

RESOLUTION NO. 19-808-09

**A RESOLUTION OF CITY OF JOHN DAY APPROVING THE TRANSFER OF CERTAIN REAL PROPERTY
LOCATED IN CITY.**

WHEREAS, City of John Day (“City”) has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow City; and

WHEREAS, pursuant to ORS 271.310(1), City may sell, exchange, or convey real property no longer needed for public use and/or whenever the public interest may be furthered; and

WHEREAS, ORS 221.725 prescribes the notice and hearing requirements for a city to sell real property when the city’s city council considers it necessary or convenient to sell real property; and

WHEREAS, ORS 221.725 requires a city to publish notice of the proposed sale in a newspaper of general circulation in the city at least once during the week prior to the public hearing at which the governing body will consider the proposed sale; and

WHEREAS, City commenced a property line adjustment pursuant to which City will transfer a portion of City-owned real property, which portion of property is particularly described on the attached Exhibit A (the “Property”), to Kenneth J. Mills (“Mills”); and

WHEREAS, Mills intends to use the Property in connection with Mills commercial operations (i.e., Mills Building Supply) on certain Mills-owned property adjacent to City’s property; and

WHEREAS, in exchange for the Property, Mills will transfer a portion of Mills-owned property to City; and

WHEREAS, in accordance with ORS 221.725, City published notice of a hearing to be held concerning the sale (transfer) of the Property; and

WHEREAS, on May 14, 2019, the John Day City Council (the “Council”) held a public hearing at the time, date, and place stated in the notice; and

WHEREAS, at the hearing, the Council disclosed the nature of the proposed transfer and the general terms thereof, including, without limitation, any appraisal or other evidence of market value, and provided City residents an opportunity to present oral or written testimony; and

WHEREAS, the Council finds that the Property is no longer needed for public use and the sale (transfer) of the Property furthers the public interest.

NOW, THEREFORE, City of John Day resolves as follows:

1. Findings. The above-stated findings contained in this Resolution No. 19-808-09 (this “Resolution”) are hereby adopted.

2. Transfer Approved. Pursuant to ORS 221.725, the Council approves the transfer of the Property. The city manager is hereby authorized to sell, transfer, and/or convey the Property by any

method the city manager determines will further the public interest, including, without limitation, through a property line adjustment and property exchange. City's transfer of the Property is conditioned upon the transferee (Mills) entering into a property transfer agreement substantially in the form attached hereto as Exhibit B. Notwithstanding anything contained in this Resolution to the contrary, the property transfer agreement (a) will be in form and content satisfactory to City and contain such terms and conditions the city manager and/or city attorney determine necessary and/or appropriate, including, without limitation, that the Property will be transferred AS IS and WITH ALL FAULTS, and City will transfer and convey the Property subject to all encumbrances of record, and (b) will be subject to the review and approval of the city manager and city attorney. Upon completion, the city manager is authorized to execute and deliver the agreement for and on behalf of City.

3. Miscellaneous. All pronouns contained in this Resolution and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The provisions of this Resolution are hereby declared severable. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Resolution. This Resolution may be corrected by order of the Council to cure editorial and/or clerical errors. This Resolution will be in full force and effect from and after its approval and adoption.

APPROVED AND ADOPTED by the City Council of City of John Day and signed by the mayor this 14th day of May, 2019.

