

2022-000551

Klamath County, Oregon

01/14/2022 09:41:01 AM

Fee: \$142.00

498884AM

This instrument prepared by
and after recording return to:
Rebekah E. Fisher, Esq.
Rebekah Fisher and Associates PLLC
414 Bridge Street
Franklin, TN 37064

Dollar General Store No. 18282
Crescent, OR

STATE OF OREGON

COUNTY OF KLAMATH

AMENDED AND RESTATED MEMORANDUM OF LEASE

THIS AMENDED AND RESTATED MEMORANDUM OF LEASE is made and entered into this 10 day of January, 2022, by and between **NITE CRESCENT, LLC**, a California limited liability company, successor-in-interest to CD DG Crescent, LLC, (the "Landlord"), and **DG RETAIL, LLC**, a Tennessee limited liability company, with its principal office and place of business at 100 Mission Ridge, Goodlettsville, Tennessee 37072 (the "Tenant").

WITNESSETH:

For and in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are all hereby acknowledged, the parties hereto agree as follows:

1. Landlord has leased to Tenant, under the terms of a lease dated November 11, 2016 (the "Lease") certain premises together with easements, all privileges, rights, benefits, and rights-of-way now or hereafter appurtenant or belonging thereto and located at U.S. Highway 97, City of Crescent, County of Klamath, and State of Oregon (the "Demised Premises").

2. The parties have since discovered an error in the legal description and wish to amend and restate the Memorandum of Lease as provided herein.

5. The legal description of the Demised Premises is more particularly described on "Exhibit A" attached hereto and incorporated herein by this reference made a part hereof.

6. Landlord covenants and agrees not to develop or construct, or allow to be developed or constructed, any property now or hereafter owned by Landlord or an affiliate of Landlord, or developed or constructed by Landlord or an affiliate of Landlord for a third party, within a one (1) mile radius of the boundaries of the Demises Premises for the purpose of conducting business as or for use as: a Family Dollar Store; Bill's Dollar Store; Fred's, Dollar Tree, Ninety-Nine Cents Only; Deals; Dollar Express; Big Lots; Walgreens; CVS; Rite Aid; or any "Wal-Mart" branded retail store concept (including but not limited to Wal-Mart, Super Wal-Mart, Wal-Mart Neighborhood Market and Wal-Mart Express) (collectively, the "Exclusive Use Rights"). This covenant shall run with the land and shall be binding upon Landlord and its affiliates and their respective successors, assigns and successors in title to the Demises Premises.

7. The Demised Premises may be used for any lawful retail purpose.

8. The term of the Lease shall be for a period of fifteen (15) years beginning on the Commencement Date as that term is defined in the Lease.

9. Tenant shall be entitled to extend the term of the Lease for three (3) successive periods of five (5) years each, upon the terms and conditions therein set forth.

10. In the event of a conflict between the terms of the Lease and the terms of this Memorandum of Lease, the provisions of the Lease shall govern and control.

[Signatures on Following Page]

IN WITNESS WHEREOF the parties hereto have caused this Memorandum of Lease to be executed by their proper officers or representatives and their proper seals to be hereunto affixed, the day and year first above written.

LANDLORD:

NITE CRESCENT, LLC,
a California limited liability company

By: *Sam Fante*

Print Name: SAMUEL A. FANTE

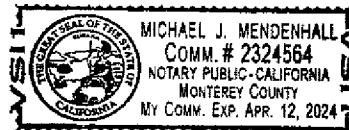
Its: PRESIDENT

STATE of California
COUNTY of Monterey

This instrument was acknowledged before me on January 5, 2022, by
Samuel A. Fante as President of **NITE**
CRESCENT, LLC, a California limited liability company.

Michael J. Mendenhall
Notary Public

My commission expires: April 12, 2024



[Signatures Continue on Following Page]

TENANT:

DG RETAIL, LLC

a Tennessee limited liability company

By: Melissa L. Heisse

Print Name: Melissa L. Heisse

Its: Vice President, Lease Administration

STATE of TENNESSEE
COUNTY of DAVIDSON

This instrument was acknowledged before me on January 10, 2022, by
Melissa L. Heisse as VP, Lease Administration of DG Retail, LLC, a Tennessee limited
liability company.

