

RESOLUTION NO. 19-823-24

A RESOLUTION OF CITY OF JOHN DAY APPROVING THE SALE 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 described on the attached Exhibit A and depicted on the attached Exhibit B (the “Property”), to Douglas A. Cates and Tonya M. Cates (collectively, “Buyer”); and

WHEREAS, Buyer intends to use the Property in connection with Buyer’s adjacent residential property to the east of the Property; and

WHEREAS, City intends to develop a public park along Davis Creek and the sale of the Property will provide a spatial buffer between the proposed park Buyer’s residence; and

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

WHEREAS, on August 13, 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 of the Property furthers the public interest.

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

1. Findings. The above-stated findings contained in this Resolution No. 19-823-24 (this “Resolution”) are hereby adopted.
2. Sale Approved. Pursuant to ORS 221.725, the Council approves the sale 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 pursuant to purchase and sale agreement. City's sale of the Property is conditioned upon the Buyer entering into a purchase and sale agreement substantially in the form attached hereto as Exhibit C. Notwithstanding anything contained in this Resolution to the contrary, the purchase and 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 13th day of August, 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:

Land in the NW1/4SW1/4 Section 23, 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 Instrument No. 20181690, deed records of Grant County, Oregon lying within the limits of the following described tract of land:

Beginning at the southwest corner of Lot 7 of North Heights Subdivision, the plat of which is on file and of record in the office of the County Clerk of Grant County, Oregon;

thence N.00°13'58"E., 75.0 feet, more or less, along the west lines of Lot 7 and the S1/2 of Lot 6 of said subdivision to the northwest corner of the S1/2 of said Lot 6;

thence S.89°45'50"W., 18.00 feet;

thence S.00°13'58"W., 75.0 feet, more or less, along a line parallel to and 18.00 distant from the west line of said North Heights Subdivision to a point that is S.89°45'50"W., 18.00 feet from the point of beginning;

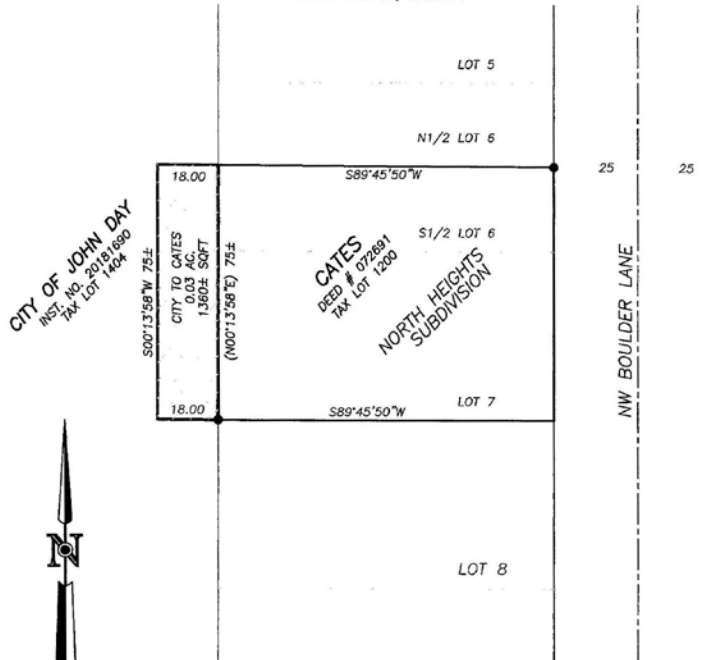
thence N.89°45'50"E., 18.00 feet to the point of beginning.

All according to Exhibit B, attached hereto and by this reference made a part hereof.

Note: The bearings and distances contained in this description may change slightly upon the execution of an actual survey.

Exhibit B
Property Depiction

EXHIBIT B
A PROPOSED PROPERTY LINE ADJUSTMENT
SITUATED IN THE NW1/4SW1/4 SECTION 23,
T.13S., R.31E., W.M., CITY OF JOHN DAY
GRANT COUNTY, OREGON



SCALE: 1" = 30'

LEGEND

● SURVEY MONUMENT
() RECORD BEARING AND DISTANCE

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
JULY 5, 2019

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael C. Springer

OREGON
JULY 6, 2002
MICHAEL C. SPRINGER
#70918
EXPIRES: 6/30/2020

Exhibit C
Purchase and Sale Agreement

[attached]