

AGENDA BILL: G1

AGENDA TITLE: CHRIS SIEBERT FARM LEASE

DATE: MARCH 5, 2018

ACTION REQUIRED:

ORDINANCE_____ COUNCIL INFORMATION_____X_____

RESOLUTION_____ OTHER_____

MOTION_____X_____

EXPLANATION:

See Karl Enyeart's attached memo

FISCAL IMPACT:

ALTERNATIVES:

STAFF RECOMMENDATION:

MOTION:

I MOVE TO AUTHORIZE THE MAYOR TO EXECUTE A FIVE YEAR FARM LEASE AGREEMENT FOR CALENDAR YEARS 2018 THROUGH 2022 BETWEEN THE CITY OF GOLDENDALE AND CHRIS SIEBERT.

Memo

To: Mayor and Council
From: Karl Enyeart, PE, Public Works Director
CC: Larry Bellamy, City Administrator
Date: 2/20/2018
Re: Farm lease on property around WWTP

Paul Gregg has been farming the property around the Waste Water Treatment Plant for several years. Chris Siebert is taking over much of Mr. Gregg's farming operation. The lease is for a period of 5 years. I have reviewed the terms and believe this is in the best interest of the City.

I recommend approval of the farm lease agreement with Chris Siebert.

**AGRICULTURAL USE AGREEMENT
BETWEEN THE CITY OF GOLDENDALE, WASHINGTON
AND
CHRIS B. SIEBERT**

THIS AGRICULTURAL USE AGREEMENT (hereinafter "Agreement") is made and entered into by and between the City of Goldendale, Washington, a municipal corporation (hereinafter the "City"), and Chris B. Siebert (hereinafter "tenant").

WHEREAS, Tenant desires to use a portion of real property owned by the City, consisting of approximately one hundred forty three (143) acres (the "property") located generally between Wing Road and Crafton Road and south of Horseshoe Bend Road in Klickitat County, Washington, for agricultural purposes.

WHEREAS, the City is willing to grant an agricultural use agreement to Tenant to use the property for agricultural purposes in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, it is agreed by and between the City and Tenant as follows:

1. Agricultural Use.

Tenant may use and maintain the property solely for purposes related to agriculture as more specifically set forth herein. The City will endeavor to limit its impact on agriculture uses and will communicate with Tenant to coordinate ways to mitigate the impact. If the City performs operations that will impact the crop the City shall provide Tenant with a 14 day notice. Tenant's use of the property at all times hereunder shall be subordinate to any specific needs of the City.

Any financial loss sustained by Tenant due to City impact of the crop shall be presented to the Public Works Director within 10 days of occurrence. After review of Tenant's claim the City will determine the validity of the claim for responsibility, liability, and financial loss. The City will negotiate any reimbursable financial loss with Tenant. However the validity, liability, and whether or not the City has any financial responsibility for reimbursement shall be the sole decision of the City, and that decision shall be final.

In addition to the right to cut and remove crops, Tenant shall also have the right to graze livestock on the property during the term of this agreement; provided, that Tenant may not allow grazing on the property until he has received notice from the City that appropriate security fencing has been installed; and provided, further, that Tenant shall be fully responsible for any and all damage of whatsoever kind may be caused, directly or indirectly, due to the presence, activities, or other conduct of livestock on the property. In no event shall Tenant graze livestock on the property prior to the erection of electric fencing sufficient to prevent livestock from rubbing against, damaging, or harming such fencing as may be installed by the

City; provided, that the cost of said electric livestock fencing shall be the responsibility of Tenant and not the City.

Tenant shall be entitled to make reasonable use of that certain existing barn located on the property for uses consistent with the purpose of this agreement; provided, that Tenant shall be responsible for any damage, reasonable wear and tear excepted, caused to the barn as a result of Tenant's use thereof. Likewise, should the city use or store equipment in that certain existing barn located on the property; provided, that City shall be responsible for any damage, reasonable wear and tear excepted, caused to the barn as a result of City's use thereof.

With respect to any of Tenant's obligations herein, whether performed personally by Tenant or by any other person, the same shall be undertaken at all times in a reasonable, prudent, and husbandlike manner, including but not limited to with respect to the use of pesticides, the carrying capacity of the property for grazing purposes, animal waste management, and the disposal of weeds on the property before the same go to seed.

2. **Term of Agreement.** The term of this Agreement shall commence upon full execution hereof by the parties and shall remain in effect until terminated by either party in accordance with this Agreement, subject to the provisions of paragraph 3 regarding future negotiations of cash consideration payments from Tenant to the City.

3. **Costs; Payment.** All of the costs of labor, materials, seed, harvesting, transportation, irrigation, costs of getting crops to market, the furnishing of all farm equipment, and all other expenses connected with the growing and harvesting of crops on the property, or grazing of livestock, shall be the responsibility of Tenant, who shall pay for the same as they may fall due. As consideration for Tenant's services hereunder, Tenant shall be entitled to receive any crops from the property and shall be entitled to graze livestock as set forth herein.

As further consideration for this use agreement, and not as rent, Tenant agrees to pay the sum of TWO THOUSAND AND NO/100THS DOLLARS (\$2,000.00) for the use of the property beginning January 1, 2018 to December 31, 2022. This annual payment shall be due December 1 of each year of the agreement.

In the event that the parties anticipate that this agreement will continue in force after December 31, 2022, then not later than November 1, 2023, the parties shall meet and attempt in good faith to negotiate an agreeable sum for future cash consideration. In order to facilitate said negotiations, Tenant agrees to provide true and correct crop records to the City.

The City shall have no liability or responsibility for quality of crops produced from the property with respect to marketability, saleability, or fitness for any particular purpose. The City disclaims any and all warranties, whether express or implied, including the implied warranty of merchantability, regarding any such crops or the suitability of such crops as livestock graze. Tenant agrees to hold the City harmless from any and all ill effects and/or injuries caused to him or anyone else dealing with, allowing grazing upon, or harvesting crops from, the property.

4. **Surrender of Property.** Tenant agrees that at the expiration of this Agreement, Tenant will quit and surrender the property to the City in as good a state and condition as when received by Tenant or as improved thereafter. This agreement shall not be subject to any applicable statutory provisions pertaining to holding over of agricultural lands.
5. **Right to Inspect Records and Property.**
- a. **Right to Inspect Records.** Representatives of the City shall have the right at all reasonable times to inspect all records, documents and other written and/or electronic materials prepared, maintained or stored by Tenant relative to activities under this Agreement.
- b. **Right to Inspect Property.** Representatives of the City shall have the right to enter upon and inspect the subject property at any time during the term of this Agreement.
- c. **Third Party Request to Inspect:** Upon a request by a third party to inspect the subject property at anytime during the term of this agreement, Tenant shall be given reasonable notification and have the opportunity to accompany the parties during the scheduled inspection.
6. **Status of Tenant.** Tenant and the City understand and expressly agree that Tenant is an independent contractor with regard to any and all activities conducted/performed pursuant to this Agreement. No officer, employee, volunteer, and/or agent of Tenant shall act on behalf of or represent him or herself as an agent or representative of the City. No officer, employee, volunteer, and/or agent of Tenant shall make any statement in the name of or on behalf of the City. Tenant, as an independent contractor, assumes the entire responsibility for all activities conducted/performed by Tenant and any of his officers, employees, volunteers, and/or agents pursuant to this Agreement. Tenant and his officers, employees, volunteers, agents and/or subcontractors shall make no claim of City employment nor shall claim against the City any related employment benefits, social security, and/or retirement benefits. Nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership or agency, or tenancy between Tenant and the City.
7. **Taxes and Assessments.** Tenant shall be solely responsible for compensating his officers, employees, agents, and/or subcontractors and for paying all related taxes, deductions, and assessments, including but not limited to, federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, including any leasehold excise tax, Tenant shall pay his pro-rata proportionate share of the same before it becomes due.
8. **Compliance With Law.** Tenant shall conduct all activities under and pursuant to this Agreement in full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether federal, state, local, or otherwise.
9. **Debts and Liens.** Tenant shall not permit/allow any lien to attach to the City's property as a result of Tenant's activities conducted under this Agreement. Tenant shall not

permit/allow any debt to be imposed on the City as a result of Tenant's activities conducted under this Agreement. In the event of any such lien and/or debt, Tenant shall immediately take all necessary steps to have the City legally released from said lien and/or debt.