Carrie Lee

Notary Public

My commission expires: 11-6-24

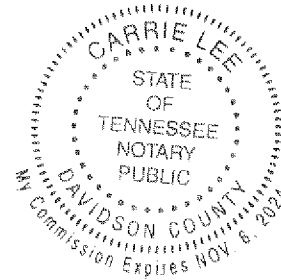


Exhibit A

Legal Description

The Land referred to herein below is situated in City of Crescent, Klamath County, State of Oregon, and is more particularly described as follows:

Parcel 1 of Land Partition 41-17, a Partition of the lands shown in Survey No. 2570 as described in Document No. 2017-010196 situated in the Northeast quarter of the Southwest quarter of Section 30, Township 24 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon. Being recorded on April 4, 2018, as document 2018-004085 records of the Klamath County Clerk.

LAND PARTITION 41-17

A PARTITION OF THE LANDS SHOWN ON SURVEY NO. 2570 AS DESCRIBED IN DOCUMENT NO. 2017-010196 SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 24 SOUTH, RANGE 9 EAST, W.M., KLAMATH COUNTY, OREGON

SURVEYOR'S CERTIFICATE

I, GLEN C. ARMSTRONG, A REGISTERED LAND SURVEYOR IN THE STATE OF OREGON, HEREBY CERTIFY THAT I HAVE PARTITIONED, PLATTED, CORRECTLY SURVEYED, AND MARKED WITH PROPER MONUMENTS THE LAND SHOWN AS LAND PARTITION 41-17, SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 24 SOUTH, RANGE 9 EAST, W.M., KLAMATH COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SET 60' BEAR WITH NO TAG AT THE NORTHEAST CORNER OF TAX LOT 1100, AS SHOWN ON SURVEY NO. 2570, "PLAT OF SURVEY FOR BATISTA MILANI", FILED BY THE KLAMATH COUNTY SURVEYOR'S OFFICE ON NOVEMBER 17, 1977, OFFICIAL RECORDS OF KLAMATH COUNTY, OREGON; THENCE, SOUTH 40°14'38" WEST, A DISTANCE OF 185.00 FEET ALONG THE WESTERLY RIGHT-OF-WAY OF U.S. ROUTE 97, AS SHOWN ON SAID SURVEY NO. 2570 TO THE POINT OF BEGINNING; (INITIAL POINT)
THENCE, NORTH 40°14'38" WEST, A DISTANCE OF 253.00 FEET;
THENCE, SOUTH 40°14'38" WEST, A DISTANCE OF 17.91 FEET;
THENCE, ALONG THE EASTERLY RIGHT-OF-WAY OF KLAMATH NORTHERN HIGHWAY OR SAID SURVEY NO. 2570, A DISTANCE OF 263.39 FEET ALONG THE ARC OF A CIRCLE, CENTERED AT THE POINT OF BEGINNING, TO THE BEGINNING OF SAID CURVE TO THE RIGHT BEARING NORTH 69°32'01" WEST;
THENCE, SOUTH 49°45'24" EAST, A DISTANCE OF 180.33 FEET ALONG THE NORTHERLY RIGHT-OF-WAY OF CRESCENT CUTOFF ROAD AS SHOWN ON SAID SURVEY NO. 2570;
THENCE, NORTH 81°25'55" EAST, A DISTANCE OF 22.87 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY;
THENCE, NORTH 40°14'38" EAST, A DISTANCE OF 160.00 FEET ALONG SAID WESTERLY RIGHT-OF-WAY OF U.S. ROUTE 97;
THENCE, NORTH 81°25'55" EAST, A DISTANCE OF 60.89 FEET ALONG SAID WESTERLY RIGHT-OF-WAY;
THENCE, NORTH 40°14'38" EAST, A DISTANCE OF 72.79 FEET ALONG SAID WESTERLY RIGHT-OF-WAY TO THE POINT OF BEGINNING.