Ayes: _____
Nays: _____
Abstentions: _____
Absent: _____
Vacancies: _____

Ron Lundbom, Mayor

ATTEST:

Nick Green, City Manager

Exhibit A
Property Description

The Property is more particularly described as follows:

Legal Description

Land in the S1/2SE1/4, Section 22, Twp. 13 S., R. 31 E., W.M., City of John Day, Grant County, Oregon, more particularly described as follows:

All that portion of that certain tract of land described in Deed Record Instrument No. 20171037, deed records of Grant County, Oregon lying within the limits of the following described tract of land:

Commencing at the Southwest Corner of Parcel 3 of Land Partition No. 93-1, the plat of which is on file and of record in the office of the County Clerk of Grant County, Oregon;

thence S.00°04'32"E., 51.24 feet to the TRUE POINT OF BEGINNING;

thence S.72°22'00"W., 150.00 feet;

thence S.31°33'10"W., 176.08 feet;

thence S.14°00'00"E., 120.00 feet to a point on the northerly right of way line of the relocated John Day Highway;

thence along said northerly right of way line N.71°17'00"E., 217.90 feet;

thence, leaving said right of way line, N.00°04'32"W., 242.00 feet (record bearing: N.00°03'30"W.) to the point of beginning.

Together with and subject to easements, rights of way and reservations as the same may exist or appear of record.

Prepared by:
Benchmark Land Surveying, Inc.
217 N. Canyon Blvd.
John Day, Oregon 97845
(541) 575-1251

April 26, 2019



Exhibit B
Property Transfer Agreement

[attached]

PROPERTY TRANSFER AGREEMENT

This Property Transfer Agreement (this "Agreement") is made and entered into effective on _____, 2019 (the "Effective Date") between City of John Day ("City"), an Oregon municipal corporation, whose address is 450 East Main Street, John Day, Oregon 97485, and Kenneth J. Mills ("Mills"), whose address is 751 W. Main, John Day, Oregon 97845.

RECITALS:

A. City owns certain real property located in John Day, Oregon consisting of approximately 50.43 acres, which property is more particularly described on the attached Exhibit A (the "City Land"). Mills is the owner of certain adjoining real property located in John Day, Oregon, which property is more particularly described and depicted on the attached Exhibit B (the "Mills Land").

B. Through a property line adjustment, (a) Mills desires to acquire from City an approximately 9,700 square feet portion of the City Land, which portion of property is more particularly described on the attached Exhibit C (the "City Property"), and (b) City desires to acquire from Mills an approximately 4,200 square feet portion of the Mills Land (including all improvements located thereon), which portion of property is more particularly described on the attached Exhibit D (the "Mills Property"). The property line adjustment is depicted on the attached Exhibit E. For purposes of this Agreement, the term "Property(ies)" means, individually and collectively, the Mills Property and City Property.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions. Unless defined elsewhere in this Agreement, capitalized terms contained in this Agreement have the meanings assigned to them in the attached Appendix A.

2. Transfer of Properties; Fees.

2.1 Transfer of Properties. Subject to the terms and conditions contained in this Agreement, (a) City will transfer and convey the City Property to Mills and Mills will receive the City Property from City, and (b) Mills will transfer and convey the Mills Property to City and City will receive the Mills Property from Mills.

2.2 Property Line Adjustment; Fees. The property transfers identified in Section 2.1 are subject to and contingent on the property line adjustment under City of John Day PLA-19-02 (the "PLA"). Notwithstanding anything contained in this Agreement to the contrary, City will pay all costs and expenses of the PLA, including, without limitation, all survey costs, application fees, filing fees, community development fees, legal fees and expenses, and recording costs (collectively, the "PLA Costs"). Notwithstanding anything contained in this Agreement to the contrary, Mills will pay all real property and other taxes concerning or related to the Properties and this Transaction; City is a tax-exempt municipal corporation and will not pay any real property and/or other taxes concerning or related to the Properties and/or this Transaction.

3. Mills Representations; Warranties; Covenants. In addition to any other Mills representation, warranty, and/or covenant contained in this Agreement, Mills represents, warrants, and covenants to City as follows:

3.1 Authority; Binding Obligation. Mills has full power and authority to sign and deliver this Agreement and to perform all Mills' obligations under this Agreement. The execution, delivery, and performance

of this Agreement, and any agreement contemplated herein, constitute a valid and binding agreement of Mills, enforceable in accordance with its terms. Mills' execution, delivery, and performance of this Agreement, and any agreement contemplated herein, will not result in a breach or violation of, nor constitute a default under, any agreement, law, judgment, or order, or require the consent, authorization, or approval of any person, including, without limitation, any governmental body.

