIC POWER PERFORM CIVIL AND ELECTRICAL WORK. FINALIZED BILLINGS ON ACTUALS WILL BE PAID.

TOTAL JOB COST___________________$2,569,420
GENERAL EXCLUSIONS PER TARIFF____$__185,953
BALANCE TO CUSTOMER______________$2,379,468
-

GENERAL EXCLUSIONS PER RULE 13 PP PAYS FOR CABLE,XFMRS, SECONDARY SERVICE, AND METERS.



SHEET NOTES

1. LOCATIONS OF EASEMENTS, CONDUIT AND VAULTS FOR SERVICE LATERALS SERVING PRIVATES LOTS TO BE COORDINATED WITH PROPERTY OWNER.
2. EASEMENTS, CONDUITS AND VAULTS FOR PUBLIC UTILITY DISTRIBUTION TO BE LOCATED IN PUBLIC RIGHT-OF-WAY.
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4. VAULTS PLACED IN PEDESTRIAN SIDEWALKS TO MATCH CROSS SLOPE AND MEET ADA REQUIREMENTS.
5. UTILITIES TO COMPLY WITH ALBANY CITY CODE FOR UNDERGROUND UTILITIES.
6. CONDUIT AND PIPES TO HAVE SEPARATION REQUIRED BY FRANCHISE UTILITIES.
7. REFERENCE FINAL PACIFIC POWER DISTRIBUTION PLAN.

(X) KEY NOTES

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6	JUNCTION BOX
7	COMCAST VAULT - 17" X 30" VAULT U.N.O.

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- ELECTRICAL CONDUIT - 6"
- FRANCHISE UTILITY CONDUIT
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- TRENCH CENTERLINE & ASSUMED WIDTH
- COMCAST LINE

SCALE 1 INCH = 20 FEET
20 0 20 40

CITY OF ALBANY OREGON

DESCRIPTION	DATE	REVISION

DESIGNED BY CK/WM/TK
DRAWN BY JRC/KY
CHECKED BY FM/MK/CV
DATE APPD.

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800 Willamette Street, Suite 400
Eugene, OR 97401
O: 541.684.4902
F: 541.684.4909
www.kpff.com

WALKER | MACY
111 SW OAK, SUITE 200
PORTLAND, OR 97204
503-228-3122

IFC SET - 05/12/2023

REGISTERED PROFESSIONAL ENGINEER OREGON MATTHEW M. KEENAN
PRELIMINARY NOT FOR CONSTRUCTION
EXPIRATION DATE: 06/30/25

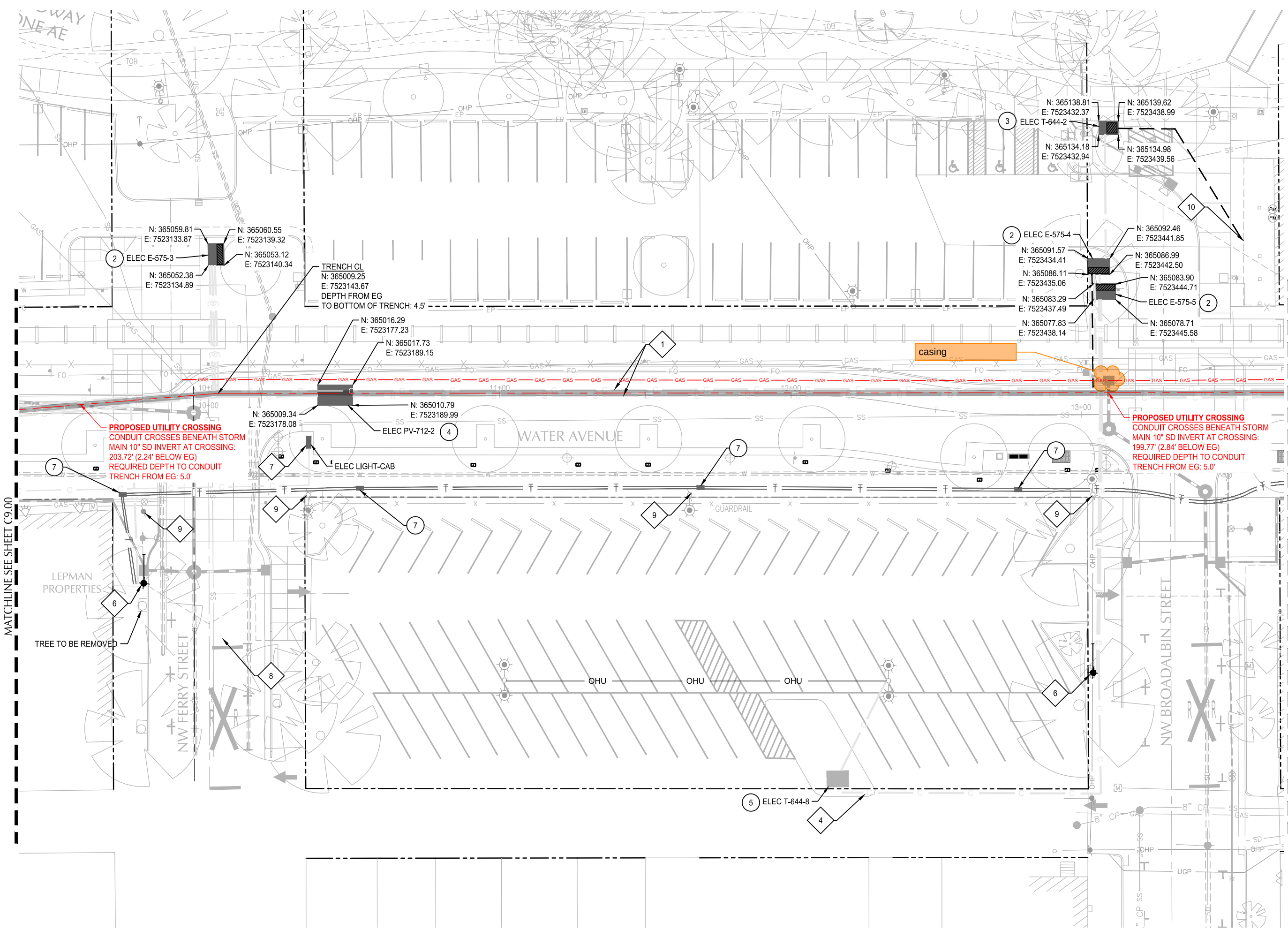
ALBANY WATERFRONT PROJECT
WATER AVE ROW IMPROVEMENTS - IFC SET
FRANCHISE UTILITY PLAN
STA 6+57 TO STA 14+50

