
**COUNCIL AGENDA REPORT
FINANCE DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council Members

FROM: Brad Posenjak, Finance Director

SUBJECT: Continuing Disclosure Procedures – Resolution 2018-22

DATE: May 21, 2018

MEETING DATE: May 24, 2018

I. OVERVIEW

In 2012, Bond Counsel advised the City of Wenatchee to adopt disclosure controls and procedures relating to securities issued by the City. These policies were in response to increased scrutiny the City received over one particular bond issue. After six years under a set of very detailed and onerous procedures, Bond Counsel and the Disclosure Practices Group advises that the City will be better suited with a simplified set of Continuing Disclosure Procedures.

II. ACTION REQUESTED

Staff requests the City Council rescind Resolution 2012-10, which created Disclosure Controls and Principles, and replace it by adopting Resolution 2018-22, Continuing Disclosure Procedures.

III. FISCAL IMPACT

None. This policy update was reviewed by Finance Committee.

IV. ATTACHMENTS

Resolution 2018-22
Exhibit "A" – Continuing Disclosure Procedures

V. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director

RESOLUTION NO. 2018-22

A RESOLUTION, of the City of Wenatchee, Washington, repealing Resolution 2012-10, and adopting revised Continuing Disclosure Procedures.

WHEREAS, the City of Wenatchee, Chelan County, Washington (the "City"), is a code city and a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the state of Washington (the "State") now in effect; and

WHEREAS, the City currently has outstanding several series of general obligation bonds, revenue bonds and special assessment bonds; and

WHEREAS, the City periodically issues obligations which are subject to the federal and state securities laws; and

WHEREAS, the City Council (the "Council") desires to: (1) ensure the accuracy and completeness of the disclosures of the City and the City's compliance (including the Council, City officers and City staff) with all applicable federal and state securities laws; and (2) promote the best practices regarding disclosures relating to securities issued by the City; and

WHEREAS, to meet these goals, the Council has determined to adopt Continuing Disclosure Procedures to ensure the compliance by the City (including the Council, City officers and City staff), with federal and state securities laws and to promote the highest standards of accuracy in disclosures relating to securities issued by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE that the updated Continuing Disclosure Procedures attached hereto as Exhibit "A" shall be and hereby are adopted by the City of Wenatchee; and

BE IT FURTHER RESOLVED that prior Resolution No. 2012-10 which adopted Disclosure Controls and Procedures of the City on January 12, 2012 shall be and hereby is repealed.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE, at a regular hearing thereof this 24th day of May, 2018.

CITY OF WENATCHEE, a Municipal Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY STANGER
City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

CITY OF WENATCHEE, WASHINGTON

CONTINUING DISCLOSURE PROCEDURES

1. Purpose. These Disclosure Procedures are designed to: (a) ensure the completeness and accuracy of the federal securities disclosure made by the City of Wenatchee, Washington (the “City”), and the City’s City Council (the “Council”) (including the City staff in the exercise of their official duties) compliance with all applicable federal and state securities laws in connection with issuance and disclosure undertakings relating to outstanding bonds issued on its behalf and annual financial information filings, and (b) promote best practices regarding disclosures disseminated to investors and the municipal securities markets by the City.

2. Disclosure. The controls and procedures set forth herein shall apply to all Disclosure disseminated or communicated by the City. “Disclosure” includes any information or communications reasonably likely to reach investors or the securities markets, such as preliminary and final official statements relating to bonds issued for the benefit of the City, filings made by the City with the Municipal Securities Rulemaking Council or the national repositories (whether required by contract or made voluntarily), press releases which could reasonably be construed as intended for the financial markets, investor calls, rating agency presentations and other communications and certain postings on the City’s website.

3. Disclosure — Issuance of Bonds.

a. *Responsibilities of the Oversight Officer.* The City’s Treasurer or his/her designee (the “Oversight Officer”) shall be responsible for overseeing the compilation of both the preliminary official statement (“POS”) and the final Official Statement (individually referred to herein as an “Official Statement” and collectively, the “Official Statements”) used in connection with the offering and issuance of the associated bonds issued for the City’s benefit (the “Bonds”) and annual financial information filings and for review of other disclosure obligations of the City undertaken in connection with such Bond issuance. In the carrying out of these responsibilities, the Oversight Officer shall seek assistance from other professionals hired or employed by the City for such purpose, including, but not limited to, the City’s Bond Counsel and the City’s financial advisor, as requested by the City. This oversight responsibility shall include the following:

* Develop a separate checklist or similar outline for the City’s Official Statements for each Bond issuance benefitting the City. Each of these checklists shall list the categories of information in the applicable Official Statement and identify the person or persons (whether internal to the City or a third-party consultant to the City) who should be responsible for reviewing or contributing the information in each portion of such applicable Official Statement (a “Contributor”).

* Ensure that each Contributor receives a copy of each draft of the applicable Official Statement and the checklist indicating his or her responsibilities with sufficient time to permit such Contributor to perform a

thoughtful and thorough review or preparation of information for the applicable portion of the Official Statement. Gather such applicable information and comments from each Contributor.

- * Distribute applicable sections of such applicable Official Statement or annual financial information filing as revised to the respective Contributors for further review and comment. Document confirmation by each Contributor that the information provided by such Contributor has been properly incorporated in such applicable Official Statement draft and is accurate and complete as so incorporated. Contributor confirmation may be provided by means of indications on a checklist.

- * Schedule and conduct periodic internal and external meetings of Contributors, either in groups or individually for the purpose of discussing the City's financial status generally and its annual audited financial statements, its related programs, the related industries, and other issues affecting the City and the Bonds that may be material to investors.

- * Review all continuing disclosure obligations in connection with the Bonds.

b. Responsibilities of Contributors. All Contributors to the City's Official Statements shall be responsible for the following:

- * Delivery and review of comments and information as requested (by means of a checklist or otherwise) for purposes of inclusion in the applicable Official Statement.

- * Review of applicable portions of the revised applicable Official Statement and provide confirmation (which may be provided by means of indications on a checklist) that the information provided by such Contributor has been incorporated correctly and, as so incorporated, such portions of the applicable Official Statement present accurate and complete information to investors about the items so covered by such portions.

- * Attend periodic meetings (as applicable) to discuss broad issues concerning the City and its Official Statements.

- * In the case of third-party or expert Contributors, provide certifications and opinions relating to their contributions to Official Statements as appropriate.

4. Disclosure in Connection with Outstanding Bonds.

a. *Continuing Disclosure Obligations.* The Oversight Officer shall be responsible for overseeing compliance by the City with its continuing disclosure

obligations, including but not limited to the compilation and filing of all annual financial reports and filing of all annual financial statements of the City on EMMA, as applicable. The Oversight Officer shall also consult with the City's Bond Counsel to determine the materiality of any events and whether an event notice is required to be filed under the circumstances. If a determination is made that an event is material and a notice is required, the Oversight Officer shall prepare a draft of such notice in a timely manner and shall provide such draft notice to the City's Bond Counsel for review and comment. The Oversight Office shall file such notice in the required repositories once the notice has been approved by the City's Bond Counsel. Generally, the process for the preparation of the annual financial information filing shall follow the guidelines set forth for disclosure made in connection with the issuance of bonds as set forth in Section 3 of these procedures.


b. *Voluntary Filings.* The Oversight Officer, shall evaluate whether an event is appropriate for disclosure by the City on a voluntary basis, based on investor demand or otherwise. Upon a determination that a voluntary notice should be filed, the Oversight Officer shall work with the City's Bond Counsel to prepare a draft of such notice. The Oversight Officer shall file such voluntary notice to the appropriate repositories once such notice has been approved by the City's Mayor and the City's Bond Counsel.

c. *Investor Communications.* The Oversight Officer shall be responsible for overseeing the responses to all telephone, email and other inquiries from existing and potential investors in the Bonds and providing any information supplied to the one investor or potential investor to all investors.

5. Training. The Oversight Officer, in consultation with the City's Bond Counsel, shall be responsible for coordinating regular training sessions for City staff and Council members about their obligations under the Federal securities laws and regulations and other Federal and state laws affecting the issuance of Bonds. Training shall be provided for general background and overview purposes and, as applicable, to update City staff and Council members concerning recent changes in applicable laws or regulations.

**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council

FROM: Jeremy Hoover, P.E., Senior Engineer - Utilities 

SUBJECT: Olds Station Sanitary Sewer Extension Phase 1 - Project No. 1718
Authorization for Consultant Supplemental Agreement #2

DATE: May 18, 2018

MEETING DATE: May 24, 2018

I. OVERVIEW

The City of Wenatchee opened bids for the Olds Station Sanitary Sewer Extension Project Phase 1 on April 20, 2018. The improvements include new main lines and side sewers necessary to provide sanitary sewer service to the Sunnyslope and Chatham Hills areas as well as pavement restoration and trenchless crossings of SR 285 and US 2. Additional storm drainage work is being performed for Chelan County. An Interlocal agreement for the reimbursement of those costs has been drafted and is pending approval and signature by the County Commissioners.

Rodarte Construction, Inc. was the lowest responsive and responsible bidder. City Council awarded the bid on May 10 and the completed contract was signed on May 17.

The City's current engineering workload is of sufficient magnitude so as to prohibit effective construction inspection work by in-house staff for this extensive project. It is therefore necessary to procure outside services for the construction inspection efforts. RH2 Engineering is the design firm for the project. Due to their familiarity with the project, the City desires to utilize their services to perform and complete the inspection activities for this project.

II. ACTION REQUESTED

Staff recommends the City Council authorize the Mayor to sign Consultant Supplemental Agreement #2 on behalf of the City with RH2 Engineering, Inc. for services during construction for the Olds Station Sanitary Sewer Extension Phase 1 (Project No. 1718).

III. FISCAL IMPACT Submitted to the Finance Committee Yes (No)

This project is funded through Fund 401 - Water/Sewer. The current design contract amount of \$1,297,103 will be increased by \$597,489 to a total of \$1,894,592 with this supplement to encompass the services during construction. This represents an increase in the consultant's total fee structure, but does not have an impact on the overall project funding as allocated.

IV. PROJECT BUDGET

Description	Amount
Design	1,600,000
Right of Way	500,000
Construction	6,400,000
Construction Engineering	570,000
Art Fund	320,000
Totals	9,390,000

**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

IV. PROJECT SCHEDULE

Construction duration is anticipated to be 120 working days. Construction is anticipated to begin on May 29 and be complete in mid-November 2018.

VI. ATTACHMENTS

Consultant Amendment 2

VII. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Rob Jammerman, Public Works Director
Gary Owen, City Engineer
Jacob Huylar, Engineering Services Manager
Brad Posenjak, Finance Director
Rachael Evans, Contracts Coordinator

Contract Amendment No. 2
Olds Station Sanitary Sewer Expansion – Phase I

RH2 Project No. WEN 217.130

In accordance with our Professional Services Agreement for the Olds Station Sanitary Sewer Expansion - Phase I, dated October 3, 2017, this is an authorization to revise the project Scope of Work as described below. The work will be performed and invoiced using the terms and conditions listed in the original agreement, plus previous amendments and/or agreements.

Add the following items to the Scope of Work:

Reference attached **Exhibit A**, **Exhibit B** and **Exhibit C**.

The engineering fee authorization will increase by \$597,489 for a total authorization amount of **\$1,894,592**.

Please sign this authorization in the space provided below and mail or fax to RH2 Engineering, Inc., 300 Simon Street SE, Suite 5, East Wenatchee, WA 98802. FAX (509) 886-2313.

RH2 Engineering, Inc.

City of Wenatchee


Signature

Signature

Randy L. Asplund – Director

Print Name/Title

Print Name/Title

Date

4/10/18

Date

EXHIBIT A
Scope of Work
Amendment No. 2
City of Wenatchee
Olds Station Sanitary Sewer Expansion – Phase 1
Services During Construction

April 2018

Background

The City of Wenatchee (City) has selected RH2 Engineering, Inc., (RH2) to design its Olds Station Sanitary Sewer Expansion – Phase 1. This Amendment covers services during construction for the gravity component of the project.

Task 7 – Services During Construction

Objective: Provide construction contract administration and observation services for a one hundred twenty (120) working days (approximately six (6) month) contract. *Construction activities are expected to begin in the spring of 2018. Additional tasks that may occur beyond what is scoped herein will need to be mutually negotiated through an additional supplement.*

Approach:

- 7.1 Provide project management services. Prepare paperwork for observation and construction documentation. Set up RH2's construction files. Track, assemble, file, and maintain RH2's construction documentation. Coordinate with RH2 staff, City staff, other utilities, and the contractor, and administer request for sublets and statements of intent. Maintain RH2's project files.
- 7.2 Assist with destruction of survey monuments. Subcontract with a licensed surveyor for the survey work under this task. Assist surveyor in providing destruction of monuments with Chelan County.
- 7.3 Prepare for and attend pre-construction meeting. Prepare and provide an agenda for the pre-construction meeting. Attend the pre-construction meeting. Prepare and provide required construction plan sets to the contractor at the pre-construction meeting.
- 7.4 Coordinate with a materials testing lab to facilitate testing of crushed surfacing, concrete, and asphalt in accordance with the plans and specifications. Review materials testing data for compliance with the plans and specifications. *Materials testing will be performed by an on-call subconsultant to RH2.*
- 7.5 Provide two (2) engineers on site for construction observation for an average of ten (10) hours per day for one hundred twenty (120) working days. *It is assumed that the contractor will have, at a minimum, two (2) crews installing mainline sewer pipe. It is also assumed that additional crews will be installing services behind the mainline crews.*
- 7.6 Prepare and provide an agenda for construction progress meetings at an interval chosen by the City. Attend meetings and provide meeting minutes to the parties. *Weekly meetings of one (1) hour each are assumed with two (2) RH2 staff attending.*
- 7.7 Review submittals for an estimated sixty (60) work items (to include Qualified Products List, Request for Approval of Materials, Manufacturer Certificate of Compliance, Certificate of Material Origin, Mix

City of Wenatchee
Olds Station Sanitary Sewer Expansion – Phase 1
Services During Construction

Amendment No 2
Exhibit A
Scope of Work

- Designs, and Batch Plant Certification) in accordance with the project plans and specifications. Maintain record of materials on a weekly basis during construction.
- 7.8 Review and respond to contractor requests for information (RFIs) and up to five (5) change orders. Maintain tracking log of received documents. Provide finalized documents to the contractor and City.
- 7.9 Provide property owner coordination. *It is assumed that significant property owner coordination will continue to be required. Time for coordination with property owners is assumed to be two (2) hours per day for seventy-five (75) days. This time will be utilized to work with property owners on siting and depth issues and property restoration.*
- 7.10 Provide weekly statements of working days to the City and the contractor.
- 7.11 Prepare graphical reports of construction progress and status for City use. Update and maintain public outreach with weekly website updates. *Two (2) hours per week for twenty (20) weeks is assumed.*
- 7.12 Prepare one (1) pay estimate per month and one (1) final pay estimate for submittal to the City for processing. *A total of six (6) pay estimates are assumed.*
- 7.13 Perform project closeout services. Assemble project records for project closeout and transfer to the City. Prepare completion letters as requested. Organize and maintain project records for closeout and review by the City. Prepare notifications, final reports, and materials certifications, review affidavits of wages paid, and provide protection releases. Coordinate with the City during the closeout process and provide project documentation for review.
- 7.14 Prepare as-constructed record drawings from both the contractor's records and RH2's observation records.

Assumptions: *The construction contract duration will be one hundred twenty (120) working days. City staff is encouraged to supplement inspection services that can offset RH2 services as often as possible to reduce costs to the City. Work will be performed to the level of effort in the Fee Estimate. If the need for RH2's services changes, and additional budget is needed to accommodate an increase in effort, RH2 and the City will mutually negotiate those changes as needed. RH2 will not be responsible for site safety, for directing the contractor in their work, or for determining means or methods.*

Provided by the City:

- Additional inspection services where possible.

RH2 Deliverables:

- Four (4) Destruction of Survey Monument forms.
- Pre-construction meeting agenda in electronic format (PDF).
- Construction plan sets for contractor.
- On-site observations.
- Attendance at construction progress meetings. Agenda and meeting minutes for each meeting in electronic format (PDF).
- Responses to submittals in electronic format (PDF).
- Responses to RFIs (PDF format).

City of Wenatchee
Olds Station Sanitary Sewer Expansion – Phase 1
Services During Construction

Amendment No 2**Exhibit A****Scope of Work**

- Up to five (5) change orders in electronic format (PDF).
- Weekly statements of working days in electronic format (PDF).
- Weekly construction progress report updates on websites.
- Pay estimates (*six (6) assumed*) in electronic format (PDF).
- Project records in electronic format (PDF)
- As-constructed drawings in electronic format (both PDF and AutoCAD format).

Project Schedule

Construction of the project is scheduled to begin in May of 2018 and continue for one hundred twenty (120) working days. *Closeout of the project is anticipated by spring 2019.* RH2 will begin work upon receipt of a Notice to Proceed from the City.

EXHIBIT B

City of Wenatchee

Amendment No. 2

Olds Station Sanitary Sewer Expansion - Phase 1

Services During Construction

Fee Estimate

Description		Total Hours	Total Labor	Total Subconsultant	Total Expense	Total Cost
Classification						
Task 7	Services During Construction	3344	\$ 538,398	\$ 37,950	\$ 21,141	\$ 597,489
PROJECT TOTAL		3344	\$ 538,398	\$ 37,950	\$ 21,141	\$ 597,489

EXHIBIT C		
RH2 ENGINEERING, INC.		
2018 SCHEDULE OF RATES AND CHARGES		
RATE LIST	RATE	UNIT
Professional I	\$138	\$/hr
Professional II	\$149	\$/hr
Professional III	\$161	\$/hr
Professional IV	\$171	\$/hr
Professional V	\$181	\$/hr
Professional VI	\$197	\$/hr
Professional VII	\$210	\$/hr
Professional VIII	\$221	\$/hr
Professional IX	\$221	\$/hr
Technician I	\$96	\$/hr
Technician II	\$104	\$/hr
Technician III	\$132	\$/hr
Technician IV	\$140	\$/hr
Administrative I	\$68	\$/hr
Administrative II	\$78	\$/hr
Administrative III	\$92	\$/hr
Administrative IV	\$111	\$/hr
Administrative V	\$133	\$/hr
CAD/GIS System	\$27.50	\$/hr
CAD Plots - Half Size	\$2.50	price per plot
CAD Plots - Full Size	\$10.00	price per plot
CAD Plots - Large	\$25.00	price per plot
Copies (bw) 8.5" X 11"	\$0.09	price per copy
Copies (bw) 8.5" X 14"	\$0.14	price per copy
Copies (bw) 11" X 17"	\$0.20	price per copy
Copies (color) 8.5" X 11"	\$0.90	price per copy
Copies (color) 8.5" X 14"	\$1.20	price per copy
Copies (color) 11" X 17"	\$2.00	price per copy
Technology Charge	2.50%	% of Direct Labor
Mileage	\$0.545	price per mile (or Current IRS Rate)
Subconsultants	15%	Cost +
Outside Services	at cost	

Rates listed are adjusted annually.

**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

TO: Frank Kuntz, Mayor
City Council

FROM: Jeremy Hoover, PE, Senior Utilities Engineer
Rob Jammerman, Public Works Director



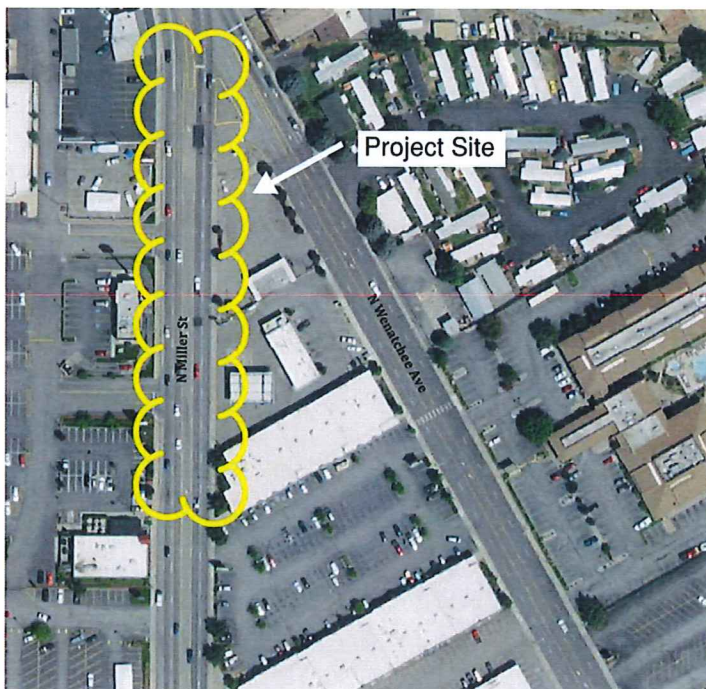
SUBJECT: Project No. 1803 North Miller Street Storm Drain Line Replacement
Approval of Project Budget Amendment

DATE: May 18, 2018

MEETING DATE: May 24, 2018

I. OVERVIEW

On April 12, 2018 City Council authorized the Mayor to sign a contract for up to \$50,000 for design services to replace a failing 42 inch storm drain line in North Miller Street between Mission and Wenatchee Ave. This storm line replacement is being completed before WSDOT overlays this portion of Miller Street in 2018.



SCJ Alliance was selected to design the project with a lump sum contract amount of \$49,711.00. SCJ Alliance has completed their design. Initially it was anticipated for the pipe replacement to be as long as 1,600 linear feet. After reviewing video inspection completed by our Wastewater Crew, we found that only approximately 500 feet of the pipe needed to be replaced.

Although originally conceived to be a 60 inch replacement of the existing pipe, SCJ Alliance determined that existing utility crossings limited the pipe size to no more than 48 inch diameter. SCJ Alliance has developed an engineering estimate for construction and administration of \$357,201. Lane drops will occur for both northbound and southbound Miller. Work times will be limited to night hours with all traffic lanes open during the day.

II. ACTION REQUESTED

Staff recommends the City Council review the budget adjustment and direct staff to complete the design and bid the project.

III. FISCAL IMPACT Submitted to the Finance Committee Yes No

On May 10, 2018, the Council Finance Committee reviewed and approved the Project Budget Adjustment to account for the construction cost estimate. Project funding will come from the Stormwater Capital Budget, but it will be reimbursed from the Public Works Trust Fund (PWTF) Loan. We have confirm with our PWTF representative that the project is eligible for reimbursement.

**COUNCIL AGENDA REPORT
PUBLIC WORKS DEPARTMENT**

IV. PROJECT BUDGET

The Finance Committee has been asked to authorized a budget of \$360,773 (includes 1% for Art Fund) of additional funding from the #410 Storm Drain Utility Fund to be used for these design services.

V. PROPOSED PROJECT SCHEDULE

Staff anticipates that bid openings will occur on June 7, 2018. Construction duration is expected to consist of 30 working days.

VI. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Rob Jammerman, Public Works Director
Gary Owen, City Engineer
Jacob Huylar, Engineering Services Manager
Brad Posenjak, Finance Director
Rachael Evans, Contracts Coordinator

**AGENDA REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Wenatchee City Council

FROM: Stephen Neuenschwander, Planning Manager

SUBJECT: Repeal of amendments to the Capital Facilities Plan adopted by Resolution 2018-14.

DATE: May 21, 2018

I. OVERVIEW

The City Council adopted amendments to the Capital Facilities Plan on March 22, 2018 by Resolution 2018-14. State law in RCW 36.70A.130 limits cities to amend their comprehensive plan no more frequently than once per year. Staff recommends that the earlier resolution be repealed in order to allow the city to amend its comprehensive plan this year.

II. ACTION REQUESTED

Repeal Resolution 2018-14 by adopting Resolution 2018-16.

Draft motion:

I move to adopt Resolution 2018-16 which would repeal the amendments to Capital Facilities Plan as adopted by Resolution 2018-14.

III. FISCAL IMPACT

None

IV. PROPOSED PROJECT SCHEDULE

The resolution would take effect immediately.

V. REFERENCE(S)

- Resolution 2018-16

RESOLUTION NO. 2018-16

A RESOLUTION, repealing prior Resolution No. 2018-14 that adopted amendments to the City of Wenatchee Capital Facilities Plan.

WHEREAS, notice of all public hearings on this matter have been published according to law; and

WHEREAS, the City Council approved Resolution No. 2018-14 adopting amendments to the City of Wenatchee Capital Facilities Plan on March 22, 2018; and

WHEREAS, upon the recommendation of staff the City Council desires to repeal prior Resolution No. 2018-14 and the amendments to the Capital Facilities Plan contained therein.

NOW, THEREFORE, BE IT RESOLVED, that the Wenatchee City Council hereby repeals prior Resolution No. 2018-14 and the amendments to the City of Wenatchee Capital Facilities Plan contained therein.

BE IT FURTHER RESOLVED, that this resolution shall be effective immediately.

PASSED BY THE CITY COUNCIL OF THE CITY WENATCHEE,
at a regular meeting thereof, this _____ day of _____, 2018.

CITY OF WENATCHEE,
a Municipal Corporation

By: _____
FRANK KUNTZ, Mayor

ATTEST:

By: _____
TAMMY L. STANGER, City Clerk

APPROVED:

By: _____
STEVE D. SMITH, City Attorney

TO: Frank Kuntz, Mayor
City Council

FROM: Steve King, Economic Development Director
Steve Smith, City Attorney
Brad Posenjak, Finance Director

SUBJECT: Wenatchee Federal Building – Purchase and Sale Agreement

DATE: May 18, 2018 **MEETING DATE:** May 24, 2018

I. OVERVIEW

The City of Wenatchee and LocalTel Communications have been in negotiations for the purchase of a portion of the Wenatchee Federal Building since signing a Memorandum of Understanding authorized by Council on June 8, 2017. Subsequently, the City entered into a pre-purchase agreement on August 10, 2017 committing funds to support the division of the building through a condominium and establishing a period of due diligence.



On April 26, 2018, is the City Council approved a purchase and sale agreement for the purchase of condominium units with a total square footage of 46,636 square feet (sf) comprised of the following proposed units

- Unit 1A – Ground Floor and Mezzanine: 19,784 sf
- Unit 2 – Second Floor: 13,437 sf
- Unit 3 – Third Floor: 13,413 sf

LocalTel Federal Building, LLC will retain ownerships of Units B and 1B comprising 19,618 sf. The purchase price for Units 1A, 2, and 3 has been negotiated to a price of \$3.6 Million.

The City’s obligations under the purchase and sale agreement were contingent upon reaching agreement with LocalTel on the following documents, which is the action before Council. The following documents need to be approved prior to closing.

- Condominium Declarations
- Initial Management Agreement
- Construction Agreement
- First Right of Negotiation

In addition, LocalTel requested a post-closing obligation of the City that the entry to the site off of Chelan Avenue be changed from two entry locations to one safer location. Such relocation requires a permit for which the City will apply and process. An addendum to the purchase and sale agreement is included in the documents for Council consideration.

These documents provide assurances for the city in terms of understanding what the overall cost picture will be for operating the building and for repurposing the main floor of the building into a city hall. In order to provide context to these documents, the following negotiation principles are reflected:

- LocalTel pre-conditions of the sale includes: preserving the use of the 3rd story roof and penthouse for use for their communication equipment; allowing the construction of a storefront for LocalTel in Unit 1B facing Kittitas Street; allowance of signing along Chelan Avenue; preserving the use of the basement for LocalTel's core operations.
- Public Private partnerships recognize the difference between public and private operating principles with the goal to maximize the benefits of what private industry brings to the table as well as what city government brings to the table for the overall success of the partnership and in this case, the building. Respecting these differences were key to the negotiation.
- Due diligence was an important factor over the last year to ensure both parties understand what lies before us in term of operating and repurposing the building from a cost and work effort standpoint. The City employed ARC Architects and DOH Associates to assist in its review of the building.
- Control of the building is to be shared 50-50. The condominium association will be a private non-profit corporation.
- Cost allocations are to be tracked and audited according to individual units including reserves.
- Use of the space must be supportive of an office environment to serve both parties.
- Parking was a critical negotiation point and has been addressed.
- Management of the building is to be efficient and of high quality including investment in the facility for its longevity.
- Coordination of each party's intended remodeling work.

Condominium Declarations: The LocalTel Federal Building Condominium Declarations establish provisions for operating the building, managing the common areas, fiscal responsibilities, and rules and procedures for common governance of the building on behalf of 5 condominium units.

Management Agreement: This management agreement serves as an initial three year management agreement to keep the building operating in its current state and as the anticipated remodels occur in 2020. This agreement designates LocalTel Communications as the manager and operator of the building which will keep the building operating as does currently.

Construction Agreement: This construction agreement establishes responsibilities of the parties as it relates to anticipated remodeling that will occur in 2020. The agreement specifies who will be making certain improvements and how costs will be shared. The agreement addresses issues arising from work that may benefit or affect each party, but which might be done out of sequence with the other's work.

Prior Right of Negotiation: Prior Right of Negotiation establishes the right to negotiate and for either the city or LocalTel to purchase a unit prior to the unit being placed on the market or sold to another party.

Addendum to the Real Estate Purchase and Sale Agreement: The Addendum obligates the city to obtain the state highway access permit for a driveway on Chelan Avenue.

II. ACTION REQUESTED

Staff recommends the City Council approve the proposed LocalTel Federal Building Condominium Declarations to satisfy the contingencies of the Real Estate Purchase and Sale Agreement and to further appoint the Mayor as the Director representing the city's units.

Staff recommends the City Council authorize the Mayor to sign the Management Agreement between the City of Wenatchee, a municipal corporation, and LocalTel Federal Building, LLC, LocalTel Federal Building Condominium Association, and Computer 5, Inc.

Staff recommends the City Council authorize the Mayor to sign the Construction Agreement between LocalTel Federal Building, LLC, the City of Wenatchee, and the LocalTel Federal Building Condominium Owners Association.

Staff recommends the City Council authorize the Mayor to sign the Prior Right of Negotiation between the City and LocalTel Federal Building, LLC.

Staff recommends the City Council authorize the Mayor to sign the Addendum to the Real Estate Purchase and Sale Agreement between the City and LocalTel Federal Building, LLC establishing the post-closing obligation of the city to secure an access permit off of Chelan Avenue.

III. FISCAL IMPACT Submitted to the Finance Committee Yes No

Capital: The budget estimate for the purchase and remodel of units 1A, 2, and 3 is estimated at \$14.5 Million. This budget estimate has been developed over the past year through the city and LocalTel's due diligence in evaluating the building and developing a remodel approach balancing repurposing existing building systems and upgrading critical components as required by code. The due diligence performed has set forth a path for a sound investment strategy to ensure the building will function well for the next 20 years and well beyond. Several building systems will be updated within this capital budget as part of an extensive building remodel is anticipated in 2020 which will repurpose the city's portion of the main floor (former mail sorting room) into a new city hall, remodel the mezzanine, and perform minor improvements to the 2nd and 3rd floors. Issuance of bonds in the amount of \$12 Million is anticipated to finance this project with the remaining funds coming from general fund reserves (\$1.5 Million) and utility reserves (\$1 Million). The capital budget has been broken into three components with the intent of coming in under budget by ensuring that the city has adequate contingencies.

Unit Purchase:	\$3.6 Million
2020 Remodel:	\$9.4 Million
<u>Contingency:</u>	<u>\$1.5 Million</u>
Total:	\$14.5 Million

General Fund Expenses: The condo declarations and the associated agreements also have allowed us to develop operating budgets and a reserve target level of \$400,000. The monthly expenses the city will incur are comprised of an operating assessment and a reserve fund assessment. The reserve fund assessment will be incurred until the reserve balance of the association reaches \$400,000. Both the city and LocalTel will contribute to operating and reserves based on prorating of costs.

2018 – June through December:

Total seven month operating budget: \$183,295
 City share and assessment: \$121,382 annually or \$17,405 per month

2019 – Calendar Year:

Total operating budget: \$320,217
 City share and assessment: \$211,980 annually or \$17,665 per month

The reserve fund will start out with an initial assessment of \$30,000 per unit in order to establish a starting balance of \$150,000. The city’s share is \$90,000. Thereafter, a monthly assessment of \$0.08 per square foot per month will be paid to the association to build the reserve fund to the target balance of \$400,000. The City’s share of reserve fund assessment will be \$44,868 annually.

In summary, annual expenses are calculated and budgeted to be \$257,000 per year starting in 2019.

General Fund Revenue:

The GSA currently has leases for 20,067 square feet of the \$46,636 comprising the units being purchased by the city. The total GSA revenue at \$247,627 per year. These lease revenues will start flowing to the city upon closing.

Given the Federal Building is being purchased with the anticipation of growing into it over the long term, the city will likely lease out additional space. Depending on the Council’s decisions concerning the scope of the city hall remodel, there is potential lease revenue of \$400,000 annual from the 2nd and 3rd floors.

Net City General Fund Financial Impact:

In light of the city needing to address space deficiencies both at City Hall and the Public Services Center, action needs to be taken to support growth of city services. The purchase of the Federal Building offers a long term solution to addressing this space deficiency while consolidating services for better customer service. Given lease revenues from excess space in the Federal Building, the existing city hall, and the PSC, the city would be leveraging its existing assets. The lease revenue anticipated from the Federal Building alone will reduce the annual cost of owning the units and operating the building. The following details a net impact scenario subject to council decisions over the next couple of years.

Federal Building Operating Costs:	\$260,000
Federal Building Debt Service:	<u>\$910,000</u>
Total Expenses:	\$1,170,000
Fed. Building 3 rd Floor Lease Revenue:	\$220,000
Fed. Building 2 nd Floor Lease Revenue:	\$180,000
Old City Hall Lease Revenue (Tentative):	\$140,000
Partial PSC Top Floor Lease Revenue:	<u>\$100,000</u>
Total Revenue	\$640,000
Net cost annual cost to the city =	\$530,000

IV. PROPOSED PROJECT SCHEDULE

Closing is expected prior to the end of May. Full schematic design will be completed by the end of summer. Design of the improvements will occur in 2019 with construction anticipated in 2020.

V. REFERENCE(S)

1. Condominium Declarations and Maps
2. Management Agreement
3. Construction Agreement
4. First Right of Negotiation
5. Addendum to the Purchase and Sale Agreement

VI. ADMINISTRATIVE ROUTING

Tammy Stanger, City Clerk
Allison Williams, Executive Services Director
Brad Posenjak, Finance Director

Return Address:
Mr. Peter A. Spadoni
Jeffers, Danielson, Sonn & Aylward, P.S.
Attorneys at Law
P.O. Box 1688
Wenatchee, WA 98807-1688

**DECLARATION OF CONDOMINIUM ESTABLISHING
COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS
AND EASEMENTS FOR THE LOCALTEL FEDERAL BUILDING CONDOMINIUMS**

Grantor/Grantee (Declarant): LocalTel Federal Building, LLC, a Washington limited liability company
Legal Description (abbreviated): Units B, 1A, 1B, 2, and 3, LocalTel Federal Building Condominiums, Chelan County, Washington. Additional legal on page _____. **Assessor's Tax Parcel ID#:** _____

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CONDOMINIUM DECLARATION ESTABLISHING COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND EASEMENTS FOR THE LOCALTEL FEDERAL BUILDING CONDOMINIUMS

Grantor/Grantee (Declarant): LocalTel Federal Building, LLC, a Washington limited liability company
Legal Description (abbreviated): Units B, 1A, 1B, 2, and 3, LocalTel Federal Building Condominiums, Chelan County, Washington. Additional legal on page _____.

Assessor's Tax Parcel ID#: _____

THIS CONDOMINIUM DECLARATION ESTABLISHING COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND EASEMENTS FOR THE LOCALTEL FEDERAL BUILDING CONDOMINIUMS (this "Declaration") is made by LocalTel Federal Building, LLC, a Washington limited liability company, to submit the Property described below to the Condominium Act of the State of Washington (Revised Code of Washington, Chapter 64.34) as the LocalTel Federal Building Condominiums.

SECTION 1

DEFINITIONS

- 1.1 Words Defined. For the purposes of this Declaration and any amendments hereto, the following definitions shall apply.
- 1.1.1 "Act" means the Condominium Act (Revised Code of Washington, Chapter 64.34), as amended from time to time.
 - 1.1.2 "Association" means the LocalTel Federal Building Condominium Owners Association, Inc., the association of Unit Owners as defined in RCW 64.34.300.
 - 1.1.3 "Board of Directors" and "Board" means the individuals appointed by the Owners to manage and administer the Association and Property in accordance with the Bylaws of the Association, this Declaration and the Act, after the Declarant or its managing agent no longer provide such management.
 - 1.1.4 "Building" means the improvements constructed on the Property.
 - 1.1.5 "Building Map" means the Condominium building map attached hereto as **Exhibit 1.1.4** showing the location boundaries, easements, and other information relating to the Property and the Units.
 - 1.1.6 "Building Systems" means core systems that support multiple units such as structural components, HVAC, electrical, fire sprinklers, common area security, fire alarms, plumbing, and common area access.
 - 1.1.7 "Bylaws" means the Bylaws of the Association as initially promulgated by the Declarant, and as amended from time to time, which with this Declaration provide for the organization of the Association and for the administration of the Property.
 - 1.1.8 "Color Map" means the color coded version of the Condominium building map that is agreed upon by the Unit owners but is not attached to this Declaration showing

the location boundaries, easements, and other information relating to the Property and the Units.