3.2 Evaluation; Encumbrance; Laws. Mills has knowledge and experience in real estate and land use matters necessary to make Mills capable of evaluating the merits and risks of this Transaction and entering into this Agreement. Mills has entered into this Agreement on the basis of its own examination, personal knowledge, and opinion as to the suitability of this Transaction. In connection with Mills' decision to enter into this Agreement, Mills has not relied on any representations or warranties made by City other than those specified in this Agreement. Mills has had the opportunity to ask questions and receive answers concerning this Transaction and has obtained all information Mills deems necessary or appropriate to evaluate this Transaction. The Mills Property is free and clear of any Encumbrances that may interfere with City's use of the Mills Property. No encroachments, boundary agreements, boundary disputes, and/or boundary changes exist or concern the Mills Property that may interfere with the City's use of the Mills Property. Mills and the Mills Property are in compliance with the Laws. Mills has no knowledge of any defects or issues concerning the Mills Property that may affect City's intended use of the Mills Property. City has made no promise or agreement to repair, alter, construct, and/or improve the City Property, or any part thereof. Mills acknowledges and agrees that City will transfer the City Property to Mills subject to all Encumbrances of record.

3.3 Property Conditions; No Brokers or Finders. Mills has not incurred any liability or obligation, whether contingent or otherwise, for a brokerage commission, a finder's fee, or any other similar payment in connection with this Agreement and/or the Transaction. Mills and/or the Mills Property are not subject to any judgments and/or orders and there are no actions, judgments, suits, audits, hearings, proceedings, orders, investigations, and/or claims pending or threatened against Mills and/or the Mills Property. Mills is not a "foreign person" for purposes of Section 1445 of the Internal Revenue Code.

3.4 Mills Indemnification. Mills releases and will defend, indemnify, and hold City and each City Representative harmless for, from, and against all Damages, whether known or unknown, resulting from or arising out of, whether directly or indirectly, the following: (a) Mills' breach and/or failure to perform any Mills representation, warranty, covenant, and/or obligation contained in this Agreement; (b) Mills and/or any Mills Representative's activities on the Properties involving the use, storage, handling, transportation, treatment, disposal, and/or release of any Hazardous Substances; and/or (c) Mills occupancy, possession, repair, maintenance, ownership, and/or use of the Properties, including, without limitation, use of the Properties by any contractor, representative, tenant, and/or invitee of Mills and/or any other person. City's right to indemnification under this Section 3.4 is in addition to, and not in lieu of, any other rights to which City may be entitled under this Agreement, at law, and/or in equity. The indemnification covenants contained in this Section 3.4 will survive the Closing and will not merge into the property line adjustment deeds described in Section 5.2.

3.5 MILLS ACKNOWLEDGES AND AGREES THAT MILLS IS RECEIVING THE CITY PROPERTY "AS IS" AND "WITH ALL FAULTS" AS OF CLOSING, WITHOUT ANY CITY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, AND/OR STATUTORY, OF ANY KIND WHATSOEVER. CITY HAS NO OBLIGATION TO REPAIR, IMPROVE, AND/OR CORRECT ANY PROPERTY CIRCUMSTANCES, CONDITIONS, AND/OR DEFECTS. MILLS ACKNOWLEDGES AND AGREES THAT CITY DISCLAIMS (A) ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, AND (B) ANY IMPLIED OR EXPRESS WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. MILLS ASSUMES RESPONSIBILITY AND RISKS OF ALL PROPERTY DEFECTS AND CONDITIONS. MILLS IS MAKING MILLS' OWN DETERMINATION REGARDING THE CITY PROPERTY'S VALUE AND/OR USE. CITY AND MILLS ACKNOWLEDGE THAT THIS DISCLAIMER HAS BEEN SPECIFICALLY NEGOTIATED.