SHEET NO.
C9.00

File: D:\CAD-TEMP\AcPublish_13368\0193-09-FRANCHISE-UTIL-GMP2.dwg TAB:C9.00
Plotted: 3/26/24 at 10:29am By: MBruno

CITY OF ALBANY PROJECT ST-22-08

Exhibit A



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	TRENCH CENTERLINE & ASSUMED WIDTH
T	COMCAST LINE

SCALE 1 INCH = 20 FEET
20 0 20 40

CITY OF ALBANY OREGON Inc. 1864

REVISION | DATE | DESCRIPTION

DESIGNED BY CK/WM/TK
DRAWN BY JRC/KY
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OREGON
MATTHEW M. KEENAN
PRELIMINARY NOT FOR CONSTRUCTION
EXPIRATION DATE: 06/30/25

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WATER AVE ROW IMPROVEMENTS - IFC SET
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STA 6+57 TO STA 14+50

SHEET NO.
C9.01

CITY OF ALBANY PROJECT ST-22-08

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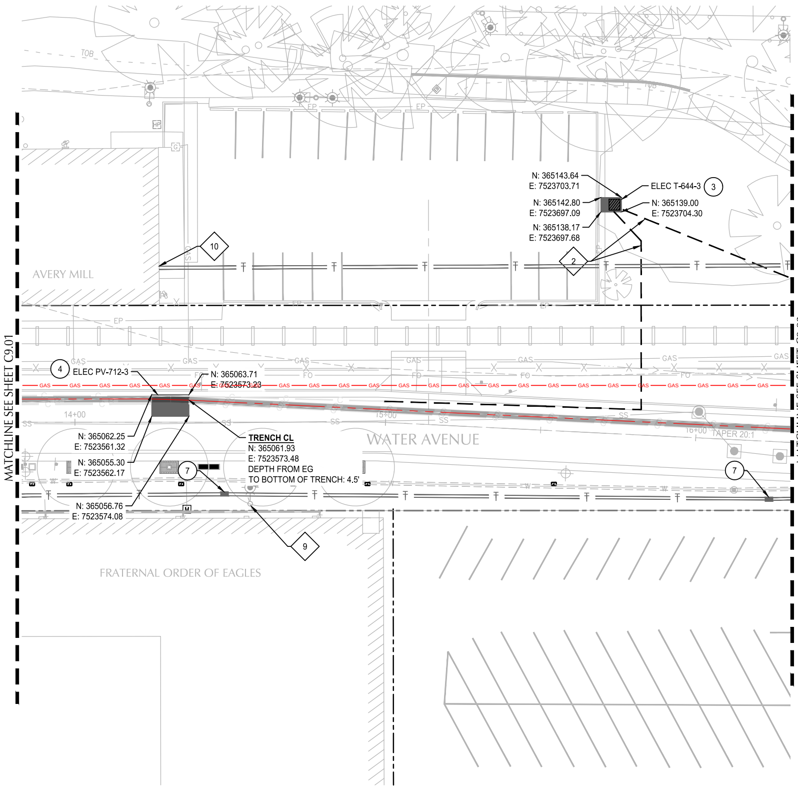

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SHEET NO.
C9.02

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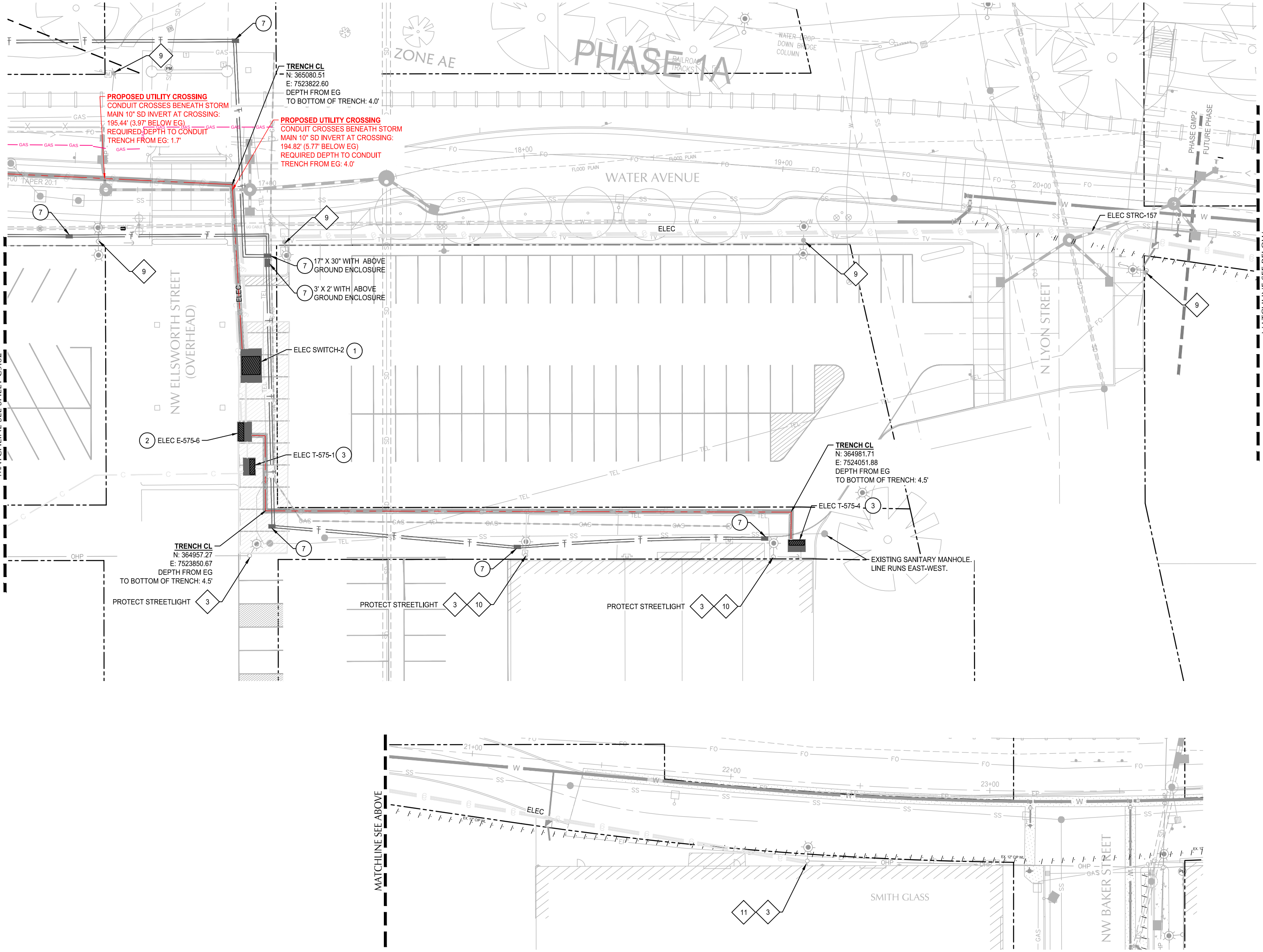
CITY OF ALBANY PROJECT ST-22-08



