

**POLK COUNTY BOARD OF COMMISSIONERS**

**DATE:** March 20, 2024  
**TIME:** 9:00 a.m.  
**PLACE:** Polk County Courthouse, Dallas, Oregon

**THE LOCATION OF THIS MEETING IS ADA ACCESSIBLE. PLEASE ADVISE THE BOARD OF COMMISSIONERS AT (503-623-8173), AT LEAST 24 HOURS IN ADVANCE, OF ANY SPECIAL ACCOMMODATIONS NEEDED TO ATTEND OR TO PARTICIPATE IN THE MEETING VIRTUALLY.**

**PAGE:** **AGENDA ITEMS**

1. **CALL TO ORDER AND NOTE OF ATTENDANCE**
2. **ANNOUNCEMENTS**
  - (a) Regular meetings of the Board of Commissioners are held on Tuesday and Wednesday each week. Each meeting is held in the Courthouse Conference Room, 850 Main Street, Dallas, Oregon. Each meeting begins at 9:00 a.m. and is conducted according to a prepared agenda that lists the principal subjects anticipated to be considered. Pursuant to ORS 192.640, the Board may consider and take action on subjects that are not listed on the agenda. The Board also holds a department staff meeting at 9:00am on every Monday in the Commissioners Conference Room at 850 Main Street, Dallas, Oregon.
  - (b) The Grand Ronde Sanitary District Board is meeting on March 20, 2024 at 9:15 a.m. The meeting will take place in the Polk County Courthouse, 850 Main Street, Dallas, OR, 97338.
  - (c) The Polk County Board of Commissioners will be speaking at the State of the County meeting on Thursday, March 21, 2024 from 5:30PM to 6:30PM, located in the main conference room of the Polk County Courthouse at 850 Main St Dallas, Oregon 97338.
3. **COMMENTS (for items not on this agenda and limited to 3 minutes)**
4. **APPROVAL OF AGENDA**
5. **APPROVAL OF THE MINUTES FROM March 13, 2024**
6. **APPROVAL OF CONSENT CALENDAR**

**CONSENT CALENDAR**

- (a) Polk County Contract No. 24-38, MOA for Mitchell Street/Black Rock Road  
(Todd Whitaker, Public Works Director)

**THE BOARD OF COMMISSIONERS WILL MEET IN EXECUTIVE SESSION  
PURSUANT TO ORS 192.660.**

**ADJOURNMENT**

**POLK COUNTY BOARD OF COMMISSIONERS**  
**MINUTES March 13, 2024**

**1. CALL TO ORDER & ATTENDANCE**

At 9:00 a.m., Commissioner Pope declared the meeting of the Polk County Board of Commissioners to be in session. Commissioner Mordhorst and Commissioner Gordon were present.

Staff present: Greg Hansen, Administrative Officer  
Morgan Smith, County Counsel  
Matt Hawkins, Administrative Services Director

**2. ANNOUNCEMENTS**

Regular meetings of the Board of Commissioners are held on Tuesday and Wednesday each week. Each meeting is held in the Courthouse Conference Room, 850 Main Street, Dallas, Oregon. Each meeting begins at 9:00 a.m. and is conducted according to a prepared agenda that lists the principle subjects anticipated to be considered. Pursuant to ORS 192.640, The Board may consider and take action on subjects that are not listed on the agenda. The Board also holds a department staff meeting at 9:00 a.m. on every Monday in the Commissioners Conference Room at 850 Main Street, Dallas, Oregon.

The Homeless Prevention Advisory Council (AKA P.A.T.H.S) will be meeting on March 13, 2024 from 12:00 pm to 2:00 pm located at 1407 Monmouth Independence Hwy, Monmouth OR 97361.

The Grand Ronde Sanitary District Board is meeting on March 20, 2024 at 9:15 a.m. The meeting will take place in the Polk County Courthouse, 850 Main Street, Dallas, OR, 97338.

The Polk County Board of Commissioners will be speaking at the State of the County meeting on Thursday, March 21, 2024 from 5:30PM to 6:30PM, located in the main conference room of the Polk County Courthouse at 850 Main St Dallas, Oregon 97338.

