



## COCC Board Real Estate Committee Meeting Agenda

*COCC Board of Directors: Joe Krenowicz (chair), Laura Craska Cooper, Jim Porter, Erica Skatvold (alternate for Craska Cooper)*

Tuesday, July 2, 2024  
4:30 – 6:30 p.m. Via Zoom

	<u>EXHIBIT</u>	<u>ACTION</u>
1. Call to Order – Joe Krenowicz		
2. Approval of Meeting Minutes – Joe Krenowicz		
a. May 29, 2024	2a.1-4	X
3. Madras Campus Expansion Updates – Jeremy Green		
4. WSPI Updates – Peter McCaffrey and Courtney Hofstetter	4.1-15	
a. Addendum 5 to Development Agreement	4a.1-5	X
b. Outcrop Purchase and Sale Agreement	4b.1-10	X
5. Dates – Joe Krenowicz		
a. Quarterly Real Estate Committee Meeting: October 1, 2024, 4:30 – 6:30 p.m. via Zoom		
6. Adjourn – Joe Krenowicz		



Central Oregon Community College  
Board Real Estate Committee Meeting  
**MINUTES**

Wednesday, May 29, 2024

4:30 - 5:30 p.m.

BEC Boardroom / Zoom

**MEETING ATTENDEES:**

**COCC BOARD OF DIRECTORS:** Joe Krenowicz (Chair), Laura Craska Cooper (served as Chair for this meeting), Jim Porter

**COCC Staff:** Laurie Chesley (President), Michael LaLonde (Vice President of Finance and Operations), Zak Boone (Chief Advancement Officer/Executive Director of the COCC Foundation), Jeremy Green (Madras Campus Director/Branch Campus Capital Projects Manager), Josh Clawson (Director of Campus Services), Kyle Matthews (Executive Assistant to the President and VPFO)

**COCC Legal Counsel:** Paul Taylor (Bryant, Lovlien & Jarvis)

**Kirby Nagelhout Construction Co.:** James Terry (President), Kenny Tyler (Senior Project Manager), Zahava Jones (Project Manager)

**Opsis Architecture:** Mark Stoller (Principal)

**CALL TO ORDER:** Craska Cooper called the meeting to order at 4:31 p.m.

**MADRAS CAMPUS EXPANSION:**

Green explained that the purpose of this meeting was to update the Real Estate Committee (REC) on the new guaranteed maximum price (GMP) for COCC's contract with Kirby for the Madras campus expansion. Green reminded the REC that the total projected cost in January was \$17.4 million. The week prior to this meeting, the new projected total was \$19.5 million, and Kirby and COCC's staff spent that past week doing extensive value engineering to reduce that number significantly.

Tyler clarified that a few projected costs had been updated since the meeting packet was put together. Another roofer presented a more favorable offer, so Kirby and COCC staff met earlier that day to discuss it. The projected total included an error in COCC's favor (about \$500,000) and Tyler assured the REC that he would update the numbers and share them the following day. The new total projected cost in this meeting was \$18.8 million, and it was estimated to be \$18.3 million or less once the error was corrected. There was a 15-month scheduled duration for the project.

Green asked for more explanation on the 15-month scheduled duration and what that meant for an expected completion date. Tyler said they expected substantial completion by November 2025, assuming they would be able to start their earthwork on June 17, 2024 as planned.

Craska Cooper asked if all of the project's land-use and building permits had been approved. Green said he and Stoller had been working with the City of Madras and Jefferson County simultaneously on these permits and had a meeting scheduled the following morning with both entities to verify a time-

line on this process. The Director of Public Works for Madras met with Green yesterday and said he would issue a permit for dirt and grading to begin in mid-June.

Craska Cooper asked Boone and Green if they could confirm that the GMP did not include services during construction (SDCs) or permit fees. Green confirmed this and clarified that the GMP being discussed in this meeting was only for construction costs. Craska Cooper asked what the new total projected cost of the project would be. Green said the “soft costs” were projected to be \$3.5 million, so the new projected total would be \$22.3 million, including contingencies. Craska Cooper asked what their contingency budget was and what percentage it would be for the total cost. Boone said the contingency budget was \$800,000, which was about 3% of the GMP.

Craska Cooper asked if the drawings for the project were complete, which Tyler confirmed. Craska Cooper went on to ask whether they expected any further substantial issues. Tyler expected the only remaining substantial issues could be found once excavation begins. They based their numbers on a recent soil report, but it could not guarantee what they might find underground. Craska Cooper understood this reality and did not expect there to be any issues. Tyler commented that there were several competitive bids for contracts in mechanical, earthwork, and electrical work; and he attributed these competitive bids to the quality of the drawings and specifications.

Tyler explained that the expected completion date of November 2025 was due to some long lead items, among other factors. He reiterated that their projected construction cost when the drawings and specifications were first submitted was \$19.4 million, but after a week of value engineering and eliminating scope gaps, they were able to reduce the GMP. He credited Clawson in helping with the wood citing and saving the project about \$150,000. Clawson also learned that switchgears could potentially cost less if purchased directly, but they still needed to be discussed. Craska Cooper noted that there was a shortage in switchgears at the time. Tyler acknowledged how a scarcity in switchgears could affect their timeline, which is why it was beneficial to purchase them directly and keep them in storage until they were needed. That could save months for the project.

Tyler said their goal was to be finished by November 2025 in order to give COCC enough time to prepare for opening in January 2026 for Winter term. He went on to give an overview of the various costs for the project. Some costs that had been removed from the project included a decorative metal screen, which could be added later; an underdeck enclosure, which was replaced with a blank chain-link fence that costs \$50,000 less; turf in the outdoor play area of the children’s center was replaced by seed and irrigation, with the possibility of adding turf in the future.

Chesley asked if they had determined whether to use steel or wood framing for the science labs. Green said they were still waiting for estimates from the contractors. He said that the faculty had given a lot of input and specifications for the types of equipment they would need to use and store in the building, so they would be consulted before any changes were made. Chesley encouraged Green to evaluate the faculty’s reasoning for their requests to ensure they were fiscally sound. Tyler added that he and his team would always consult with the appropriate COCC personnel about any changes they wanted to make to their plans.

The projected subtotal for construction was \$17 million, which consists of the “hard costs” or the cost to build the building and hire Kirby to do it. The contractor’s contingency was 3%, which meant that once the GMP was signed, everything included in the drawings and contingencies must be built and any expense that was not included must be covered by Kirby. The contingency is meant to help with any unexpected payments over \$500,000. Expenses paid for by contingency will be tracked and shared with Green in monthly meetings.

Craska Cooper asked whether the builder’s risk insurance was a separate item that COCC would be paying for. Tyler confirmed this. Craska Cooper asked whether that would be included in the soft costs that were cited earlier in the meeting. Green said that it was not. Craska Cooper asked if the insurance could cost as much as \$100,000. Tyler said it could cost that much, depending on which contractors they hired. Green added that COCC’s Director of Risk Management Sharla Andresen had not yet sent him her estimates. Craska Cooper said it should be included along with any other potential costs in order to be transparent with COCC’s Board of Directors about the total projected cost for the project. Green said that some remaining soft costs included furniture and equipment that had not yet been purchased for the science and health careers labs, so final numbers were still unclear. Craska Cooper understood the situation, but asked for an estimate of all combined costs. Green assured the REC that he and his colleagues were working on that final number. Boone pointed out that COCC had been paying some of those soft costs for at least the past year. The majority of those early payments were for design services from Opsis Architecture, as well as permits with the City of Madras. Craska Cooper concurred that such a thing would be important to track and include when presenting the total projected cost.

Craska Cooper asked if there was concern over purchasing lab equipment this early as it is known to become obsolete very quickly. Boone explained that the nature of a grant that helped pay for the project required purchasing equipment during the year it was granted. However, Instructional Dean Julie Downing and the Health Careers faculty were confident that said equipment would not expire, and anything that may not last as long was being kept in storage. Green added that additional warranties were purchased to ensure the equipment could be relied on for several years.

LaLonde asked if the soft costs had increased by \$900,000 since the REC last saw the projected costs in January, which Green confirmed. Craska Cooper suggested that the REC did not understand the difference between the projected construction cost and total project cost when they met in January, saying they were surprised to see an estimate of \$21-23 million, and was concerned that the Board would have a similar misunderstanding. Tyler said he and his colleagues were confident in the numbers presented, but they would continue to vet every cost. Jones added that extensive efforts had been taken to reduce costs without taking away from the building. Stoller was also confident that Kirby’s numbers represented what was in the documents.

