

PROPERTY TRANSFER AGREEMENT

This Property Transfer Agreement (this “Agreement”) is made and entered into effective on August 1, 2022 (the “Effective Date”) between City of John Day (“City”), an Oregon municipal corporation, whose address is 450 East Main Street, John Day, Oregon 97845, and, the Grant County Library Foundation, Inc. (“Foundation”), an Oregon public benefit corporation whose address is 507 S. Canyon Blvd, John Day, Oregon 97845.

RECITALS:

A. City owns certain real property located in City of John Day, Oregon consisting of approximately 2.81 acres located along NW 7th Avenue, which property is more particularly described on the attached Exhibit A and depicted on the attached Exhibit B (the “City Land”). Foundation is the owner of certain real property located at 125 NW Canton Street in John Day, Oregon consisting of approximately 1.03 acres, which property is more particularly described on the attached Exhibit C (the “Foundation Land”).

B. Through this Agreement, (a) Foundation desires to acquire City Land from City and (b) City desires to acquire Foundation Land from Foundation.

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; Purchase Price.

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

2.2 Property Line Adjustment; Fees. The property transfers identified in Section 2.1 are subject to and contingent upon the property line adjustment under City of John Day PLA-22-03 (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”) associated with this Transaction. For purposes of this Agreement, the term “Transaction” means the purchase and sale of the Property as provided under this Agreement, including, without limitation, the PLA.

2.3. Purchase Price; Donation. The purchase price for the Foundation Land is \$125,000 (the “Purchase Price”). City will pay Foundation the Purchase Price at the Closing by cash, cashier’s check, or wire transfer to an account specified by Foundation. City Land shall be donated to Foundation at no cost to Foundation.

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

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

and performance of this Agreement, and any agreement contemplated herein, constitute a valid and binding agreement of Foundation, enforceable in accordance with its terms. Foundation's 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. Foundation has knowledge and experience in real estate and land use matters necessary to make Foundation capable of evaluating the merits and risks of this Transaction and entering into this Agreement. Foundation 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 Foundation's decision to enter into this Agreement, Foundation has not relied on any representations or warranties made by City other than those specified in this Agreement. Foundation has had the opportunity to ask questions and receive answers concerning this Transaction and has obtained all information Foundation deems necessary or appropriate to evaluate this Transaction. Except for the circumstances regarding the Madden Easement, which the City is aware of and has agreed to accept as more specifically set forth in Section 6.6 of this Agreement, Foundation has no knowledge of any defects or issues concerning the Foundation Land that may affect City's intended use of the Foundation Land. City acknowledges and agrees that Foundation will transfer the Foundation Property subject to all Encumbrances of record, as shown in the title report obtained by the City. Foundation acknowledges and agrees that City will transfer the City Land to Foundation subject to all Encumbrances of record, as shown in the title report obtained by Foundation. Title Company shall provide Foundation with an updated preliminary title report approximately five days prior to the Delayed Closing date. Based upon Foundation's review of the updated preliminary title report, Foundation may require that any encumbrances that are not Permitted Encumbrances be removed from the title to the Property. Any such encumbrances to which Foundation does not object before the Delayed Closing Date shall be deemed to be Permitted Encumbrances.

3.3 Property Conditions; No Brokers or Finders. Foundation 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. Foundation and/or the Foundation Land 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 Foundation and/or the Foundation Land. Foundation is not a "foreign person" for purposes of Section 1445 of the Internal Revenue Code.

3.4 Foundation Indemnification. Foundation 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) Foundation's breach and/or failure to perform any Foundation representation, warranty, covenant, and/or obligation contained in this Agreement; (b) Foundation and/or any Foundation Representative's activities on the Properties involving the use, storage, handling, transportation, treatment, disposal, and/or release of any Hazardous Substances; and/or (c) Foundation's 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 Foundation 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 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 Accuracy. None of Foundation's 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. City represents and warrants to Foundation as follows:

4.1 Authority; Binding Obligation. 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, and any agreement contemplated herein, constitute a valid and binding agreement of City, enforceable in accordance with its terms. City's 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.

4.2 Evaluation; Encumbrance; Laws. City has knowledge and experience in real estate and land use matters necessary to make Foundation capable of evaluating the merits and risks of this Transaction and entering into this Agreement. City 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 City's decision to enter into this Agreement, City has not relied on any representations or warranties made by Foundation other than those specified in this Agreement. City has had the opportunity to ask questions and receive answers concerning this Transaction and has obtained all information City deems necessary or appropriate to evaluate this Transaction. The City Land is free and clear of any Encumbrances that may interfere with Foundation's use of the City Land. No encroachments, boundary agreements, boundary disputes, and/or boundary changes exist or concern the City Land that may interfere with the Foundation's use of the City Land, save and except for those expressly identified in this Agreement. City and the City Land are in compliance with the Laws. City has no knowledge of any defects or issues concerning the City Land that may affect Foundation's intended use of the City Land. City acknowledges and agrees that Foundation will transfer the Foundation Land to City subject to all Encumbrances of record, as shown in Title Report Order No. 28227.

4.3 Property Conditions; No Brokers or Finders. 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. City and/or the City Land 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 City and/or the City Land. City is not a "foreign person" for purposes of Section 1445 of the Internal Revenue Code.