**3. COMMENTS**

None.

**4. APPROVAL OF AGENDA**

**MOTION: COMMISSIONER MORDHORST MOVED, COMMISSIONER GORDON SECONDED, TO APPROVE THE AGENDA.**

**MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.**

**5. APPROVAL OF MINUTES OF BOARD MEETING OF March 6, 2024**

**MOTION: COMMISSIONER GORDON MOVED, COMMISSIONER MORDHORST SECONDED, TO APPROVE THE MINUTES OF March 6, 2024.**

**MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.**

**6. APPROVAL OF CONSENT CALENDAR**

**MOTION: COMMISSIONER MORDHORST MOVED, COMMISSIONER GORDON SECONDED, TO APPROVE THE CONSENT CALENDAR.**

**MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.**

**7. PUBLIC HEARING – LEGISLATIVE AMENDMENT 23-03**

Michael Burns, Polk County Community Development Associate Planner, stated that they are holding a public hearing in regards to potential text amendments to the Polk County Zoning Ordinance (PCZO) Chapters 136 and 177, which pertain to the Exclusive Farm Use (EFU) and Timber Conservation (TC) Zoning Districts. Mr. Burns stated that the proposed text amendments are intended to bring the above mentioned PCZO Chapters into compliance with State law, and to consider adopting optional changes for used in these zones. Mr. Burns went over a PowerPoint presentation that he prepared for the Board, staff and members of the public. His presentation went over the background information for this Legislative Amendment, applicable criteria, and which changes are being made to the two chapters. Austin McGuigan, Community Development Director, provided some clarity to the recommended changes to PCZO Chapter 136. Commissioner Pope asked some clarifying questions about the recommendation of changes to PCZO Chapter 177 and Mr. McGuigan answered his questions. Commissioner Pope asked Valerie Patoine, Polk County Tax Assessor, if she had any issues with these changes and Mrs. Patoine stated that she does not. Mr. Burns wrapped up his presentation with their conclusion and repeated their recommendations to the Board.

At 9:27 a.m. Commissioner Pope opened the public hearing to public comment. Morgan Smith, Polk County County Counsel, discussed the public hearing guidelines for the Commissioners, staff and for the members of the public. Commissioner Gordon asked if anyone has received any written testimony about the legislative amendment and everyone said no. Commissioner Pope noted for the record that no members of the public were interested in providing a public comment.

Commissioner Pope ended the public hearing at 9:31 a.m.

**MOTION: COMMISSIONER GORDON MOVED, COMMISSIONER MORDHORST SECONDED, TO DIRECT STAFF TO MOVE FORWARD WITH THE RECOMMENDED CHANGES OF PCZO CHAPTERS 136 AND 177 AND TO TAKE THE NEXT STEPS.**

**MOTION PASSED BY UNANIMOUS VOTE OF THE BOARD.**

The following items were approved by Motion under **5. APPROVAL OF CONSENT CALENDAR:**

- (a) Polk County Right of Way Dedication, ~~Haga~~  
(Todd Whitaker, Public Works Director)
- (b) Polk County Right of Way Dedication, Lauer  
(Todd Whitaker, Public Works Director)
- (c) Polk County Right of Way Dedication, Mesdag  
(Todd Whitaker, Public Works Director)
- (d) Polk County Contract No. 24-33 (Amendment 1 to 23-169), Dallas School District  
(Jennifer Segovia, Family & Community Outreach)
- (e) Polk County Contract No. 24-35, Service Contract  
(Rosana Warren, Behavioral Health)
- (f) Polk County Contract No. 24-36, Oregon Health Authority  
(Rosana Warren, Behavioral Health)
- (g) Polk County Contract No. 24-37, Oregon Health Authority  
(Rosana Warren, Behavioral Health)

At 9:33 a.m. County Counsel announced that the meeting was recessed to Executive Session pursuant to ORS 192.660(2)(h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

The executive session ended at 9:38 a.m. and Commissioner Pope directed staff to move forward as discussed in executive session and adjourned the meeting.

