

**LEASE AGREEMENT
Williams Branch**

This Lease Agreement is entered into by and between JOSEPHINE COUNTY, a political subdivision of the State of Oregon, hereinafter "County," THREE RIVERS SCHOOL DISTRICT, formerly known as Josephine County School District, hereinafter "School District," and JOSEPHINE COMMUNITY LIBRARIES, INC. (JCLI), a public benefit nonprofit corporation, hereinafter "Lessee."

WHEREAS County and Lessee have entered into a Memorandum of Understanding dated October 29, 2008, whereby County would lease to Lessee all County library buildings, with certain furniture and equipment, and books and materials contained therein; and

WHEREAS County and School District have entered into an Intergovernmental Cooperative Agreement dated April 11, 1977, attached as Exhibit 1, whereby the School District gave County permission to place a public library building on school property; and

WHEREAS, by that Intergovernmental Cooperative Agreement dated April 11, 1977, it is apparent that School District owns the real property and County owns the building which is the subject of this lease; and

WHEREAS County and School District are desirous of working together to assist JCLI in reopening the Williams Branch of the Josephine County library system; and

WHEREAS County and Lessee have jointly inspected the Williams branch of the Josephine County Library and its inventory, and both parties are aware of the physical condition of the Library and the general extent of the inventory; and

WHEREAS County and Lessee are parties to a Grant Agreement for Library Services pursuant to ORS 357.410;

NOW, THEREFORE, in consideration of the terms and conditions set forth below, the parties agree as follows:

1. **TERM:** This Agreement shall commence on the ____ day of _____, 2009, and shall terminate at 11:59 p.m. on December 31, 2011, unless otherwise terminated or amended as provided herein.
2. **PREMISES:** County and School District lease to Lessee all of their interest in the real property and building thereon, commonly known as the Williams Branch of the Josephine County Library System, located at 20695 Williams Highway, Williams, Oregon 97544, with adjacent parking areas, hereinafter "the Premises," as depicted in the aerial photograph attached hereto as Exhibit 2 and incorporated herein.
3. **BOOK COLLECTIONS, MATERIALS, FURNITURE AND EQUIPMENT:** County leases to Lessee all books and materials, and furniture and equipment identified in Amendment No. 3 to the Grant Agreement for Services executed herewith and by this reference incorporated herein. Lessee shall take reasonable action that would be expected of a reasonably prudent custodian of personal property to prevent loss or damage to County's property, and shall notify County of any such loss or damage.
4. **GENERAL PURPOSE:** The parties to this Agreement expressly understand that the demised premises shall be used for the following purposes, and no other, without the prior written consent of County and School District: For the administration, operation, and maintenance of the Josephine

County Library System, as set forth in that certain Grant Agreement for Library Services between the parties executed herewith.

4.1 **Parking Areas:** Lessee shall use the Parking Areas as public parking for library patrons and for Lessee's employees.

5. **RENTAL:** Lessee agrees to pay as rent for the premises described above the sum of One Dollar (\$1.00) per year, which sum is payable to County as the total sum of Two Dollars (\$2.00) on or before the 31st day of December, 2009.

6. **TAXES:** Lessee shall timely pay all applicable real property taxes and personal property taxes.

7. **UTILITIES:** Lessee shall pay all utilities, including but not limited to water, sewer, heat, light, electricity, telecommunications, gas, garbage, and security systems, including any deposits or service payments.

8. **MAINTENANCE:**

8.1 **Building Exterior, HVAC:** County shall provide, at County's expense, all routine maintenance, repairs, and renovation of the exterior portions of the Premises, including landscaping, grounds upkeep, parking lots, HVAC and environmental systems.

8.2 **Building Interior – Routine Maintenance:** Lessee shall provide, at Lessee's expense, all routine maintenance to the interior portions of the library building, including janitorial services, due to usual and customary use of the building, and shall maintain the interior of the building in a manner acceptable to the County.

8.3 **Building Interior – Repairs and Renovations:** In addition to routine maintenance, Lessee shall be responsible for repairs and renovations to the interior portions of the library building due to damage caused by Lessee or library patrons, including but not limited to painting and carpet replacement. Lessee shall maintain the interior of the building in a condition which is acceptable to the County and which meets all applicable fire, life, safety, and health codes, all as determined by the County.

a. **Consent of County:** Lessee shall obtain the written consent of County before undertaking any repairs or renovations, or before making any alterations to the building or to any fixture that alters the appearance of the building or that results in any structural change, regardless how small or inexpensive.

b. **Trust Account:** Lessee shall create a dedicated trust fund account for repairs and renovations in accordance with Section 9 below.