GLEN C. ARMSTRONG
PROFESSIONAL LAND SURVEYOR NO. 87055
DATE 2-14-18



EXPIRES 12-31-19

APPROVALS

I HEREBY CERTIFY THAT ALL TAXES, INTEREST, PENALTIES, ASSESSMENTS, FEES, OR OTHER CHARGES REQUIRED BY O.R.S. 92.006 HAVE BEEN PAID.

Wendy J. Hall
KLAMATH COUNTY TAX COLLECTOR
DATE 4/2/18

APPROVED BY: Mike Markun
KLAMATH COUNTY SURVEYOR
DATE 3/30/2018

APPROVED BY: Mark Sullivan
KLAMATH COUNTY PLANNING DIRECTOR
DATE 3/24/2018

DECLARATION

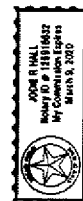
KNOW ALL PEOPLE BY THESE PRESENTS THAT CD DG CRESCENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, IS THE OWNER OF THE LANDS DESCRIBED IN THIS PARTITION PLAT AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE AND HAS CAUSED THE SAME TO BE SURVEYED AND REPLATED AS SHOWN, IN ACCORDANCE WITH THE PROVISIONS OF THE OREGON REVISED STATUTES, CHAPTER 92.

David J. Hall
CD DG CRESCENT, LLC

STATE OF Texas COUNTY OF Dallas SS.
BE IT REMEMBERED THAT ON THIS 15 DAY OF February, 2018, PERSONALLY APPEARED BEFORE ME David J. Hall OF CD DG CRESCENT, LLC, WHO IS KNOWN TO ME TO BE THE IDENTICAL PERSON DESCRIBED IN THE ABOVE INSTRUMENT, AND WHO ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FREELY AND VOLUNTARILY ON BEHALF OF CD DG CRESCENT, LLC, A TEXAS LIMITED LIABILITY COMPANY.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL NOTARY SEAL ON THE DAY AND YEAR WRITTEN ABOVE.

David J. Hall
NOTARY PUBLIC
COMMISSION NUMBER 12546632



MY COMMISSION EXPIRES 3/3/2020

FILED FOR RECORD THIS 4th DAY OF April, 2018.
Rochelle Long BY Pamela Davis
KLAMATH COUNTY CLERK DEPUTY

SURVEY NARRATIVE:

PURPOSE: THE PURPOSE OF THIS PARTITION PLAT IS TO SPLIT THE EXISTING PARCEL INTO TWO PARCELS TO FACILITATE DEVELOPMENT OF THE PROPERTY.

PROCEDURE: THE RECORD PROPERTY LINES AS SHOWN ON SURVEY NO. 2570 (REFERENCE NO. 2) WERE RETRACED USING THE SURVEYED POSITION OF THE FOUND MONUMENTS HEREON. THE MEASURED BEARINGS SHOWN HEREON WERE OBTAINED ON THE OREGON STATE PLANE COORDINATE SYSTEM (NAD 83). ROTATE THE RECORD BEARINGS AS SHOWN ON SURVEY NO. 2570 CLOCKWISE 1°19'27" TO OBTAIN THE MEASURED BEARINGS SHOWN HEREON.

EQUIPMENT USED: TRIMBLE R8-GNSS GPS RECEIVERS
TRIMBLE 56 ROBOTIC TOTAL STATION

LAND PARTITION 41-17

FOR
CD DG CRESCENT, LLC

A PARTITION OF THE LANDS SHOWN ON SURVEY NO. 2570 AS DESCRIBED IN DOCUMENT NO. 2017-010196 SITUATED IN THE NE 1/4 OF THE SW 1/4 OF SECTION 30, TOWNSHIP 24 SOUTH, RANGE 9 EAST, W.M., KLAMATH COUNTY