Krenowicz asked whether there were any concerns about roofing prices going down. Tyler was not concerned about the roofing for the campus expansion, saying the details are pretty straight forward. The only potential issue was the epoxy they had discussed earlier, but he recently found a product that may solve that problem and would discuss further with Stoller after this meeting. Clawson added that the insulation that would be used for the new roof is rated to last six years.

Craska Cooper point out that, despite supply chain issues and inflation, she has seen costs coming down in construction for multifamily housing in her day job as a real estate attorney. She suspected it has to do with the market projects drying up from high interest rates. The primary draw for interest is now affordable housing projects. Could labor costs possibly come down, or would it be too late for that to happen for this project? Clawson explained that this project used Bureau of Labor rates, so they could not be decreased. Green added that Kirby's staff had spent the past week called every subcontractor to see if they could reduce their costs in any way. Clawson said he had high confidence in all of the numbers they received from the subcontractors.

Craska Cooper asked everyone to ensure they have the final total projected cost prepared for the upcoming Board meeting on June 12, along with information on what has already been paid for and how much money has been pledged thus far. Boone confirmed that all of this information would be ready for presentation at the next Board meeting. LaLonde asked if they should include the numbers that the Board had previously seen. Craska Cooper confirmed and asked they explain that the new budget is still for projected costs that can change in the future. Boone was concerned that including the previous numbers would cause additional concerns from the Board. Craska Cooper said they should explain that the previous numbers only reflected construction costs, not the costs for the entire project.

Boone asked whether it would be appropriate to present these numbers before or after the new fiscal year started in July 2024. Chesley recommended waiting, but it was ultimately the Board's decision to make. Boone noted that it would help with the fundraising budget if the Board were able to commit an additional \$1 million to the project. Craska Cooper concurred, but noted the risk of an additional \$1 million be asked for in the coming year. Krenowicz concurred, noting that donors will want to know that COCC has a reliable timeline for the project.

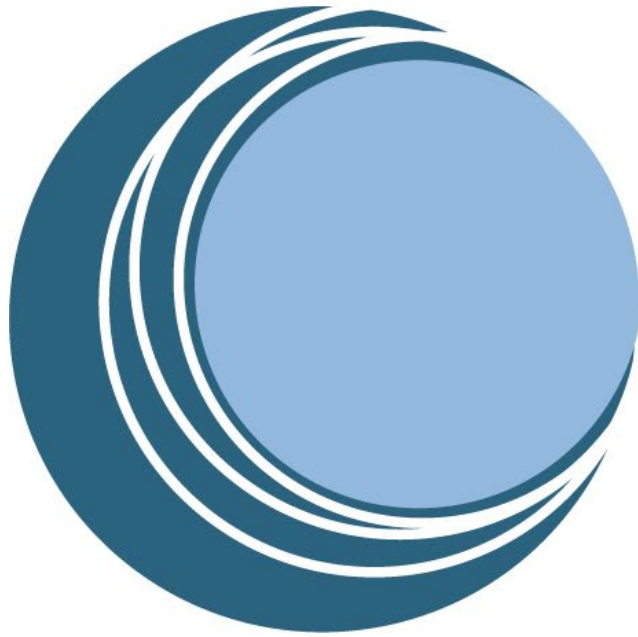
Chesley asked the REC if they were willing to recommend an additional \$1 million commitment to the Board. Krenowicz and Porter concurred. Chesley said a resolution would be included in the packet for the upcoming Board meeting.

#### **OTHER DISCUSSION ITEMS:**

Craska Cooper asked if a counteroffer had been made for the Miller Lumber property in Madras, without any specific information as they were not in an executive session. LaLonde said he heard there would be a counteroffer, but he had not seen anything formal yet. Craska Cooper asked for the REC to be notified when an official counteroffer had been made, and she asked how long it had been since they sent their most recent counteroffer to Jefferson County. Boone said the County had met in executive session on May 22, so there may have been a delay with the recent holiday. Craska Cooper noted from her calendar that the letter had been sent on May 14.

Craska Cooper suggested developing a signature program for the Crook County Open Campus. Chesley concurred.

**ADJOURN:** Craska Cooper declared the meeting adjourned at 5:38 p.m.



**CENTRAL OREGON**  
community college

# COCC / WSPI

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COCC RE Committee Update – July 2, 2024

# Agenda

## Neighboring Ventures

- 180+ Unit Campus Village Apartments
- 3-Acre RH Land

## Outcrop Subdivision

## Village Core & Commercial Development



# The Veridian – 186-unit Apartment Development

## Construction Updates

- July – First ground lease payment
- C of O – Bldg. 9 (12 units)
  - 3 units occupied
  - 3 units pre-leased
- Next building ready for move-ins 8/1
- Final construction ETA 3/1/2025
- COCC Storm Water Agreement: Signed & w/ COB
- Website is live  
<https://www.theveridianbend.com/>
- Rents available on the website



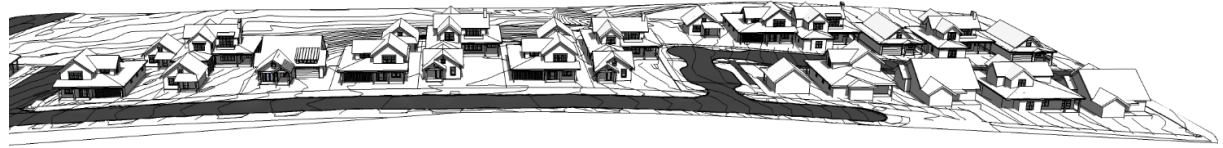


# Phase 2: 3-Acre RH Land

3.4

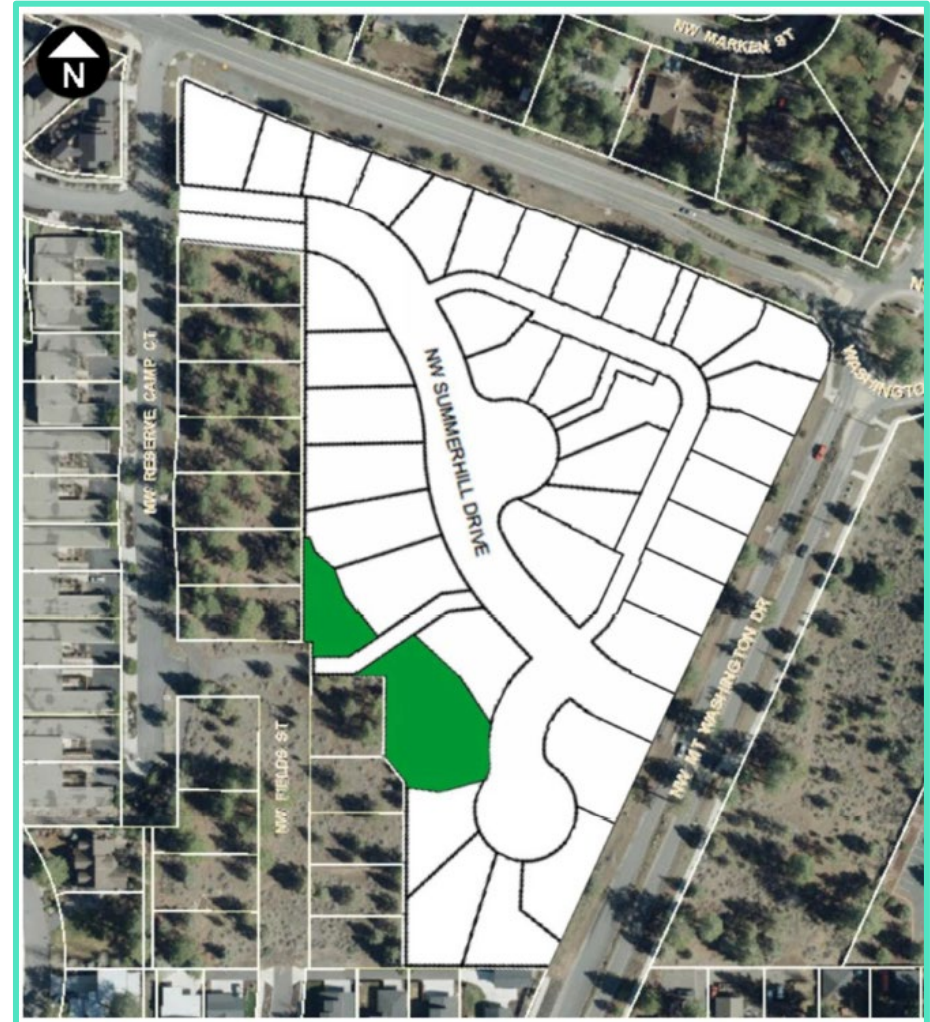
- Project on-hold until seeing lease-up of Phase 1





