

Staff Report

For the Meeting of August 22, 2016

MAYOR AND MEMBERS OF THE CITY COUNCIL

Agenda Item :

Res. No. 2035

Approving the Hermiston School District Lease for the Harkenrider Center and adopting the final design plan.

Subject

Harkenrider Center Lease and Design Approval

Background:

Council has taken a series of actions to support the acquisition and development of the Harkenrider Center which will include the Hermiston Senior Center program as the primary use. These actions have included:

Resolution No. 1952 – Agreement between City and Senior Board	Passed February 24, 2014
Resolution No. 1972 - Accepting a \$2M grant from CDBG	Passed January 7, 2015
Resolution No. 1980 - Adopting the Aspen Site for the center	Passed April 27, 2015
Resolution No. 1981 – Naming the facility Harkenrider Center	Passed April 27, 2015
Resolution No. 1994 – Fair Housing Resolution	Passed July 27, 2015
Resolution No. 1995 – Ascent Architect Selection	Passed August 24, 2015
Resolution No. 2012 – Adopting the Ridgeway Site	Passed December 28, 2015
Motion to add a basement and enhanced parking	Passed May 9, 2016
Conditional Use Permit	Passed June 8, 2016

With the addition of the basement and enhanced parking lot, the project budget was adjusted as represented in Figure 1. The total square footage is twice that of the existing senior center. The Senior Board is discussing ways to expand their program with the support of the Parks and Recreation Department and Good Shepherd Hospital.

Figure 1

Building Area	Square Feet	Cost per SF	Estimate
Permits and design			\$443,150
First Floor	7,200	\$226	\$1,629,850
Basement	3,800	\$130	\$550,000
Parking Enhancement			\$250,000
Total	11,000		\$2,873,000
Existing Senior Center	5,500		

Attachment A- Lease Agreement:

With the selection of the Ridgeway site owned by the Hermiston School District for the Harkenrider Center, a lease agreement needs to be executed between the District and the City. The terms of the lease agreement (Agreement -Exhibit A), are summarized as follows:

- Landlord – Hermiston School District
- Tenant – City of Hermiston

- Improvements – City owns and maintains the building
- Consideration - \$1 per year
- Term – 50 years
- Termination – By either party with notice

Once approved by City Council, the lease agreement must be approved by Hermiston School District. The lease is an essential element for the development of the Harkenrider Center on School District Property.

Development Timeline:

- Oct. 19th: Submit for Building Permit
- Oct. 31st: Issue for Bid
- Nov. 16th: Anticipated Issuance of Building Permit
- Nov. 21st: Last day for Bid Questions
- Dec. 8th @ 3pm: Close Bid
- Dec. 12th: Award Bid @ City Council Meeting
- Aug 31st: Anticipated project completion

Attachment B- Design:

The facility design represents 90% completion by Ascent Architecture. The design (Design - Attachment B) has been enhanced with feedback from the Council meeting of May 9 and ongoing review by the Senior Board. It is recommended that Council approve as-is or modify the design for completion. The Senior Board has requested that the fireplace be relocated to the entrance of the building and janitor closet be relocated near the Great Hall as represented in Attachment B. Additionally, it is recommended that Council approve as-is or modify the design for completion.

Summary:

Approval of Resolution No. 2035 authorizing the Mayor to execute a lease agreement with the Hermiston School District is a necessary next step in the development of the Harkenrider Center. The lease agreement has been prepared under the guidance of legal and insurance counsel for the District and the City.

Alternatives:

Following are alternatives related to the Hermiston School District Lease:

1. Approve Resolution No. 2035 authorizing the Mayor to execute a lease agreement with the Hermiston School District for the development of the Harkenrider Center.
2. Modify Resolution No. 2035 authorizing the Mayor to execute a lease agreement with the Hermiston School District for the development of the Harkenrider Center.
3. Reject Resolution No. 2035 authorizing the Mayor to execute a lease agreement with the Hermiston School District for the development of the Harkenrider Center. This alternative would result in the termination of the CDBG Contract and the City would be obligated to return funds already received.

Recommendation:

Approve Resolution No. 2035 authorizing the Mayor to execute a lease agreement with the Hermiston School District for the development of the Harkenrider Center.

Reviewed by:

Department Head:



City Manager Approval:

Lease - Attachment A

STANDARD GROUND LEASE AGREEMENT

LANDLORD: Hermiston School District No. 8R

TENANT: City of Hermiston, Oregon
180 NE 2nd Street
Hermiston, OR 97838

Real Property in Umatilla County, Oregon
as Described in Exhibit A

SUMMARY OF LEASE TERMS

1. **Leased Property.** Approximate gross ground area in Real Property: 1.19 acres.
2. **Lease Term.** Fifty (50) years, commencing with the Commencement Date specified in this Lease.
3. **Construction.** Tenant will be responsible for construction of any Improvements on the Real Property, in accordance with the terms of this Lease.
4. **Rent.** The rent of fifty dollars (\$50) is due on the Commencement Date referenced in this Lease.
5. **Insurance, Maintenance.** Tenant will insure the property. Tenant will maintain the Property in good condition and repair during the lease term, in accordance with the terms of this Lease.
6. **Utilities; Taxes.** Tenant will pay for all utilities serving the Property and in the event governmental entities are required to pay property taxes and assessments will pay all property taxes and assessments on the Property during the lease term.
7. **Permitted Use.** Construction and operation of the Harkenrider Center with programs including the Hermiston Senior Center and other educational and recreational programs and services that benefit the community, subject to Landlord's right to review any proposed changes to the Permitted Use.

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**STANDARD
GROUND LEASE**

DATED: **May 1, 2016**

BETWEEN: **Hermiston School District No. 8R**
502 W Standard Avenue
Hermiston, OR 97838 LANDLORD

AND: **City of Hermiston**
180 NE 2nd Street
Hermiston, OR 97838 TENANT

Tenant wishes to lease from Landlord the following real property (the “**Real Property**”) located in the City of Hermiston, County of Umatilla and State of Oregon.

Certain land, containing approximately 1.19 acres of gross land area, as more particularly described in Exhibit A hereto.

NOW, THEREFORE, Landlord hereby leases the Real Property to Tenant, and Tenant hereby leases the Real Property from Landlord, subject to and within the following terms and conditions of this Lease:

1. Definitions; Term; Possession.

1.1 Certain Definitions. The following terms shall, when capitalized, have the meanings set forth below:

(a) “**Improvements**”: any and all buildings, parking improvements and signs, and all grading, paving, drainage, striping, lighting, landscaping and other site improvements constructed on the Real Property at any time by Tenant or its subtenants.

(b) “**Property**”: Real Property and all Improvements now or hereafter located thereon, including Improvements constructed by Tenant consistent with the terms of this Lease.

1.2 Term. The term of this Lease shall be for a period of fifty (50) full lease years (six hundred (600) calendar months), beginning on _____ (the “**Commencement Date**”). Notwithstanding the provisions of this paragraph, the parties acknowledge that they are bound to each other in accordance with the terms of this Lease from and after the date of mutual execution of this Lease, subject to the conditions set forth in this Lease.

1.3 Tenant’s Work. Tenant shall develop the Property in accordance with this Lease, and the terms attached as Exhibit C.

1.4 Site Plan and Architectural Review. Landlord will have the right of prior review and approval of: (1) the site plan and the architectural plans and specifications for Improvements to the Property, including without limitation any changes to elevations within the Property, the size and location of Improvements constructed on the Real Property, and the design of the parking area and drive aisles to be located on the Real Property; (2) any additions or modifications to the exterior of any Improvements on the Property; and (3) the location, design, and size of any signs installed on the Property. All approvals by Landlord must be in writing (including e-mail communication). Landlord's review of architectural and signage matters will include architectural design, style, exterior color, quality of materials and construction, and compatibility of the Improvement or change with Landlord's potential future use of the Property. Landlord's review of a site plan may be based in part on Landlord's judgment of the parking requirements of Tenant's proposed buildings or use subject to city parking regulations. Landlord shall not unreasonably withhold approval under this section.

1.5 Acceptance of Property. Tenant accepts the land and all other aspects of the Property in its present condition, AS IS. Landlord shall not be required to perform any work to ready the Property for Tenant's occupancy.

2. Rental.

2.1 Rental Payment. At the commencement of this Lease, Tenant will make a one-time payment of fifty dollars (\$50) to Landlord for a rental term of fifty (50) years when Landlord invoices Tenant.

3. Taxes; Utilities; Insurance.

3.1 Net Lease. It is the intent and effect of this Lease that rental paid by Tenant shall be a net return to Landlord. Landlord shall not be responsible for payment of any taxes and assessments, operating expenses, or any other costs, expense, charge or premium under this Lease relative to the Property. Such rental shall be paid to Landlord throughout the lease term, free of any charges, assessments, impositions or deductions of any kind. Under no circumstances or conditions, whether now existing or hereafter arising, or whether beyond the present contemplation of the parties, shall Landlord be expected or required to make any payment of any kind whatsoever or be under any other obligation or liability hereunder. Tenant shall pay all costs, expenses and charges of every kind and nature relating to the Property which may arise or become due or payable during or after (but attributable to a period falling within) the lease term.

3.2 Taxes.

(a) Personal Property Taxes. In the event the Property ever becomes subject to personal property taxes, Tenant shall pay when due all personal property taxes assessed against its personal property, equipment or trade fixtures on the Property.

