MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF JOHN DAY AND MAHOGANY RIDGE PROPERTIES REGARDING 2020 U.S. DEPARTMENT OF TRANSPORTATION BUILD GRANT

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into on May 15, 2020 ("Effective Date") by and between the City of John Day ("City"), an incorporated city in Grant County, Oregon and Mahogany Ridge Properties ("MHP"), whose address is 601 S. Canyon Blvd, John Day, Oregon 97845.

WHEREAS, City is applying for the U.S. Department of Transportation's 2020 Build Grant to improve access to reliable transportation and promote regional connectivity and economic growth in the John Day area; and

WHEREAS, City owns approximately 90-acres of buildable land around the John Day River and U.S. Highway 26 (the "Area") that is currently disconnected from city streets and state highways; and

WHEREAS, City has developed a master plan for the Area that includes creating new residential, commercial and industrial opportunities as well as public recreation and open space (the "Project"); and

WHEREAS, City has created a team of public and private agencies to improve the Area's infrastructure, including but not limited to water, wastewater, reclaimed water, electric and broadband services; and

WHEREAS, MHP owns approximately 80-acres of property zoned Residential General east of the Area, identified as Mahogany Ridge, as shown in Exhibit A; and

WHEREAS, MHP is a family-owned land development and construction company with prior housing development experience capable of executing their proposed housing projects in John Day; and

WHEREAS, the City and MHP wish to work together to promote their mutual interests in extending and improving the Project infrastructure to promote new workforce housing opportunities in the city;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the City and MHP agree as follows:

1. 2020 Build Grant Application: City will apply for the 2020 Build Grant to assist in funding the Project and in extending infrastructure in the Area,

including but not limited to preliminary and final engineering, site design and utility services.

2. Public Right-of-Way. MHP will make available to City adequate right-of-way within the Property to accomplish the Project scope of work that affects the Property, as shown in Exhibit B.

3. Residential Housing Development. City and MHP will coordinate planning and development of new residential street and utility improvements for the Project, to be formalized in subsequent agreements. The scope for these agreements shall include, but is not limited to, the following:

   a. MHP will contribute the 20-percent matching funds requirement for the Mahogany Ridge residential development, based on the City Engineer's project cost estimate enclosed in Exhibit C.
   b. City and MHP will enter into a Development Agreement upon approval by the U.S. DOT to jointly develop the street and utility infrastructure for the Mahogany Ridge residential development.

4. Term. Unless terminated prior to the expiration date in accordance with the terms and conditions of this MOU, the term of this MOU shall be for a period of twelve (12) months from the Effective Date. The parties may decide to extend the term of this MOU at any time by mutual agreement in writing.

5. Proprietary Information.

a. The term "proprietary information" used in this MOU means confidential information and/or data exchanged between the parties in oral, visual, written, printed, or electronic form during the course of their communications. The parties agree to protect each other's proprietary information. Proprietary information must be clearly marked as such in writing by the disclosing party within ten (10) days of such disclosure. The parties agree that any proprietary information will be used solely for the purposes outlined in this MOU and neither party will divulge such proprietary information to any person or other parties without prior written consent of the disclosing party. The standard of care for protecting such information, imposed on the party receiving proprietary information, will be that degree of care the receiving party uses to prevent disclosure, publication or dissemination of its own proprietary information.

b. Proprietary information does not include information which: (1) is in the public domain at the time of disclosure or thereafter enters the public domain other than through a breach of this MOU; (2) is lawfully obtained from a third party under circumstances permitting the receiving party to use or disclose the information without

restriction; (3) is independently developed by the receiving party; or (4) is required to be disclosed as a result of the Oregon Public Records Law, ORS 192.410 *et seq.*, or by governmental or judicial action.

c. Upon termination or expiration of this MOU, unless prior to the termination or expiration the parties mutually sign and execute one or more definitive agreements regarding the transactions contemplated by this MOU, the receiving party shall return or destroy the other party's proprietary information.