Mills' Initials: _____

3.6 Accuracy. None of Mills' representations or warranties contains or will contain any untrue statement of a material fact or omit or will omit or misstate a material fact necessary to make the statements contained herein not misleading.

4. City Representations; Warranties. **Except for the express representations and warranties contained in this Agreement, City expressly excludes all representations and warranties with respect to the City Property and this Transaction, express and implied, including, without limitation, the warranty of title, the warranty of merchantability, the warranty of fitness for a particular purpose, and any warranties that may have arisen from course of dealing or usage of trade.** Subject to the immediately preceding sentence (and as otherwise provided under this Agreement), City represents and warrants to Mills as follows:

4.1 Authority; Binding Obligation; No Conflicts. City has full power and authority to sign and deliver this Agreement and to perform all City's obligations under this Agreement. The execution, delivery, and performance of this Agreement constitutes a valid and binding agreement of City. City's execution, delivery, and performance of this Agreement will not result in a breach or violation of, nor constitute a default under, any agreement, law, judgment, or order, or require the consent, authorization, or approval of any person, including, without limitation, any governmental body.

4.2 Brokers; Non-foreign Person. City has not incurred any liability or obligation, whether contingent or otherwise, for a brokerage commission, a finder's fee, or any other similar payment in connection with this Agreement and/or the Transaction.

5. Closing.

5.1 Closing Conditions. Notwithstanding anything contained in this Agreement to the contrary, City's obligation to close the Transaction is conditioned on City having obtained all consents, authorizations, approvals, agreements, and instruments required to consummate the Transaction, including, without limitation, PLA approval.

5.2 Closing. The Closing of the Transaction will take place at John Day City Hall, 450 East Main Street, John Day, Oregon 97485, contemporaneously with the parties' mutual execution of this Agreement. At the Closing, City will deliver the following items to Mills: (a) the appropriate property line adjustment deeds signed by City concerning the Properties (in form and substance acceptable to City); and (b) exclusive possession of the City Property. At the Closing, Mills will deliver the following to City: (x) the appropriate property line adjustment deeds signed by Mills concerning the Properties (in form and substance acceptable to City); (y) exclusive possession of the Mills Property; and (z) all documents and instruments that City may reasonably request to close the Transaction, in form and substance satisfactory to city.

5.3 Costs and Expenses. City will pay all costs, charges, and expenses associated with this Transaction, including, without limitation, PLA Costs, closing costs, and recording fees.

6. Miscellaneous.

6.1 Statutory Warning. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY

ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

6.2 Expenses; Notices. Except as otherwise provided in this Agreement, each party will bear the party's own fees, costs, and expenses incurred in connection with the Transaction, including, without limitation, the preparation, negotiation, signing, and performance of this Agreement. Any notice required under this Agreement must be in writing. Any notice will be deemed given when personally delivered or delivered by email or facsimile transmission (with electronic confirmation of delivery), or will be deemed given three business days following delivery of the notice by U.S. mail, postage prepaid, certified, return receipt requested, by the applicable party to the address of the other party first shown above (or any other address that a party may designate by notice to the other party), unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed given on the next following business day.

6.3 Time of Essence; No Assignment; Binding Effect. Time is of the essence with respect to Mills' obligations under this Agreement. Neither party may assign or delegate any of the party's rights or obligations under this Agreement to any person without the prior written consent of the other party. Subject to the immediately preceding sentence, this Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. Notwithstanding anything contained in this Agreement to the contrary, this Agreement will not be construed to create third party beneficiary rights or remedies in any party whatsoever.