(b) Real Property Taxes and Assessments. In the event the Property ever becomes subject to real property taxes, Tenant shall pay any and all taxes, assessments and public charges (“taxes”) pertaining to the Property, and other land and improvements (if any) covered by the tax statement. Tenant’s obligation to pay taxes will begin on the Commencement Date. Taxes for the year in which the Lease commences and terminates will be prorated and adjusted for any partial year. Tenant will pay taxes within ten (10) days after receipt of Landlord’s notice of the amount due from Tenant. Should Tenant wish to secure a property tax exemption, Tenant shall be responsible for complying with all applicable filing and application requirements related to such exemption, including the requirements described in ORS 307.147, ORS 307.166, and OAR 150-307.166.

(c) Tenant’s Election to Contest. If the Property is separately assessed, Tenant may withhold payment of any tax or assessment on the Property if a good-faith dispute exists as to the obligation to pay, so long as Landlord’s property interest is not jeopardized. If the Property is subjected to a lien as a result of nonpayment, Tenant shall provide Landlord with security or assurances reasonably acceptable to Landlord that Tenant can and will satisfy the lien before enforcement against the Property.

(d) Additional Impositions. If at any time during the lease term, a tax, excise or assessment is levied or assessed against the Property or against Landlord by reason of Landlord’s interest therein or the rentals payable under this Lease, or with respect to the development of income by this Lease, such taxes, excises on rent or assessments shall, to the extent of the amount, be deemed to be additional taxes which are the obligation of Tenant to pay pursuant to this Lease, provided that the foregoing shall not apply to (i) any estate, inheritance or succession tax, (ii) any county, state or federal transfer tax imposed on account of any transfer of Landlord’s interest in the Property or this Lease, (iii) any capital tax or similar tax, and (iv) except only to the extent of any new governmental imposition in substitute (in whole or in part) for taxes and assessments referenced in paragraph 3.2(b), any income, business and occupation or other tax on the net income of Landlord with respect to this Lease.

3.3 Utilities. Tenant will be responsible for all charges for services and utilities incurred in connection with the use, occupancy and operation of the Property, including (without limitation) charges for electricity, gas, telephone service, telecommunications, water and sewer. Tenant agrees to pay, prior to delinquency, all charges for such utilities used by Tenant at the Property.

3.4 Insurance and Damage. Tenant shall comply with the insurance requirements as described in Exhibit D.

4. Use of Property.

4.1 Permitted Use. Tenant shall use the Property only for conducting the following business and for no other purpose without Landlord’s written consent: constructing and operating the Harkenrider Center including the Hermiston Senior Center and other programs of the City’s Parks and Recreation Department. Any attempted or requested change to such permitted use or other material change to the marketing orientation or quality of operation of the business within the Property (whether by Tenant or by any proposed assignee, subtenant or transferee, subject

nevertheless to the restrictions on transfer stated in paragraph 8 below) is subject to the advance written approval of Landlord in its sole discretion.

4.2 Compliance with Legal Requirements. In connection with its use, Tenant shall, at its expense, put, keep and maintain the Property at all times in compliance with all applicable laws, rules, regulations and ordinances of all federal, state, county, municipal and other public authorities having or claiming jurisdiction, and all recorded covenants, conditions and restrictions affecting the Property (collectively, the “**Legal Requirements**”), including those regarding maintenance, operation, and use of the Property and appliances on the Property (including signs).

4.3 Hazardous Substances. Tenant shall comply fully with all applicable Legal Requirements pertaining to the protection of human health and the environment, including, but not limited to, employee and community right-to-know laws and all Legal Requirements regarding the use, generation, storage, transportation, treatment, disposal or other handling of hazardous substances (“**Environmental Requirements**”). Tenant shall promptly advise Landlord in writing of any hazardous substances regulated by such laws that are used, generated, manufactured, stored, transported or otherwise handled on the Property. Tenant shall exercise extreme care in handling any hazardous substances and shall not cause or permit hazardous substances to be spilled, leaked, disposed of or otherwise released on or from the Property or on, under or into the remainder of the Property. The only hazardous substances permitted on the Property are cleaning products and other materials in ordinary quantities which are used in the ordinary course of business and necessary for the conduct of Tenant’s business and which Tenant uses in strict compliance with all applicable Environmental Requirements. The term “hazardous substances” is used in its very broadest sense, and refers to materials which because of their quantity, concentration, or physical, chemical, or infectious characteristics may cause or pose a present or potential hazard to human health or the environment when improperly handled, treated, stored, transported, disposed of, or otherwise managed. The term shall include, but is not limited to, all hazardous substances, hazardous materials and hazardous wastes listed by the U.S. Environmental Protection Agency and the state in which the Property is located under the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, and the Federal Water Pollution Control Act, and comparable state statutes and other Environmental Requirements, whether currently in effect or subsequently adopted or promulgated.

4.4 Infectious Wastes. Subject to the limitations stated in paragraphs 4.1 and 4.3, Tenant shall cause any infectious wastes to be stored, discarded, treated, transported and disposed of in strict compliance with all applicable Legal Requirements and Environmental Requirements. Tenant shall defend, indemnify and hold Landlord harmless for, from, and against any and all claims threatened or made in any way related to infectious wastes, and shall reimburse Landlord for any expenses incurred, including (without limitation) the cost of professional services and experts’ and attorneys’ fees.

4.5 No Offensive Activities. Tenant shall not conduct or permit any activities on the Property that create a nuisance or damage the reputation of the Property, or are offensive to Landlord or other owners or users of adjoining property.

4.6 Supervision. Tenant shall keep the Property clean and orderly and in accordance with the professional operation of Tenant's business. Tenant will supervise its employees and cause Tenant's agents, independent contractors, employees, customers, suppliers and invitees to conduct their activities in such a manner as to comply with the requirements of this Lease.

5. Maintenance and Alterations.

5.1 Tenant's Obligations. Tenant, at its expense, shall put, keep and maintain at all times the Property (including, without limitation, the land, parking areas, sidewalks, landscaping, Improvements, HVAC system, roof, walls, foundations, doors, glass and all above ground and underground water and utility lines servicing the Property from the point of connection on the Property to the main line, whether on-site or outside the boundaries of the Property, and all personal property, fixtures and equipment) in good repair, operating condition, working order and appearance, and shall make all exterior and interior repairs, renewals, and replacements necessary to that end. Landlord shall have no obligation to make any repairs or perform any maintenance on the Property.

5.2 Alterations. Tenant shall make no exterior alterations (including, without limitation, changes in color, removals, replacements and additions) or structural alterations to the Property without Landlord's prior written consent. Tenant shall notify Landlord of any interior alterations costing more than one hundred thousand dollars (\$100,000) prior to commencing same, but Landlord's consent thereto shall not be required unless such alterations may reduce the value, alter the exterior appearance, or affect the structural integrity of the Improvements. All alterations shall be made in a good and workmanlike manner. Any alterations and fixtures installed by Tenant (other than trade fixtures and equipment) shall become part of the Property and belong to Landlord on expiration or termination of this Lease, except as Landlord may otherwise require pursuant to paragraph 11.2 or as specifically approved in writing.

5.3 Restoration After Damage. If fire or other casualty causes damage to the Property, there shall be no rent abatement or reduction. Tenant shall proceed promptly to restore the Property to a condition comparable in function and value to that existing prior to the damage, provided that Tenant shall have the right to terminate this Lease, upon written notice to Landlord within sixty (60) days after the date of casualty, if in the last thirty-six (36) months of the lease term or any renewal term, there is damage to the Property that makes it impracticable or economically unreasonable for Tenant to rebuild (in which event Tenant shall raze any damaged Improvements whose removal is required by Landlord, and clean up any debris, and the proceeds of Tenant's casualty insurance, and/or amounts covered by deductibles or self-insured arrangements, applicable to the damaged Improvements and fixtures, shall be paid to Landlord).

6. Indemnification and Liability.

6.1 Indemnification of Landlord. To the fullest extent permitted by law, including but not limited to ORS 271.380, Tenant shall indemnify, defend, reimburse, and hold harmless Landlord and its officers, employees, and agents (the "**Indemnified Parties**") for, from, and against any and all threatened, alleged, or actual claims, suits, allegations, damages, losses, liabilities, expenses, and judgments, including, but not limited to, those which relate to personal or real property damage (including to the Property itself or otherwise), personal injury

or death, attorney and expert/consultant fees and costs, and both economic and non-economic losses, to the extent arising out of or related to (a) Tenant's use of the Property; (b) any action or inaction of Tenant or its agents, design professionals, consultants, contractors, subcontractors, suppliers, employees, customers, or invitees at any tier; (c) any condition of the Property which is the responsibility of Tenant under this Lease; (d) the conduct of Tenant's business or any activity, work or things done, permitted or suffered by Tenant in or about the Property (including, but not limited to, Tenant's work under paragraph 1.3; (e) any breach or default in the performance of any obligation of Tenant under this Lease; and/or (f) any goods sold by Tenant from the Property (including product liability and other claims). If claims are asserted against any Indemnified Party by Tenant, anyone directly or indirectly employed by Tenant, or anyone for whose acts Tenant may be liable, Tenant's indemnification obligation and other obligations under this paragraph shall not be limited by any limitation on the amount or type of damages, compensation, or benefits payable to the employee by or for Tenant under workers' compensation acts, disability benefit acts, or other employee benefit acts.

6.2 Landlord's Liability. Landlord shall have no liability to Tenant for acts of other tenants or users of adjacent property or acts of any third party, or for any defect in the Property which is the responsibility of Tenant under this Lease, or for any interruption or failure in the supply of utilities or services to the Property.