## Phase II Updates

- Lots 17-51
- Preliminary Plat Approval
- Engineering: PFIA – Signed & w/ COB
  - Awaiting INFR Permit: Delayed due to Pacific Power drawings
- Cost Estimating: In progress
  - Met w/ TNW & Dowl to brainstorm timing and project start w/ INFR delays
  - Preliminary estimates are \$3M+ for roads & infrastructure
  - Financing: Line of credit secured by WSPI property available

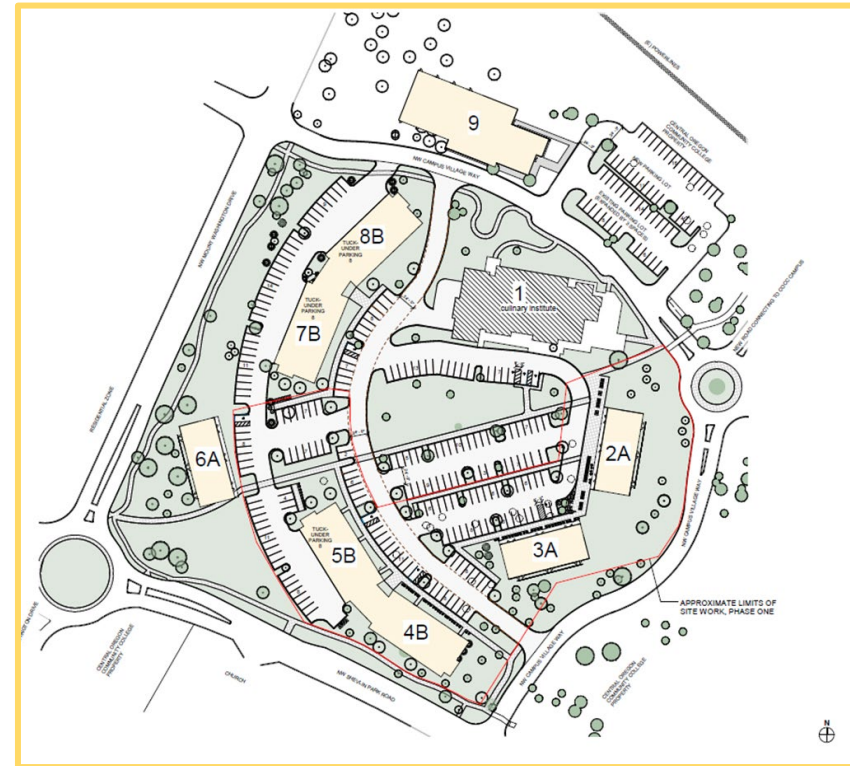


# Village Core & Commercial District

- **Strategy:** Draft off Veridian and Outcrop projects to enhance ground lease rates
  - Harmony between projects

## Village Core Development Opportunities

- F&B Developer/Operator - analyzing food-anchored mixed-use concept
  - For discussion: openness to drive-through business on Village Core
- Flex-Office Community - contemplated in conjunction with food-anchored project discussed above
- Medical Office Owner/Operator: met with prospect owner/operator and spec medical developer. User determined ground lease was not suitable for him
- Other concepts: Hospitality (hotel/STR); grocer-anchored retail; medical office owner/operator buildings



# Reference Slides

# Progress Pictures



# Progress Pictures

3.9











**SITE INFORMATION**

CITY OF BEND DEVELOPMENT CODE  
 CENTRAL OREGON COMMUNITY COLLEGE  
 SPECIAL PLANNED DISTRICT OVERLAY (S.P. 1000)  
 CAMPUS VILLAGE AREA  
 SETBACKS: NONE EXCEPT ADJACENT TO A RESIDENTIAL ZONE:  
 25' FROM THE BOUNDARY WHERE IT ADJUTS A RESIDENTIAL ZONE  
 ALL BUILDINGS WITHIN 100 FEET OF THE CAMPUS BOUNDARY  
 WHERE THE BOUNDARY LINE ADJUTS A RESIDENTIAL ZONING  
 DISTRICT ARE SUBJECT TO THE APPLICABLE DESIGN STANDARDS  
 OF BDC2 1.900 AND 2.1.1000  
 LANDSCAPE REQUIREMENTS: APPLY 25' BEYOND THE PERIMETER  
 OF THE FOOTPRINT OF PROPOSED NEW DEVELOPMENTS SITES  
 FOR BUILDINGS AND OR PARKING LOTS.  
 LANDSCAPE BUFFER REQUIREMENTS: 25' LANDSCAPE  
 PRESERVATION BUFFER REQUIRED ADJUTTING STREETS ALONG  
 THE EXTERNAL BOUNDARY OF THE CAMPUS.  
 100' LANDSCAPE PRESERVATION BUFFER IS REQUIRED ADJUTTING  
 RESIDENTIAL ZONED PROPERTY (EXCLUDING RIGHTS OF WAY)  
 ALONG THE EXTERNAL CAMPUS BOUNDARY OF THE CORE  
 CAMPUS AREA.

**BUILDING AREAS**

RETAIL	APARTMENT
1. 16,000 SF	
2A. 5,378 SF	
3A. 5,378 SF	
4B. 5,070 SF	14,000 SF - 20 1-BED UNITS
5B. 5,070 SF	14,000 SF - 20 1-BED UNITS
6A. 5,378 SF	
7B. 5,070 SF	14,000 SF - 20 1-BED UNITS
8B. 5,070 SF	14,000 SF - 20 1-BED UNITS
9. 15,696 SF	
<b>GROSS SF: 81,303 SF</b>	<b>62,000 SF - 80 UNITS</b>

**PARKING**

PARKING REQUIRED	PARKING PROVIDED
PLANNING ESTIMATE: 4 SPACES/1000 SF 274 SPACES	

CITY OF BEND ZONING (TABLE 5.3.300):  
 AUTO, STANDARD,  
 RETAIL (GENERAL TRADE) AND OFFICE  
 AT 1 SPACE PER 300 SF

MULTI-FAMILY RESIDENTIAL AT:  
 STUDIO+1-BED: 1 SPACE/UNIT

STANDARD AUTO SPACES REQUIRED:  
 RETAIL  
 28,303 / 196 SPACES REQUIRED  
 300

MULTI-FAMILY RESIDENTIAL  
 80 UNITS: 80 SPACES

**TOTAL: 278 SPACES**

ACCESSIBLE AUTO PARKING  
 REQUIRED (OSBC TABLE 119K.1)  
 313 SPACES PROVIDED  
 7 ADA SPACES REQUIRED  
 (WITH 2 WHEELCHAIR ONLY OF THE 7)

BICYCLE PARKING REQUIRED:  
 MULTIPLE USE (COMMERCIAL OR  
 MIXED USE CENTER) 1 FOR EVERY 10  
 REQUIRED AUTO SPACES

205 / 25.5 = 8 SPACES REQUIRED  
 TO

AUTO SPACES PROVIDED:  
 MAIN LOT 220  
 EXISTING NORTH LOT 25  
 NEW NORTH LOT 8 SPACED 8

313

ACCESSIBLE PARKING PROVIDED:  
 8 PROVIDED  
 WITH 2 WHEELCHAIR ONLY (WC)  
 DESIGNATED SPACES

BICYCLE PARKING PROVIDED:  
 NEAR BUILDING 2: 8  
 NEAR BUILDING 7: 12  
 BETWEEN BUILDINGS 4B/5B: 8

- TREE TO BE REMOVED
- EXISTING TREE
- PROPOSED NEW TREE



**WSP Village Center**  
 Bend Oregon

**CONCEPTUAL PRICING**

SITE PLAN  
 OVERALL  
 Project # 18007  
**A1.00**  
 Date 3.22.2019



**SOUTH SITE DATA:**

SITE AREA: 3.02 ACRES; 131,494 SQUARE FEET

ZONING: RH (HIGH DENSITY RESIDENTIAL)

DENSITY = 21.7 UNITS / AC. MIN., 43 UNITS/ AC. MAX.  
= 65 UNITS MIN.; 129 UNITS MAX.