IGS
GEOMATICS
P.O. BOX 3299
RENO, NV 89505
PHONE (775) 780-3111
FAX (775) 397-4668
WWW.IGSGEOMATICS.COM
INFO@IGSGEOMATICS.COM
1071 HASKELL STREET
RENO, NV 89509

2018-4085

498884AM

LEASE MODIFICATION AGREEMENT #1

RE: Dollar General Store #18282
Crescent, OR

THIS LEASE MODIFICATION AGREEMENT #1 (the "Agreement"), entered into this 10 day of January 2022, by and between **NITE CRESCENT, LLC**, a California limited liability company, successor-in-interest to CD DG Crescent, LLC, (the "Landlord"), and **DG RETAIL, LLC**, a Tennessee limited liability company, with its principal office and place of business at 100 Mission Ridge, Goodlettsville, Tennessee 37072, (the "Tenant").

WITNESSETH,

WHEREAS, the undersigned parties now being Landlord and Tenant respectively, under the terms of a lease dated November 11, 2016, (the lease and any other amendments and/or modifications thereto hereinafter collectively referred to as the "Lease") and primarily covering a store space located at U.S. Highway 97, City of Crescent, County of Klamath, and State of Oregon (the "Demised Premises"), do now desire to modify and amend such Lease.

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, and of the promises and undertakings hereinafter set forth, the parties agree that such Lease shall be and is hereby amended and modified as follows:

1. **PREMISES.** Exhibit "~~A~~" of the Lease is hereby deleted in its entirety and replaced with Exhibit "A-1" attached hereto. The plat referenced in Exhibit "A-1" is hereby attached hereto and incorporated in the Lease as Exhibit "A-4" and is referred to herein as the "Land Partition Plat."
2. **NOTICES.** All notices required under this Agreement shall be deemed to have been properly served if delivered in the manner set forth in the Lease, except that Tenant's address for receipt of notices shall hereinafter be Dolgencorp, LLC, 100 Mission Ridge, Goodlettsville, Tennessee, 37072 (Attention: Lease Administration).
3. **MEMORANDUM OF LEASE.** Both parties hereby agree that a short form or memorandum of the Lease will be executed simultaneously with this Lease Modification Agreement.
4. **MISCELLANEOUS.** Landlord and Tenant agree that the Lease is, as of the date of this Agreement, in full force and effect, and all other terms and conditions of the Lease and of any previous modifications thereof shall remain unchanged. The provisions of this Lease Modification Agreement shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns. All capitalized terms in this Agreement shall have the meaning assigned to them in the Lease, unless expressly modified herein.

(SIGNATURE PAGE FOLLOWS)

below.

Signed and acknowledged in
duplicate in presence of:

Witnesses for Landlord:

LANDLORD: NITE CRESCENT, LLC, a California
limited liability company

Christina Z. Aug-Fonte By:

Witness 1

Name:

Samuel A. Fonte
SAMUEL A. FONTE

CHRISTINA Z. AUG-FONTE
Print Name

Its:
Date:

PRESIDENT
1/5/2022

Michael J. Mendenhall
Witness 2

Michael J. Mendenhall
Print Name

Witnesses for Tenant:

TENANT: DG RETAIL, LLC, a Tennessee limited
liability company

Witness 1

By:

Print Name

Name:
Its:
Date:

Melissa L. Heisse
VP, Lease Administration

Witness 2

Print Name

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement as of the dates set forth below.

Signed and acknowledged in
duplicate in presence of:

Witnesses for Landlord:

LANDLORD: NITE CRESCENT, LLC, a California
limited liability company

Witness 1

By: _____
Name: _____
Its: _____
Date: _____

Print Name

Witness 2

Print Name

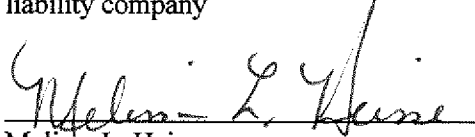
Witnesses for Tenant:

TENANT: DG RETAIL, LLC, a Tennessee limited
liability company

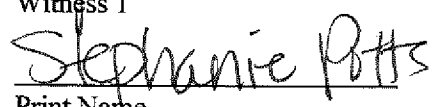


Witness 1

By: _____
Name: _____
Its: _____
Date: _____



Melissa L. Heisse
VP, Lease Administration

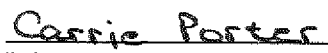


Print Name

01/10/2022



Witness 2



Print Name

EXHIBIT "A-1"

Legal Description

The Land referred to herein below is situated in City of Crescent, Klamath County, State of Oregon, and is more particularly described as follows:

Parcel 1 of Land Partition 41-17, a Partition of the lands shown in Survey No. 2570 as described in Document No. 2017-010196 situated in the Northeast quarter of the Southwest quarter of Section 30, Township 24 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon. Being recorded on April 4, 2018, as document 2018-004085 records of the Klamath County Clerk.

EXHIBIT "A-4"

Land Partition Plat

LAND PARTITION 41-17

A PARTITION OF THE LANDS SHOWN ON SURVEY NO. 2570 AS DESCRIBED IN DOCUMENT NO. 2017-010196
SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30,
TOWNSHIP 24 SOUTH, RANGE 9 EAST, W.M., CLATSOP COUNTY, OREGON

SURVEYOR'S CERTIFICATE

I, GLEN C. ARMSTRONG, A REGISTERED LAND SURVEYOR IN THE STATE OF OREGON, HEREBY CERTIFY THAT I HAVE PARTITIONED, PLATTED, CORRECTLY GUARDED, AND MARKED WITH PROPER MONUMENTS THE LAND SHOWN AS LAND PARTITION 41-17, SITUATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 24 SOUTH, RANGE 9 EAST, WILLAMETTE MERIDIAN, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SET 3/4" IRON NAIL WITH NO TAG AT THE NORTHEASTERLY CORNER OF PAR. 13715 AS SHOWN ON SURVEY NO. 2570, "PLAT OF SURVEY FOR PATISTA INLAND," FILED BY THE CLATSOP COUNTY SURVEYOR'S OFFICE ON NOVEMBER 11, 1977, OFFICIAL RECORDS OF CLATSOP COUNTY, OREGON, THENCE SOUTH 89°53'00" WEST, A DISTANCE OF 160.0 FEET ALONG THE WESTERLY RIGHT-OF-WAY OF U.S. ROUTE 97 AS SHOWN ON SAID SURVEY NO. 2570 TO THE POINT OF BEGINNING (PUTAL POINT); THENCE NORTH 89°53'00" WEST, A DISTANCE OF 79.91 FEET; THENCE SOUTH 89°53'00" WEST, A DISTANCE OF 79.91 FEET; THENCE ALONG THE EASTERLY RIGHT-OF-WAY OF CLATSOP COUNTY HIGHWAY 101, A DISTANCE OF 250.00 FEET ALONG THE ARC OF A HORIZONTAL CURVE TO THE RIGHT, HAVING A RADIUS OF 191.29 FEET, THROUGH A CENTRAL ANGLE OF 84°47'30", AND A RADIAL LINE TO THE BEGINNING OF SAID CURVE TO THE RIGHT BEARING NORTH 87°52'01" WEST; THENCE SOUTH 44°45'00" EAST, A DISTANCE OF 190.00 FEET ALONG THE NORTHERLY RIGHT-OF-WAY OF CRESCENT OUTSIDE ROAD AS SHOWN ON SAID SURVEY NO. 2570; THENCE NORTH 44°45'00" EAST, A DISTANCE OF 32.81 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY; THENCE NORTH 44°45'00" EAST, A DISTANCE OF 160.00 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY OF U.S. ROUTE 97; THENCE NORTH 44°45'00" EAST, A DISTANCE OF 30.00 FEET ALONG SAID NORTHERLY RIGHT-OF-WAY; THENCE NORTH 44°45'00" EAST, A DISTANCE OF 72.74 FEET ALONG SAID WESTERLY RIGHT-OF-WAY TO THE POINT OF BEGINNING.