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SHEET NO.
C9.03

CITY OF ALBANY PROJECT ST-22-08

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Plotted: 3/26/24 at 10:30am By: MBruno

LOC Legislative Agenda Issues - 2024

Councilor Name: ______________________________

Instructions: Each councilor has 15 points to distribute among the issues. Please use your 15 points to designate issues you'd like LOC to advocate for in the next two-year legislative cycle. You've been allotted 15 points so that you can weight the issues most important to you (i.e. 7, 4, 2, 1, 1, or any other combination).

July 31 due date: Please email your completed ballot sheet to mary.dibble@albanyoregon.gov no later than **Wednesday, July 31**. We will discuss the results of your selections at the Monday, August 5, work session.

Please use your 15 points to designate your top issues.

	Infrastructure Funding (Co-Sponsored by Water and Wastewater Committee)	**Community and Economic Development Committee**
	Shelter and Homeless Response	
	Employment Lands Readiness And Availability	
	Full Funding And Alignment For Housing Production	
	Restoration of Recreational Immunity	**General Government Committee**
	Behavioral Health Enhancements	
	Continued Addiction Policy Reform	
	Building Decarbonization, Efficiency, and Modernization	**Energy and Environment Committee**
	Investment in Community Climate Planning Resources	
	Address Energy Affordability Challenges from Rising Utility Costs	
	Lodging Tax Flexibility	**Finance and Taxation Committee**
	Marijuana Tax	
	Alcohol Tax	
	Digital Equity and Inclusion	**Broadband, Cybersecurity, Artificial Intelligence (AI), and Telecommunications Committee**
	Cybersecurity & Privacy	
	Resilient, Futureproof Broadband Infrastructure and Planning Investment	
	Artificial Intelligence (AI)	
	2025 Transportation Package	**Transportation Committee**
	Funding and Expanding Public and Inter-Community Transit	
	Shift from a Gas Tax to a Road User Fee	
	Community Safety and Neighborhood Livability	
	Infrastructure Funding (Co-Sponsored by Community and Economic Development Committee)	**Water and Wastewater Committee**
	Place-Based Planning	
	Operator-in-Training Apprenticeships	
	TOTAL	

Max total: 15 points

League of Oregon Cities

2024 LOC Member Voter Guide

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- Infrastructure Funding (Co-Sponsored by Water and Wastewater Committee) 4
- Shelter and Homeless Response 5
- Employment Lands Readiness And Availability 5
- Full Funding And Alignment For Housing Production 6

General Government Committee 6
- Restoration of Recreational Immunity 6
- Behavioral Health Enhancements 7
- Continued Addiction Policy Reform 7

Energy and Environment Committee 8
- Building Decarbonization, Efficiency, and Modernization 8
- Investment in Community Resiliency and Climate Planning Resources 8
- Address Energy Affordability Challenges from Rising Utility Costs 9

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- Lodging Tax Flexibility 10
- Marijuana Tax 10
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- Cybersecurity & Privacy 12
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- 2025 Transportation Package 15
- Funding and Expanding Public and Inter-Community Transit 16
- Shift from a Gas Tax to a Road User Fee 16
- Community Safety and Neighborhood Livability 16

Water and Wastewater Committee 17
- Infrastructure Funding (Co-Sponsored by Community and Economic Development Committee) 17
- Place-Based Planning 18
- Operator-in-Training Apprenticeships 18

2024 Member Voter Guide

Background: Each even-numbered year, the LOC appoints members to serve on seven policy committees, which are the foundation of the League's policy development process. Composed of city officials, these committees analyze policy and technical issues and recommend positions and strategies for the upcoming two-year legislative cycle. This year, seven committees identified 23 legislative policy priorities to advance to the full membership and LOC Board of Directors. It's important to understand that the issues that ultimately do not rise to the top based on member ranking are not diminished with respect to their value to the policy committee or the LOC's advocacy. These issues will still be key component of the LOC's overall legislative portfolio for the next two years.

Ballot/Voting Process: Each city is asked to review the recommendations from the seven policy committees and provide input to the LOC Board of Directors, which will formally adopt the LOC's 2025-26 legislative agenda. While each city may have a different process when evaluating the issues, it's important for cities to engage with your mayor and entire council to ensure the issues are evaluated and become a shared set of priorities from your city. During its October meeting, the LOC Board will formally adopt a set of priorities based on the ranking process and their evaluation.

