

RESOLUTION NO. 21-868-16

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 221.727, City adopted Ordinance No. 21-192-03 (the “Ordinance”) establishing alternative procedures and exemptions for the sale, transfer, and conveyance of certain “classes” of City-owned real property; and

WHEREAS, City desires to sell certain real property consisting of approximately 3.01 acres commonly known as Gleason Park and Gleason Pool, 250 NW Canton Street, John Day, Oregon 97845, which real property is more particularly described and depicted on the attached Exhibit A (the “Property”); and

WHEREAS, State of Oregon (“State”), by and through the Oregon Parks and Recreation Department, desires to purchase the Property from City; and

WHEREAS, in accordance with Section 6.1 of the Ordinance, City may transfer City-owned real property to any federal, state, and/or local agency, government, and/or political subdivision if the council finds that (a) the real property is not needed for public use, and/or (b) the public interest may be furthered by disposal of the real property. A transfer of City-owned real property to another government entity is not subject to the Ordinance’s sale procedures and may be completed with or without consideration; and

WHEREAS, although not required under the Ordinance, City has received and reviewed a certain Real Estate Appraisal dated September 30, 2021 completed by Aaron D. Still, MAI, with Aaron Still Appraisal attached hereto as Exhibit B (the “Appraisal”). The Appraisal was procured by State and later reviewed by State’s consultant, William E. Adams, MAI, Real Estate Appraisal & Consultation, on or about October 1, 2021. The results of Mr. Adams’ review are contained in that certain Real Estate Appraisal Review dated October 1, 2021 also attached hereto as Exhibit B (the “Review”). The Appraisal and Review support a total Property value of \$220,000.00; and

WHEREAS, although not required under the Ordinance, in accordance with ORS 221.725, City (a) provided notice of the Property’s proposed sale in a newspaper of general circulation in accordance with ORS 221.725, and (b) held a public hearing concerning the proposed sale at the time and place stated in the notice.

WHEREAS, although not required under the Ordinance, by adoption of this Resolution No. 21-868-16 (this “Resolution”), the council desires to establish the minimum acceptable terms for the sale of the Property.

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

1. Findings. The above-stated findings contained in this Resolution are hereby adopted. Without otherwise limiting the immediately preceding sentence, the council finds that (a) the Property

is not needed for public use, and (b) the public interest will be furthered by disposal of the Property.

2. Sale Approved. The Council approves the sale of the Property to State. The city manager is hereby authorized to sell, transfer, and/or convey the Property for a purchase price of no less than \$220,000.00 pursuant to the terms and conditions of a purchase and sale agreement between City and State substantially in the form attached hereto as Exhibit C. Notwithstanding anything contained in this Resolution to the contrary, the purchase and sale 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, which may include, without limitation, that the Property will be transferred AS IS, WITH ALL FAULTS AND DEFECTS, and 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 purchase and sale 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 9th day of November, 2021.

Ron Lundbom, Mayor

ATTEST:

Nick Green, City Manager

Exhibit A
Property Description and Depiction

[attached]

Exhibit B
Appraisal and Review

[attached]

Exhibit C
Purchase and Sale Agreement

[attached]