6. Indemnification. The City, including its elected and appointed officials, and MHP, agree to mutually indemnify and hold each other harmless from and against any and all claims, damages, losses, liabilities, and expenses (including reasonable attorneys' fees, incurred in connection with investigating or defending against any such claims, damages, losses or liabilities), related to or arising out of their activities hereunder. Notwithstanding the foregoing, neither party shall be liable for indemnification with respect to any loss, claim, damage, liability, or expense if, by a final judgment, such loss, claim, damage, liability, or expense primarily resulted from the other party's willful misconduct or gross negligence in performing its obligations hereunder.

7. Dispute Resolution. The City and MHP shall attempt in good faith to resolve any controversy, claim, or dispute between them arising out of or relating to this MOU and the transactions contemplated hereby, by prompt negotiation between representatives who have authority to settle the dispute. If any dispute is not resolved by mutual agreement, the parties may, by mutual written consent, submit the dispute to non-binding mediation, in a forum and according to the procedures jointly agreed to by the parties. If non-binding mediation does not result in a resolution of the dispute, then the parties shall submit the dispute to binding arbitration in accordance with the rules and processes of the American Arbitration Association.

8. Assignment. Neither the City nor MHP may assign this MOU or any part thereof or interest therein without the prior express written consent of the other party.

9. Governing Law. The interpretation and enforcement of this MOU shall be governed by the laws and regulations of the State of Oregon applicable to agreements made to be performed entirely within that state.

10. Change in Law: In the event there is a change in a federal or state statute or regulation applicable to this MOU, either party may notify the other party in writing of its desire to amend this MOU in order to comply with the change in statute or regulation. The City and MHP may by written request amend this MOU to comply with such change in statute or regulation provided that such amendment is approved by both parties.

11. Amendment: This MOU may be amended only by a written amendment that is signed by the authorized representatives of both parties.

12. Severability: Should any provision or sections of this MOU be determined to be void, invalid, or otherwise unenforceable by any court of competent jurisdiction, that determination shall not affect the remaining provisions or sections of this MOU, which shall remain in full force and effect.

IN WITNESS WHEREOF, This MOU shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. Mahogany

MAHOGANY RIDGE PROPERTIES		**CITY OF JOHN DAY**	
Name:	Russell J. Comer / Sheila Comer	Name:	Nicholas Green
Sign.:	[signature] / Sheila Comer	Title:	City Manager
Date:	May 17, 2020 May 17 2020	Date:	7/1/20
Name:	Joshua T. Walker / Mindy Walker	Sign.:	5/18/2020
Sign.:	[signature] / Mindy Walker		
Date:	May 17, 2020 May 17, 2020		

Exhibit A.

MHP Property in Project Area

[Enclosed]