4.4 City Indemnification. City releases and will defend, indemnify, and hold Foundation and each Foundation 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) City's breach and/or failure to perform any City representation, warranty, covenant, and/or obligation contained in this Agreement; (b) City and/or any City Representative's activities on the Properties involving the use, storage, handling, transportation, treatment, disposal, and/or release of any Hazardous Substances; and/or (c) City's 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 Foundation and/or any other person. Foundation's right to indemnification under this Section 3.4 is in addition to, and not in lieu of, any other rights which Foundation may be entitled under this Agreement, at law, and/or in equity. The indemnification covenants contained in this Section 4.4 will survive the Closing and will not merge into the property line adjustment deeds described in Section 5.2.

4.5 Accuracy. None of City's 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.

5. Closing.

5.1 Closing Conditions. Notwithstanding anything contained in this Agreement to the contrary, the Parties' 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; Delayed Closing. The Closing of the Transaction for the City's purchase of

Foundation Land will take place at the offices of Title Company on the Closing Date or any other place or time that the parties may agree in writing contemporaneously with the parties' mutual execution of this Agreement. At the Closing, Foundation will deliver the following to City: (a) the appropriate deeds signed by Foundation concerning the Foundation Land (in form and substance acceptable to City); (b) except as set forth in Section 6.5 of this Agreement, exclusive possession of the Foundation Land; and (c) all documents and instruments that City may reasonably request to close the Transaction, in form and substance satisfactory to City. Foundation acknowledges that City must retain ownership of City Land as the applicant for the 2022 Community Development Block Grant, until such time as the Library construction project is complete. City will transfer the City Land to Foundation subject to all Permitted Encumbrances upon completion of the Library construction project, as depicted on Sketch 2 of Exhibit B. In the event the Library does not receive a certificate of occupancy within twenty-four (24) months of the Effective Date of this Transaction, Foundation shall have the option to immediately sign and close, at which point City will deliver the following items to Foundation: (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 Land.

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. Post-closing Obligations.

6.1 Pipe Shed; Materials; Debris. Within six months after the date of Closing, City will, at City's cost and expense, remove all materials located on City Land, including the pipe shed, gravel piles, and any other non-native materials with the exception of the barbed-wire fence and drying beds for the Wastewater Treatment Facility (the "Facility"), which shall remain in place until the demolition and decommissioning of the Facility, at which point fence and drying beds shall also be removed from City Land and will become available for Foundation's use through a subsequent property line adjustment transaction.

6.2 Access Road. Within 24 months of closing, City shall establish a public right-of-way through City Land (the "7th Street Extension Road") up to the western boundary of City Land, which shall include paved streets, water, sewer, power, broadband, and reclaimed water to the City Land (the "Improvements"). Right-of-way and Improvements shall be subject to and in accordance with all land use and development design, review, and approval standards and requirements of City, including, without limitation, all applicable standards and requirements under Article 5-3 of the John Day Development Code. City shall grant Foundation an access (or accesses) to this right-of-way for purposes of future development of the City Land in conjunction with Foundation's site design review and/or land use review approval for the Library.

6.3 Site Design Review. City shall assist Foundation with the Site Design Review for the Library, including waiving all fees and staff time associated with preparation of the Site Design Review application.

6.4 Grant Applications; Administration Agreement. For and on behalf of Foundation, City shall apply for the 2022 Congressionally Directed Spending grant ("CDS grant") and 2022 Community Development Block Grant ("CDBG grant") for up to \$3.5 million in capital construction costs for Library. If awarded, City shall be Foundation's fiduciary agent and grant administrator for the duration of the CDS grant and CDBG grant obligations.

6.5 Kam Wah Chung Lease Agreement. City shall assume the Kam Wah Chung lease agreement obligations (the "Lease") and its amendment (the "Lease Amendment") with Oregon State Parks and Recreation Department, as shown in Exhibit C, through June 30, 2025. The rent associated with the Lease Amendment (the "Rent") shall be payable to City upon completion of this Transaction.

6.6 Madden Easement. City shall record a legal easement for Madden's in accordance with the terms of Foundation's agreement, substantially in the form shown in Exhibit D.

7. Miscellaneous.

7.1 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.

7.2 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.

7.3 Execution; Counterparts; Time. 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. If the 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).

7.4 Person; Interpretation; Attorney Fees. For purposes of this Agreement, 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. With respect to any dispute relating to this Agreement, or if a suit, action, arbitration, or other proceeding of any nature whatsoever is instituted to interpret or enforce the provisions of this Agreement, 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.

7.5 Further Assurances; Assignment; Waiver. The parties will sign other documents and take all other actions reasonably necessary to further effect and evidence 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, which the other party may not unreasonably withhold, delay, or condition. 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 in this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.

7.6 Entire Agreement; Governing Law; Severability. 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. This Agreement may not be modified or amended except by written agreement executed by the parties to this Agreement. This Agreement will be construed, applied, and enforced in accordance with the laws of the State of Oregon. Any action or proceeding arising out 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. 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.

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

[Signature page follows]

CITY:
City of John Day,
an Oregon municipal corporation

FOUNDATION:
Grant County Library Foundation, Inc.
an Oregon public benefit corporation

By: Corum Ketchum, Interim (Pro Tem) City Manager

Megan Brandsma, President

Appendix A
Definitions

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

“CDBG grant” has the meaning assigned to such term in Section 7.2.

“CDS grant” has the meaning assigned to such term in Section 7.2.