**POLK COUNTY BOARD OF COMMISSIONERS**

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Craig Pope, Chair

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Jeremy Gordon, Commissioner

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Lyle Mordhorst, Commissioner

**MEMORANDUM**

**TO:** Board of Commissioners

**FROM:** Todd Whitaker

**DATE:** 03/09/2024

**SUBJECT:** FEDERAL LANDS ACCESS PROGRAM MEMORANDUM OF AGREEMENT – MITCHELL ST/BLACK ROCK RD

**Wednesday Consent**

March 20th, 2024

**RECOMMENDATION:**

Public Works recommends signing the revised Memorandum of Agreement for the Mitchell Street/Black Rock Road Improvements Project being delivered by the Federal Highway Administration.

**ISSUE:**

Shall the County agree to the revised Memorandum of Agreement between Polk County and Federal Highway Administration (FHWA) for the construction of improvements on Mitchell Street (Falls City) and Black Rock Road (Polk County).

**BACKGROUND:**

This is a multi-year project that began with a Federal Lands Access Program application in January 2015. The Program requires a 10.27% local funding match. The project has been bid and construction is underway. The scope of the project includes converting the gravel portion of Mitchell Street (Falls City) and Black Rock Rd (County) to asphalt surface and replacing the culverts at Dutch Creek with a bridge and replacing the structurally deficient single lane bridge across the Little Luckiamute River with a modern two-lane bridge. In July of 2023, the updated cost estimate increased the total project cost to \$12,350,000. Additional funding was approved by FHWA in August 2023. This revised estimate increases the required local match to \$1,268,345 of which \$600,937 has been contributed as in-kind match and \$523,724.23 has been paid as cash match, leaving a balance of \$143,937.00.

**DISCUSSION:**

Because there is an increase in the estimated total project cost, the local funding match agreement must be revised. This increased cost increases the County's local match requirement to \$1,268,345, however, FHWA counts the cost of the Dutch Creek Bridge (\$600,937) as a local in-kind match, even though it was funded by FEMA and

Infrastructure Finance Authority. Normally, Federal funds cannot be used as local match. However, because FEMA funds are not Title 23 Funds, they were determined in August 2020 by FHWA to be eligible as local match. This reduces the local cash match required to \$143,937.00.

**FISCAL IMPACT:**

The estimated fiscal impact of entering into this memorandum of agreement is \$143,937.00. This expenditure would be charged to the Public Works Road Construction Fund Acct 8580 – Special Project in the FY23/24 Budget.

# Federal Lands Access Program Project Memorandum of Agreement

**Project / Facility Name:** OR FLAP POLK MITCHELL(1) / MITCHELL STREET AND BLACK ROCK ROAD RECONSTRUCTION

**Project Route:** Mitchell Street and Black Rock Road

**State:** OREGON

**County:** Polk

**Owner of Federal Lands to which the Project Provides Access:** Bureau of Land Management (BLM)

**Entity with Title or Maintenance Responsibility for Facility:** Polk County (COUNTY)

**Type of Work:** The project is to include:

- Preliminary Engineering including environmental studies to support an environmental decision
- Construction Engineering / Contract Administration

This Agreement does not obligate (commit to) the expenditure of Federal funds nor does it commit the parties to complete the project. Rather, this agreement sets forth the respective responsibilities as the project proceeds through the project development process and construction.

This agreement replaces Federal Lands Access Program Project Memorandum of Agreement executed on 6/14/2023.

**Parties to this Agreement:** Polk County (COUNTY) and Federal Highway Administration, Western Federal Lands Highway Division (FHWA-WFL).

The Program Decision Committee approved this project on 11/9/2016.