10. Compliance With Environmental Laws.

a. Tenant represents, warrants and agrees that he will conduct all activities under and pursuant to this Agreement in compliance with all applicable environmental laws. As used in this Agreement, "Environmental Laws" means all federal, state and local environmental laws, rules, regulations, ordinances, judicial or administrative decrees, orders, decisions, authorizations or permits, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., the Clean Air Act, 42 U.S.C. § 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 1101, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 2601, et seq., the Oil Pollution Control Act, 33 U.S.C. § 2701, et seq., and any Washington or other comparable local, state, or federal regulation, statute, ordinance and/or law pertaining to the environment or natural resources.

b. Toxic or hazardous substances are not allowed on the subject property without the express written permission of the City and under such terms and conditions as may be specified by City. For the purposes of this Agreement, "Hazardous Substances," shall include all those substances identified as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., and the Washington Model Toxic Control Act, RCW 70.105D et seq.

c. Tenant agrees to cooperate in any environmental investigations conducted by the City or independent third parties where there is evidence of contamination on the subject property, or where the City is directed to conduct such audit by an agency or agencies having jurisdiction. Tenant shall reimburse the City for Tenant's pro-rata proportionate share of the cost of such investigations, where the need for said investigation is determined to be caused by Tenant's activities. Tenant shall provide the City with notice of any inspections of the subject property, notices of violations, and orders to clean up contamination. In the event that Tenant fails to take remedial measures as duly directed by a state, federal, or local regulatory agency within ninety (90) days of such notice, the City may elect to perform such work, and Tenant covenants and agrees to reimburse the City for all direct and indirect costs associated with the City's work where said contamination is determined to have resulted from Tenant's activities.

d. For the purposes of this Agreement, "Costs" shall include, but not be limited to, all response costs, disposal fees, investigatory costs, monitoring costs, civil or criminal penalties, and attorney fees and other litigation costs incurred in complying with state or federal environmental laws, which shall include, but not be limited to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; the Clean Water Act, 33 U.S.C. § 1251; the Clean Air Act, 42 U.S.C. § 7401; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901; and the Washington Model Toxic Control Act, RCW 70.105D et seq.

e. Tenant agrees to defend, indemnify and hold the City, its officers, elected officials, agents, and employees harmless from and against any and all claims, causes of action, demands and liability including, but not limited to, any costs, liabilities, damages, expenses,

assessments, penalties, fines, losses, judgments and attorneys' fees associated with the removal or remediation of any Hazardous Substances that have been released, or otherwise come to be located on the subject property, including those that may have migrated from the subject property through water or soil to other properties, but only to the extent that the same are caused by or result from Tenant. Tenant further agrees to retain, defend, indemnify and hold the City, its officers, elected officials, agents, and employees harmless from any and all liability arising from the offsite disposal, handling, treatment, storage, or transportation of any such Hazardous Substances removed from the subject property, but only to the extent that the same is caused by or results from Tenant.

f. Under no circumstances shall Tenant have any liability or indemnification obligation due to hazardous substances, including municipal biosolids, introduced onto the property by the City. If the City of Goldendale shall need to dispose of bio solids upon any area that Tenant is currently utilizing for crop purposes, the City shall provide a 14-day notice to Tenant for removal of the impacted crops. In the event that municipal biosolids are introduced onto the property by the City and such action renders any crop growing thereon unsaleable in Tenant's ordinary course of business, then Tenant's cash consideration payment shall be waived.

g. The provisions of this section shall survive the termination or expiration of this Agreement.

11. **General Indemnification and Hold Harmless.** Tenant agrees to protect, defend, indemnify, and hold harmless the City, its officers, elected officials, agents, and employees from any and all claims, demands, losses, liens, liabilities, penalties, fines, lawsuits, and other proceedings and all judgments, awards, costs and expenses (including attorneys' fees and disbursements) caused by or occurring by reason of any negligent act and/or omission of Tenant, his officials, officers, employees, agents, and/or volunteers arising out of or in connection with the activities of Tenant, including but not limited to any personal injury and/or property damage claim, demand, lawsuit or other proceeding brought by any one or more of Tenant's officials, officers, employees, agents, and/or volunteers against the City. The provisions of this section shall survive the termination or expiration of this Agreement

12. **Liability Insurance.** On or before the date this Agreement is fully executed by the parties, Tenant shall provide the City with a certificate of insurance as proof of liability insurance with a minimum liability limit of Two Million Dollars (\$2,000,000.00) combined single limit bodily injury and property damage. The certificate shall be in a form acceptable to the City and shall clearly state who the provider is, the amount of coverage, the policy number, and when the policy and provisions provided are in effect (any statement in the certificate to the effect of "this certificate is issued as a matter of information only and confers no right upon the certificate holder" shall be deleted). Said policy shall be in effect for the duration of this Agreement. The policy shall name the City, its elected officials, officers, agents, and employees as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

13. **No Insurance provided by the City.** It is understood the City does not maintain liability insurance for Tenant and/or his officials, officers, agents, employees and volunteers.

14. **Assignment.** This Agreement, or any interest herein, or claim hereunder, shall not be assigned or transferred in whole or in part by Tenant to any other person or entity without the prior written consent of the City. In the event that such prior written consent to an assignment is granted, then the assignee shall assume all duties, obligations, and liabilities of Tenant herein.

15. **Waiver of Breach.** A waiver by either party hereto of a breach of the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any Agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such covenant, condition or right.

16. **Severability.** If any portion of this Agreement is changed per mutual agreement or any portion is held invalid, the remainder of the Agreement shall remain in full force and effect.

17. **Termination of Agreement.**

a. **Termination of Agreement With or Without Cause.** Either party may terminate this Agreement, with or without cause, by giving the other party written notice of termination thirty (30) calendar days prior to the effective date of termination.

b. **Immediate Termination of Agreement.** In the event that the City determines that Tenant is using the subject property in violation of the use restrictions specified herein, the City has the right to immediately terminate this Agreement with no advance notice to Tenant and to take immediate possession of the property.

18. **Survival.** Any provision of this Agreement which imposes an obligation after termination or expiration of this Agreement shall survive the term or expiration of this Agreement and shall be binding on the parties to this Agreement.

19. **Notices.** Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand delivered to the parties to their addresses as follows:

TO CITY:

City of Goldendale
1103 S. Columbus
Goldendale, WA 98620

TO TENANT:

Chris B. Siebert
19 Gregg Drive
Goldendale, WA 98620

or to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand delivered. Such notices shall be deemed effective when mailed or hand delivered at the addresses specified above.

20. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

21. **Venue; Attorney's fees.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Klickitat County, Washington. The prevailing party in any such dispute shall be entitled to recover reasonable attorney's fees as well as its costs, disbursements, and other sums incurred therein, from the non-prevailing party, all of which the non-prevailing party agrees to pay.

22. **Integration.** This written document constitutes the entire Agreement between the City and Tenant and supercedes any and all previous written and/or oral agreements between the parties. There are no other oral or written agreements between the parties as to the matters covered herein. No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and executed by both parties.

CITY OF GOLDENDALE

By: _____
Michael A. Canon, Mayor

CHRIS SIEBERT

Date: _____

Date: _____

ATTEST:

City Clerk

AGENDA BILL: G3

AGENDA TITLE: LEASE AGREEMENT WITH THE
GOLDENDALE LIBRARY

DATE: MARCH 5, 2018

ACTION REQUIRED:

ORDINANCE_____ COUNCIL INFORMATION_____X_____
RESOLUTION_____ OTHER_____

MOTION_____X_____

EXPLANATION:

Please find attached a lease agreement between the City of Goldendale and the Fort Vancouver Regional Library District. The lease agreement is similar to the agreement the City had with the Chamber of Commerce. The term of the agreement is a month to month lease beginning as soon as April 1, 2018. The lessee will pay \$100.00 per month to cover utility expenses. Because the Library provides a community service, we do not need to include a fair market value lease rate. Use of the area is estimated to be 6 months. The lease agreements have been reviewed by the city's attorney.

FISCAL IMPACT:

ALTERNATIVES:

STAFF RECOMMENDATION:

MOTION:

I MOVE THE AUTHORIZE THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH THE FORT VANCOUVER REGIONAL LIBRARY DISTRICT FOR THE BACK PORTION OF CITY HALL.

When recorded, return to:

LEASE

Reference nos. of docts.
assigned or released:

n/a

Grantor:

CITY OF GOLDENDALE, Klickitat County, State of Washington,
a municipal corporation - Lessor

Grantee:

FORT VANCOUVER REGIONAL LIBRARY DISTRICT, State of
Washington, a municipal corporation- Lessee

Legal description:

A Portion of the building located on the legal description attached
hereto as exhibit "A" and incorporated herein by reference.

The portion of the building is identified by the slashed area on the
floor plan attached here to as Exhibit "B" and incorporated herein
by reference.

Assessor's Parcel No.:

04162041000600

THIS LEASE is made and entered into on April 1, 2018, by and between **CITY OF GOLDENDALE**, hereinafter called "Lessor," and **FORT VANCOUVER REGIONAL LIBRARY DISTRICT**, hereinafter called "Lessee."

WITNESSETH:

1. **PREMISES LEASED:** For and in consideration of the covenants and agreements hereinafter set forth, Lessor does by these presents lease and let to Lessee, and Lessee does hereby lease and rent from Lessor the following described property situated in Goldendale, Klickitat County, Washington:

A Portion of the building located on the legal
description attached hereto as Exhibit "A" and
incorporated herein by reference. The portion of
the building is identified by the slashed area on the
floor plan attached here to as Exhibit "B" and
incorporated herein by reference.

2. TERM: This agreement is a month-to-month lease agreement beginning April 1, 2018. Either party may terminate this lease upon written notice to the other party at least thirty (30) days prior to the last day of any calendar month.

3. RENT: Lessee agrees to pay to Lessor as rent for the premises the sum of \$ 100.00 per month, to cover the costs of utilities, payable in advance on or before the 5th day of each and every month beginning April 1, 2018. Rent shall be paid to Lessor at such place as shall be designated by Lessor.

4. USE OF PREMISES: The premises shall be used by Lessee for operating a temporary library building while the current library building is closed for remodeling in the City of Goldendale and those business and activities reasonably related thereto which constitute a similar usage as to wear and tear and shall not be used for any other purpose without the express written consent and approval of Lessor. It is understood and agreed that there are no express or implied warranties as to fitness of said premises for said use.

5. CONDITION OF PREMISES:

a. Lessee has inspected the premises, is fully familiar with and knows their condition, and accepts the same in their present condition without any representation of Lessor regarding the condition thereof, the improvements thereon, or their tenantability.

b. Upon termination of this lease for any reason whatsoever, Lessee shall surrender to Lessor the buildings, structures, and building improvements upon the demised premises, together with all alterations and replacements thereof, in good order, condition, and repair, except for damage by fire or other casualties to the extent that they are insured against pursuant to paragraph 13 below.

c. All permanent improvements constructed on the demised premises shall be considered a part of the real estate and belong to the Lessor upon termination of this lease.

6. COMPLIANCE WITH LAWS: Lessee covenants, promises, and agrees to comply with all charters, laws, ordinances, rules, and regulations, to obtain all necessary licenses and permits applicable to Lessee's activities and to the premises, and to pay all fees and charges in connection therewith or by reason of inspections thereof.