Each city is permitted one ballot submission. **Once your city has reviewed the proposed legislative priorities, please complete the electronic ballot to indicate the top 5 issues that your city would like the LOC to focus on during the 2025-26 legislative cycle**. The lead administrative staff member (city manager, city recorder, etc.) will be provided with a link to the electronic ballot. If your city did not receive a ballot or needs a paper option, please reach out to Meghyn Fahndrich at mfahndrich@orcities.org or Jim McCauley at jmccauley@orcities.org.

Important Deadline: The deadline for submitting your city's vote is **5 p.m. on September 27, 2024.**

Community and Economic Development Committee
Contact: Jim McCauley, jmccauley@orcities.org

INFRASTRUCTURE FUNDING (CO-SPONSORED BY WATER AND WASTEWATER COMMITTEE)

RECOMMENDATION: *The LOC will advocate for a comprehensive infrastructure package to support increased investments in water, sewer, stormwater and roads. This includes: funding for system upgrades to meet increasingly complex regulatory compliance requirements; capacity to serve needed housing and economic development; deferred maintenance costs; seismic and wildfire resiliency improvements; and clarity and funding to address moratoriums. The LOC will also champion both direct and programmatic infrastructure investments to support a range of needed housing development types and affordability.*

Background: Cities continue to face the challenge of how to fund infrastructure improvements – to maintain current, build new, and improve resiliency. Increasing state resources in programs that provide access to lower rate loans and grants will assist cities in investing in vital infrastructure. Infrastructure development impacts economic development, housing, and livability. The level of funding for these programs has been inadequate compared to the needs over the last few biennia, and the funds are depleting and unsustainable without significant program modifications and reinvestments. This priority will focus on maximizing both the amount of funding and the flexibility of the funds to meet the needs of more cities across the state to ensure long-term infrastructure investment. The 2024 LOC Infrastructure Survey revealed the increasing need for water and road infrastructure funding. The results show $11.9 billion of infrastructure funds needed ($6.4 billion for water and $5.5 billion for roads).

Combined with the federal-cost share decline on water infrastructure projects – despite the recent bi-partisan infrastructure law investment – cities face enormous pressure to upgrade and maintain water infrastructure. At the same time, cities across the state are working urgently to address Oregon’s housing crisis. To unlock needed housing development and increase affordability, the most powerful tool the Legislature can deploy is targeted investments in infrastructure to support needed housing development.

SHELTER AND HOMELESS RESPONSE

RECOMMENDATION: *The LOC will support a comprehensive homeless response package to fund the needs of homeless shelter and homeless response efforts statewide. Funding should include baseline operational support to continue and strengthen coordinated regional homeless response and include a range of shelter types and services, including alternative shelter models, safe parking programs, rapid rehousing, outreach, case management, staffing and administrative support, and other related services. The LOC will also support capital funding for additional shelter infrastructure and site preparation. Oregon's homeless response system must recognize the critical role of cities in homeless response and meaningfully include cities in regional funding and decision-making, in partnership with counties, community action agencies, continuums of care, housing authorities, and other service provider partners.*

Background: The LOC recognizes that to end homelessness, a cross-sector coordinated approach to delivering services, housing, and programs is needed. Despite historic legislative investments in recent years, Oregon still lacks a coordinated, statewide shelter and homeless response system with stable funding. Communities across the state have developed regional homeless response collaboratives, beginning with the HB 4123 pilot communities funded by the Legislature in 2022 and the more recently established Multi-Agency Collaboratives and Local Planning Groups created by Governor Kotek's **Executive Order on Affordable Housing and Homelessness**. As Oregon continues to face increasing rates of unsheltered homelessness, the LOC is committed to strengthening a regionally based, intersectional state homeless response system to ensure all Oregonians can equitably access stable housing and maintain secure, thriving communities.

EMPLOYMENT LANDS READINESS AND AVAILABILITY

Legislative Recommendation: *The LOC will support incentives, programs and increased investment to help cities with the costs of making employment lands market-ready, including continued investment in the state brownfields programs. The LOC also recognizes the deficit of industrial land capacity in strategic locations and will support efforts to build a more comprehensive industrial lands program by strengthening the connection between the DLCD Goal 9 Program and Business Oregon IL programs and resources.*

Background: Infrastructure cost is a significant barrier for cities that are looking to increase the supply of market-ready industrial land. Cities require a supply of industrial land that is ready for development to recruit and retain business operations. For sites to be attractive to site selectors, the basic infrastructure must be built out first. For example, the Regionally Significant Industrial Site (RSIS) program within Business Oregon is designed to help cities with the cost of readiness activities through a reimbursement program, but many cities are not able to take advantage of this program due to a lack of staff capacity and up-front capital for investments.

FULL FUNDING AND ALIGNMENT FOR HOUSING PRODUCTION

RECOMMENDATION: *The LOC will advocate to maintain and increase state investments to support the development and preservation of a range of needed housing types and affordability, including: publicly supported affordable housing and related services; affordable homeownership; permanent supportive housing; affordable modular and manufactured housing; middle housing types; and moderate-income workforce housing development. In addition, the LOC will seek opportunities to address structural barriers to production of different housing options at the regional and state level. This includes: streamlining state agency programs, directives, funding metrics, and grant timelines that impact development; aligning state programs with local capital improvement and budget timelines; and increasing connections between affordable housing resources at Oregon Housing and Community Services (OHCS) with the land use directives in the Oregon Housing Needs Analysis (OHNA) and Climate Friendly and Equitable Communities (CFEC) programs at the Department of Land Conservation and Development (DLCD).*

Background: Recent legislation and executive orders have made significant changes to the state's land use planning process, including new housing production directives for cities and counties. These updates have resulted in extensive, continuous, and sometimes conflicting efforts that are not supported by adequate state funding. Cities do not have the staff capacity or resources needed to implement existing requirements. Additional state support is needed to assist local implementation, including technical assistance and education for local staff and decision makers, and workforce development. The state should prioritize implementation and coordination of existing programs in the 2025-2026 legislative sessions before considering any new policies.