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

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

“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.

“Delayed Closing” means closing for the Foundation’s acquisition of City Land, which shall take place upon completion of the Library and Library’s receipt of a Certificate of Occupancy.

“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.

“Library” means the future Grant County Library to be constructed on City Land at NW 7th Street.

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

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

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

“Permitted Encumbrances” has the meaning assigned to such term under Section 3.2.

“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.

“Title Company” means Land Title Company of Grant County, Inc., 145 NE Dayton Street, John Day, Oregon 97845.

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

Exhibit A / B and Sketch 2
City Land Description and Depiction

[Enclosed]

EXHIBIT A
Legal Description

A tract of land situated in the SE1/4 Section 22 and the SW1/4 Section 23, T.13S., R.31E., W.M., City of John Day, Grant County, Oregon, described as follows:

Beginning at a 5/8" iron pin located 761.22 feet South and 2.71 feet West from the W1/4 Corner said Section 23;

thence N.76°11'04"E., 130.91 feet;
thence N.35°55'31"E., 112.16 feet;
thence N.79°21'41"E., 65.65 feet;
thence S.13°02'58"E., 102.27 feet;
thence S.07°33'04"W., 102.20 feet;
thence S.62°08'54"E., 69.09 feet, to a point on the east line of the W1/2SW1/4NW1/4SW1/4 said Section 23;
thence, along said east line, S.00°18'26"W., 32.30 feet;
thence S.80°40'04"W., 60.64 feet;
thence S.69°50'48"W., 146.24 feet;
thence S.89°53'37"W., 113.44 feet;
thence N.80°48'50"W., 143.29 feet;
thence North, 239.24 feet;
thence S.64°46'06"E., 118.69 feet;
thence S.40°01'26"E., 25.84 feet to the point of beginning,

All according to EXHIBIT B, which by this reference is made a part hereof.

Prepared by:
Benchmark Land Surveying
217 N. Canyon Blvd.
John Day, OR 97845
541-575-1251