7. MAINTENANCE AND REPAIRS:

a. Lessee agrees that all maintenance and repairs necessary to keep the premises in their present condition, reasonable wear and tear by ordinary use and damage by fire, the elements, or acts of God excepted, as well as all repairs necessary to allow Lessee to conduct its activities thereon, shall be undertaken by Lessee at its

expense, excluding only repairs to the foundation, exterior walls, and roof of the structure which shall be the obligation of Lessor; *provided, however*, Lessee shall, at Lessee's expense, repair the foundation, exterior walls, and roof of the structure where the necessity thereof is caused by the act or negligence of Lessee, its agents, employees, or invitees. Lessee's obligations hereunder shall include the replacement of any broken plate glass or window glass. Lessor's obligations hereunder shall include the maintenance and repair of all fixtures, plumbing, heating and air conditioning equipment.

b. All repairs shall be made by the party chargeable therewith as soon as is reasonably practicable, which, in the case of repairs to be made by Lessor, shall be as soon as reasonably practicable after written notice specifying the need for same has been given by Lessee to Lessor.

c. Lessee agrees to keep the premises in a safe, clean, and sanitary condition at all times, and Lessee shall be responsible for removal of snow and ice from the sidewalks and other areas which are a part of or adjacent to the leased premises.

8. ALTERATIONS AND ADDITIONS: Lessee shall not make any additions or material alterations to or upon the premises without first obtaining the written consent of Lessor, and any such additions or alterations authorized by Lessor shall be at Lessee's sole expense. In making any alterations or additions, Lessee shall comply with all building code provisions, municipal ordinances and regulations, and state laws which may affect or govern such work. All such additions or alterations shall become and remain the property of Lessor; *provided, however*, that upon the termination of this lease, Lessee shall, at its expense, promptly remove such additions or alterations if so requested by Lessor.

9. TRADE FIXTURES AND SIGNS: Lessee may install such equipment, fixtures, and signs in or upon the premises as Lessee deems desirable for the conduct of its activities, provided that Lessee shall not hang any signs from the roof or walls of the premises without first obtaining the written consent of Lessor, which consent shall not be unreasonably withheld. Upon the termination of this lease, Lessee shall, at its expense, promptly remove all such equipment, fixtures, and signs and restore the premises to the same condition, reasonable wear and tear by ordinary use excepted, as the same were in prior to the installation of such equipment, fixtures, and signs; *provided* Lessee shall not have the right to remove such property of Lessee if Lessee is then in default under the terms of this lease. In the event Lessee fails to restore said premises, Lessee shall reimburse Lessor for the reasonable costs of such restoration immediately upon demand by Lessor.

10. LIENS AND WASTE: Lessee shall not cause or permit any liens of any nature to be placed against the premises except liens placed thereon by Lessor, and Lessee shall save Lessor harmless from and on account of all liens and all expenses and indebtedness connected therewith, except those relating to liens placed thereon by Lessor. Lessee shall not commit or permit any waste or nuisance upon the premises.

11. TAXES AND ASSESSMENTS: Lessor shall pay all real estate taxes and assessments levied against the leased premises. Lessee shall pay all other taxes, assessments, and charges hereafter levied against the leased premises or the lease during the term of this lease, arising out of the occupancy or use thereof, or arising out of the conduct of Lessee's activities thereon.

12. UTILITIES: Lessor shall pay all charges and expenses for electricity, gas, heat, water, sewer service, garbage collection service. Lessee shall pay for communication services, janitorial service, and all other services and utilities used in connection with the premises during the term of this lease.

13. INSURANCE: Lessee shall maintain public liability insurance at all times during the term of this lease in a manner and form acceptable to Lessor with a limit of at least \$2,000,000 per accident. Lessor shall be endorsed as an additional insured on the policy(ies) of Lessee, and all premiums therefor shall be paid by Lessee. Lessee shall furnish proof of such insurance to Lessor, when requested by Lessor. If Lessee fails to effect or maintain any of such insurance, Lessor may procure the same, and Lessee agrees to reimburse Lessor on demand for any amount paid by Lessor for such insurance. Lessor and Lessee may carry, at their own expense, such fire and extended coverage insurance as each of them deems necessary for their own protection; and neither party shall have an interest in or claim to such insurance of the other party. Lessee shall not permit the premises to be used in such a manner as to create a fire hazard or to cause a change in the insurance rating applicable to the premises. In the event Lessor's cost for fire and extended coverage insurance for the premises in the amount of the full replacement cost thereof increases over the cost of such insurance for the policy year ending in 2017, Lessee agrees to reimburse Lessor immediately upon demand for any such increase in cost.

14. DAMAGE WAIVER: Lessor and Lessee do hereby release and discharge each other from and against all liability for loss or damage caused by any of the perils covered by insurance policies which are in force and effect at the time of any such loss or damage, even though such loss or damage may be due to the negligence, act, or neglect of Lessor or Lessee, or agents or employees of either party. It is expressly understood and agreed that it is the intention hereof to constitute a waiver and release of any and all subrogation rights which the insurance companies might have under such insurance policies.

15. INDEMNITY: Lessee covenants and agrees to defend, indemnify, and hold Lessor harmless from and against any and all claims or liability for injury, damage, or loss, including attorneys' fees and costs, which may arise or to which Lessor may be subjected during or as a result of Lessee's occupation or use of the premises or the conduct of any activities thereon by Lessee or with Lessee's permission or knowledge.

16. RISK OF LOSS: All property of any kind on the premises shall be at the risk of Lessee, and Lessor shall not be liable, and Lessee waives all claims for any loss, damage, or injury either to persons or property sustained by Lessee or any other person upon or about the premises, or due to the structures or any improvements upon the

premises or the adjoining premises or any part thereof, becoming out of repair or arising from the overflow of water or the freezing, bursting, or leakage of water, gas, heating or steam pipes, or due to any act, omission, or neglect of Lessor or Lessee, or any of their agents or employees, or any other person upon or about the premises, or any other cause of any nature whatsoever. No eviction from the premises shall be claimed by Lessee by reason of the happening of any or all of the foregoing. Without limiting the generality of the foregoing, Lessee shall be solely responsible for theft or other similar loss of fixtures, equipment, or other property leased herein and any other property of Lessee.

17. INGRESS AND EGRESS: Lessor reserves the right of ingress and egress to and from the leased premises for the purpose of inspecting the same at all reasonable times and for making such repairs as Lessor is obligated to make under the terms of this lease. As shown on the attached floor plan, the lessor reserves the right of ingress and egress to access the electrical panel on an as needed basis. Lessee and lessee customers are allowed use of the restroom facilities on an as needed basis.

18. ASSIGNMENT AND SUBLETTING: Lessee shall not assign this lease or sublet the premises herein, or any portion thereof, without first obtaining the written consent of Lessor; nor shall there be any transfer or assignment of this lease from Lessee by operation of law, either voluntarily or involuntarily or by dissolution, consolidation, or merger of Lessee. Consent to such assignment or subletting shall not operate to relieve Lessee of any of its covenants and obligations under this lease or relieve Lessee or its successor in interest from the necessity of obtaining like consent for any subsequent assignment or subletting.

19. DAMAGE OR DESTRUCTION: If the premises are destroyed or damaged by fire or other casualty rendering them, in Lessor's judgment, untenable, Lessor may, at its option, cancel this lease or may immediately proceed to rebuild and restore the same. Within ten (10) days after such destruction or damage, Lessor shall notify Lessee in writing whether Lessor elects to cancel this lease or rebuild and restore the premises. In the event Lessor elects to cancel this lease, the rent shall be paid to the date of destruction or damage, and all obligations of the parties hereto with respect to the unexpired portion of the term shall thereupon terminate. In the event Lessor elects to rebuild and restore the premises, such rebuilding or restoration shall be commenced as soon as practicable, shall be completed with due and reasonable diligence, and shall replace the improvements as nearly as practicable to the condition existing immediately prior to such damage or destruction; *provided* that any delay occasioned by governmental regulations or any other cause beyond the direct control of Lessor shall be taken into consideration in determining the promptness with which Lessor commences and completes the restoration and rebuilding. Rent shall be abated during the rebuilding and restoration proportionately in the same ratio as the untenable portion of the premises bears to the whole premises.

20. CONDEMNATION: If the whole or any substantial part of the premises ("substantial" being defined as reasonably preventing or unreasonably interfering with the conduct of Lessee's activities) be taken or condemned by the competent authority,

this lease shall terminate upon the date when possession of the premises so taken shall be acquired by such authority, and the rent shall be prorated as of the date of such termination. If less than a substantial part of the premises be taken or condemned by any competent authority, the rent shall be abated, proportionately in the same ratio that the part of the premises taken or condemned bears to the whole premises, from the date when possession of that part of the premises so taken shall be acquired by such authority. Lessor shall be entitled to the full amount of any condemnation award for the leased premises, and Lessee hereby expressly waives any right or claim to any part thereof as damages or otherwise and any right or claim against Lessor as a result of such taking or condemnation. Lessee shall have the right to claim and recover from the condemning authority such compensation as may be separately awarded or recoverable by Lessee in Lessee's own right on account of any and all damage to Lessee's activities by reason of the condemnation and on account of any cost or loss which Lessee might sustain.