8.4 **Hazards:** Lessee shall immediately notify County and School District of any physical conditions of the premises located on the exterior portions of the Premises which could cause physical injury to patrons or staff. Lessee shall remedy, as soon as practicable, any physical conditions of the interior portions of the Premises which could cause physical injury to patrons or staff. All parties shall take immediate action, upon discovery, to prevent any hazards from causing damage to persons, and such action shall be appropriate for the hazards involved, up to and including the evacuation and closure of the library until the hazards are corrected.

8.5 **Failure to Perform:** Failure by Lessee to perform required maintenance, repairs, or renovations shall be considered a violation of this Lease Agreement warranting termination

by County.

9. **REPAIRS AND RENOVATIONS TRUST ACCOUNT:** Lessee shall create a dedicated trust fund account for repairs and renovations of the building. Lessee shall deposit not less than Three Seven Thousand Dollars (\$3,000.00) per calendar year during the term of this lease, up to a maximum sum of Six Thousand Dollars (\$6,000.00). The first deposit shall be made on or before December 31, 2010, and shall continue to be made on or before the 31st day of December each year during the term of this lease until the sum of \$6,000 is achieved. The trust account shall be in the name of Lessee as trustee, and shall name County as beneficiary. Lessee shall deliver to County an accounting statement of the balance of the trust fund account from the financial institution holding the trust fund account on or before the 15th day of January of each year, commencing January 10, 2011.
- 9.1. **Expenditures from Trust Account:** All expenditures from the trust fund account shall require written approval of both Lessee and County.
- 9.2. **Credit for Repair and Renovations:** Lessee shall receive credit toward the required minimum annual trust account obligation for sums expended by Lessee to perform building repairs and renovations subject to the following:
- a. Lessee shall obtain the written consent of County before undertaking any repairs or renovations, or before making any alterations to the building or to any fixture that alters the appearance of the building or that results in any structural change, regardless how small or inexpensive. Lessee shall provide County with the estimated cost of the proposed repair or renovation.
 - b. The value of any in-kind repairs which may be performed directly by Lessee or its volunteers or agents shall be credited against Lessee's annual deposit in an amount to be mutually agreed upon by Lessee and County.
- 9.3. **Extraordinary Costs:** Lessee shall be solely responsible for the costs of any repairs or maintenance which exceed the required minimum annual trust account obligation, or which exceed the current balance in the trust fund account in any given year. If extraordinary costs are incurred, Lessee may use the trust funds accumulated in previous years, and such expenditures may be credited to satisfy the contribution requirement of future years.
- 9.4. **Failure to Provide Routine Maintenance:** Lessee shall be solely responsible for the cost of any repairs and renovations made necessary by Lessee's failure to provide adequate ongoing routine maintenance, as determined by County, and such repairs and renovations shall not be chargeable to the trust fund account.
- 9.5. **Failure to Deposit Funds:** Failure by Lessee to deposit into the trust fund account the minimum amount per calendar year as specified herein shall be considered a violation of this Lease Agreement warranting termination by County.
- 9.6. **Funds Remaining at Lease Termination:** Upon termination of this Agreement, all funds remaining in the trust account shall vest with Lessee, after completion of any outstanding repairs deemed necessary by County.
- 9.7. **County Contribution:** County, at its sole discretion, may contribute funds for repairs and renovations with or without conditions upon Lessee; however, County shall in no way be obligated to make any such contribution, and such contribution shall not be construed as a waiver of any of Lessee's responsibilities.