July 2, 2022

REGISTERED
PROFESSIONAL
LAND SURVEYOR

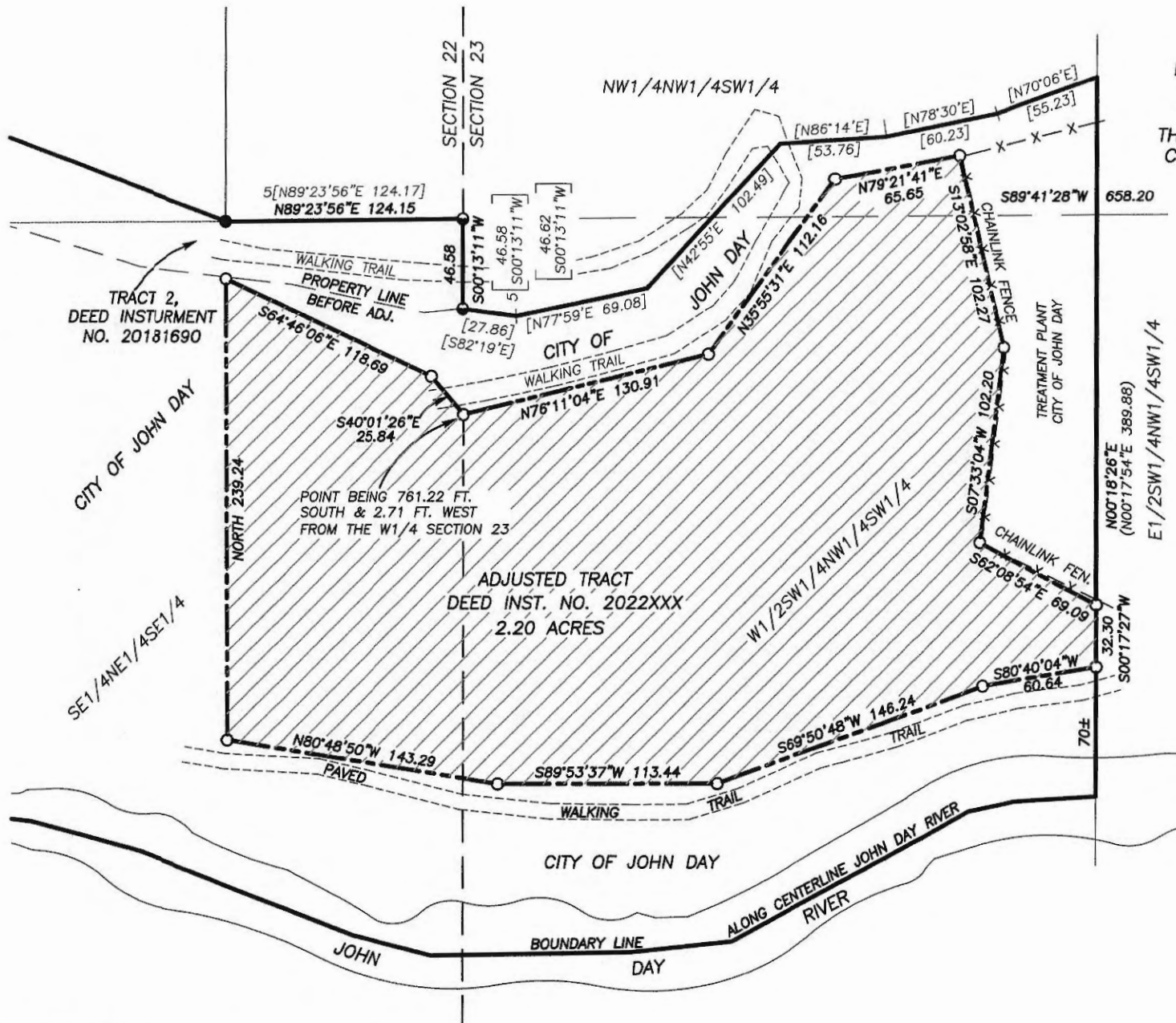

OREGON
JULY 9, 2002
MICHAEL C. SPRINGER
#70918

EXPIRES: 6/30/2024

Library Foundation Tract

EXHIBIT B

SKETCH
 SHOWING A PROPERTY LINE ADJUSTMENT
 BETWEEN TRACTS OF LAND OWNED BY THE
 CITY OF JOHN DAY,
 SITUATED IN THE SE1/4 SECTION 22 AND
 THE SW1/4 SECTION 23, T.13S., R.31E., W.M.,
 CITY OF JOHN DAY, GRANT COUNTY, OREGON



SCALE: 1" = 80'

PREPARED FOR: THE CITY OF JOHN DAY
 PREPARED BY: BENCHMARK LAND SURVEYING, INC.
 217 N. CANYON BLVD.
 JOHN DAY, OR 97845
 (541) 575-1251
 JULY 22, 2022

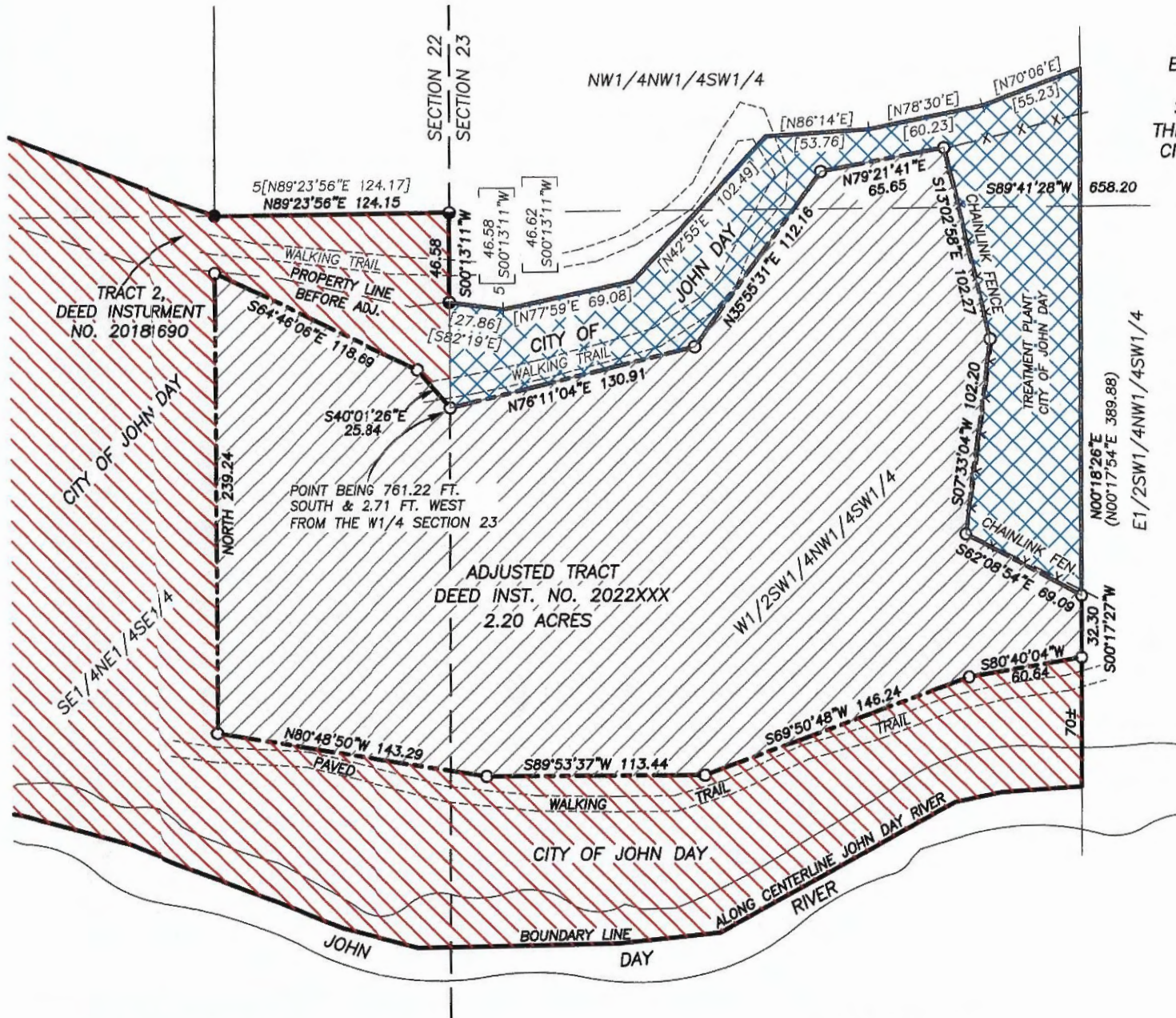
REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