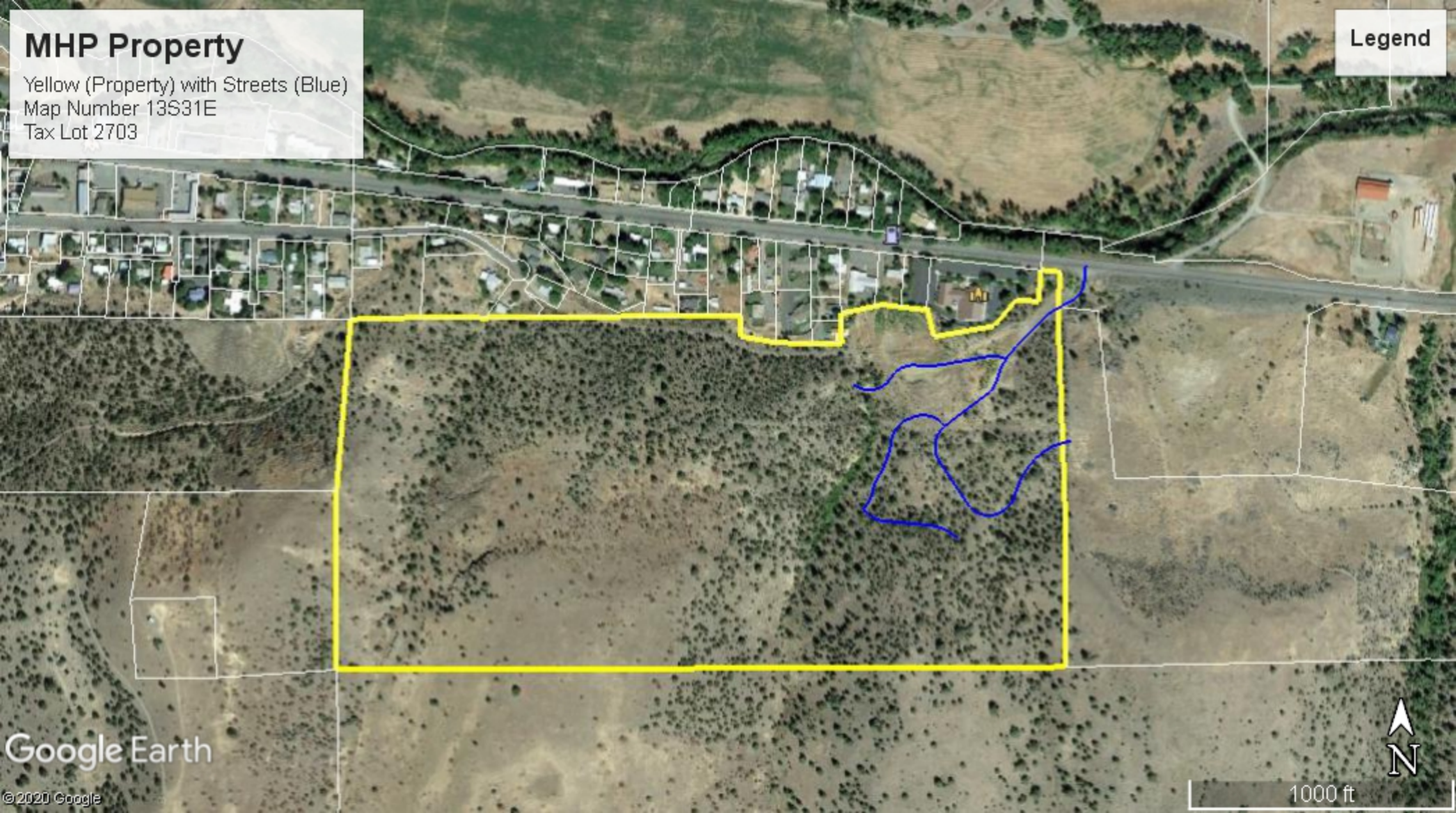