- 10. ALTERATIONS AND FIXTURES:** Lessee shall not make any additions, alterations of a structural nature, or improvements in or to the Premises without County's prior written consent, which consent shall not be unreasonably withheld. All additions, alterations and improvements made in and to the Premises shall become the property of County, and shall be surrendered with the Premises upon the termination of this Agreement. All fixtures shall become the property of County unless otherwise required by applicable grants.
- 11. ACCESS BY COUNTY:** County, its officers, agents, and employees shall have free access to the Premises at all reasonable times for the purpose of examining the same. County shall provide Lessee with reasonable advance notice.
- 12. QUIET ENJOYMENT:** Lessee, upon performing the covenants and observing the conditions of this Lease, at all times during the term of this Lease, shall have the peaceable enjoyment of the Premises without hindrance or disturbance by County or School District.
- 13. INDEMNIFICATION:**
- 13.1 Lessee shall defend, indemnify, reimburse, and hold harmless County and School District, their officers, agents and employees, from any and all claims, liabilities, demands, damages, actions or proceedings arising from or relating to the negligence, wrongful acts, or omissions of Lessee in connection with this Agreement.
- 13.2 County and School District shall defend, indemnify, reimburse, and hold harmless Lessee, its officers, agents and employees, from any and all claims, liabilities, demands, damages, actions or proceedings arising from or relating to the negligence, wrongful acts, or omissions of County in connection with this Agreement.
- 13.3 Lessee shall not be deemed an agent of County or School District under the Oregon Tort Claims Act.
- 14. INSURANCE:**
- 14.1 All parties shall maintain insurance coverage for its property, including collections, materials, equipment, and furnishings. Lessee shall immediately notify County and School District of any loss or damage to County's or School District's property after such loss, and shall cooperate fully with all requests made by County's or School District's Risk Manager or designee. Lessee shall use its best efforts to monitor and protect County's and School District's property during the term of this Agreement. Each party shall cooperate with and provide claim-related information requested by another party's insurance company after any loss.
- 14.2 Lessee shall, at its own expense, provide and maintain insurance for the duration of this Agreement as follows:
- a. Workers' Compensation Insurance as required by law.
 - b. General Liability Insurance with minimum limits of liability, per occurrence, of \$1,000,000 for bodily injury and \$1,000,000 for property damage.
 - c. Automobile Liability Insurance with minimum limits of liability, per occurrence, of \$1,000,000 for bodily injury and \$1,000,000 for property damage.

- 14.3 Liability coverage shall be provided on an "occurrence" basis if it is available. "Claims made" coverage will not be acceptable unless Lessee cannot obtain occurrence coverage. County reserves the right to determine whether occurrence coverage is available.
- 14.4 All insurance policies must name Josephine County and Three Rivers School District as an additionally named insureds, and must be through an insurance company licensed in the State of Oregon. The insurance policy shall provide that "Josephine County" and "Three Rivers School District" shall include all authorities, boards, bureaus, commissions, divisions, departments, districts, and offices of the County and the School District, and the individual members, employees and agents thereof in their official capacities.
- 14.5 All insurance policies shall be evidenced by Certificates of Insurance which shall be delivered to the County prior to disbursement of grant funds under this Agreement. Lessee shall provide at least thirty (30) days' written notice prior to any cancellation or material change of any insurance policy. Such written notice must be delivered to the County by certified mail, return receipt requested.
- 14.6 **No Recourse and Deductibles:** The insurance companies issuing the insurance policies shall have no recourse against County or School District for payment of any premiums or for assessments under any form of policy. Any and all deductibles shall be assumed by and be for the account of and at the sole risk of Lessee.
15. **CASUALTY DAMAGE:** If the Premises are damaged or destroyed by fire or other casualty to such a degree that the Premises are unsuitable for the purpose leased, County and Lessee may seek agreement on the costs of restoration of the building. In such instance, Lessee shall first use proceeds from all applicable insurance policies, and shall then seek to obtain from the patrons who enjoy the benefits of the Premises to fund the repairs or renovations.
- 15.1 The parties agree that within ninety (90) days after any such casualty damage, each party shall obtain at least one (1) estimate of required repairs or renovations, and shall meet to decide whether to cancel this Lease or to proceed with the necessary repairs. If the insurance proceeds are insufficient to make the necessary repairs, then Lessee may provide the remaining needed funds.
- 15.2 If the parties agree that the building is beyond repair, or that there are insufficient funds for rebuilding or repairing the building within one (1) year from the date of the damage, either party may cancel this Lease.
- 15.3 In the event that the parties decide not to proceed with repairs, then any insurance proceeds shall be divided between County and Lessee, with first reimbursement to the County for the value of destroyed improvements. All donations obtained by Lessee from patrons for repairs or renovations shall be the property of Lessee.
16. **TERMINATION:**
- 16.1 **Mutual Consent:** This Agreement may be terminated at any time upon mutual consent of all parties.
- 16.2 **For Convenience:** This Agreement may be terminated by any party upon thirty (30) days' written notice.
- 16.3 **For Cause:** A party may terminate this Agreement, effective upon delivery of written notice to the other parties or at such later date as may be established upon the occurrence of any

of the following:

- a. If changes in state or federal law or regulations abrogate or disallow procurement of Services under the Grant Agreement for Library Services;
- b. If any letter of approval, license, or certificate required by law or regulation to be held by Lessee/Grantee under the Grant Agreement for Library Services is denied, revoked, suspended, or not renewed; or
- c. If a party fails to perform the obligations required under this Agreement, and after receipt of written notice from the other party, fails to correct such failure within thirty (30) calendar days or such other period as may be required. Written notice shall specify the nature of the breach with reasonable particularity. If the breach specified in the notice cannot be completely cured within the thirty-day period, but curative action is undertaken with reasonable diligence, in good faith, to cure the breach as soon as practicable, then such breach shall not constitute a default.
- d. If practicable, the parties shall endeavor to give notice of termination under this section thirty (30) days prior to the termination date, but failure to give notice within that time frame shall not invalidate the legal termination of this Agreement.

16.4 **Major Breach:** A party may declare a default immediately upon the occurrence of a material breach by another party. A material breach is one that substantially impairs the contractual relationship of the parties to provide Services in accordance with this Agreement. Material breaches include, but are not limited to:

- a. Acts or omissions that jeopardize the health, safety or security of any person;
- b. Misuse of funds;
- c. Intentional falsification of records;
- d. Malfeasance by either party's officers, agents, or employees;
- e. Intentional refusal to comply with the provisions of this Agreement; and
- f. A pattern of repeated non-material breaches.

16.5 In the event of a default, before a party may bring an action in any court concerning this Agreement, such party must first make a good faith effort to resolve the issue through mediation, negotiation or other non-binding alternative dispute resolution. Pending final resolution of a dispute, or pending termination of this Agreement, the parties shall proceed diligently with the performance of this Agreement unless otherwise notified in writing. If a default occurs and is not resolved, the injured party may elect to terminate this Agreement and pursue any equitable or legal rights and remedies available under Oregon law.

16.6 In case of a default the non-defaulting party shall be entitled to recover damages or any other remedy provided by applicable law, or it may elect to perform the defaulting party's obligation and recover from the defaulting party the costs of such remedy.

16.7 The rights and remedies of the parties provided herein are not exclusive and are in addition to any other rights and remedies provided by law.

- 16.8 **Conditions:** This Lease is subject to the condition that if Lessee fails to perform any of the covenants herein, including but not limited to the purposes set forth in the General Purpose clause above, or files a petition in bankruptcy, or is declared bankrupt or insolvent according to law, or makes an assignment for the benefit of its creditors, or if the leasehold estate is taken on execution, then, at the option of County, this Lease shall terminate and County, without notice or demand, may re-enter the premises and remove all persons and effects therefrom, without prejudice of any remedies which might otherwise be used by County for any breach of Lessee's covenants.
17. **HOLDING OVER:** Any holding over by the Lessee after the expiration of the term of this Lease, or the term of any extension thereof, shall be a tenancy from month to month.
18. **WARRANTY:** School District covenants and warrants that it has good title to the Premises.
19. **COMPLIANCE WITH LAW:** Lessee agrees that it shall at its own expense, promptly observe and comply with all present and future laws, orders, regulations, rules, ordinances, and requirements of federal, state, county, and city governments with respect to the use, care, and control of the leased premises.
20. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.
21. **VENUE:** Any claim, suit, action or other proceeding that arises from or relates to this contract shall be brought and conducted exclusively in the Circuit Court of the State of Oregon for Josephine County; provided, however, that if any such claim must be brought in a federal forum, it shall be brought and conducted exclusively in the United States District Court for the District of Oregon.
22. **FORCE MAJEURE:** No party shall be held responsible for delay or default caused by fire, riot, civil disobedience, acts of God, or war where such cause was beyond the control of either party. All parties shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
23. **WAIVER:** No waiver of any provision of this Agreement shall bind either party unless in writing and signed by all parties. Such waiver, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of a party to enforce any provision of this Agreement shall not constitute a waiver by that party of any provision of this Agreement.
24. **SEVERABILITY:** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
25. **FURTHER ASSURANCES:** The parties agree to promptly execute and deliver any such further instruments and to perform any such further acts as may be required to carry out the intent and purpose of this Agreement.
26. **NOTICES:** Any communications or notices required under this Agreement shall be given in writing by personal delivery, or by certified mail, return receipt requested, to the address set forth below. Any communication or notice so addressed and mailed shall be deemed to be given three (3) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