PROPOSED LIVING UNITS:

ONE BEDROOM UNITS= (18) UNITS

TWO BEDROOM UNITS= (51) UNITS

TOTAL APARTMENT UNITS = 69 UNITS

PROPOSED DENSITY = 22.85 UNITS / ACRE.

PARKING REQUIRED:

1 BR = (18) X 1.0 STALLS / UNIT = 18 STALLS REQ'D.

2 BR = (51) X 1.5 STALLS / UNIT = 77 STALLS REQ'D.

TOTAL PARKING REQ'D. 95 STALLS MIN.

PROPOSED PARKING: 90 STANDARD STALLS

28 COMPACT STALLS

5 HANDICAP STALLS

TOTAL PARKING : 123 TOTAL STALLS PROVIDED

TOTAL PARKING RATIO= 1.78 STALLS / UNIT

BICYCLE PARKING: (69) SPACES MINIMUM REQUIRED

**PROPOSED SITE DESIGN:**  
 (186) LIVING UNITS  
 (348) PARKING STALLS  
 PARKING RATIO=  
 1.87 STALLS PER UNIT

PARCEL MODIFIED DUE TO BEND PLANNING REQUIREMENT FOR ALL PARALLEL PARKING ALONG MAIN EAST-WEST DRIVE AISLE.

**ORIGINAL SITE DESIGN:**  
 (180) LIVING UNITS  
 (346) PARKING STALLS  
 PARKING RATIO=  
 1.90 STALLS PER UNIT

PRIOR TO REQUIREMENT FOR ALL PARALLEL PARKING ALONG MAIN EAST-WEST DRIVE AISLE.



PROPOSED NATURE RESERVE  
 AREA= 0.75 ACRES +/-

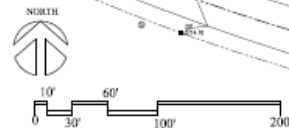
ORIGINAL NATURE RESERVE  
 AREA= 0.60 ACRES +/-

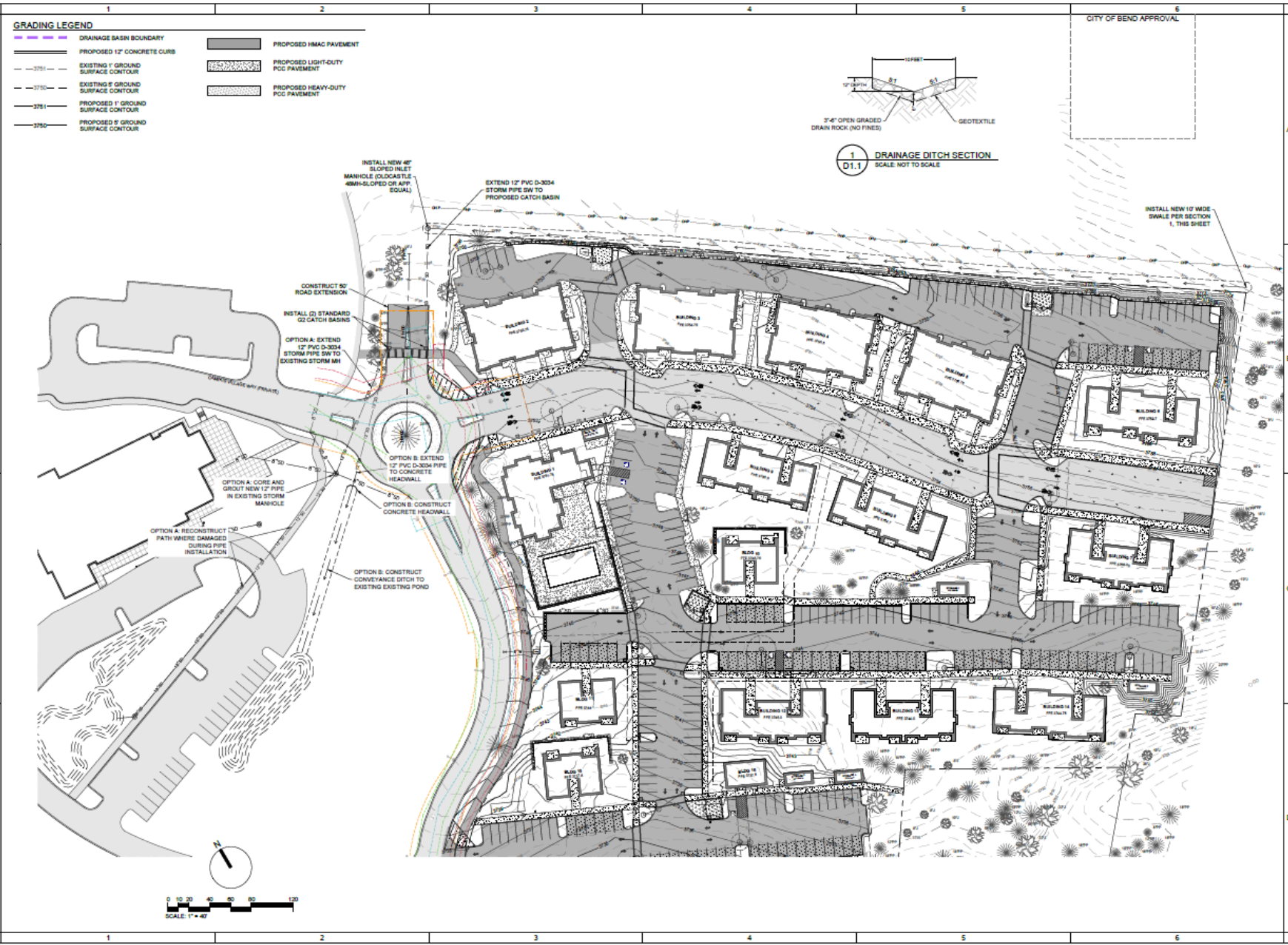
PROPOSED SITE  
 BOUNDARY= 412,080 s.f. +/-  
 9.46 ACRES +/-

ORIGINAL SITE  
 BOUNDARY= 409,028 s.f. +/-  
 9.39 ACRES +/-

**REVISED SITE PLAN**

scale: 1"=50'





CITY OF BEND APPROVAL

CONTRACT NO. 2022020348  
 HERRING, WILSON & ASSOCIATES  
 1000 NE 10TH AVENUE, SUITE 200  
 BEND, OREGON 97701  
 ALL RIGHTS RESERVED

**CAMPUS VILLAGE APARTMENTS  
 SITE IMPROVEMENT PLANS**

GRADING & DRAINAGE PLAN  
 CITY OF BEND, OR

REVISIONS

NO.	DATE	DESCRIPTION

**HWA**  
 HERRING, WILSON & ASSOCIATES  
 1000 NE 10TH AVENUE, SUITE 200  
 BEND, OREGON 97701  
 TEL: 503.325.1100  
 FAX: 503.325.1101  
 WWW.HWA-CORP.COM

DESIGNED BY: SKM  
 DRAWN BY: SKM  
 CHECKED BY: GWH  
 SCALE: AS NOTED  
 DATE: 11/15/2022  
 PROJECT: 2022020348 - CAMPUS VILLAGE APARTMENTS SITE IMPROVEMENT PLANS

VERIFY SCALES  
 0 1'  
 BAR SCALES ONE INCH ON ORIGINAL DRAWING

SHEET:  
**D1.1**  
 HWA # 210203  
 COB # PRSIMP2022020348

100% CONSTRUCTION DOCUMENTS

### **Addendum No. 5 to Development Agreement**

This Addendum No. 5 to Development Agreement (this “Addendum No. 5”) is made and effective as of this \_\_ day of \_\_\_\_\_, 2024 (the “Effective Date”), by and between CENTRAL OREGON COMMUNITY COLLEGE, an Oregon community college district (“COCC”), and WILLIAM SMITH PROPERTIES, INC., an Oregon corporation (“WSPI”).