(Signature)
 OREGON
 JULY 9, 2002
 MICHAEL C. SPRINGER
 #70918

EXPIRES: 6/30/2024

SKETCH 2

SKETCH
 SHOWING A PROPERTY LINE ADJUSTMENT
 BETWEEN TRACTS OF LAND OWNED BY THE
 CITY OF JOHN DAY,
 SITUATED IN THE SE1/4 SECTION 22 AND
 THE SW1/4 SECTION 23, T.13S., R.31E., W.M.,
 CITY OF JOHN DAY, GRANT COUNTY, OREGON

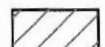




SCALE: 1" = 80'

PREPARED FOR: THE CITY OF JOHN DAY

PREPARED BY: BENCHMARK LAND SURVEYING, INC.
 217 N. CANYON BLVD.
 JOHN DAY, OR 97845
 (541) 575-1251
 JULY 22, 2022

LEGEND

-  ADJUSTED TRACT
-  FUTURE PLA UPON DECOMMISSIONING & DEMOLITION OF TREATMENT PLANT & 0.6± AC.
-  RETAINED BY THE CITY OF JOHN DAY

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

(Signature)
 OREGON
 JULY 9, 2002
 MICHAEL C. SPRINGER
 #70918

EXPIRES: 6/30/2024

Exhibit C

Foundation Land Description

Land in Grant County, Oregon, as follows:

PARCEL 2 of LAND PARTITION PLAT NO. 2014-09, according to the plat thereof filed for record in the office of the clerk of said county and state on November 10, 2014.

(Tax Acct. 3-113-31-26BATL4901; Ref. 40024)

Exhibit C

Kam Wah Chung Lease Agreement

[Enclosed]

ANNUAL COMMERCIAL LEASE

This Annual Commercial Lease (this "Lease") is made and entered into effective on _____, 2022 (the "Effective Date") between City of John Day ("Landlord"), whose address is 450 E. Main Street, John Day, OR 97845, and the Oregon Parks and Recreation Department ("Tenant"), whose address is 725 Summer Street NE, Suite C, Salem, OR 97301

RECITAL:

Landlord is the owner of a certain commercial building located at 125 NW Canton Street, John Day, Oregon, 97845 (the "Building"). Subject to the terms and conditions contained in this Lease, Landlord leases to Tenant and Tenant leases from Landlord the Building, as shown in Exhibit A.

AGREEMENT:

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

1. OCCUPANCY

1.1 Initial Term. The term of this Lease, Tenant's right to possession of the Premises, and Tenant's obligation to pay Rent (as defined below) will commence on the Effective Date and will continue, subject to the terms and conditions contained in this Lease, on an annual basis thereafter (the "Lease Term"), unless sooner terminated as provided in this Lease. For purposes of this Lease, the term "Building" means the Premises, Building, Parking Area (as defined below), all units or spaces located within the Building, and all other pieces or parcels of real property (and any improvements located thereon) surrounding the Building at any time, and from time to time hereafter, designated by Landlord as part of the Building. Tenant will be bound in accordance with the terms of this Lease from and after the Effective Date.

1.2 Parking Area. The Building has a parking area consisting of certain unassigned/unmarked parking spaces located west and north of the building (the "Parking Area") for use by Building visitors and Tenant staff. Tenant will have an exclusive license to use the Parking Area as currently utilized for the Building for the duration of the Lease Term. Landlord will not be liable for any damage or destruction of any nature to, or any theft of, vehicles, or contents therein, in or about the Parking Area, and will not be obligated to enforce parking restrictions against other users of the Parking Area.

1.3 **Due Diligence; Building Condition AS-IS. Tenant has inspected Premises before the Effective Date. Tenant represents and warrants that Tenant has entered into this Lease on the basis of its own examination and personal knowledge of the Building (including, without limitation, the physical condition of the Premises). Tenant has had the opportunity to ask questions and receive answers concerning the Building and this Lease. Tenant has obtained all the information Tenant desires in connection with the Building and this Lease. Tenant knowingly and unconditionally accepts the Building in its AS IS, WITH ALL FAULTS condition as of the Effective Date. Landlord has made no promise or agreement to repair, alter, construct, and/or improve the Building, or any part thereof. Landlord makes no representations or warranties, whether express or implied, including, without limitation, warranties of habitability, merchantability, or fitness for a particular purpose, or any warranties regarding consumer products as defined in the Magnusson-Moss Warranty Act or the Uniform Commercial Code, with respect to the Building.**

Tenant's Initials: _____

2. RENT; UTILITIES

2.1 Base Rent. During the Lease Term, Tenant's rent shall be \$0.00 (waived in its entirety).

2.2 Utilities. Tenant shall be responsible for all utilities and all other expenses associated with building maintenance and upkeep, including any water, sewer, power, internet and other utilities.

3. FINANCIAL CAPABILITY

Tenant represents, warrants, and covenants the following to Landlord: (a) Tenant has full power and authority to sign and deliver this Lease and to perform all Tenant's obligations under this Lease; and (b) this Lease is the legal, valid, and binding obligation of Tenant, enforceable against Tenant in accordance with its terms. Tenant represents and warrants to Landlord that Tenant has sufficient assets and net worth to ensure Tenant's performance of this Lease and the payment of its obligations under this Lease as and when they become due.