Lessee:

Josephine Community Libraries, Inc.
Attn: Librarian
200 N.W. "C" Street
Grants Pass, OR 97526

County:

Board of County Commissioners
Josephine County
500 NW 6th Street, Dept. 6
Grants Pass, OR 97526

School District:

Three Rivers School District
Attn: Superintendent
8550 New Hope Road
Grants Pass, OR 97527

- 27. **ASSIGNMENT OR SUBLEASE:** Lessee shall not assign or transfer any interest in this Agreement without County's and School District's prior written consent. No portion of the leased Premises shall be sublet by Lessee without the prior written consent of County and School District.
- 28. **INTERPRETATION:** All covenants, agreements, conditions and terms contained in this Lease shall be binding upon, apply and inure to the benefit of the heirs, executors, administrators and assigns of the parties, and all covenants shall be construed as covenants running with the land.
- 29. **NO THIRD PARTY BENEFICIARY:** County, School District, and Lessee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- 30. **AMENDMENT:** This Agreement may be amended or modified at any time upon the written Agreement of all parties, signed and secured in the same form and manner as below.
- 31. **ENTIRE AGREEMENT:** This Lease Agreement with the attached Exhibits 1 and 2, and the Grant Agreement for Library Services as amended constitute the entire Agreement between the parties with respect to the Lease of the Premises, and supercedes any previous promises, representations, agreements, conditions or understandings between the parties. There are no other promises, representations, agreements, conditions or understandings, either oral or written, between the parties other than those set forth or expressly referred to in this Lease Agreement and the Grant Agreement for Library Services.

LESSEE
JOSEPHINE COMMUNITY LIBRARIES, INC.

JOSEPHINE COUNTY
BOARD OF COUNTY COMMISSIONERS

By: _____

Dwight F. Ellis, Chair

Date: _____

S. Cassanelli, Vice Chair

Fed ID# _____

Dave Toler, Commissioner

Date: _____

Reviewed as to form: _____
County Legal Counsel

THREE RIVERS SCHOOL DISTRICT

[Name and Title]

[Name and Title]

Date: _____

INTERGOVERNMENTAL COOPERATIVE AGREEMENT

THIS AGREEMENT, entered into this date, by and between JOSEPHINE COUNTY, OREGON, through its Public Library Board, and the JOSEPHINE COUNTY SCHOOL DISTRICT, through its Board of Directors;

WITNESSETH:

WHEREAS, the parties hereto wish to enter into an agreement providing for the placement of a new Public Library Building on certain property owned by the Josephine County School District, adjacent to the Williams Elementary School, in Williams, Oregon; and

WHEREAS, such an Intergovernmental Cooperative Agreement is in the best interest of all the people of Josephine County, Oregon, and specifically authorized by ORS Chapter 190;

NOW, THEREFORE, IT IS HEREBY AGREED mutually as follows:

1. The Josephine County School District by and through its duly authorized Board of Directors, hereby gives Josephine County, through its Public Library Board, permission to place a new Public Library Building on school property in Williams, Oregon.
2. Josephine County agrees that said structure will be approximately 800 to 1000 sq. ft. in size, and be relocatable, so that it may be moved easily if at some future time the County School Board wishes to utilize the property for some other purpose.
3. The parties mutually agree that either party upon one year's written notice may terminate this agreement, and Josephine County shall then remove its structure prior to the end of such one-year period.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, by and through their duly authorized Boards of Directors, this 11th day of April, 1977.