- 1.1.9 “Common Area A” or “CAA” means the Limited Common Areas reserved for the exclusive use of Units 1A, 2 and 3, as shown on the Building Map. CAA is shown in yellow color on the Color Map.
- 1.1.10 “Common Area B” or “CAB” means the Limited Common Areas reserved for the exclusive use of Units 1B and B, as shown on the Building Map. CAB is shown in purple color on the Color Map.
- 1.1.11 “Common Area 1B” or “CA 1B” means the Limited Common Areas reserved for the exclusive use of Unit 1B, as shown on the Building Map. CA 1B includes the walls and roof of the penthouse in addition to the roof of the 3rd floor. CA 1B is shown in purple color on the Color Map.
- 1.1.12 “Common Element” means each of the “Common Elements” of the Condominium, as “Common Elements” is defined RCW 64.34.020(7).
- 1.1.13 “Condominium” means the development that is the subject of this Declaration.
- 1.1.14 “Declarant” means the party developing the Condominium and signing this Declaration, or the successors or assigns thereof.
- 1.1.15 “Declaration” means this Condominium Declaration Establishing Covenants, Conditions, Restrictions, Reservations and Easements for the LocalTel Federal Building Condominiums, including the Building Map and all other exhibits and schedules hereto.
- 1.1.16 “Joint Common Area” or “JCA” means the Common Elements to be used by all of the Unit Owners, as shown on the Building Map. JCA is shown in blue color on the Color Map.
- 1.1.17 “Limited Common Area” or “LCA” means the Common Elements of the Condominium specifically assigned for the exclusive use of one or more Units and less than all the Units.
- 1.1.18 “Mortgagee” means the secured party under a mortgage, deed of trust, or other real property security interest, including a sellers' interest in a real estate contract, covering a Unit or other portion or all of the Property. Mortgagee of the Unit refers to the Mortgagee of a Unit which was recorded simultaneous with or after the recordation of this Declaration. Mortgagee of the Condominium refers to the Mortgagee of the Property which this Declaration affects and which was executed and recorded prior to the recordation of this Declaration.
- 1.1.19 “Mortgagor” includes the grantor under a deed of trust and the purchaser on a real estate contract.
- 1.1.20 “Parking Common Area A” or “PCAA” means the Common Elements located in the parking lot reserved for the exclusive use of reserved for the exclusive use of Units 1A, 2 and 3, as shown on the Building Map. PCAA is shown in yellow color on the Color Map.

- 1.1.21 “Parking Common Area B” or “PCAB” means the Common Elements located in the parking lot reserved for the exclusive use of reserved for the exclusive use of Units B and 1B, as shown on the Building Map. PCAB is shown in purple color on the Color Map.
 - 1.1.22 “Property” means the land and building constituting the whole Condominium project, the legal description of which is set forth in subsection 2.1 below.
 - 1.1.23 “Unit” means “Unit” as defined in RCW 64.34.020(41).
 - 1.1.24 “Unit 1A Roof” means the roof over Unit 1A. The Unit 1A Roof is CAA and is shown in yellow color on the Color Map.
 - 1.1.25 “Unit 1B Roof” means the roof over Unit 1B. The Unit 1B Roof is CA 1B and is shown in navy blue color on the Color Map.
 - 1.1.26 “Unit Owner” means “Unit Owner” as defined in RCW 64.34.020(42).
 - 1.1.27 “Upper Roof Area” means the roof over Unit 3, and the penthouse, including all items affixed to the penthouse itself (such as the wall, roof, and metal grid around the HVAC unit), as shown on the Building Map. The Upper Roof Area is CA 1B and is shown in purple color on the Color Map, except for the stairwell from the first floor to the penthouse and the 66 square foot rectangular area adjacent to such stairwell, each of which are Joint Common Area and shown in blue color on the Color Map.
- 1.2 Form of Words. The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine, and neuter pronouns shall be used interchangeably.
- 1.3 Statutory Definitions. Some of the terms defined above are also defined in RCW 64.34. The definitions in this Declaration are not intended to limit or contradict the definitions in the Act. If there is any inconsistency or conflict, the definition in the Act will prevail.

SECTION 2

DESCRIPTION OF LAND, BUILDINGS AND APARTMENTS

- 2.1 Description of Land. The land on which the building and improvements are located is described as follows:
- INSERT LEGAL DESCRIPTION
- (the “Property”).
- 2.2 Building. There is one building. The building contains five commercial Units. The location of the building, the number and location of the Units, the Joint Common Elements and Limited Common Areas (Common Area A, Common Area B, Common Area 1B, Parking Common Area A and Parking Common Area B) to which each Unit has access, the parking area and exterior area owned by each Unit, and the number of stories of the buildings are shown in the Building Map. The Unit Owners have also agreed upon the Color Map, which is not attached to this Declaration. The Association shall maintain a copy of the Color Map

in the books and records of the Association. To the extent there are any discrepancies between the Color Map and the Building Map, the Unit Owners covenant and agree to take all actions necessary to amend this Declaration and the attachments hereto, including the Building Map, in order to make the Declaration and Building Map reflect the information shown in the Color Map which shall control.

2.3 Anticipated Construction Improvements: Significant improvements are planned for this building as part of an initial remodel primarily to Units 1A, 1B, and the Property. A separate agreement details who will be making the improvements and how costs will be allocated to the Units responsible for the costs. The improvements are anticipated in 2020 and will necessitate an amendment to this Declaration including, but not limited to updating the total square footage of each unit as outlined in Section 2.4 and the schedule of percentages for payment of expenses, Section 5.2. By acceptance of a deed to a Unit of the Condominium, each Unit Owner agrees to execute any amendment to this Declaration that is reasonably satisfactory to such Unit Owner and necessary to effectuate this Section.

2.4 Units. Each Unit Owner has an unrestricted right of ingress and egress to his, her, or its Unit. This right passes with the Unit estate as transfers of ownership of the Unit occur. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the Joint Common Area or in a Limited Common Area will be void unless the Unit to which that interest is allocated is also transferred. Each Unit is burdened and/or benefitted by the easements shown on the Building Map. Each Unit has the following square footage:

Unit B	<ul style="list-style-type: none"> • Approx. 10,389 sq. ft. • Part of the basement floor, including bathrooms, shown in the Building Map • Prime Mechanical Systems
Unit 1A	<ul style="list-style-type: none"> • Approx. 16,904 sq. ft. • Part of first floor area, including the approx. 2,880 sq. ft. mezzanine area, shown in the Building Map
Unit 1B	<ul style="list-style-type: none"> • Approx. 14,803 sq. ft. of the first floor area • Part of first floor area, shown in the Building Map¹ • Loading dock • All of the solar panels on top of Unit 1B • Exterior walls within the Unit 1B boundaries
Unit 2	<ul style="list-style-type: none"> • Approx. 13,437 sq. ft. • Part of the second floor area, shown in the Building Map
Unit 3	<ul style="list-style-type: none"> • Approx. 13,413 sq. ft. • Part of the third floor area, shown in the Building Map

SECTION 3

JOINT COMMON AREA AND FACILITIES

The Joint Common Area and facilities consist of the following, except to the extent the Building Map specify that any of the following is included within a specific Unit or as CAA, CAB, PCAA, PCAB, or CA 1B:

- 3.1 Land. The land or real property interests as described and limited in subsection 2.1, *Description of Land*, including the courtyard and fountain.
- 3.2 Structural Elements and Building Systems. The foundations, and any columns, girders, roof system, beams, supports, utility or equipment chases or ducts in walls, plumbing, wiring, and access features (e.g. corridors, hallways, lobbies, entrances and exits), if such item provide services or access to more than a single Unit, and shall be considered Joint Common Areas unless identified (or defined) as part of a Unit or CAA, CAB, PCAA, PCAB, or CA 1B.
- 3.3 Building Envelop. The building envelop including the exterior walls and cladding, windows, roof, and floors.
- 3.4 Stairways. Any stairways which service more than one Unit or connect one Unit to another Unit.
- 3.5 Amenities. Entry ways, courtyard areas, grassy areas, the fountain, the plaza, and, any other amenities that may be constructed in common areas in the future and designated by the Board as Joint Common Area.
- 3.6 Heating, Ventilation, and Air Conditioning (HVAC). The HVAC system is comprised of shared systems.
- 3.7 Electrical Service and Equipment. Any electrical equipment serving more than one Unit or Common Area and/or building systems.
- 3.8 Electrical Room. The new electrical room shown on the first floor of the Building Map. If there is any space in the electrical room that is not required for the Association's electrical needs, then the owners of Units B and 1B may use such space so long as it does not unreasonably interfere with the Association's use of the electrical room.
- 3.9 Backup Generator Pad. Includes the generator pad and enclosure.
- 3.10 Refuse. Dumpsters and associated enclosures.
- 3.11 Building Security. Building security system serving the exterior of the building and common areas. Excludes security for unit interiors.
- 3.12 Fire Sprinkler System and Alarm. After the initial upgrades, the Building will be fully sprinkled Type IIIB building. Fire sprinkler systems are common to the building. However, unit owners have the right to modify the system for tenant improvements.
- 3.13 Miscellaneous. Any other apparatus and installations existing for common use.

- 3.14 Other. All other parts of the Property necessary or convenient to its existence, operation, maintenance and safety, or normally in common use.

SECTION 4

LIMITED COMMON AREAS

The Limited Common Area (CAA, CAB, PCAA, PCAB, or CA 1B) and facilities are Common Elements reserved for the exclusive use of Unit(s) to which they are assigned and the costs for the maintenance and repair thereof shall be charged by the Association to the owner(s) of the Units to which they are assigned, unless otherwise provided in this Section 4 or in Section 5.2 below. By way of example, the costs of maintenance and repair of Common Area A shall be charged by the Association to the owners of Units 1A, 2 and 3. The Limited Common Areas consist of:

- 4.1 Upper Roof Area (CA 1B). The Upper Roof Area is Common Area 1B. The Owner of Unit 1B shall have the exclusive right to use the Upper Roof Area and may make changes to the Upper Roof Area and construct improvements on the Upper Roof Area at such Owner's sole expense and without the approval of any other Unit Owner or the Board; provided that the Board must approve such changes or improvements if (and only if) such changes or improvements (a) extend more than ten feet above the current penthouse roof (located in the Upper Roof Area), and (b) are located within ten horizontal feet of the edge for the third (3rd) floor roof. The Owner of Unit 1B may, in its absolute and sole discretion, allow others to use or access the Upper Roof Area. The Owner of Unit 1B shall pay any additional costs associated with improvements such Owner constructs on the Upper Roof Area, including the costs necessary to maintain such improvements and any additional maintenance costs to the Joint Common Area caused by the construction of such improvements. The changes shall not damage or compromise the roof structure in any way. The Association shall be responsible for maintaining and repairing the roof, HVAC and elevator located in the Upper Roof Area and may access the Upper Roof Area for such purposes as provided in Section 19 below.
- 4.2 Unit 1B Roof (CA 1B). The Unit 1B Roof is Common Area 1B. The Owner of Unit 1B shall have the exclusive right to use the Unit 1B Roof and may make changes to the Unit 1B Roof and construct improvements on the Unit 1B Roof at such Owner's sole expense, provided that the Board must approve such changes or improvements. The Board shall approve all changes or improvements to the Unit 1B Roof that do not (a) interfere with another Unit Owner's reasonable use of the Property and views (determined applying a reasonableness standard) from the second floor (if such use is permitted in this Declaration), (b) materially detract from the overall aesthetics and appeal of the Property, and (c) damage or compromise the roof structure in any way. The Owner of Unit 1B shall pay any additional costs associated with improvements such Owner constructs on the Unit 1B Roof, including the costs necessary to maintain such improvements and any additional maintenance costs to the Joint Common Area caused by the construction of such improvements. The Association shall be responsible for maintaining and repairing the Unit 1B Roof and may access the Unit 1B Roof for such purposes as provided in Section 19 below.
- 4.3 Unit 1A Roof. The Unit 1A Roof is Common Area A. The Owners of Units 1A, 2 and 3 shall have the exclusive right to use the Unit 1A Roof and may make changes to the Unit 1A Roof and construct improvements on the Unit 1A Roof at such Owners' expense, provided that the Board must approve such changes or improvements. The Board shall approve all changes or improvements to the Unit 1A Roof that do not (a) interfere with

another Unit Owner's reasonable use of the Property and views (determined applying a reasonableness standard) from the second floor (if such use is permitted in this Declaration), (b) materially detract from the overall aesthetics and appeal of the Property, and (c) damage or compromise the roof structure in any way. The Owners of Units 1A, 2 and 3 shall pay any additional costs associated with improvements such Owners construct on the Unit 1A Roof, including the costs necessary to maintain such improvements and any additional maintenance costs to the common area caused by the construction of such improvements. The Association shall be responsible for maintaining and repairing the Unit 1A Roof and may access the Unit 1A Roof for such purposes as provided in Section 19 below.

- 4.4 Common Area A. CAA is shown in yellow color on the Color Map and designated as CAA on the Building Map. The Owners of Units 1A, 2 and 3 shall have the exclusive right to use CAA and may make changes thereto and construct improvements thereon as such Owners desire and at such Owners' expense, provided that the Board must approve such changes or improvements. The Board shall approve all changes or improvements to CAA that do not (a) interfere with another Unit Owner's reasonable use of the Property (if such use is permitted in this Declaration), or (b) materially detract from the overall aesthetics and appeal of the Property. The Owners of Units 1A, 2 and 3 shall pay any additional costs associated with improvements such Owners construct on CAA, including the costs necessary to maintain such improvements and any additional maintenance costs to the common area caused by the construction of such improvements. The Association shall be responsible for maintaining and repairing CAA and may access CAA for such purposes as provided in Section 19 below.
- 4.5 Common Area B. CAB is shown in pink color on the Color Map and designated as CAB on the Building Map. The Owners of Units 1B and B shall have the exclusive right to use CAB and may make changes thereto and construct improvements thereon as such Owners desire and at such Owners' expense, provided that the Board must approve such changes or improvements. The Board shall approve all changes or improvements to CAB that do not (a) interfere with another Unit Owner's reasonable use of the Property (if such use is permitted in this Declaration), or (b) materially detract from the overall aesthetics and appeal of the Property. The Owners of Units 1B and B shall pay any additional costs associated with improvements such Owners construct on CAB, including the costs necessary to maintain such improvements and any additional maintenance costs to the common area caused by the construction of such improvements. The Association shall be responsible for maintaining and repairing CAB and may access CAB for such purposes as provided in Section 19 below.
- 4.6 Parking Common Area A. PCAA is shown in yellow color on the Color Map and designated as PCAA on the Building Map. Subject to the easements shown on the Building Map, the Owners of Units 1A, 2 and 3 shall have the exclusive right to use PCAA and may make changes thereto and construct improvements thereon as such Owners desire and at such Owners' expense, provided that the Board must approve such changes or improvements. The Board shall approve all changes or improvements to PCAA that do not (a) interfere with another Unit Owner's reasonable use of the Property (if such use is permitted in this Declaration), or (b) materially detract from the overall aesthetics and appeal of the Property. The Owners of Units 1A, 2 and 3 shall pay any additional costs associated with improvements such Owners construct on PCAA, including the costs necessary to maintain such improvements and any additional maintenance costs to the common area caused by the construction of such improvements. The Association shall be responsible for

maintaining and repairing PCAA and may access PCAA for such purposes as provided in Section 19 below.

- 4.7 Parking Common Area B. PCAB is shown in purple in color on the Color Map and designated as PCAB on the Building Map. Subject to the easements shown on the Building Map, the Owners of Units 1B and B shall have the exclusive right to use PCAB and may make changes thereto and construct improvements thereon as such Owners desire and at such Owners' expense, provided that the Board must approve such changes or improvements. The Board shall approve all changes or improvements to PCAB that do not (a) interfere with another Unit Owner's reasonable use of the Property (if such use is permitted in this Declaration), or (b) materially detract from the overall aesthetics and appeal of the Property. The Owners of Units 1B and B shall pay any additional costs associated with improvements such Owners construct on PCAB, including the costs necessary to maintain such improvements and any additional maintenance costs to the common area caused by the construction of such improvements. The Association shall be responsible for maintaining and repairing PCAB and may access PCAB for such purposes as provided in Section 19 below.
- 4.8 Special Items. Certain items which could ordinarily be considered Joint Common Areas or Limited Common Areas, may pursuant to the decision of the owners and specification in the Bylaws, or by rule or regulation of the Board, be designated Limited Common Area and as items to be furnished and/or maintained entirely at individual expense of the Unit Owner using them and in good order and according to standards and requirements established by the Board by rule or regulation, or in the Bylaws.

A Limited Common Area may only be reallocated between Units with the unanimous approval of the owners of the Units to which the Limited Common Area was and will be allocated and by amendment to this Declaration executed by such owners. Notwithstanding RCW 64.34.228, neither Board approval nor the approval of the other Unit owners is necessary to make any such reallocation and/or amendment. The amendment shall be recorded in the names of the parties and of the Condominium.

One hundred percent (100%) of the Unit Owners, including the affected owners, must agree to reallocate all or part of such Joint Common Area as a Limited Common Area, to incorporate a Limited Common Area into an existing Unit or to reallocate a Limited Common Area between owners. Such reallocation or incorporation shall be reflected in an amendment to the Declaration.

SECTION 5

PERCENTAGE OF UNDIVIDED INTEREST IN JOINT COMMON AREAS AND FACILITIES

- 5.1. Schedule of Percentages for Voting Purposes. For the purpose of meeting certain requirements of the Condominium Act, the percentage of undivided interest in the Joint Common Areas and facilities appertaining to each Unit and its Unit Owner for voting purposes, are as set forth below.

<u>Units</u>	<u>Votes</u>
B	1/6
1A	1/6
1B	2/6
2	1/6
3	1/6
Total	6/6

5.2 Schedule of Percentages for Payment of Certain Expenses. The table below sets forth the responsibility for management and the proration basis for payment of the costs and expenses of maintaining the Joint Common Areas, CAA, CAB, PCAA, PCAB and CA 1B, and other parts of the Condominium. The responsibilities and prorations set forth in the table below may be changed only with the unanimous consent of the Association and the owners of the Units that are either responsible for the management or allocated a share of the costs and expenses (the "Requisite Owners"); provided that an adjustment to the prorations shall be made automatically following the methodology detailed in **Attachment A** and shall be reflected in an amendment to this Declaration signed by an officer or director of the Association. If Attachment A does not address the methodology for a cost allocation, including a cost allocation to a new component of the Building, the Requisite Owners shall mutually agree upon the cost allocation. The allocations reflected below are based upon the anticipated relative uses of and burdens to the Condominium components and mechanical and electrical systems given the unique nature of the spaces comprising each Unit and the location of each Unit:

Description	Proration Basis for Payment of Costs/Expenses	Responsible for Management
Windows	38.1% Unit B 6.0% Unit 1A 0.0% Unit 1B 27.9% Unit 2 27.9% Unit 3	Association
Marble	1.8% Unit B 32.0% Unit 1A 17.1% Unit 1B 24.6% Unit 2 24.6% Unit 3	Association
HVAC	16.6% Unit B 29.7% Unit 1A 16.6% Unit 1B 14.2% Unit 2 14.1% Unit 3 8.7% Assoc.	Association
Water – Sewer	14.5% Unit B 20.2% Unit 1B 27.8% Unit 1A 18.8% Unit 2 18.7% Unit 3 Submeter replaces above percentages if installed	Association

Description	Proration Basis for Payment of Costs/Expenses	Responsible for Management
Electricity	14.5% Unit B 20.2% Unit 1B 27.8% Unit 1A 18.8% Unit 2 18.7% Unit 3 Submeter replaces above percentages if installed	Association
Uses beyond standard office use (i.e., special cooling equipment)	Submeter	Association
Main Elevator and Freight Elevator (12 stops total)	33.3% Unit 1A 16.7% Unit 2 16.7% Unit 3 25.0% Unit 1B 8.3% Unit B	Association
Unit 1A Roof, Unit 1B Roof, Upper Roof	14.5% Unit B 20.2% Unit 1B 27.8% Unit 1A 18.8% Unit 2 18.7% Unit 3	Association
Joint Common Area and Association expenses not otherwise addressed in this table (including the plaza, fountain, street trees)	14.5% Unit B 20.2% Unit 1B 27.8% Unit 1A 18.8% Unit 2 18.7% Unit 3	Association
Fenced area next to freight elevator	100% Unit B 0% Unit 1B	Owners of Units B and 1B
Art – Mounds	100% Unit 1A	Owners of Units 1A, 2 and 3
Parking Lots	39.3% Unit 1B 45.3% Unit 1A 15.4% Association	Association

Description	Proration Basis for Payment of Costs/Expenses	Responsible for Management
Signage South, East and West	50% Unit B 50% Unit 1B	Association
Signage North	42% Unit 1A 29% Unit 2 29% Unit 3	Association
Janitorial/Building Maintenance Employees	14.5% Unit B 20.2% Unit 1B 27.8% Unit 1A 18.8% Unit 2 18.7% Unit 3	Association
Refuse: Garbage and Recycling Service and Dumpsters	14.5% Unit B 20.2% Unit 1B 27.8% Unit 1A 18.8% Unit 2 18.7% Unit 3	Association
Building Security System, Fire Alarm, and Fire Sprinkler Systems, Shared Communication Equipment and Facilities	14.5% Unit B 20.2% Unit 1B 27.8% Unit 1A 18.8% Unit 2 18.7% Unit 3	Association

SECTION 6

USAGE

- 6.1 Commercial Use. The building is restricted in use to retail, service, government services and/or commercial purposes. The general use of the building is for an office, commercial, service, and retail that are consistent with an office environment. No residential or industrial uses are permitted. Any uses that are not consistent with an office environment must be approved by unanimous consent of the Board; (a) provided that no Board member shall unreasonably withhold consent with respect to any proposed office, commercial, service, or retail uses, and (b) provided further that any Board member may withhold consent to any proposed use that could reasonably be expected to result in a nuisance to other Unit Owners because of the sound, smell or visuals resulting from such use.
- 6.2 Time Sharing. Time sharing is prohibited.
- 6.3 Walkways, Etc. Walks, walkways and other portions of the Joint Common Area and facilities used for access shall be used exclusively for normal ingress and egress and no obstructions shall be placed therein unless permitted by the Board or rules and regulations adopted by the Board for the Association.

- 6.4 Uses Affecting Insurance. The Unit Owners shall not permit anything to be done or kept in the Units or in the Joint Common Areas or Limited Common Area and facilities which will increase the insurance premiums for the Condominium or result in the cancellation of insurance on any part of the Condominium without the consent of the Board. The Board shall not agree to cancellation of the Condominium insurance coverage unless substitute coverage as provided for in this Declaration is obtained.
- 6.5 Offensive Activity. No noxious or offensive activity shall be carried on in any Unit or Joint Common Area or Limited Common Area and facilities nor shall anything be done therein which may be or become an annoyance or nuisance to the Unit Owners, or which would be in violation of any laws. Unit Owners and the association shall minimize disturbance to other Units during construction related activities. Work may be required outside of normal business hours.
- 6.6 Signs. The owners of Units 1A, 2, and 3 hereby allocate to the owners of Units B and 1B (and agree to take such further actions as may be necessary to effectuate such allocation) all rights such owners have under Wenatchee City Code to place signs, wall, monument or as otherwise allowed, on the portions of the building and Property adjacent to Chelan Ave., Kittitas St. and Methow St. for the purpose of allowing the owners of Units B and 1B to place signage on walls in the CAB, PCAB, and Unit B and Unit 1B exterior wall areas or, if approved by the Board, in the JCA. The owners of Units B and 1B hereby allocate to the owners of Units 1A, 2, and 3 (and agree to take such further actions as may be necessary to effectuate such allocation) all rights such owners have under Wenatchee City Code to place signs on the portions of the building and Property adjacent to Yakima Street for the purpose of allowing the owners of Units 1A, 2, and 3 to place signage in the signage easement area shown on the Building Map (in the parking lot area) or in the CAA, PCAA and Unit 1A, 2, and 3 North wall areas or, if approved by the Board, in the JCA. The Board must approve the location of any unattached exterior signage to be located in a JCA (except in the easement area in the parking lot, as shown in the Building Map). A Unit Owner, at its expense and in its sole discretion, may place signage on the exterior of its Unit(s), place signage on the exterior of the building (if such Unit Owner holds the zoning rights to do so), place interior signage within the windows of its Unit(s), and place unattached exterior signage in locations approved by the Board.
- Temporary and political signs in all of the Joint Common Areas and Limited Common Areas shall be prohibited unless otherwise approved by the Board with unanimous consent.
- 6.7 Leasing Units. A Unit Owner may lease or rent its Unit(s), or portions thereof, in its sole discretion. Any lease or rental agreement entered after the date of this Declaration must be in writing and be subject to the requirements of the Declaration, Bylaws, rules, regulations, or decisions of the Board.
- 6.8 Improvements, Structural Changes, Building Exterior, Walls, Windows. A Unit Owner, at its sole cost and expense and in its sole discretion, may make improvements, structural changes, attach fixtures and chattels (including, without limitation, signage, satellites, towers, antennae, and atriums), paint, landscape, replace, upgrade, and remodel (collectively "Changes") that part of the building structure, exterior, walls, and windows constituting part of such Unit Owner's Unit, as shown in the Building Map; provided, that, the Board must approve all Changes in advance. The Board shall approve all changes or improvements that do not (a) interfere with another Unit Owner's reasonable use of the

Property (if such use is permitted in this Declaration), (b) materially detract from the overall aesthetics and appeal of the Property, and (c) compromise the building structure or systems in any material way. Aesthetic changes to the Building shall be reviewed by the Board in accordance with Section 6.10. Changes may result in a re-allocation of the percentages set forth in the table in Section 5.2, subject to satisfying the approval requirements set forth in Section 5.2.

- 6.9 Building Systems – Engineering Review. Unless otherwise waived by the unanimous consent of the Board, any modification that impacts a building system serving more than one Unit requires engineering analysis to ensure the building and/or building systems are not compromised. The Building will be a Type IIIB building construction. If any system is modified by any Unit Owner and the modification compromises its functionality for another unit, then the party making the modification shall be responsible for promptly remedying the problem and paying for all costs associated thereof. (For example, the Building walls provide shear resistance to the entire building. Changes to the walls including addition of windows must be engineered to ensure Building shear is not compromised.)
- 6.10 Aesthetics Review. The aesthetics of the Building are an important characteristic of the Building. The intent of this section is to provide guidance on how the Board reviews aesthetics. The Board shall endeavor to support changes to the Building; however, the following criteria shall be considered by the Board in making its decision in order to preserve the character of the building.
- (a) Modification should not impact the mass and scale of the building as it exists in its original design. (For example, adding a floor would change the mass and scale)
 - (b) Modifications should recognize and not detract from the historical style, materials, and color scheme of the building.
 - (c) Modifications should be made using materials of a quality consistent with the quality of materials generally used in comparable commercial buildings.
- 6.11 Parking Supply. Parking is provided for in the Common Areas PCAA and PCAB for units 1A and 1B respectively. Parking within PCAA and PCAB may be shared between units by agreement between units. Street parking (public) along 300 block of Yakima and Kittitas Streets and the 200 block of S. Methow Street is public parking. For the purposes of parking serving the building, this public parking is reserved exclusively for employees and customers of 1A, 2, and 3, unless otherwise authorized by the owner of unit 1A. If there is a parking deficiency beyond the parking provided in PCAA, PCAB, and said street parking, it shall be the responsibility of the unit owner to secure additional parking off site.
- 6.12 Maintenance Standard of Care. The Association shall maintain the areas of the Building and Joint Common Area that are open and accessible to the public in accordance with a standard of care equivalent to Class A office space in the Wenatchee market. Reasonable care should be employed in the form of proactive maintenance and replacement to minimize the risk of system failure causing downtime.
- 6.13 Certain Mutual Obligations. If a Unit Owner's Changes made pursuant to Section 6.8 or otherwise result in any expense to another Unit Owner, the Unit Owner that made the Changes will reimburse the other Unit Owner for the full amount of the expense incurred.

If requested by the Unit Owner that made the Changes, the other Unit Owner will provide copies of receipts, invoices, or other payment confirmation evidencing the expense incurred.

- 6.14 Utilities Access Easement. All Unit Owners hereby grant to the Association an easement for access to existing utilities located on the Property for purposes of maintaining and repairing such utilities.
- 6.15 Ownership of Certain Building and Mechanical Systems. Notwithstanding anything herein to the contrary, the HVAC, freight elevator, sidewalk, lighting, and security equipment and systems (collectively, the "Prime Mechanical Systems") shall be part of Unit B and owned by the Owner of Unit B. The Prime Mechanical Systems shall be utilized for the common benefit of all Units and shall be operated, maintained and repaired by and at the expense of the Association in the same manner as common expenses under Section 13 below unless otherwise provided in Section 5.2. Ownership of said systems shall revert to the Association on January 1, 2027.

SECTION 7

OWNERS ASSOCIATION AND VOTING

- 7.1 Organization. The Association shall be organized no later than the date the first Unit in the Condominium is conveyed to a third party by the declarant. The membership of the Association at all times shall consist exclusively of all the Unit Owners.
- 7.2 Membership. All of the Unit Owners shall constitute the Association as provided by the Act. Natural persons, partnerships, corporations, trusts or other lawful business entities may own or have ownership interest in Units.
- 7.3 Voting Power. Unit 1B shall have two votes. Each other Unit shall have one vote.
- 7.4 Voting Agent. If a Unit is owned by multiple owners and only one of the multiple Unit Owners is present at a meeting of the Association, such Unit Owner is entitled to cast all the votes allocated to that Unit. If more than one of the multiple Unit Owners are present, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple Unit Owners. There is majority agreement if any one of the multiple Unit Owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Unit Owners. In the event of a deadlock, the Unit Owners of that Unit shall have no vote at that meeting.
- 7.5 Proxies. Votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. If a Unit is owned by more than one person, each Unit Owner of the Unit may vote or register protest to the casting of votes by the other Unit Owners of the Unit through a duly executed proxy. A Unit Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. Unless stated otherwise in the proxy, a proxy terminates eleven (11) months after its date of issuance.

- 7.6 Units Owned by Association. No votes allocated to a Unit owned by the Association may be cast, and in determining the percentage of votes required to act on any matter, the votes allocated to Units owned by the Association shall be disregarded.
- 7.7 Mortgagees. The Unit Owners may pledge their vote regarding special matters to a Mortgagee of the Unit. In the event Unit Owners have pledged their vote regarding special matters to a Mortgagee, and if in addition a copy of such mortgage with a statement of the special items respecting which the vote is pledged is filed with the manager or Board, only the vote of the Mortgagee or its agent will be recognized in regard to the special matters upon which the vote is so pledged. Amendments to this paragraph shall only be effective on the written consent of all the voters and their respective Mortgagees, if any.

SECTION 8

QUORUM – OWNER’S MEETINGS

- 8.1 Quorum/Majority. The presence at any meeting of Unit Owners holding a majority of the votes, or their agents, shall constitute a quorum. In the event that a quorum is not present at any meeting, the Unit Owners present, though less than a quorum, may adjourn the meeting to a later date and give notice thereof of all the Unit Owners in accordance with the notice provisions of the Declaration. Unless otherwise expressly provided in this Declaration, any action may be taken at a meeting of the Unit Owners upon the affirmative vote of a majority of the total votes.
- 8.2 Annual Meeting. There shall be an annual meeting of the Unit Owners each year at such reasonable place and time as may be designated by written notice of the Board delivered to the Unit Owners not less than ten (10) days nor more than sixty (60) days prior to the date fixed for said meeting. At the annual meeting, the Board shall present a report of the common expenses, itemizing receipts and disbursements for the preceding twelve (12) months, the allocation thereof to each Unit Owner, and the estimated common expenses for the coming year, reserve levels, proposed changes in assessment levels, and any anticipated special assessments. Within ten (10) days after the annual meeting, a statement summarizing the report shall be delivered or mailed to the Unit Owners not present at said meeting. The Board at any time, or any Unit Owner by written request at his own expense, may require that an audit of the Association and management books be presented at any special meeting. A Unit Owner at his own expense, may at any reasonable time make an audit of the books of the Board and manager.
- 8.3 Special Meetings. Special meetings of the Unit Owners may be called at any time for the purpose of considering matters which by the terms of the Act or of this Declaration require the approval of all or some of the Unit Owners, or for any reasonable purpose. Said meeting shall be called by written notice, signed by the president of the Association, a majority of the Board, or by Unit Owners having 50% of the votes of the Association and delivered not less than ten (10) nor more than sixty (60) days prior to the date fixed for the said meeting.

SECTION 9

NOTICES

Delivery. Any notice permitted or required to be delivered as provided herein shall or may be delivered either personally or by first-class mail. If delivery is made by mail, such notice shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to the person entitled to such notice at the address given by such person to the Board or manager, in writing, for the purpose of service of such notice. Notice to Unit Owners shall be sufficient if mailed to the Unit of such person or persons if no other mailing address has been given in writing to the manager or Board by any of the persons so entitled. Such address may be changed from time to time by notice in writing to the Board or to the manager. Notice to be given to the manager or Board shall be given to such manager or to the chairman or to the secretary of the Board. The notice of any meeting shall state the time and place of the meeting and the items on the agenda to be voted on by the Board, including the general nature of any proposed amendment to the Declaration or Bylaws, changes in the previously approved budget that result in a change in assessment obligations, and any proposal to remove a director or officer.

SECTION 10

BOARD OF LOCALTEL FEDERAL BUILDING CONDO OWNERS ASSOCIATION:

COMPOSITION, ELECTION, AND RIGHTS

- 10.1 Composition and Care Required. The Association shall be organized as a non-profit corporation under the laws of the state of Washington. The Board of the Association shall be composed of not less than two directors. Each Unit Owner shall designate one (1) director to exercise the number of votes associated with such Unit, so that each Condominium Unit has one (1) designated individual to exercise its vote(s) on the Board of Directors. For clarification, more than one Unit owner may designate the same individual Director to exercise its votes; and if the same person owns more than one Unit, such person shall appoint or designate the Director(s) to exercise the votes of all such Units. The Board shall act in all instances on behalf of the Association. In the performance of their duties, members of the Board are required to exercise ordinary and reasonable care.
- 10.2 Restrictions on Power. The Board shall not act on behalf of the Association to amend the Declaration in any manner that requires the vote or approval of the Unit Owners pursuant to subsection 31.1, *Declaration*, to terminate the Condominium pursuant to Section 26, *Termination*, or to elect members of the Board or determine the qualifications, powers, and duties, or terms of office of members of the Board pursuant to subsection 10.1, or to fill vacancies in its membership.
- 10.3 Notice of Budget. Within thirty (30) days after adoption of any proposed budget for the Condominium, the Board shall provide a summary of the budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing of the summary. Unless at that meeting the Unit Owners to which a majority of the votes in the Association are allocated reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic

budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board.

- 10.4 Removal of Director. The Unit Owner appointing a Director may at any time, and with or without cause, remove, replace and/or reallocate its votes to a different individual as a Director.
- 10.5 Mortgagee May Succeed Declarant. In the event a Mortgagee becomes bound by this Declaration by granting one or more partial releases or by foreclosing its mortgage or deed of trust and obtains possessory rights, legal title, or sheriff's certificates or certificate of sale to or covering the unsold Unit or Units and appurtenant Joint Common Areas covered by the respective deed of trust or mortgage liens, then the Mortgagee shall succeed to and assume, to the exclusion of the Mortgagor, all powers of the Mortgagor as set forth in this Declaration. The Mortgagee shall be entitled to appoint a receiver during the pendency of any foreclosure and said receiver shall immediately, upon appointment, succeed to and assume Declarant's powers as set forth in this Declaration.
- 10.6 Litigation. The Board may institute, defend, or intervene in litigation or administrative proceedings on behalf of the Association pursuant to the following criteria:
 - 10.6.1 General. The potential for material adverse consequences to the Unit Owners of legal proceedings involving material disputes merit careful evaluation and consideration before committing the Association to a course of action. As a result, the Board shall evaluate those consequences and receive the approval of the Unit Owners in accordance with Section 10.6.2 before pursuing significant legal proceedings.
 - 10.6.2 Approval by the Unit Owners. The Board shall not commence litigation or proceedings or enter into any engagement or commitment in that regard unless that action is first unanimously approved by the Unit Owners in the Association.
- 10.7 Rules. The Board may adopt and amend Bylaws, rules, and regulations.
- 10.8 Employees. The Board may hire and discharge or contract with managing agents and other employees, agents, and independent contractors.
- 10.9 Contracts. The Board may make contracts and incur liabilities.
- 10.10 Easements. The Board may grant easements, leases, licenses, and concessions through or over the Joint Common Areas and petition for or consent to the vacation of streets and alleys.
- 10.11 Fees. The Board may impose and collect any payments, fees, or charges for the use, rental, or operation of the Joint Common Areas and for services provided to Unit Owners.
- 10.12 Fines. The Board may impose and collect charges for late payment of assessments and, after notice and an opportunity to be heard by the Board or by such representative designated by the Board and in accordance with such procedures as provided in the Bylaws or rules and regulations adopted by the Board, levy reasonable fines in accordance with a previously established schedule thereof adopted by the Board and furnished to the

Unit Owners for violations of the Declaration, Bylaws, rules and regulations of the Association.

- 10.13 Charges. The Board may impose and collect reasonable charges for the preparation and recording of amendments to the Declaration, resale certificates and statements of unpaid assessments.

SECTION 11

AUTHORITY OF THE ASSOCIATION

- 11.1 Powers. The Association may:
- 11.1.1 Budgets. Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect assessments for common expenses from Unit Owners.
 - 11.1.2 Joint Common Areas. Regulate the use, maintenance, repair, replacement, and modification of Joint Common Areas.
 - 11.1.3 Improvements. Cause additional improvements to be made as a part of the Joint Common Areas or other areas as approved by the Board.
 - 11.1.4 Property. Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, but Joint Common Areas may be conveyed or subjected to a security interest only pursuant to subsection 28.2.
 - 11.1.5 Indemnification and Insurance. Provide for the indemnification of its officers and Board and maintain directors' and officers' liability insurance.
 - 11.1.6 Assignment of Income. Assign its right to future income, including the right to receive common expense assessments.
 - 11.1.7 Security Protocols. Establish security protocols for the various access easements set forth in the Building Map.
 - 11.1.8 Dumpster. Determine the size of the dumpster and the number of recycling and yard refuse bins necessary to adequately service the Building.
- 11.2 Payments. The Association, for the benefit of the Condominium and the Unit Owners, shall enforce the provisions hereof and shall acquire and shall pay for out of the common expense fund hereinafter provided for, the following:
- 11.2.1 Utilities. Water, sewer, garbage collection, electrical, and other necessary utility service for the Joint Common Areas (and to the extent not separately metered or charged, for the Units).
 - 11.2.2 Insurance. Policies of insurance as the same are more fully set forth in this Declaration under Section 23, *Insurance*.