21. DEFAULT: Full and prompt performance by Lessee of all terms and conditions of this lease is hereby made the essence of this lease. If Lessee should be in default in any of the same and such default shall have continued for ten (10) days in the case of nonpayment of rent or other sums due from Lessee and for thirty (30) days in the case of any other default after written notice by Lessor to Lessee setting forth the particular default claimed, or if Lessee's leasehold estate shall be taken on execution, or if Lessee shall be declared bankrupt or insolvent according to law, or if Lessee shall make an assignment for the benefit of creditors, or if a receiver shall be appointed for Lessee and continue in office thirty (30) days without discharge, then in any such event this lease shall, at the option of Lessor, be forfeited. In such event, Lessor may lawfully enter into and upon said premises or any part thereof, repossess the same, and expel Lessee and those claiming under and through Lessee and remove their effects, forcibly if necessary, without being deemed guilty of any manner of trespass, but without prejudice to any remedies which might otherwise be used by Lessor for the collection of rent or for any breach by Lessee of the covenants herein contained. It is further agreed that after service of notice as above set forth, an additional condition to avoid forfeiture shall be payment by Lessee of Lessor's costs and expenses, including attorneys' fees, for the preparation and service of such notice. Nothing contained herein shall release or diminish Lessee's obligation to pay rent for the full term of this lease, except the net amount of rent Lessor receives from any subsequent tenant during the term hereof. As an additional and not alternative remedy, optional with Lessor, if Lessee should be in default hereunder other than a default in the payment of rent, Lessor may cure or correct the same; and the cost of such action by Lessor shall immediately be due and payable from Lessee, plus interest on said sum at the rate of twelve percent (12%) per annum until paid; and nonpayment of said sum by Lessee shall be adequate grounds for Lessor to invoke the other provisions of this paragraph.

22. NOTICES: All notices required under this lease to be given by either party shall be effective as of the date of personal service thereof or the date of mailing by certified mail, return receipt requested, postage prepaid, and properly addressed to the

other party at the following address or as the same may be changed from time to time by written notice to the other party:

Lessor: City of Goldendale
1103 S. Columbus
Goldendale, WA 98620

Lessee: Fort Vancouver Regional Library District
131 West Burgen
Goldendale, WA 98620

23. ATTORNEYS' FEES AND COSTS: Lessee shall pay Lessor all costs and expenses, including reasonable attorneys' fees, incurred by Lessor in the preparation and service of any notice which Lessor gives to Lessee under the terms of this lease. In any court suit or action brought by either party concerning this lease, the court shall award to the prevailing party reasonable attorneys' fees in addition to the costs allowed by law, and the other party agrees to pay the same.

24. NONWAIVER: The consent of Lessor to any variation of the terms of this lease, or the receipt of rent with knowledge of any breach, shall not be deemed to be a waiver of any breach or covenant of this lease, and no waiver shall be claimed by Lessee unless it be a written waiver signed by Lessor. Any waiver, express or implied, by Lessor of any breach by Lessee of any of the covenants of this lease shall not be construed to be a waiver of any subsequent breach of the same or any other covenant in this lease, or affect or prejudice any of Lessor's rights or remedies hereunder. After service of notice of default or commencement of suit, Lessor may receive and collect rent due; and the same shall not affect such notice or suit or any judgment, nor shall it be deemed a waiver in any sense.

25. SUCCESSORS: Subject to the foregoing provisions relating to assignment and subletting, this lease shall inure to the benefit of and shall be binding upon the successors and assigns of the respective parties hereto.

26. ENTIRETY OF AGREEMENT: No prior stipulation, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the provisions of this lease. The terms and conditions of this lease shall not be amended or modified, except in writing signed by both Lessor and Lessee. Headings used herein are for convenience only, are not a part of this lease, and are not to be used in construing it. Each party agrees to execute, upon request of the other, a short form of this lease for purposes of recordation, and to reexecute this lease at any time upon the request of the other.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

LESSOR:

CITY OF GOLDENDALE, Klickitat County, State of Washington, a municipal corporation

By _____
MICHAEL CANON, *Mayor*

ATTEST:

CONNIE BYERS, *City Clerk/Treasurer*

LESSEE:

**FORT VANCOUVER REGIONAL LIBRARY
DISTRICT**

By _____

STATE OF WASHINGTON)
 : ss.
County of Klickitat)

I certify that I know or have satisfactory evidence that and CONNIE BYERS are the persons who appeared before me, and said persons acknowledged that they signed this instrument, and on oath stated that they were authorized to execute the instrument and acknowledged it as the Mayor and City Clerk/Treasurer, respectively, of the CITY OF GOLDENDALE to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 20____.

Notary Public in and for the State of Washington
Residing at: _____, Washington

NAME OF NOTARY PUBLIC (TYPE OR PRINT)
My Appointment Expires: _____

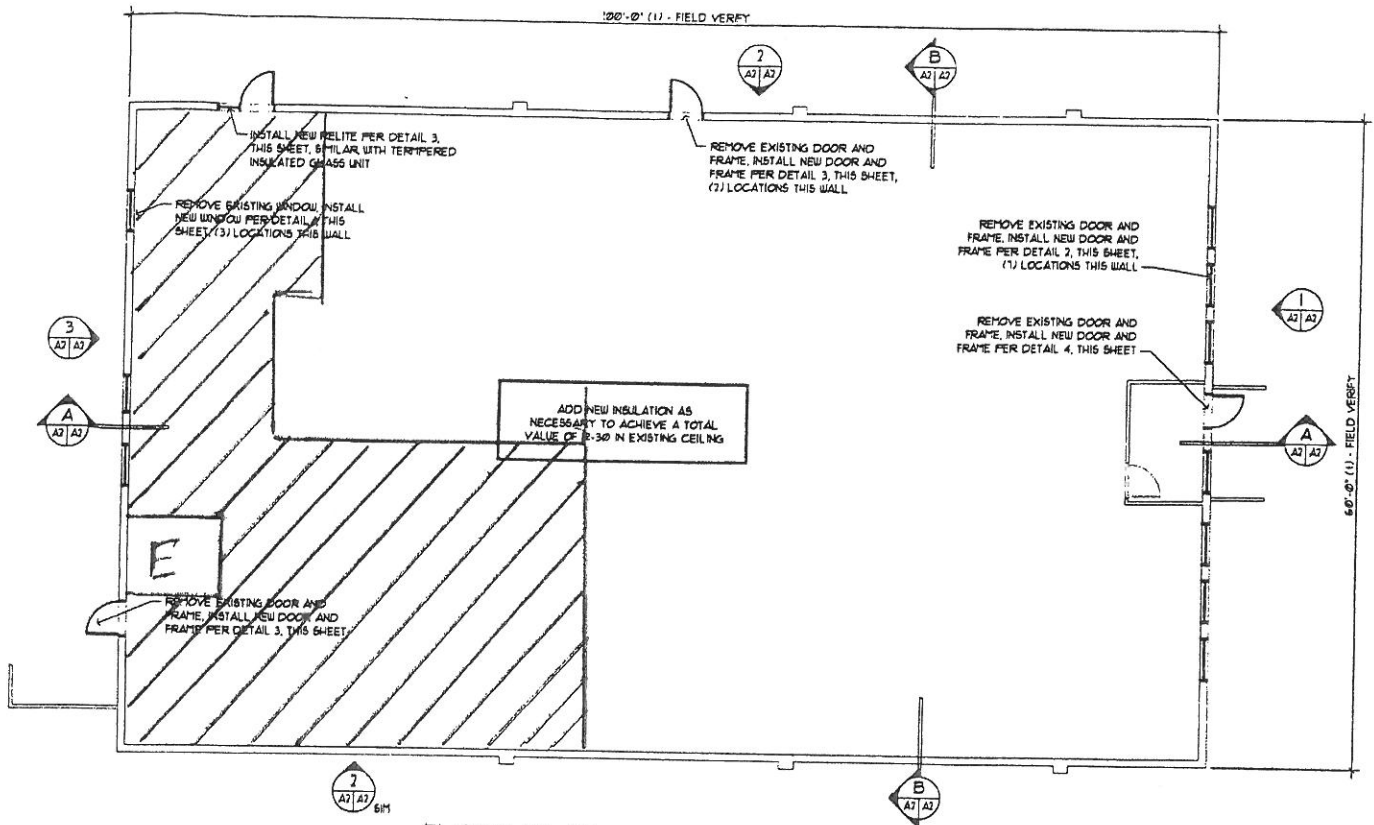
EXHIBIT A

Legal Description

That part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of section 20, T4N, R16E, WA Described as follows:
Beginning at the intersection of the west line of Hwy 97 and the south line of Nesbitt Avenue; Thence south along the west line of said highway a distance of 91 feet; Thence west 150 feet; thence north 91 feet more or less to the south line of Nesbitt Avenue; Thence east along the south line of Nesbitt Avenue to the point of beginning.

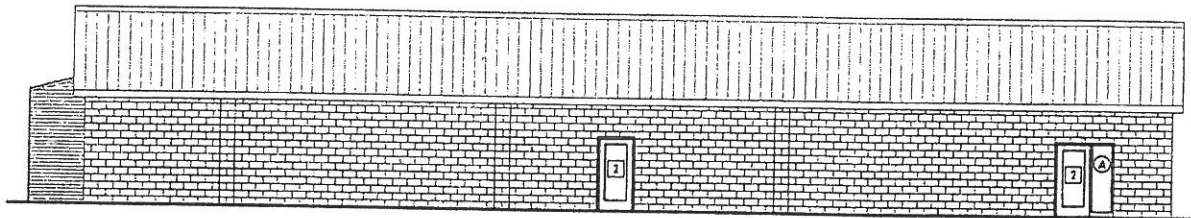
Beginning at the point 180 feet west of the intersection of the east boundary line of section 20, T 4 N, R 16 E, WA and the south R/W of Nesbitt St; Thence west 50 feet along the south R/W of Nesbitt St, Thence south 91 feet; Thence east 50 feet; Thence north 91 feet along the west line of the city property to the point of beginning.