6.3 Disclaimer of Landlord's Responsibilities. Landlord shall not under any circumstances be liable to pay for any work, labor or services rendered or materials furnished to or for the account of Tenant. Nothing contained in this Lease shall be deemed or construed in any way as constituting the request or consent of Landlord, either express or implied, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement of, alteration to, or repair of the Property or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials on behalf of Landlord that would give rise to the filing of any claim against Landlord's interest in the Property.

7. Condemnation.

7.1 Substantial Taking. If the entire Property is condemned, or if a portion is taken which causes the remainder to be unsuited to the use permitted hereunder (even if restoration or alteration of the Property or other areas were made pursuant to paragraph 7.2), then this Lease shall terminate as of the date upon which possession of the Property is taken by the condemning authority. The net condemnation proceeds shall be divided between Landlord and Tenant in proportion to the value of their respective interests in the Property immediately prior to the termination of this Lease. Landlord shall have the right to offset any amounts in default that Tenant owes Landlord pursuant to this Lease against any proceeds payable to Tenant under this paragraph.

7.2 Partial Taking. In the event of a partial taking by condemnation of the Property, means of access or roadway as described above, and paragraph 7.1 does not apply, the net condemnation proceeds attributable to the partial taking of the Property shall be made available to Tenant to make necessary repairs and alterations to the Property (as appropriate) so as to permit Tenant to continue its operations and to restore the Property. The base rent shall be abated during

the period of restoration to the extent the Property is not reasonably usable for Tenant's use during the course of restoration. Any net condemnation proceeds from the taking which are not used to repair, alter and restore the Property shall belong to Landlord. After restoration, the base rent shall not be reduced.

7.3 Transfer in Lieu of Condemnation. Sale of the Property to a purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of the power shall be treated as a taking by condemnation.

8. Transfers by Tenant.

8.1 Prohibition of Transfer. Tenant shall not assign, mortgage, pledge, hypothecate or encumber the Property or Tenant's leasehold estate, or sublet any portion of the Property, or license the use of any portion of the Property, or otherwise transfer any interest in the Property (whether voluntary, involuntary, by operation of law or otherwise) (collectively, all of the foregoing are a "**transfer**"), without the prior written consent of Landlord, which will not be unreasonably withheld. Landlord may withhold consent in its discretion to any proposed transfer for which Landlord's consent is required under this paragraph and shall not be liable in any respect for failure to give consent. Any attempted transfer without consent shall be null and void and, at the option of Landlord, will cause termination of this Lease. If Tenant requests consent to a proposed transfer, Tenant or the prospective transferee will pay a review fee of five hundred dollars (\$500) at the time of the request, for application to Landlord's expenses (legal and administrative) in reviewing the request for consent to transfer, which expenses will be paid by Tenant or the prospective transferee, but will not exceed five hundred dollars (\$500).

8.2 Notice and Consent. If Tenant desires to transfer any interest for which Landlord's consent is required under paragraph 8.1, Tenant shall, in each instance, notify Landlord at least thirty (30) days before the effective date of such intended transfer and will pay the review fee stated above. Tenant's notice will contain reasonable detail concerning the nature of the proposed transaction, the date thereof, the identity of the transferee and nature of its business, the financial worth of the transferee and its prior business experience (if applicable), the transferee's business and financial references, and such financial statements and other information as Landlord may require. If Landlord consents to the proposed transfer, a condition to such consent is that the transferee shall agree in writing for the benefit of Landlord to be bound by and to comply with the terms of this Lease (except that this sentence will not apply to any lender who only holds a secured interest in Tenant's personal property).

8.3 Obligations After Transfer. The giving of such consent in one instance shall not preclude the need for Tenant to obtain Landlord's consent to further transfers. If Tenant is permitted to make any transfer, Tenant and any guarantor(s) or co-obligors of Tenant's obligations under this Lease shall not be relieved of their respective obligations, but shall remain primarily liable to Landlord for performance of all such obligations.

8.4 Transfer to Private Entity. In the event Landlord consents to Tenant's transfer of any interest in the Property to a private entity ("**Successor Entity**"), the following additional provisions shall govern Landlord's relationship with Successor Entity:

(a) **Notice of Nonresponsibility.** If Successor Entity constructs Improvements, Landlord shall be entitled to post upon the Property a Notice of Nonresponsibility and maintain the same upon the Property throughout the construction period.

(b) **Selection of Contractor.** If Successor Entity constructs Improvements, Successor Entity shall obtain Landlord's approval of Successor Entity's contractor before commencement of construction.

(c) **Liens.** Successor Entity shall pay as due all claims for work done on or for services rendered or material furnished to the Property, and shall keep the Property free from any liens, except that Successor Entity may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as Landlord's property interest is not jeopardized. If Successor Entity fails to pay such claim or to discharge any lien, Landlord may do so and collect such amount as additional rent. Amounts paid by Landlord hereunder shall bear interest and be repaid by Successor Entity as provided in paragraph 10.4. Such payment by Landlord shall not constitute a waiver of any right or remedy Landlord may have because of Successor Entity's default.

(d) **Contest by Successor Entity.** If Successor Entity withholds payment of a claim and a lien is filed as a result of nonpayment, Successor Entity shall (within ten (10) days after knowledge of the filing) secure the discharge of the lien or deposit with Landlord cash or sufficient corporate surety bond or other security satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorneys' fees, and other charges that could accrue as a result of a foreclosure or sale under the lien.

9. Default.

The following shall be events of default:

9.1 Payment Default. Failure of Tenant to make any rent or other payment under this Lease within five (5) days after receipt of written notice or invoice that such rent or other payment was not received when due.

9.2 Unauthorized Transfer. Tenant makes any transfer without Landlord's prior written consent, as (and to the extent) required under paragraph 8.1.

9.3 Abandonment of Property. Tenant abandons the Property, for which purpose "abandons" means a failure by Tenant to occupy and use the Property for one or more of the purposes permitted under this Lease for a total of six (6) months or more during the lease term, unless such failure is excused under other provisions of this Lease.

9.4 Default in Other Covenants. Failure of Tenant to comply with any other term or condition or fulfill any other obligation of this Lease within twenty (20) days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be remedied fully within the twenty (20) day period, this requirement shall be satisfied if Tenant begins correction of the default within the twenty (20) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as

practicable (but shall nevertheless cause the default to be fully remedied not later than sixty (60) days after the date of Landlord's first notice).

10. Remedies on Default.

Upon default, Landlord may exercise any one or more of the following remedies, or any other remedy available under applicable law:

10.1 Termination. Landlord may terminate Tenant's right to possession of the Property and Tenant's rights under this Lease by giving written notice to Tenant of Landlord's election to terminate Tenant's right to possession of the Property, and this Lease shall terminate as of the date of such notice. In the event of such termination, Landlord may recover damages from Tenant as provided in paragraph 10.4.

10.2 Retake Possession. Landlord may re-enter and retake possession of the Property, without notice, by summary proceedings, force, any other applicable action or proceeding, or otherwise. Landlord may use the Property for Landlord's own purposes or relet it upon any reasonable terms without prejudice to any other remedies that Landlord may have by reason of Tenant's default. None of these actions will be deemed an acceptance of surrender by Tenant.

10.3 Continuation of Lease. Landlord may, at Landlord's option, elect not to terminate this Lease, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Property. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent and any other charges as they may become due under this Lease. Notwithstanding any provision of this Lease, upon an event of default by Tenant, Landlord shall mitigate its damages to the extent required by and in accordance with Oregon law.

10.4 Damages for Default. Whether or not Landlord retakes possession or relets the Property, Landlord may recover all damages caused by the default (including, but not limited to, attorneys' fees relating to the default, and costs of reletting). In addition to all charges required by this Lease and the reasonable cost of necessary physical changes to relet the Property, Landlord shall be entitled to recover from Tenant all damages and expenses reasonably incurred by Landlord by reason of Tenant's default, including, but not limited to, the reasonable cost of recovering possession of the Property, reasonable expenses of re-leasing, including necessary alteration or repair of the Property required in connection with the re-leasing of the Property, and reasonable attorneys' fees. Tenant shall immediately pay such sums to Landlord upon demand, together with interest at the lesser of either nine percent (9%) per annum or the maximum rate of interest permitted by law.

10.5 Cure of Tenant's Default. Without prejudice to any other remedy for default, Landlord may perform any obligation or make any payment required to cure a default by Tenant. The cost of performance, including attorneys' fees and all disbursements, shall immediately be repaid by Tenant upon demand, together with interest from the date of expenditure until fully paid at the lesser of either nine percent (9%) per annum or the maximum rate of interest permitted by law.

11. Obligations and Rights at Expiration.

11.1 Condition of Property. Upon expiration of the lease term or earlier termination on account of default, Tenant shall deliver all keys to Landlord and surrender the Property in a good and orderly condition. Depreciation and wear from ordinary use for the purpose for which the Property was let need not be restored, but all repairs for which Tenant is responsible shall be completed to the latest practical date prior to such surrender.

11.2 Improvements. All Improvements that Tenant may construct on the Property will be the property of Tenant during the term of this Lease and any such Improvements remaining on the Property at the expiration or earlier termination of this Lease (if any) will become a part of the realty and will be the property of Landlord. Landlord will also have the right to require Tenant to demolish and remove any Improvements. Should Landlord so elect, it will provide written notice to Tenant to remove the Improvements at least thirty (30) days before the end of the lease term or early termination of the Lease by Landlord. Upon receipt of such notice, Tenant shall demolish and remove any Improvements, fill any excavation, and restore all damage caused by such removal within a period not to exceed ninety (90) days. If Tenant fails to do so, this shall be an abandonment of the Improvements and Landlord may retain the Improvements and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant within twenty (20) days after removal was required, Landlord may elect to hold Tenant to its obligation of removal. If Landlord elects to require Tenant to remove, Landlord may effect a removal and place any personal property in public storage for Tenant's account. Tenant shall be liable to Landlord for the cost of removal, restoration, transportation to storage, and storage, with interest on all such expenses as provided in paragraph 10.4.

