

December 14, 2021

Attn: Shannon Adair

Re: Letter of Intent – Sale of John Day Lot 1900, Map No. 13S31E22C

Dear Mrs. Adair:

City of John Day (“Seller”) is the owner of the Property (as defined below). This letter is written to summarize the general terms and conditions under which Seller is interested in selling the Property to _____ (“Buyer”) (the “Transaction”). The terms and conditions contained in this letter are based upon the parties’ current intentions and information known to the parties as of the date of this letter. Except for the provisions contained in Part Two of this letter, this letter is nonbinding and does not grant or impose any legal rights and/or obligations on Seller or Buyer.

Part One – Nonbinding Provisions

Based upon information known to the parties as of the date of this letter, Seller proposes that the Sale Agreement (as defined below) be consistent with the nonbinding provisions set forth in this Part One (Sections 1-2; collectively, the “Non-Binding Provisions”):

1. Purchase Price; Payment. Seller will sell the Property to Buyer, and Buyer will purchase the Property from Seller, for a purchase price of \$1 per square foot and a total purchase price of _____ (the “Purchase Price”). Within 10 days after executing the Sale Agreement, Buyer will pay 10 percent of the total purchase price (the “Earnest Money”) to Seller. At the closing, Buyer will pay the balance of the Purchase Price to Seller in cash, certified check, or wire transfer to an account specified by Seller. For purposes of this letter, the term “Property” means that certain real property (and all improvements located thereon) commonly known as Tax Lot 1900 in Map No. 13S31E22C John Day, Oregon 97845 consisting of approximately 2.5 acres after adjusting for Seller’s right-of-way and certain property line adjustments that shall be completed with Seller’s adjacent properties prior to the Sale.

2. Purchase and Sale Agreement. Within 90 days after Buyer’s execution of this letter, the parties will execute a definitive written purchase and sale agreement concerning the Transaction (the “Sale Agreement”). The Sale Agreement will be consistent with the terms of this letter and will contain Buyer representations, warranties, covenants, indemnification provisions, limitation of liability provisions, and other standard terms and conditions, all of which will be in form and substance satisfactory to Seller. Without otherwise limiting the generality of the immediately preceding sentence, the Sale Agreement will contain the following terms and conditions:

(a) Seller will sell the Property and Buyer will purchase the Property (a) “AS IS” and “with all FAULTS AND DEFECTS” as of the closing date, without any Seller representations or warranties, express, implied, and/or statutory, of any kind whatsoever, and (b) subject to all encumbrances of record.

(b) Buyer will pay all real property and other taxes concerning or related to the Property and/or Transaction; Seller is a tax-exempt municipal corporation and will not pay any real property and/or other taxes concerning or related to the Property and/or Transaction. Buyer will pay any escrow fees charged by the title company. At closing, the parties will enter into and sign such other agreements, documents, and instruments necessary or appropriate to consummate the Transaction.

Seller's attorney will prepare the Sale Agreement consistent with the terms and conditions of this letter. Each party will be responsible for its own costs and expenses incurred in connection with this letter.

Part Two – Binding Provisions

The binding provisions set forth in this Part Two (Sections 3-5; collectively, the "Binding Provisions") are legally binding and enforceable against Seller and Buyer.

3. No Exclusivity. Unless and until Seller and Buyer enter into the Sale Agreement, Seller may accept and negotiate proposals from any person or entity relating to the sale and/or use of the Property without notice to Buyer.

4. Term; Termination. This letter will terminate upon the earliest to occur of the following: (a) upon the parties' mutual execution of the Sale Agreement; and/or (b) at any time by either party upon 10 days' prior written notice by the party to the other party. Upon termination of this letter, the parties will have no further rights or obligations hereunder.