EXHIBIT B



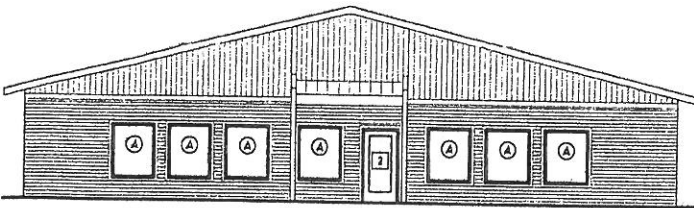
FLOOR PLAN

0 2 4 8 16 FEET



2 SOUTH ELEVATION

1/8" = 1'-0"

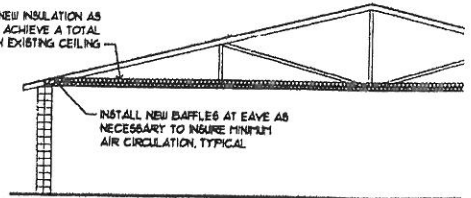


3 EAST ELEVATION

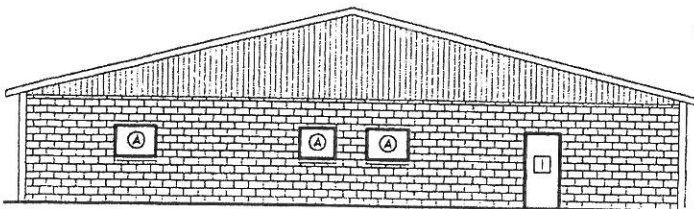
1/8" = 1'-0"

ADD NEW INSULATION AS NECESSARY TO ACHIEVE A TOTAL VALUE OF R-30 IN EXISTING CEILING

INSTALL NEW BAFFLES AT EAVE AS NECESSARY TO INSURE MINIMUM AIR CIRCULATION, TYPICAL



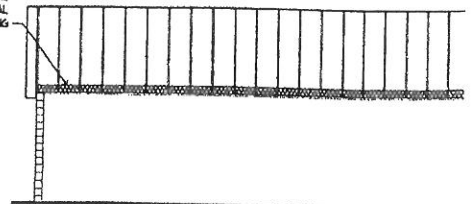
B SECTION B-B



3 WEST ELEVATION

1/8" = 1'-0"

ADD NEW INSULATION AS NECESSARY TO ACHIEVE A TOTAL VALUE OF R-30 IN EXISTING CEILING



A SECT

A2 | A2

AGENDA BILL: G4

AGENDA TITLE: LEASE AGREEMENT WITH AUSCRETE CORPORATION

DATE: MARCH 5, 2018

ACTION REQUIRED:

ORDINANCE _____ COUNCIL INFORMATION _____ X _____

RESOLUTION _____ OTHER _____

MOTION _____ X _____

EXPLANATION:

Auscrete Corporation requests the use of LOT B, which is the middle building of the Baker Street properties for the purpose of storage and maintenance of equipment used by Auscrete Corporation. The company will access the building from the West and utilize the West 2,000 square feet of the building for a period of 6 months beginning April 1, 2018. The lease agreements have been reviewed by the city's attorney.

FISCAL IMPACT:

ALTERNATIVES:

STAFF RECOMMENDATION:

MOTION:

I MOVE TO AUTHORIZE THE MAYOR TO EXECUTE A LEASE AGREEMENT WITH THE AUSCRETE CORPORATION FOR A PORTION OF LOT B AND LIMITED TO THE WEST 2,000 SQUARE FEET OF THE BUILDING ON THAT LOT.

When recorded, return to:

G. SCOTT BEYER
Menke Jackson Beyer, LLP
807 North 39th Avenue
Yakima, WA 98902

LEASE

Reference nos. of docts. assigned or released:	n/a
Grantor:	CITY OF GOLDENDALE, WASHINGTON
Grantees:	AUSCRETE CORPORATION, a Wyoming Corporation
Legal description:	Lot B, G-BL 2014-01 in Brooks Addition, 20-4-16 (Additional legal on page 1-2 of document.)
Assessor's Parcel No.:	04162014010200

THIS LEASE is made and entered into as of the ____ day of _____, 2017, by and between the CITY OF GOLDENDALE, WASHINGTON, a Washington Municipal Corporation, (hereinafter called "Lessor,") and AUSCRETE CORPORATION, a Wyoming Corporation, (hereinafter called "Lessee.")

WITNESSETH:

1. PREMISES LEASED: For and in consideration of the covenants and agreements hereinafter set forth, Lessor does by these presents lease and let to Lessee, and Lessee does hereby lease and rent from Lessor the following described property situated at 741 West Railroad Avenue in Goldendale, Klickitat County, Washington:

Lot B as shown on the Boundary Line Adjustment No. G-BLA 2014-03 filed on October 9, 2014 in Volume 1 of Boundary Line Adjustments, Page 410, Auditor's File No. 1110135, and only that portion of the building which is limited to the west 2000 square feet as shown on Exhibit A, TOGETHER WITH reasonable access to the leased premises.

TOGETHER WITH all water rights and appurtenances thereunto belonging, if any.

SUBJECT to easement affecting the portion of said premises and for the purposes of telephone and telegraph lines, and any incidental purposes, recorded January 5, 1943 in Volume 85, page 107-8, Auditor's File No. 20618.

SUBJECT to easements and matters as shown on the Short Subdivision, recorded September 6, 1982, under Auditor's File No. 187888.

SUBJECT to easements and matters as shown on the Boundary Line Adjustment No. G-BLA 2014-01, recorded March 21, 2014, under Auditor's File No. 1107463, and Boundary Line Adjustment No. G-BLA 2014-03, recorded October 9, 2014, under Auditor's File No. 1110135.

SUBJECT to any Private Rights or Easements over and across those portions lying within any vacated or abandoned streets or roads.

SUBJECT to rights reserved federal patents, state and railroad deeds; building and use restrictions general to the area; zoning regulations; utilities and easements of records; and rights of way and easements shown on the plat or visible by inspection.

SUBJECT to all easements and rights of way existing or of record over, along or across said premises if in fact any portion thereof is burdened thereby, and all covenants, conditions, reservations and restrictions disclosed in the chain of title or existing by prescription.

2. TERM: This lease is for a term beginning on the 1st day of April, 2018 and ending on the 30th day of September, 2018.

3. RENT: Lessee agrees to pay to Lessor as rent for the premises the sum of **\$500.00** per month, payable in advance on or before the first day of each and every month. Rent shall be paid to Lessor at such place as shall be designated by Lessor.

4. USE OF PREMISES: The premises shall be used by Lessee for storage and maintenance of equipment related to business and activities of Auscrete Corporation reasonably related thereto which constitute a similar usage as to wear and tear and shall not be used for any other purpose without the express written consent and approval of Lessor. It is understood and agreed that there are no express or implied warranties as to fitness of said premises for said use.

5. CONDITION OF PREMISES:

a. Lessee has inspected the premises, is fully familiar with and knows their condition, and accepts the same in their present condition without any representation of Lessor regarding the condition thereof, the improvements thereon, or their tenantability.

b. Upon termination of this lease for any reason whatsoever, Lessee shall surrender to Lessor the buildings, structures, and building improvements upon the demised premises, together with all alterations and replacements thereof, in good order, condition, and repair, except for damage by fire or other casualties to the extent that they are insured against pursuant to paragraph 13 below.

c. All permanent improvements constructed on the demised premises shall be considered a part of the real estate and belong to the Lessor upon termination of this lease.

6. COMPLIANCE WITH LAWS: Lessee covenants, promises, and agrees to comply with all charters, laws, ordinances, rules, and regulations, to obtain all necessary licenses and permits applicable to Lessee's activities and to the premises, and to pay all fees and charges in connection therewith or by reason of inspections thereof.

7. MAINTENANCE AND REPAIRS: Lessee shall keep all presently and subsequently erected buildings, structures, and improvements upon the demised premises in good and substantial order and repair at the sole cost and expense of Lessee, damage by fire or other unavoidable casualties which are covered by the insurance referred to in paragraph 13 below, only excepted. Lessor shall have the right to inspect the premises during usual business hours.

8. ALTERATIONS AND ADDITIONS: Lessee shall not make any additions or material alterations to or upon the premises without first obtaining the written consent of Lessor, and any such additions or alterations authorized by Lessor shall be at Lessee's sole expense. In making any alterations or additions, Lessee shall comply with all building code provisions, municipal ordinances and regulations, and state laws which may affect or govern such work. All such additions or alterations shall become and remain the property of Lessor; *provided, however*, that upon the termination of this lease, Lessee shall, at its expense, promptly remove such additions or alterations if so requested by Lessor.

9. TRADE FIXTURES AND SIGNS: Lessee may install such equipment, fixtures, and signs in or upon the premises as Lessee deems desirable for the conduct of its activities, provided Lessee shall not hang any signs from the roof or walls of the premises without first obtaining the written consent of Lessor, which consent shall not be unreasonably withheld. Upon the termination of this lease, Lessee shall, at its expense, promptly remove all such equipment, fixtures, and signs and restore the premises to the same condition, reasonable wear and tear by ordinary use excepted, as the same were in prior to the installation of such equipment, fixtures, and signs; *provided* Lessee shall not have the right to remove such property of Lessee if Lessee is then in default under the terms of this lease. In the event Lessee fails to restore said premises, Lessee shall reimburse Lessor for the reasonable costs of such restoration immediately upon demand by Lessor.

10. LIENS AND WASTE: Lessee shall not cause or permit any liens of any nature to be placed against the premises except liens placed thereon by Lessor, and Lessee shall save Lessor harmless from and on account of all liens and all expenses and indebtedness connected therewith, except those relating to liens placed thereon by Lessor. Lessee shall not commit or permit any waste or nuisance upon the premises.