- 11.2.3 Manager. The services of a person or firm to manage the affairs of the Condominium (herein called "the manager") to the extent deemed advisable by the Board, as well as such other personnel as the Board shall determine are necessary or proper for the operation of the Joint Common Areas, whether such personnel are employed directly by the Board or are furnished by the manager.
- 11.2.4 Professional Services. Legal and accounting services necessary or proper in the operation of the Association affairs, administration of the Joint Common Areas or the enforcement of this Declaration.
- 11.2.5 Maintenance of Common Areas. Snow removal from, painting, maintenance of parking lots, landscaping, siding, windows, roofs, and building systems, and repair for the Joint Common Areas, and such furnishings and equipment for these areas as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for these areas; provided however, that the interior of each Unit shall be painted, maintained and repaired by the Unit Owners thereof, all such maintenance to be at the sole cost and expense of the particular Unit Owner. Costs of maintaining Joint or Limited Common Areas shall be allocated according to Section 5.2.
- 11.2.6 Maintenance of Units. Maintenance and repair of any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Board to protect a Joint Common Areas or preserve the appearance and value of the Condominium Development, and the Unit Owner of said Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair is delivered by the Board to said Unit Owner, provided that the Board shall levy a special assessment against the Unit of such Unit Owner for the cost of said maintenance or repair.
- 11.3 Liens. The Board may also pay any amount necessary to discharge any lien or encumbrance levied against the entire Property or any part thereof which is claimed to or may, in the opinion of the Board, constitute a lien against the Property or against the Joint Common Areas, rather than merely against the interest therein of particular Unit Owners. Where one or more Unit Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs and expense incurred by the Board by reason of such lien or liens shall be assessed against the Unit Owners and the Units responsible to the extent of their responsibility.
- 11.4 Structural Changes, Alterations, Additions and Improvements - Limitation. This provision shall not apply to capital improvements necessary for the upkeep of the Building. The Board shall make no structural changes, alterations, capital additions to, or capital improvements of the Joint Common Areas requiring aggregate expenditures in any one calendar year equal to or in excess of Fifty Thousand Dollars (\$50,000.00) (a "Capital Expenditure"), without the unanimous approval of the Unit Owners; any such approval shall specify the percentage of the Capital Expenditure to be paid by each Unit Owner. If the requisite Unit Owners do not approve a Capital Expenditure, such non-approval shall be final and shall not be subject to arbitration under Section 32.2 below; provided, however, the Unit Owner proposing the Capital Expenditure may nonetheless proceed with the Capital Expenditure at such Unit Owner's sole cost and expense if such Capital Expenditure was approved by majority vote. Any structural alterations to Units or changes

of Unit configuration are governed by Section 18, *Provisions Regarding Alteration – Subdividing and Combining*.

- 11.5 Association Records. All financial and other records shall be made reasonably available for examination by any Unit Owner and the Unit Owner's authorized agents.
- 11.6 Funds. The funds of the Association shall not be commingled with the funds of any other person, nor with the funds of any manager of the Association or any other person responsible for the custody of such funds. Any reserve funds of the Association shall be kept in a segregated account and any transaction affecting such funds, including the issuance of checks, shall require the signature of an officer or director of the Association. A working/capital fund (account) shall be established for association funds.
- 11.7 Other. The Board may exercise any other powers conferred by the Declaration or Bylaws; exercise all other powers that may be exercised in this state by the same type of corporation as the Association; and exercise any other powers necessary and proper for the governance and operation of the Association.

SECTION 12

DECLARANT CONTROL

- 12.1 Declarant Control. There shall be no Declarant control period.

SECTION 13

COMMON EXPENSES: ASSESSMENTS

- 13.1 Reserve Fund, Budget and Assessments. To ensure that the Association will have the funds to meet unforeseen maintenance and repair expenditures or to purchase any additional equipment services, the Board will establish a "Working Capital/Reserve Fund" at least equal \$150,000. The Working Capital/Reserve Fund will be funded by each Unit Owner contributing an initial assessment of Thirty Thousand and NO/100 Dollars (\$30,000.00) to the Association within forty-five days of the date this Declaration is recorded. Any amounts paid into the Working Capital/Reserve Fund should not be considered as advance payments of regular assessments. Each Unit's share of the Working Capital/Reserve Fund should be collected as an initial assessment and then should be transferred to the Association for deposit to a segregated fund. An initial management agreement has been entered into by the Unit Owners as of the date of this Declaration to, among other things, establish initial working capital reserves and an operating budget. The initial management agreement contemplates that major remodeling will change assessment levels and reserve balance needs. Prior to the initial management agreement expiring, the Board shall establish a twenty (20) year capital replacement plan and reserve assessment level along with an operating budget on a per gross square foot basis. The replacement schedule will establish reserves to proactively address major Building system repairs and replacements to minimize the need for special assessments. The operating budget and reserve schedule shall be evaluated annually and approved by the Board. The Board may establish such monthly payment amount based on a rolling twelve month look-back, the calendar year, or such other cadence as may be deemed appropriate by the Board. Each Unit Owner shall be obligated to pay assessments made

pursuant to this paragraph to the treasurer or manager for the Association on or before the first day of each month during such year, or in such other reasonable manner as the Board shall designate, and any unpaid assessments shall bear interest at twelve percent (12%) from due date until paid. If Changes are made in accordance with Section 6.8, the Board may need to recalculate the assessment payable by any Unit Owner if the square footage of such Unit Owner's Unit has increased or decreased. At all times when the total Working Capital/Reserve Fund equals or exceeds \$400,000.00, no amounts will be assessed against any Unit. At no time shall any amount assessed against a Unit exceed \$2,500.00 per month. The Capital/Reserve Fund cap (\$400,000) and the per Unit maximum monthly assessment (\$2,500) shall be increased by 2%, beginning effective January 1, 2020, and by 2% each year thereafter.

- 13.2 Accounting. The Board shall establish internal controls over contributions to and disbursements from Association funds. All Board members shall have access, and be expected, to regularly review the banking information of the Association. At least two separate officers and/or directors shall have signature authority over the Association's bank account. The manager of the Association will receive all of the Association bills and provide copies to all Unit Owners. All expenses from Association funds shall be reviewed and approved in a timely manner by the Board in advance of payment. The Association will pay all expenses approved by the Board. Association funds will be allocated between Unit Owners in proportion to cost allocation principles set forth in this Declaration. Contributions to the Association will be allocated to each Owner as designated in Section 5.2 above. The Board shall review and approve fund balances and assessments at least annually.
- 13.3 Emergency Expenditures. Unbudgeted Association expenditures up to \$35,000 per occurrence may be made without Board approval for emergency repairs if it is impracticable or impossible to obtain advance Board approval. For purposes of providing approval of an emergency expenditure, Board members may provide approval electronically or over the phone. A special meeting shall be called for emergency expenditures expected to exceed \$35,000.
- 13.4 Prior Assessments. Except as provided in subsection 14.1, *Joint and Several Obligations; Recovery of Costs*, the holder of a mortgage or other purchaser of a Unit who obtains the right of possession of the Unit is not obligated to pay assessments that became due prior to such right of possession. Such unpaid assessments shall be deemed to be common expenses collectively from all the Unit Owners, including such Mortgagee or other purchaser of the Unit. Foreclosure of a mortgage does not relieve the prior Unit Owner of personal liability for assessments accruing against the Unit prior to the date of such sale as provided in this subsection.
- 13.5 Disbursements of Funds. All funds collected hereunder shall be expended for the purposes designated herein.
- 13.6 No Waiver. The omission by the Board, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Unit Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

- 13.7 Records. The manager or Board shall keep a current copy of this Declaration, Bylaws, and other rules concerning the project as well as detailed accurate records of the receipts and expenditures of the Association, and affecting the Joint Common Areas, specifying and itemizing the maintenance and repair expenses of the Joint Common Areas and any other expense incurred. Such records and any resolutions authorizing the payments involved shall be available for examination by any Unit Owner or holder, insurer and guarantors of mortgages that are secured by Units on the project at convenient hours of week days.
- 13.8 Assessments to Pay Judgment. Assessments to pay a judgment against the Association may be made only against the Units in the Condominium at the time the judgment was entered in proportion to their allocated common expense liabilities at the time the judgment was entered.
- 13.9 Caused by Misconduct. To the extent that any common expense is caused by the misconduct of any Unit Owner, the Association may assess that expense against the Unit Owner's Unit.
- 13.10 Reallocation. If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.
- 13.11 Special Allocations. If one Unit causes on its own significant isolated costs that Unit may be specially assessed for those costs.
- 13.12 Public Works. The Association will follow public works bidding and prevailing wage laws to the extent required by law.

SECTION 14

DEFAULT IN PAYMENT OF ASSESSMENTS –

COLLECTION – NOTICE OF OBLIGATION

- 14.1 Joint and Several Obligations; Recovery of Costs. Each monthly assessment and each special assessment shall be separate, joint and several personal debts and obligations of the Unit Owners for which the same are assessed at the time the assessment is made and shall be collectible as such. This obligation shall not pass to successors in title unless they agree to assume the obligation. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to any Unit Owner, plus interest at twelve percent (12%), and costs, including reasonable attorney's fees, shall be a lien upon such Unit or recoverable in a suit to recover money judgment without foreclosing the lien. The lien for payment of common expense shall have priority over all other liens and encumbrances except: (a) Liens and encumbrances recorded before the recording of the Declaration; (b) a mortgage on the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real Property taxes and other governmental assessments or charges against the Unit.

- 14.2 Certificate of Indebtedness. A certificate executed and acknowledged by the treasurer or the Chairman of the Board, or by the manager if neither the Chairman nor treasurer is available, stating the indebtedness or lack thereof secured by the lien upon any Unit created hereunder shall be conclusive upon the Board and the Unit Owners as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Unit Owner or any encumbrances or prospective encumbrances of a Unit within fifteen (15) days after request, in recordable form, at a reasonable fee, not to exceed Fifty Dollars (\$50.00). Any person holding a lien on a Unit may pay any unpaid common expenses payable with respect to such Unit and upon such payment such person shall have a lien on such Unit for the amounts paid of the same rank as the lien of such person's encumbrance.
- 14.3 Foreclosure of Assessment Lien - Attorney Fees and Costs. The Declarants, manager or Board on behalf of the Association may initiate action to foreclose the lien of any assessment either judicially pursuant to RCW 61.12 or non-judicially pursuant to RCW 61.24. In any action to foreclose a lien against any Unit for nonpayment of delinquent assessments, any judgment rendered against the Unit Owners in favor of the Association shall include a reasonable sum for attorneys' fees and all costs and expenses reasonably incurred in preparation for or in the prosecution of said action, in addition to taxable costs permitted by law. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the amount of the assessments sought to be recovered becomes due.
- 14.4 Rental Value. From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent assessments against a Unit that is not occupied by the Unit Owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the Unit as and when due. If the rental is not paid, the receiver may obtain possession of the Unit, refurbish it for rental up to a reasonable standard for rental Units in this type of Condominium, rent the Unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the Unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent assessments. Only a receiver may take possession and collect rents under this subsection, and a receiver shall not be appointed less than ninety (90) days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Unit.
- 14.5 Termination of Utility Service. In addition to and not by way of limitation upon other methods of collecting any assessments, the Association shall have the right, after having given ten (10) days' notice to any Unit Owner who is delinquent in paying his assessments, to cut off any or all utility services to the delinquent Unit Owner's Unit until such assessments are paid.
- 14.6 Assignment of Rents. If a Unit is rented by its Unit Owner, the Board may collect and the tenant or lessee shall pay over to the Board as much of the rent thereof as is required to pay any amounts due the Board hereunder, plus interest and costs, if the same are in default over thirty (30) days. The renter or lessee shall not have the right to question payment over to the Board, and such payment will discharge the lessee's or renter's duty of payment to the Unit Owner but will not operate to discharge the continuing obligations

of the Unit Owner under this Declaration for assessments, or operate as an approval of the lease. The Board shall not exercise this power where a receiver has been appointed.

- 14.7 Remedies Cumulative. The remedies provided are cumulative and the Board may pursue them concurrently, as well as any other remedies which may be available under law although not expressed herein.
- 14.8 Unpaid Assessments. Notwithstanding anything herein to the contrary, the buyer of a Unit with unpaid assessments is jointly and severally liable for those assessments to the extent they were disclosed in any resale certificate for the Unit.

SECTION 15

MORTGAGEE PROTECTION

- 15.1 Compliance with State Law. This Condominium project is being created in full compliance with the requirements of the Act.
- 15.2 Unpaid Dues or Charges. Any first Mortgagee who obtains title to a Unit or part of the Property pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than six (6) months of the Unit's unpaid regularly budgeted dues or charges accrued before the acquisition of the title to the Unit by the Mortgagee. If the Association's lien priority includes costs of collecting unpaid dues, the Mortgagee will be liable for any fees or costs related to the collection of the unpaid dues.
- 15.3 Limitations in Actions of Association. Except as provided by statute, in case of condemnation or substantial loss to the Units and/or Joint Common Areas of the Condominium project, or where a greater percentage is required elsewhere in this Declaration, unless one hundred percent (100%) of the first Mortgagees or Unit Owners (other than the sponsor, developer, or builder) of the individual Condominium Units have given their prior written approval, the Association may not:
- 15.4.1 Abandon Project. By act or omission seek to abandon or terminate the Condominium project;
- 15.4.2 Pro-Rata Interest. Change the pro-rata interest or obligations of any Condominium Unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro-rata share of ownership of each Condominium Unit in the Joint Common Areas.
- 15.4.3 Joint Common Areas. Seek to abandon, partition, subdivide, encumber, sell, or transfer the Joint Common Areas by act or omission. The granting of easements for public utilities or other public purposes consistent with the intended use of the Joint Common Areas by the Condominium project is not a transfer within the meaning of this clause.
- 15.4.4 Insurance. Use hazard insurance proceeds for losses to any Condominium Property (whether Units or Joint Common Areas) for other than the repair, replacement or reconstruction of the Condominium Property.
- 15.5 Taxes, Assessments, and Charges. All taxes, assessments and charges that may become liens prior to a preexisting mortgage under local law relate only to the individual

Condominium Units and not to the Condominium project as a whole to the extent allowable by law.

- 15.6 First Mortgagee's Rights Confirmed. No provision of the Condominium constituent documents gives a Condominium Unit Owner or any other party priority over any rights of any preexisting Mortgagee of the Condominium Unit pursuant to its mortgage in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Condominium Units and/or Joint Common Areas.
- 15.7 No Leasehold Estate. The Condominium project is not on a leasehold estate.
- 15.8 Amenities. All amenities (the Joint Common Areas) are a part of the Condominium project and are covered by the mortgage at least to the same extent as the Joint Common Areas. All Joint Common Areas and amenities are fully installed, completed and in operation for use by Condominium Unit Owners.
- 15.9 Right to Notification. The holder, insurer, or guarantor of the mortgage on any Unit in the project is entitled to timely written notice of:
- any condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage;
 - any sixty (60) day delinquency in the payment of assessments or charges or any other default in performance of any obligation under the Declaration, Bylaws or rules and regulations owed by the Unit Owner of any Unit on which it holds the mortgage;
 - a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the -Association; and
 - any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

To obtain this information, the mortgage holder, insurer, or guarantor should send a written request to the Association, stating both its name and address and the Unit number or address of the Unit it has the mortgage on.

- 15.10 Audit. Any mortgage holder is allowed to have an audited statement of the Unit Owners Association prepared at its own expense.

SECTION 16

MANAGEMENT

- 16.1 Management. The Association may self-perform management, contract with one of the Unit Owners or a third party management company to operate and manage the building.
- 16.2 Manager

16.3.1 Delegation by Board. The Board may delegate any of its duties, powers or functions, including but not limited to, the authority to give the certificates provided for herein, to any person or firm, to act as manager of the Association, provided that any such delegation

shall be revocable immediately upon notice by the Board. The members of the Board shall not be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated. In the absence of any appointment, the president of the Association may act as manager. Declarants are entitled to the protections of this section.

16.3.2 Term of Employment. The Board shall have the right to retain or discharge any manager as it determines desirable in its discretion.

16.3.3 Termination. Any agreement for professional management of the Condominium project, or any other contract providing for services by the developer, sponsor or builder, must provide for termination by either party without cause or payment of a termination fee on ninety (90) days or less written notice and a maximum contract term of three (3) years.

SECTION 17

OWNER'S OBLIGATIONS

- 17.1 Interior. Each Unit Owner shall at the said owner's expense keep the interior of his Unit and its equipment and appurtenances in good order, condition, and repair and in a clean and sanitary condition, and shall do all redecorating, painting and provide all upkeep which may at any time be necessary to maintain the good appearance and condition of his Unit. In addition to decorating and keeping the interior of the Unit in good repair, the Unit Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, heating fixtures, heat pumps, lighting fixtures, or air conditioning equipment that may be in, or connected with, the Unit and not part of common area building system consistent with applicable building codes.
- 17.2 Loss or Theft. The Association, Board, and manager shall not be responsible to the Unit Owner for loss or damage by theft or otherwise of articles which may be kept or stored by the Unit Owner in a Unit.
- 17.3 Exterior. A Unit Owner shall not modify, paint or decorate any Common Areas without first obtaining written consent of the Board.
- 17.4 Maintenance of Unit. Each Unit Owner shall, at his sole expense, keep his Unit, and the equipment, appliances, and appurtenances relating thereto, in good order, condition, repair and appearance.

SECTION 18

PROVISIONS REGARDING ALTERATION – SUBDIVIDING AND COMBINING

- 18.1 Alterations of Units. A Unit Owner may make any improvements or alterations to the Unit Owner's Unit that do not affect the structural integrity or mechanical or electrical systems or lessen the support of any portion of the Condominium. A Unit Owner may change the exterior appearance of such Unit Owner's Unit subject to Section 6.8 above. Unit alterations shall follow all applicable building codes.
- 18.2 Appearance. A Unit Owner may not change the appearance of the Joint Common Areas without permission of the Association, except as specifically provided otherwise herein.

- 18.3 Combination of Units. A Unit Owner after acquiring an adjoining Unit or an adjoining part of an adjoining Unit may, with approval of the Board, remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Joint Common Area, if those acts do not adversely affect the structural integrity or mechanical or electrical systems or lessen the support of any portion of the Condominium. Removal of partitions or creation of apertures under this subsection is not a relocation of boundaries. The Board shall approve a Unit Owner's request, which request shall include the Building Map and specifications for the proposed removal or alteration, under this subsection within thirty (30) days, unless the proposed alteration does not comply with the Act or the Declaration or impairs the structural integrity or mechanical or electrical systems in the Condominium. The failure of the Board to act upon a request within such period shall be deemed approval thereof.
- 18.4 Relocation of Boundaries. The boundaries between adjoining Units may only be relocated by an amendment to the Declaration upon the unanimous approval by the Unit Owners. If receiving such approval, the Association shall prepare an amendment that identifies the Units involved, states the reallocations, is executed by those Unit Owners, contains words of conveyance between them, and is recorded in the name of the grantor and the grantee. The Association shall obtain and record Building Map complying with the requirements of RCW 64.34.232(4) necessary to show the altered boundaries between adjoining Units and their dimensions and identifying numbers.
- 18.5 Subdivision of Units. A Unit may be subdivided into two or more Units only upon the unanimous approval by the Unit Owners. Upon receiving such approval, the Association shall prepare, execute, and record an amendment to the Declaration, including Building Map, subdividing that Unit. The amendment to the Declaration must be executed by the Unit Owner of the Unit to be subdivided, assign an identifying number to each Unit created, and reallocate the allocated interests formerly allocated to the subdivided Unit to the new Units in any reasonable and equitable manner prescribed by the Unit Owner of the subdivided Unit.
- 18.6 Encroachments. If the construction, reconstruction, repair, shifting, settlement, or other movement of any portion of the improvements results either in the Joint Common Areas encroaching on any Unit, or in a Unit encroaching on the Joint Common Areas or on another Unit, there is granted an easement for both the encroachment and its maintenance. Provided, the easement is granted only if the physical boundaries of the Units after the construction, reconstruction, repairs, etc., are in substantial accord with the description of those boundaries that appear in this Declaration and the Building Map. This easement extends for so long as the encroachment exists.

SECTION 19

ENTRY FOR REPAIRS

The Association, acting through the Board, its employees, or other agents, may enter any Unit upon reasonable prior notice when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Unit Owners as practicable, and any damage caused thereby shall be repaired by the Association out of the common expense fund if the entry was for the purpose of maintenance, or repairs, to Joint Common Areas,

Common Area A, Common Area B, Common Area 1B, Parking Common Area A, Parking Common Area B, or another Unit where the maintenance or repairs to the other Unit were undertaken by the Association.

SECTION 20

FAILURE OF BOARD TO INSIST ON STRICT PERFORMANCE – NO WAIVER

The failure of the Board or manager to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Board or manager of any assessment from a Unit Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Board or manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board or manager. This section also extends to the Declarants' exercise of the powers of the Board during the initial period of operation of the Association and Condominium development.

SECTION 21

LIMITATION OF BOARD AND ASSOCIATION LIABILITY

Except to the extent of any insurance proceeds available, the Board shall not be liable for any failure of any utility or other service to be obtained and paid for by the Board hereunder, or for injury or damage to person or property caused by the elements, or resulting from electricity, water, rain, dust or sand which may leak or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place. No diminution or abatement of common expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the Joint Common Areas, or from any action taken to comply with any law, ordinance or orders of a governmental authority. This exemption extends to the entire Association as well as the Board. This section shall not be interpreted to impose any form of liability by any implication upon the Board or the Association. This section also extends to the Declarants' exercise of the powers of the Board during the initial period of operation of the Association and Condominium development.

SECTION 22

INDEMNIFICATION OF BOARD MEMBERS

Each member of the Board shall be indemnified by the Association against all expenses and liabilities including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a member of the Board, or any settlement thereof, whether or not he is a member of the Board at the time such expenses are incurred, except in such cases wherein the member of the Board is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association. This section shall apply also to the Declarants' exercise of the powers of the Board during the initial period of operation of the Association and Condominium development. The right to indemnification conferred in this Section 22 shall not be exclusive of any other right which any member of the Board may have or hereafter acquire under any statute, provision of the Bylaws, agreement, vote or of disinterested directors or otherwise.

SECTION 23

INSURANCE

23.1 Maintain Insurance. Not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Board shall obtain and maintain at all times insurance as follows:

23.1.1 General Insurance Requirements.

- a) Licensing of Insurer. All insurers and reinsurers must be licensed, or otherwise authorized by law, to conduct business in the jurisdictions where the premises are located.
- b) Proceeds. Any loss covered by the property insurance under subsection 23.1.2 of this section must be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a mortgage. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interests may appear. Subject to the provisions of Section 24, *Damage and Destruction; Reconstruction*, the proceeds must be disbursed first for the repair or restoration of the damaged property, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored or the condominium is terminated. The "loss payable" clause should show the Unit Owners Association or the insurance trustee as a trustee for each Unit Owner and the holder of each Unit's mortgage.
- c) Notice. The policy must provide for at least thirty (30) days' written notice to the Unit Owners Association, Unit Owners and mortgagees before the insurer can cancel, modify or refuse to renew. Similar notice must also be given to each holder of a first mortgage on an individual Unit in the project.
- d) Named Insured. Insurance policies should show the following as a named insured:

"LocalTel Federal Building Condominium Association, Inc. for the use and benefit of the individual owners."

23.1.2 Hazard Policy. The Association must maintain blanket "all risk" coverage for the following:

Joint Common Areas and Limited Common Areas within the Condominium

fixtures, machinery, equipment, and supplies maintained for the service of the Condominium

fixtures, improvements, alterations, and equipment within the individual Units

Coverage must be for 100 percent of the insurable value of the Joint Common Areas for property described above and provide for loss or damage settlement on a replacement cost basis.

The insurance policy of the Association must name the insured in substantially the same language indicated below:

LocalTel Federal Building Condominium
Association, Inc. for the use and benefit of the
individual owners (designated by name, if required
by law or the constituent documents).

23.1.3 Liability Insurance. The Association must carry comprehensive general liability (CGL) insurance covering all Joint Common Areas, commercial spaces, and public ways in the Condominium. The Association, at the Board's discretion, may carry such insurance coverage for one or more of the Limited Common Areas.

The insurer's limit of liability per occurrence for personal injury, bodily injury, or property damage under the terms of the above coverage must be at least \$1 million.

23.2 Additional Insurance. Each Unit Owner may obtain additional insurance for his Unit as provided in RCW 64.34.352(5) and at his own expense; provided, however that no Unit Owner shall be entitled to exercise his right to maintain insurance coverage in any manner which would decrease the amount which the Board, in behalf of all of the Unit Owners, will realize under any insurance policy, which the Board may have in force on the Condominium at any particular time.

SECTION 24

DAMAGE OR DESTRUCTION; RECONSTRUCTION

24.1 Initial Board of Directors' Determinations. In the event of damage or destruction to any part of the Property, the Board of Directors shall promptly, and in all events within twenty (20) days after the date of damage or destruction, make the following determinations with respect thereto employing such advice as the Board of Directors deems advisable:

24.1.1 Extent of Damages. The nature and extent of the damage or destruction, together with an inventory of the improvements and property directly affected thereby.

24.1.2 Estimates. A reasonably reliable estimate of the cost to repair and restore the damage and destruction, which estimate shall, if reasonably practicable, be based upon two or more firm bids obtained from responsible contractors.

24.1.3 Insurance Proceeds. The anticipated insurance proceeds, if any, to be available from insurance covering the loss based on the amount paid or initially offered by the insurer.

24.1.4 Cost in Excess of Insurance. The amount, if any, that the estimated cost of repair and restoration exceeds the anticipated insurance proceeds therefore and the amount of assessment to each Unit if such excess is paid as a

maintenance expense and specially assessed against all the Units in proportion to their percentage of interest in the Joint Common Areas.

- 24.1.5 Recommendation. The Board of Directors' recommendation whether or not such damage or destruction should be repaired or restored.
- 24.2 Initial Board of Directors' Determinations. In the event of damage or destruction to any part of the Property, the Board of Directors shall promptly, and in all events within twenty (20) days after the date of damage or destruction, make the following determinations with respect thereto employing such advice as the Board of Directors deems advisable.
- 24.3 Notice of Damage or Destruction. The Board of Directors shall promptly, and in all events within sixty (60) days after the date of damage or destruction, provide each Unit Owner and each Mortgagee who has theretofore requested special notice, with a written notice summarizing the initial Board of Directors' determinations made under Section 24.1. If the Board of Directors fails to do so within said sixty (60) days, then any Unit Owner or Mortgagee may make the determinations required under Section 24.1 and give the notice required under this Section.
- 24.4 Definitions:
- 24.4.1 Restoration. As used in this Section, the words "repair," "reconstruct," "rebuild" or "restore" shall mean restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and the Joint Common Areas having substantially the same vertical and horizontal boundaries as before. Modifications to conform to then applicable governmental rules and regulations or available means of construction may be made.
- 24.4.2 Emergency Work. As used in this Section, the term "emergency work" shall mean that work which the Board of Directors deems reasonably necessary to avoid further damage, destruction or substantial diminution in value to the improvements and to reasonably protect the Unit Owners from liability from the condition of the site.
- 24.5 Restoration by Board of Directors.
- 24.5.1 Board of Directors Shall Restore. Unless prior to the commencement of repair and restoration work (other than emergency work referred to in Section 24.8), (1) the Unit Owners shall have decided not to repair and reconstruct in accordance with the provisions of Section 24.6.3, (2) such repair or restoration work would be illegal under any state or local health or safety statute or ordinance, or (3) the Condominium is terminated pursuant to RCW 64.34, as amended, the Board of Directors shall promptly repair and restore the damage or destruction. The Board of Directors shall use the available insurance proceeds to pay for the actual cost of repair and restoration. Any excess in the actual cost of repair or restoration over the available insurance proceeds shall be collected from the Unit Owners as a Special Assessment.
- 24.5.2 Authority to Contract. The Board of Directors shall have the authority to employ architects and attorneys, advertise for bids, let contracts to contractors

and others, and to take such other action as is reasonably necessary to effectuate the repair and restoration. Contracts for such repair and restoration shall be awarded when the Board of Directors, by means of insurance proceeds and sufficient assessments, has made provision for the cost thereof. The Board of Directors may further authorize the insurance carrier to proceed with repair and restoration upon satisfaction of the Board of Directors that such work will be appropriately carried out.

24.5.3 Insurance Trustee. The Board of Directors may enter into a written agreement in recordable form with any reputable financial institution or trust or escrow company that such firm or institution shall act as an insurance trustee to collect the insurance proceeds and carry out the provisions of this Section. Any such insurance trustee shall have the exclusive authority to negotiate losses under any policy providing such property or liability insurance.

24.6 Limited Damage; Assessment Under \$50,000.00. If the amount of the estimated assessment determined under Section 24.1.2 does not exceed \$50,000.00 for any one Unit then the provisions of this Section shall apply:

24.6.1 Special Meeting of Association. The Board of Directors may, but shall not be required to, call a special Unit Owners' meeting to consider such repair and restoration work, which notice shall be given simultaneously with the notice required to be given by the Board of Directors under Section 24.3 above. If the Board of Directors shall fail to call such meeting, then the requisite number of votes, within fifteen (15) days of receipt of the notice given by the Board under Section 24.3 above, or the expiration of the sixty (60) day period for notice described in Section 24.3, whichever is less, may call a special Unit Owners' meeting to consider such repair and restoration work. Any meeting held pursuant to this Section 24.6.1 shall be called by written notice and shall be convened not less than ten (10) nor more than twenty (20) days after the date of the notice of meeting.

24.6.2 No Restoration Work Prior to Meeting. Except for emergency work, no repair and restoration work shall be commenced until after the expiration of the notice period set forth in Section 24.6.1 and until after the conclusion of said special meeting if such meeting is called within said notice period.

24.6.3 Vote Required Not to Rebuild. A unanimous decision of all the Unit Owners will be required to avoid the provisions of Section 24.5.1 and to determine not to repair and restore the damage and destruction; provided, that the failure of the Board of Directors or the requisite number of Unit Owners to call for a special meeting at the time or in the manner set forth in Section 24.6.1 shall be deemed a unanimous decision to undertake such work.

24.7 Major Damage; Assessment Over \$50,000.00. If the amount of the estimated assessment determined under Section 24.1.2 exceeds \$50,000.00 for any one Unit, then the provisions of this Section shall apply:

24.7.1 Special Meeting of Association. The Board of Directors shall promptly, and in all events within sixty (60) days after the date of damage or destruction,

provide written notice of a special Unit Owners' meeting to consider repair and restoration of such damage or destruction, which notice shall be delivered with the notice required to be provided under Section 24.2 above. If the Board of Directors fails to do so within said sixty (60) day period, then notwithstanding the provisions of this Declaration or the Bylaws with respect to calling special meetings, any Unit Owner may within fifteen (15) days after the expiration of said sixty (60) day period, call a special meeting of the Unit Owners to consider repair and restoration of such damage or destruction by providing written notice of such meeting to all Unit Owners and Mortgagees. Any meeting held pursuant to this Section 24.7.1 shall be called by written notice and shall be convened not less than ten (10) nor more than fifteen (15) days from the date of the notice of meeting.

24.7.2 No Restoration Work Prior to Meeting. Except for emergency work, no repair and restoration work shall be commenced until the conclusion of the special Unit Owners' meeting required under Section 24.7.1.

24.7.3 Vote Required Not to Rebuild. The affirmative vote of all Unit Owners will be required to avoid the provisions of Section 24.5.1 and to determine not to repair and restore the damage and destruction; provided, however, that the failure to obtain said affirmative vote shall be deemed a decision to rebuild and restore the damage and destruction; provided, further that the failure of the Board of Directors, or Unit Owners to convene the special meeting required under Section 24.7.1 within ninety (90) days after the date of damage or destruction shall be deemed a unanimous decision to undertake such repair and restoration work.

24.8 Decision Not to Restore; Disposition. In the event of a decision under either Sections 24.6.3 or 24.7.3 not to repair and restore the damage and destruction, or if such repair would be illegal, and provided the Condominium has not been terminated pursuant to RCW 64.34.268, as it may be amended, the Board of Directors may nevertheless expend such of the insurance proceeds and common funds as the Board of Directors deems reasonably necessary for emergency work (which emergency work may include but is not necessarily limited to removal of the damaged or destroyed building and clearing, filling and grading the real property). The remaining funds, if any, and property shall thereafter be held and distributed as follows:

24.8.1 Repair of Joint Common Areas. The insurance proceeds attributable to the damaged Joint Common Areas (except for Limited Common Areas) shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium.

24.8.2 Distribution to Owners of Damaged Units. The insurance proceeds attributable to Units and Limited Common Areas which are not rebuilt shall be distributed to the Unit Owners of those Units and the Unit Owners of the Units to which those Limited Common Areas were allocated, or to lienholders of such Units, as their interests may appear.

24.8.3 Remaining Proceeds. The remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to such Unit Owner's allocated interest in the Joint Common Areas.

24.8.4 Reallocation of Interests; Amendment. The allocated interests of any Unit which the Unit Owners vote not to rebuild are automatically reallocated upon the vote not to rebuild as if the Unit had been condemned pursuant to Section 25. The Board of Directors shall promptly prepare, execute, and record an amendment to the Declaration reflecting the reallocations.

SECTION 25

CONDEMNATION

25.1 Consequences of Condemnation. If at any time or times during the continuance of the Condominium ownership pursuant to this Declaration, all or any part of the property shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the Association shall represent the Unit Owners in all negotiations and proceedings with the condemning authority. If any Unit or portion thereof or the Common or Limited Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the Board of Directors shall provide each Unit Owner and each Mortgagee written notice of any such proceeding or proposed acquisition.

25.2 Proceeds. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Board of Directors on behalf of the Association.

25.3 Complete Taking. In the event that the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership thereof shall terminate. The Condemnation Award shall be apportioned among the Unit Owners in proportion to the respective undivided interests in the Joint Common Areas; provided, that if a standard different from the value of the Property as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable. On the basis of the foregoing principle, the Board of Directors shall as soon as practicable determine the share of the Condemnation Award to which each Unit Owner is entitled. After first paying out of the respective share of each Unit Owner, to the extent sufficient for the purpose, all Mortgages and liens on the interest of such Unit Owner, the balance remaining in each share shall then be distributed to each Unit Owner respectively.

25.4 Partial Taking. In the event that less than the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership hereunder shall not terminate. Each Unit Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner:

25.4.1 Allocation of Award. As soon as practicable the Board of Directors shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages, or other proceeds.

- 25.4.2 Apportionment among Owners. The Board of Directors shall apportion the amounts so allocated to the taking of or injury to the Joint Common Areas excluding the Limited Common Areas which, in turn, shall be apportioned among Unit Owners in proportion to their respective undivided interests in the Limited Common Areas. Any amount apportioned to the taking of or injury to the Limited Common Areas shall be divided equally among Unit Owners to which those Limited Common Areas were assigned.
- 25.4.3 Severance Damages. The total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned.
- 25.4.4 Damage to a Particular Unit. The respective amounts allocated to the taking of or injury to a particular Unit and/or the improvements a Unit Owner has made within his own Unit shall be apportioned to the particular Unit involved.
- 25.4.5 Consequential Damages. The amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board determines to be equitable under the circumstances.
- 25.4.6 Agreed Allocation. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Board shall employ such allocation to the extent it is relevant and applicable.
- 25.4.7 Distribution of Proceeds. Distribution of apportioned proceeds shall be made to the respective Unit Owners and their respective Mortgagees in the manner provided in Section 25.3.
- 25.5 Reductions of Condominium upon Partial Taking. In the event that (a) a partial taking occurs which pursuant to Section 25.4 does not result in a termination of Condominium ownership hereunder, and (b) at least one (1) Unit is taken or condemned, and (c) the condemning authority elects not to hold, use and own said Unit as a Condominium Unit Owner subject to and in accordance with the Declaration, then the provisions of this section shall take effect immediately upon the condemning authority taking possession of the Unit or Units so taken or condemned.
- 25.5.1 Reduction of Declaration. The Units subject to this Declaration shall be reduced to those Units or partial Units not taken or condemned (or not sold or otherwise disposed of in lieu of or in avoidance thereof).
- 25.5.2 Reduction of Joint Common Areas. The Joint Common Areas subject to this Declaration shall be reduced to those Joint Common Areas not taken or condemned.
- 25.5.3 Reduction of Limited Common Areas. The Limited Common Areas, which were not taken or condemned, but which were appurtenant to Units that were taken or condemned, shall be deemed part of the Limited Common Areas remaining subject to this Declaration. Any remnant of a Unit remaining after part of such Unit was condemned such that the Unit may not practically or lawfully be used for any

purpose permitted by Section 6 shall become a Joint Common Area upon such condemnation.