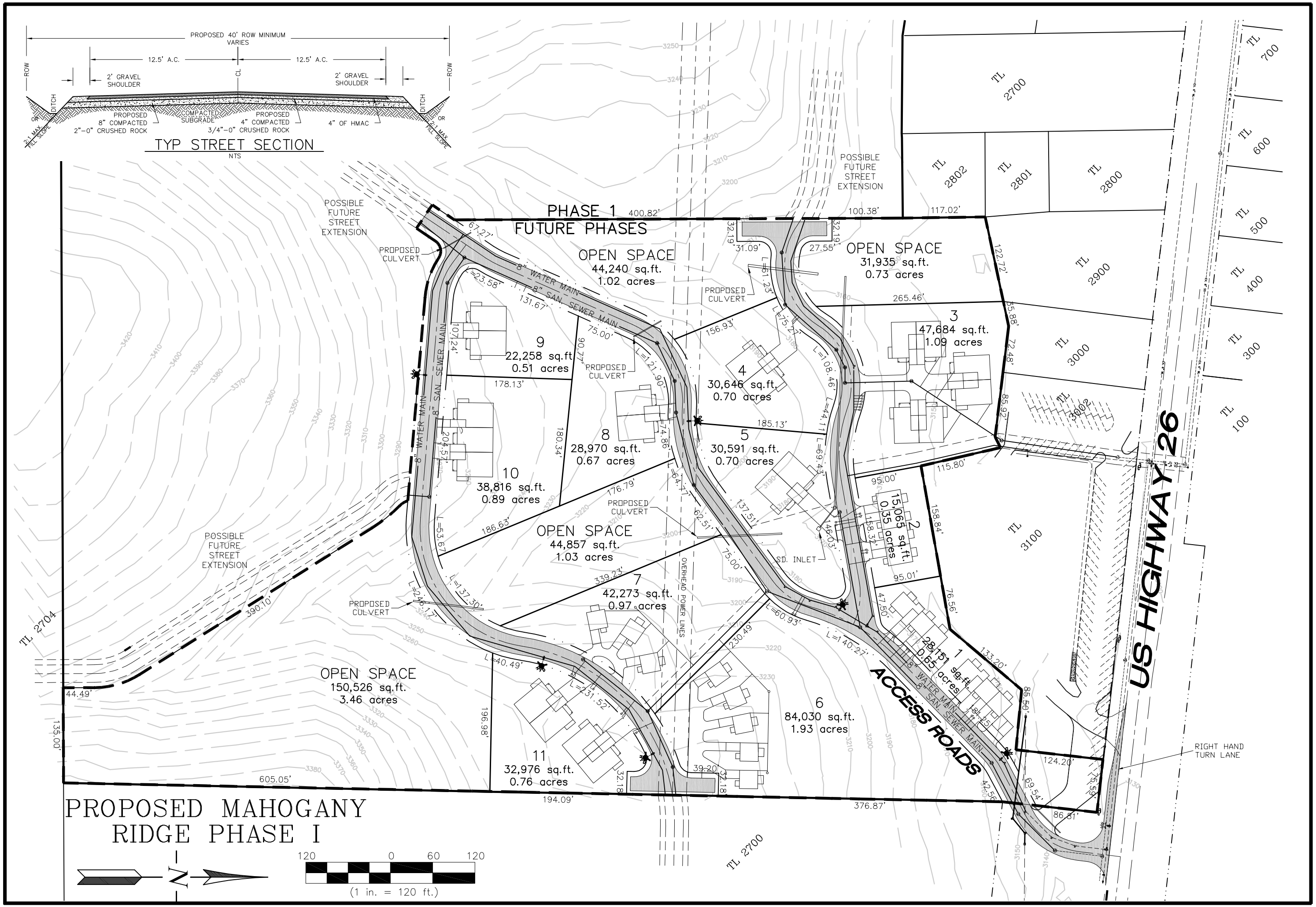