4. PERMITTED USE

4.1 Permitted Use. Tenant will use the Premises for general office use and the Kam Wah Chung Visitor's Center (collective, the "Business") and for no other purpose without Landlord's prior written consent. Operation of the Business is subject to all Laws (as defined below). Tenant acknowledges and agrees that neither Landlord or Landlord's Agents have made any representations and/or warranties, whether expressed or implied, concerning the permitted use that may be made of the Premises under the Laws.

4.2 Restrictions on Use. In connection with Tenant's use of the Premises, Tenant will:

4.2.1 Conform and comply with all Laws. Tenant will correct, at Tenant's expense, any failure of compliance created through Tenant's fault or by reason of Tenant's use of the Premises. For purposes of this Lease, the term "Law(s)" means all leases, covenants, conditions, restrictions, easements, declarations, laws, statutes, restrictions, liens, ordinances, orders, codes, rules, and regulations directly or indirectly affecting the Building (including, without limitation, the Premises) and/or Business, including, without limitation, the Americans with Disabilities Act of 1990 (and the rules and regulations promulgated thereunder), the Rules and Regulations, and any environmental laws, all as now in force and/or which may hereafter be amended, modified, enacted, or promulgated;

4.2.2 Tenant will refrain from (a) any use which would be reasonably offensive to Landlord, other tenants of the Building, and/or neighboring property, or which would tend to create a nuisance or damage the reputation of the Building, (b) making any marks on or attaching any sign, insignia, antenna, aerial, or other device to the exterior or interior walls, windows, or roof of the Building (including, without limitation, the Premises) without the prior written consent of Landlord, and/or (c) causing or permitting any hazardous substances to be used, stored, sold, handled, spilled, leaked, disposed of, and/or released on or under the Building; and

4.2.3 Tenant will comply with all Building rules and regulations (the "Rules and Regulations") Landlord may adopt from time to time and will not perform any act or carry on any practice prohibited by the Rules and Regulations. Tenant acknowledges and agrees that Landlord is permitted to adopt new rules and regulations or amend the Rules and Regulations from time to time as Landlord determines necessary or appropriate.

5. MAINTENANCE AND REPAIRS; ALTERATIONS

5.1 Tenant's Repair and Maintenance Obligations. Tenant will maintain, at Tenant's cost and expense, the Premises (including all interior and exterior glass in the Premises) in good order and repair and will preserve the Premises, normal wear and tear excepted, and will not commit nor permit waste. To this end, Tenant will have the following nonexclusive repair and maintenance obligations, which Tenant will complete at Tenant's

cost and expense: (a) all repairs or maintenance necessitated by the negligence of Tenant and/or Tenant's Agents (as defined below); and (b) all repairs or alterations required under Tenant's obligation to comply with the Laws.

5.2 Tenant Reimbursement. If Tenant fails or refuses to complete any repair and/or perform any maintenance that is required under Section 5.1, Landlord may make the repair or perform the maintenance and charge the actual costs of repair or maintenance to Tenant. Landlord will disclose cost of repairs to Tenant in advance of making repairs. Tenant will reimburse such expenditures, together with interest at the rate of 12% per annum from the date of expenditure if reimbursement is not paid upon completion of repairs. Except in the case of an emergency, any repairs, replacements, alterations, and/or other work to be performed by Landlord on, in, and/or around the Premises will be completed so as to interfere with Tenant's use of the Premises as little as reasonably possible. Tenant will have no right to an abatement of Rent nor any claim against Landlord for any inconvenience or disturbance resulting from Landlord's activities performed in conformance with this Section 5.2. Except in the case of an emergency, upon 24 hours' prior notice to Tenant, Landlord will have the right to enter and inspect the Premises to determine the condition of the Premises.

5.3 Alterations Prohibited. Tenant will make no additions, improvements, modifications, and/or alterations in or to the Building (including, without limitation, the Premises) of any kind or nature whatsoever, including, without limitation, the installation of any improvements, fixtures, and/or other devices on the roof of the Building or the installation of computer and telecommunications wiring, cables, and conduit (collectively, "Alterations") without first obtaining Landlord's written consent. Alterations completed in or to the Premises will be the property of Landlord. Except with respect to activities for which Landlord is responsible, Tenant will pay as and when due all claims for work done on and for services rendered or material furnished to the Premises and will keep the Building free from any and all liens. No signs, awnings, and/or other apparatus will be painted on or attached to the Building or anything placed on any glass or woodwork of the Premises or positioned so as to be visible from outside the Premises without Landlord's prior written consent (and Landlord's approval of design, size, location, and color).

6. INSURANCE; INDEMNIFICATION

6.1 Insurance Required. Tenant will maintain, at Tenant's cost and expense, a policy of fire, extended coverage, vandalism, and malicious mischief insurance insuring the personal property, furniture, furnishings, and fixtures belonging to Tenant located in or on the Premises. Tenant will procure, and thereafter will continue to carry, comprehensive general liability insurance (occurrence version) with a responsible company against personal injury claims arising directly or indirectly out of Tenant's activities on, or any condition of, the Premises, whether or not related to an occurrence caused, or contributed to, by Landlord's negligence, and will insure the performance by Tenant of Tenant's indemnification obligations under this Lease. Landlord and Landlord's officers, employees, and agents will be named as additional insureds on Tenant's liability insurance policy. Tenant's insurance will be the primary insurance and any insurance maintained by Landlord will be excess and noncontributing. Tenant's liability insurance required to be carried pursuant to this Section 6.1 will have a general aggregate limit of not less than \$2,000,000.00 and a per occurrence limit of not less \$1,000,000.00.