11. TAXES AND ASSESSMENTS: Lessor shall pay all real estate taxes and assessments levied against the leased premises. Lessee shall pay all other taxes, assessments, and charges hereafter levied against the leased premises or the lease during the term of this lease, arising out of the occupancy or use thereof, or arising out of the conduct of Lessee's activities thereon.

12. UTILITIES: Lessee shall pay all charges and expenses for electricity, gas, heat, telephone, water, sewer service, garbage collection service, janitorial service, and all other services and utilities used in connection with the premises during the term of this lease, and Lessee shall not permit any thereof to become delinquent. Lessee is responsible for all such costs for the entire building even though Lessee is only occupying a portion thereof.

13. INSURANCE: Lessee shall maintain public liability insurance at all times during the term of this lease in a manner and form acceptable to Lessor with a limit of at least \$2,000,000 per accident. Lessor shall be endorsed as an additional insured on the policy(ies) of Lessee, and all premiums therefor shall be paid by Lessee. Lessee shall furnish proof of such insurance to Lessor, when requested by Lessor. If Lessee fails to effect or maintain any of such insurance, Lessor may procure the same, and Lessee agrees to reimburse Lessor on demand for any amount paid by Lessor for such insurance. Lessor and Lessee may carry, at their own expense, such fire and extended coverage insurance as each of them deems necessary for their own protection; and neither party shall have an interest in or claim to such insurance of the other party. Lessee shall not permit the premises to be used in such a manner as to create a fire hazard or to cause a change in the insurance rating applicable to the premises. In the event Lessor's cost for fire and extended coverage insurance for the premises in the amount of the full replacement cost thereof increases over the cost of such insurance for the policy year ending in 2017, Lessee agrees to reimburse Lessor immediately upon demand for any such increase in cost.

14. DAMAGE WAIVER: Lessor and Lessee do hereby release and discharge each other from and against all liability for loss or damage caused by any of the perils covered by insurance policies which are in force and effect at the time of any such loss or damage, even though such loss or damage may be due to the negligence, act, or neglect of either Lessor or Lessee or agents or employees of either party. It is expressly understood and agreed that it is the intention hereof to constitute a waiver and release of any and all subrogation rights which the insurance companies might have under such insurance policies.

15. INDEMNITY: Lessee covenants and agrees to defend, indemnify, and hold Lessor harmless from and against any and all claims or liability for injury, damage, or loss, including attorneys' fees and costs, which may arise or to which Lessor may be subjected during or as a result of Lessee's occupation or use of the premises or the conduct of any activities thereon by Lessee or with Lessee's permission or knowledge.

16. RISK OF LOSS: All property of any kind on the premises shall be at the risk of Lessee, and Lessor shall not be liable, and Lessee waives all claims for any loss, damage, or injury either to persons or property sustained by Lessee or any other person upon or about the premises, or due to the structures or any improvements upon the premises or the adjoining premises or any part thereof, becoming out of repair or arising from the overflow of water or the freezing, bursting, or leakage of water, gas, heating or steam pipes, or due to any act, omission, or neglect of Lessor or Lessee, or any of their agents or employees, or any other person upon or about the premises, or any other cause of any nature whatsoever. No eviction from the premises shall be claimed by Lessee by reason of the happening of any or all of the foregoing. Without limiting the generality of the foregoing, Lessee shall be solely responsible for theft or other similar loss of fixtures, equipment, or other property leased herein and any other property of Lessee.

17. INGRESS AND EGRESS: Lessor reserves the right of ingress and egress to and from the leased premises for the purpose of inspecting the same at all reasonable times and for making such repairs as Lessor is obligated to make under the terms of this lease.

18. ASSIGNMENT AND SUBLETTING: Lessee shall not assign this lease or sublet the premises herein, or any portion thereof, without first obtaining the written consent of Lessor, nor shall there be any transfer or assignment of this lease from Lessee by operation of law, either voluntarily or involuntarily or by dissolution, consolidation, or merger of Lessee. Consent to such assignment or subletting shall not operate to relieve Lessee of any of its covenants and obligations under this lease or relieve Lessee or its successor in interest from the necessity of obtaining like consent for any subsequent assignment or subletting.

19. RESTORATION OF PREMISES: If said premises, during the term of this lease or any extension thereof, shall be damaged or destroyed by fire or other casualty, the Lessor shall restore or rebuild them as speedily as possible and as nearly as practicable to the condition existing just prior to such damage or destruction, to the extent that the insurance proceeds of the fire insurance provided in paragraph 13 above shall be available to the Lessor and be sufficient to restore said improvements. During the time of such restoration or rebuilding, the rent provided herein shall not cease or abate.

20. CONDEMNATION: If the whole or any substantial part of the premises (substantial being defined as reasonably preventing or unreasonably interfering with the

conduct of Lessee's activities) be taken or condemned by the competent authority, this Lease shall terminate upon the date when possession of the premises so taken shall be acquired by such authority, and the rent shall be prorated as of the date of such termination. If less than a substantial part of the premises be taken or condemned by any competent authority, the rent shall be abated, proportionately in the same ratio that the part of the premises taken or condemned bears to the whole premises, from the date when possession of that part of the premises so taken shall be acquired by such authority. Lessor shall be entitled to the full amount of any condemnation award for the leased premises, and Lessee hereby expressly waives any right or claim to any part thereof as damages or otherwise and any right or claim against Lessor as a result of such taking or condemnation. Lessee shall have the right to claim and recover from the condemning authority such compensation as may be separately awarded or recoverable by Lessee in Lessee's own right on account of any and all damage, cost, or loss which Lessee might sustain as a result of such condemnation to Lessee's activities, business, or leasehold improvements.

21. DEFAULT: Full and prompt performance by Lessee of all terms and conditions of this lease is hereby made the essence of this lease. If Lessee should be in default in any of the same and such default shall have continued for ten (10) days in the case of nonpayment of rent or other sums due from Lessee and for thirty (30) days in the case of any other default after written notice by Lessor to Lessee setting forth the particular default claimed, or if Lessee's leasehold estate shall be taken on execution, or if Lessee shall be declared bankrupt or insolvent according to law, or if Lessee shall make an assignment for the benefit of creditors, or if a receiver shall be appointed for Lessee and continue in office thirty (30) days without discharge, then in any such event this lease shall, at the option of Lessor, be forfeited. In such event, Lessor may lawfully enter into and upon said premises or any part thereof, repossess the same, and expel Lessee and those claiming under and through Lessee and remove their effects, forcibly if necessary, without being deemed guilty of any manner of trespass, but without prejudice to any remedies which might otherwise be used by Lessor for the collection of rent or for any breach by Lessee of the covenants herein contained. It is further agreed that after service of notice as above set forth, an additional condition to avoid forfeiture shall be payment by Lessee of Lessor's costs and expenses, including attorneys' fees, for the preparation and service of such notice. Nothing contained herein shall release or diminish Lessee's obligation to pay rent for the full term of this lease, except the net amount of rent Lessor receives from any subsequent tenant during the term hereof. As an additional and not alternative remedy, optional with Lessor, if Lessee should be in default hereunder other than a default in the payment of rent, Lessor may cure or correct the same; and the cost of such action by Lessor shall immediately be due and payable from Lessee, plus interest on said sum at the rate of twelve percent (12%) per annum until paid; and nonpayment of said sum by Lessee shall be adequate grounds for Lessor to invoke the other provisions of this paragraph.

22. NOTICES: All notices required under this lease to be given by either party shall be effective as of the date of personal service thereof or the date of mailing by certified mail, return receipt requested, postage prepaid, and properly addressed to the other party at the following address or as the same may be changed from time to time by written notice to the other party:

Lessor: CITY OF GOLDENDALE
1103 S. Columbus, Goldendale, WA 98620

Lessee: AUSCRETE CORPORATION
741 West Railroad Avenue, Goldendale, WA 98620

23. ATTORNEYS' FEES AND COSTS: Lessee shall pay Lessor all costs and expenses, including reasonable attorneys' fees, incurred by Lessor in the preparation and service of any notice which Lessor gives to Lessee under the terms of this lease. In any court suit or action brought by either party concerning this lease, the court shall award to the prevailing party reasonable attorneys' fees in addition to the costs allowed by law, and the other party agrees to pay the same.

24. NONWAIVER: The consent of Lessor to any variation of the terms of this lease, or the receipt of rent with knowledge of any breach, shall not be deemed to be a waiver of any breach or covenant of this lease, and no waiver shall be claimed by Lessee unless it be a written waiver signed by Lessor. Any waiver, express or implied, by Lessor of any breach by Lessee of any of the covenants of this lease shall not be construed to be a waiver of any subsequent breach of the same or any other covenant in this lease, or affect or prejudice any of Lessor's rights or remedies hereunder. After service of notice of default or commencement of suit, Lessor may receive and collect rent due; and the same shall not affect such notice or suit or any judgment, nor shall it be deemed a waiver in any sense.

25. SUCCESSORS: Subject to the foregoing provisions relating to assignment and subletting, this lease shall inure to the benefit of and shall be binding upon the successors and assigns of the respective parties hereto.

26. ENTIRETY OF AGREEMENT: No prior stipulation, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the provisions of this lease. The terms and conditions of this lease shall not be amended or modified, except in writing signed by both Lessor and Lessee. Headings used herein are for convenience only, are not a part of this lease, and are not to be used in construing it. Each party agrees to execute, upon request of the other, a short form of this lease for purposes of recordation, and to re-execute this lease at any time upon the request of the other.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

LESSOR:

CITY OF GOLDENDALE, a municipal corporation

By _____
MICHAEL A. CANON, MAYOR

ATTEST:

CONNIE BYERS, CITY CLERK

LESSEE:

AUSCRETE CORPORATION

BY: A. JOHN SPROVIERI, PRESIDENT

STATE OF WASHINGTON)
) ss.
County of Klickitat)

I certify that I know or have satisfactory evidence that John Sprovieri, is the individual who appeared before me, and said individual acknowledged that he signed this instrument and acknowledged it as the President of AUSCRETE CORPORATION, to be his free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2017.