- 25.5.4 Recalculation of Percentages. The votes and percentage of undivided interests in the Joint Common Areas appurtenant to each Unit not so taken or condemned shall be reallocated in proportion to the relative votes and percentages of those remaining Units. Provided however, if a portion of any Unit is condemned, but the remaining portion of that Unit may still be practically and lawfully used for the uses specified in Section 6, *Usage*, then the votes and percentages allocated to that Unit as set forth in Section 5, *Percentage of Undivided Interest In Joint Common Areas and Facilities*, shall be reduced in the same proportion as the reduction in the area of the Unit resulting from the partial condemnation. In the later case, the votes and percentages shall be reallocated among all Units in proportion to their relative votes and percentages with the partial Unit participating on the basis of its reduced vote and percentages. In each case, the allocations shall be rounded such that the totals are 100.
- 25.5.5 Interest of Owner of Condemned Unit. Except with respect to the share of proceeds apportioned pursuant to Section 25.4, no Unit Owner or Mortgagee of a Unit so taken or condemned (except for a Unit only partially condemned which may still be practically and lawfully used) shall have, nor shall there be appurtenant to any Unit so taken or condemned, any right, title, interest, privilege, duty or obligation in, to or with respect to the Association and any Unit, or Joint Common Areas which remain subject to this Declaration and which are not so taken or condemned.
- 25.5.6 Interest of Owners of Remaining Units. Except as otherwise expressly provided in Section 25.5, the rights, title, interests, privileges, duties and obligations of a Unit Owner and Mortgagee in, to or with respect to a Unit not so taken or condemned (and in, to or with respect to the Association and the Joint Common Areas appurtenant to said Unit) shall continue in full force and effect as provided in this Declaration.
- 25.5.7 This Section Binding. The provisions of Section 25.5 shall be binding upon and inure to the benefit of all Unit Owners and Mortgagees of (and other persons having or claiming to have any interest in) all Units which are, as well as all Units which are not, so taken or condemned. All such Unit Owners, Mortgagees and other persons covenant to execute and deliver any documents, agreements or instruments (including, but not limited to, appropriate amendments to the Declaration, and Building Map) as are reasonably necessary to effectuate the provisions of Section 25.5.
- 25.6 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Section 24, *Damage or Destruction; Reconstruction* above, provided that the Board of Directors may retain and apply such portion of each Unit Owner's share of the Condemnation Award as is necessary to discharge said Unit Owner's liability for any special assessment arising from the operation of said Section 24, *Damage or Destruction; Reconstruction*.

SECTION 26

TERMINATION

Termination shall be accomplished only pursuant to RCW 64.34.268, as amended.

Disbursement of remaining reserves upon termination shall be made to each Unit based on such Unit's unexpended portion contributed to the reserve.

SECTION 27

ENFORCEMENT

Each Unit Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations and Bylaws passed hereunder, as the same may be lawfully amended from time to time, and with decisions adopted pursuant to said Declaration and administrative rules and regulations, and failure to comply shall be grounds for an action to recover sums due for damages, or injunctive relief, or both, maintainable by the Board or manager on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner.

SECTION 28

ASSOCIATION PROPERTY

- 28.1 Acquisition of Personal Property. The Board or manager may, from common funds of the Association, acquire and hold in the name of the Association, for the benefit of the Unit Owners, tangible and intangible personal property and real property and interests therein, and may dispose of the same by sale or otherwise; and the beneficial interest in such personal property shall be owned by the Unit Owners in the same proportion as their respective interests in the Joint Common Areas, and such property shall become part of the Property and shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the common fund of the Association as the Board may direct. The Board shall not, however, in any case acquire real property or personal property valued in excess of Ten Thousand Dollars (\$10,000.00) by lease or purchase except upon the unanimous approval of the Unit Owners.
- 28.2 Conveyance or Encumbrance of Joint Common Areas. Joint Common Areas may be conveyed or subjected to a security interest only as follows:
- 28.2.1 Approval. Portions of the Joint Common Areas which are not necessary for the habitability of a Unit may be conveyed or subjected to a security interest by the Association if the Unit Owners unanimously agree to that action. Proceeds from the sale or financing are an asset of the Association.
- 28.2.2 Form of Agreement. An agreement to convey Joint Common Areas or subject them to a security interest must be evidenced by the execution of an agreement, or ratification thereof, in the same manner as a deed, by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratification

thereof must be recorded in every county in which a portion of the Condominium is situated and is effective only upon recording.

- 28.2.3 Power of Association. The Association, on behalf of the Unit Owners, may contract to convey Joint Common Areas or subject them to a security interest, but the contract is not enforceable against the Association until approved pursuant to subsections 28.2.1 and 28.2.2 of this section and Section 31.1.1. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.
- 28.2.4 Voidable. Any purported conveyance, encumbrance, or other voluntary transfer of Joint Common Areas, unless made pursuant to this section, is void.
- 28.2.5 Access and Support. A conveyance or encumbrance of Joint Common Areas pursuant to this section shall not deprive any Unit of its rights of access and support.
- 28.2.6 Priority. A conveyance or encumbrance of Joint Common Areas pursuant to this section shall not affect the priority or validity of preexisting encumbrances.
- 28.3 Description of Personal Property on Termination. Within thirty (30) days following the termination of Declarants' right to exercise the powers of the Board of this Declaration, the Declarants shall execute and deliver a bill of sale to the Board in behalf of all the Unit Owners, transferring any items of personal or real property located on the Property and furnished by the Declarants, which property is intended for the common use and enjoyment of the Unit Owners.
- 28.4 No Business for Profit. Nothing herein shall authorize Board of Association to carry on any business for profit.

SECTION 29

INTERPRETATION

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Condominium development.

SECTION 30

BYLAWS

Bylaws for the administration of the Association, and the Property, and for other purposes not inconsistent with the Act or with the terms or intent of this Declaration, shall be adopted by the Association by unanimous vote of the members. They shall be adopted at a meeting held for the purpose. Notice of the time, place and purpose of such meeting shall be delivered to each Unit Owner at least ten (10) days prior to such meeting.

SECTION 31

AMENDMENT OF DECLARATION, BUILDING MAP

31.1 Declaration. Amendments to the Declaration shall be made in an instrument in writing entitled "Amendment to Declaration of LocalTel Federal Building Condominium" which sets forth the entire amendment. Except as otherwise specifically provided herein (including in Section 5.2, which contemplates automatic and other amendments to Section 5.2), notice of any proposed amendment must be given to all Unit Owners as provided herein and any proposed amendment must be approved prior to its adoption by the unanimous vote of the Unit Owners. In all events, the amendment shall bear the signature of the Chairman of the Board of the Association, if one has been appointed (otherwise, a signature of a Board member will suffice), and shall be attested by the secretary, who shall state whether the amendment was properly adopted and shall be acknowledged by them as officers of the Association. Amendments once properly adopted shall be effective upon recording in the office of the Chelan County Auditor.

31.1.1 Mortgage Holders' Rights Regarding Amendments. Eligible mortgage holders--those holders of a first mortgage on a Unit estate who have requested the Association to notify them on any proposed action that requires the consent of a specified percentage of eligible mortgage holders also have the right to join in the decision making about certain amendments to the project documents.

With respect to amendments of a material nature, approval must be obtained from eligible mortgage holders representing at least sixty percent (60%) of the votes of Unit that are subject to mortgages held by eligible holders. A change to any of the following would be considered as material:

Voting rights;

Assessments, assessment liens, or subordination of assessment liens;

Reserves for maintenance, repair, and replacement of Joint Common Areas;

Responsibility for maintenance and repairs;

Reallocation of interests in the Joint Common Areas or Limited Common Area, or rights to their use;

Boundaries of any Unit;

Convertibility of Units into Joint Common Areas or vice versa;

Expansion or contraction of the project, or the addition, annexation, or withdrawal of Property to or from the project;

Insurance and fidelity bonds;

Leasing of Units;

Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;

A decision by the Association to establish self-management when professional management had been required previously by an eligible mortgage holder;

Restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;

Any action to terminate the legal status of the project after substantial destruction or condemnation occurs; or

Any provisions that expressly benefit mortgage holders, insurers, or guarantors.

When Unit Owners are considering termination of the legal status of the project for reasons other than substantial destruction or condemnation of the Property, the eligible mortgage holders representing at least sixty percent (60%) of the votes of the mortgaged Units must agree.

If an addition or amendment is not considered as a material change--such as the correction of a technical error or the clarification of a statement--approval is assumed when an eligible mortgage holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the proposal is made, provided the notice was delivered by Certified Mail, return receipt requested.

Mortgage holders shall be given written notice of a proposed amendment or termination in the same manner service of legal process must be made as provided in RCW 4.28.080 (providing for in-state service) or RCW 4.28.180 (providing for out-of-state service), as applicable. If a mortgage holder fails to respond within one-hundred and twenty (120) days of receiving said notice, the mortgage holder shall be deemed to have consented to the proposed action.

- 31.2 Building Map. Subject to the provisions regarding modification of Units, the Building Map may be amended by revised versions thereof referred to and described as to effect in an amendment to the Declaration adopted as provided for herein. Copies of any proposed amendment to the Building Map shall be made available for the examination of every Unit Owner. Such amendment to the Building Map shall also be effective, once properly adopted, upon recordation in the files of the Chelan County Auditor.

SECTION 32

RIGHTS OF ACTION; DEADLOCK

- 32.1 The Association and any aggrieved Unit Owner has the right of action against Unit Owners who fail to comply with provisions of this Declaration or any rules, Bylaws or decisions adopted by the Board. Unit Owners also have a right of action against the Association for its failure to comply with the provisions of the Declaration, Bylaws, rules or its own decisions. Construction defect disputes must proceed pursuant to RCW 64.55, as amended.
- 32.2 Except as otherwise provided herein, any decision-making deadlock between the Board or between the Unit Owners shall be resolved exclusively by arbitration. Such arbitration shall be heard by an arbitrator acceptable to the parties. In the event the parties cannot agree upon an arbitrator, the parties shall petition JAMS for appointment of an arbitrator. The rules and procedures of the arbitration shall be established by the arbitrator; provided,

however, the resolution and award of the arbitrator shall be made in a fashion similar to Major League Baseball arbitration. To wit: each party shall submit to the opposing party(ies) and the arbitrator a proposed arbitration award and/or resolution involving provisions for monetary damages, specific enforcement, and/or other equitable remedies. The arbitrator shall choose the specific resolution/award submitted by the parties which the arbitrator deems to be the most reasonable and appropriate under the circumstances, but may not fashion an alternate remedy. Proposed arbitration awards and/or resolutions may include provisions for award of fees and costs of the arbitration including legal fees, expert witness fees and arbitrator fees. The decision of the arbitrator in any arbitration proceedings shall be final and binding upon all parties and may only be appealed to a court of competent jurisdiction for abuse of discretion or impropriety by the arbitrator.

SECTION 33

SERVICE OF PROCESS

Jeffers, Danielson, Sonn & Aylward, P.S., whose address is:

PO Box 1688
2600 Chester Kimm Road
Wenatchee, WA 98807

is hereby designated as the person to receive service of process in the cases provided in the Act. A future change of registered agent shall not be a material change requiring approval of mortgage holders under Section 31.1.1.

SECTION 34

SEVERABILITY

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

SECTION 35

EFFECTIVE DATE

This Declaration shall take effect upon recording.

DATED this ____ day of _____, 2018.

“DECLARANT”

LocalTel Federal Building, LLC
A Washington Limited Liability Company

By: _____

Name: _____

Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of LocalTel Federal Building, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2018.

Typed/Printed Name _____
NOTARY PUBLIC
In and for the State of Washington
My appointment expires: _____

Attachment A

Description	Proration Basis for Payment of Costs/Expenses
Windows	Percentage to be calculated based on glazing SF attached to each Unit (formula); for the purposes of window washing, Unit B will be addressed solely by the owners of Unit B and thus no costs will be applied.
Marble	Percentage to be calculated based on surface area attached to each Unit (formula)
HVAC	Percentage to be calculated based on gross cubic volume area less building service area for each Unit (formula): All Association expenses shall be split based on gross floor area.
Main Elevator and Freight Elevator (3 total)	Percentages to be based on number of floor stops for each elevator.
Unit 1A Roof, Unit 1B Roof, Upper Roof	Percentage to be calculated based on Gross Floor Area less building service area for each Unit
Parking Lots	Percentage to be calculated based on identified measured area on Building Map for PCAA and PCBB. Unit 1B manages splits between Units B and 1B. Unit 1A manages splits between Units 1A, 2, and 3
Signage North	Percentage based on prorated gross floor area between Units
Janitorial/Building Maintenance Employees	Percentage to be calculated based on Gross Floor Area less building service area for each Unit
Refuse: Garbage and Recycling Service and Dumpsters	Percentage to be calculated based on Gross Floor Area less building service area for each Unit. Note: special garbage needs assigned to respective Unit.
Building Security System, Fire Alarm, and Fire Sprinkler Systems, Shared Communication Equipment and Facilities	Percentage to be calculated based on Gross Floor Area less building service area for each Unit

Attachment A Continued

Cost Schedule Basis for Operations and Maintenance		Initial Management Agreement											
Description	Units of Measure	Total			Unit			Unit Percentage Split					
		Assoc.	B	IB	1A	2	3	Assoc.	B	IB	1A	2	3
Windows (See note below)	Glazing area, sf	26554	10121	0	1593	7420	7420	0.0%	38.1%	0.0%	6.0%	27.9%	27.9%
Marble Cladding	Vertical surface area, sf	27202	497	4646	8699	6680	6680	0.0%	1.8%	17.1%	32.0%	24.6%	24.6%
HVAC (incl. utilities for HVAC)	Gross Cubic Volume (less bldg. service area), cf	853757	141702	142043	253716	120933	120717	8.7%	16.6%	16.6%	29.7%	14.2%	14.1%
Lobby Elevators (2 and freight)	Each elevator floor stop	12	0	1	3	4	2	0.0%	8.3%	25.0%	33.3%	16.7%	16.7%
Fenced area next to 1B	By percentage split	1	0	0.5	0	0	0	0.0%	50.0%	50.0%	0.0%	0.0%	0.0%
Art Mound Area	By percentage split	1	0	0	0	1	0	0.0%	0.0%	100.0%	0.0%	0.0%	0.0%
Parking Lot Common Areas	Common area A and B, sf	54439	8927	0	21814	25098	0	15.4%	0.0%	39.3%	45.3%	0.0%	0.0%
Signage South	By percentage split Units B & 1B	1	0	0.5	0.5	0	0	0.0%	50.0%	50.0%	0.0%	0.0%	0.0%
Signage North	Gross Floor Area Units 1A, 2, 3	46722	0	0	0	19882	13437	0.0%	0.0%	0.0%	42.5%	28.8%	28.7%
Backup Generator/New Service	Panel Rating Split (amps)	850	0	0	700	150	0	0.0%	0.0%	82.4%	17.6%	0.0%	0.0%
Notes:													
Windows: For the purposes of window washing, Unit B shall not be charged any costs. Window washing will be handled by the owner of Unit B. For window washing, Units 1A, 2, and 3 will be billed for washing of the windows e													
<i>Gross Floor Area (less building service area) Categories</i>													
Janitorial/Admin/Building Employees	Gross Floor Area (less bldg. service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Joint Common Area (lands/capting, etc)	Gross Floor Area (less bldg. service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Roof	Gross Floor Area (less bldg. service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Water/Sewer	Gross Floor Area (less bldg. service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Electricity (excl. HVAC)	Gross Floor Area (less bldg. service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Irrigation Meter	Gross Floor Area (less bldg. service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Maint. of 5,183 sf of ICA inside the bldg.	Gross Floor Area (less bldg. service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%

LOCALTEL FEDERAL BUILDING CONDOMINIUM SURVEY BUILDING MAP BSP 2018-XXXX



CITY OF WENATCHEE BINDING SITE PLAN No. BSP 2018-XXXWE
ASSESSOR'S PARCEL No.(s): 22-20-10-590-436

ORIGINAL TRACT OWNER

Local Tel Federal Building, LLC
341 Grant Road
East Wenatchee, WA 98802

EXISTING ZONING: CBD

WATER SOURCE: CITY OF WENATCHEE

SEWAGE SYSTEM: CITY OF WENATCHEE

DEDICATION

Know all men by these presents that the undersigned Dimitri Mandelis, Managing Partner, of Local Tel Federal Building, LLC, a Washington Limited Liability Company of the real property described herein, declare these maps and plans and dedicate this property for condominium purposes. We further certify that all structural components and mechanical systems of all buildings containing or comprising any units hereby created are substantially completed. The drives, walks streets, grounds and other common areas and facilities of the LocalTel Federal Building Condominium Survey are not dedicated to the public generally, but are specifically dedicated to the use and benefit of each unit owner as common elements and facilities according to the declaration recorded with the Chelan County Auditor under the File Number _____.

as recorded this _____ day of _____, 2018.

Dimitri Mandelis
Managing Partner
Local Tel Federal Building, LLC.

CONSENT AND WAIVER OF CLAIMS

Know all men by these presents that LocalTel Federal Building, LLC, Dimitri Mandelis, Managing Partner in accordance with their desires, caused the hereon described property to be surveyed and platted into lots and streets under the name LocalTel Federal Building, Binding Site Plan 2018-XXXWE and does hereby reserve and dedicate all streets and other areas to the public, and individual or individuals, religious society or societies or to any corporation, public or private as shown on the plat. We hereby grant a waiver by ourselves of all claims for damages against any governmental authority which may be occasioned to the adjacent lands by the established construction, drainage and maintenance of public roads.

In witness whereof I have here to set my signature
This _____ Day of _____, 2018.

Dimitri Mandelis
Managing Partner
Local Tel Federal Building, LLC.

ACKNOWLEDGMENT

State of Washington)
County of Chelan) ss.

This is to certify that on the _____ day of _____, 2018, before me, the above signed, personally appeared to me, known to be the person who executed the foregoing dedication and acknowledged to me that he signed the same as his free and voluntary act and deed for the use and purposed therein mentioned.

Witnessed my hand and seal the day and year last above mentioned.

Notary public in and for the State of Washington, residing at _____

LEGAL DESCRIPTION

Block 31, Amended Great Northern Plat, according to the plat thereof recorded in Volume 1 of Plats, Page 15.

Together with alley in said Block, condemned in United States District Court, Eastern Washington Civil Cause No. 3320.

EXAMINED AND APPROVED THE CITY OF WENATCHEE

Administrator Date

CITY OF WENTACHEE ENGINEER

City Engineer Date

SURVEYOR'S CERTIFICATE BINDING SITE PLAN

"I, Norman Nelson, registered as a land surveyor by the State of Washington, certify that this plat is based on an actual survey of the land described herein, conducted by me or under my supervision, during the period of _____ 200__ through _____ 2018; that the distances, courses, and angles are shown thereon correctly; and that the monuments, other than the monuments approved for setting at later date, have been set and lot corners staked on the ground as depicted on the plat."

Norman D. Nelson Date
Certificate No. 22963

SURVEYOR'S CERTIFICATE CONDOMINIUM SURVEY

I hereby certify that the attached survey maps of _____ Survey are based upon a actual survey of the land described herein in conformance with the requirements of the survey recording act and fully and accurately depicts all information required by RCW 64.34.232 and the building, unit numbers and location thereof as constructed to _____.

Norman D. Nelson Date
Certificate No. 22963

SURVEYOR'S DEPOSITION

State of Washington)
County of Chelan) ss.

Norman D. Nelson, being duly sworn upon oath, deposes and says: I am the above named land surveyor, I have read the foregoing land surveyor's certificate, know the contents and believe the same to be true.

Norman D Nelson, P.L.S.

Subscribed and sworn to before me this _____ day of _____

Notary Public in and for the State of Washington,

Residing at _____

My appointment expires _____

AUDITOR'S CERTIFICATE _____ FEE _____

Filed for record this _____ day of _____, 2018 at _____ M.

In book _____, page _____ of Short plats at the request of _____.

TURNING YOUR IDEAS INTO
REALITY THROUGH
INNOVATION INTEGRITY
AND PERSONAL SERVICE

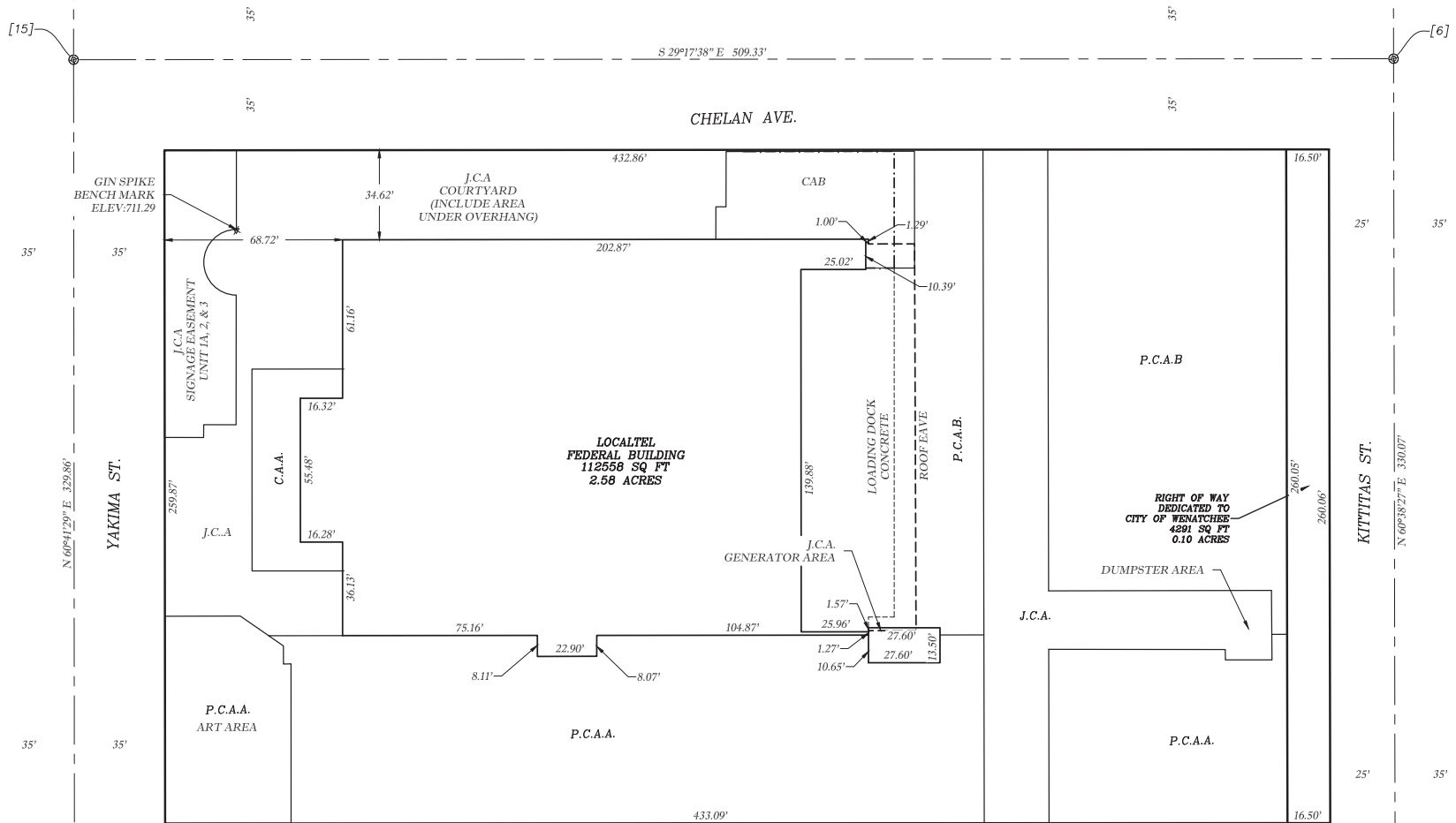


15 North Chelan Ave., Wenatchee, Wa. 98801
Phone 509-663-8660 Fax 509-663-6278

WASHINGTON
CHELAN COUNTY
LOCALTEL FEDERAL BUILDING
CONDOMINIUM SURVEY & BSP 2018-XXX
T. 22. N., R. 20 E., W.M.
PORTION OF THE NW 1/4 OF THE NE 1/4
SECTION 10
FILED: 2018-04-17 LOCAL TEL BSP-0000 SURVEY

17094
PROJ. NO.
1 OF 9
SHT.

LOCALTEL FEDERAL BUILDING BOUNDARY AND BUILDING TIES



MONUMENTS NOTES

- [1] Found 2 1/2" Brass cap in Monument case
- [2] Found 1 1/4" Brass cap in Monument case
- [6] Found 2" Brass cap in Monument Case. Visited 02/18/2004
- [15] Found 2" Brass cap in Monument Case. Visited 02/18/2004

NOTE:
COMMON DRIVEWAY
SUBJECT TO ADJUSTMENT
IN LOCATION / SIZE

GENERAL NOTES:

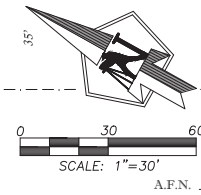
1. The Basis of Bearing is Washington State Plane North Zone NAD 83(91).
2. The Vertical Datum is NAVD 88.
3. Monuments shown were visited on 08/15/2017 (Unless noted)
4. All distances shown on this plat are grid distances. Multiply by a combined scale factor of 1.000018091 to derive ground distances.
5. All distances are in U.S. Survey feet.
6. Traverse and topography were performed with the Trimble R8 GPS equipment and meets or exceeds the standards contained in WAC 332-130-090. Traverse was not balanced.

METHOW STREET

ABBREVIATIONS	
J.C.A.	JOINT COMMON AREA
C.A.A.	COMMON AREA A
C.A.B	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

LEGEND

●	Found Brass Caps in Monument Case [As Noted]
⊗	Calculated Point Not set or Found
—	Edge of Pavement
—	Edge of Concrete
— x —	Fence Line
—	Roof Eaves
—	Right of Way
—	Monumented Center Line



TURNING YOUR IDEAS INTO
REALITY THROUGH
INNOVATION INTEGRITY
AND PERSONAL SERVICE



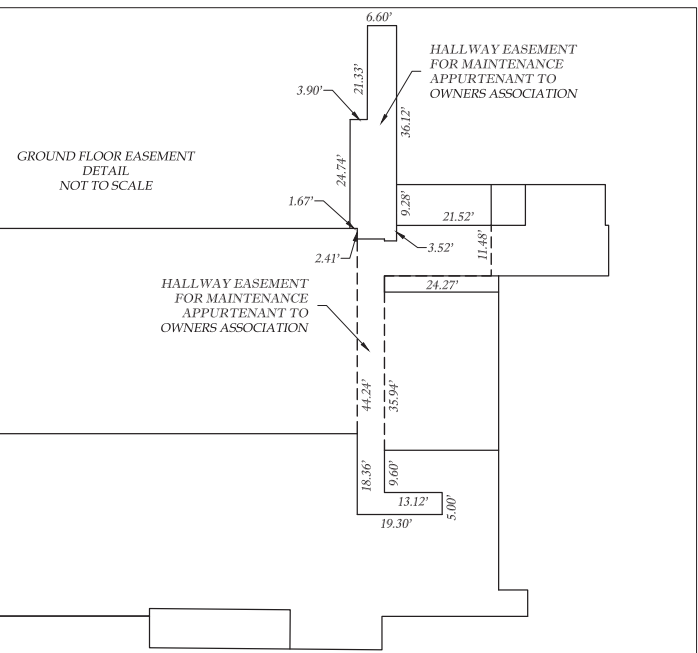
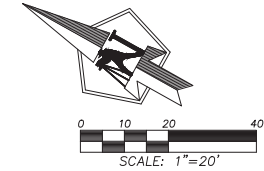
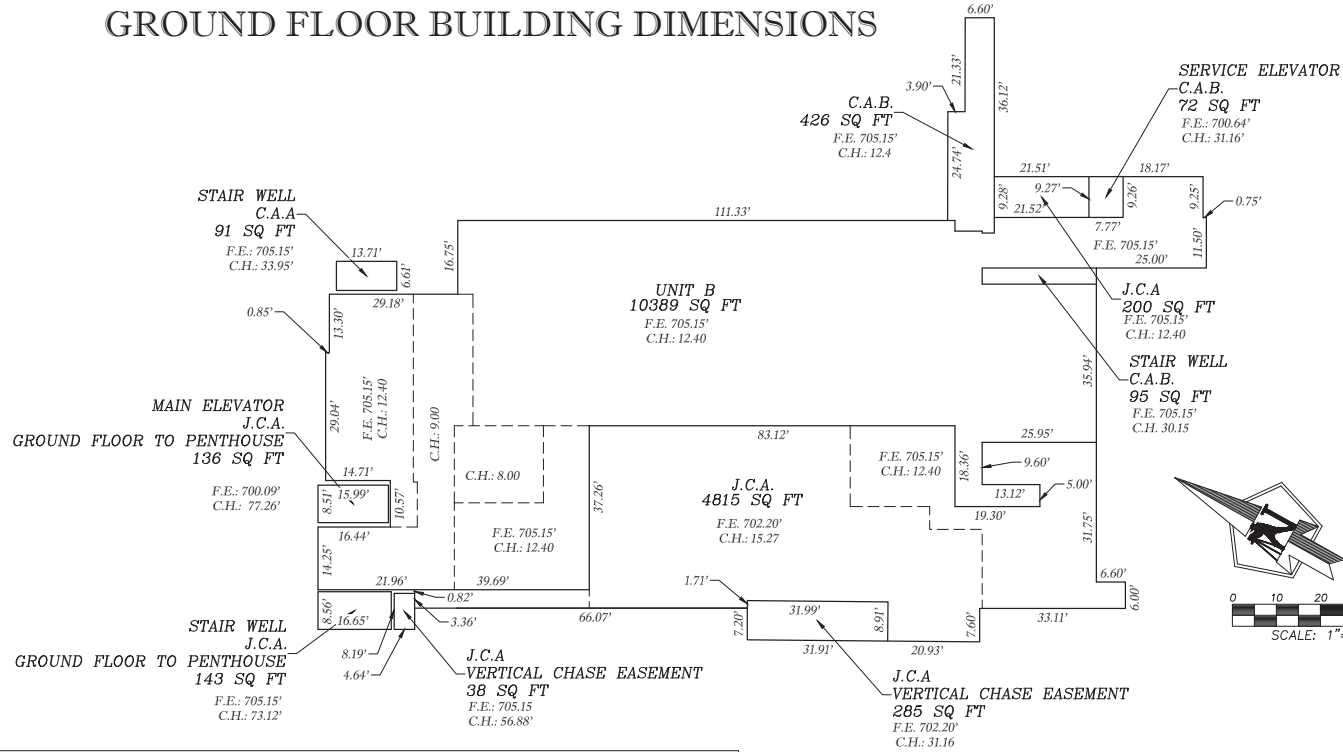
15 North Chelan Ave. Wenatchee, Wa. 98801
Phone 509-663-8660 Fax 509-663-6278

LOCALTEL FEDERAL BUILDING
CONDOMINIUM SURVEY & BSP 2018-XXX
T. 22 N., R. 20 E., W.M.
PORTION OF THE NW 1/4 OF THE NE 1/4
SECTION 10

OSDN
JMW/JTW
FILE: 2018-04-11 LOCALTEL BSP-0000 SURVEY
DATE: 2018-04-17

17094
PROJ. NO.
2 OF 9
SHT.

LOCALTEL FEDERAL BUILDING GROUND FLOOR BUILDING DIMENSIONS



TURNING YOUR IDEAS INTO
 REALITY THROUGH
Northwest
 GEODIMENSIONS
 INNOVATION INTEGRITY
 AND PERSONAL SERVICE

15 North Chelan Ave., Wenatchee, Wa. 98801
 Phone 509-663-8660
 Fax 509-663-6278

LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY
 T. 22. N., R. 20 E., W.M.
 PORTION OF THE NW 1/4 OF THE NE 1/4
 SECTION 10

CHelan COUNTY WASHINGTON
 JASON JONES
 JWS/JM
 FILE: 2018-04-11 LOCALTEL BP-0000 SURVEY
 DATE: 2018-04-17

ABBREVIATIONS	
J.C.A.	JOINT COMMON AREA
C.A.A.	COMMON AREA A
C.A.B.	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

A.F.N. _____

LOCALTEL FEDERAL BUILDING 1ST FLOOR BUILDING DIMENSIONS



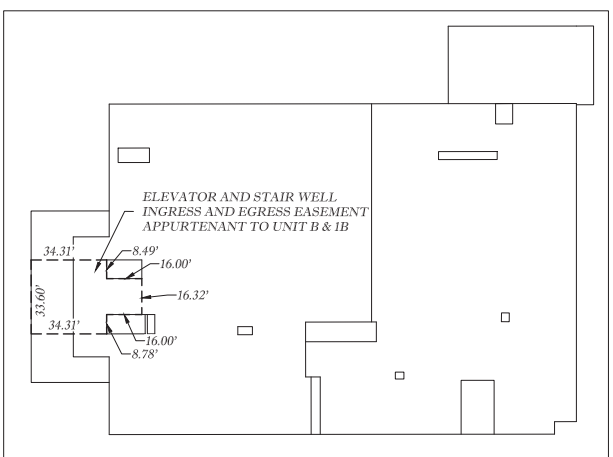
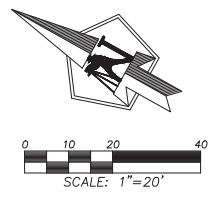
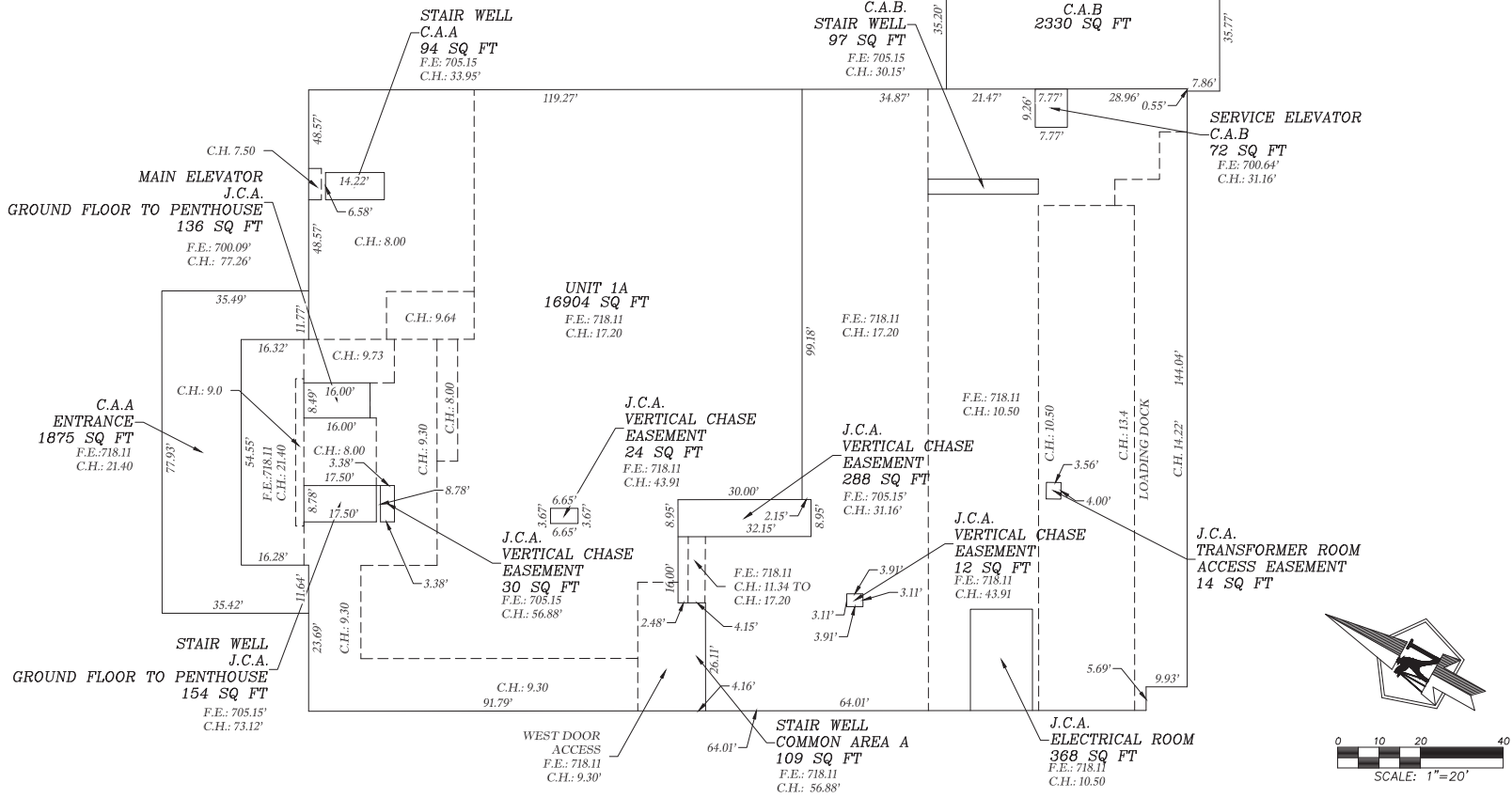
TURNING YOUR IDEAS INTO
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 AND PERSONAL SERVICE



15 North Chelan Ave., Wenatchee, Wa. 98801
 Phone 509-663-8660 Fax 509-663-6278

WASHINGTON
 LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY
 T. 22 N., R. 20 E., W.M.
 PORTION OF THE NW 1/4 OF THE NE 1/4
 SECTION 10
 CHELAN COUNTY
 DCSN: [blank] FILE: 2018-04-11 LOCALTEL 8P-0000 SURVEY
 DATE: 2018-04-17