GLEN C. ARMSTRONG
PROFESSIONAL LAND SURVEYOR NO. 17265

2-14-18
DATE



12-31-19

APPROVALS

I HEREBY CERTIFY THAT ALL TAXES, INTEREST, PENALTIES, ASSESSMENTS, FEES, OR OTHER CHARGES REQUIRED BY O.R.C. 32.20 HAVE BEEN PAID.

APPROVED BY: [Signature] 4/2/18
CLATSOP COUNTY TREASURER DATE

APPROVED BY: [Signature] 2/10/2018
CLATSOP COUNTY SURVEYOR DATE

APPROVED BY: [Signature] 2/24/2017
CLATSOP COUNTY PLANNING DIRECTOR DATE

DECLARATION

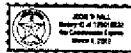
BEFORE ALL PEOPLE, BY THESE PRESENTS THAT CD DG CRESCENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, IS THE OWNER OF THE LANDS REPRESENTED ON THIS PARTITION PLAT AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE AND HAS CAUSED THE SAME TO BE SURVEYED AND REPLATTED AS SHOWN, IN ACCORDANCE WITH THE PROVISIONS OF THE OREGON REVISED STATUTES, CHAPTER 32.

[Signature]
CD DG CRESCENT, LLC

STATE OF Texas
COUNTY OF Dallas SS

BE IT REMEMBERED THAT ON THIS 15 DAY OF January, 2018, PERSONALLY APPEARED BEFORE ME, [Signature], OF CD DG CRESCENT, LLC, WHO IS KNOWN TO ME TO BE THE GENERAL PERSON DISCLOSED IN AND WHO EXECUTED THE ABOVE INSTRUMENT, AND WHO ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FREELY AND VOLUNTARILY ON BEHALF OF CD DG CRESCENT, LLC, A TEXAS LIMITED LIABILITY COMPANY.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL, NO TARY SEAL, ON THE DAY AND YEAR WRITTEN ABOVE.



[Signature]
NOTARY PUBLIC

COMMISSION NUMBER: 125916632
MY COMMISSION EXPIRES: 2/19/2020

FILED FOR RECORD THIS 4th DAY OF April, 2018

[Signature]
CLATSOP COUNTY CLERK DEPUTY

SURVEY NARRATIVE

PURPOSE: THE PURPOSE OF THIS PARTITION PLAT IS TO SPLIT THE EXISTING PARCEL INTO TWO PARCELS TO FACILITATE DEVELOPMENT OF THE PROPERTY.

PROCEDURE: THE RECORD PROPERTY LINES AS SHOWN ON SURVEY NO. 2570, REFERENCE NO. 21 WERE RE-TRACED USING THE EXISTING POSITION OF THE FOUND MONUMENTS SHOWN HEREON. THE MEASURED BEARINGS SHOWN HEREON ARE BASED ON THE OREGON STATE PLANE COORDINATE SYSTEM (SOUTH ZONE NAD83). RESTATE THE RECORD BEARINGS AS SHOWN ON SURVEY NO. 2570. GLADLY USE THE BEST TO OBTAIN THE MEASURED BEARINGS SHOWN HEREON.

EQUIPMENT USED: TRIMBLE 5600 GPS RECEIVER
TRIMBLE 5600 TOTAL STATION

LAND PARTITION 41-17

FOR

CD DG CRESCENT, LLC

A PARTITION OF THE LANDS SHOWN ON SURVEY NO. 2570
AS DESCRIBED IN DOCUMENT NO. 2017-010196
SITUATED IN THE NE 1/4 OF THE SW 1/4 OF SECTION 30,
TOWNSHIP 24 SOUTH, RANGE 9 EAST, W.M.