11.3 Fixtures. Upon expiration of the lease term or earlier termination on account of default or other event, Tenant shall remove all of its furnishings, furniture, and trade fixtures that remain the property of Tenant and restore all damage caused by such removal.

11.4 Holdover. If Tenant does not vacate the leased premises at the time required, Landlord shall have the option to treat Tenant as a tenant from month to month, subject to all of the provisions of this Lease (except that the term will be month to month), or to eject or otherwise lawfully remove Tenant from the Property and recover damages caused by wrongful holdover. Failure of Tenant to remove Improvements, furniture, furnishings, or trade fixtures which Tenant is required to remove under this Lease shall constitute a failure to vacate to which this paragraph shall apply if the property not removed substantially interferes with occupancy of the Property by another tenant or with occupancy by Landlord for any purpose including preparation for a new tenant. If a month-to-month tenancy results from a holdover by Tenant, the tenancy shall be terminable at the end of any monthly rental period on written notice from

Landlord given not less than thirty (30) days prior to the termination date which shall be specified in the notice.

12. Warranty of Quiet Enjoyment; Prior Matters.

12.1 Warranty of Quiet Enjoyment. Subject to paragraph 12.2, so long as Tenant complies with all terms of this Lease, Tenant shall be entitled to peaceable and undisturbed possession of the Property free from any interference by Landlord or those claiming through Landlord.

12.2 Prior Matters. Landlord's estate in the Property and Tenant's leasehold estate in the Property are subject to the liens or restrictions of (a) any matters or documents of record (the "**Matters of Record**"), including the effect of any covenants, conditions, restrictions, easements, mortgages or deeds of trust, rights of way or any construction, operation and reciprocal easement agreement (the "**REA**"); and (b) the effect of any zoning laws of the state, county and municipality in which the Property is located. Tenant agrees that (i) Tenant and all persons in possession of Tenant's leasehold estate or holding under Tenant will conform to and will not violate the terms of any REA or any other Matters of Record, and (ii) this Lease is subordinate to the REA, if any, and any amendments or modifications thereto. If the REA, if any, is not of record as of the date of this Lease, then this Lease shall automatically become subordinate to the REA upon recordation of the REA. Tenant agrees to execute and return to Landlord within ten (10) days after written demand therefor by Landlord an agreement in recordable form satisfactory to Landlord subordinating this Lease to the REA. Any REA shall not prevent Tenant from using the Property for the purposes set forth in paragraph 4.1.

13. General Provisions.

13.1 Time of Essence. Time is of the essence of the performance of each of Tenant's obligations under this Lease.

13.2 Modifications. This Lease may not be modified except by instrument in writing, dated and signed by the parties. Landlord shall not be bound by any statement of any agent or employee modifying this Lease.

13.3 No Appurtenances. This Lease does not create any rights to light and air, any rights or interests in parking facilities, any view rights, or any other rights, easements or licenses, by implication or otherwise, except as expressly set forth in this Lease or its exhibits. This Lease is an unsubordinated lease covering the Property, and any financing by Tenant will encumber only Tenant's leasehold interest. Landlord will not subordinate the fee title or Landlord's interest to any mortgage or other lien securing any financing by Tenant.

13.4 Nonwaiver. No waiver will be effective unless it is in writing, is signed by an authorized person, and otherwise meets the requirements for a modification of this Lease. Waiver of performance of any provision shall not be a waiver of nor prejudice the party's right otherwise to require performance of the same provision or any other provision.

13.5 Succession. Subject to the limitations on transfer of Tenant's interest, this Lease

shall bind and inure to the benefit of the parties and their respective heirs, successors, and assigns.

13.6 Inspection. Landlord or its authorized representatives may enter at any reasonable time after such advance notice as is reasonable under the circumstances (except in cases of emergency, for which no advance notice is required) to determine Tenant's compliance with this Lease, to make necessary repairs, to show the Property to a prospective party desiring to acquire Landlord's interest, or (during the last eighteen (18) months of the lease term) to show the Property to any prospective tenants.

13.7 Attornment. In the event of the exercise of the power of sale under any mortgage or trust deed made by Landlord covering the Property, Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as Landlord under this Lease.

13.8 Estoppel Certificates. Within ten (10) days after Landlord's written request, Tenant shall deliver a written statement stating the date to which the rent and other charges have been paid, whether the Lease is unmodified and in full force and effect, and any other matters that may reasonably be requested by Landlord. Failure to do so within such ten (10) day period will be a default under this Lease and will not require further notice from Landlord or grace period to cure. In addition, Tenant hereby grants to Landlord an irrevocable power of attorney, coupled with an interest, to execute, in Tenant's name and stead, any estoppel certificate or subordination instrument required under this paragraph, if Tenant fails to do so within such ten (10) day period.

13.9 Notices. Any consent, approval, notice, or demand (individually, and collectively, a "Notice" or "Notices") which may be or is required or permitted to be given by either party to the other hereunder shall be in writing. All Notices shall be sent by United States mail, certified or registered mail, return receipt requested, or by a recognized overnight courier service (such as Federal Express), or personally. Notices are effective on receipt. Each party shall give notice to the other or to its address for Notices by written Notice to the other. Unless a party designates another address for Notice (by Notice given pursuant to this paragraph), Notices shall be sent to the following addresses:

If to Landlord, then to:

Hermiston School District No. 8R
502 W Standard Avenue
Hermiston, OR 97838

Attn: Mike Kay
Telephone No.: 541-667-6013

If to Tenant, then to:

City of Hermiston, Oregon
180 NE 2nd Street
Hermiston, OR 97838

Attn: Byron Smith
Telephone No.: 541-567-5521

For the purpose of this Lease, the term “receipt” shall mean the earlier of any of the following: (i) the date of delivery of the Notice to the address specified pursuant to this paragraph as shown on the return receipt or by the records of the courier, (ii) the date of actual receipt of the Notice by the office of the person or entity specified pursuant to this paragraph, or (iii) in the case of refusal to accept delivery or inability to deliver the Notice, the earlier of (A) the date of the attempted delivery or refusal to accept delivery, (B) the date of the postmark on the return receipt, or (C) the date of receipt by the sending party of the Notice that the Notice has been refused or cannot be delivered.

13.10 No Attorneys’ Fees. The parties to this Lease expressly waive and release any rights either has to recover attorneys’ fees and costs and expert fees and costs incurred in connection with any and all disputes or claims of any kind arising out of this Lease, including, without limitation, any rights to recover such fees and costs granted by any federal or state statute, regulation, or rule, including, but not limited to, lien statutes. This waiver and release applies to any and all claims of any kind, regardless of legal or equitable theory, and applies to fees and costs incurred before, during and after any mediation, arbitration, or court proceeding. This paragraph shall not be interpreted to prohibit recovery of attorneys’ fees as damages as described in paragraph 10.4.

If applicable law prevents either party’s or both parties’ full waiver of attorneys’ fees as provided in the paragraph above, then the above paragraph shall be inapplicable and the prevailing party in any dispute shall be awarded their attorneys’ fees and costs and expert fees and costs incurred before trial or arbitration, during trial or arbitration, upon any appeal, upon petition for reconsideration or petition for review, and upon any bankruptcy, insolvency or collection.

13.11 Relationship of Parties. The relationship of the parties to this Lease is that of landlord and tenant. Landlord is not a partner or joint venturer or joint employer with Tenant in any respect or for any purpose in the conduct of Tenant’s business or otherwise.

13.12 Applicable Law. The Property is located in the State of Oregon. The parties agree that the law of that state shall be applicable for all purposes, including construing and determining the validity of this Lease, determining the rights and remedies of Landlord in the event of default by Tenant and other matters.

13.13 Prior Agreements. This Lease is the entire, final, and complete agreement of the parties with respect to the matters set forth in this Lease, and supersedes and replaces all written and oral agreements previously made or existing by and between the parties or their

representatives (including, without limitation, any letter of intent) with respect to such matters.

13.14 Validity of Provisions. If any of the provisions contained in this Lease shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Lease shall not be affected.

13.15 Paragraph Headings. The headings to the paragraphs in this Lease are included only for the convenience of the parties and shall not have the effect of enlarging, diminishing, or affecting the interpretation of its terms.

13.16 Joint and Several Liability. In the event Tenant now or subsequently consists of more than one person, firm, entity or agency, then all such persons, firms, entities or agencies shall be jointly and severally liable as Tenant under this Lease.

13.17 Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity, except to the extent specifically waived or modified by this Lease.

13.18 Landlord's Obligations. The term "Landlord" (as used in this Lease) shall be limited to mean and include only the person or entity holding the interest of lessor/landlord under this Lease (or any mortgagee-in-possession, during the time period of its possession), at the time in question. In the event of any transfer(s) of the title of the Property, Landlord (and in case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved of its liabilities accruing from and after the date of such transfer.