← print name

Notary Public in and for the State of Washington
Residing at: _____, Washington
My Appointment Expires: _____

STATE OF WASHINGTON)
) : ss.
County of Klickitat)

I certify that I know or have satisfactory evidence that MICHAEL A. CANON is the person who appeared before me, and said person acknowledged that he signed this instrument, and on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of CITY OF GOLDENDALE, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2017.

← print name

Notary Public in and for the State of Washington
Residing at: _____, Washington
My Appointment Expires: _____

CITY OF GOLDENDALE, WA

BOUNDARY LINE ADJUSTMENT NO. G-BLA 2014-03

SE 1/4 NW 1/4 SECTION 20 T 4 N R 16 E, WM BLOCKS 14, 15 and 16, PLAT OF BROOKS ADDITION

LEGEND

- FOUND MONUMENT IN CASE
- FOUND MONUMENT OF RECORD
- SET 5/8" X 24" REBAR W/ PLASTIC CAP
- x — FENCE
- — — FENCE

LEGAL DESCRIPTION

TOTAL
LOTS A AND D, CITY OF
GOLDENDALE BOUNDARY LINE
ADJUSTMENT G-BLA 2014-01

GEODETIC BEARINGS

SURVEYS 1037865, 225548, 156626, 1107463

CITY STREET CONTROL, BROOKS ADDITION

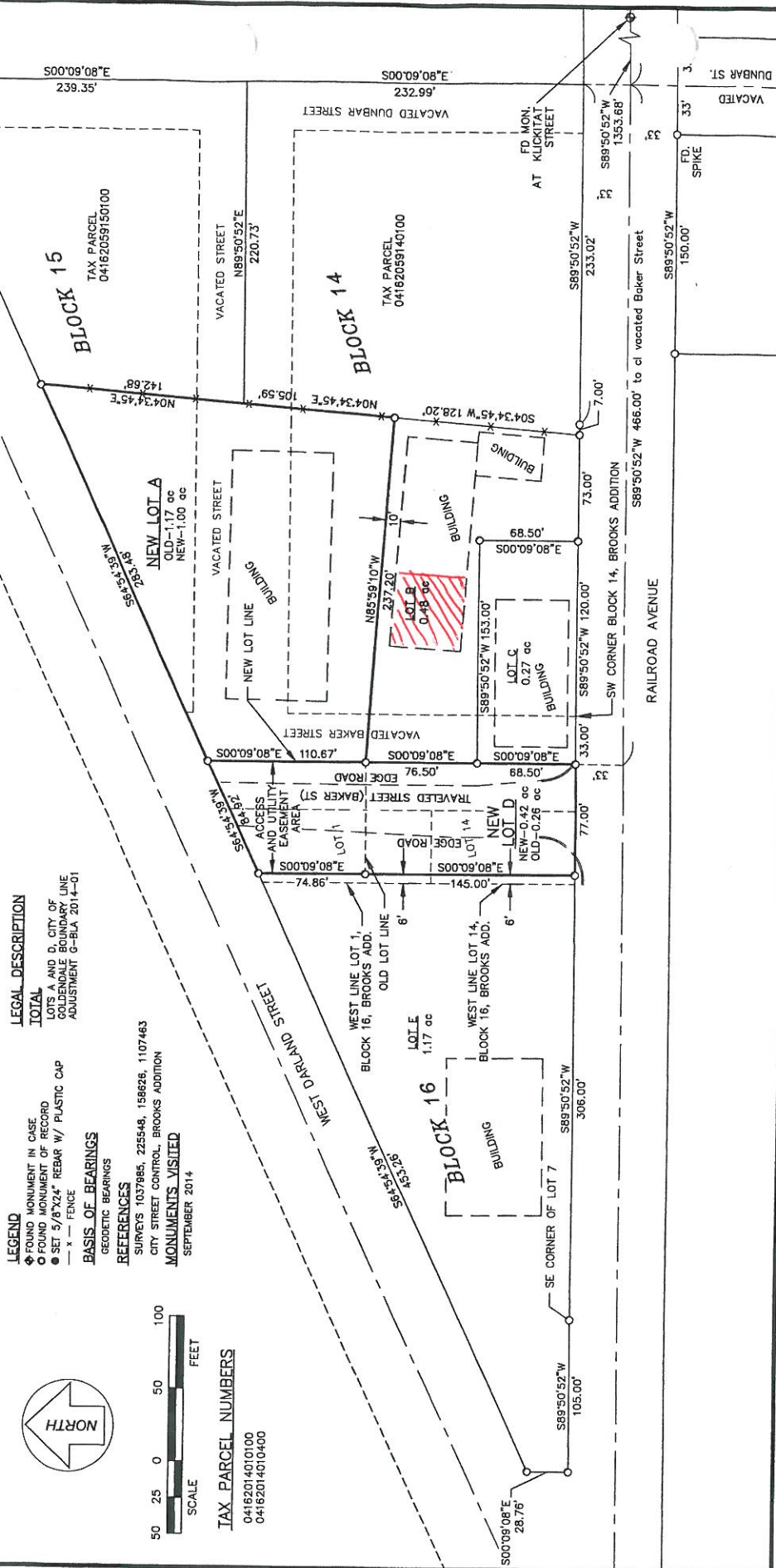
MONUMENTS VISITED

SEPTEMBER 2014



TAX PARCEL NUMBERS

04162014010100
04162014010400



CITY OF GOLDENDALE, WA

Pioneer Surveying & Engineering, Inc.
Civil Engineering and Land Planning
1400 Lincoln Drive
Goldendale, WA 98620
Phone (509) 775-4846, Fax (509) 775-5888, E-Mail psw@psewa.net

Accuracy Statement (WAC 332-130)
This Survey was performed with a Topcon Hyper+ RTK surveying system with a relative accuracy required is by least squares.

I, **Phillip Garner**, registered as a land surveyor in the State of Washington, do hereby certify that the boundary line adjustment has been made on the ground as depicted on this drawing. I am a duly licensed surveyor and the adjustment is correct. Dated this 24th day of September, 2014.



We, the owners of the lots as herein adjusted, hereby declare that this boundary line adjustment has been made with our free consent and in accordance with our desires. Dated this 24th day of September, 2014.

WITNESS MY HAND AND OFFICIAL SEAL the day and year first written.
Dated this 24th day of September, 2014.



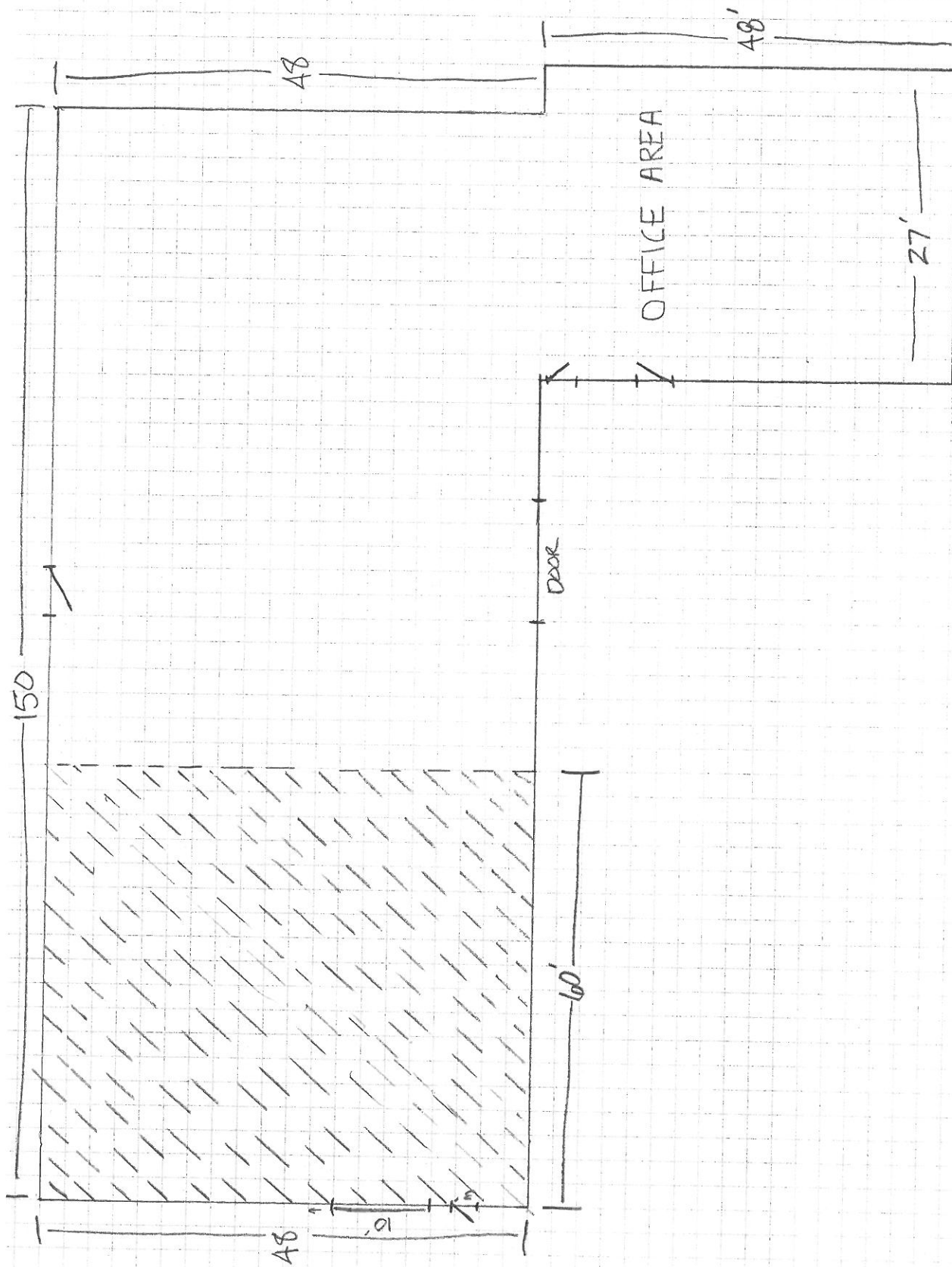
I hereby certify that all taxes, and compensating taxes and/or penalties and on all other matters shown herein have been paid, discharged or satisfied. Dated this 2nd day of October, 2014.