General Government Committee

Contact: Scott Winkels, swinkels@orcities.org

RESTORATION OF RECREATIONAL IMMUNITY

RECOMMENDATION: *The LOC will introduce legislation to protect cities and other landowners who open their property for recreational purposes from tort liability claims.*

Background: An adverse court ruling stemming from a recreational injury sustained on a city owned trail opened cities and other public and private landowners to tort claims for injuries sustained by people who are recreating. The Legislature enacted a temporary restoration of the immunity in 2024 that will expire on July 1, 2025. Legislation to make the immunity permanent will be needed for cities to offer recreational amenities without fear of tort liability lawsuits or excessive risk premiums.

BEHAVIORAL HEALTH ENHANCEMENTS

RECOMMENDATION: *The LOC will introduce and support legislation to expand access to behavioral health treatment beds and allow courts greater ability to direct persons unable to care for themselves into treatment through the civil commitment process.*

Background: While Oregon has historically ranked at or near the bottom nationally for access to behavioral healthcare, the state has made significant investments over the past four years. It will take time for investments in workforce development and substance abuse treatment to be realized, and areas for improvement remain. The standard for civilly committing a person into treatment remains very high in Oregon, and as a result, individuals who present a danger to themselves or others remain untreated, often producing tragic results. Additionally, the number of treatment beds for residential care does not meet demand, with services unavailable in multiple areas of the state.

CONTINUED ADDICTION POLICY REFORM

RECOMMENDATION: *The LOC will Introduce and support legislation to allow drug related misdemeanors to be cited into municipal court; provide stable funding for services created in HB 4002 in 2024; allow more service providers to transport impaired persons to treatment; establish the flow of resources to cities to support addiction response; and monitor and adjust the implementation of HB 4002*.

Background: The Legislature passed significant changes to Oregon's approach to the current addiction crisis with the creation of a new misdemeanor charge designed to vector defendants away from the criminal justice system and into treatment. Changes also included: sentencing enhancements for drug dealers; investments in treatment capacity; and expanded access to medical assisted addiction treatment. HB 4002 did not include stable funding for the services created or provide cities with direct access to resources, or the ability to cite the new offense into municipal courts. Additionally, the new law will likely require adjustments as the more complicated elements get implemented.

Energy and Environment Committee
Contact: Nolan Pleše, nplese@orcities.org

BUILDING DECARBONIZATION, EFFICIENCY, AND MODERNIZATION

RECOMMENDATION: *The LOC will support legislation to protect against any rollback and preemptions to allow local governments to reduce greenhouse gas emissions from new and existing buildings while ensuring reliability and affordability. In addition, the LOC will lead and back efforts that support local governments, including statewide capacity, expertise, and resources to allow local governments to pursue state and federal funding and continue to support off-ramps for local governments unable to meet the state's new building performance standards.*

Background: Homes and commercial buildings consume nearly one-half of all the energy used in Oregon, according to the Oregon Department of Energy. Existing buildings can be retrofitted and modernized to become more resilient and efficient, while new buildings can be built with energy efficiency and energy capacity in mind.

Oregon cities, especially small to mid-sized and rural communities, require technical assistance and financial support to meet the state's goals. Without additional support, some communities will be unable to meet the state's building performance standards. Off-ramps are necessary to protect cities unable to meet the state's goals to ensure they are not burdened by mandates they can't meet.

Some initiatives may include local exceptions for building energy codes and performance standards, statewide home energy scoring, or financial incentives from the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act (IRA), state incentives, and other financial incentives like CPACE (Commercial property-assessed clean energy).

For cities to meet their climate resilience and carbon reduction goals while maintaining home rule authority, their flexibility must be preserved to allow for a successful transition from fossil fuels. State pre-emptions should not prohibit cities from exceeding state goals and achieving standards that align with their values.

INVESTMENT IN COMMUNITY RESILIENCY AND CLIMATE PLANNING RESOURCES

RECOMMENDATION: *The LOC will support investments that bring resiliency and climate services (for mitigation and adaptation) together in coordination with public and private entities, and work to fill the existing gaps to help communities get high-quality assistance. These resources are needed for local governments to effectively capture the myriad of available state and federal funding opportunities that cannot be accessed due to capacity and resource challenges. The LOC will work with partners to identify barriers and potential* *solutions towards resiliency opportunities, such as local energy generation and battery storage, and to support actions that recognize local control.*

Background: Oregon communities have unique resources and challenges, and increasingly need help to plan for climate and human-caused impacts and implement programs to reduce greenhouse gases. Oregon should focus on maintaining the reliability of the grid while supporting safe, healthy, cost-effective energy production that includes external costs.

Although many opportunities for building resiliency exist, not all will not be built or managed by cities. Cities support efforts to build resiliency hubs in coordination with public, private, and non-profit interests and will seek more investments in programs that support resiliency hubs.

Cities also have a broad range of perspectives on how to address the impacts of the climate crisis. Concerns about costs and reliability during this energy transition have surfaced in many cities. At the same time, others who share those concerns also aim to have stronger requirements that meet their cities' climate goals. To meet these challenges, cities oppose additional mandates but support exceptions and additional support that recognize each city's unique perspectives, resources, and experience while preserving local authority.

Oregon's small to mid-sized communities and rural communities are particularly in need of technical assistance, matching funds, and additional capacity to address climate impacts. Without assistance, these communities face unfunded mandates due to low resources and capacity challenges to go after many available opportunities.

ADDRESS ENERGY AFFORDABILITY CHALLENGES FROM RISING UTILITY COSTS

RECOMMENDATION: *The LOC will: support actions to maintain affordable and reliable energy resources; invest in programs and new technology that support energy efficiency, renewable energy, and battery storage to help reduce overall energy costs and demands; and address grid challenges during peak energy demand and the associated rising costs, while balancing the pace of energy production and power supply that impact rates.*

Background: In recent years, rising utility costs have increased the energy burden on Oregonians, particularly low-income Oregonians, those with fixed incomes, and those who are unable to work. Costs contributing to these increases include, infrastructure upgrades, maintenance, and modernization, climate impacts from increased extreme weather events (wildfires, ice storms, snowstorms, flooding, etc.) and mitigation costs associated with them, fuel costs, inflation, legislative and gubernatorial actions, and investments in new energy-producing technology, and battery storage, are some of many reasons that are impacting utility rates.