6.4 Amendment; Waiver; Severability; Attorney Fees. This Agreement may be amended only by a written document signed by the party against whom enforcement is sought. No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. A party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision. If a provision of this Agreement is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Agreement will not be impaired. If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Agreement, or otherwise in connection with the subject matter of this Agreement, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's attorney fees and other fees, costs, and expenses of every kind, including, without limitation, the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, action, suit, or proceeding, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

6.5 Further Assurances; Termination; Survival. The parties will sign other documents and take all other actions reasonably necessary to further effect and evidence this Agreement. The termination of this Agreement, regardless of how it occurs, will not relieve a party of obligations that have accrued before the termination. All Mills representations, warranties, covenants, and indemnity obligations arising under or made in this Agreement will survive the closing of the Transaction and will not merge with or into any deeds granted as part of the Transaction.

6.6 Attachments; Governing Law. Any exhibits, schedules, and other attachments referenced in this Agreement are part of this Agreement. This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement. Any action, suit, or proceeding arising out of the subject matter of this Agreement will be litigated in courts located in Grant County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Grant County, Oregon. The parties may execute this Agreement in separate counterparts, each of which when executed and delivered will be an original, but all of which together will

constitute one and the same instrument. A fax or email transmission of a signature page will be considered an original signature page.

6.7 Entire Agreement; Interpretation. This Agreement sets forth the entire understanding of the parties with respect to the Transaction. This Agreement supersedes all prior negotiations, discussions, agreements, and understandings between the parties with respect to the Transaction. If a date for performance of an obligation or delivery of any notice hereunder falls on a day other than a business day, the date for such performance or delivery of such notice will be postponed until the next ensuing business day. For purposes of this Agreement, a “business day” means a normal working day (i.e., Monday through Friday of each calendar week, exclusive of Federal and state holidays and one day following each of Thanksgiving, Christmas, and New Year’s); the term “person” means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes,” and “including” are not limiting. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed and effective for all purposes as of the Effective Date.

CITY:
City of John Day,
an Oregon municipal corporation

MILLS:
Kenneth J. Mills

By: Nicholas Green, City Manager

Kenneth J. Mills

Appendix A
Definitions

“Agreement” has the meaning assigned to such term in the preamble.

“City” has the meaning assigned to such term in the Preamble.

“City Land” has the meaning assigned to such term in Recital A.

“City Property” has the meaning assigned to such term in Recital B.

“City Representative(s)” means each present and future officer, employee, agent, and/or representative of City.

“Closing” means the closing of the Transaction.

“Damages” means all claims, actions, proceedings, damages, liabilities, obligations, costs, attorney fees and costs, and expenses of every kind or nature, including, without limitation, environmental remediation costs and expenses, whether known or unknown.

“Encumbrance(s)” means any lien, mortgage, pledge, security interest, reservation, restriction, adverse claim, and/or other encumbrance.

“Environmental Law(s)” means all applicable federal, state, and/or local statutes, regulations, and/or ordinances, and/or any judicial or other governmental orders pertaining to the protection of health, safety, and/or the environment.

“Hazardous Substance(s)” means any hazardous, toxic, infectious, and/or radioactive substance, waste, and/or material as defined, controlled, and/or listed by any Environmental Law, including, without limitation, petroleum oil and its fractions.

“Law(s)” means all federal, state, and local laws, statutes, ordinances, codes, regulations, orders, rules, covenants, conditions, easements, declarations, leases, liens, and/or restrictions directly or indirectly affecting or concerning the ownership, use, condition, maintenance, leasing, and/or operation of all or any part of the Properties, including, without limitation, all Environmental Laws.

“Mills” has the meaning assigned to such term in the Preamble.

“Mills Land” has the meaning assigned to such term in Recital A.

“Mills Property” has the meaning assigned to such term in Recital B.

“Mills Representative(s)” means each present and future officer, employee, agent, and/or representative of Mills.

“PLA” has the meaning assigned to such term under Section 2.2.

“PLA Costs” has the meaning assigned to such term under Section 2.2.