Notwithstanding anything contained in the preceding paragraph or in any other provision of this Lease, Tenant shall look solely to the interest of Landlord and its successors and assigns in the Property (and any insurance or other proceeds thereof) for the collection of any judgment (or other judicial process) against Landlord based upon the breach by Landlord of any of the terms, conditions or covenants of this Lease on the part of Landlord to be performed, and no other property or assets of Landlord shall be subject to levy, execution or other enforcement procedures for the satisfaction of Tenant's remedies under or with respect to either this Lease, the relationship of Landlord and Tenant under this Lease, or Tenant's use and occupancy of the Property. No officer, director, trustee, partner, principal, agent or other third person, other than Landlord, will be liable for any default or breach by Landlord. If Landlord now or hereafter is a partnership, trustee(s) of a trust, limited liability company or other entity, then the partners, trustee(s), members of the limited liability company or owners of the entity will not be liable personally for the performance of this Lease by Landlord. Under no circumstances will Landlord be responsible or liable for any consequential or indirect damages. The performance by Tenant of each and all of its obligations under this Lease are pre-conditions and requirements for Tenant's right to require Landlord to perform its obligations under this Lease.

13.19 No Offer or Option. The submission of this Lease for examination by Tenant does not constitute an offer or an option to lease the Property, nor is it intended as a reservation of the Property for the benefit of Tenant. On the contrary, it is expressly understood that this Lease shall not be effective or binding upon the parties until it is fully executed by both Tenant and Landlord.

13.20 Recording; Quitclaim. Tenant shall NOT file or record this Lease without the specific prior written consent of Landlord, but Landlord will execute a good and sufficient memorandum of lease for purposes of recording (if required by Tenant), which Tenant may record at Tenant's expense. Upon expiration or earlier termination of this Lease, Tenant shall promptly execute, acknowledge and deliver to Landlord any quitclaim deed or other document required by Landlord or a title company to remove the cloud of this Lease from the Property and to evidence the termination of interests in the Property held by the parties by, through, or under Tenant (including, without limitation, any security interests).

13.21 Authorship. This Agreement is a jointly negotiated work product and authorship shall not be ascribed to any particular party.

13.22 Third Parties. Nothing in this Lease, expressed or implied, is intended to confer on any person, other than the parties or their respective heirs, executors, administrators, successors, assigns and sublessees, any rights or remedies by reason of this Lease and in no event shall any third party be deemed a third-party beneficiary hereunder.

13.23 Exhibits. The following exhibits to this Lease are attached hereto and by this reference incorporated herein.

- EXHIBIT A Legal Description of the Property
- EXHIBIT B Basic Rules and Regulations
- EXHIBIT C Construction Obligations of Tenant
- EXHIBIT D Insurance Requirements

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first above written.

LANDLORD:
HERMISTON SCHOOL DISTRICT No. 8R

TENANT:
CITY OF HERMISTON, OREGON

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

1+/- acre parcel, Lot 1 of Tax Lot 13900 on Map 4N 28 11 CB, known as the Ridgeway Site, identified below.

BK 15 PG 61

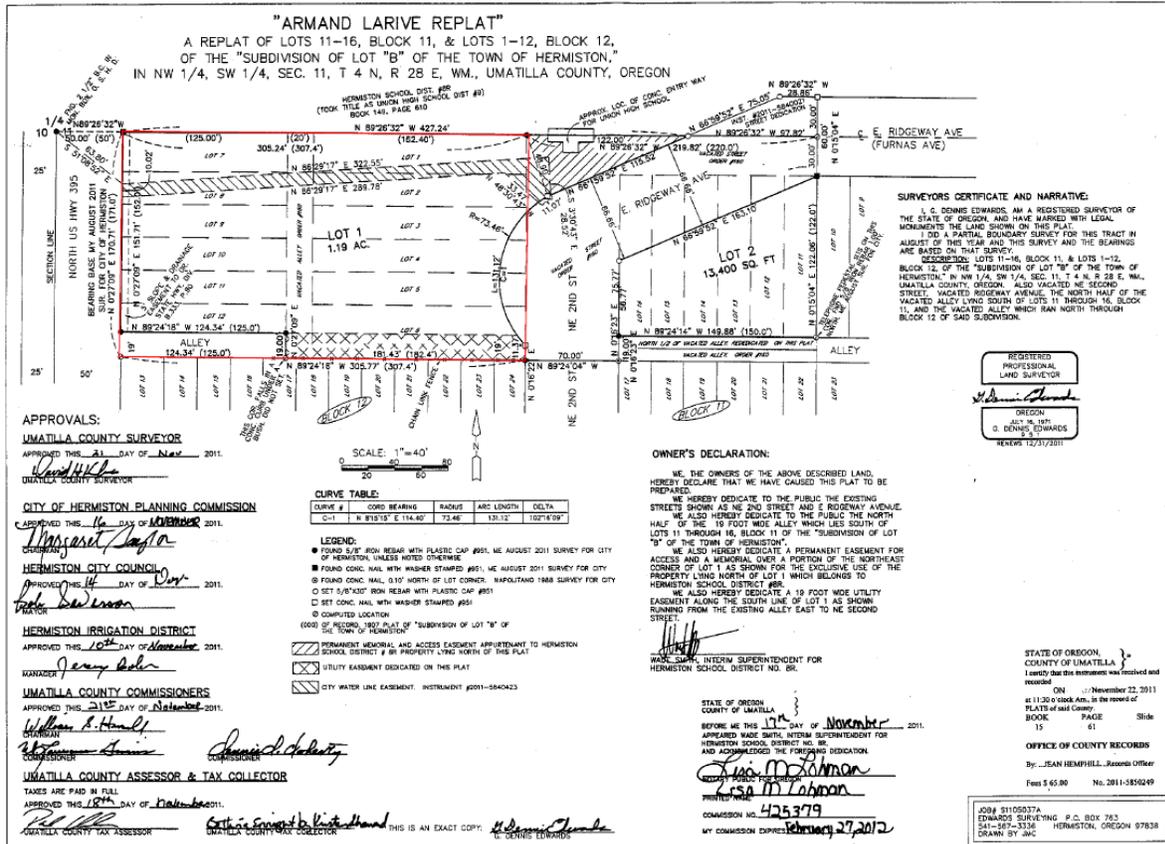


EXHIBIT B
BASIC
RULES AND REGULATIONS

At all times during the lease term, Tenant will comply with the following rules and regulations at its sole cost and expense:

- 1. Condition of Property.** Tenant will maintain the Property in clean, neat, sanitary and orderly condition.
- 2. Lighting.** Tenant will keep the Property suitably lighted during such hours as Landlord may reasonably require, including periods in addition to the business hours of Tenant.
- 3. Odor; Other Conditions.** Tenant will refrain from burning any incense or waste materials of any kind or otherwise creating noxious odors. Tenant will store all trash and garbage within the Property in containers acceptable to Landlord so located as to avoid any health or fire hazard, and arrange for their prompt and regular removal during hours to be specified by Landlord.
- 4. No Property Entrusted to Employees.** Any employee of Landlord to whom property is entrusted by or on behalf of Tenant shall be deemed to be acting as Tenant's agent. Landlord shall not be liable for any damage to any property entrusted by employees of Landlord, or for the loss of or damage to any property of Tenant by theft or otherwise.

EXHIBIT C

CONSTRUCTION OBLIGATIONS OF TENANT

1. Delivery of Property. Landlord will not be required to perform any work to ready the Property for Tenant's occupancy.

2. Acceptance of the Property. Tenant accepts the Property, AS IS. Tenant waives any right or claim against Landlord for any cause directly or indirectly arising out of the condition of the Property, and Tenant shall save and hold Landlord harmless from liability as provided in the Lease.

3. Construction Matters. Tenant shall construct its Improvements in accordance with the terms of the Lease and this exhibit. Tenant's plans are subject to Landlord's review and approval in accordance with paragraph 1.4 of the Lease. Tenant shall cause all of Tenant's work to be performed in conformance with a valid building permit, diligently to completion, and in a good and workmanlike manner.

3.1 Type and Design of Building.

(a) General Standard. The Improvements shall be of professional construction and architecturally designed so that the Property's exterior elevations and appearance (including, without limitation, signs and color) will, in Landlord's reasonable judgment, be architecturally and aesthetically compatible and harmonious with Landlord's potential future use of the Property.

(b) Safety. Improvements shall be constructed to meet or exceed the requirements of all applicable codes, laws, statutes or ordinances relating to building, zoning, fire, health or safety as adopted by any governmental authority having jurisdiction. No building shall be built in such a manner as to adversely affect the safety of any other building on the Property.

3.2 Utilities. Tenant shall be responsible for installing any utilities required for any Improvements. If utilities exist in public streets or easements adjoining the Property, Tenant shall obtain access to the utilities in such streets or easements.

3.3 Insurance. Prior to any entry on the Property or any commencement of construction Tenant shall (i) require its design professionals, contractors, and subcontractors ("**Consultants**") to maintain insurance for the Property in accordance with the requirements set forth in the attached Exhibit D; (ii) deliver to Landlord certificates of insurance evidencing coverage for "builder's risk" and naming Landlord as an additional insured in an amount and with coverage customary for compatible projects in the area; and (iii) deliver to Landlord evidence that all insurance required by the Lease has been obtained by Tenant.

3.4 Bonds. Tenant shall provide or cause the contractor to provide payment and/or performance bonds, from a surety and in a form acceptable to Landlord, naming Landlord and/or Landlord's lender or master lessor as co-obligees.

3.5 Completion. Upon completion of construction Tenant shall furnish to Landlord a copy of the Certificate of Occupancy for the Property, and with a certification from Tenant's architect that any Improvements have been completed in accordance with the plans and specifications approved by Landlord. Tenant shall provide to Landlord a complete set of "as built" construction drawings of Improvements.

4. Work Product to Landlord. If for any reason the Lease is terminated prior to completion of construction of Improvements, Tenant shall deliver Tenant's entire written work product pertaining to the construction work to Landlord, including all plans, drawings, supporting data, studies, and any surveys.