While many investment opportunities exist, more cooperation and collaboration needed to find a path forward that reduces the need for large rate increases that impact Oregonians. Rate increases should balance and prioritize vital labor, infrastructure, and mitigations necessary to sustain present and future energy demands with compensation.

In addition, the LOC would advocate for new tools and utilizing existing tools to modernize rate structures to provide flexibility and account for the time of year of rate increases (phasing in of rate increases) and recognize the higher burden for low and moderate-income and fixed-income Oregonians.

Finance and Taxation Committee
Contact: Lindsay Tenes, ltenes@orcities.org

LODGING TAX FLEXIBILITY

RECOMMENDATION: *The LOC will advocate for legislation to increase flexibility to use locally administered and collected lodging tax revenue to support tourism-impacted services.*

Background: In 2003, the Legislature passed the state lodging tax and restricted local transient lodging tax (TLT) by requiring that revenue from any new or increased local lodging tax be spent according to a 70/30 split: 70% of local TLT must be spent on "tourism promotion" or "tourism related facilities" and up to 30% is discretionary funds.

Tourism has created an increased demand on municipal service provision. Some of the clearest impacts are on roads, infrastructure, public safety, parks, and public restrooms. Short term rentals and vacation homes also reduce the housing supply and exacerbate housing affordability issues.

Cities often play an active role in tourism promotion and economic development efforts, but requiring that 70% of lodging tax revenue be used to further promote tourism is a one-size fits all approach that does not meet the needs of every tourism community. Cities must be allowed to strike the balance between tourism promotion and meeting the needs for increased service delivery for tourists and residents.

MARIJUANA TAX

Legislative Recommendation: *The LOC will advocate for legislation that increases revenue from marijuana sales in cities. This may include proposals to restore state marijuana tax losses related to Measure 110 (2020), and to increase the 3% cap on local marijuana taxes.*

Background: The state imposes a 17% tax on recreational marijuana products. Until the end of 2020, cities received 10% of the state's total tax revenues (minus expenses) on recreational marijuana products. Measure 110 largely shifted the allocation of state marijuana revenue by capping the amount that is distributed to the recipients that previously shared the total amount (the State School Fund, the Oregon Health Authority, the Oregon State Police, cities and counties) and diverted the rest to drug treatment and recovery services. Starting in March of 2021, quarterly revenue to cities from state marijuana taxes saw a decrease of roughly 74%. Marijuana revenue has also been on a downward trend because the market is oversaturated, which has continually reduced sale prices (high supply, steady demand). Marijuana is taxed on the price of the sale and not on volume.

ALCOHOL TAX

RECOMMENDATION: *The LOC will advocate for increased revenue from alcohol taxes. This includes support for any recommendation by the HB 3610 Task Force on Alcohol Pricing to increase the beer and wine tax that maintains 34% shared distribution to cities. This may also include legislation to lift the pre-emption on local alcohol taxes.*

Background: Cities have significant public safety costs related to alcohol consumption and must receive revenue commensurate to the cost of providing services related to alcohol.

Oregon is a control state and the Oregon Liquor and Cannabis Commission (OLCC, formerly known as the Oregon Liquor Control Commission) acts as the sole importer and distributor of liquor. Cities and other local governments are preempted from imposing alcohol taxes. In exchange, cities receive approximately 34% share of net state alcohol revenues. The OLCC has also imposed a 50-cent surcharge per bottle of liquor since the 2009-2011 biennium, which is directed towards the state's general fund. Oregon's beer tax has not been increased since 1978 and is $2.60 per barrel, which equates to about 8.4 cents per gallon, or less than 5 cents on a six-pack. Oregon's wine tax is 67 cents per gallon and 77 cents per gallon on dessert wines. Oregon has the lowest beer tax in the country and the second lowest wine tax.

Broadband, Cybersecurity, Artificial Intelligence (AI), and Telecommunications Committee

Contact: Nolan Plese, nple**š**e@orcities.org

DIGITAL EQUITY AND INCLUSION

RECOMMENDATION: *The LOC will support legislation and policies that help all individuals and communities have the information technology capacity needed for full participation in our society, democracy, and economy through programs such as digital* *navigators, devices, digital skills, and affordability programs like the Affordable Connectivity Program (ACP) and the Oregon Telephone Assistance Program (OTAP – also known as Lifeline) that meet and support community members where they are.*

Background: Connectivity is increasingly relied on for conducting business, learning, and receiving important services like healthcare. As technology has evolved, the digital divide has become more complex and nuanced. Now, the discussion of the digital divide is framed in terms of whether a population has access to hardware, to the Internet, to viable connection speeds, and to the skills they need to effectively use it. Recognizing individual knowledge and capacity, abilities, and lived experience is now vital, and programs that offer devices, digital literacy skills, cybersecurity, and support for internet affordability, are critical to closing the digital divide.

CYBERSECURITY & PRIVACY

RECOMMENDATION: *The LOC will support legislation that addresses privacy, data protection, information security, and cybersecurity resources for all that use existing and emerging technology like artificial intelligence (AI) and synthetic intelligence (SI), including, but not limited to: funding for local and state government cyber and information security initiatives; interagency and government coordination and cooperative arrangements for communities that lack capacity; statewide resources for cyber and AI professionals and workforce development; vendor and third-party vendor accountability; regulations of data privacy; or standards for software/hardware developers to meet that will make their products more secure while ensuring continued economic growth. The LOC will oppose any unfunded cybersecurity and/or AI mandates and support funding opportunities to meet any unfunded insurance requirements.*

Background: Society's continued reliance on technology will only increase with the emergence of artificial intelligence (AI) and synthetic intelligence (SI). This will mean an increased risk for cybercrimes. Cybersecurity encompasses everything that pertains to protecting our sensitive and privileged data, protected health information, personal information, intellectual property, data, and governmental and industry information systems from theft and damage attempted by criminals and adversaries.

Cybersecurity risk is increasing, not only because of global connectivity but also because of the reliance on cloud services to store sensitive data and personal information. As AI and SI technology and adoption accelerate, the ability to guard against cyber threats and threats created through AI will increase. Strengthening coordination between the public and private sectors at all levels is essential for decreasing risks and quickly responding to emerging threats. This ensures resilience is considered to reduce the damage caused by cyber threats.