“Property(ies)” has the meaning assigned to such term under Recital B.

“Transaction” means City’s transfer and conveyance of the City Property to Mills and Mills’ transfer and conveyance of the Mills Property to City as provided under this Agreement, including, without limitation, the PLA.

Exhibit A
City Land Description

The City Land is more particularly described as follows:

Township 13 South, Range 31 East, Willamette Meridian, Grant County, Oregon:

Section 22: S1/2NW1/4SE1/4;

ALSO, Beginning at the intersection of the Northerly right of way line of the John Day Highway and the East line of the SW1/4SE1/4 of Section 22, Township 13 South, Range 31 East, Willamette Meridian: said point being 598.1 feet North and 1320.3 feet West of the Southeast corner of said Section 22; thence, along the Northerly right of way line of said highway as follows:

S71°30'W, 559.4 feet; On a 256.5 foot radius curve right (the long chord of which curve bears N86°10'W, 195.0 feet), 200.0 feet;

N63°49'W, 663.8 feet to the West line of the SE1/4 of said Section 22;

N62°30'W, 496.2 feet;

thence N0°06'W, 140.0 feet;

thence East 239.6 feet;

thence N0°06'W, 300.0 feet;

thence East 200.0 feet to the West line of the SE1/4 of said Section 22;

thence S0°06'E, along said West line, to the Northwest corner of the SW1/4SE1/4 of said Section 22;

thence S89°47'E, along the North line of the SW1/4SE1/4 of said Section 22, 1320.9 feet to the Northeast corner of the SW1/4SE1/4 of said Section 22;

thence S0°03'E, along the East line of the SW1/4SE1/4 of said Section 22, 716.9 feet to the PLACE OF BEGINNING.

SAVE & EXCEPT the following parcel of land, to-wit:

Beginning at a point which is 1320.5 feet West and 598.1 feet North of the Southeast corner of said Section 22; said point being the Southeast corner of the San Juan Lumber Company Retail Yard;

thence N0°03'E, 280.0 feet;

thence S72°21'W, 108.0 feet;

thence S17°39'E, 26.6 feet;

thence S72°21'W, 50.0 feet;

thence S17°39'E, 22.0 feet;

thence S42°45'W, 81.0 feet;

thence S14°00'E, 188.0 feet;

thence N71°30'E, 163.0 feet to the POINT OF BEGINNING.

SAVE & EXCEPT a parcel of land in the SW1/4SE1/4 of Section 22, Township 13 South, Range 31 East, Willamette Meridian, conveyed to the State of Oregon, by and through its State Highway Commission, by Deed dated December 30, 1955, recorded March 2, 1956 in Book 74 of Deeds, pages 144-5.
(Tax Acct. 3-4 13-31-22D TL300; Ref. 1846)

Exhibit B
Mills Land Description

EXHIBIT A

Store Property:

Township 13 South, Range 31 East, Willamette Meridian, Grant County, Oregon:

Section 22: Beginning at a point which is 1320.5 ft. West and 598.1 feet North of the Southeast corner of Section 22, which point is also the Southeast corner of the San Juan Lumber Company Retail Yard;
thence N. 0 deg. 03' E. 280.0 feet;
thence S. 72 deg. 21' W. 108.0 feet;
thence S. 17 deg. 39' E. 26.6 feet;
thence S. 72 deg. 21' W. 50.0 feet;
thence S. 17 deg. 39' E. 22.0 feet;
thence S. 42 deg. 45' W. 81.0 feet;
thence S. 14 deg. 00' E. 188.0 feet;
thence N. 71 deg. 30' E. 163.0 feet to the point of beginning.