6.2 Tenant's Indemnification. Tenant releases and will defend, indemnify, and hold Landlord and Landlord's Agents (as defined below) harmless for, from, and against all claims, losses, charges, damages, expenses, and/or liabilities, including, without limitation, attorney fees and costs, arising out of or related to, whether directly or indirectly, the following: (a) any activity of Tenant and/or Tenant's Agents on or at the Building; (b) any condition of the Premises; and/or (c) Tenant's breach and/or failure to perform any Tenant representation, warranty, covenant, and/or obligation under this Lease. Tenant releases Landlord for, from, and against all claims, damages, liabilities, and/or demands of whatever nature arising out of or related to, whether directly or indirectly, any damage, loss, and/or injury to Tenant's property in, on, and/or about the Building. For purposes of this Lease, the term "Agents" means the officers, directors, members, managers, shareholders, employees, affiliates, agents, contractors, and invitees of the identified party.

7. EVENT OF DEFAULT; REMEDIES

7.1 Event of Default. The occurrence of any one or more of the following events constitutes a default by Tenant under this Lease (each an "Event of Default"): (a) Tenant's failure to comply with any term or condition or perform any Tenant obligation under this Lease within 10 days after written notice by Landlord specifying the nature of the default; and/or (b) Tenant's failure for 180 days or more to occupy the Premises for the purpose permitted under this Lease.

7.2 Remedies. Upon the happening of an Event of a Default, Landlord may (a) terminate this Lease and, if Landlord so elects, reenter, take possession of the Premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages, and/or (b) pursue any other rights and remedies Landlord may have under this Lease, at law, and/or in equity. If Landlord terminates the Lease, Landlord will be entitled to recover immediately, without waiting until the due date of any future Rent or until the date fixed for expiration of this Lease, and in addition to any other damages recoverable by Landlord, the reasonable costs of reentry and reletting including, without limitation, the cost of any clean-up, refurbishing, removal of Tenant's property and fixtures, and/or any other expense occasioned by Tenant's failure to quit the Premises upon termination and to leave the Premises in the required condition, including, without limitation, any remodeling costs, attorney fees, court costs, broker commissions, and advertising costs. Landlord will have all rights and remedies available to Landlord under this Lease, at law, and in equity. If this Lease is terminated, Tenant's liability for damages will survive such termination. Landlord may sue periodically to recover damages during the period corresponding to the remainder of the Lease Term, and no action for damages will bar a later action for damages subsequently accruing. The foregoing remedies will be in addition to and will not exclude any other remedy available to Landlord under applicable law.

7.3 Condition; Holdover. Upon the termination of this Lease, Tenant will deliver all keys to Landlord and surrender the Premises in good, broom-clean condition, reasonable wear and tear excepted. Alterations constructed by Tenant with permission from Landlord will not be removed or restored to the original condition.

8. MISCELLANEOUS

8.1 Term Extension; Options; Termination. The Term for the agreement shall be for twenty four (24) months (the "Initial Term") with the Tenant having an option ("Lease Option") to extend the Agreement by an additional twelve (12) months. Tenant shall notify Landlord within ninety (90) days of intent to execute the Lease Option. Notwithstanding this provision, Tenant's lease shall automatically terminate upon the earlier of (a) Tenant notifying Landlord of its intent to vacate premise and specifying the date of vacation; or (b) 180 days following Tenant's completion of the new Kam Wah Chung Interpretive Center located at 250 NW Canton Street, John Day, Oregon 97845.

8.2 Waiver; Assignment. Waiver by either party of strict performance of any provision of this Lease will not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision. The termination of this Lease will not relieve a party of any obligations that have accrued before the termination. This Lease (or any memorandum of this Lease) will not be recorded. Tenant will not sell, assign, mortgage, sublet, lien, convey, encumber, and/or otherwise transfer (whether directly, indirectly, voluntarily, involuntarily, or by operation of law) all or any part of Tenant's interest in this Lease and/or in the Premises. Subject to the immediately preceding sentence, this Lease will be binding upon and inure to the benefit of the parties, their respective successors and assigns.

8.3 Attorney Fees; Late Fees. If an Event of Default occurs, Tenant will pay to Landlord, within 10 days after Landlord's demand, any and all attorney fees incurred by Landlord in attempting to enforce the terms of this Lease. If any arbitration or litigation is instituted to interpret, enforce, and/or rescind this Lease, 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, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court. If Rent (or other payment due from Tenant) is not received by Landlord within 10 days after it is due, Tenant will pay a late fee equal to 5% of the payment or \$50.00, whichever is greater (a "Late Fee"). In addition, a charge of 1% per month on the amount past due (a "Late Charge") will be charged beginning 10 days after the due date for such payment until the past due amount is paid in full. Landlord may levy and collect a Late Fee and/or a Late Charge in addition to all other remedies available for Tenant's failure to pay Rent (or other payment due from Tenant).