RESILIENT, FUTUREPROOF BROADBAND INFRASTRUCTURE AND PLANNING INVESTMENT

RECOMMENDATION: *The LOC will support legislation to ensure broadband systems are built resiliently and futureproofed, while also advocating for resources to help cities with broadband planning and technical assistance through direct grants and staff resources at the state level. The LOC will oppose any preemptions that impede local government's ability to maintain infrastructure standards in the local rights-of-way. Municipalities' have a right to own and manage access to poles and conduit and to become broadband service providers.*

Background:

Broadband Planning and Technical Assistance

Most state and federal broadband infrastructure funding requires communities to have a broadband strategic plan in place in order to qualify. Many cities do not have the resources or staff capacity to meet this requirement. Cities will need to rely on outside sources or work with the state for assistance and support the state setting up an office to aid local governments.

Resilient and Long-Term Systems

As broadband continues to be prioritized, building resilient long-term networks will help Oregonians avoid a new digital divide as greater speeds are needed with emerging technologies like artificial intelligence (AI). Important actions that will ensure resilient broadband include: dig once policies; investing in robust middle-mile connections; ensuring redundancy and multiple providers in all areas' sharing current and future infrastructure to manage overcrowding in the right-of-way (ROW); and undergrounding fiber instead of hanging it on poles. Additionally, infrastructure should be built for increased future capacity to avoid a new digital divide by allowing Oregon to determine speeds that reflect current and future technology.

Optional Local Incentives to Increase Broadband Deployment

Cities need flexibility to adequately manage public rights-of-ways (ROW). Instead of mandates, the state should allow cities the option to adopt incentives that could help streamline broadband deployment. Flexibility for cities to fund conduit as an eligible expense for other state infrastructure (most likely water or transportation projects) would reduce ROW activity. Additionally, local governments can work with state and federal partners to streamline federal and state permitting to reduce delays in broadband deployment.

Regulatory Consistency Amidst Convergence

With rapid changes in communication, standards and policy should keep pace. When a converged technology utilizes differing communications technologies, it may be required to adhere to multiple standards and regulations, or providers may argue that some parts of their service is not subject to regulations. The LOC will support legislation that addresses the inconsistency of regulations applied to traditional and nontraditional telecommunications services as more entities move to a network-based approach.

ARTIFICIAL INTELLIGENCE (AI)

RECOMMENDATION: *The LOC will support legislation that promotes secure, responsible and purposeful use of artificial intelligence (AI) and synthetic intelligence (SI) in the public and private sectors while ensuring local control and opposing any unfunded mandates. Cities support using AI for social good, ensuring secure, ethical, non-discriminatory, and responsible AI governance through transparent and accountable measures that promotes vendor and third-party vendor accountability, improving government services while protecting sensitive data from use for AI model learning, and fostering cross-agency, business, academic, and community collaboration and knowledge sharing.*

Background: While artificial intelligence (AI) and synthetic intelligence (SI) are not new, the recent advancements in machine learning and the exponential growth of artificial and synthetic intelligence require governments and providers to be responsible and purposeful in the use of this technology. The opportunities and risks that AI and SI present demand responsible values and governance regarding how AI systems are purchased, configured, developed, operated, or maintained in addition to ethical policies that are transparent and accountable. Policies should also consider the implication of AI on public records and retention of information on how AI is being used. Additionally, governments need to consider how procurements are using AI, how they are securing their systems, and any additional parties being used in the process.

AI systems and policies should:

- Be Human-Centered Design - AI systems are developed and deployed with a human-centered approach that evaluates AI-powered services for their impact on the public.
- Be Secure & Safe - AI systems should maintain safety and reliability, confidentiality, integrity, and availability through safeguards that prevent unauthorized access and use to minimize risk.
- Protect Privacy - Privacy is preserved in all AI systems by safeguarding personally identifiable information (PII) and sensitive data from unauthorized access, disclosure, and manipulation.
- Be Transparent - The purpose and use of AI systems should be proactively communicated and disclosed to the public. An AI system, its data sources,

operational model, and policies that govern its use should be understandable, documented, and properly disclosed publicly.

- Be Equitable - AI systems support equitable outcomes for everyone; urban, rural, suburban, frontier, and historically underrepresented communities. Bias in AI systems should be effectively managed to reduce harm to anyone impacted by its use.
- Provide Accountability - Roles and responsibilities govern the deployment and maintenance of AI systems. Human oversight ensures adherence to relevant laws and regulations and ensures the product's creator is ultimately responsible for reviewing the product prior to release and held accountable.
- Be Effective - AI systems should be reliable, meet their objectives, and deliver precise and dependable outcomes for the utility and contexts in which they are deployed.
- Provide Workforce Empowerment - Staff are empowered to use AI in their roles through education, training, and collaborations that promote participation and opportunity.

Transportation Committee

Contact: Jim McCauley, jmccauley@orcities.org

2025 TRANSPORTATION PACKAGE

RECOMMENDATION: *The LOC supports a robust, long-term, multimodal transportation package focused on: stabilizing funding for operations and maintenance for local governments and ODOT; continued investment in transit and bike/ped programs, safety, congestion management, and completion of projects from HB 2017. As part of a 2025 package, the funding level must maintain the current State Highway Fund (SHF) distribution formula and increase investments in local programs such as Great Streets, Safe Routes to Schools, and the Small City Allotment Program. In addition, the package should find a long-term solution for the weight-mile tax that stabilizes the program with fees that match heavier vehicles' impact on the transportation system. The funding sources for this package should be diverse and innovative. Additionally, the package should maintain existing choices and reduce barriers for local governments to use available funding tools for transportation investments.*

Background: Oregon has one of the country’s most transportation-dependent economies, with 400,000 jobs (1 in 5) related directly to transportation via rail, road, and ports. The State Highway Fund (SHF) is the primary revenue source for the state’s transportation infrastructure, and comes from various sources, including gas and diesel tax, weight mile tax, vehicle registration fees, vehicle title fees, and driver's license fees. These funds are distributed using a 50-30-20 formula, with 50% to the state, 30% to counties, and 20% to cities. Continued investment in transportation infrastructure is critical for public safety objectives such as "Safe Routes to Schools" and the "Great Streets" program. The Legislature must develop a plan to match inflationary costs and a plan to transition from a gas tax to an impact fee based on miles traveled to stabilize transportation investment.