TOGETHER WITH an easement in common for an alley to be used with the owner of the adjacent land as described in deed from Marcus L. Dale and Minnie Dale, husband and wife, et als, to Blue Mountain Mills, a corp., dated March 8, 1949, recorded March 12, 1949 in Book 56 of Deeds, Page 434 described as follows:

Commencing at the intersection of the Northerly right of way line of the John Day Highway and the East line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 22, T. 13 S., R. 31 E., W.M., said point being 598.1 feet North and 1320.5 feet West of the corner common to Secs. 22, 23, 26 and 27, Twp. 13 S., R. 31 E., W.M.;

thence N. 72 deg. 15' E. along said Northerly right of way line 20.0 feet;

thence N. 4 deg. 56' W. 223.3 feet to the East line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$;

thence S. 00 deg. 03' E. along said East line, 228.6 feet to the POINT OF BEGINNING.

Exhibit C
City Property Description

The City Property is more particularly described as follow:

Legal Description

Land in the S1/2SE1/4, Section 22, Twp. 13 S., R. 31 E., W.M., City of John Day, Grant County, Oregon, more particularly described as follows:

All that portion of that certain tract of land described in Deed Record Instrument No. 20171037, deed records of Grant County, Oregon lying within the limits of the following described tract of land:

Commencing at the Southwest Corner of Parcel 3 of Land Partition No. 93-1, the plat of which is on file and of record in the office of the County Clerk of Grant County, Oregon;

thence S.00°04'32"E., 51.24 feet to the TRUE POINT OF BEGINNING;

thence S.72°22'00"W., 150.00 feet;

thence S.31°33'10"W., 176.08 feet;

thence S.14°00'00"E., 120.00 feet to a point on the northerly right of way line of the relocated John Day Highway;

thence along said northerly right of way line N.71°17'00"E., 217.90 feet;

thence, leaving said right of way line, N.00°04'32"W., 242.00 feet (record bearing: N.00°03'30"W.) to the point of beginning.

Together with and subject to easements, rights of way and reservations as the same may exist or appear of record.

Prepared by:
Benchmark Land Surveying, Inc.
217 N. Canyon Blvd.
John Day, Oregon 97845
(541) 575-1251

April 26, 2019



Exhibit D
Mills Property Description

The Mills Property is more particularly described as follows:

Legal Description

Land in the S1/2SE1/4, Section 22, Twp. 13 S., R. 31 E., W.M., City of John Day, Grant County, Oregon, more particularly described as follows:

All that portion of that certain tract of land described in Deed Record Instrument No. 962152, deed records of Grant County, Oregon lying outside limits of the following described tract of land:

Commencing at the Southwest Corner of Parcel 3 of Land Partition No. 93-1, the plat of which is on file and of record in the office of the County Clerk of Grant County, Oregon;

thence S.00°04'32"E., 51.24 feet to the TRUE POINT OF BEGINNING;

thence S.72°22'00"W., 150.00 feet;

thence S.31°33'10"W., 176.08 feet;

thence S.14°00'00"E., 120.00 feet to a point on the northerly right of way line of the relocated John Day Highway;

thence along said northerly right of way line N.71°17'00"E., 217.90 feet;

thence, leaving said right of way line, N.00°04'32"W., 242.00 feet (record bearing: N.00°03'30"W.) to the point of beginning.