#### **Recitals**

- A. COCC and WSPI are parties to that certain Development Agreement, dated as of April 20, 2010 (the “2010 DA”), as supplemented by Addendum No. 1 to Development Agreement (“Addendum No. 1”), dated as of April 20, 2010 and Addendum No. 2 to Development Agreement, dated as of July 1, 2010 (“Addendum No. 2”). The parties superseded the 2010 DA with a final updated Development Agreement, dated as of January 7, 2015, as further amended by Addendum No. 3 to Development Agreement, dated and effective as of March 17, 2021 (“Addendum No. 3”), and Addendum No. 4 to Development Agreement, dated and effective as of October 18, 2021 (“Addendum No. 4”) (collectively, the “Development Agreement”). The parties acknowledge that the April 20, 2010 agreement was restated in its entirety by the January 7, 2015 agreement (but is nevertheless supplemented by Addendum No. 1 and Addendum No. 2). All capitalized terms in this Addendum No. 5 not otherwise defined shall have the meanings set forth in the Development Agreement.
- B. A portion of the Properties was platted for single-family residential development pursuant to the plat of OUTCROP, recorded December 8, 2020, as Document No. 2020-66400 Deschutes County Official Records (the “Outcrop Phase 1 Property”). Under Addendum No. 3 and Addendum No. 4, COCC conveyed the Sale Parcels within the Outcrop Phase 1 Property directly to WSPI, and WSPI, in turn, conveyed the Sale Parcels to a third party.
- C. A portion of the Properties will be platted for single-family residential development pursuant to the plat of OUTCROP PHASE 2 (the “Outcrop Phase 2 Property”). The Outcrop Phase 2 Property includes Lots 17 through 51 (each an “Outcrop Lot”, and collectively, the “Outcrop Lots”).
- D. The parties desire, through this Addendum No. 5, to establish the sale process for the Outcrop Lots and the disbursement mechanism for the sale proceeds.

#### **Agreement**

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Effect of Addendum.** Except as specifically modified in this Addendum No. 5, all terms, covenants and conditions of the Development Agreement remain unmodified and in full force and effect. By executing this Addendum No. 5, the parties agree and covenant that the Development Agreement remains in full force and that no default exists under the Development Agreement. To the extent of any conflict between the terms and conditions of this Addendum No. 5 and those set forth in the Development Agreement, the terms and conditions of this Addendum No. 5 shall control.
2. **Development and Sale of Outcrop Lots.** Under this Addendum No. 5, WSPI shall cause the infrastructure work necessary to obtain final plat approval for the Outcrop Phase 2 Property from

the City of Bend (the “City”) to be completed, and will be responsible for the marketing and negotiation for the sale of the Outcrop Lots directly to home builders or other third parties. COCC will convey the Outcrop Lots directly to the purchasers identified by WSPI.

3. **Form Purchase Agreement and Sale Terms.** WSPI has obtained tentative plan approval for the Outcrop Phase 2 Property and, pursuant to ORS 92.016, may negotiate the terms of sale of the Outcrop Parcels prior to recording of the final plat for Outcrop Phase 2 and is authorized to do so as of the Effective Date. WSPI shall use the purchase agreement form attached as Exhibit A (the “Sale Agreement”) for each proposed sale of an Outcrop Lot, unless an alternate form is approved by COCC, in its reasonable discretion. COCC shall execute each Sale Agreement presented to COCC within five (5) days after delivery to COCC: provided, however, that the proposed purchase price meets the minimum requirements in Exhibit B. Any other modifications to a Sale Agreement shall be made visible to COCC in Track Changes or a similar format, and shall be subject to COCC’s reasonable approval, which approval shall not be unreasonably withheld, conditioned or delayed. WSPI shall have the authority to select any options or ranges of dates or other figures included in the form Sale Agreement without seeking the further approval of COCC.
4. **System Development Charges.** Section 4.3 of Addendum No. 3 is deleted in its entirety and replaced with the following:  
 Due to several public transportation infrastructure improvements constructed by WSPI to support the development of the Outcrop Property, WSPI holds approximately \$150,000.00 in Transportation System Development Charge Credits (the “SDC Credits”). If, at the time any purchaser of an Outcrop Lot is required to pay other relevant system development charges to the City, WSPI holds sufficient SDC Credits to pay such system development charges, then the Sale Agreement shall require the purchaser to pay WSPI an amount equal to the improvement fee portion of the then current transportation System Development Charges required to obtain a building permit for the purchaser’s Outcrop Lot, and WSPI will assign to the purchaser, or apply directly to the City for the purchaser’s benefit, an equal amount of the SDC Credits held by WSPI. The amounts received by WSPI from purchasers under this Section 4 shall be deemed “SDC Proceeds”.
5. **Infrastructure Funding.** In connection with the development of the Outcrop Phase 2 Property, the City will require the completion of certain infrastructure improvements more particularly described on Exhibit C (the “Infrastructure”). The preliminary estimated cost of the Infrastructure is set forth on Exhibit D. WSPI is solely responsible for the design and construction of the Infrastructure, and COCC has agreed to fund the Infrastructure up to a maximum cumulative amount of \$2,300,000.00 (the “Funding Cap”). From time to time during construction of the Infrastructure, but not more frequently than monthly, WSPI shall deliver a notice of payment to COCC, together with documentation reasonably satisfactory to COCC of the costs incurred by WSPI for construction of the Infrastructure (the “Cost Notice”). Within fifteen (15) days after receipt of the Cost Notice from WSPI, COCC shall reimburse WSPI in amounts equal to those set forth in the Cost Notice, but not to exceed the Funding Cap. COCC shall have the right, prior to any payment under this Section 5, to require further information or documentation of the costs set forth in any Cost Notice. All amounts paid by COCC under this Section 5 shall be referred to as the “COCC Contribution.” WSPI shall pay all Infrastructure costs in excess of the Funding Cap, which amounts shall be included in WSPI’s Unreimbursed Costs.

6. **Unreimbursed Costs.** As of December 31, 2023, WSPI has accumulated \$140,401.45 in Unreimbursed Costs, and COCC has accumulated \$31,097.00 in Unreimbursed Costs, for a total amount of Unreimbursed Costs of \$171,498.45. Accordingly, as of the Effective Date, WSPI's percentage of Unreimbursed Costs ("WSPI's UCP") is 82%, and COCC's percentage of Unreimbursed Costs ("COCC's UCP") is 18%. Prior to the distribution of any Sale Proceeds, the parties shall execute an addendum or other written agreement updating WSPI's UCP and COCC's UCP to reflect any additional Unreimbursed Costs (including any payments by WSPI of Infrastructure costs in excess of the COCC Contribution) incurred by the parties between the Effective Date and the sale of the first Outcrop Lot. (For the avoidance of doubt, the COCC Contribution shall not be included in Unreimbursed Costs.)
7. **Distribution of Sale Proceeds.** The term "Sale Proceeds" shall mean (i) all SDC Proceeds and (ii) all proceeds from the sale of an Outcrop Lot (after deduction of closing and escrow costs paid pursuant to the applicable Sale Agreement and any real estate commission payable by COCC in connection with the sale of such Outcrop Lot). Upon receipt of Sale Proceeds by COCC or WSPI, such Sale Proceeds shall be distributed to COCC and WSPI as follows:
- 7.1. First, to COCC, until COCC has received cumulative Sale Proceeds equal to the COCC Contribution;
- 7.2. Second, to COCC, until COCC has received cumulative Sale Proceeds equal to \$600,000.00;
- 7.3. Third, to COCC, until COCC has received the remaining Base FMV attributable to the 12-acre "Low Density Residential Land" (in the amount of \$490,000.00), less five percent (5%) of such amount;
- 7.4. Fourth, to WSPI, until WSPI has received an amount equal to the five percent (5%) withheld from COCC's distribution made pursuant to Section 7.3 above;
- 7.5. Fifth, to the parties in an amount equal to the outstanding Unreimbursed Costs, which shall be apportioned between the parties as follows:
- (i) to COCC, 95% of COCC's UCP of the Sale Proceeds to be distributed pursuant to this Section 7.5, and
- (ii) to WSPI, (a) WSPI's UCP of the Sale Proceeds to be distributed pursuant to this Section 7.5, plus (b) 5% of COCC's UCP of the Sale Proceeds to be distributed pursuant to Section 7.5(i); and
- 7.6. Finally, all remaining Sale Proceeds shall be distributed 47.5% to COCC and 52.5% to WSPI.
8. **Distribution of SDC Proceeds and Interest Payments.** Section 6 of Addendum No. 3 (related to distribution of SDC Proceeds) is deleted in its entirety.