5. Disclaimer. No examination, inspection or approval of work by Landlord will be construed to place on Landlord any responsibility or liability for Tenant's work or for any noncompliance of Tenant's work with applicable Legal Requirements (defined in paragraph 4.2 of the Lease) or otherwise to waive or affect the requirements of the Lease.

EXHIBIT D

INSURANCE REQUIREMENTS

Unless specifically noted below, Tenant will at all times specified herein provide and maintain for itself and require its design professionals, contractors, and subcontractors (“**Consultants**”) to provide and maintain the following types and the following minimum limits of insurance written on an occurrence basis by a company or companies rated A/IX or better in the most recent edition of “Best’s Insurance Guide” (or such lesser rating as may be approved by Landlord in writing) and authorized to do business in the State of Oregon or City County Insurance Services.

A. Workers’ Compensation and Employer’s Liability:

- (i) Workers’ Compensation, with limits as required by applicable law. Coverage will be maintained for the duration of the applicable statute of repose.
- (ii) Employer’s Liability:
 - \$1,000,000 Each Accident
 - \$1,000,000 Disease, Policy Limit
 - \$1,000,000 Disease, Each Employee
- (iii) Consultants’ coverage will be maintained for the duration of the applicable statute of repose. Tenant’s coverage will be maintained for the duration of the Lease.

B. Commercial General Liability (Occurrence Form):

- (i) Combined Bodily Injury and Property Damage:
 - \$1,000,000 Each Occurrence
 - \$1,000,000 Personal and Advertising Injury
 - \$2,000,000 General Aggregate
 - \$2,000,000 Products/Completed Operations Aggregate
- (ii) The scope of coverage must meet the following:
 - (1) Premises Operations must be included.
 - (2) Elevators and Escalators must be included.
 - (3) Pollution Liability and Hazardous Materials Liability must be included. Tenant’s obligation to maintain such coverage shall be limited to coverage in the amount of \$100,000.
 - (4) Contractual Liabilities must be included (including the contract obligations specified in the indemnification paragraph(s) of the Lease). Tenant’s obligation to maintain such coverage shall be limited to liabilities arising out of Tenant’s own negligence.

- (5) There can be no exclusions for subsidence, collapse, explosion or underground property damage. This requirement applies only to Consultants.
 - (6) There can be no insured-versus-insured cross-suit exclusion. The policies will provide for cross-liability coverage as would be achieved under the standard Insurance Services Office “separation of insureds” clause.
 - (7) There can be no Montrose language, anti-pyramiding exclusion, or exclusion limiting coverage to damages which first begin to occur within the policy period. This requirement applies only to Consultants.
 - (8) There can be no exclusion for mold, fungus, water intrusion or water damage. This requirement applies only to Consultants.
 - (9) The limits will not be eroded or wasted by defense costs.
- (iii) Consultants’ coverage will be maintained for the duration of the applicable statute of repose. Tenant’s coverage will be maintained for the duration of the Lease.

C. Commercial Business Auto:

- (i) Combined Bodily Injury and Property Damage
\$1,000,000 Each Accident
- (ii) The following coverages must be included:
 - (1) Owned Automobiles
 - (2) Non-Owned and Hired Automobiles
- (iii) Consultants’ coverage will be maintained for the duration of the applicable statute of repose. Tenant’s coverage will be maintained for the duration of the Lease.

D. Professional Liability Coverage:

- (i) \$1,000,000 Each Claim
- (ii) \$2,000,000 Aggregate
- (iii) There can be no exclusion for mold, fungus, water intrusion or water damage. This requirement applies only to Consultants.
- (iv) Coverage will be maintained for the duration of the applicable statute of repose.

E. Excess/Umbrella Liability Coverage:

- (i) \$3,000,000 Each Occurrence
- (ii) \$3,000,000 Aggregate
- (iii) Coverage will be at least as broad as all liability policies described above.
- (iv) Consultants’ coverage shall be carried for the duration of the applicable statute of repose. Tenant’s coverage shall be maintained for the duration of the Lease.
- (v) The policy must provide that coverage will be triggered by exhaustion of the applicable policies above only and not any other policies; exhaustion of the

applicable policies above shall be achieved by reasonable compromise for amounts less than the full limits of such applicable policies.

F. Property Insurance Coverage (applies only to Tenant):

- (i) In the amount of the appraised value of any and all Tenant improvements.
- (ii) Written on a builder's risk "all-risk" or equivalent policy, on a replacement cost basis without optional deductibles and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements.
- (iii) Coverage shall be maintained for the duration of the Lease.
- (iv) Property insurance shall be on an "all-risk" or equivalent policy form and shall cover reasonable compensation for architect's and contractor's services and expenses required as a result of such insured loss.
- (v) If the property insurance requires deductibles, Tenant shall pay costs not covered because of such deductibles.

G. Evidence of Insurance; Certified Copies of Policies. Evidence of Tenant's and Consultants' insurance, along with copies of all endorsements necessary to evidence compliance with all insurance requirements, will be maintained by Tenant and will be provided to Landlord upon Landlord's request at any time.

H. Notice of Cancellation, Reduction or Expiration. The insurance policies required by this Exhibit will be endorsed to include a covenant that coverages or limits afforded under the policies will not be canceled, reduced or allowed to expire until at least thirty (30) days' prior written notice has been given to Landlord. In addition, Tenant will give written notice to Landlord immediately upon learning that Tenant's or Consultants' coverages may be canceled or reduced or their limits impaired by claims. Information concerning reduction of limits on account of claims paid or to be paid will be furnished by Tenant to Landlord not more than three (3) business days after Tenant learns that revised or reduced limits are likely. When Tenant becomes aware of cancellation, expiration or reduction in coverage or available limits, Tenant within three (3) business days will procure, or cause Consultants to procure, other policies of insurance that meet all requirements of this Exhibit.

I. Landlord's Right to Terminate or Cure. Failure of Tenant or a Consultant to secure and maintain insurance with the coverages and limits required by this Exhibit will be a material breach of this Lease entitling Landlord, in its discretion and without waiving any other remedies, to (i) terminate Tenant for cause, and (ii) purchase any additional insurance it deems reasonably necessary to protect itself at the expense of Tenant. Tenant consents to Landlord procuring replacement insurance in Tenant's name and will cooperate in all respects with Landlord's efforts in procuring additional or replacement insurance. Landlord will have the discretion to purchase a Landlord's protective policy or

other similar policy that affords to Landlord coverages and limits providing reasonably equivalent protections as Landlord would have received if Tenant and the Consultants maintained the insurance required by this Exhibit. Landlord's costs incurred in finding replacement insurance or a Landlord's protective policy will be reimbursed directly by Tenant. These requirements will remain enforceable for the duration of the applicable statute of repose.

J. Insurance in Excess of Requirements. If Tenant or any Consultant purchases insurance in excess of the coverages or limits required under this Exhibit, such excess coverages or limits will apply to the Property and inure to the benefit of Landlord.

K. No Waiver by Landlord. The insurance requirements under this Exhibit can only be waived or modified by Landlord by an express written instrument signed by Landlord acknowledging the reduced coverages or limits. No other act or omission by Landlord or its agents, including, but not limited to, (i) implicit or verbal acceptance or approval of reduced coverages or limits or (ii) failure to require proof of compliant insurance, will amount to Landlord's waiver of the insurance requirements of this Exhibit.

L. Waiver of Subrogation. All of Consultants' liability insurance policies, including workers' compensation, will contain a waiver of subrogation against Landlord and its managers, officers, employees and agents.

M. Additional Insureds. All of Tenant's and the Consultants' liability insurance policies (except professional liability insurance) will be endorsed to name Landlord and its managers, officers, employees and agents as additional insureds (using ISO endorsements CG 20 10 07 04 and CG 20 37 04 13 or equivalent for Landlord and CG 20 38 04 13 and CG 20 37 04 13 for other additional insureds). The coverage under the additional insured endorsement will (i) be primary and noncontributory with respect to any insurance of the additional insureds, and (ii) be maintained for the same durations as the coverages afforded to the primary insured as required by this Exhibit and blanket endorsements will not be acceptable. Furthermore, the coverage under the additional insured endorsement in Consultants' liability insurance policies (except professional liability insurance) will (i) provide the same coverages and limits to the additional insured as are afforded to the primary insured as required by this Exhibit, and will not be limited to vicarious liability, and (ii) not be limited to ongoing operations, and (iii) the following persons or entities affiliated with Landlord will be expressly named as additional insureds: None.