**AGREED:**

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Polk County

Date

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Western Federal Lands Highway Division, FHWA-WFL

Date

**A. PURPOSE OF THIS AGREEMENT:**

This agreement documents the intent of the parties and sets forth the anticipated responsibilities of each party in the development, construction, and continued maintenance of the subject project. The purpose of the agreement is to identify and assign responsibilities for Project Development, Contract Advertisement, and Construction Administration as appropriate for this project, and to ensure continued maintenance of the facility for public use if improvements are made. The parties understand that any final decision as to design or construction will not be made until after the environmental analysis required under the National Environmental Policy Act (NEPA) is completed (this does not prevent the parties from assigning proposed design criteria to be studied in the NEPA process.) Any decision to proceed with the design and construction of the project will depend on the availability of appropriations at the time of obligation and other factors such as issues raised during the NEPA process, a natural disaster that changes the need for the project, a change in Congressional direction, or other relevant factors.

If Federal Lands Access Program (FLAP) funds are used for the development or construction of this project, the COUNTY agrees to provide a matching share equal to 10.27% of the total cost of the project, as detailed more fully in Section J below. When agencies other than FHWA-WFL will be expending FLAP funds, the parties agree to execute a separate obligating document. No reimbursement will be made for expenses incurred prior to execution of the obligating document.

**B. AUTHORITY:**

This Agreement is entered into between the signatory parties pursuant to the provisions of 23 U.S.C. 204 and COUNTY authority.

**C. JURISDICTION AND MAINTENANCE COMMITMENT:**

COUNTY has jurisdictional authority to operate and maintain the existing facility and will operate and maintain the completed project at its expense.

**D. FEDERAL LAND MANAGEMENT AGENCY COORDINATION:**

COUNTY has coordinated project development with the Bureau of Land Management. The Bureau of Land Management support of the project is documented in the Project Proposal by endorsing the proposal.

Each party to this agreement who has a primary role in NEPA, design or construction should coordinate their activities with the Bureau of Land Management.

**E. PROJECT BACKGROUND / SCOPE:**

Mitchell Street and Black Rock Road are a single route located west of the city of Falls City, Oregon. Approximately half the road is located within the City Limits of Falls City. Within the city, the road



is known as Mitchell Street. The remaining half of the road lies within the jurisdiction of Polk County, where it is known as Black Rock Road. Polk County and Falls City will be the primary partners for the project. The County and City both have maintenance responsibility of the road.

The road is currently a narrow, two lane gravel road of varying width. It crosses the Little Luckiamute River over a single lane, structurally deficient bridge. The road is anticipated to see large amounts of logging traffic in the upcoming years and is in need of improvement to avoid failures, as it does not provide an all-weather access for the vehicles that use the road and creates the need for constant maintenance.

The proposed project begins at the intersection of Mitchell Street and Park Street, and ends approximately 0.95 miles to the west, just past an intersection with an unnamed logging road to Lower Berry Quarry.

The purpose of the project is to improve the road to an all-weather road that provides two-way travel. The project will also upgrade the crossing of the Little Luckiamute River bridge to current standards. The County will be replacing the culverts at Dutch Creek with a new two-lane bridge prior to construction of the FHWA delivered project.

ROW acquisition will be needed for this project, estimated at 2.95 acres. As many as twenty properties are estimated to be effected, with twelve different owners. It's anticipated that utility relocation will be needed and that there will be environmental issues associated with the project including wetlands, fish passage, and stream encroachments.

**F. PROJECT BUDGET:**

This is the anticipated budget for the project based on information developed to date. Federal Lands Access Program funds in conjunction with matching funds provided by COUNTY will fund this project as detailed in Section K.

<b>Item</b>	<b>Total</b>	<b>Comments</b>
Preliminary Engineering including scoping and NEPA (PE)	\$1,900,000	
Construction Engineering (CE)	\$950,000	
Construction (CN)	\$9,000,000	\$8,399,063 for WFL project. Includes \$600,937 from County delivered Dutch Creek project.
Construction Modifications (CM) Contingency	\$500,000	Reserved for construction phase.
<b>TOTAL</b>	<b>\$12,350,000</b>	