8.4 Notices; Counterparts. All notices or other communications required or permitted by this Lease must be in writing, must be delivered to the parties at the addresses first set forth above, or at any other address that a party may designate by notice to the other parties, and will be considered delivered upon actual receipt if delivered personally, by facsimile or email transmission (with electronic confirmation of delivery), or an overnight delivery service, or at the end of the third business day after the date deposited in the United States mail, postage pre-paid, certified, return receipt requested. This Lease may be signed in counterparts. A fax transmission of a signature page will be considered an original signature page. At the request of a party, a party will confirm a fax-transmitted signature page by delivering an original signature page to the requesting party.

8.5 Severability; Further Assurances. If a provision of this Lease is determined to be unenforceable in any respect, the enforceability of the provision in any other respect, and of the remaining provisions of this Lease, will not be impaired. The provisions of any and all exhibits, schedules, instruments, and other documents referenced in this Lease are part of this Lease. The parties will sign such other documents and take such other actions as are reasonably necessary to further effect and evidence this Lease. This Lease 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 the Lease. If any dispute arises regarding this Lease, the parties agree that the sole and exclusive venue for resolution of such dispute will be in Grant County, Oregon. All parties submit to the jurisdiction of courts located in Grant County, Oregon for any such disputes.

8.6 Entire Agreement; Landlord Default. This Lease contains the entire understanding of the parties regarding the subject matter of this Lease and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Lease. If the 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. 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. For purposes of this Lease, 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). No act or omission of Landlord will be considered a default under this Lease until Landlord has received 30 days' prior written notice from Tenant specifying the nature of the default with reasonable particularity. Commencing from Landlord's receipt of such default notice, Landlord will have 30 days to cure or remedy the default before Landlord will be deemed in default of this Lease; provided, however, that if the default is of such a nature that it cannot be completely remedied or cured within the thirty-day cure period, there will not be a default by Landlord under this Lease if Landlord begins correction of the default within the thirty-day cure period and thereafter proceeds with reasonable diligence to effect the remedy as soon as practical.

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

[signature page follows]

LANDLORD:
City of John Day

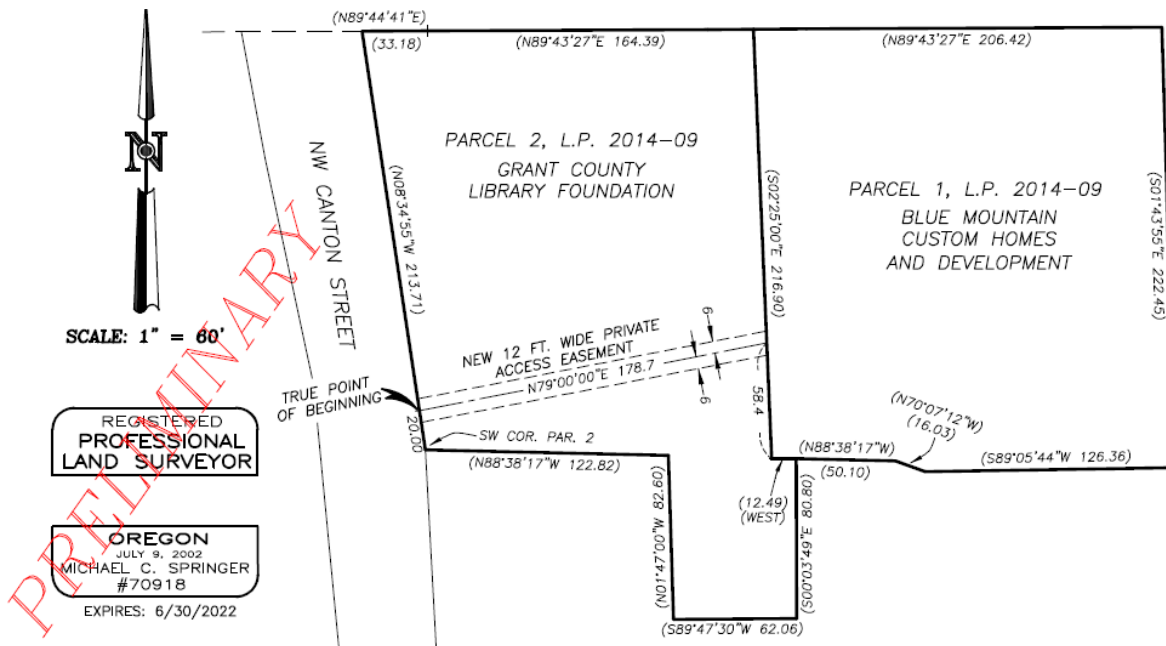
TENANT:
Oregon Parks and Recreation Department

By:
Its:

By:
Its:

DRAFT

Exhibit D
Madden Easement



EASEMENT DESCRIPTION

A private access easement on, over and across a portion of the Parcel 2 of Land Partition Plat No. 2014-09, situated in the NW1/4 Section 26, T.13S., R.31E., W.M., City of John Day, Grant County, Oregon. Said easement being a strip of land, 12.00 feet in width, 6.00 feet on each side of the following described centerline:

Commencing at the southwest corner of Parcel 2 of said Land Partition Plat No. 2014-09, thence N.08°34'55"W., 20.00 feet along the easterly right of way line of NW Canton Street to the TRUE POINT OF BEGINNING of the herein described centerline;

thence N.79°00'00"E., 178.7 feet, to a point on the west line of Parcel 1 of said Land Partition and the terminus of the herein described centerline.