5. Miscellaneous.

5.1 Provisions; Third-Party Beneficiaries; Costs and Expenses. The Nonbinding Provisions are not legally binding or enforceable against Seller or Buyer. No binding obligation will exist with respect to the subject matter of the Nonbinding Provisions unless and until the parties sign the Sale Agreement, and then only to the extent such obligations are set forth in the Sale Agreement. The Binding Provisions will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. The parties do not intend to confer any right or remedy on any third party. Notwithstanding anything contained in this letter to the contrary, Buyer will pay all fees, costs, and expenses incurred in connection with Buyer's construction on, use of, and occupancy of the Property.

5.2 Severability; Assignment; Binding Effect. Each provision contained in this letter will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law. Buyer will not assign this letter to any person without Seller's prior written consent. Subject to the immediately preceding sentence, this letter will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. This letter may be amended only by a written agreement signed by each party.

5.3 Attorney Fees; Governing Law. With respect to any dispute relating to this letter, or if a suit, action, arbitration, or other proceeding of any nature whatsoever is instituted to interpret or enforce the provisions of this letter, including, without limitation, any proceeding under the U.S. Bankruptcy Code and involving issues peculiar to federal bankruptcy law or any action, suit, arbitration, or proceeding seeking a declaration of rights or rescission, the prevailing party will be entitled to recover from the losing party its reasonable attorney fees, paralegal fees, expert fees, and all other fees, costs, and expenses incurred in connection therewith, as determined by the judge or arbitrator at trial, arbitration, or other proceeding, or on any appeal or review, in addition to all other amounts provided by law. This letter 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 or proceeding arising out of this letter 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.

5.4 Attachments; Notices. Any exhibits, schedules, instruments, documents, and other attachments referenced in this letter are part of this letter; provided, however, if any exhibits, schedules, instruments, documents, and/or other attachments conflict with the terms of this letter, the terms of this letter

will control. All notices or other communications required or permitted by this letter must be in writing, must be delivered to the parties at the addresses first set forth above, or any other address that a party may designate by notice to the other party, and are considered delivered upon actual receipt if delivered personally, by fax or email (with electronic confirmation of delivery), or a nationally recognized overnight delivery service, or at the end of the third business day after the date of deposit if deposited in the United States mail, postage pre-paid, certified, return receipt requested.

5.5 Waiver; Entire Agreement. No provision of this letter may be modified, waived, or discharged unless such waiver, modification, or discharge is agreed to in writing by Seller and Buyer. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this letter will be deemed a waiver of other provisions or conditions hereof. This letter contains the entire agreement and understanding between the parties with respect to the subject matter of this letter and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. The parties may execute this letter 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. Facsimile or email transmission of any signed original letter will be the same as delivery of an original. At the request of either party, the parties will confirm facsimile or email transmitted signatures by signing and delivering an original letter.

With the exception of the Binding Provisions (Part Two), this letter does not constitute a binding agreement between the parties. This letter is an expression of the mutual intent and desires of the parties as to certain aspects of the Transaction. However, the parties agree that there are material terms as to which agreement has not been reached and this letter is not to be construed as a definitive contract. This letter is subject to the parties' execution of the Sale Agreement. It is expressly understood and agreed that (a) no liability or binding obligation is intended to be created between or among any of the parties to this letter, except with respect to the Binding Provisions, and (b) other than with respect to the Binding Provisions, any legal rights and obligations between or among any of the parties to this letter will come into existence only upon the parties' execution and delivery of the Sale Agreement, and then only in accordance with the terms and conditions of the Sale Agreement.

If the above general terms and conditions are acceptable to you, kindly sign both copies of this letter. Retain one copy for your files and return the second signed copy to me. I look forward to a successful relationship with you and await your early response. This letter will be deemed null and void if not signed by you (below) and received by me on or before 5:00 p.m. on , 2021.

Sincerely,

Nicholas Green, City Manager

cc: Jeremy M. Green, Bryant, Lovlien & Jarvis, P.C.

Acknowledgement and Acceptance

The undersigned (a) has read and understands the terms of this letter, and (b) agrees that the general sale transaction terms and conditions contained in this letter are acceptable.

By: _____
Its: _____

Exhibit A

Property – Description and Depiction

[tax map below; final legal description and depiction will be updated and attached prior to execution]