Christine L. Biers
Notary Public
City Clerk-Treasurer

I hereby certify that the Boundary Line Adjustment shown herein has been made in accordance with the laws and policies of Goldendale and the City of Goldendale. Dated this 1st day of October, 2014.

Victoria L. Biers
City of Goldendale Administrator

BOUNDARY LINE ADJUSTMENT FILED FOR RECORD AT THE REQUEST OF City of Goldendale ON THIS 24th DAY OF September, 2014, AT 10:32 A. AND RECORDED IN VOL. 1 OF BOUNDARY LINE ADJUSTMENTS, PAGE 410 RECORDS OF KLICKITAT COUNTY, WA. Victoria L. Biers Auditor No.



NOT TO SCALE

AGENDA BILL: G5

AGENDA TITLE: MINOR EASEMENT ALTERATION TO THE
PHASE 2 GOLDENDALE INDUSTRIAL PARK
SUBDIVISION

DATE: MARCH 5, 2018

ACTION REQUIRED:

ORDINANCE_____ COUNCIL INFORMATION_____X_____

RESOLUTION_____ OTHER_____

MOTION_____X_____

EXPLANATION:

Auscrete Corporation also requested that the southern 60 foot road and utility easement be changed to a 20 foot road and utility easement. A similar change was made with respect to AM Todd for LOT 1, Block 1 of Phase 1, Goldendale Industrial Park. This will provide a consistent road and utility easement from South Columbus Avenue to Washington Street.

FISCAL IMPACT:

ALTERNATIVES:

STAFF RECOMMENDATION:

MOTION:

**I MOVE TO AUTHORIZE THE MAYOR TO EXECUTE THE PLAT ALTERATION OF
PHASE 2 GOLDENDALE INDUSTRIAL PARK SUBDIVISION.**

AGENDA BILL: I1

AGENDA TITLE: WORKSHOP ON PROPOSED SOLID WASTE SERVICES

DATE: MARCH 5, 2018

ACTION REQUIRED:

ORDINANCE _____ COUNCIL INFORMATION _____ X _____

RESOLUTION _____ OTHER _____

MOTION _____ X _____

EXPLANATION:

In accordance with council discussion at its meeting on February 5, 2018 to hold a council workshop on a draft ordinance and proposal regarding changes to the solid waste service. I have prepared a draft ordinance Chapter 8.04 based on direction from the ordinance committee and representatives from Republic Services. We will describe for council consideration the draft language changes and describe how the changes would be implemented.

FISCAL IMPACT:

ALTERNATIVES:

STAFF RECOMMENDATION:

MOTION:

Chapter 8.04 SOLID WASTE

8.04.010 Declaration of policy.

The City finds that uniformly requiring garbage service for city residents is the fairest and most economical way to ensure that solid waste is regularly removed from residences and businesses, thereby avoiding accumulation, unsanitary conditions, rodent infestation and so forth.

8.04.020 Definitions.

- A. "Cart" or "Tote" refers to containers of ninety-six-gallon capacity or less, provided by the city or its designated contractor for collection, storage, and curbside placement of solid waste materials.
- B. "Commercial building or customer" means all non-residential customers.
- C. "Dwelling unit" means one room or rooms connected together, constituting a separate, independent housekeeping establishment for owner/occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other dwelling units, which may be in the same structure, and containing independent cooking and sleeping facilities.
- D. "Multifamily Complex" means any multiple-unit residence with multiple attached or unattached units billed collectively for solid waste service.
- E. "Persons" includes individuals, partnerships, corporations and associations.
- F. "Recyclable materials" means waste materials capable of reuse from a waste stream as designated by the designated contractor, including, but not limited to, sorted or unsorted newsprint, glass, aluminum, ferrous and nonferrous cans, plastic materials, mixed paper, and cardboard accumulated and intended for recycling or reuse and collection by the designated contractor or authorized contractor. This term excludes all dangerous wastes and hazardous wastes, and solid wastes intended for disposal in a landfill, incinerator, or solid waste disposal.
- G. "Refuse" includes all putrescible and nonputrescible wastes, except sewage, from all public and private establishments and residences, excluding yard debris. Refuse includes pet waste.
- H. "Residence/Residential" means a living space with a kitchen that is individually rented, leased, or owner-occupied.
- I. "Single-Family Residence" means all one unit houses, duplexes and mobile homes where each unit is billed individually and located on a public street or private road.
- J. "Solid Waste" refers to organics, recycling, and refuse.

K. "Tote" or "Cart" refers to containers of ninety-six-gallon capacity or less, provided by the city or its designated contractor for collection, storage, and curbside placement of solid waste.

8.04.030 Administration.

Administration of this chapter shall be the responsibility of the city and the designated contractor.

8.04.040 Containers—Provided.

All customers must use designated contractor provided carts for their initial container for the deposit therein of refuse, and to place said carts in a location as specified in this chapter for collection by the designated contractor or its designated contractor. Cans, bags, boxes and bundles may be used for additional materials set out for collection, but not as a customer's primary container. If customers use cans for additional waste or as an extra, they would still be limited to a maximum weight of 65 pounds. The containers would have to be manually emptied into the tote and then picked up by the automated arms on the truck. Additional charges may apply.

8.04.050 Containers—Responsibility.

Once in the possession of an owner, contractor provided carts are the responsibility of the owner. Damage or loss caused by negligence of the owner will be their responsibility and there will be a charge billed to their account.

8.04.060 Containers—Location.

Where a person's residential property abuts a developed public street, the container shall be placed in plain view at the curb line or on the shoulder of a developed public street. In cases where residential property does not abut on a developed public street, container shall be placed at such locations as are designated by the designated contractor to provide unfettered access for the collection vehicle.

8.04.070 Containers—Within public street.

Containers shall be left within public street right-of-way only so long as it is necessary to provide collection by the designated contractor.

8.04.080 Containers—Commercial customers.

Commercial customers shall place containers at such locations as designated by the designated contractor who shall determine container locations to allow efficient solid waste collection. Commercial containers shall be placed on a hard surface pad in such a way as to facilitate collection.

8.04.090 Containers—Covers.

The covers on solid waste containers shall be kept closed at all times so that flies, insects, dogs and other scavengers cannot gain access.

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8.04.100 Containers—Immediate area to be litter free.

Every person in possession, charge, control of any premises within the city, shall maintain the area adjacent to their solid waste containers by keeping it clean and free from solid waste.

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8.04.110 Containers—Waiver of placement requirements.

Persons who, due to physical disability, are unable to place solid waste containers in the locations specified by this chapter may apply for a waiver from the designated contractor to allow collection at locations more distant from public right-of-way. As part of said waiver application, the designated contractor may require evidence of the physical disability.

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8.04.120 Damaging containers.

It is unlawful for any person to willfully damage, deface or destroy any solid waste container belonging to any other person or to the city.

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8.04.130 Unauthorized use of containers—Prohibited.

No person shall place solid waste, or other substances in any solid waste container not provided for his or her use and without the permission of the responsible party thereof.

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8.04.140 Hazardous wastes.

It is unlawful to place hazardous wastes in containers for collection by the designated contractor or its licensees without a special permit issued by the designated contractor.

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8.04.150 Special collection permits.

A special permit shall be required from the designated contractor for the collection, removal, and disposal of refuse by other than city personnel. Such special permit shall have a maximum term of one year and renewal of such permit shall be at the discretion of the designated contractor. Any special permit may be canceled upon thirty days written notice or without prior notice upon the violation of any terms of the permit. The designated contractor may issue special permits for the collection, removal and disposal of refuse for the following reasons only, and such special permits shall be subject to the terms and conditions contained in the permit and the rules and regulations of the designated contractor for the city:

A. For collection, removal, and disposal of refuse from isolated premises or premises where there is not reasonable access by city vehicles;

B. To provide temporary special bulk container service to specific refuse utility customers in the event that the designated contractor cannot provide said service.

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8.04.160 Solid waste service—Residential.

Residential refuse collection and disposal shall be a mandatory service. Mandatory services shall only be provided by its designated contractor. All customers occupying residential premises shall be billed for refuse collections, regardless of actual use or any alternate means of disposal, except as provided in section 8.04.150.

8.04.170 Solid waste service—Commercial.

Commercial refuse collection and disposal shall be a mandatory service. Mandatory services shall only be provided by its designated contractor. All customers occupying commercial premises shall be billed for refuse collections, regardless of actual use or any alternate means of disposal, except as provided in section 8.04.150.

8.04.180 Collection frequency.

The city designated contractor or its designated contractor shall collect, remove and dispose of all solid waste from all occupied residential premises within the city at least once each week, and from all other premises as often as required by said department. (Ord. 2953 § 1, 2015)

8.04.190 Minimum levels of service.

When required by section 8.04.160, refuse service will be at a minimum a thirty-five gallon tote at the established rate into which may be deposited for removal refuse, as defined in section 8.04.020.

8.04.200 Rates.

All fees or rates as defined and to be assessed under this chapter will be as established by WUTC.

8.04.210 Billing procedures.

In the event that any fees or charges assessed for solid waste services are not paid within the date set forth on the billing for such services, they shall be considered delinquent.