Central Oregon Community College

William Smith Properties, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit A

Form Sale Agreement  
(to be attached)



**Exhibit B**

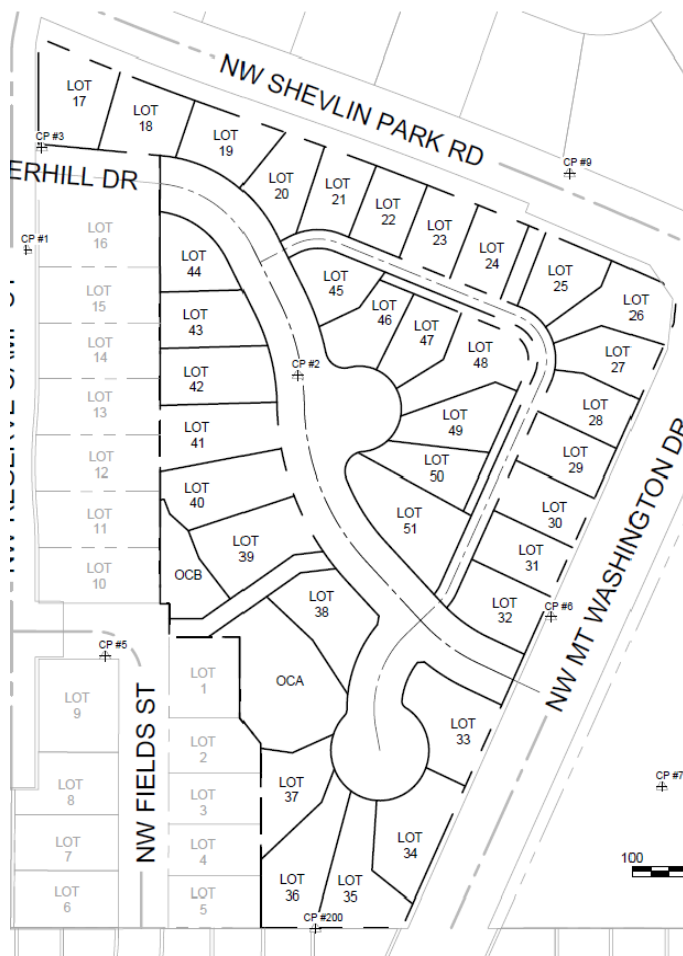
**Lot # / Minimum Price**

Lot 17	340,000	Lot 29	301,000	Lot 41	420,000
Lot 18	311,000	Lot 30	301,000	Lot 42	420,000
Lot 19	306,000	Lot 31	301,000	Lot 43	390,000
Lot 20	301,000	Lot 32	311,000	Lot 44	370,000
Lot 21	291,000	Lot 33	340,000	Lot 45	340,000
Lot 22	291,000	Lot 34	340,000	Lot 46	340,000
Lot 23	291,000	Lot 35	364,000	Lot 47	340,000
Lot 24	291,000	Lot 36	410,000	Lot 48	364,000
Lot 25	301,000	Lot 37	410,000	Lot 49	343,000
Lot 26	321,000	Lot 38	420,000	Lot 50	340,000
Lot 27	301,000	Lot 39	440,000	Lot 51	388,000
Lot 28	301,000	Lot 40	430,000		

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**Total      12,069,000**

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## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “**Agreement**”) is entered into effective \_\_\_\_\_, 2024 (the “**Effective Date**”), by and between Central Oregon Community College, an Oregon community college district (“**Seller**”), whose address is 2600 NW College Way, Bend, OR 97703, Attn: Michael LaLonde; and \_\_\_\_\_, an Oregon \_\_\_\_\_ (“**Buyer**”), whose address is \_\_\_\_\_, Attn: \_\_\_\_\_. William Smith Properties, Inc, an Oregon corporation (“**WSPI**”), whose address is 15 SW Colorado Ave., Suite 1, Attn: Peter McCaffrey, is the master developer under that certain Development Agreement between Seller and WSPI, dated as of January 7, 2015 (the “**Development Agreement**”), as supplemented and amended, and joins in the execution of this Agreement in consideration of WSPI’s obligations under the Development Agreement and in Section 6.3 below.

### RECITALS

A. Seller owns certain real property located at \_\_\_\_\_, Bend, Deschutes County, Oregon, (the “**Property**”), and legally described as:

Lot \_\_\_\_\_, **OUTCROP Phase 2**, recorded \_\_\_\_\_, 2024, as Document No. 2024-\_\_\_\_\_, Deschutes County Official Records.

B. Subject to the terms and conditions contained in this Agreement, Buyer desires to purchase the Property from Seller, and Seller desires to sell the Property to Buyer.

### AGREEMENT

1. Purchase and Sale of Property. Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, on the terms and conditions in this Agreement.

2. Escrow. The parties will open an escrow (“**Escrow**”) with Western Title & Escrow, at 1777 SW Chandler Ave., Suite 100, Bend, OR 97702 (“**Title Company**”), with Lori Welsh, as escrow officer (the “**Escrow Officer**”). The parties shall promptly provide a fully executed copy of this Agreement to Title Company.

3. Purchase Price. The purchase price for the Property is \$ \_\_\_\_\_ (the “**Purchase Price**”), which shall be paid as follows:

3.1 Within five (5) days after the Effective Date, Buyer shall deposit \$ \_\_\_\_\_ (the “**Deposit**”) into Escrow in cash or other immediately available funds. At Closing, the Deposit shall be credited against the Purchase Price.

3.2 On or before the Closing Date (defined below), Buyer shall deposit into Escrow the Purchase Price, less the Deposit, plus Buyer’s share of the closing costs and prorations provided for in this Agreement, in cash or other immediately available funds.

#### 4. Buyer's Due Diligence.

4.1 Title Review. As soon as practicable after the Effective Date, Seller shall cause the Title Company to furnish to Buyer a preliminary title report showing the condition of title to the Property, together with copies of all exceptions listed therein (the "**Title Report**"). Buyer will have 5 days from receipt of the Title Report to review the Title Report and to notify Seller, in writing, of Buyer's disapproval of any exceptions shown in the Title Report. Those exceptions not objected to by Buyer are referred to below as the "**Permitted Exceptions**" (provided, however, that deeds of trust, judgments, mechanics' liens, and other monetary encumbrances shall not be deemed Permitted Exceptions under any circumstances). Zoning ordinances; covenants, conditions, and restrictions; building and use restrictions; easements of record; taxes due and payable for the current tax year; and reservations in federal patents and state deeds shall be deemed Permitted Exceptions. If Buyer notifies Seller of disapproval of any exceptions, Seller shall have 5 days after receiving the disapproval notice to either: (a) remove the exceptions, (b) provide Buyer with reasonable assurances of the manner in which the exceptions will be removed before the transaction closes, or (c) inform Buyer that Seller will not or cannot remove the exceptions. If Seller does not remove the exceptions or provide Buyer with such assurances within the 5-day period, Buyer may send a written "**Termination Notice**" to Seller. (Seller's failure to timely respond to a disapproval notice shall be deemed an election not to remove or endorse over any exceptions.) In the event a Termination Notice is delivered, this Agreement shall terminate, and the parties shall have no further obligations to one another. If Buyer elects to Close the purchase of the Property, it shall be deemed to have approved and accepted all conditions and exceptions to title set forth in the Title Report that Seller has not expressly agreed in writing to remove.

4.2 Property Inspection. Buyer shall have a period of **15 business days** from the Effective Date (the "**Inspection Period**") to determine the suitability of the Property for Buyer's intended use. If Buyer elects not to go forward with this transaction, then Buyer shall give written notice of such election to Seller and Escrow (the "**Termination Notice**") prior to the expiration of the Inspection Period, at which time the Deposit shall be returned to Buyer. If Buyer does not timely deliver the Termination Notice, this Agreement shall proceed and the Deposit will become non-refundable, except in the event of a default by Seller. During the Inspection Period, Buyer, including Buyer's agents, consultants, and contractors, shall have a limited, non-exclusive license to enter upon the Property, at Buyer's sole cost and expense, upon reasonable prior notice to Seller, in order to conduct such inspections, investigations, tests, surveys, or studies of the Property as Buyer deems necessary or desirable. Notwithstanding the foregoing, in the event Buyer requires any invasive testing, such testing shall not occur until a scope of work is provided to Seller and Seller gives written approval to proceed. It will be at Seller's sole discretion whether invasive testing will occur. Buyer shall immediately repair or restore any damage arising out of its inspections, investigations, tests, surveys, or studies. Buyer shall comply with all applicable laws and governmental regulations applicable to the Property. Buyer assumes all risks in entering the Property and performing its feasibility inspections, and shall indemnify, defend, and hold Seller and Seller's current and future elected officials, officers, employees, contractors, agents and volunteers (collectively, "**Seller's Agents**") harmless from any and all claims (known or unknown), liabilities, damages, and costs, including without limitation attorneys' fees and costs, arising out of Buyer's inspections, investigations, tests, surveys, or studies, or any entry onto the Property by Buyer or any of its agents, consultants, or

contractors. Buyer's obligations under this Section 4.2 shall not merge with the Deed and shall survive the Closing or termination of the Agreement.