FUNDING AND EXPANDING PUBLIC AND INTER-COMMUNITY TRANSIT

RECOMMENDATION: *The LOC supports expanding funding for public transit operations statewide, focusing on inter-community service, service expansion, and a change in policy to allow for the use of funds for local operations and maintenance.*

Background: During the 2017 session, HB 2017 established Oregon's first statewide comprehensive transit funding by implementing a "transit tax," a state payroll tax equal to one-tenth of 1%. This revenue source has provided stable funding of more than $100 million annually.

These funds are distributed utilizing a formula. Investments made since the 2017 session helped many communities expand and start transit and shuttle services to connect communities and provide transportation options. Many communities, however, still lack a viable public transit or shuttle program and would benefit greatly from expanded services.

SHIFT FROM A GAS TAX TO A ROAD USER FEE

RECOMMENDATION: *The LOC supports replacing Oregon's gas tax with a Road User Fee (RUF) while protecting local government's authority to collect local gas tax fees. An RUF will better measure a vehicle's impact on roads and provide a more stable revenue stream.*

Background: Oregon's current gas tax is 40 cents per gallon. Depending on the pump price, the gas tax represents a small portion of the overall cost of gas. Due to the improved mileage of new vehicles and the emergence and expected growth of electric vehicles, Oregon will continue to face a declining revenue source without a change in the fee structure. Capturing the true impact of vehicles on the transportation system requires a fee structure that aligns with use of roads. The federal tax has remained at 18 cents per gallon since 1993, effectively losing buying power or the ability to keep up with inflation.

COMMUNITY SAFETY AND NEIGHBORHOOD LIVABILITY

RECOMMENDATION: *The LOC supports a strong focus on funding safety improvements on large roads, such as highways and arterials, that run through all communities. This includes directing federal and state dollars toward safety improvements on streets that meet the Great Streets criteria but are not owned by ODOT, and increasing funding for the*

Great Streets program. For those cities that don't qualify for existing programs, ODOT should explore funding opportunities for cities with similar safety needs. Additionally, more funding should be directed to the Highway Safety Improvement Program (HSIP) and All Roads Transportation Safety (ARTS) programs.

Background: Community safety investment remains a critical challenge for local governments, reducing their ability to maintain a transportation system that supports the safe and efficient movement of people and goods. Traffic fatalities and serious injuries continue to grow to record levels in many communities. The lack of stable funding for these basic operations and maintenance functions prevents local governments from meeting core community expectations. Without increases in funding for transportation, this problem is expected to get even worse, as costs for labor and materials continue to increase.

Water and Wastewater Committee

Contact: Michael Martin, mmartin@orcities.org

INFRASTRUCTURE FUNDING (CO-SPONSORED BY COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE)

RECOMMENDATION: *The LOC will advocate for a comprehensive infrastructure package to support increased investments in water, sewer, stormwater and roads. This includes: funding for system upgrades to meet increasingly complex regulatory compliance requirements; capacity to serve needed housing and economic development; deferred maintenance costs; seismic and wildfire resiliency improvements; and clarity and funding to address moratoriums. The LOC will also champion both direct and programmatic infrastructure investments to support a range of needed housing development types and affordability.*

Background: Cities continue to face the challenge of how to fund infrastructure improvements – to maintain current, build new, and improve resiliency. Increasing state resources in programs that provide access to lower rate loans and grants will assist cities in investing in vital infrastructure. Infrastructure development impacts economic development, housing, and livability. The level of funding for these programs has been inadequate compared to the needs over the last few biennia, and the funds are depleting and unsustainable without significant program modifications and reinvestments. This priority will focus on maximizing both the amount of funding and the flexibility of the funds to meet the needs of more cities across the state to ensure long-term infrastructure investment. The 2024 LOC Infrastructure Survey revealed the increasing need for water and road infrastructure funding. The results show $11.9 Billion of infrastructure funds needed ($6.4 billion for water and $5.5

billion for roads).

Combined with federal-cost share decline on water infrastructure projects – despite the recent bi-partisan infrastructure law investment – cities face enormous pressure to upgrade and maintain water infrastructure. At the same time, cities across the state are working urgently to address Oregon's housing crisis. To unlock needed housing development and increase affordability, the most powerful tool the Legislature can deploy is targeted investments in infrastructure to support needed housing development.

PLACE-BASED PLANNING

RECOMMENDATION: *The LOC will advocate for funding needed to complete existing place-based planning efforts across the state and identify funding to continue the program for communities that face unique water supply challenges.*

Background: Oregon's water supply management issues are complex. In 2015, the Legislature created a place-based planning pilot program in Oregon administered through the Oregon Water Resources Department that provides a framework and funding for local stakeholders to collaborate and develop solutions to address water needs within a watershed, basin, surface water, or groundwater. In 2023, the Legislature passed a significant bipartisan Drought Resilience and Water Security package (BiDRAWS), which included $2 million into a place-based planning water fund to continue efforts to address a basin-by-basin approach.

OPERATOR-IN-TRAINING APPRENTICESHIPS

RECOMMENDATION: *The LOC will advocate for funding for apprenticeship training programs and the expansion of bilingual training opportunities to promote workforce development of qualified wastewater and drinking water operators due to the significant lack of qualified operators.*

Background: Water utilities must resolve a human-infrastructure issue in order to keep our water and wastewater systems running. Currently, water utilities face challenges in recruiting, training, and retaining certified operations employees. In addition, retirements of qualified staff over the next decade will exacerbate the problem.

In 2023, the Legislature approved one-time funding for the development of a training facility for certified operators and technical assistance staff in partnership with the Oregon Association of Water Utilities. Sustained funding for regional training facilities and direct funding for utilities hosting training programs is needed to train the next generation of water and wastewater operators.