**G. ROLES AND RESPONSIBILITIES:**

COUNTY

- Will appoint a representative who will be the primary contact for FHWA-WFL's Project Manager
- Will provide appropriate match to all FLAP funds expended on the project even if the project is terminated prior to completion.
- Will be responsible for the acquisition of any rights-of-way and / or easements necessary to complete the project.
- Will replace culverts at Dutch Creek with a new two-lane bridge.
- Will be responsible for post-construction Oregon DSL permit requirements (including monitoring, annual reporting, and corrective action, if necessary) for revegetation of riprap revetment. (Note FHWA will conduct monitoring and reporting for the first year)
- Will review the Plans, Specifications, and Estimate package.
- Will provide project concurrence prior to project advertisement.
- Will attend the Pre-Construction meeting.
- Upon completion of construction, a final inspection will be convened by FHWA-WFL with attendees from COUNTY, and if it is determined the project has been constructed in substantial conformity with approved plans and specifications, COUNTY will provide written confirmation of its acceptance of the constructed project.

FHWA-WFL

- Will be responsible for project development, permitting, and construction administration and oversight of the work.
- Will be responsible for FHWA decisions that may be not be delegated.
- Will obtain, or require the construction contractor to obtain, all necessary permits.
- Will seek input from COUNTY throughout the development process.
- Will identify utilities in conflict with the proposed project and prepare documents needed to coordinate relocation work.
- Will appoint a Project Engineer during the Construction Phase to oversee and inspect the work to ensure a quality product. The construction will be governed by the FP-14, Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects as modified by the project Special Contract Requirements. The Project Engineer is FHWA's designated contact during the construction phase.
- Will conduct a Pre-Construction meeting.
- Will conduct final project inspections.
- Will prepare revegetation plan, as-built report, and conduct the first year of monitoring and reporting per Oregon DSL permit requirements.

**H. ROLES AND RESPONSIBILITIES – MILESTONE SCHEDULE:**

<b>Responsible Lead</b>	<b>Product/Service</b>	<b>Schedule Finish</b>
FHWA-WFL	30% Design	October 2019
FHWA-WFL	NEPA Determination	April 2020
FHWA-WFL	70% Design	September 2020
FHWA-WFL	NEPA Decision	November 2022
COUNTY	ROW	October 2023
FHWA-WFL	100% PS&E	September 2023
FHWA-WFL	Advertise/Award	October 2023 / December 2023
FHWA-WFL	Construction	January 2024 – November 2024

**I. PROPOSED DESIGN STANDARDS:**

Preferred design alternatives will be determined through the NEPA process.

<b>Criteria</b>		<b>Comments</b>
Standard	Roadway Design Manual AASHTO – A Policy on Geometric Design	
Functional Classification	Rural Local Road	
Surface Type	Asphalt	
Design Volume	2250 ADT (start of project), 571 ADT (end of project)	20-year projection

Design exceptions to standards, will be documented and sent to the COUNTY for concurrence.

**J. FUNDING:**

The project is funded by the Federal Lands Access Program administered by FHWA-WFL, with matching funds provided by the BLM and the COUNTY.

<b>Funding Source</b>	<b>Amount</b>	<b>%</b>	<b>Comments</b>
Federal Lands Access Funds	\$11,081,655.00	89.73%	

Funding Source	Amount	%	Comments
Local Matching Share (COUNTY)	\$1,268,345.00	10.27%	
Total Projected Costs	<b>\$12,350,000.00</b>	100%	

**K. MATCHING SHARE REQUIREMENTS:**

The purpose of this section is to document the intent of COUNTY to meet its match requirement for the subject project as authorized under section 23 USC 201(b)(7)(B).

All FLAP expenditures associated with this project will need to be matched by a Non- Federal source, by other Federal funds other than those made available under Titles 23 and 49 of the United States Code, or by funds made available under 23 U.S.C. 202 and 203. The matching requirement under the FAST Act will be met by COUNTY.

COUNTY and other agencies have committed to the project. The forms of match shall be those consistent with the 'Federal-Aid Guidance Non-Federal Matching Requirements' and as approved by FHWA-WFL. In the state of OREGON, 10.27% of the total project cost.

This project is authorized to use a Tapered Match. Under this approach, the non-Federal match is imposed over the entire project rather than individual progress payments. Timing of all fund transfers are specified in the Funding Plan. Tapered Match is authorized because it will result in an earlier completion date.