CLATSOP COUNTY, OREGON

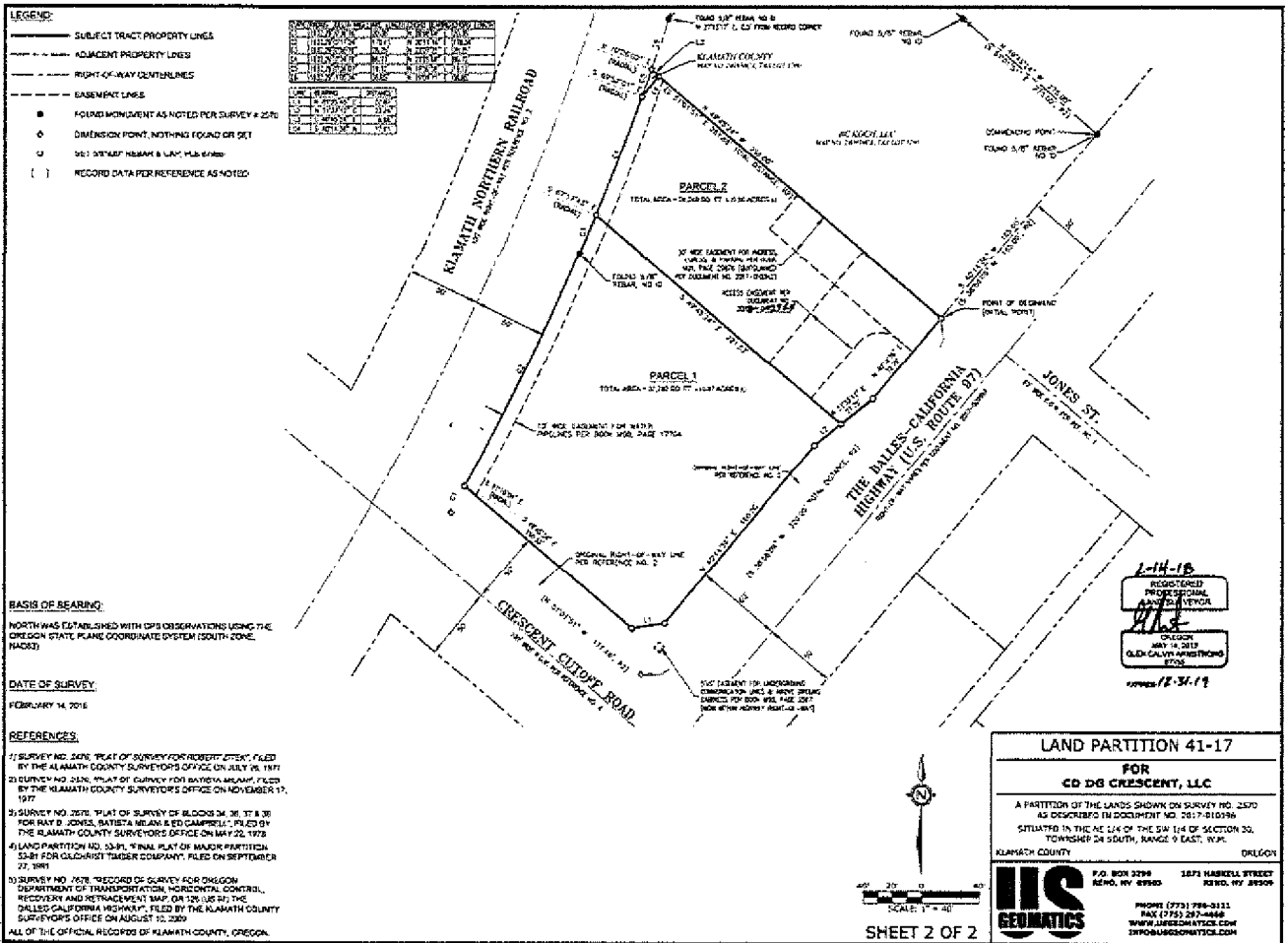
P.O. BOX 3389 1871 MADRILL STREET
MEDFORD, OR 97507

PHONE (773) 798-5111
783 (773) 297-8888
WWW.ISSGEOGRAPHY.COM
ISSGEOGRAPHY.COM

ISSGEOGRAPHY.COM

SHEET 1 OF 2

2018-4085



2018-4085