17094
 PROJ. NO.
 4 OF 9
 SH.

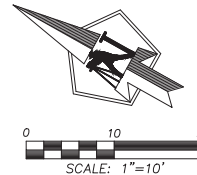
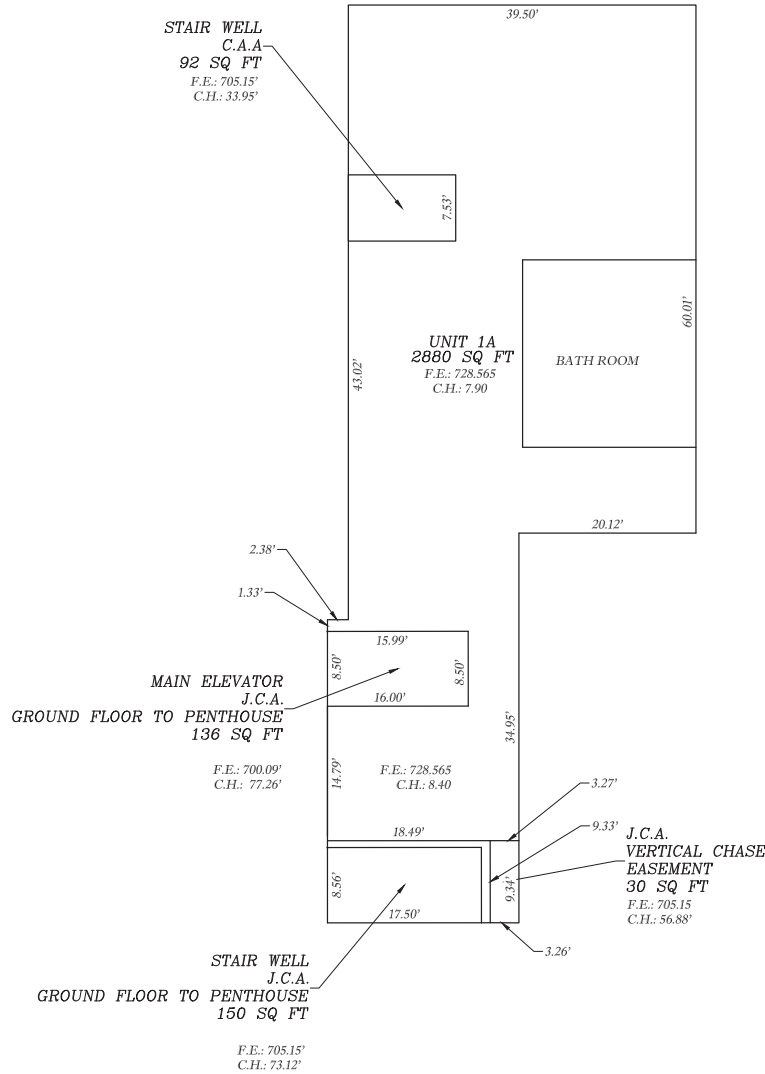


ABBREVIATIONS	
J.C.A.	JOINT COMMON AREA
C.A.A.	COMMON AREA A
C.A.B.	COMMON AREA B
C.A.IB	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

A.F.N. _____



LOCALTEL FEDERAL BUILDING MEZZANINE BUILDING DIMENSIONS



ABBREVIATIONS	
J.C.A	JOINT COMMON AREA
C.A.A	COMMON AREA A
C.A.B	COMMON AREA B
C.A.TB	COMMON AREA TB
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

A.F.N. _____

TURNING YOUR IDEAS INTO
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 AND PERSONAL SERVICE

**Northwest
 GEODIMENSIONS**

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LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY
 T. 22. N., R. 20 E., W.M.
 PORTION OF THE NW 1/4 OF THE NE 1/4
 SECTION 10

WASHINGTON
 CHELAN COUNTY
 JASON JONES
 FILE: 2018-04-17 LOCALTEL BP-0000 SURVEY
 GATE: 2018-04-17

17094
 PROJ. NO.

5 OF 9
 SH.

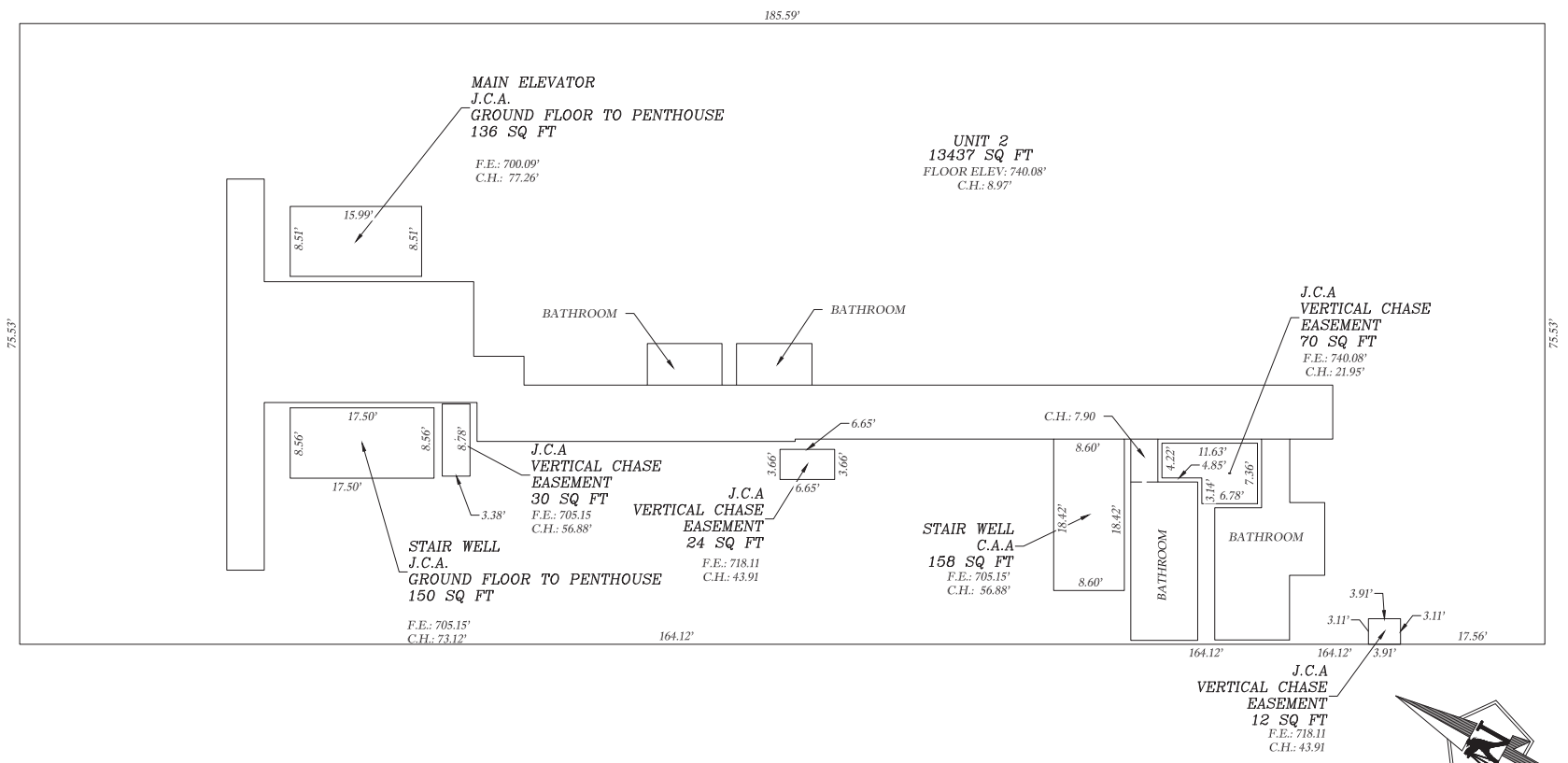


LOCALTEL FEDERAL BUILDING 2ND FLOOR BUILDING DIMENSIONS

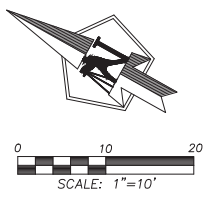
TURNING YOUR IDEAS INTO
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 AND PERSONAL SERVICE
Northwest
GEODIMENSIONS
 15 North Chelan Ave., Wenatchee, Wa. 98801
 Phone 509-663-8660 Fax 509-663-6278

LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY
 T. 22. N., R. 20 E., W.M.
 PORTION OF THE NW 1/4 OF THE NE 1/4
 SECTION 10
 WASHINGTON
 CHELAN COUNTY
 DSWN: [blank] JWSN: [blank] FILE: 2018-04-11 LOCAL TEL RP-0000 SURVEY
 DATE: 2018-04-17

17094
 PROJ. NO.
 6 OF 9
 SH.



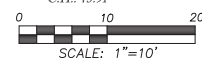
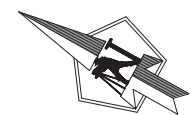
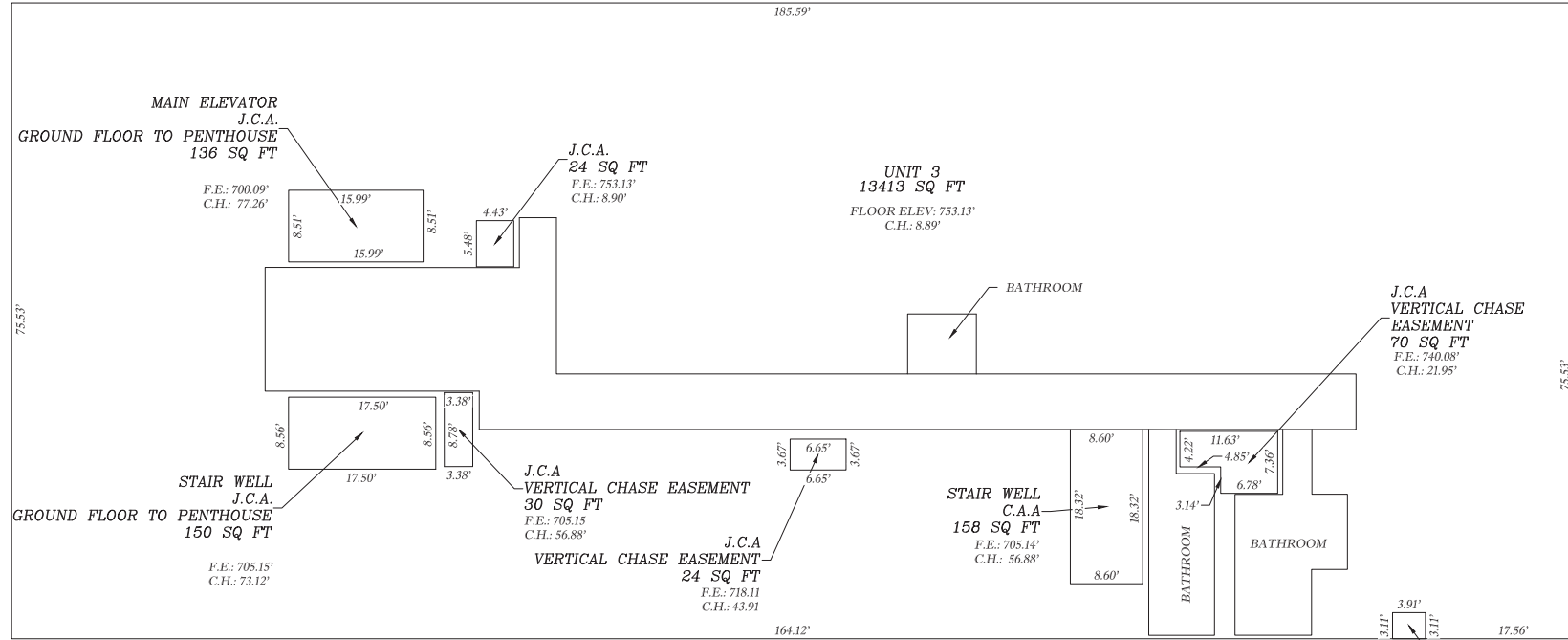
ABBREVIATIONS	
J.C.A	JOINT COMMON AREA
C.A.A	COMMON AREA A
C.A.B	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT



A.F.N. _____



LOCALTEL FEDERAL BUILDING 3RD FLOOR BUILDING DIMENSIONS



ABBREVIATIONS	
J.C.A.	JOINT COMMON AREA
C.A.A.	COMMON AREA A
C.A.B.	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

A.F.N. _____

TURNING YOUR IDEAS INTO
 REALITY THROUGH
 INNOVATION INTEGRITY
 AND PERSONAL SERVICE

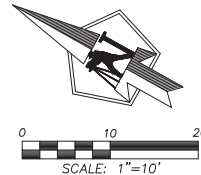
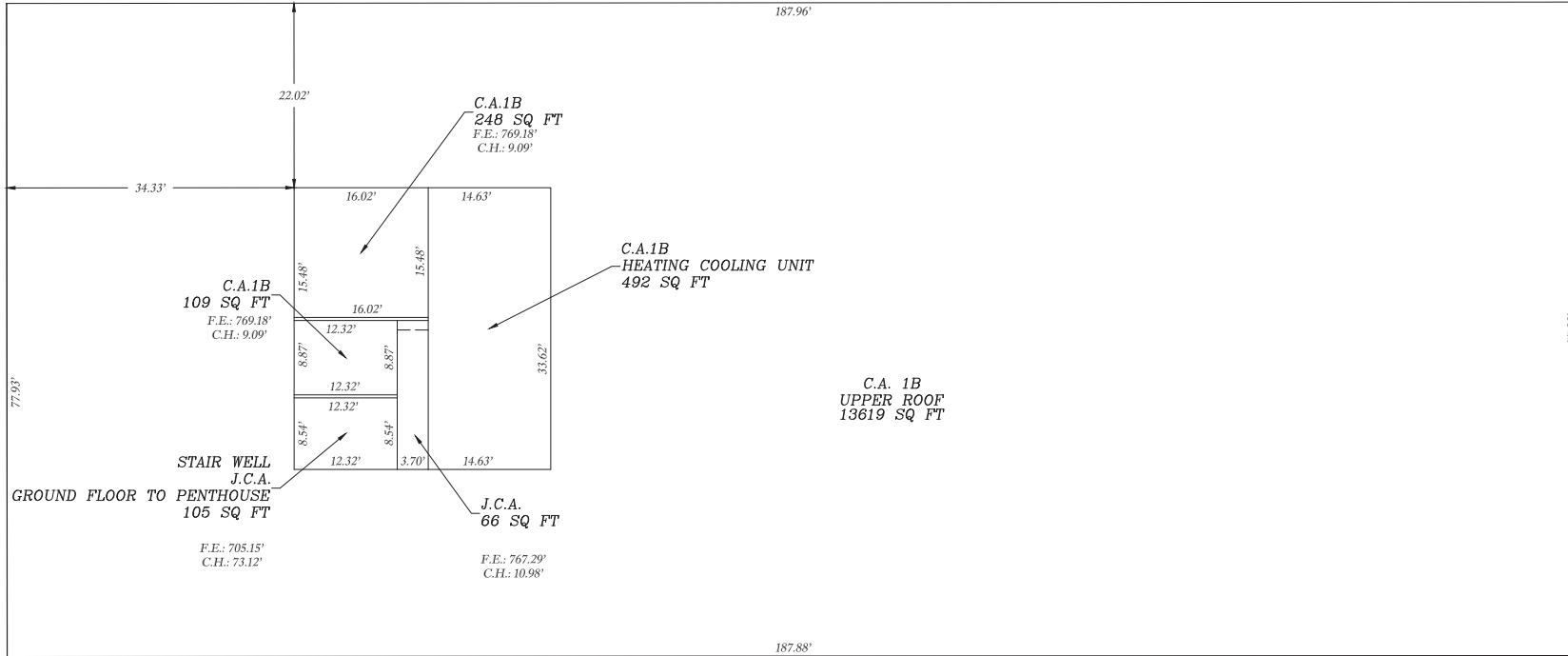
15 North Chelan Ave. Wenatchee, Wa. 98801
 Phone 509-663-8660 Fax 509-663-6278

LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY
 T. 22. N., R. 20 E., W.M.
 PORTION OF THE NW 1/4 OF THE NE 1/4
 SECTION 10
 WASHINGTON
 CHELAN COUNTY
 JCSN: [blank] FILE: 2018-04-11 LOCAL TEL RP-0000 SURVEY
 GATEZ-2018-04-17

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 SH.



LOCALTEL FEDERAL BUILDING PENTHOUSE & UPPER ROOF UNIT DIMENSIONS



ABBREVIATIONS	
J.C.A.	JOINT COMMON AREA
C.A.A	COMMON AREA A
C.A.B	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

A.F.N. _____

TURNING YOUR IDEAS INTO
 REALITY THROUGH
 INNOVATION INTEGRITY
 AND PERSONAL SERVICE

Northwest
GEODIMENSIONS

15 North Chelan Ave. Wenatchee, Wa. 98801
 Phone 509-663-8660 Fax 509-663-6278

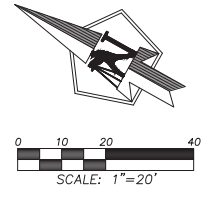
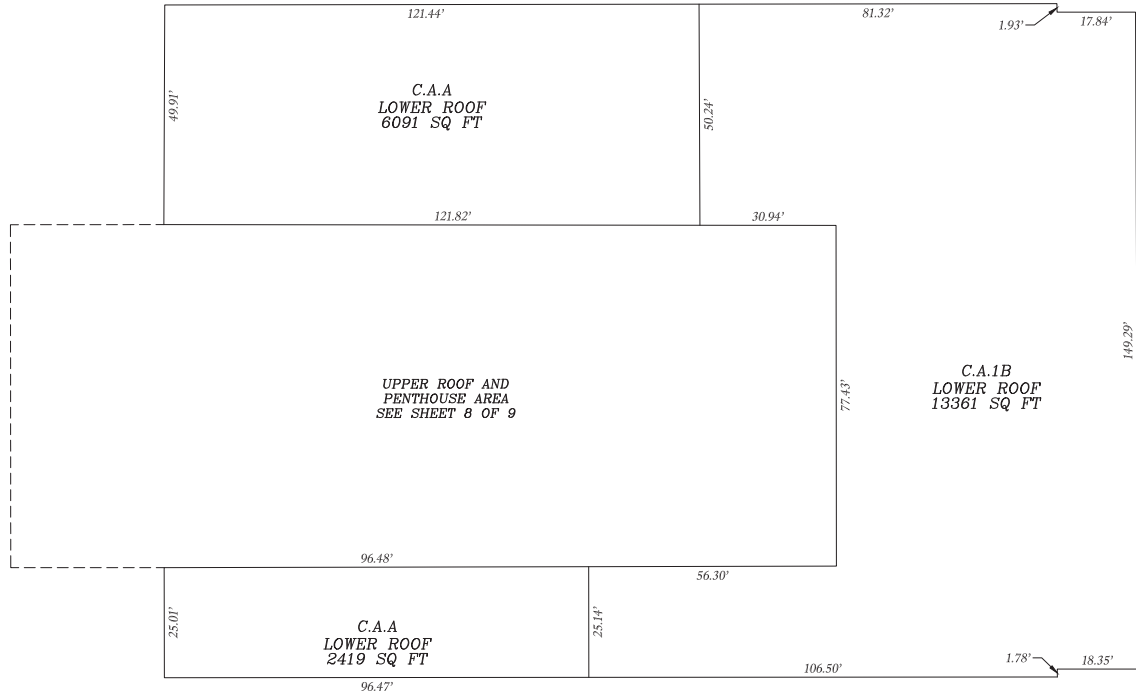
LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY
 T. 22. N., R. 20 E., W.M.
 PORTION OF THE NW 1/4 OF THE NE 1/4
 SECTION 10
 WASHINGTON

JASON JENSEN
 CHELAN COUNTY
 GATEZ-2018-04-17

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 PROJ. NO.
 8 OF 9
 SH.



LOCALTEL FEDERAL BUILDING LOWER ROOF DIMENSIONS



ABBREVIATIONS	
J.C.A.	JOINT COMMON AREA
C.A.A.	COMMON AREA A
C.A.B.	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A.	PARKING C.A.A.
P.C.A.B.	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

A.F.N. _____

TURNING YOUR IDEAS INTO
 REALITY THROUGH
 INNOVATION INTEGRITY
 AND PERSONAL SERVICE

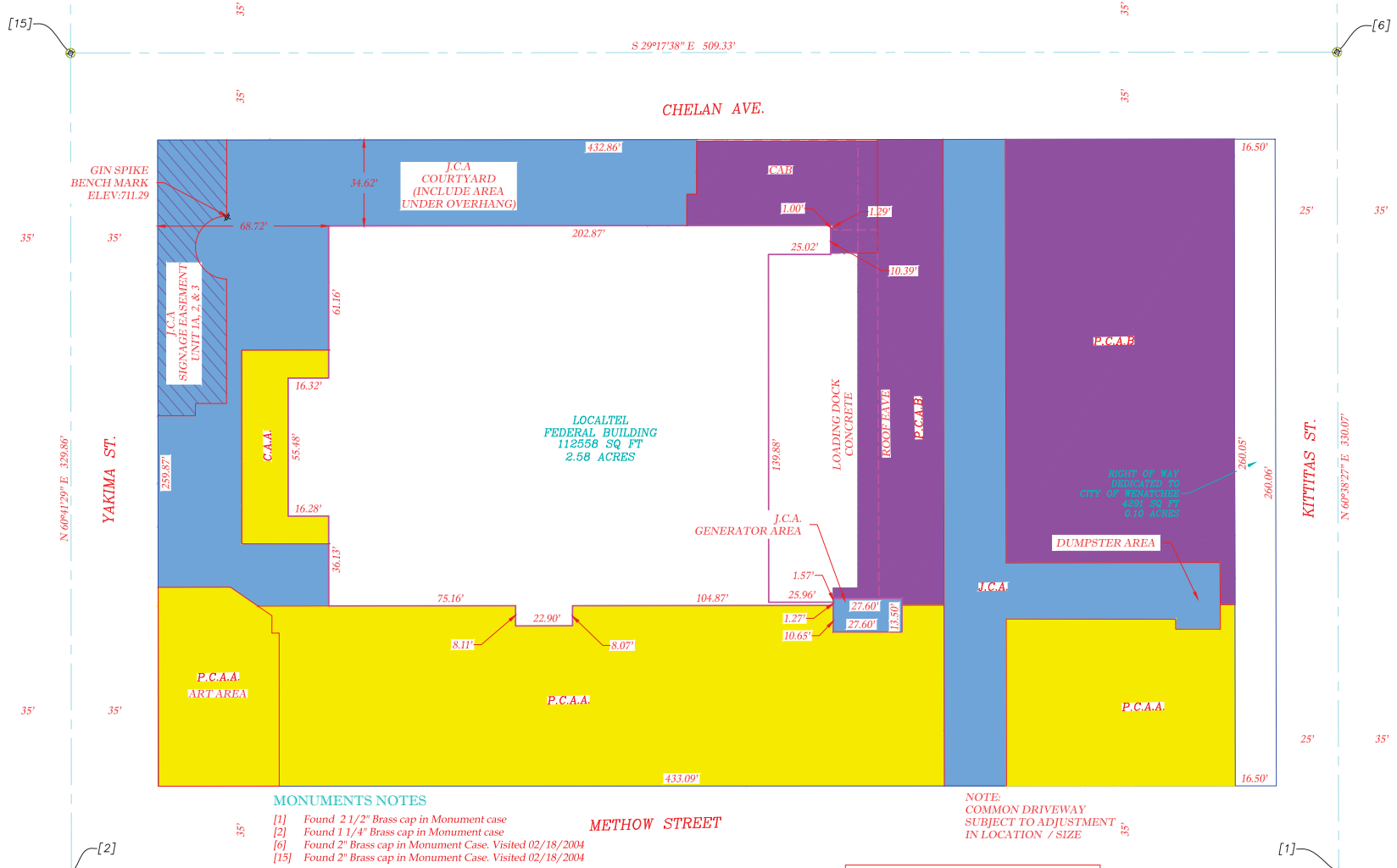
15 North Chelan Ave. Wenatchee, Wa. 98801
 Phone 509-663-8660 Fax 509-663-6278

LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY
 T. 22 N., R. 20 E., W.M.
 PORTION OF THE NW 1/4 OF THE NE 1/4
 SECTION 10
 WASHINGTON
 CHELAN COUNTY
 DSON
 JMW/JTW FILE: 2018-04-11 LOCALTEL BP-0000 SURVEY
 DATE: 2018-04-17

17094
 PROJ. NO.
 9 OF 9
 SH.



LOCALTEL FEDERAL BUILDING BOUNDARY AND BUILDING TIES



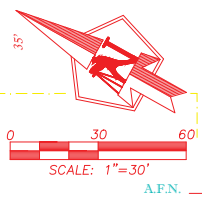
- MONUMENTS NOTES**
- [1] Found 2 1/2" Brass cap in Monument case
 - [2] Found 1 1/4" Brass cap in Monument case
 - [6] Found 2" Brass cap in Monument Case. Visited 02/18/2004
 - [15] Found 2" Brass cap in Monument Case. Visited 02/18/2004

NOTE:
 COMMON DRIVEWAY
 SUBJECT TO ADJUSTMENT
 IN LOCATION / SIZE

UNIT OWNERSHIP	
[Blue Box]	JOINT COMMON AREA
[Yellow Box]	COMMON AREA A
[Green Box]	COMMON AREA B
[Purple Box]	COMMON AREA 1B
[Light Green Box]	UNIT 1A, 2, 3
[Brown Box]	UNIT B
[Light Blue Box]	UNIT 1B
[Hatched Box]	Easement for Owners Association
[Diagonal Hatched Box]	Easement for Unit B & 1B

ABBREVIATIONS	
J.C.A.	JOINT COMMON AREA
C.A.A.	COMMON AREA A
C.A.B	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

LEGEND	
[Symbol]	Found Brass Caps in Monument Case [As Noted]
[Symbol]	Calculated Point Not set or Found
[Symbol]	Edge of Pavement
[Symbol]	Edge of Concrete
[Symbol]	Fence Line
[Symbol]	Roof Eaves
[Symbol]	Right of Way
[Symbol]	Monumented Center Line



TURNING YOUR IDEAS INTO
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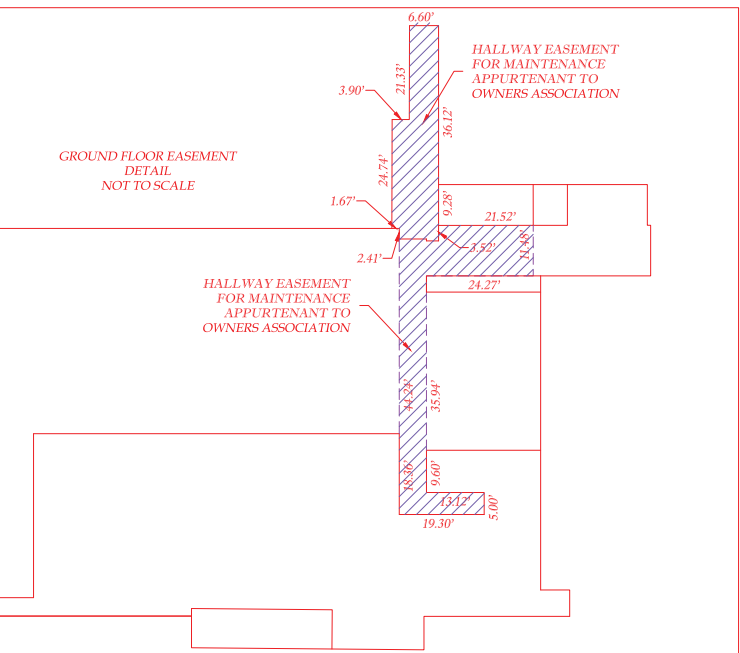
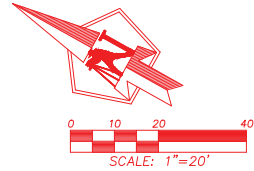
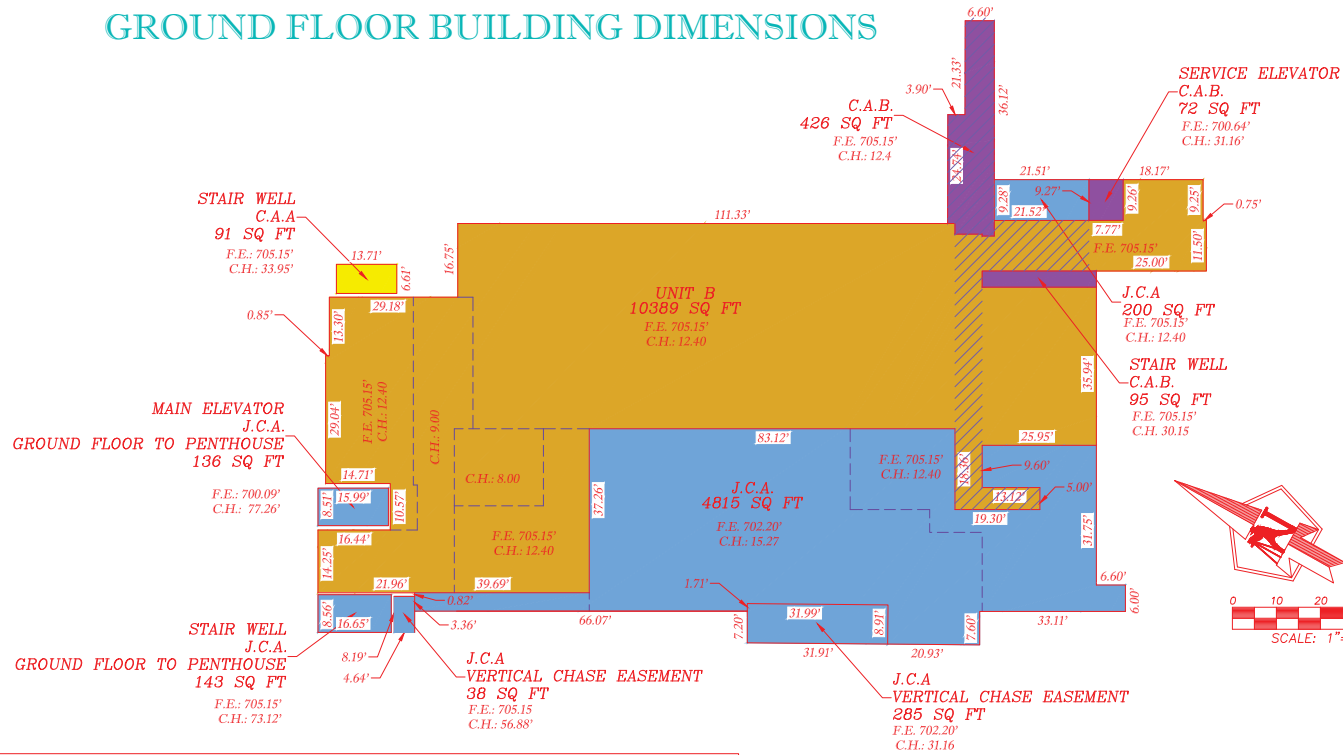
15 North Chelan Ave. Wenatchee, Wa. 98801
 Phone 509-663-8660 Fax 509-663-6278

LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY & BSP 2018-XXX
 T. 22 N., R. 20 E., W.M.
 PORTION OF THIS NW 1/4 OF THE NE 1/4
 SECTION 10

WASHINGTON
 JCSN: [Symbol] JMW: [Symbol]
 DATE: 2018-04-17

17094
 PROJ. NO.
 2 OF 9
 SH.

LOCALTEL FEDERAL BUILDING GROUND FLOOR BUILDING DIMENSIONS



UNIT OWNERSHIP	
[Blue]	JOINT COMMON AREA
[Yellow]	COMMON AREA A
[Green]	COMMON AREA B
[Purple]	COMMON AREA 1B
[Light Blue]	UNIT 1A, 2, 3
[Light Green]	UNIT B
[Light Purple]	UNIT 1B
[Hatched]	Easement for Owners Association
[Diagonal Hatched]	Easement for Unit B & 1B

ABBREVIATIONS	
J.C.A.	JOINT COMMON AREA
C.A.A.	COMMON AREA A
C.A.B.	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A.	PARKING C.A.A.
P.C.A.B.	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

A.F.N. _____

TURNING YOUR IDEAS INTO
 REALITY THROUGH
 INNOVATION INTEGRITY
 AND PERSONAL SERVICE



LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY
 T. 22. N., R. 20 E., W.M.
 PORTION OF THE NW 1/4 OF THE NE 1/4
 SECTION 10

WASHINGTON
 CHELAN COUNTY
 JDSN
 [JWS/DM] FILE: 2018-04-11 LOCAL TEL BP-0000 SURVEY
 DATE: 2018-04-17

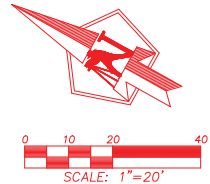
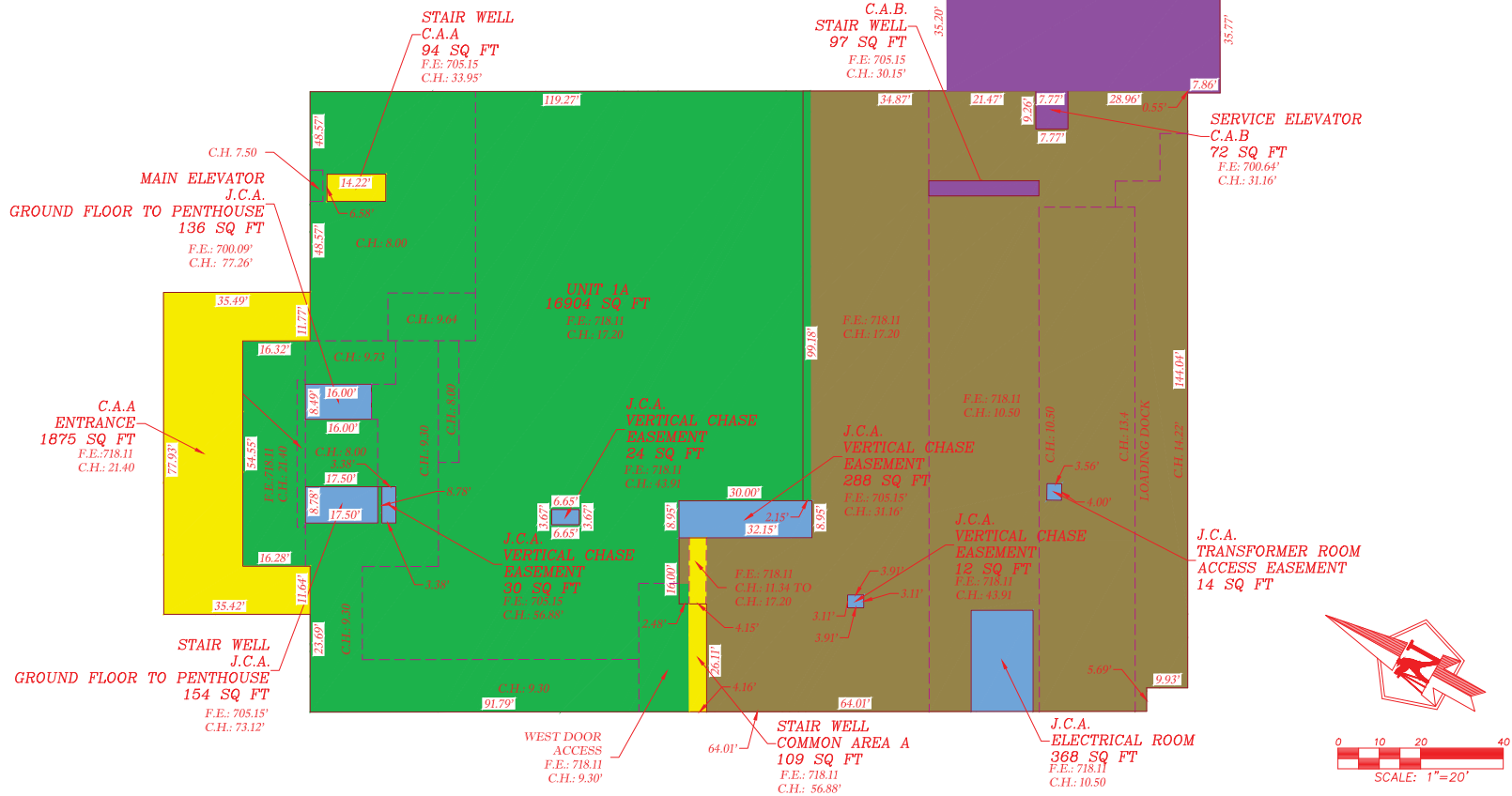
LOCALTEL FEDERAL BUILDING 1ST FLOOR BUILDING DIMENSIONS



TURNING YOUR IDEAS INTO
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Northwest
GEODIMENSIONS
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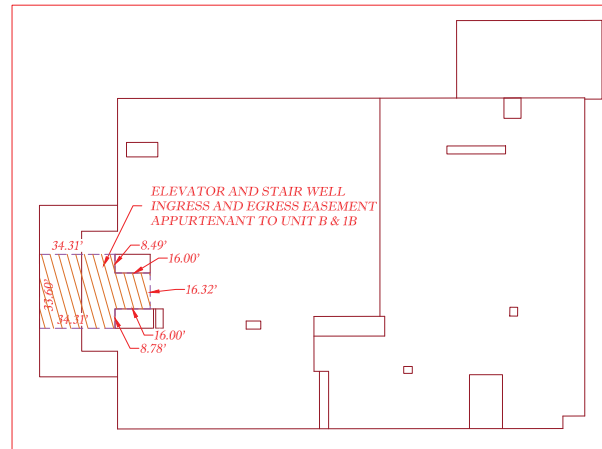
LOCALTEL FEDERAL BUILDING
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 T. 22. N., R. 20 E., W.M.
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 WASHINGTON
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17094
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ABBREVIATIONS	
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P.C.A.B.	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

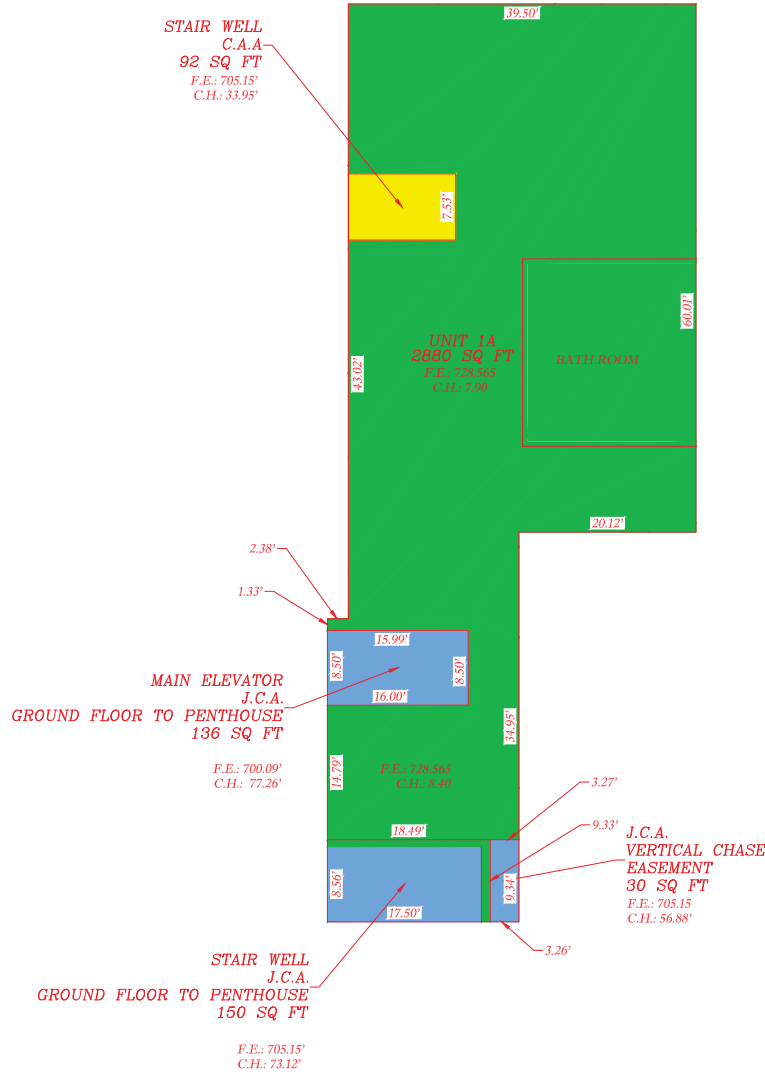
UNIT OWNERSHIP	
[Green Box]	JOINT COMMON AREA
[Yellow Box]	COMMON AREA A
[Blue Box]	COMMON AREA B
[Purple Box]	COMMON AREA 1B
[Light Green Box]	UNIT 1A, 2, 3
[Light Blue Box]	UNIT B
[Light Purple Box]	UNIT 1B
[Hatched Box]	Easement for Owners Association
[Diagonal Hatched Box]	Easement for Unit B & 1B



AFN. _____

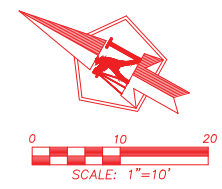


LOCALTEL FEDERAL BUILDING MEZZANINE BUILDING DIMENSIONS



UNIT OWNERSHIP	
	JOINT COMMON AREA
	COMMON AREA A
	COMMON AREA B
	COMMON AREA 1B
	UNIT 1A, 2, 3
	UNIT B
	UNIT 1B
	Easement for Owners Association
	Easement for Unit B & 1B

ABBREVIATIONS	
J.C.A	JOINT COMMON AREA
C.A.A	COMMON AREA A
C.A.B	COMMON AREA B
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P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
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SQ FT	SQUARE FOOT



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 CONDOMINIUM SURVEY
 T. 22. N., R. 20 E., W.M.
 PORTION OF THIS NW 1/4 OF THE NE 1/4
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CHELAN COUNTY WASHINGTON
 JASON JIMM/TM FILE: 2018-04-11 LOCAL TEL SP-0000 SURVEY

17094
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 5 OF 9
 SH.