N. Limits of Coverage for Architect. Notwithstanding the foregoing, and without otherwise altering the obligations of Tenant's architect to maintain coverage as provided in this Exhibit, Tenant's architect shall not be required to maintain excess or umbrella liability insurance, and it shall maintain insurance coverage in the following amounts:

- (i) Employer's Liability:
 - \$500,000 Each Accident
 - \$500,000 Disease, Policy Limit
 - \$500,000 Disease, Each Employee

(ii) Commercial General Liability (Occurrence Form), Combined Bodily Injury and Property Damage:

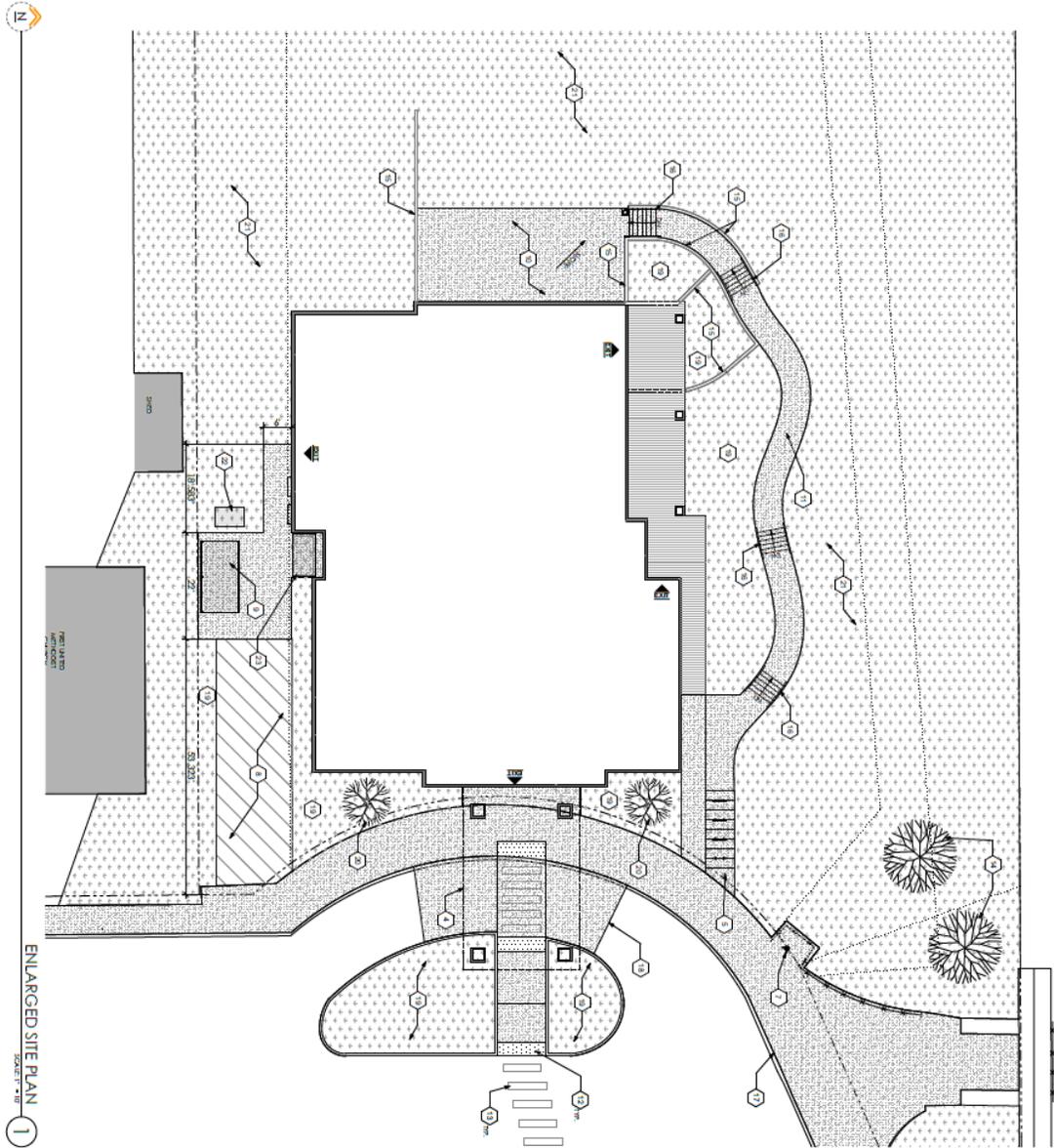
\$2,000,000 Each Occurrence

\$2,000,000 Personal and Advertising Injury

\$4,000,000 General Aggregate

\$4,000,000 Products/Completed Operations Aggregate

Design - Attachment B



ENLARGED SITE PLAN
SCALE: 1/8" = 1'-0"

SITE PLAN LEGEND	
	EXTERIOR LIGHTING
	PROPERTY BOUNDARY
	FENCE
	EASEMENT
	EASEMENT
	ELECTRICAL METER
SITE PLAN KEYNOTES	
1.	NEW PARKING LOT/STANDARD SYMBOLS
2.	ASPHALT DRIVEWAY
3.	CONCRETE DRIVEWAY
4.	LANDSCAPING
5.	EXISTING ASPHALT TO REMAIN (SHRUBS)
6.	CONCRETE DRIVEWAY
7.	CONCRETE DRIVEWAY
8.	CONCRETE DRIVEWAY
9.	CONCRETE DRIVEWAY
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49.	CONCRETE DRIVEWAY
50.	CONCRETE DRIVEWAY

A102

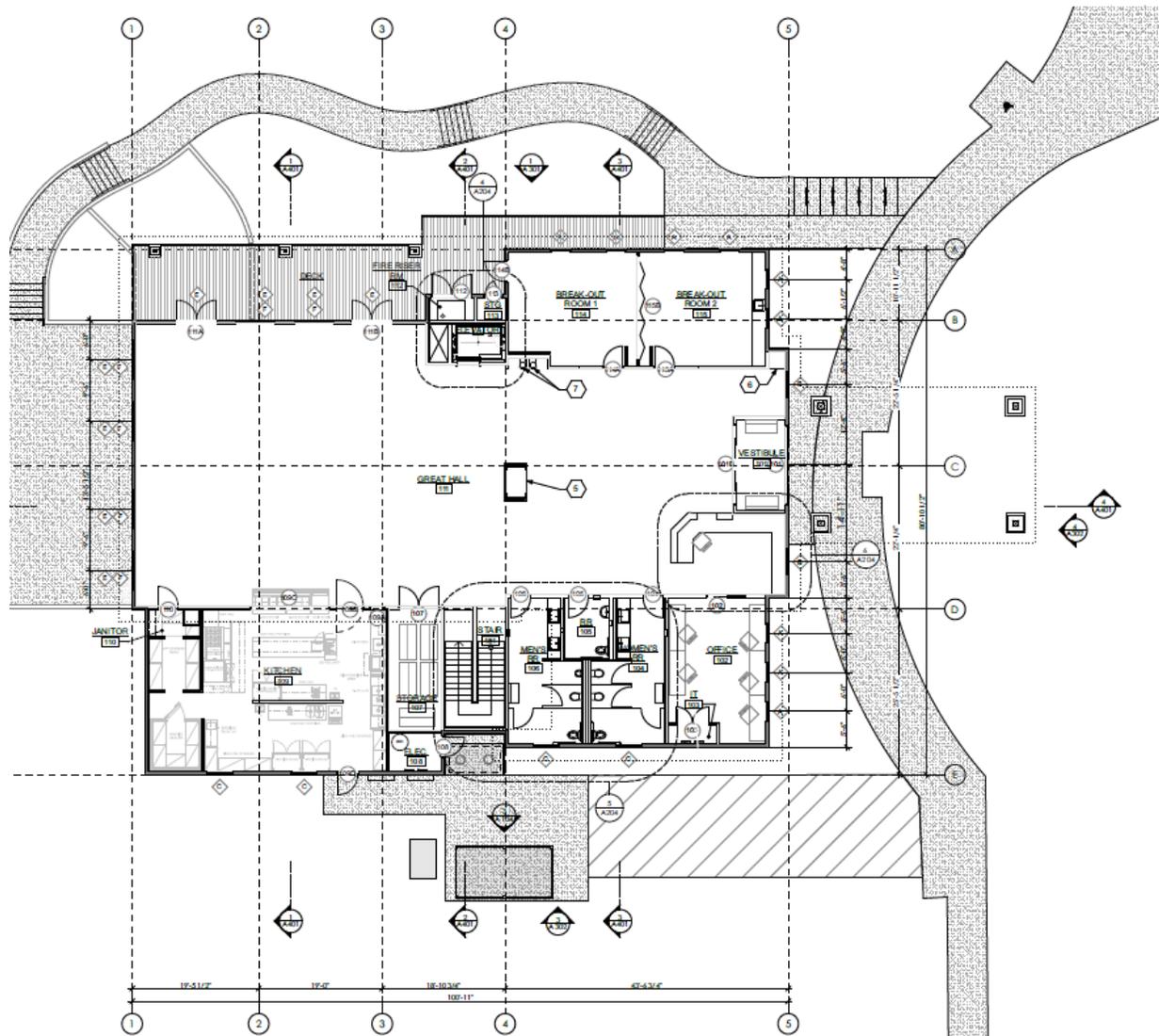
Project: HARKENRIDER CENTER
 Date: 7/29/2018
 Scale: 1/8" = 1'-0"