5. Closing. Subject to the satisfaction of all conditions precedent in this Agreement, the closing of the purchase and sale of the Property ("**Closing**") shall take place through Escrow within five (5) days after expiration of the Feasibility Period (the "**Closing Date**"). Closing shall take place at the Title Company's office in the manner and in accordance with the provisions set forth in this Agreement. Closing shall be deemed to have occurred on the date on which the Deed (defined below) is recorded in the Official Records of Deschutes County, Oregon.

5.1 Prorations, Adjustments. All ad valorem real property taxes and assessments shall be prorated and adjusted between the parties as of the Closing Date.

5.2 Events of Closing. If the Escrow Officer has received the full Purchase Price and is in a position to issue the Title Policy (defined below) to Buyer, this transaction will be closed by the Escrow Officer on the Closing Date as follows:

(a) The Escrow Officer will perform the prorations as described in Section 4.3 above, and the parties shall be charged and credited accordingly;

(b) Buyer shall pay the unpaid balance of the Purchase Price, as adjusted for the charges and credits set forth in this Agreement;

(c) Seller shall execute, acknowledge and deliver to Escrow a statutory bargain and sale deed (the "**Deed**"), conveying the Property to Buyer;

(d) The parties shall execute and deliver such other documents reasonably required by the Title Company to complete the transaction;

(e) The Title Company will be committed to issuing the Title Policy upon recordation of the closing documents; and

(f) The Escrow Officer will record the Deed at Buyer's expense.

5.3 Title Insurance. As soon as possible after the Closing Date, the Title Company shall furnish Buyer a standard ALTA owner's policy of title insurance showing title to the Property vested in Buyer subject only to the Permitted Exceptions (the "**Title Policy**"). The Title Policy shall be dated as of the Closing Date and insure Buyer's title to the Property in an amount equal to the Purchase Price. The premium for the Title Policy will be charged to Seller.

5.4 Possession. Seller shall deliver possession of the Property to Buyer on the Closing Date.

5.5 Closing Costs. Seller shall pay: (a) the cost of the Title Policy; (b) the cost of recording any instruments (other than the Deed) or title endorsements required to deliver title to Buyer as required under this Agreement; (c) any applicable transfer taxes; and (d) one-half (1/2) of the Title Company's escrow fee. Buyer shall pay: (i) the cost of recording the Deed; (ii) the cost of the Title Policy in excess of the cost of ALTA standard owner's coverage, and any

additional title endorsements required by Purchaser; and (iv) one-half (1/2) of the Title Company's escrow fee.

## 6. Contingencies.

6.1 Buyer's Conditions. Buyer's obligation to purchase the Property under this Agreement is conditioned upon and subject to the satisfaction, or written waiver by Buyer, on or before the Closing Date, of all the conditions precedent set forth below in this Section 6.1, which conditions are for the exclusive benefit of Buyer. Should any such condition not be so satisfied or waived by Buyer, then Buyer may elect to terminate this Agreement and receive a refund of the Deposit, less any escrow cancellation fees; provided, however, if the failure of any condition precedent was caused by Seller's default, the provisions of Section 7.1 shall apply. The conditions precedent to Buyer's obligation to purchase the Property are as follows:

- (a) Seller's representations and warranties in this Agreement shall be true and correct in all material respects as of the Closing Date;
- (b) Seller has performed all of the material obligations required of Seller under this Agreement; and
- (c) The Title Company is committed to issue the Title Policy.

6.2 Seller's Conditions to Closing. The obligation of Seller to sell the Property under this Agreement is conditioned upon and subject to (a) the representations and warranties of Buyer set forth in this Agreement being true and correct in all material respects as of the Closing Date; (b) Buyer has delivered the balance of the Purchase Price to Escrow on or prior to the Closing Date; and (c) Buyer has performed all other material obligations required of Buyer under this Agreement.

6.3 Post-Closing Conditions (SDCs). Due to several public transportation infrastructure improvements constructed by or on behalf of Seller to support the development of the Property, WSPI holds approximately \$150,000 in Transportation Systems Development Charge Credits (the "**SDC Credits**"). At the time Buyer is required to pay other relevant system development charges to the City of Bend, Buyer will pay to WSPI an amount equal to the improvement fee portion of the then-current transportation systems development charges then due (the "**SDC Fee**"), and WSPI will assign to Buyer, or apply directly to the City of Bend for Buyer's benefit, SDC Credits in an amount equal to the SDC Fee. This Section 6.3 shall survive closing and recording of the Deed.

7. Default. If the conditions described in Section 6.1 are satisfied or waived by Buyer and the transaction does not close as provided in this Agreement, through no fault of Seller, then the Deposit shall be paid to Seller as liquidated damages, and this Agreement shall be of no further effect, it being the intention of the parties that Buyer may forfeit the Deposit and be free of any further obligations under this Agreement. The parties agree that it would be difficult to measure Seller's damages for breach and the Deposit represents the parties attempt to measure Seller's damages. If Seller fails to deliver the Deed, or otherwise fails to close this transaction as provided in this Agreement, Buyer shall be entitled, as its sole remedy, to either (i) to terminate this Agreement, and receive the immediate refund of the Deposit, and both Buyer

and Seller will be relieved of any further obligations or liabilities to one another, except for Buyer's rights to recover its attorneys' fees pursuant to Section 11.6 and those obligations that expressly survive the termination of this Agreement; or (ii) Buyer may file suit for specific performance.

8. Property Condition. Buyer specifically acknowledges, represents, and warrants that, prior to Closing, it will have: (a) thoroughly inspected the Property and observed the physical characteristics and condition of the Property, and (b) conducted any inquiries Buyer deems necessary with respect to the land use, zoning, entitlement, or other condition affecting the Property. Buyer acknowledges, agrees and represents that, except for the representations and warranties expressly set forth in Section 9 below, the Property is to be purchased, conveyed and accepted by Buyer in its present condition, **"AS IS", "WHERE IS" AND WITH ALL FAULTS**, and that: (y) no patent or latent defect or deficiency in the condition of the Property whether or not known or discovered, and (z) no condition or aspect of the Property's compliance with zoning or other laws or regulations, shall affect the rights of either Seller or Buyer, nor shall the Purchase Price be reduced as a result. Buyer expressly acknowledges and agrees that, except for the representations and warranties expressly set forth in Section 9 below: (i) Seller has made no other representation or warranty whatsoever including, without limitation, in connection with Hazardous Materials (defined below); the water, soil, and geology, or the suitability of the Property for any and all activities and uses which Buyer may elect to make of the Property; habitability, merchantability, or fitness of the Property for a particular purpose; the manner, construction, condition, and state of repair or lack of repair of the Property; compliance with laws, statutes, codes, ordinances, orders, decisions, rules, or regulations; or any restrictions, obligations, rights of way, or conditions affecting the ownership, use, operation, development, or operation of the Property; and (ii) Buyer is not relying on any other representation or warranty of Seller or Seller's Agents, whether implied, presumed, or expressly provided at law or otherwise, or arising by virtue of any statute, common law or other legally binding right or remedy in favor of Buyer. The provisions of this Section 10 shall survive Closing and delivery of the Deed, or the earlier termination of this Agreement.

9. Seller's Representations and Warranties. As of the Effective Date, Seller represents and warrants to Buyer as follows:

9.1 Seller has the full right, power, and authority to enter into and perform this Agreement and the persons executing this Agreement on behalf of the Seller are duly authorized to execute and deliver this Agreement and the documents reasonably necessary to effect the transactions contemplated by this Agreement. All requisite action has been taken by Seller in connection with entering into this Agreement and completing the transaction contemplated by this Agreement.