A.F.N. _____

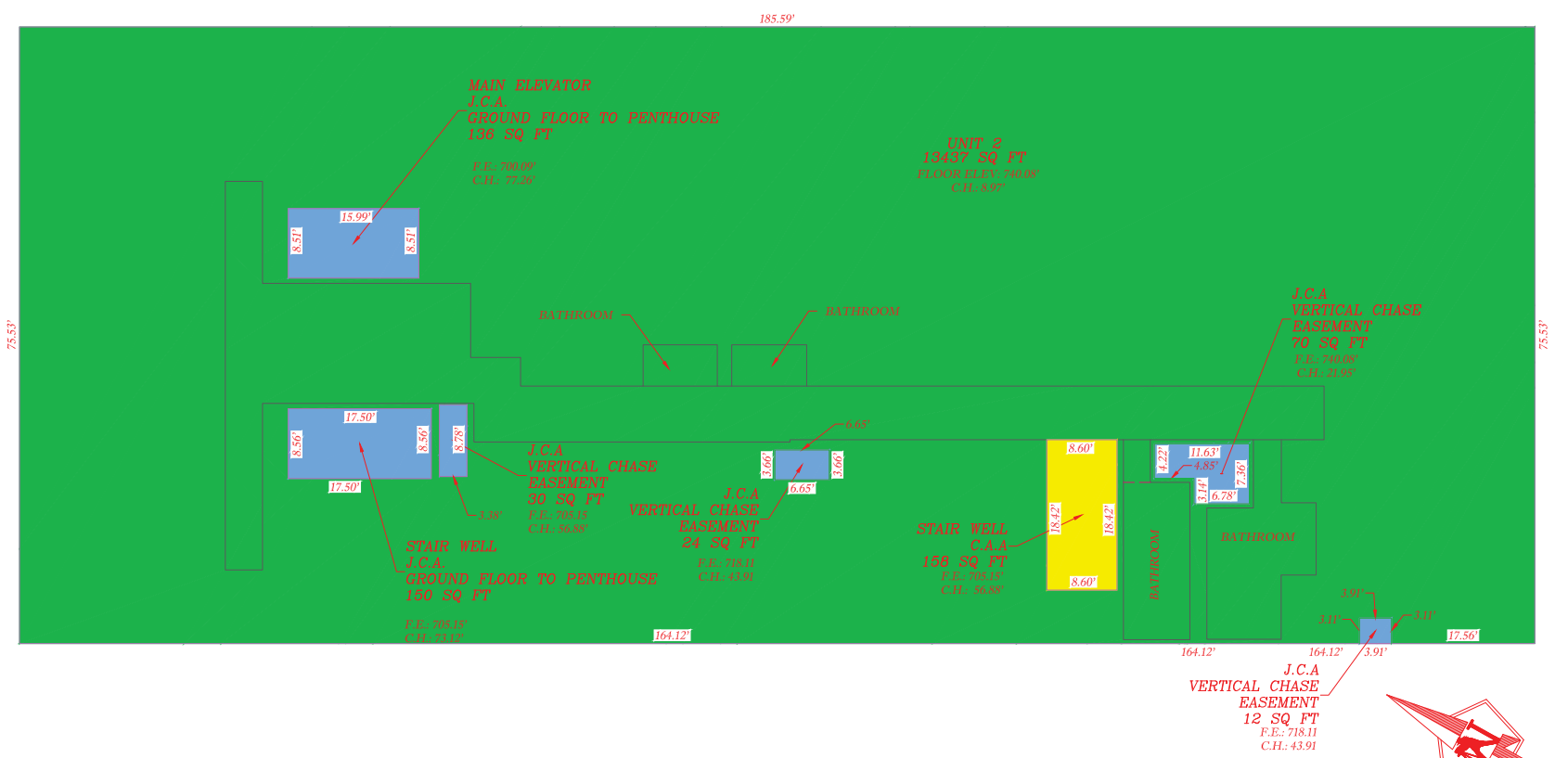


LOCALTEL FEDERAL BUILDING 2ND FLOOR BUILDING DIMENSIONS

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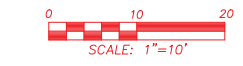
LOCALTEL FEDERAL BUILDING
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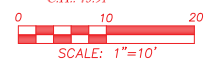
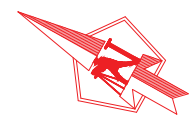
UNIT OWNERSHIP	
[Blue Box]	JOINT COMMON AREA
[Yellow Box]	COMMON AREA A
[Purple Box]	COMMON AREA B
[Green Box]	COMMON AREA 1B
[Orange Box]	UNIT 1A, 2, 3
[Red Box]	UNIT B
[Light Blue Box]	UNIT 1B
[Hatched Box]	Easement for Owners Association
[Diagonal Hatched Box]	Easement for Unit B & 1B

ABBREVIATIONS	
J.C.A	JOINT COMMON AREA
C.A.A	COMMON AREA A
C.A.B	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT



A.F.N. _____

LOCALTEL FEDERAL BUILDING 3RD FLOOR BUILDING DIMENSIONS



UNIT OWNERSHIP	
[Blue Box]	UNIT 1A, 2, 3
[Green Box]	UNIT B
[Yellow Box]	UNIT 1B
[Hatched Box]	Easement for Owners Association
[Diagonal Hatched Box]	Easement for Unit B & 1B

ABBREVIATIONS	
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C.A.A.	COMMON AREA A
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P.C.A.B	PARKING COMMON AREA B
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F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

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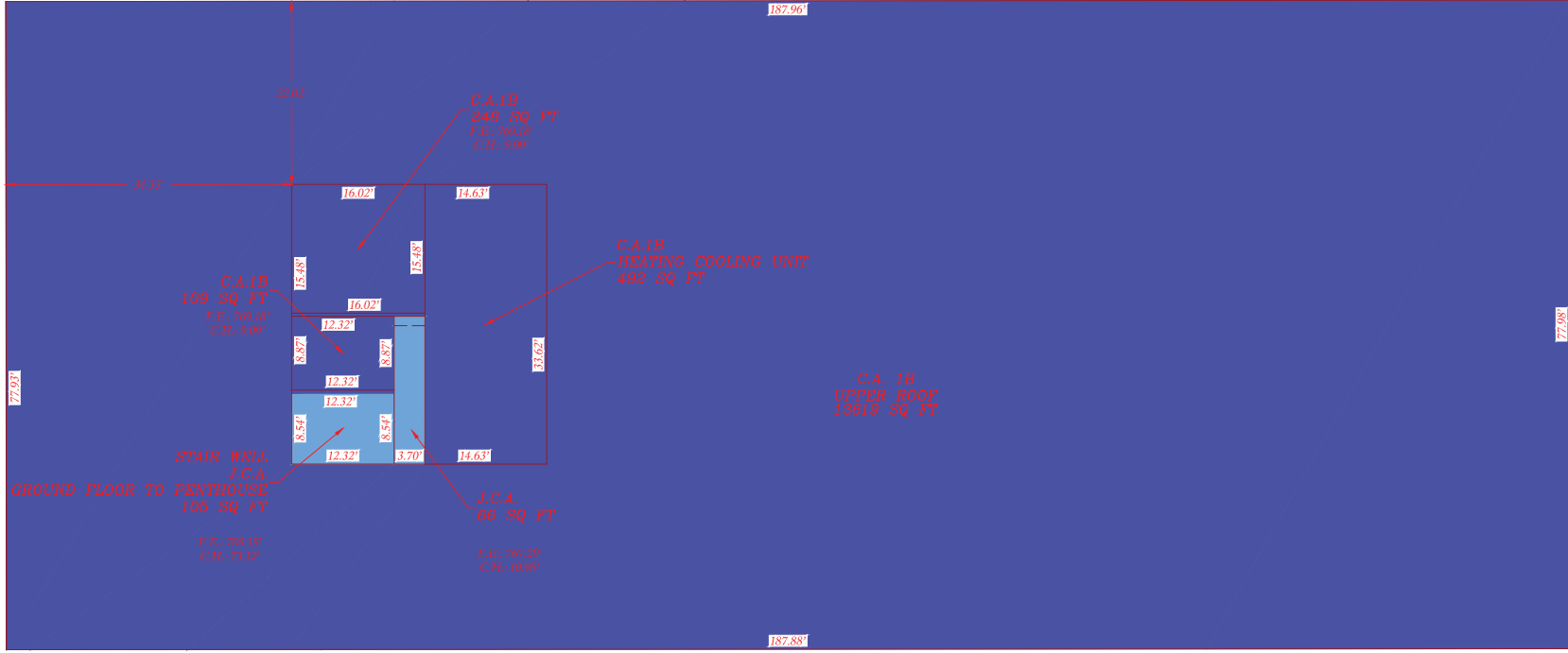
LOCALTEL FEDERAL BUILDING
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 PORTION OF THE NW 1/4 OF THE NE 1/4
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CHELAN COUNTY
 DATE: 2018-04-17

17094
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 SHI.



LOCALTEL FEDERAL BUILDING PENTHOUSE & UPPER ROOF UNIT DIMENSIONS



TURNING YOUR IDEAS INTO
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 AND PERSONAL SERVICE

**Northwest
 GEODIMENSIONS**

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LOCALTEL FEDERAL BUILDING
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 T. 22. N., R. 20 E., W.M.
 PORTION OF THIS NW 1/4 OF THIS NE 1/4
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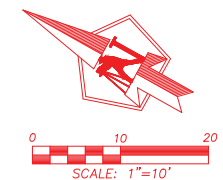
WASHINGTON
 CHELAN COUNTY
 DSON: JMW/JTM FILE: 2018-04-11 LOCALTEL RP-0000 SURVEY
 DATE: 2018-04-17

17094
 PROJ. NO.

8 OF 9
 SH.

UNIT OWNERSHIP	
	JOINT COMMON AREA
	COMMON AREA A
	COMMON AREA B
	COMMON AREA 1B
	UNIT 1A, 2, 3
	UNIT B
	UNIT 1B
	Easement for Owners Association
	Easement for Unit B & 1B

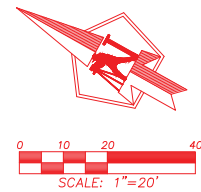
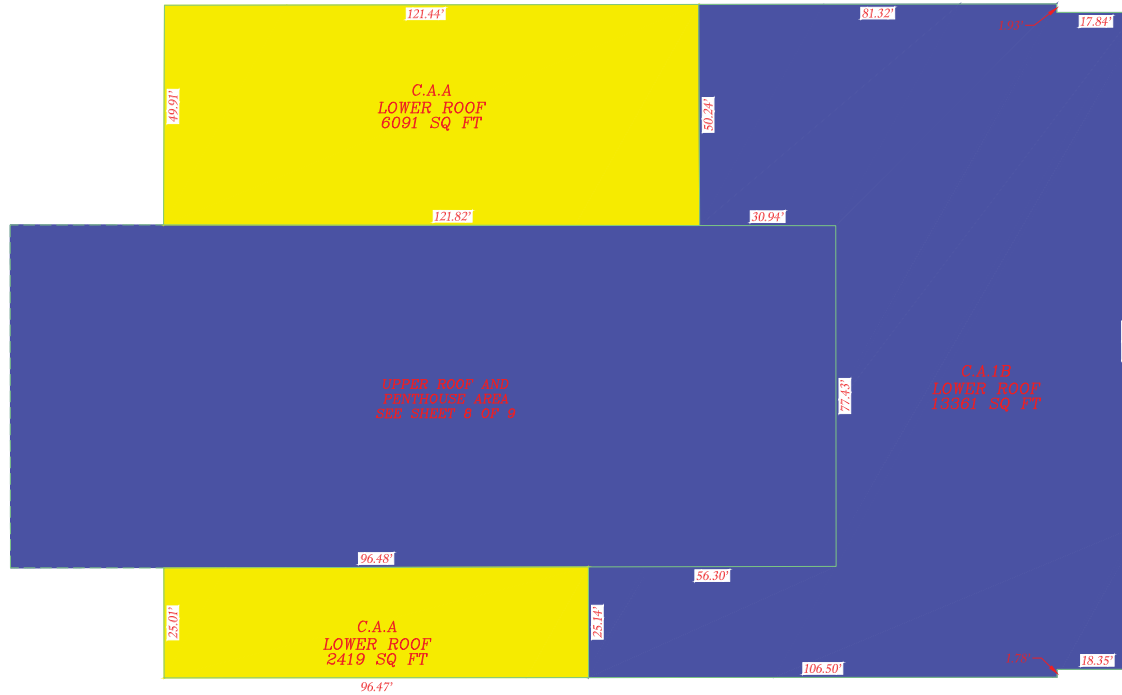
ABBREVIATIONS	
J.C.A.	JOINT COMMON AREA
C.A.A	COMMON AREA A
C.A.B	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT



A.F.N. _____



LOCALTEL FEDERAL BUILDING LOWER ROOF DIMENSIONS



UNIT OWNERSHIP	
[Light Blue Box]	JOINT COMMON AREA
[Yellow Box]	COMMON AREA A
[Dark Blue Box]	COMMON AREA B
[Purple Box]	COMMON AREA 1B
[Green Box]	UNIT 1A, 2, 3
[Brown Box]	UNIT B
[Light Brown Box]	UNIT 1B
[Hatched Box]	Easement for Owners Association
[Diagonal Hatched Box]	Easement for Unit B & 1B

ABBREVIATIONS	
J.C.A	JOINT COMMON AREA
C.A.A	COMMON AREA A
C.A.B	COMMON AREA B
C.A.1B	COMMON AREA 1B
P.C.A.A	PARKING C.A.A
P.C.A.B	PARKING COMMON AREA B
C.H.	CEILING HEIGHT
F.E.	FLOOR ELEVATION
SQ FT	SQUARE FOOT

A.F.N. _____

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LOCALTEL FEDERAL BUILDING
 CONDOMINIUM SURVEY
 T. 22 N., R. 20 E., W.M.
 PORTION OF THE NW 1/4 OF THE NE 1/4
 SECTION 10

WASHINGTON

CHELAN COUNTY

DATE: 2018-04-17

17094

PROJ. NO.

9 OF 9

SHT.

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "Agreement") is made and entered into as of _____, 2018 (the "Date of Execution"), by and among the City of Wenatchee, a municipal corporation, (the "City") and LocalTel Federal Building, LLC, a Washington limited liability company ("LocalTel"), LocalTel Federal Building Condominium Association, a Washington non-profit corporation (the "Association"), and Computer 5, Inc., a Washington corporation ("C5"), sometimes referred to herein individually as a "party" or collectively as "parties".

WHEREAS, the City owns Units 1A, 2 and 3 of the LocalTel Federal Building Condominiums;

WHEREAS, LocalTel owns Units B and 1B of the LocalTel Federal Building Condominiums; and

WHEREAS, the parties wish to enter into an agreement setting forth their respective management responsibilities.

WHEREAS, the LocalTel Federal Building Condo Declarations establish a baseline for building governance and this agreement serves as a superseding interim management program for the period from closing to the completion of the major remodel work anticipated on floor 1.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the parties mutually agree as follows:

1. Management Services.

C5 shall provide management services, as directed by the Association, for LocalTel, the City and the Association for the LocalTel Federal Building Condominiums ("Federal Building"). Employees that serve the Federal Building shall continue to be employees of C5 and shall bill their time for work performed on behalf of the building. Currently, these employees include a building engineer, a janitor, and an on-call employee that provides assistance as needed. C5 shall provide building maintenance, janitorial services, grounds maintenance, building security, and other repairs as necessary to keep the Federal Building in good condition. C5 shall charge the Association a management fee of \$1,200 per year to cover its' administrative costs and B & O tax.

2. Term. The term of this Agreement will begin on the Date of Execution set forth above and shall terminate on the sooner of three years from the Date of Execution or until the initial remodel work on the Federal Building by both parties is completed.

3. Relationship of Parties.

C5 is an independent contractor and shall not be deemed to be an employee, agent, joint venturer, or partner of the Association. The authority of C5 shall be limited to those matters which are specifically addressed in this Agreement.

4. Accounting.

4.1 Annual Budget and Annual Report. The initial operating and maintenance budget for the remainder of 2018 is attached as Exhibit A. This budget shall serve as the operating and maintenance budget for the first two years unless amended by the Association while C5 provides building management services under this Agreement. The budget shall be reviewed after the first year to determine whether or not the budget should be adjusted for the following year

4.2 Cost Allocation Services. C5 shall provide to the Association and the City a summary ledger of expenses and revenues. The ledger shall include sufficient detail to categorize expenses according to cost allocation categories. The City shall provide cost allocation services on behalf of the Association by reviewing all expenditures and revenues of the Association on a quarterly basis and categorize them accordingly to the cost allocation tables set forth on Exhibit B attached hereto.

4.3 Bills. C5 shall contract directly with service providers doing work on the building for the Association. C5 shall submit to the Association for reimbursement on a monthly basis with copies of the invoices attached.

4.4 Rents. C5 currently collects GSA rents for all tenants in the LocalTel Federal Building Condominiums LocalTel shall pass through and issue payment to the city for rents collected from GSA associated with Units 2 and 3 within 10 days of receipt.

LocalTel shall be paid an additional administrative fee of two percent (2%) of the rents received for providing this service to the City. This service shall continue until such time as the GSA leases are assigned to the City or renewed in the name of the City.

All new leases or renewal of leases shall be entered into directly with the unit owner.

5. Security. C5 shall maintain security system currently in place or to an equivalent level. Such security may be provided by C5 or by agreement with an appropriately licensed security provider, in its discretion as an operating expense of the Federal Building.

6. City Assistance. The City shall be given the opportunity to learn the Federal Building maintenance needs as an apprenticeship and shall be given the opportunity to provide

backup services if requested by the Association. Backup services as negotiated by the Association shall be billed to the Association based on a time and expense basis.

7. GSA Parking. Parking stalls for each GSA tenant shall be kept available by their respective unit owners as required in the GSA lease.

8. Clean and Sanitary Conditions. C5 shall maintain the Federal Building in a reasonably clean and sanitary condition consistent with a building of its kind or consistent with the terms and conditions stated in the underlying tenant leases.

9. Compliance with Laws. C5 shall at all times comply with all applicable workers' compensation, occupational disease, occupational health and safety laws, and all other laws and regulations to the full extent applicable.

10. Limited Mutual Indemnity. Each Party hereby waives, and covenants not to enforce, any claims against any other Party, relating to losses, costs, expenses, bodily injury, property damage, penalty or other damage, to the extent any such loss, claim, damage or other amount is covered and paid by insurance required by this Agreement. Except as waived in the immediately preceding sentence, each party shall indemnify, defend and hold harmless the other parties, their officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the indemnitor, its officers, agents, and employees, in connection with indemnitor's activities related to this Agreement, or arising out of indemnitor's non-observance or non-performance of any law, ordinance, or regulation applicable to indemnitor's activities related to this Agreement. Nothing herein shall require the indemnitor to indemnify another party against claims, losses or liability based on the conduct of the indemnitee, its officers, agents or employees, and provided further that if the claims, losses or liabilities are caused by or result from the concurrent negligence of the indemnitor and indemnitee, their officers, agents or employees, this provision with respect to claims, losses or liabilities based upon such concurrent negligence shall be valid and enforceable only to the extent of the indemnitor's negligence or the negligence of the indemnitor's officers, agents or employees.

The indemnification obligation of indemnitor shall not be limited in any way by the application of any workmen's compensation acts, disability benefit acts or other employee benefit acts and the indemnitor expressly waives the protection afforded by such laws; provided, however, each party's waiver of immunity by the provisions of this Section is made only to the extent necessary to allow enforcement of the indemnification required by this Section 10 only and not for the benefit of any third party. The foregoing waiver and indemnification obligations have been mutually negotiated.

11. Insurance.

11.1 Each party shall obtain and keep in force during the terms of the Agreement the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to R.C.W. Title 48:

11.1.1 Worker's compensation and employer's liability insurance as required by the State of Washington.

11.1.2 General commercial liability insurance in an amount not less than a single limit of \$2,000,000 for bodily injury, including death and property damage per occurrence.

11.2 The Association shall maintain on the Federal Building property a policy of standard fire insurance with extended coverage in an amount of its replacement value. The Association shall cause such insurance to name LocalTel and the City, as additional insureds as to their interests.

11.3 Each Party shall be responsible for providing fire and casualty insurance on all of such party' personal property, records and equipment located on or at the Federal Building property.

Excepting the worker's compensation insurance, each Party shall cause the other Parties to be named as an additional insureds (with waiver of subrogation) on all liability insurance policies required by this Agreement; and hereby waives, and agrees to obtain, on behalf of each other party insurance waivers of subrogation rights against each other party for damages to the extent covered by property or liability insurance obtained pursuant to this Agreement, except such rights as they have to proceeds of such insurance. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

Each party shall upon request furnish any other party with verification of insurance and endorsements required by this Agreement. The Association reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. C5 shall submit a verification of insurance as outlined above within 14 days of the execution of this Agreement to the Association.

No cancellation of the foregoing policies shall be effective without 30 days prior notice to the Association.

12. Right of Inspection. The Association shall have the right to inspect the Federal Building at all reasonable times, in order to monitor and evaluate performance and compliance under this Agreement.

13. Breach, Default, Termination.

13.1 Breach. Any one or more of the following events shall constitute a default : (a) either party fails to perform its obligations under this Agreement as provided herein; (b) C5 makes any general assignment for the benefit of creditors; (c) C5 becomes insolvent or in an unsound financial condition so as to endanger performance hereunder; (d) C5 becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors; (e) any receiver, trustee, or similar official is appointed for C5; or (f) C5 is determined to be in violation of federal, state, or local laws or regulations which renders C5 unable to perform any aspect of the Contract.

13.2 Termination for Breach and/or Default. If either party fails to cure a default within thirty (30) days following written notice from the other party, the non-breaching party shall be entitled to terminate this Agreement and to have all other rights against the breaching party by reason of such party's uncured breach as provided by law.

13.3 Termination by Mutual Agreement. The parties may terminate this Agreement in whole or in part, at any time, by mutual agreement in writing, signed by all parties.

14. Miscellaneous.

14.1 Entire Agreement. This Agreement and any attached Exhibits, which are part of this Agreement, constitute all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto.

14.2 Governing Law. This Agreement shall be governed by the laws of the State of Washington. If any provision of this Agreement violates any applicable statute or rule of law of the State of Washington, it is considered modified to conform to that statute or rule of law. The Chelan County Superior Court shall have jurisdiction over the subject matter of and the parties to this Agreement to compel arbitration or enforce any arbitration award.

14.3 Disputes.

14.3.1 If there is any dispute or alleged default with respect to performance under this Agreement, either party shall notify the other in writing, stating with reasonable specificity the nature of the dispute or alleged default. Within seven days of its receipt of such notice, the receiving party shall provide written response acknowledging receipt of such notice and stating its intentions with respect to how it shall respond to such notice.

The receiving party shall further have 30 days (the "cure period") from its receipt of such notice to:

- a. Respond to the notice by contesting the complainant's assertions(s) as to the dispute or any alleged default and requesting a meeting in accordance with Section 15.3.2; or
- b. Resolve the dispute or cure the default; or notify the complainant that it cannot resolve the dispute or cure the default within 30 days, due to the nature of the dispute or alleged default. Notwithstanding such notice, the receiving party shall promptly take all reasonable steps to begin to resolve the dispute or cure the default and notify the complainant in writing and in detail as to the actions that will be taken by the receiving party and the projected completion date.

14.3.2 If any dispute is not resolved or any alleged default is not cured then either party may require a meeting to discuss the dispute or any alleged default. The meeting shall take place not less than ten days after the delivery and receipt of notice of the meeting. Each party shall appoint a representative who shall attend the meeting and be responsible for representing the party's interests. The representatives shall exercise good faith efforts to resolve the dispute or reach agreement on any alleged default and/or any corrective action to be taken. In the event the dispute is not resolved within ten days following the conclusion of the meeting, either party may pursue resolution of the dispute or any alleged default through other legal means consistent with Section 14 of this Agreement. All negotiations pursuant to these procedures for the resolution of disputes shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the state rules of evidence.

14.3.3 Unless otherwise agreed by the parties in writing, the parties shall, as may reasonably be practicable, continue to perform their respective obligations under this Agreement during the pendency of any dispute.

14.3.4 If the dispute or alleged default has not been resolved by the steps described in the prior provisions of this Section 15, any unresolved controversy or claim arising out of or relating to this Agreement, or breach thereof, may be settled by arbitration pursuant to chapter 7.04 RCW, except as herein modified, and judgment upon the award rendered by the arbitrator may be entered in the Chelan County Superior court.

15.3.5 Any arbitration shall be before one disinterested arbitrator. If the parties have not agreed on a single arbitrator within 15 days after demand for arbitration, then either side may apply to the Chelan County Superior Court, upon 10 days' notice to the other, for appointment of the necessary arbitrator to be appointed, and the judicial appointment shall be binding and final. The arbitrator shall determine the controversy in accordance with the laws of the State of Washington as applied to the facts found. The

arbitrator may grant injunctions or other equitable relief in such controversy or claims. Each party shall bear an equal share of the cost of the single arbitrator.

14.3.6 No provision of this Agreement shall be deemed to bar the right of any party to recover monetary damages for violation of this Agreement by the other party, or to seek and obtain judicial enforcement in Chelan County Superior Court of the other party's obligations by means of specific performance, injunctive relief or to enforce an award issued by an arbitrator in accordance with this Section.

15. Severability. Any provision of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Agreement.

16. Attorneys' Fees. In the event of a dispute and/or litigation over this Agreement, each party shall be responsible for its own attorney's fees and costs incurred therein.

17. Assignment. C5 shall not assign its rights and/or obligations under this Agreement without the prior written consent of the Association, which may not be unreasonably withheld.

18. Limitation on Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE OR RESPONSIBLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR SPECIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS), WHETHER BASED UPON BREACH OF AGREEMENT OR WARRANTY, NEGLIGENCE, STRICT TORT LIABILITY OR OTHERWISE, AND EACH PARTY'S LIABILITY FOR DAMAGES OR LOSSES HEREUNDER SHALL BE STRICTLY LIMITED TO DIRECT DAMAGES THAT ARE ACTUALLY INCURRED BY THE OTHER PARTY. IN NO EVENT SHALL ANY OFFICIAL, EMPLOYEE, MEMBER, MANAGER, OFFICER OR EMPLOYEE OF EITHER PARTY BE LIABLE FOR THE ACTS OR OMISSIONS OF EITHER PARTY UNDER THIS AGREEMENT.

IN WITNESS WHEREOF, this Agreement is executed by the persons signing below who warrant that they have the authority to execute this Agreement.

LOCALTEL FEDERAL BUILDING, LLC

By _____

Date: _____

LOCALTEL FEDERAL BUILDING CONDOMINIUM ASSOCIATION

By _____

Date: _____

COMPUTER 5, INC.

By _____

Date: _____

CITY OF WENATCHEE, a municipal corporation

By _____

FRANK KUNTZ, Mayor

Date: _____

Exhibit B – Cost Allocation

Cost Schedule Basis for Operations and Maintenance		Total		Unit			Unit Percentage Split						
Description	Units of Measure	Assoc.	B	1B	1A	2	3	Assoc	B	1B	1A	2	3
<p>The following spreadsheet provides basis data that establishes cost allocations between the units for operations as well as establish reserves.</p> <p>To be attached to the condo declarations as an exhibit so serve as a basis for future modifications.</p>													
Initial Management Agreement													
Windows (See note below)	Glazing area, sf	26554	10121	0	1593	7420	7420	0.0%	38.1%	0.0%	6.0%	27.9%	27.9%
Marble Cladding	Vertical surface area, sf	27202	0	497	8699	6680	6680	0.0%	1.8%	17.1%	32.0%	24.6%	24.6%
HVAC (incl. utilities for HVAC)	Gross Cubic Volume (less bldg. service area), cf	853757	74646	141702	253716	120933	120717	8.7%	16.6%	16.6%	29.7%	14.2%	14.1%
Lobby Elevators (2 and freight)	Each elevator floor stop	12	0	1	3	4	2	0.0%	8.3%	25.0%	33.3%	16.7%	16.7%
Fenced area next to 1B	By percentage split	1	0	0.5	0.5	0	0	0.0%	50.0%	50.0%	0.0%	0.0%	0.0%
Art Mound Area	By percentage split	1	0	0	0	1	0	0.0%	0.0%	0.0%	100.0%	0.0%	0.0%
Parking Lot Common Areas	Common area A and B, sf	55439	8527	0	21814	25098	0	15.4%	0.0%	39.3%	45.3%	0.0%	0.0%
Signage South	By percentage split, Units B & 1B	1	0	0.5	0.5	0	0	0.0%	50.0%	50.0%	0.0%	0.0%	0.0%
Signage North	Gross Floor Areas, Units 1A, 2, 3	46732	0	0	19882	13437	13413	0.0%	0.0%	0.0%	42.5%	28.8%	28.7%
Backup Generator/New Service	Panel Rating Split (amps)	850	0	0	700	150	0	0.0%	0.0%	82.4%	17.6%	0.0%	0.0%
Notes:													
Windows: For the purposes of window washing, Unit B shall not be charged any costs. Window washing will be handled by the owner of Unit B. For window washing, Units 1A, 2, and 3 will be billed for washing of the windows e													
Gross Floor Area (less building service area) Categories													
Janitorial/Admin/Building Employees	Gross Floor Area (less bldg service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Joint Common Area (landscaping, etc)	Gross Floor Area (less bldg service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Roof	Gross Floor Area (less bldg service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Water/Sewer	Gross Floor Area (less bldg service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Electricity (excl. HVAC)	Gross Floor Area (less bldg service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Irrigation Meter	Gross Floor Area (less bldg service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%
Maint. of 5,183 sf of JCA inside the bldg.	Gross Floor Area (less bldg service area), sf	71571	10389	14450	19882	13437	13413	0.0%	14.5%	20.2%	27.8%	18.8%	18.7%

Exhibit B – Sample Cost Allocation Tracking

Condo Association Expenses

Date of Service	Payment	Vendor Name	Expense Description	Type	Total Amount		LocalTel			City of Wenatchee			Association Common	
					Unit A	Unit B	Unit 1A	Unit 1B	Unit 2	Unit 3	Unit 1A	Unit 1B		Unit 2
12/20/2018	1/31/2019		Cleaning Windows	Windows	3,000.00	1,143.44	0%	1,799.57	28%	838.29	28%	838.29	0.0%	
12/27/2018	1/31/2019		Restoration of exterior marble	Marble Cladding	5,000.00	2%	91.35	17%	853.98	32%	1,598.96	25%	1,227.85	0.0%
12/31/2018	1/31/2019		December janitorial reimbursement	Janitorial/Admin/Building Employees	10,000.00	14%	1,353.55	19%	1,882.64	26%	2,590.35	18%	1,747.53	6.8%
1/10/2019	1/31/2019		Service HVAC equipment	HVAC (incl. utilities for HVAC)	500.00	17%	82.99	17%	83.19	30%	148.59	14%	70.82	8.7%
1/20/2019	1/31/2019		Water/sewer utility bill	Water/Sewer	4,000.00	14%	541.42	19%	753.06	26%	1,036.14	18%	700.26	17%
1/30/2019	2/28/2019		Elevator inspection	Freight Elevator	300.00	50%	150.00	50%	150.00	0%	-	0%	-	0.0%
1/31/2019	2/28/2019		January janitorial reimbursement	Janitorial/Admin/Building Employees	40,000.00	14%	5,414.18	19%	7,530.55	26%	10,361.41	18%	7,002.63	6.8%
2/10/2019	2/28/2019		Fence repairs	Fenced area next to IB	1,200.00	50%	600.00	50%	600.00	0%	-	0%	-	0.0%
2/20/2019	2/28/2019		Removal of art mound	Art Mound Area	5,000.00	0%	-	0%	-	100%	5,000.00	0%	-	0.0%
2/28/2019	3/31/2019		Crack sealing	Parking Lot Common Areas	8,000.00	0%	-	39%	3,147.82	45%	3,621.71	0%	-	15.4%
2/28/2019	3/31/2019		February janitorial reimbursement	Janitorial/Admin/Building Employees	10,000.00	14%	1,353.55	19%	1,882.64	26%	2,590.35	18%	1,750.66	6.8%
3/10/2019	3/31/2019		Installation of LocalTel sign	Signage South	-	50%	-	50%	-	0%	-	0%	-	0.0%
3/15/2019	3/31/2019		Installation of City sign	Signage North	-	0%	-	0%	-	43%	-	29%	-	0.0%
3/20/2019	3/31/2019		Replace backup generator	Backup Generator/New Service	10,000.00	0%	-	82%	8,235.29	18%	1,764.71	0%	-	0.0%
2019 - 1st Quarter Expense Totals					97,000.00	10,730.47	25,119.17	28,892.20	13,341.18	13,321.04	5,595.94			

Condo Association Equity Balance

Total Amount	LocalTel		City of Wenatchee			Association Common
	Unit B	Unit 1B	Unit 1A	Unit 2	Unit 3	
150,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	-
17,177.04	2,493.36	3,468.00	4,771.68	3,224.88	3,219.12	-
(97,000.00)	(10,730.47)	(25,119.17)	(28,892.20)	(13,341.18)	(13,321.04)	(5,595.94)
70,177.04	(812.29)	(1,129.81)	(1,554.52)	(1,050.60)	(1,048.73)	5,595.94
	20,950.60	72,319.03	4,324.96	18,833.10	18,849.36	-
Total by owner		LocalTel	28,169.63	City of Wenatchee		42,007.41

CONSTRUCTION IMPROVEMENTS AGREEMENT

This CONSTRUCTION IMPROVEMENTS AGREEMENT (“Agreement”) is entered into by and between LocalTel Federal Building, LLC, a Washington limited liability company (“LocalTel”), the City of Wenatchee, a Washington municipal corporation (the “City”), and the LocalTel Federal Building Condominium Owners Association, a Washington nonprofit corporation (the “Association”).

RECITALS

A. LocalTel and the City have entered into that certain Real Estate Purchase and Sale Agreement dated April 25, 2018 (the “PSA”) pursuant to which the City agreed to purchase Units 1A, 2 and 3 of the LocalTel Federal Building Condominiums.

B. Following the closing of the transaction contemplated by the PSA, LocalTel will own the remaining Units of the LocalTel Federal Building Condominiums, consisting of Units 1B and B.