HARKENRIDER CENTER
 255 NE 2nd Street
 Hermiston, OR 97838

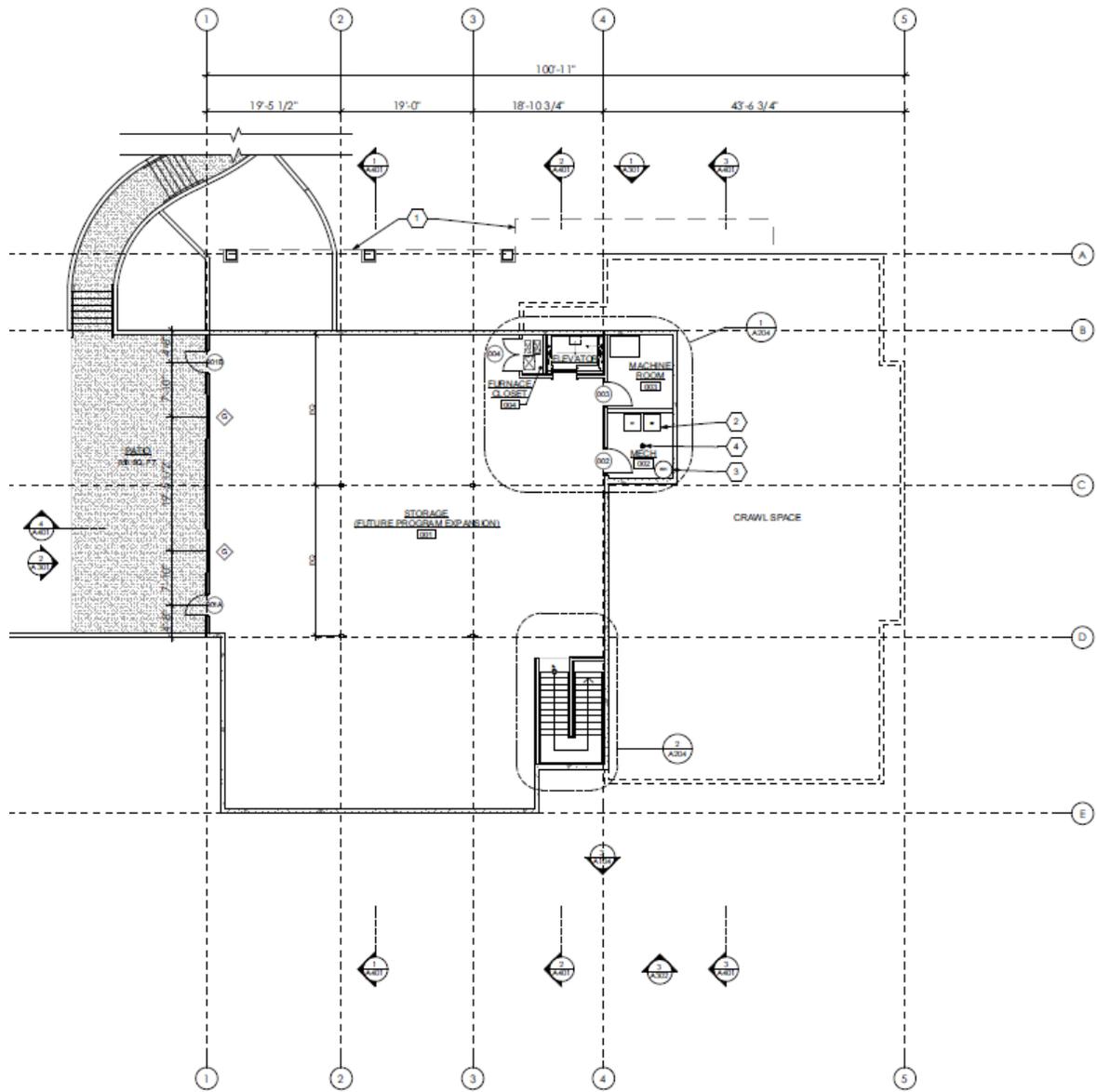
ENLARGED SITE PLAN
 DESIGN DEVELOPMENT SET

REGISTERED ARCHITECT
 ASSENT ARCHITECTURE and interiors

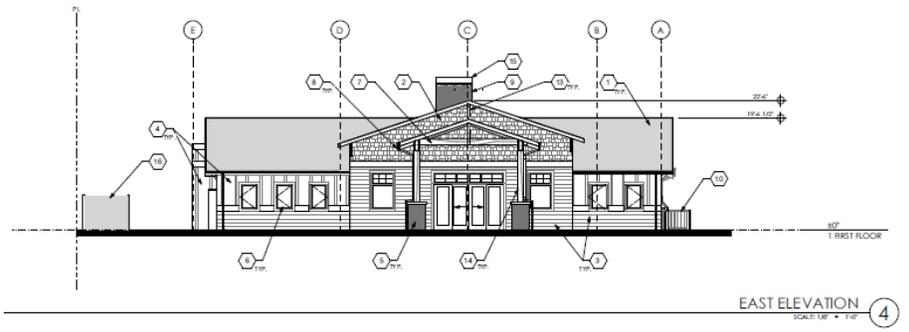
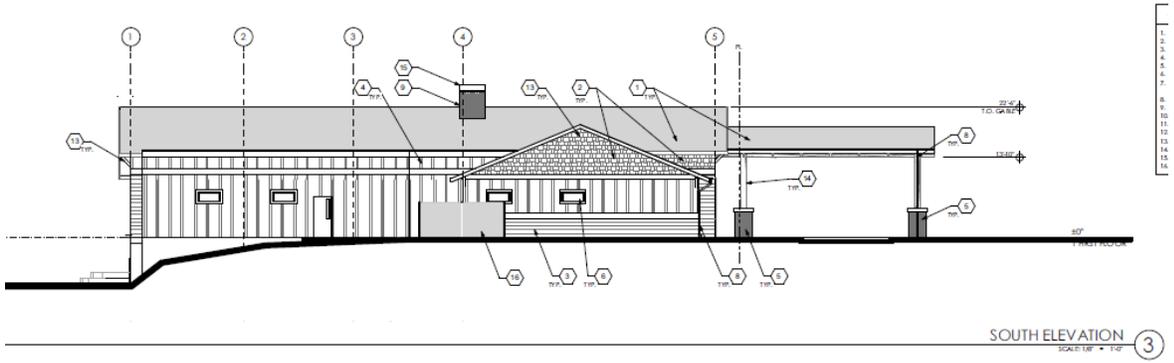
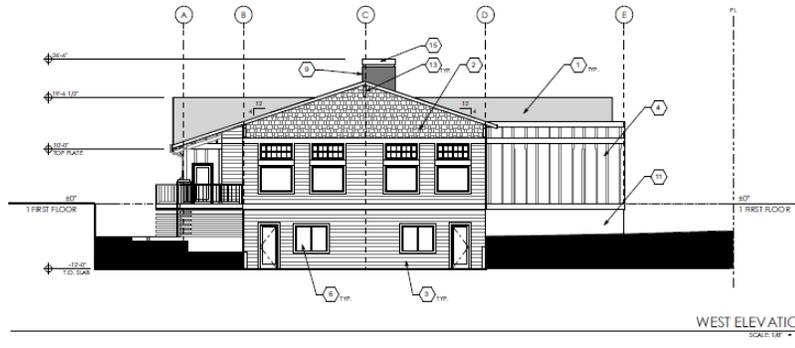
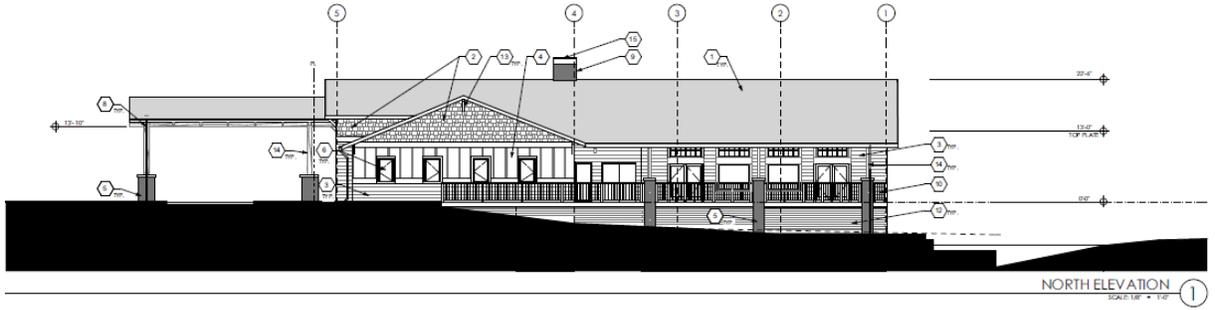
920NW Bond Street
 Suite 204
 Hermiston, Oregon 97838
 P 541-947-5675



FIRST FLOOR PLAN 1
SCALE: 1/4" = 1'-0"



BASEMENT FLOOR PLAN
 SCALE: 1/8" = 1'-0"



RESOLUTION NO. 2035
Hermiston School District Ground Lease for Senior Center

The City of Hermiston resolves as follows:

That the form, terms and provisions of the draft of the Hermiston School District Ground Lease, by and between the Hermiston School District and the City of Hermiston, and the transactions contemplated thereby, providing for, among other things, a fifty year lease of approximately 1.19 acres at 255 NE 2nd Street, Hermiston, Oregon, for the construction of a new senior center, copies of which have been presented to and reviewed by the Common Council be, and they are, in all respects, hereby approved and adopted; and

That the Mayor and/or the City Manager of the City of Hermiston be, and each of them singly is, hereby authorized to execute and deliver the Ground Lease substantially in the form heretofore approved and adopted with such changes, additions, deletions and modifications as such executing officer or officers may approve, such execution to be conclusive evidence of such approval and of the authorization thereof by the Common Council, and

That the Mayor and/or the City Manager of the City of Hermiston be, and each of them singly is, hereby authorized and directed to prepare, execute, deliver, acknowledge and file such additional documents, agreements, certificates, forms, receipts and other instruments, in the name of and on behalf of the City of Hermiston and under its corporate seal, if so desired, and to take all such other actions as such officer or officers shall, in his or her or their sole discretion, approve in order to carry out the transactions heretofore approved and perform and discharge the City of Hemiston's obligations under or in connection with the Ground Lease, such actions and execution to be conclusive evidence of such approval and of the authorization thereof by the Common Council.

Effective Date. This resolution is effective immediately upon its passage as of the date and year set out below.

PASSED by the Common Council the 22nd day of August, 2016.
SIGNED by the Mayor the 22nd day of August, 2016.

MAYOR

ATTEST:

DEPUTY CITY RECORDER