9.2 This Agreement is the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

9.3 The signing and delivery of this Agreement by Seller and the performance by Seller of all of Seller's obligations under this Agreement will not breach any agreement

affecting the Property to which Seller is a party, or give any person the right to accelerate any obligation of Seller; or require the consent, authorization, or approval of any person, including but not limited to any governmental body.

9.4 Seller is not a “foreign person” for purposes of Internal Revenue Code Section 1445.

9.5 Seller has no knowledge of the presence of any Hazardous Materials in, on, or under the Property in violation of applicable federal, state, or local laws. As used in this Agreement, “**Hazardous Materials**” shall mean any toxic or hazardous substance, material, or waste, or any pollutant, contaminant, or infectious or radioactive material, including but not limited to, those substances, materials, or wastes which are classified as hazardous or toxic substances, materials or wastes, pollutants or contaminants, as defined, listed, or regulated under any applicable federal, state, or local law for the protection of health or the environment.

9.6 Seller has no knowledge, and has not received notice, of any unremedied violations of any laws, ordinances or regulations affecting any part of the Property.

9.7 Seller has no knowledge of and has not received any notice of any condemnation proceedings affecting all or any part of the Property.

9.8 Seller has no knowledge of and has not been served with any action, suit or proceeding against the Property, at law or in equity.

As used in this Agreement the term “knowledge,” when used in reference to Seller, or “to Seller’s knowledge,” or any variations of such terms, is limited to the actual knowledge of Michael LaLonde, without duty of inquiry or investigation. Seller represents and warrants that Michael LaLonde is the person affiliated with Seller who is most knowledgeable about the condition of the Property. The foregoing representations and warranties, and any other representations and warranties of Seller contained in this Agreement shall be materially true and correct on and as of the Effective Date and on and as of the Closing Date, shall not be deemed to have merged with the Deed, and shall survive Closing for a period of one (1) year.

10. Buyer’s Representations and Warranties. As of the Effective Date, Buyer represents and warrants to Seller as follows:

10.1 Buyer has the full right, power, and authority to enter into and perform this Agreement and the persons executing this Agreement on behalf of the Buyer are duly authorized to execute and deliver this Agreement and the documents reasonably necessary to effect the transactions contemplated by this Agreement. All requisite action (corporate, partnership, trust or otherwise) has been taken by Buyer in connection with entering into this Agreement and complete the transaction contemplated by this Agreement. No additional consent of any individual, officer, director, shareholder, partner, member, manager, trustee, trustor, beneficiary, creditor, investor, judicial or administrative body, governmental authority or other party is required for Buyer to execute this Agreement and complete the transaction contemplated by this Agreement.

10.2 This Agreement is the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, or other similar laws of general application or by general principles of equity.

The foregoing representations and warranties, and any other representations and warranties of Buyer contained in this Agreement shall be materially true and correct on and as of the Effective Date and on and as of the Closing Date, shall not be deemed to have merged with the Deed, and shall survive Closing for a period of one (1) year.

## 11. General Provisions.

11.1 Time of Essence. Time is of the essence of each and every obligation of the parties under this Agreement.

11.2 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties, and their respective heirs, personal representatives, successors, and permitted assigns. Notwithstanding the foregoing, 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; provided, however, that Buyer may assign this Agreement, and Buyer's rights and obligations under this Agreement, without Seller's consent, to an entity or entities owned or controlled by Buyer that assumes all of Buyer's obligations under this Agreement in writing, upon prior written notice to Seller no later than three (3) business days prior to the Closing Date.

11.3 Further Assurances. The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement.

11.4 Notices. All notices or other communications required or permitted by this Agreement 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 written notice to the other party in accordance with this Section 11.4. Notices shall be effective: (a) when hand delivered by messenger or recognized overnight delivery service (such as Federal Express), or (b) received or rejected by the addressee, if sent by certified mail, return receipt requested. Due to the short time frames provided in this Agreement, the parties agree to accept notice by electronic mail, with copies to the parties' legal counsel.

11.5 Waiver. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the parties' rights to enforce the provision. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

11.6 Attorney Fees. If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Agreement, or otherwise in connection with the subject matter of this Agreement, 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 reasonable 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, action, suit, or proceeding, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

11.7 Entire Agreement. This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement.

11.8 Applicable Law. This Agreement shall be construed in accordance with the laws of the State of Oregon, without giving effect to any conflict-of-laws principle that would result in the laws of any other jurisdiction governing this Agreement.

11.9 Brokers. Buyer and Seller each represent and warrant that neither such party has worked with a real estate broker in the negotiation of this transaction. Each party will defend, indemnify, and hold the other party harmless from any claim, loss, or liability made or imposed by any other person claiming a commission or fee in connection with this transaction and arising out of its own conduct.

11.10 Amendment. Except as otherwise provided in this Agreement, this Agreement may be amended or modified only by a written document signed by the party against whom enforcement is sought.

11.11 ORS 93.040 Statement. 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.

11.12 Interpretation. All pronouns contained in this Agreement 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 section headings in this Agreement are for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. 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.

12. Counterparts; Signatures. This Agreement may be executed in any number of counterparts, each of which will be considered an original and when taken together will constitute one and the same instrument. An electronic signature (including, but not limited to, an application such as DocuSign or RightSignature) or a faxed or electronic transmission of a signature will be considered an original signature. At the request of a party, the other parties will confirm an electronic signature or a faxed or electronically transmitted signature by delivering an original signature page to the requesting party.

**SELLER:**

Central Oregon Community College

By: \_\_\_\_\_  
Laurie Chesley, Ph.D., President

**BUYER:**

\_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**WSPI:**

William Smith Properties, Inc.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**Outcrop Phase 2**

5/15/2024

Investment Funding Analysis Version 2 - Analysis inclusive of Management Fees

35 Lots

12,000,000 Total Revenue 343,000 Per Lot

**(A) Standard Path**

	COCC	WSPI	Total
<b>Expenses</b>			
12/31/23 UDC	31,097	140,401	171,498
Est. Soft Costs / Legal	5,000	25,000	30,000
<b>Sub-Total</b>	<b>36,097</b>	<b>165,401</b>	<b>201,498</b>
	18%	82%	
Construction Costs	-	2,300,000	2,300,000
Interest Expense	-	183,000	183,000
<b>Total Expenses</b>	<b>36,097</b>	<b>2,648,401</b>	<b>2,684,498</b>
	1%	99%	
<b>Revenue</b>			
Tier 1 - COCC Base Return	490,000	-	490,000
Tier 2 - Pro-Rata Return	36,097	2,648,401	2,684,498
Tier 3 - 50/50 Split	4,412,751	4,412,751	8,825,502
<span style="color: red;">5% Management Fee</span>	(246,942)	246,942	-
<b>Total Revenue</b>	<b>4,691,905</b>	<b>7,308,095</b>	<b>12,000,000</b>
<b>Net Proceeds</b>	<b>4,655,808</b>	<b>4,659,693</b>	<b>9,315,502</b>

**(B) COCC Enhanced Investment**

	COCC	WSPI	Total
<b>Expenses</b>			
12/31/23 UDC	31,097	140,401	171,498
Est. Soft Costs / Legal	5,000	25,000	30,000
<b>Sub-Total</b>	<b>36,097</b>	<b>165,401</b>	<b>201,498</b>
	18%	82%	
Construction Costs	2,300,000	-	2,300,000
<b>Total Expenses</b>	<b>2,336,097</b>	<b>165,401</b>	<b>2,501,498</b>
	93%	7%	
<b>Revenue</b>			
Tier 1.a. - COCC Base Return	490,000	-	490,000
Tier 1.b. - COCC Pref. Return	600,000	-	600,000
Tier 2 - Pro-Rata Return	2,336,097	165,401	2,501,498
Tier 3 - 50/50 Split	4,204,251	4,204,251	8,408,502
<span style="color: red;">5% Management Fee*</span>	(236,517)	236,517	-
<b>Total Revenue</b>	<b>7,393,830</b>	<b>4,606,170</b>	<b>12,000,000</b>
<b>Net Proceeds</b>	<b>5,057,733</b>	<b>4,440,768</b>	<b>9,498,502</b>
<b>= (B) - (A) --&gt; incremental \$</b>	<b>401,925</b>		
<b>Estimated Return on Equity</b>	<b>17%</b>		

\*Scenario B, 5% Management Fee not applied to Tier 1.b. or to \$2.3M funding