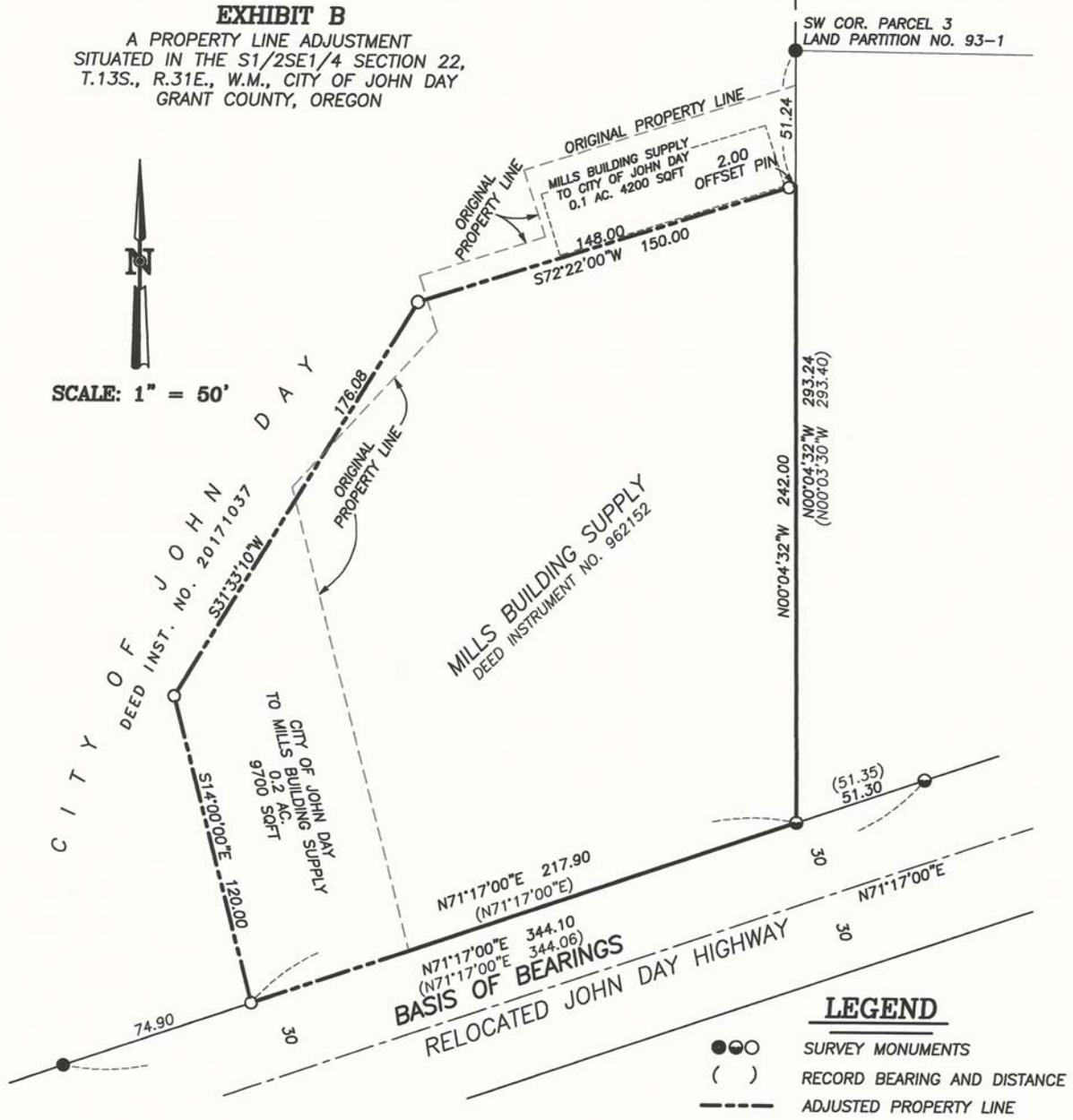
Together with and subject to easements, rights of way and reservations as the same may exist or appear of record.

Prepared by:
Benchmark Land Surveying, Inc.
217 N. Canyon Blvd.
John Day, Oregon 97845
(541) 575-1251

April 26, 2019



Exhibit E
Property Line Adjustment Depiction



PREPARED FOR: THE CITY OF JOHN DAY, OREGON

PREPARED BY: BENCHMARK LAND SURVEYING, INC.
217 N. CANYON BLVD.
JOHN DAY, OR 97845
(541) 575-1251
APRIL 26, 2019

REGISTERED
PROFESSIONAL
LAND SURVEYOR

[Signature]
OREGON
JULY 9, 2002
MICHAEL C. SPRINGER
#70918

EXPIRES: 6/30/2020