Estimated costs and fiscal year (FY) for the funding are based on the best budgeting and scheduling information known at the time. The final match will be determined based on actual expenditures at the conclusion of project work. Matching cash funds in FHWA-WFL receipt may need to be supplemented, or returned, once actual expenditures are determined. As noted under Modifications, if costs increase over the amount within this agreement, FHWA-WFL will consult with the agency providing Match before granting approval.

Maintain all project records, including source documentation for all expenditures and in-kind contributions, for a period of three (3) years from the date of final acceptance. If any litigation claim, negotiation, or audit has been started before expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues that arise from it.

The following agencies have agreed to contribute the amounts shown which will reduce the federal share by the same amount. The Funding Plan is as follows:

Agency	Phase	Form	Due	Value	Comments
COUNTY	PE	CASH	Received	\$108,862.00	
COUNTY	PE	CASH	Received	\$86,268.00	
COUNTY	CN	CASH	Received	\$328,594.23	
COUNTY	CN	CASH	01/15/2024	\$143,683.77	
COUNTY	CN	In-Kind	Received	\$600,937.00	FEMA Title 42 funded Dutch Creek Bridge construction

**L. PROJECT TEAM MEMBERS – POINT OF CONTACT:**

The following table provides the points of contact for this project. They are to be the first persons to deal with any issues or questions that arise over the implementation of each party's role and responsibility for this agreement.

NAME / TITLE	ORGANIZATION	TELEPHONE NO. / E-MAIL
Stephen Kahl, Civil Engineer	Polk County	(503) 623-9287 <a href="mailto:kahl.stephen@co.polk.or.us">kahl.stephen@co.polk.or.us</a>
Todd Whitaker, Public Works Director	Polk County	(503) 623-9287 <a href="mailto:whitaker.todd@co.polk.or.us">whitaker.todd@co.polk.or.us</a>
Matt Miller, Project Manager	Federal Highway Administration-Western Federal Lands Highway Division	360-619-7832 <a href="mailto:matthew.miller@dot.gov">matthew.miller@dot.gov</a>
Kirk Loftsgaarden, Project Manager Branch Chief	Federal Highway Administration-Western Federal Lands Highway Division	360-619-7512 <a href="mailto:kirk.loftsgaarden@dot.gov">kirk.loftsgaarden@dot.gov</a>

**M. CHANGES / AMENDMENTS / ADDENDUMS:**

The agreement may be modified, amended, or have addendums added by mutual agreement of all parties. The change, amendment, or addendum must be in writing and executed by all of the parties.

The types of changes envisioned include, but are not limited to, changes that significantly impact scope, schedule, or budget; changes to the local match, either in type or responsibility; change that alter the level of effort or responsibilities of a party. The parties commit to consider

suggested changes in good faith. Failure to reach agreement on changes may be cause for termination of this agreement.

A change in composition of the project team members does not require the agreement to be amended.

It is the responsibility of the project team members to recognize when changes are needed and to make timely notifications to their management in order to avoid project delivery delays.

**N. ISSUE RESOLUTION PROCEDURES MATRIX:**

Issues should be resolved at the lowest level possible. The issue should be clearly defined in writing and understood by all parties. Escalating to the next level can be requested by any party. When an issue is resolved, the decision will be communicated to all levels below.

<b>COUNTY</b>	<b>FHWA-WFL</b>	<b>Time</b>
Stephen Kahl, Civil Engineer	Matt Miller, Project Manager	15 Days
Todd Whitaker, Public Works Director	Kirk Loftsgaarden, Project Manager Branch Chief	15 Days
Craig Pope, County Commissioner	Brent Coe, Chief of Engineering	10 Days

**O. TERMINATION:**

This agreement may be terminated by mutual written consent of all parties. This agreement may also be terminated if either the NEPA process or funding availability requires a change and the parties are not able to agree to the change. Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination. If Federal access funds have been expended prior to termination, the party responsible for the match agrees to provide a match in the applicable percentage of the total amount expended on the project prior to the termination.