C. Section 33 of the PSA contemplates that LocalTel and the City will reach an agreement on construction issues for common systems or issues that affect the spaces of both parties.

D. The Association, LocalTel and the City desire to enter into this Agreement to address the construction issues referenced in Section 33 of the PSA, as set forth in more detail below.

AGREEMENT

1. Declaration/Other Improvements. The Declaration of Condominium Establishing Covenants, Conditions, Restrictions, Reservations, and Easements for the LocalTel Federal Building Condominiums (the “Declaration”) contains terms and conditions applicable to all improvements the parties or the Association may desire to make, including at Section 2, Section 3, Sections 4.2 – 4.7 and Section 6.8. All improvements not specifically listed in this Agreement shall be governed by the applicable provisions of the Declaration.

2. Timeline/Workmanship. Each party shall take commercially reasonable efforts to (a) complete its required improvements before the end of the 2021 calendar year, and (b) ensure that the improvements are made in a good and workmanlike manner, including conducting a reasonable level of due diligence on the contractors such party retains to perform the work.

3. LocalTel’s Improvements.

(a) LocalTel agrees to make the following improvement at its cost if the purchase contemplated by the PSA closes:

(i) Access to the parking lot from the Chelan North entrance.

(ii) Building the Unit 1B dividing wall.

(b) LocalTel shall not be required to make the improvements set forth in this subsection (b) unless and until LocalTel commences full occupancy of Unit 1B. At such time (if ever), LocalTel shall make the following improvements at its cost unless specified otherwise below:

(i) Purchasing and installing a back-up generator and all costs associated with the generator, including transfer switches and equipment (paid for pro rata based on the percentage of capacity dedicated to LocalTel and the City). If the City needs the generator installed prior to LocalTel's installation, then the City shall consult with LocalTel and install a generator meeting the needs of both LocalTel and the City in which the costs will be paid on a pro rata basis based on capacity dedicated to LocalTel and the City. If LocalTel declines the need for a generator, the City is authorized to install a generator at their sole cost only meeting the needs of the City. In all cases, the generator will be installed in the designated space on the building plans.

(ii) Conduit crossing of Chelan on the South end of the premises; provided that this improvement will only be required if it is desired by either LocalTel or the City at such time.

4. City Construction Improvements.

(a) The City agrees to make the following improvements at its cost if the purchase contemplated by the PSA closes:

(i) Building the Unit 1A dividing wall.

(ii) Removal of one access on Chelan Street closest to the Kittitas intersection.

(b) The City shall not be required to make the improvements set forth in this subsection (b) unless and until the City commences full occupancy of Unit 1A. At such time (if ever), the City shall make the following improvement at its cost:

(i) Street and parking improvements on Kittitas, Methow, and Yakima Streets, including street lighting. If the City abandons moving city hall to the building, then the City will deed back to the Association 16.5 feet on Kittitas.

(ii) Purchasing and installing a new electrical service and all costs associated with the service, PUD Fees, transformers, meter base and main panel (paid for pro rata based on the percentage of capacity dedicated to LocalTel and the City). If LocalTel needs the service to accommodate new electrical loads prior to the City's installation, then LocalTel shall consult with the City and install a power service meeting both entities needs of which the costs will be paid on

a pro rata basis based on capacity dedicated to LocalTel and the City. If the City declines the need for a new service, then LocalTel is authorized to install a new service meeting only LocalTel needs without participation from the City. In all cases, the new service will be installed in the new electrical room (Joint Common Area, as defined in the Declaration) located on the first floor, which is shown on the Building Map attached to the Declaration of Condominium Establishing Covenants, Conditions, Restrictions, Reservations and Easements for the LocalTel Federal Building Condominiums (the "Declaration").

5. Association Improvements.

(a) The Association agrees to make the following improvements if the purchase contemplated by the PSA closes, with costs allocated as set forth below:

(i) Power conduits from the new electrical room to the old basement electrical room (with costs paid proportionately based on the number of conduits reserved for use by the City and LocalTel, respectively).

(ii) Demolition of the catwalk (with costs paid based on the percentage of the square footage of the catwalk demolished over each party's unit).

(iii) Conduit across Chelan Street - North end (with costs paid based on the percentages set forth in the Joint Common Area row of the table set forth in Section 5.2 of the Declaration).

(iv) Installation of new electrical and fiber service conduits (with costs paid based on the percentages set forth in the Joint Common Area row of the table set forth in Section 5.2 of the Declaration).

(b) The Association shall not be required to make the improvements set forth in this subsection (b) unless and until either LocalTel or the City commences occupation of their respective units. At such time (if ever), the Association shall make the following improvement, with costs allocated as set forth below:

(i) Dumpster improvements as required by code and Waste Management (costs split between LocalTel and the City based on gross floor area).

(ii) The first of the City or LocalTel to occupy a unit located on the first floor may replace the motor of the first floor air handler #1 at the cost of the Association such that the expenses be pro-rated based on the percentage of the expenses thereof, calculated based on the respective gross volume areas of the parties.

(iii) Building Security System for the Joint Common Areas exterior to the building and for common/shared building access points. Improvements including fobs, locks, video surveillance, intrusion detection, etc. Building security for tenant space will be the responsibility of

the unit owner or tenant. Costs shall be prorated based on gross floor area unless specifically addressing certain units.

(iv) Fire alarm improvements are anticipated. Costs to be prorated based on gross floor area.

(v) Insulation under unit 1A and 1B (over the plaza) if required. Cost to be prorated based on floor area above plaza.

Fountain repair or modifications. The fountain will either be restored, changed or decommissioned as mutually agreed upon by the City and LocalTel. The cost to be prorated based on gross floor area.

(vi) Paving and striping of the parking lot (with costs paid based on the percentages set forth in the Parking Lots row of the table set forth in Section 5.2 of the Declaration).

(vii) Improvements to Joint Common Area may be required as a condition of remodel building permits. For example, fixing trip hazards in the sidewalks, replacing unhealthy street trees, or other landscaping/lighting and access improvements will likely be required by city code. These costs shall be prorated based on gross floor area unless providing greater benefit to a specific unit.

6. Association Special Assessments. The City and LocalTel agree that association expenses associated with this agreement need to be reimbursed through special assessment at the time the expense is incurred. Except as otherwise provided in this Agreement, special assessment amounts will be determined based on prorated costs according to the cost allocation table in the condo declarations.

7. Improvements Requiring Engineering Analysis. The parties acknowledge and agree that certain improvements may require engineering analysis, as provided in Section 6.9 of the Declaration.

8. Modification. All subsequent modifications of any condition of this Agreement shall be in writing and signed by the appropriate parties.

9. Notices. Notice hereunder shall be in writing and may be mailed or delivered. If mailed, such notices shall be sent postage prepaid, certified or registered mail, return receipt requested, and the date marked on the return receipt by the United States Postal Service shall be deemed to be the date on which the party received the notice. Notices shall be mailed or delivered as follows:

TO CITY: City of Wenatchee
 Mayor's Office
 126 S. Chelan
 Wenatchee, WA 98801

TO LOCALTEL: LocalTel Federal Building, LLC

343 Grant Rd.
East Wenatchee, WA 98802

10. Waiver. No act or omission of either party hereto shall at any time be construed to deprive such party of a right or remedy hereunder or be construed so as to at any future time estop such party from exercising its rights or remedies.

11. Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with Washington law. Any litigation arising out of or in connection with this Agreement shall be conducted in Chelan County, Washington.

12. Successors. This Agreement shall be binding upon and shall inure to the benefit of the respective successors, heirs and assigns of each of the parties.

13. Attorney's Fees. If any suit or proceeding is instituted by the LocalTel or the City, including, but not limited to, filing of suit or requesting an arbitration, mediation or alternative dispute resolution process (collectively "proceedings"), and appeals and collateral actions relative to such suit or proceedings, the substantially prevailing party as determined by the court or in the proceeding shall be entitled to recover its reasonable attorney's fees and costs and expenses incurred relative to such suit or proceeding from the substantially non-prevailing party, in addition to such other available relief.

14. Representation. Steve D. Smith of Davis Arneil Law Firm LLP, represents the City. Peter Spadoni of Jeffers Danielson Sonn & Aylward, P.S., represents LocalTel. Both LocalTel and the City have been adequately represented by legal counsel and this Agreement shall not be construed against either party as drafter.

15. Counterparts/Facsimile. This Agreement may be executed separately or independently in any number of counterparts and may be delivered by manually signed counterpart, facsimile, or electronically. Each and all of these counterparts shall be deemed to have been executed simultaneously and for all purposes to be one document, binding as such on the parties. The facsimile or electronic transmission of any signed original document, and retransmission of any signed facsimile or electronic transmission, shall be the same as delivery of an original. At the request of either party, the parties will confirm facsimile or electronically transmitted signatures by signing an original document.

16. Survival. All terms of this Agreement, which are not satisfied or waived prior to closing, shall survive closing. These terms shall include, but not be limited to, representations and warranties, attorneys' fees and costs, disclaimers, repairs, rents and utilities, etc.

DATED this ____ day of May, 2018.

“CITY”
CITY OF WENATCHEE

Frank Kuntz, Mayor

“LOCALTEL”
LOCALTEL FEDERAL BUILDING, LLC

Dimitri Mandelis, Manager

“ASSOCIATION”
LOCALTEL FEDERAL BUILDING
CONDOMINIUM OWNERS
ASSOCIATION

By: _____
Title: _____

AGREEMENT FOR PRIOR RIGHT OF NEGOTIATION

This AGREEMENT FOR PRIOR RIGHT OF NEGOTIATION (“Agreement”) is entered into by and between LocalTel Federal Building, LLC, a Washington limited liability company (“LocalTel”), and the City of Wenatchee, a Washington municipal corporation (the “City”). The City and LocalTel are sometimes collectively referred to herein as the “Parties” and each as “Party.”

RECITALS

A. LocalTel and the City have entered into that certain Real Estate Purchase and Sale Agreement dated April 25, 2018 (the “PSA”) pursuant to which the City agreed to purchase Units 1A, 2 and 3 of the LocalTel Federal Building Condominiums (the “Condominium”).

B. Following the closing of the transaction contemplated by the PSA, LocalTel will own the remaining units of the Condominium, consisting of Units 1B and B, and the City will own Units 1A, 2 and 3.

C. Section 33(e) of the PSA contemplates that LocalTel and the City will grant each other a first right of negotiation if either party desires to sell all or a portion of their Condominium units.

D. LocalTel and the City desire to enter into this Agreement to provide for the first right of negotiation completed by Section 33(e) of the PSA, as set forth in more detail below.

AGREEMENT

1. First Right of Negotiation. In the event either LocalTel or the City decide to consider selling any Unit in the Condominium to an unrelated third party, prior to offering or listing any such Unit for sale, they shall provide the other Party written notice (“Notice”), the opportunity to make an offer to purchase, and shall negotiate in good faith to sell such Unit(s) to the other Party, for not less than 90 days (unless waived by the other Party). After the expiration or waiver of such 90 day-period, the Party desiring to sell all the Unit(s) may proceed to offer, list and/or sell such Unit(s) without restriction; provided, however, if the selling Party has not entered into a binding agreement for the sale of such Unit(s) within 12 months of the Notice or if such sale fails to close within 24 months of the Notice, the obligations of this Section shall be automatically reinstated as if no Notice had been previously given as to such Unit(s).

2. Related Party Transfers. The right of prior notice and good faith negotiation set forth in Section 1 above shall not apply to a transfer of a Unit to a Related Party to the transferring Party.

“Related Party” means an owner, affiliate, subsidiary or parent company, or a successor by merger or consolidation of LocalTel, or a political sub-division of the City.

3. Modification. All subsequent modifications of any condition of this Agreement shall be in writing and signed by the appropriate parties.

4. Notices. Notice hereunder shall be in writing and may be mailed or personally delivered. If mailed, such notices shall be sent postage prepaid, certified or registered mail, return receipt requested, and the date marked on the return receipt by the United States Postal Service shall be deemed to be the date on which the party received the notice. Notices shall be mailed or delivered as follows:

TO THE CITY: City of Wenatchee
 Mayor’s Office
 126 S. Chelan
 Wenatchee, WA 98801

TO LOCALTEL: LocalTel Federal Building, LLC
 343 Grant Rd.
 East Wenatchee, WA 98802

Or to such other address as a Party may specify by notice hereunder.

5. Waiver. No act or omission of either party hereto shall at any time be construed to deprive such party of a right or remedy hereunder or be construed so as to at any future time estop such party from exercising its rights or remedies.

6. Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with Washington law. Any litigation arising out of or in connection with this Agreement shall be conducted in Chelan County, Washington.

7. Successors. This Agreement shall be binding upon and shall inure to the benefit of the respective successors, heirs and assigns of each of the parties.

8. Attorney’s Fees. If any suit or proceeding is instituted by the LocalTel or the Purchaser, including, but not limited to, filing of suit or requesting an arbitration, mediation or alternative dispute resolution process (collectively “proceedings”), and appeals and collateral actions relative to such suit or proceedings, the substantially prevailing party as determined by the court or in the proceeding shall be entitled to recover its reasonable attorney’s fees and costs and expenses incurred relative to such suit or proceeding from the substantially non-prevailing party, in addition to such other available relief.

9. Counterparts/Facsimile. This Agreement may be executed separately or independently in any number of counterparts and may be delivered by manually signed counterpart, facsimile, or electronically. Each and all of these counterparts shall be deemed to have been executed simultaneously and for all purposes to be one document, binding as such on the parties. The facsimile

or electronic transmission of any signed original document, and retransmission of any signed facsimile or electronic transmission, shall be the same as delivery of an original. At the request of either party, the parties will confirm facsimile or electronically transmitted signatures by signing an original document.

10. Survival. All terms of this Agreement, which are not satisfied or waived prior to closing, shall survive closing of the sale of Units by LocalTel to the City.

DATED this ____ day of May, 2018.

“CITY”
CITY OF WENATCHEE

Frank Kuntz, Mayor

“LOCALTEL”
LOCALTEL FEDERAL BUILDING, LLC

Dimitri Mandelis, Manager

ADDENDUM TO REAL ESTATE PURCHASE AND SALE AGREEMENT

Parties

- 1.1 Seller. LOCALTEL FEDERAL BUILDING, LLC, a Washington limited liability company.
- 1.2 Purchaser. CITY OF WENATCHEE, a Washington municipal corporation.

Prior Agreement

2.1 Purchase and Sale Agreement. That Real Estate Purchase and Sale Agreement between the above Parties dated April 25, 2018.

Addendum

3.1 Addendum to Purchase and Sale Agreement. The parties agree that the Purchase and Sale Agreement shall be amended as follows:

3.1.1 The following paragraph is hereby added to the Agreement:

Post-Closing Covenant. For the benefit of the Property, the Purchaser agrees to obtain all permits and other approvals necessary to move the access points on to the Property's parking lot (including obtaining permits to install a new access on Chelan Street generally as shown on the Binding Site Plan such permit may be conditioned upon removal of the two existing entrances on Chelan Street) to new locations reasonably satisfactory to the Seller within six months after the date of Closing; and (b) the parties agree to take all actions necessary, including providing required consents, to amend the Declaration of Condominium Establishing Covenants, Conditions, Restrictions, Reservations and Easements for the LocalTel Federal Building Condominiums to allow continuation such actions.

3.2 No Other Changes/Survival. The remainder of the Purchase and Sale Agreement identified in Paragraph 2.1 herein shall remain as written. The Obligations contained in this Addendum shall survive Closing of the sale of the Property under the Purchase and Sale Agreement.

"SELLER"

LOCALTEL FEDERAL BUILDING, LLC
A Washington Limited Liability Company

By _____
Dimitri Mandelis, Manager

Date _____

"PURCHASER"

CITY OF WENATCHEE
A Washington Municipal Corporation

By _____
Frank Kuntz, Mayor

Date _____

**AGENDA REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Wenatchee City Council

FROM: Stephen Neuenschwander, Planning Manager

SUBJECT: Public Hearing to consider amendments to the Wenatchee City Code in Titles 10, 11, and 12 as recommended by the City of Wenatchee Planning Commission.

DATE: May 21, 2018

I. OVERVIEW

The Planning Commission has held several public hearings regarding the following amendments to the City Code in Titles 10, 11, and 12:

Title 10 Zoning:

- Amendments to Section 10.08 Definitions:
 - Remove from “Industry, light” the maintenance and service facilities component and create a new definition for “maintenance and service facilities for motor vehicle passenger transportation”
 - A new definition for “Artisanal industrial/manufacturing” to identify and differentiate between smaller scale industrial activity and light industry. Light industry in general may not be appropriate in some zoning districts while a less intense and smaller scale use may be.
 - Revision to the “Equipment rental services, commercial” definition to reference changes to the definition of light industry.
 - Revision to the definition of “School” to add clarify that schools are institutions that are recognized by the Office of the Superintendent of Public Instruction.
 - Revision to the definition of “Personal Services” to include such used as tutoring and other instructional services.
- Amendments to Section 10.10 District Use Chart:
 - Updates to include the new uses for “maintenance and service facilities for motor vehicle passenger transportation” and “Artisanal industrial/manufacturing”.
 - A new use category for “Artisanal industrial/manufacturing”
 - Revisions to outdoor storage uses as a result of the Planning Commission’s work relating to the moratorium initiated by Ordinance 2017-20 and extended by Ordinance 2018-07.

- Amendments to Section 10.48 General Regulations:
 - Revisions to the commercial fence standards to discourage solid or sight obscuring fencing from occurring at the right of way edge.
 - New performance standards for artisanal industrial/manufacturing uses.

Title 11 Subdivisions:

- Amendments to Section 11.20.020, which adds an alternatives section to the street standards for subdivisions. This revision was put in place as an official interim control by Ordinance 2017-24.

Title 12 Environmental Protection:

- Revisions to Section 12.04.030(2) Flexible Thresholds for Categorical Exemptions of the Wenatchee City Code (WCC).

II. ACTION REQUESTED

The Planning Commission has forwarded affirmative recommendations for all of the proposed revisions to Titles 10, 11, and 12. Planning staff concurs with the recommendations and has provided the following draft motion:

I move to accept the Planning Commission recommendation and adopt the revisions to the Wenatchee City Code in Title 10 by Ordinance 2018-12, the revisions in Title 11 by Ordinance 2018-13, and the revisions in Title 12 by Ordinance 2018-13.

III. FISCAL IMPACT

None

IV. PROPOSED PROJECT SCHEDULE

If adopted by the Wenatchee City Council, Community Development staff would provide notice to the Washington State Department of Commerce of the adoption, completing the process with a 60 day appeal period required by RCW 36.70A.

The ordinances would take effect thirty (30) days from and after the approval and publication.

V. REFERENCE(S)

- All applicable staff reports
- Ordinance 2018-12
- Ordinance 2018-13
- Ordinance 2018-14

TO: City of Wenatchee Planning Commission
FROM: City of Wenatchee Community Development Staff
BDATE: February 14, 2018
RE: Staff Report - Limited Code Amendments

I. REQUESTED ACTIONS

Adoption of amendments to the Wenatchee City Code (WCC) attached as Exhibit A.
Requested actions include:

- A. Amendments to Wenatchee City Code (WCC) Chapter 10.08 Definitions, 10.10 Definitions and 10.48 General Regulations related to artisan/makers spaces
- B. Amendments to WCC Chapter 10.48.180 Fences in the general regulations section related to commercial fence standards.
- C. Amendments for WCC Chapter 10.10 District Use Chart related to storage uses in the North Wenatchee Business District.
- D. WCC Chapter 12.04.030 Flexible Thresholds for categorical exemptions

II. ENVIRONMENTAL REVIEW

The City of Wenatchee has determined the proposed amendments to the Wenatchee City Code will not have probable significant adverse impacts on the environment. The City of Wenatchee has issued a determination of non-significance (DNS). Notice of the environmental determination for the proposed amendments to the Wenatchee City Code was made on February 7, 2018, with comments due by February 21, 2018.

III. PUBLIC PROCESS

- The Planning Commission conducted workshops on the proposed revisions between September and November of 2017 and in January 2018.
- The amendments and environmental documents have been posted on the City of Wenatchee website during the public comment and environmental review periods.
- Notice of the proposed amendments to the Wenatchee City Code was made on February 7, 2018 with comments due by February 21, 2018.
- Concurrent with the notices provided for the proposed amendments, copies of the environmental documents were sent to the Department of Ecology SEPA Register; and the City of Wenatchee provided formal notice to the Washington State Department of Commerce of the intent to adopt amendments to the City of Wenatchee Urban Area Comprehensive Plan and City of Wenatchee Zoning Code and initiation of the 60 day review and comment period. Additional notice was provided to local and regional agencies for the 60 day review and comment period/environmental determinations.
- On February 21, 2018, the City of Wenatchee Planning Commission conducted an advertised public hearing on the proposed amendments.

IV. AGENCY AND PUBLIC COMMENTS:

At the writing of the staff report, no comments were received in response to this proposal.

V. PROJECT ANALYSIS

An analysis, summary and recommendations for the three categories, A-C, of code amendments are provided below. Please refer to Exhibit I for the complete text of each proposed amendment. Suggested findings of fact and conclusions of law are included at the end of the staff report applicable to the proposals.

A. Amendments to Wenatchee City Code (WCC) Chapter 10.08 Definitions, 10.10 Definitions and 10.48 General Regulations related to artisan/makers spaces

Industrial uses are regulated throughout the city in a variety of commercial districts, industrial overlays, and the industrial district. Outside the industrial district, many industrial uses are processed as permitted, conditional or accessory uses.

The proposed revisions would remove from the light industry definition the vehicular transportation type uses such as taxi fleets and public transit fleets as well as the rental of portable toilets and heavy equipment. A separate land use category is established for these uses and authorized in a similarly as the light industry uses in the use chart. These uses do not meet the definition of a light industry as there is not processing or manufacturing aspect. They are however appropriate uses in the industrial district and via a conditional use in other areas of the city.

In an effort to encourage craftsman/artisanal industries to locate in the central business district and Historic Entertainment Overlay (HEO), a new land use category and definition are proposed. These industrial uses are characterized by smaller scale operations, usually hand crafted, and not as intrusive as full scale industrial uses. City staff have spoken with several artisans that would like to site their business downtown, however, the HEO does not allow for the industrial uses. The proposed revision would create a smaller scale option in the CBD and HEO and other districts in the City. Goal 7 and Policy 3 of the Land Use Chapter of the comprehensive plan encourages providing opportunities for light manufacturing and flexible space for industrial uses in commercial district. The purpose of the artisan spaces are to create this smaller scale and more limited industrial uses.

Staff recommends **Approval** of the proposed amendments based upon the suggested findings of fact and conclusions of law enclosed at the conclusion of the staff report.

B. Amendments to WCC Chapter 10.48.180 Fences in the general regulations section related to commercial fence standards.

Toward the end of 2017, the Planning Commission expressed concern regarding site obscuring fencing along the right of way on North Wenatchee Avenue. The Planning Commission asked staff to draft some potential code revisions that would limit, soften the affect or discourage site obscuring fences along the street frontage. The purpose of the proposed revisions is to blend commercial fencing in better with the surrounding commercial uses and not allow the fencing to become the prominent feature on the property.

Through a series of workshops in October 2017 and January 2018, the Planning Commission and staff have drafted revisions to the commercial fence standards that would accomplish the following:

- Limit the visual impact of long continuous fencing fronting the public right of way by including architectural features such as masonry or brick columns to provide visual relief and definition to fencing;
- Limit the use of high intensity or bright colors; and
- Limit the use of barbed wire or razor on fences directly fronting the public right of way.

Staff recommends **Approval** of the proposed amendments to WCC 10.48.180 Fences in the general regulations section based upon the suggested findings of fact and conclusions of law enclosed at the conclusion of the staff report.

C. Amendments for WCC Chapter 10.10 District Use Chart related to storage uses in the North Wenatchee Business District.

At the September 14, 2017 meeting of the City Council, Ordinance 2017-20 was signed with the purpose of initiating a six (6) month moratorium on accepting applications for the establishment, siting, locating, or permitting, of new outdoor sales or rentals, or new uses involving storage of merchandise, inventory or equipment in the North Wenatchee Business District located in the Olds Station area.

The purpose of the moratorium was to give the Community Development Department an opportunity to further study the Wenatchee Urban Area Comprehensive Plan and the Sunnyslope Subarea Plan to ensure that uses with significant outdoor storage of materials, supplies, or merchandise are consistent with the adopted comprehensive and subarea plans.

The City of Wenatchee adopted the Sunnyslope Subarea Plan as a component of the Wenatchee Urban Area Comprehensive Plan on October 12, 2007 by Ordinance No. 2007-37. This subarea plan identifies the Olds Station area as a Zone of Change where land uses will eventually evolve to provide a mixture of housing densities and new local services.

Land uses that include outdoor sales or storage of merchandise or equipment may not be consistent with the envisioned mixture of residential and office uses in the Olds Station area identified as a Zone of Change.

Uses affected by the moratorium, as identified in Section 10.10 District Use Chart, included:

- Boat sales and rentals;
- Building materials, garden and farm supplies
- Equipment rental services, commercial
- Boating storage facilities
- Industry, Light
- Mini-storage
- Warehousing and storage

The Planning Commission discussed the moratorium and the appropriateness of the storage uses at the November 2017 and January 2018 meetings. The Planning Commission discussed the various uses included in the moratorium and whether or not they were appropriate in the district in general or only in specific locations. The City of Wenatchee is working on identifying and protecting the visual integrity of these gateway routes into the city as part of the implementation of the comprehensive plan. The Economic Development Chapter of the Comprehensive Plan discusses the need for a commercial transition, a need to improve aesthetics of the arterial street system, and creating a more favorable business district and gateway to the city. The Planning Commission discussed the uses with outdoor storage components to determine if they were appropriate adjacent to these gateway routes such as State Route 2 and Easy Street. The recommended changes are in Exhibit A.

Staff recommends **Approval** of the proposed amendments to the District use chart in WCC 10.10 for storage uses in the North Wenatchee Business District, based upon the suggested findings of fact and conclusions of law enclosed at the conclusion of the staff report.

D. WCC Chapter 12.04.030 Flexible thresholds for categorical exemptions

The State Environmental Policy Act (SEPA) authorizes local governments to set flexible thresholds for projects that are exempt from SEPA review. The city completed this process in 2011 and identified development levels for minor new construction that should be exempt from SEPA review. After the city completed its process and amended

the code, the State changed the categorical exemption text in WAC 197-11-800 in 2014. This change resulted in several incorrect references in the city code.

In order to clarify the intent of the city and the ensure that references remain correct, city planning staff has drafted revisions included in Exhibit A.

Staff recommends **Approval** of the proposed amendments to the SEPA categorical exemptions in WCC 12.04.030, based upon the suggested findings of fact and conclusions of law enclosed at the conclusion of the staff report.

SUGGESTED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Suggested Findings of Fact:

1. The City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions.
2. The City of Wenatchee Planning Commission is responsible for long range planning matters and providing implementation recommendations to assure compliance with the Growth Management Act for the City of Wenatchee Urban Growth Area in coordination with Chelan County and within the incorporated boundaries of the City of Wenatchee. These measures include updates and amendments to the comprehensive plan; development regulations, environmental regulations, and any other rules, actions or regulations deemed necessary to implement the Growth Management Act.
3. RCW Chapters 36.70 and 36.70A authorize the adoption of development regulations.
4. The Planning Commission conducted workshops on the proposed revisions between September and November of 2017 and in January 2018.
5. The City of Wenatchee issued a determination of nonsignificance on February 7, 2018 and provided copies of the environmental documents to the Department of Ecology SEPA Register for the amendments on February 7, 2018.
6. Notice of the public 60 day review and comment period, and public hearing dates were published in the Wenatchee World on February 7, 2018.
7. On February 7, 2018, the City of Wenatchee provided formal notice to the Washington State Department of Commerce of the intent to adopt amendments to the Wenatchee City Code with a request for expedited review per RCW 36.70A.106. Additional notices were provided to local and regional agencies for the 60 day review and comment periods/environmental determinations.
8. On February 21, 2018, the City of Wenatchee Planning Commission conducted an advertised public hearing. The Planning Commission entered into the record the files

on this amendment, accepted public testimony, and deliberated the merits of the proposal.

9. The City of Wenatchee Planning Commission has reviewed the entire record and public testimony as it relates to the proposed amendments to the Wenatchee City Code.
10. The State Environmental Policy Act (SEPA) in WAC 197-11-800 authorizes local governments to set flexible thresholds for projects that are categorically exempt from SEPA review.
11. The North Wenatchee Business District serves as a gateway to the city. The Comprehensive Plan encourages the improvement of the aesthetics of the gateway areas in order to create a more favorable business district and gateway to the city.
12. Goal 7 and Policy 3 of the Land Use Chapter of the comprehensive plan encourages providing opportunities for light manufacturing and flexible space for industrial uses in commercial district. The purpose of the artisan spaces are to create this smaller scale and more limited industrial uses.

Suggested Conclusions of Law:

1. The procedural and substantive requirements of the State Environmental Policy Act have been complied with.
2. The procedural requirements of RCW 36.70A have been complied with.
3. The proposed amendments are consistent with the Chelan County Countywide Planning Policies and the City of Wenatchee Urban Area Comprehensive Plan.
4. The proposed amendments are consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.
5. The proposed amendments have been reviewed and processed in accordance with the requirements of Title 10 Zoning, Title 12 Environmental Protection, and Title 13 Administration of Development Regulations of the City of Wenatchee Code.

Exhibit A

10.08 Definitions

“Industry, light” means a site for the basic processing and manufacturing of materials or products predominately from previously prepared materials or finished products or parts. This includes processing, fabricating, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excludes basic processing of raw materials, except for food and beverage products. ~~This also includes maintenance and service facilities for motor vehicle passenger transportation, such as for taxi fleets, public transit fleets, or school bus fleets, as well as the rental or leasing of portable toilets, heavy equipment like bulldozers, or similar services to the construction trades.~~ The intent of the light industry is to allow basic processing that would not negatively or adversely affect neighboring businesses, residences, or mixed use developments. The beverage processing is intended to include wineries, breweries, and distilleries.

“Maintenance and service facilities for motor vehicle passenger transportation” means a site for the maintenance and service of passenger transportation services, such as for taxi fleets, public transit fleets, or school bus fleets, as well as the rental or leasing of portable toilets, heavy equipment like bulldozers, or similar services to the construction trades.

“Artisanal industrial/manufacturing” means a person or company that makes a high-quality, distinctive product such as furniture, decorative arts, sculptures, clothing, jewelry, food items, or household items in small quantities, usually by hand and using traditional methods. Retail sales may or may not be a component or use.

“Equipment rental services, commercial” means a business which rents or leases equipment for personal or household use, including but not limited to power and hand tools, yard and garden equipment, or party supplies such as dishware, glassware, and folding tables and chairs. This does not include rental of furniture or appliances, classified as “furniture, home furnishings, and appliances,” nor rental or leasing of portable toilets, heavy equipment like bulldozers, or similar services to the construction trades, classified as ~~“industrial, light~~ maintenance and service facilities for motor vehicle passenger transportation” uses.

10.10.020 District use chart.

Use	Commercial Districts				Mixed Use Districts			Overlay Zones					
	CBD	NWBD/ SWBD	C N	I	WMU	OMU	RM U	HE O	CSO	MRC	IO	P O	RR O
Industry, Light	C	C		P	C	C		<u>C</u>	P		P		
<u>Artisan industrial/ manufacturing</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>		<u>P</u>		
<u>Maintenance and service facilities for motor vehicle passenger transportation</u>	<u>C</u>	<u>C</u>		<u>P</u>	<u>C</u>	<u>C</u>			<u>P</u>		<u>P</u>		
Building materials, garden and farm supplies		P ₇											
Equipment rental services, commercial		P C ₇											
Mini-storage		P ₈											

⁷ Storage of building materials or equipment rental supplies in the NWBD north of the Wenatchee River shall be located to the rear of buildings, fully screened from view of any public right-of-way, and not located within 200 feet from the edge of the public right-of-way.

⁸ Mini-storage and all associated uses in the NWBD north of the Wenatchee River shall be located within a completely enclosed building.

10.48.180 Fences and clear view triangle.

All fences where allowed by this title shall meet the following standards unless otherwise regulated within this code:

(2) Commercial and industrial zoning district fences shall meet the following standards:

- (a) Solid fencing or walls greater than 4 feet in height within 20 feet of street frontages or right-of-ways shall not extend more than one-third of the lineal distance of the property frontage, including corner lots;.
- (b) Fencing less than 50 percent view-obstructing are allowed up a maximum 8 feet, within 20 feet of a front property line or right of ways, provided; that for every 25 linear feet of fence or wall, architectural features, such as masonry, or brick columns shall be provided. The minimum width and depth of architectural features shall be no less than 12 inches for the full height;
- (c) Solid fencing or wall sections more than 20 feet from a front property line, shall be allowed up to a maximum height of 8 feet provided; that for every 50 linear feet of fence or wall, architectural features, such as masonry or brick columns shall be provided . The minimum width and depth of architectural features shall be no less than 12 inches for the full height;
- (d) Side and rear yard fencing is exempt from providing architectural features and are allowed up to a maximum height of 8 feet, except when abutting a residential or mixed use zone, in which case the maximum height shall be 6 feet.
- (e) The use of high intensity, primary, metallic, or fluorescent colors is prohibited on any fence surface. Colors should be neutral and similar to the exterior of the primary structure.
- (f) Chain link fencing and barbed or razor wire or similar features shall not be permitted on the front of properties within 20 feet of a public street.

(3) Industrial zoning district fences shall meet the following standards:

- (a) That a maximum height limitation of six feet be observed within any required setback area;
- (b) That a maximum height limitation of eight feet be observed when constructed outside of any required setback area.

10.48.XXX Artisanal industrial/manufacturing

All artisanal industrial/manufacturing where allowed by Chapter 10.10 WCC, District Use Chart, shall meet the following standards unless otherwise regulated within this code:

- (1) Applications shall be processed as a Type II administrative review with public notice under WCC 13.09.040.
- (2) The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding properties and not cause the dissemination of dust, smoke, glare, heat, vibration or noise in excess of the maximum environmental noise level established by WCC Chapter 6A or Chapter 173-60 WAC beyond the property line or affecting adjacent buildings.

12.04.030 Categorical exemptions and threshold determinations.

(2) Flexible Thresholds for Categorical Exemptions.

(a) The city of Wenatchee establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:

(i) For residential dwelling units ~~in WAC 197-11-800(1)(b)(i)~~ up to 20 dwelling units;

(ii) For agricultural structures ~~in WAC 197-11-800~~ up to 30,000 square feet;

(iii) For office, school, commercial, recreational, service or storage buildings ~~in WAC 197-11-800(1)(b)(iii)~~ up to 12,000 square feet and up to 40 parking spaces;

(iv) For parking lots ~~in WAC 197-11-800(1)~~ up to 40 spaces;

(v) For landfills and excavations ~~in WAC 197-11-800(1)(b)(v)~~ up to 500 cubic yards.

(b) Whenever the city establishes new levels under this section, such levels shall be filed with the Department of Ecology headquarters office, Olympia, Washington 98504 under WAC 197-11-800(1)(e).

**COMMUNITY DEVELOPMENT DEPARTMENT
MEMORANDUM**

TO: Planning Commission
FROM: Stephen Neuenschwander, Planning Manager
John Ajax, Senior Planner
SUBJECT: Public Hearing – Wenatchee Zoning Code Amendment for the definitions of School and Personal Services
DATE: May 9, 2018 **MEETING DATE:** May 16, 2018

I. OVERVIEW

The Zoning Code currently does not allow permitting of tutoring and/or other instructional activities within the commercial zoning districts (Central Business District, North / South Wenatchee Business Districts). The reason for this is tutoring and instructional uses fall within the definition of a ‘School’ as institutions of learning; schools are not permitted within commercial zoning districts. To allow the permitting of tutoring and instructional uses within the commercial districts, two definition amendments are proposed. The proposed draft amendments are attached as Exhibit ‘A’.

Amendment to the definition of ‘School’ is proposed to add the qualification that the instruction provided be recognized by the Washington State Superintendent of Public Instruction. The intent of the amendment is to clarify the scope of what is considered a ‘school’ without changing which zoning districts permit schools.

Amendment to definition of ‘Personal Services’ is proposed to include tutoring and instructional services / activities. Personal services are currently permitted within the commercial zoning districts. This would have the effect of permitting tutoring and instructional activities within the commercial zoning districts.

II. REQUESTED ACTION

Conduct a Public Hearing to consider adoption of amendments.

SAMPLE MOTION:

I move to forward a recommendation of approval to the Wenatchee City Council, the proposed Title 10 Zoning Code amendments related to the definitions for School and Personal Services, as proposed by Staff.

III. ENVIRONMENTAL REVIEW

The City of Wenatchee determined the proposed amendment(s) to the Wenatchee City Code will not have probable significant adverse impacts on the environment and issued a SEPA determination of non-significance (DNS) on April 20, 2018 with a public comment period through May 7, 2018.

**COMMUNITY DEVELOPMENT DEPARTMENT
MEMORANDUM**

Notice of the DNS was received by the Department of Ecology on April 20, 2018 and published in the Wenatchee World on April 22, 2018.

IV. WASHINGTON STATE DEPARTMENT OF COMMERCE REVIEW

The Washington State Department of Commerce granted Expedited Review on May 8, 2018.

V. AGENCY AND PUBLIC COMMENTS:

No agency or public comments were received on the proposed amendments.

VI. STAFF RECOMMENDATION

Staff recommends **approval** of the proposed amendments.