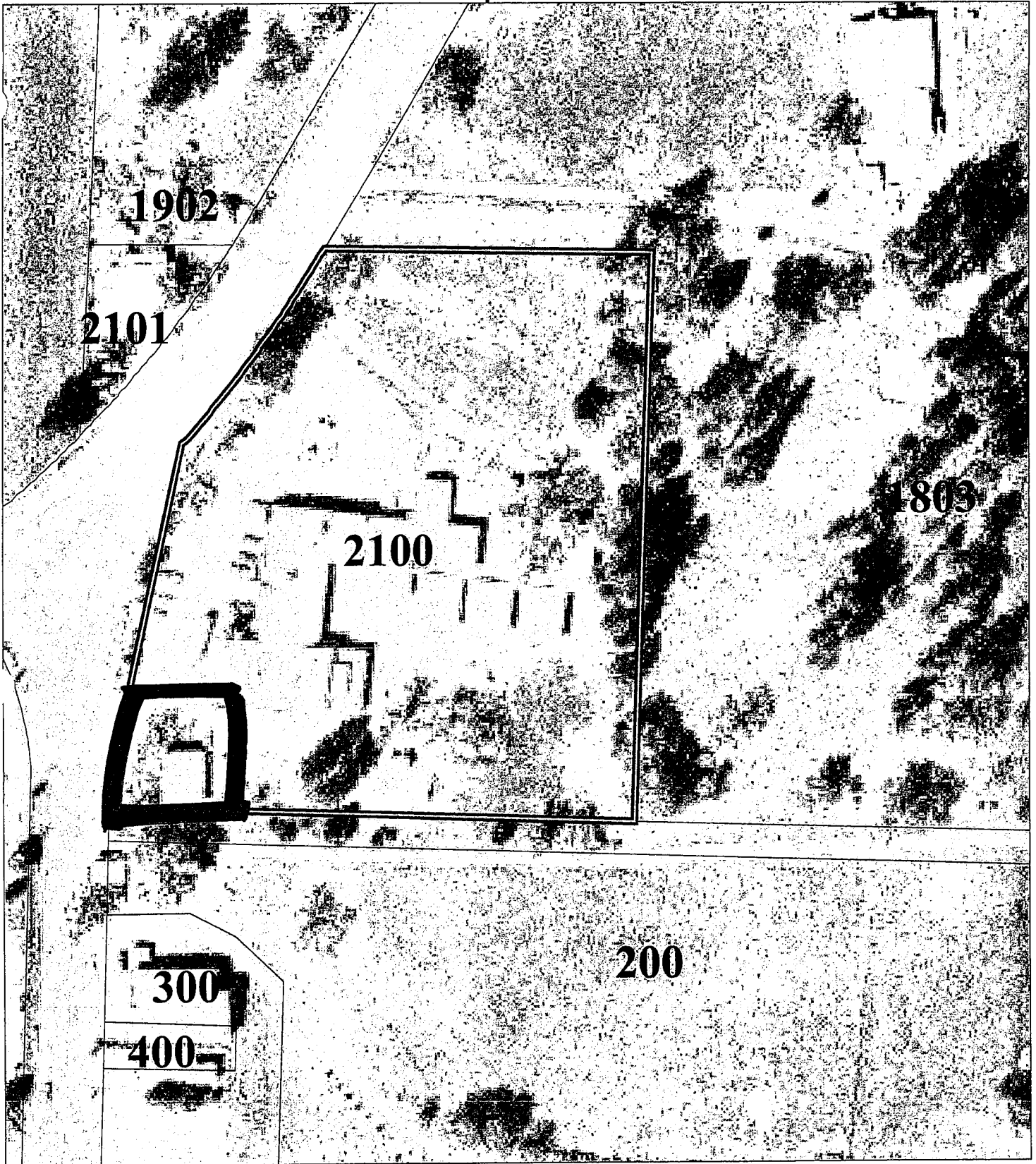
JOSEPHINE COUNTY SCHOOL DISTRICT

Norman B. Haleboon
Lee E. Baldwin

JOSEPHINE COUNTY LIBRARY BOARD


Kathryn Krauss
J. Edwin Arndt
Kim Z. Ford
W. B. Young, Jr. Director

Assessor's Map 38-05-34 tl 2100



Legend

Locator Map

 Taxlots

2002 Airphotos



The information on this map is furnished for general interest purposes only. This information is provided without warranties of any kind, express or implied, and it should not be used to support any purchase or other investment. Neither Josephine County, Cave Junction, nor Grants Pass will accept responsibility for any errors or inaccuracies in the depicted information.



Scale
1:1200

DRAFT

EXHIBIT 2