MHP Property
Yellow (Property) with Streets (Blue)
Map Number 13S31E
Tax Lot 2703
Legend
Google Earth
© 2020 Google
N
1000 ft

Exhibit B.

Project Area Maps

[enclosed]



REVISIONS	BY

INNOVATION GATEWAY
ECONOMIC REVITALIZATION PROJECT
CITY OF JOHN DAY, OREGON

MAHOGANY RIDGE
STREET IMPROVEMETNS

SISUL ENGINEERING
158 E. MAIN ST.
JOHN DAY, OREGON 97845
(541) 575-3777

DRAWING: IRONWOOD PH2.dwg

DATE MAY 2020
SCALE 1"=100'
DRAWN JH
JOB 20-
SHEET 11 OF 17 SHEETS

Exhibit C.

Engineers Project Cost Estimate – Mahogany Ridge

[enclosed]

Engineer's Estimate

Mahogany Ridge Street Improvements
Rough Construction Cost

5/15/2020

Description of Improvements: *This includes the expansion of streets and utilities for Mahogany Ridge, to develope approximately 18.2 Acres - 11 multi family lots. Previous developement in the areas has stubs for the sewerand water property. Power and Fiber-optics are located overhead at HWY 26 and will be provided under ground along the streets. The property is on a hillside and roads be graded to minimize impact and balance the cut/fills as much as possible. As part of the road construction all the utilities (sewer, water, storm and private utilities) will be installed prior to construction of the pavement. A roadside ditch and cross-road culverts will divert runoff way from future structures and into the existing drainages. The existing drainages are very seasonal, only high rainfall or snow melt create flow in these drainages, for a limited amout of time. The drainage eventually connect to a culvert system on HWY 26.*

Typical Section	***Length***	
25 ft. wide Paved Section	4200	ft
3 in. of HMAC over		
4 in. of 3/4"-0" Crushed Rock Base over		
8 in. of 2"-0 Crushed Base Rock		

Description	QUAN.	UNIT	UNIT PRICE	TOTAL PRICE
General				
Mobilization (7.5%)	1	LS	$ 107,973.38	$ 107,973.38
Temp Traffic Control	1	LS	$ 12,000.00	$ 12,000.00
Erosion, Sediment & Pollution Control	1	LS	$ 25,000.00	$ 25,000.00
Clearing/Striping	1	LS	$ 20,000.00	$ 20,000.00
Street				
Grading- Cut/Fill	8500	CY	$ 15.00	$ 127,500.00
Sawcut AC	70	LF	$ 3.00	$ 210.00
HMAC	1600	Ton	$ 135.00	$ 216,000.00
2"-0" C.R. Road Base	1970	CY	$ 32.00	$ 63,040.00
3/4"-0" Base Rock	1400	CY	$ 37.00	$ 51,800.00
Waterlines				
8" C-900	3129	LF	$ 55.00	$ 172,095.00
6" D.I.	105	LF	$ 50.00	$ 5,250.00
8" x 8" Tees	3	EA.	$ 600.00	$ 1,800.00
8" x 6" Tees	7	EA.	$ 550.00	$ 3,850.00
8" Bend	28	EA.	$ 500.00	$ 14,000.00
8" Gate Valves	19	EA.	$ 900.00	$ 17,100.00
6" Gate Valves	7	EA.	$ 700.00	$ 4,900.00
Fire Hydrant	7	EA.	$ 4,250.00	$ 29,750.00
End Line Blowoff	3	EA.	$ 1,000.00	$ 3,000.00
Service Meter & Tap	39	EA.	$ 750.00	$ 29,250.00
Sanitary				
8" 3034 PVC	2980	LF	$ 65.00	$ 193,700.00
48" Manhole	23	EA	$ 4,500.00	$ 103,500.00
Service	39	EA	$ 750.00	$ 29,250.00
Service Line	880	EA	$ 45.00	$ 39,600.00
Storm Drain				
Oversize Field Inlet	1	EA	$ 4,500.00	$ 4,500.00
Storm M.H.	1	EA.	$ 6,750.00	$ 6,750.00
30" HDPE	580	LF	$ 120.00	$ 69,600.00
12" Culvert	120	LF	$ 60.00	$ 7,200.00
Misc. Utilities (Power, Fiber-optics) in Common Trench				
Fiber Optics Vaults	12	EA	$ 2,500.00	$ 30,000.00
Power Transformer/ Vault	12	EA	$ 7,500.00	$ 90,000.00
3" Conduit	6000	LF	$ 12.00	$ 72,000.00
2" Conduit	6000	LF	$ 9.00	$ 54,000.00
			Contruction Total	**$ 1,604,618.38**

Construction Contingency (10%)	$ 160,000.00
Prelim Engr, Design Engr, Bid Assistance, & Construction Oversite (7.5%)	$ 115,000.00
Misc. Reports (Geo-tech, Environmental, Etc) (2%)	$ 32,000.00
Final Plat, Topography Survey, ROW Survey, Construction Staking (4%)	$ 65,000.00
Legal & Administration (1%)	$ 24,000.00

Project Estimate Total	**$ 2,000,618.38**