SUGGESTED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Suggested Findings of Fact:

1. The City of Wenatchee Planning Commission is responsible for long range planning matters and providing implementation recommendations to assure compliance with the Growth Management Act for the City of Wenatchee Urban Growth Area in coordination with Chelan County. These measures include updates and amendments to the comprehensive plan; development regulations, environmental regulations, and any other rules, actions or regulations deemed necessary to implement the Growth Management Act.
2. RCW Chapters 36.70 and 36.70A authorize the adoption of development regulations.
3. In accordance with RCW 36.70A.106 and WAC 365-196-630, a notice of intent to adopt the proposed new development regulations was sent to the State of Washington Department of Commerce and to other state agencies on April 20, 2018; Expedited Review was granted May 8, 2018.
4. An environmental checklist for a non-project action was prepared under the State Environmental Policy Act (RCW Chapter 43.21.C), pursuant to Administrative Code Chapter 197-11, and a determination of Non-Significance (“DNS”) of the SEPA checklist and determination of non-significance (DNS) was issued on and posted to the Department of Ecology SEPA Register on April 20, 2018.
5. Notice of the Planning Commission Public Hearing, SEPA DNS, and request for comments were published in the Wenatchee World on April 22, 2018.
6. On May 16, 2018, the City of Wenatchee Planning Commission conducted an advertised public hearing, accepted public testimony, and deliberated the merits of the proposal.
7. The proposed amendments to the Zoning Code for ‘Personal Services’ are intended to expand permitting of tutoring and instructional activities / programs within the City’s commercial zoning districts and to clarify the definition of ‘School’.
8. The proposed amendments to the definitions of ‘School’ and ‘Personal Services’ are minimal in nature and consistent with the City of Wenatchee Urban Area Comprehensive Plan.

**COMMUNITY DEVELOPMENT DEPARTMENT
MEMORANDUM**

9. The proposed amendment to allow tutoring and instructional uses as ‘Personal Services’ is consistent with the following Central Business District Subarea Plan objectives:
- Entertainment District Overlay (pg. 10), *Allowable Uses*: Ground floor must be retail, institutional uses open to the public, entertainment, educational or recreational activities that encourage pedestrian activity. Each must support the district’s emphasis on entertainment and associated activities. Upper stories may be commercial, institutional, or residential.
 - Uses and Standards (pg. 22), *CBD: Ground floor retail, entertainment, institutional, educational, or recreational.*

Suggested Conclusions of Law:

1. The procedural and substantive requirements of the State Environmental Policy Act have been complied with.
2. The procedural requirements of RCW 36.70A have been complied with.
3. The proposed amendments designed to be consistent with the City of Wenatchee Urban Area Comprehensive Plan, State, and Federal laws and regulations.
4. The proposed amendments are consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.
5. The proposed amendments have been reviewed and processed in accordance with the requirements of Title 10 Zoning, Title 12 Environmental Protection, and Title 13 Administration of Development Regulations of the City of Wenatchee Code.

Respectfully Submitted,

John Ajax
Senior Planner

EXHIBIT 'A'
 Wenatchee City Code, Title 10, Update 5.1.18
 Additions shown as underline
 Deletions shown as ~~strikethrough~~

		P ₁ = Permitted use										P ₁ = Permitted, not to occupy grade level commercial street frontage									
		C = Conditional use										C ₁ = Permitted, not to occupy grade level commercial street frontage									
		~ = Prohibited use										M = Permitted use in a corridor mixed use project within the MRC overlay									
		AU = Accessory use																			
Uses	Commercial Districts					Mixed Use Districts					Residential Districts					Overlay Zones					
	CBD	NWBD/SWBD	CN	I		WMU	OMU	RMU	RF	RS	RL	RM	RH	HEO	CSO	MRC	IO	PO	RRO		
PUBLIC ASSEMBLY																					
Institution of higher education	C	C	~	C	~	C	C	C	~	C	C	C	C	C ₁	C	C	~	~	~		
Schools	~	~	~	~	C	C	C	C	~	C	C	C	C	~	~	C	~	~	C		
OFFICE																					
Personal services	P	P	P	~	P	P	P	P	~	~	~	~	~	P	P	M	~	~	P		

WCC 10.10 District Use Chart – no changes proposed, shown for reference only

WCC 10.08.080 - no changes proposed, shown for reference only

“Institution of higher education” means a public or private university, community college, technical college, and/or vocational and other educational institution beyond high school.

WCC 10.08.130

“School” means an institution of learning, whether public or private, which offers instruction recognized by the Washington State Office of Superintendent of Public Instruction. This definition includes ~~a nursery school~~, kindergarten, elementary school, junior high school, senior high school, or any special institution of education. A vocational or professional institution of higher education, including a community or junior college, college, or university, is defined under “institution of higher education.”

WCC 10.08.115

“Personal services” means a variety of businesses engaged in providing services to individuals, generally involving the maintenance of the human body, or other services to one’s person or household pets. Such businesses include, but are not limited to, barber and beauty shops, instruction/music studios, photographic studios, tanning parlors, massage parlors, massage practitioners, ~~er~~-pet grooming, tutoring, instructional services and activities. This does not include medical offices, kennels, ~~or~~-veterinary clinics, schools, or institutions of higher education.

TO: City of Wenatchee Planning Commission
FROM: City of Wenatchee Community Development Staff
BDATE: March 14, 2018
RE: Staff Report – Interim control on subdivision street design

I. REQUESTED ACTIONS

Adoption of amendments to the Wenatchee City Code (WCC) in Chapter 11.20.020(13) Alternatives, attached as Exhibit A, specifically related to subdivision street design standards.

II. ENVIRONMENTAL REVIEW

The City of Wenatchee has determined the proposed amendments to the Wenatchee City Code will not have probable significant adverse impacts on the environment. The City of Wenatchee has issued a determination of non-significance (DNS). Notice of the environmental determination for the proposed amendments to the Wenatchee City Code was made on February 7, 2018, with comments due by February 21, 2018.

III. PUBLIC PROCESS

- The City Council approved Ordinance 2017-24, attached as Exhibit B, on November 2, 2017 adopting a 6-month official interim control which expires on May 2, 2018.
- The City sent the proposed amendments to the Washington State Department of Commerce, pursuant to RCW 36.70A, on February 7, 2018 with a request for expedited review.
- The Planning Commission conducted a workshop on the proposed revision on February 21, 2018
- The amendments and environmental documents have been posted on the City of Wenatchee website during the public comment and environmental review periods.
- Notice of the proposed amendments to the Wenatchee City Code was made on February 7, 2018 with comments due by February 21, 2018.
- Concurrent with the notices provided for the proposed amendments, copies of the environmental documents were sent to the Department of Ecology SEPA Register; and the City of Wenatchee provided formal notice to the Washington State Department of Commerce of the intent to adopt amendments to the City of Wenatchee Urban Area Comprehensive Plan and City of Wenatchee Zoning Code and initiation of the 60 day review and comment period. Additional notice was provided to local and regional agencies for the 60 day review and comment period/environmental determinations.
- Expedited review was granted by the Washington State Department of Commerce on February 22, 2018.

- On March 21, 2018, the City of Wenatchee Planning Commission conducted an advertised public hearing on the proposed amendments.

IV. AGENCY AND PUBLIC COMMENTS:

At the writing of the staff report, no comments were received in response to this proposal.

V. PROJECT ANALYSIS

An analysis, summary and recommendations for the code amendments are provided below. Please refer to Exhibit A for the complete text of the proposed amendment. Suggested findings of fact and conclusions of law are included at the end of the staff report applicable to the proposals.

A. Amendments to Wenatchee City Code (WCC) Chapter 11.20.020(13) Alternatives

Comprehensive Plan Goals and Policies:

Transportation Element

GOAL 2: SYSTEM MAINTENANCE & SAFETY – Promote the safe and efficient operation of Wenatchee’s multimodal transportation system.

Policy 2: Ensure the planning, design, construction, and operation of a safe transportation system for all modes of travel.

Policy 5: Ensure that the city’s transportation network adequately serves existing and projected development. Existing roadway conditions, such as adequate geometry and sidewalks, serving new development should be evaluated with each development application.

GOAL 3: PEDESTRIANS, BICYCLES & TRANSIT – Provide a mix of transportation options that better meets the changing needs and preferences of Wenatchee residents.

Policy 1: Encourage physical activity and alternative modes of transportation by adopting more pedestrian and bicycle friendly street standards (e.g. pavement width, landscaping requirements).

Policy 3: Integrate pedestrian and bicycle concerns into the development review process. Discourage development that limits pedestrian and bicycle connections (e.g. dead-end streets).

Staff Analysis:

The City of Wenatchee is experiencing significant pressures for growth and has a deficiency of housing units which has resulted in residential vacancy rates which are some of the lowest in the State. These housing constraints impact the local economy and the community's overall quality of life. The update of the comprehensive plan for housing demonstrated a sufficient supply of land and a need to update provisions of code and pursue infrastructure extensions to facilitate an increase in a diversity of housing types and supply of housing units.

Many land areas which are available for development in the Wenatchee Urban Growth Area include some form of constraint. Additionally, new innovative approaches for engineering and development design are changing every year. The City's current subdivision code does not provide the Public Works Department much latitude to approve alternative designs that can still meet the fundamental components of public interest and be sensitive to site constraints and innovation. Many surrounding jurisdictions have built this latitude into their codes to provide the engineer additional flexibility. Providing this flexibility would be of assistance in the review of development to continue to work to meet community housing needs, while pursuing quality development that is consistent with the comprehensive plan and provisions for the public's health, safety and general welfare.

In order to provide this flexibility, the City Council adopted Interim Official Controls by Ordinance 2017-24 on November 2, 2017, attached as Exhibit B. The interim ordinance amends Chapter 11.20.020 and provides a path for alternative compliance with the street standards. The interim code as adopted is very similar to provisions allowed for by the City of East Wenatchee and Douglas County.

The interim regulations allow an applicant's engineer to propose alternatives demonstrating that alternatives from subdivision street standards are based on sound engineering judgment and that the requirements for safety, function, appearance, fire protection and maintainability are fully met and comply with the Wenatchee Urban Area Comprehensive plan and appropriate subarea plan if applicable. The interim control provides for an administrative option for alternatives to be reviewed either before an application submittal or during the review of an application for review and approval by the City of Wenatchee's Public Works Director. The existing variance section would still remain in place as a hardship review tool for consideration by the City of Wenatchee Hearing Examiner.

Since the adoption of the interim ordinance, one development application has applied to use the alternative standards and one development is in the process of completing the application process.

Recommendation:

Staff recommends **Approval** of the proposed amendments based upon the suggested findings of fact and conclusions of law enclosed at the conclusion of the staff report.

SUGGESTED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Suggested Findings of Fact:

1. The City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions.
2. The City of Wenatchee Planning Commission is responsible for long range planning matters and providing implementation recommendations to assure compliance with the Growth Management Act for the City of Wenatchee Urban Growth Area in coordination with Chelan County and within the incorporated boundaries of the City of Wenatchee. These measures include updates and amendments to the comprehensive plan; development regulations, environmental regulations, and any other rules, actions or regulations deemed necessary to implement the Growth Management Act.
3. RCW Chapters 36.70 and 36.70A authorize the adoption of development regulations.
4. The Planning Commission conducted a workshop on February 21, 2018.
5. The City of Wenatchee issued a determination of nonsignificance on February 7, 2018 and provided copies of the environmental documents to the Department of Ecology SEPA Register for the amendments on February 7, 2018.
6. Notice of the public 60 day review and comment period, and public hearing dates were published in the Wenatchee World on February 7, 2018.
7. On February 7, 2018, the City of Wenatchee provided formal notice to the Washington State Department of Commerce of the intent to adopt amendments to the Wenatchee City Code with a request for expedited review per RCW 36.70A.106. Additional notices were provided to local and regional agencies for the 60 day review and comment periods/environmental determinations.
8. On February 22, 2018, the Washington State Department of Commerce granted expedited review.
9. On February 21, 2018, the City of Wenatchee Planning Commission conducted a public hearing and continued the hearing to March 21, 2018.
10. On March 21, 2018, the City of Wenatchee Planning Commission conducted the continued public hearing. The Planning Commission entered into the record the files on this amendment, accepted public testimony, and deliberated the merits of the proposal.
11. The City of Wenatchee Planning Commission has reviewed the entire record and public testimony as it relates to the proposed amendments to the Wenatchee City Code.
12. The Transportation Element of the Wenatchee Urban Area Comprehensive Plan, in particular Goal 2: policies 2 and 5 and Goal 3: policies 1 and 3 support and promote

safe and efficiently designed roads that meet the needs of a variety of multi-modal users.

Suggested Conclusions of Law:

1. The procedural and substantive requirements of the State Environmental Policy Act have been complied with.
2. The procedural requirements of RCW 36.70A have been complied with.
3. The proposed amendments are consistent with the Chelan County Countywide Planning Policies and the City of Wenatchee Urban Area Comprehensive Plan.
4. The proposed amendments are consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.
5. The proposed amendments have been reviewed and processed in accordance with the requirements of Title 10 Zoning, Title 12 Environmental Protection, and Title 13 Administration of Development Regulations of the City of Wenatchee Code.

EXHIBIT A

11.20.020(13) Alternatives.

A. These standards represent reasonable approaches based on past experience in Wenatchee and other jurisdictions. These standards indicate the appropriate practice under most conditions.

B. Engineering design is an endeavor that examines alternative solutions to real world situations and accordingly, these standards are not provided to hamper the introduction of new ideas. It is fully expected that creative engineering will continue to take place. Situations will present themselves where alternatives may be preferred to allow conformance with existing conditions, to overcome adverse topography or to allow for more affordable solutions without adversely affecting safety, maintainability or aesthetics. These standards are intended to provide predictability yet still allow for the flexibility necessary for innovation.

C. Alternatives to these standards may be proposed and evaluated as a component of a pre-application meeting process. Submittal of alternative proposals after or with a permit application submittal may result in additional time necessary to review the subject application.

D. The alternative request shall be in writing, submitted to the city engineer, and address the following points:

1. Specifically outline the reason for the alternative request.
2. Specify the chapter and section for which the alternative is requested.
3. Provide supporting evidence demonstrating that an alternative from these standards is based on sound engineering judgment that the requirements for safety, function, appearance, fire protection and maintainability are fully met and complies with the Wenatchee Urban Area Comprehensive plan and appropriate subarea plan if applicable.
4. The above information shall be used by the city engineer in evaluating requests for the use of alternatives to these standards. Alternative requests that conflict with the International Fire Code as adopted by the City of Wenatchee shall also require written concurrence from the City of Wenatchee Building and Fire Code Official and the Fire Chief of Chelan County Fire District No. 1.
5. Specify how the alternative proposal is equivalent to what would be achieved if the standards were followed.

Exhibit B

ORDINANCE NO. 2017-24

AN ORDINANCE, adopting an interim official control relating to subdivision design standards by providing for alternative street design where flexibility would be beneficial yet comply with sound engineering principles.

WHEREAS, the City of Wenatchee is experiencing significant pressures for growth and has a deficiency of housing units which has resulted in residential vacancy rates which are some of the lowest in the State. These housing constraints impact the local economy and the community's overall quality of life. The update of the comprehensive plan for housing demonstrated a sufficient supply of land and a need to update provisions of code and pursue infrastructure extensions to facilitate an increase in a diversity of housing types and supply of housing units; and

WHEREAS, many land areas which are available for development in the Wenatchee Urban Growth Area include some form of constraints. Additionally, new innovative approaches for engineering and development design are changing every year. The City's current subdivision code does not provide the Engineer flexibility to approve alternative designs that can still meet the fundamental components of public interest and be sensitive to site constraints and innovation. Providing flexibility would be of assistance in the review of development applications to continue to work to meet community housing needs, while pursuing quality development that is consistent with the comprehensive plan and provisions for the public's health, safety and general welfare; and

WHEREAS, City staff recommends amending the City subdivision design standards to allow flexibility in the design of streets where flexibility would be beneficial to aid development yet comply with sound engineering principles; and

WHEREAS, the Wenatchee City Council hereby finds that an interim official control to amend the City subdivision design standards to allow alternative designs of streets where flexibility in design would be beneficial to the development of subdivisions provided it conforms with sound engineering principles would be in the best interest of the public health, safety and welfare; and

WHEREAS, RCW 36.70A.390 authorizes the City Council to adopt interim official controls for a period of up to six (6) months if a public hearing on the proposal is held within at least 60 days of its adoption providing for the six (6) month control period; and

WHEREAS, the City Council desires to impose a six (6) month interim official control amending the City subdivision design standards relating to streets; and

WHEREAS, in conformity with the responsibilities of the City of Wenatchee to meet public health, safety and welfare requirements and provide land use regulations pursuant to state law, and the City's authority to regulate land use activities within its corporate limits, the City intends to develop appropriate subdivision design standards relating to alternative street design standards.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE, WASHINGTON, DO ORDAIN as follows:

SECTION I
Findings

The recitals set forth above are hereby adopted as the City Council's findings in support of the interim official control imposed by this Ordinance.

SECTION II
Interim Official Control Enacted

Pursuant to Washington State law, an interim official control that amends the Wenatchee City Code (WCC) by the addition of Section 11.20.020(13) WCC to read as follows:

11.20.020(13) Alternatives.

A. These standards represent reasonable approaches based on past experience in Wenatchee and other jurisdictions. These standards indicate the appropriate practice under most conditions.

B. Engineering design is an endeavor that examines alternative solutions to real world situations and accordingly, these standards are not provided to hamper the introduction of new ideas. It is fully expected that creative engineering will continue to take place. Situations will present themselves where alternatives may be preferred to allow conformance with existing conditions, to overcome adverse topography or to allow for more affordable solutions without adversely affecting safety, maintainability or aesthetics. These standards are intended to provide predictability yet still allow for the flexibility necessary for innovation.

C. Alternatives to these standards may be proposed and evaluated as a component of a pre-application meeting process. Submittal of alternative proposals after or with a permit application submittal may result in additional time necessary to review the subject application.

D. The alternative request shall be in writing, submitted to the city engineer, and address the following points:

1. Specifically outline the reason for the alternative request.
2. Specify the chapter and section for which the alternative is requested.
3. Provide supporting evidence demonstrating that an alternative from these standards is based on sound engineering judgment that the requirements for safety, function, appearance, fire protection and maintainability are fully met and complies with the Wenatchee Urban Area Comprehensive plan and appropriate subarea plan if applicable.
4. The above information shall be used by the city engineer in evaluating requests for the use of alternatives to these standards. Alternative requests that conflict with the International Fire Code as adopted by the City of Wenatchee shall also require written concurrence from the City of Wenatchee Building and Fire Code Official.
5. Specify how the alternative proposal is equivalent to what would be achieved if the standards were followed.

SECTION III
Effective Period for Interim Official Control

The interim official control set forth in this Ordinance shall be in effect for a period of six (6) months from the date this Ordinance is passed and shall automatically expire at the conclusion of that six (6) month period unless the same is extended by the City as provided in state law or unless terminated sooner by Ordinance.

SECTION IV
Work Program

The Mayor and other responsible staff are hereby authorized to study and address issues related to determining the impacts and necessary controls on alternative design standards for streets within new subdivisions.

SECTION V
Public Hearing

A public hearing on the interim official controls imposed herein was held on November 2, 2017, at 5:15 p.m., upon notice, in order to take testimony and to consider adopting further findings.

SECTION VI
Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance or its application to any other person or situation.

SECTION VII
Effective Date

This Ordinance shall take effect thirty (30) days after approval and publication as provided for by law.

PASSED BY THE CITY COUNCIL OF THE CITY WENATCHEE,

at a regular meeting thereof, this 2 day of November, 2017.


CITY OF WENATCHEE,
a Municipal Corporation

By: 
FRANK KUNTZ, Mayor

ATTEST:

By: 
TAMMY L. STANGER, City Clerk

APPROVED:

By: 
STEVE D. SMITH, City Attorney

ORDINANCE NO. 2018-12

AN ORDINANCE, amending Sections 10.08 Definitions, 10.10 District Use Chart, and 10.48 General Regulations, Title 10 Zoning, of the Wenatchee City Code (WCC).

WHEREAS, the City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions; and

WHEREAS, the City of Wenatchee Planning Commission has transmitted a recommendation of approval to this Council regarding amendments to the Wenatchee City Code related to its development regulations; and

WHEREAS, notice of all public hearings on this matter have been published according to law; and

WHEREAS, the Wenatchee City Council adopt the Findings of Fact and Conclusions as set forth in Exhibit A and incorporate them in this Ordinance by this reference as though fully set forth herein.

NOW, THEREFORE, the City Council of the City of Wenatchee do ordain as follows:

SECTION I

That the amendments to the Wenatchee City Code as set forth in Exhibit B attached hereto and incorporated by this reference shall be and hereby are approved and adopted.

SECTION II

If any section, subsection, sentence, clause or phrase of this Ordinance is declared or judged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the remaining portions of this Ordinance which shall be in full force and effect as if said section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.

SECTION III

This ordinance shall take effect thirty (30) days from and after approval and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE this ____ day of May, 2018.

CITY OF WENATCHEE, a municipal corporation

By _____
FRANK KUNTZ, Mayor

ATTEST:

By _____
TAMMY L. STANGER, City Clerk

APPROVED:

By _____
STEVE D. SMITH, City Attorney

EXHIBIT “A”

FINDINGS OF FACT

1. The City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions.
2. The City of Wenatchee Planning Commission is responsible for long range planning matters and providing implementation recommendations to assure compliance with the Growth Management Act for the City of Wenatchee Urban Growth Area in coordination with Chelan County. These measures include updates and amendments to the comprehensive plan; development regulations, environmental regulations, and any other rules, actions or regulations deemed necessary to implement the Growth Management Act.
3. RCW Chapters 36.70 and 36.70A authorize the adoption of development regulations.
4. The City of Wenatchee Planning Commission has reviewed the entire record and public testimony as it relates to the proposed amendments to the Wenatchee City Code.

Findings specific to revisions to 10.08, 10.10, and 10.48 related to fences, NWBD, and artisanal industrial uses

5. The Planning Commission conducted workshops on the proposed revisions between September and November of 2017 and in January 2018.
6. The City of Wenatchee issued a determination of nonsignificance on February 7, 2018 and provided copies of the environmental documents to the Department of Ecology SEPA Register for the amendments on February 7, 2018.
7. Notice of the public 60 day review and comment period, and public hearing dates were published in the Wenatchee World on February 7, 2018.
8. On February 7, 2018, the City of Wenatchee provided formal notice to the Washington State Department of Commerce of the intent to adopt amendments to the Wenatchee City Code with a request for expedited review per RCW 36.70A.106. Additional notices were provided to local and regional agencies for the 60 day review and comment periods/environmental determinations.
9. On February 21, 2018, the City of Wenatchee Planning Commission conducted an advertised public hearing. The Planning Commission entered into the record the files on this amendment, accepted public testimony, and deliberated the merits of the proposal.
10. The North Wenatchee Business District serves as a gateway to the city. The Comprehensive Plan encourages the improvement of the aesthetics of the gateway areas in order to create a more favorable business district and gateway to the city.
11. Goal 7 and Policy 3 of the Land Use Chapter of the comprehensive plan encourages providing opportunities for light manufacturing and flexible space for industrial uses in commercial district. The purpose of the artisan spaces are to create this smaller scale and more limited industrial uses.

Findings specific to revision to 10.08 related to Schools and Personal Services

12. In accordance with RCW 36.70A.106 and WAC 365-196-630, a notice of intent to adopt the proposed new development regulations was sent to the State of Washington Department of Commerce and to other state agencies on April 20, 2018; Expedited Review was granted May 8, 2018.
13. An environmental checklist for a non-project action was prepared under the State Environmental Policy Act (RCW Chapter 43.21.C), pursuant to Administrative Code Chapter 197-11, and a determination of Non-Significance (“DNS”) was issued on and posted to the Department of Ecology SEPA Register on April 20, 2018.
14. Notice of the Planning Commission Public Hearing, SEPA DNS, and request for comments were published in the Wenatchee World on April 22, 2018.
15. On May 16, 2018, the City of Wenatchee Planning Commission conducted an advertised public hearing, accepted public testimony, and deliberated the merits of the proposal.
16. The proposed amendments to the Zoning Code for ‘Personal Services’ are intended to expand permitting of tutoring and instructional activities / programs within the City’s commercial zoning districts and to clarify the definition of ‘School’.
17. The proposed amendments to the definitions of ‘School’ and ‘Personal Services’ are minimal in nature and consistent with the City of Wenatchee Urban Area Comprehensive Plan.
18. The proposed amendment to allow tutoring and instructional uses as ‘Personal Services’ is consistent with the following Central Business District Subarea Plan objectives:
 - 18.1. Entertainment District Overlay (pg. 10), Allowable Uses: Ground floor must be retail, institutional uses open to the public, entertainment, educational or recreational activities that encourage pedestrian activity. Each must support the district’s emphasis on entertainment and associated activities. Upper stories may be commercial, institutional, or residential.
 - 18.2. Uses and Standards (pg. 22), CBD: Ground floor retail, entertainment, institutional, educational, or recreational.

CONCLUSIONS OF LAW:

1. The procedural and substantive requirements of the State Environmental Policy Act have been complied with.
2. The procedural requirements of RCW 36.70A have been complied with.
3. The proposed amendments designed to be consistent with the City of Wenatchee Urban Area Comprehensive Plan, State, and Federal laws and regulations.
4. The proposed amendments are consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.

5. The proposed amendments have been reviewed and processed in accordance with the requirements of Title 10 Zoning, Title 12 Environmental Protection, and Title 13 Administration of Development Regulations of the City of Wenatchee Code.

EXHIBIT “B”

10.08 Definitions

“Industry, light” means a site for the basic processing and manufacturing of materials or products predominately from previously prepared materials or finished products or parts. This includes processing, fabricating, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excludes basic processing of raw materials, except for food and beverage products. ~~This also includes maintenance and service facilities for motor vehicle passenger transportation, such as for taxi fleets, public transit fleets, or school bus fleets, as well as the rental or leasing of portable toilets, heavy equipment like bulldozers, or similar services to the construction trades.~~ The intent of the light industry is to allow basic processing that would not negatively or adversely affect neighboring businesses, residences, or mixed use developments. The beverage processing is intended to include wineries, breweries, and distilleries.

“Maintenance and service facilities for motor vehicle passenger transportation” means a site for the maintenance and service of passenger transportation services, such as for taxi fleets, public transit fleets, or school bus fleets, as well as the rental or leasing of portable toilets, heavy equipment like bulldozers, or similar services to the construction trades.

“Artisanal industrial/manufacturing” means a person or company that makes a high-quality, distinctive product such as furniture, decorative arts, sculptures, clothing, jewelry, food items, or household items in small quantities, usually by hand and using traditional methods. Retail sales may or may not be a component or use.

“Equipment rental services, commercial” means a business which rents or leases equipment for personal or household use, including but not limited to power and hand tools, yard and garden equipment, or party supplies such as dishware, glassware, and folding tables and chairs. This does not include rental of furniture or appliances, classified as “furniture, home furnishings, and appliances,” nor rental or leasing of portable toilets, heavy equipment like bulldozers, or similar services to the construction trades, classified as ~~“industrial, light maintenance and service facilities for motor vehicle passenger transportation”~~ uses.

“Personal services” means a variety of businesses engaged in providing services to individuals, generally involving the maintenance of the human body, or other services to one’s person or household pets. Such businesses include, but are not limited to, barber and beauty shops, instruction/music studios, photographic studios, tanning parlors, massage practitioners, pet grooming, tutoring, instructional services and activities. This does not include medical offices, kennels, veterinary clinics, schools, or institutions of higher education.

“School” means an institution of learning, whether public or private, which offers instruction recognized by the Washington State Office of Superintendent of Public Instruction. This definition includes kindergarten, elementary school, junior high school, senior high school, or any special institution of education. A vocational or professional institution of higher education, including a community or junior college, college, or university, is defined under “institution of

higher education.”

10.10.020 District use chart.

Use	Commercial Districts				Mixed Use Districts			Overlay Zones					
	CBD	NWBD/ SWBD	C N	I	WMU	OMU	RM U	HEO	CSO	MRC	IO	PO	RRO
Industry, Light	C	C		P	C	C		<u>C</u>	P		P		
<u>Artisan industrial/ manufacturing</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>		<u>P</u>		
<u>Maintenance and service facilities for motor vehicle passenger transportation</u>	<u>C</u>	<u>C</u>		<u>P</u>	<u>C</u>	<u>C</u>			<u>P</u>		<u>P</u>		
Building materials, garden and farm supplies		P ₇											
Equipment rental services, commercial		P C ₇											
Mini-storage		P ₈											

⁷ Storage of building materials or equipment rental supplies in the NWBD north of the Wenatchee River shall be located to the rear of buildings, fully screened from view of any public right-of-way, and not located within 200 feet from the edge of the public right-of-way.

⁸ Mini-storage and all associated uses in the NWBD north of the Wenatchee River shall be located within a completely enclosed building.

10.48.180 Fences and clear view triangle.

All fences where allowed by this title shall meet the following standards unless otherwise regulated within this code:

(2) Commercial and industrial zoning district fences shall meet the following standards:

- (a) Solid fencing or walls greater than 4 feet in height within 20 feet of street frontages or right-of-ways shall not extend more than one-third of the lineal distance of the property frontage, including corner lots;.
- (b) Fencing less than 50 percent view-obstructing are allowed up to a maximum height of 8 feet, within 20 feet of a front property line or right of ways, provided; that for every 25 linear feet of fence or wall, architectural features, such as masonry, or brick columns shall be provided. The minimum width and depth of architectural features shall be no less than 12 inches for the full height;
- (c) Solid fencing or wall sections more than 20 feet from a front property line, shall be allowed up to a maximum height of 8 feet; provided, that for every 50 linear feet of fence or wall, architectural features, such as masonry or brick columns shall be provided . The minimum width and depth of architectural features shall be no less than 12 inches for the full height;
- (d) Side and rear yard fencing is exempt from providing architectural features and are allowed up to a maximum height of 8 feet, except when abutting a residential or mixed use zone, in which case the maximum height shall be 6 feet.
- (e) The use of high intensity, primary, metallic, or fluorescent colors is prohibited on any fence surface. Colors should be neutral and similar to the exterior of the primary structure.
- (f) Chain link fencing and barbed or razor wire or similar features shall not be permitted on the front of properties within 20 feet of a public street.

(3) Industrial zoning district fences shall meet the following standards:

- (a) That a maximum height limitation of six feet be observed within any required setback area;
- (b) That a maximum height limitation of eight feet be observed when constructed outside of any required setback area.

10.48.XXX Artisanal industrial/manufacturing

All artisanal industrial/manufacturing where allowed by Chapter 10.10 WCC, District Use Chart, shall meet the following standards unless otherwise regulated within this code:

- (1) Applications shall be processed as a Type II administrative review with public notice under WCC 13.09.040.
- (2) The proposed use shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding properties and not cause the dissemination of dust, smoke, glare, heat, vibration or noise in excess of the maximum environmental noise level established by WCC Chapter 6A or Chapter 173-60 WAC beyond the property line or affecting adjacent buildings.

ORDINANCE NO. 2018-13

AN ORDINANCE, amending Section 11.20.020 Streets of the Wenatchee City Code (WCC) to add subsection (13) Alternatives.

WHEREAS, the City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions; and

WHEREAS, the City of Wenatchee Planning Commission has transmitted a recommendation of approval to this Council regarding amendments to the Wenatchee City Code related to its development regulations; and

WHEREAS, notice of all public hearings on this matter have been published according to law; and

WHEREAS, the Wenatchee City Council adopt the Findings of Fact and Conclusions as set forth in Exhibit A and incorporate them in this Ordinance by this reference as though fully set forth herein.

NOW, THEREFORE, the City Council of the City of Wenatchee do ordain as follows:

SECTION I

That the amendments to the Wenatchee City Code as set forth in Exhibit B attached hereto and incorporated by this reference shall be and hereby are approved and adopted.

SECTION II

If any section, subsection, sentence, clause or phrase of this Ordinance is declared or judged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the remaining portions of this Ordinance which shall be in full force and effect as if said section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.

SECTION III

This ordinance shall take effect thirty (30) days from and after approval and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE this ____ day of May, 2018.

CITY OF WENATCHEE, a municipal corporation

By _____
FRANK KUNTZ, Mayor

ATTEST:

By _____
TAMMY L. STANGER, City Clerk

APPROVED:

By _____
STEVE D. SMITH, City Attorney

EXHIBIT “A”

FINDINGS OF FACT

1. The City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions.
2. The City of Wenatchee Planning Commission is responsible for long range planning matters and providing implementation recommendations to assure compliance with the Growth Management Act for the City of Wenatchee Urban Growth Area in coordination with Chelan County and within the incorporated boundaries of the City of Wenatchee. These measures include updates and amendments to the comprehensive plan; development regulations, environmental regulations, and any other rules, actions or regulations deemed necessary to implement the Growth Management Act.
3. RCW Chapters 36.70 and 36.70A authorize the adoption of development regulations.
4. The Planning Commission conducted a workshop on February 21, 2018.
5. The City of Wenatchee issued a determination of nonsignificance on February 7, 2018 and provided copies of the environmental documents to the Department of Ecology SEPA Register for the amendments on February 7, 2018.
6. Notice of the public 60 day review and comment period, and public hearing dates were published in the Wenatchee World on February 7, 2018.
7. On February 7, 2018, the City of Wenatchee provided formal notice to the Washington State Department of Commerce of the intent to adopt amendments to the Wenatchee City Code with a request for expedited review per RCW 36.70A.106. Additional notices were provided to local and regional agencies for the 60 day review and comment periods/environmental determinations.
8. On February 22, 2018, the Washington State Department of Commerce granted expedited review.
9. On February 21, 2018, the City of Wenatchee Planning Commission conducted a public hearing and continued the hearing to March 21, 2018.
10. On March 21, 2018, the City of Wenatchee Planning Commission conducted the continued public hearing. The Planning Commission entered into the record the files on this amendment, accepted public testimony, and deliberated the merits of the proposal.
11. The City of Wenatchee Planning Commission has reviewed the entire record and public testimony as it relates to the proposed amendments to the Wenatchee City Code.
12. The Transportation Element of the Wenatchee Urban Area Comprehensive Plan, in particular Goal 2: policies 2 and 5 and Goal 3: policies 1 and 3 support and promote safe and efficiently designed roads that meet the needs of a variety of multi-modal users.

CONCLUSIONS OF LAW

1. The procedural and substantive requirements of the State Environmental Policy Act have been complied with.
2. The procedural requirements of RCW 36.70A have been complied with.
3. The proposed amendments are consistent with the Chelan County Countywide Planning Policies and the City of Wenatchee Urban Area Comprehensive Plan.
4. The proposed amendments are consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.
5. The proposed amendments have been reviewed and processed in accordance with the requirements of Title 10 Zoning, Title 12 Environmental Protection, and Title 13 Administration of Development Regulations of the City of Wenatchee Code.

EXHIBIT “B”

11.20.020(13) Alternatives.

A. These standards represent reasonable approaches based on past experience in Wenatchee and other jurisdictions. These standards indicate the appropriate practice under most conditions.

B. Engineering design is an endeavor that examines alternative solutions to real world situations and accordingly, these standards are not provided to hamper the introduction of new ideas. It is fully expected that creative engineering will continue to take place. Situations will present themselves where alternatives may be preferred to allow conformance with existing conditions, to overcome adverse topography or to allow for more affordable solutions without adversely affecting safety, maintainability or aesthetics. These standards are intended to provide predictability yet still allow for the flexibility necessary for innovation.

C. Alternatives to these standards may be proposed and evaluated as a component of a pre-application meeting process. Submittal of alternative proposals after or with a permit application submittal may result in additional time necessary to review the subject application.

D. The alternative request shall be in writing, submitted to the city engineer, and address the following points:

1. Specifically outline the reason for the alternative request.
2. Specify the section within this chapter for which the alternative is requested.
3. Provide supporting evidence demonstrating that an alternative from these standards is based on sound engineering judgment that the requirements for safety, function, appearance, fire protection and maintainability are fully met and complies with the Wenatchee Urban Area Comprehensive plan and appropriate subarea plan if applicable.
4. The above information shall be used by the city engineer in evaluating requests for the use of alternatives to these standards. Alternative requests that conflict with the International Fire Code as adopted by the City of Wenatchee shall also require written concurrence from the City of Wenatchee Building and Fire Code Official and the Fire Chief of Chelan County Fire District No. 1.
5. Specify how the alternative proposal is equivalent to what would be achieved if the standards were followed.

ORDINANCE NO. 2018-14

AN ORDINANCE, amending Section 12.04.030(2) Flexible Thresholds for Categorical Exemptions of the Wenatchee City Code (WCC).

WHEREAS, the City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions; and

WHEREAS, the City of Wenatchee Planning Commission has transmitted a recommendation of approval to this Council regarding amendments to the Wenatchee City Code related to its development regulations; and

WHEREAS, notice of all public hearings on this matter have been published according to law; and

WHEREAS, the Wenatchee City Council adopt the Findings of Fact and Conclusions as set forth in Exhibit A and incorporate them in this Ordinance by this reference as though fully set forth herein.

NOW, THEREFORE, the City Council of the City of Wenatchee do ordain as follows:

SECTION I

That the amendments to the Wenatchee City Code as set forth in Exhibit B attached hereto and incorporated by this reference shall be and hereby are approved and adopted.

SECTION II

If any section, subsection, sentence, clause or phrase of this Ordinance is declared or judged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the remaining portions of this Ordinance which shall be in full force and effect as if said section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.

SECTION III

This ordinance shall take effect thirty (30) days from and after approval and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE this ____ day of May, 2018.

CITY OF WENATCHEE, a municipal corporation

By _____
FRANK KUNTZ, Mayor

ATTEST:

By _____
TAMMY L. STANGER, City Clerk

APPROVED:

By _____
STEVE D. SMITH, City Attorney

EXHIBIT “A”

FINDINGS OF FACT

1. The City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions.
2. The City of Wenatchee Planning Commission is responsible for long range planning matters and providing implementation recommendations to assure compliance with the Growth Management Act for the City of Wenatchee Urban Growth Area in coordination with Chelan County and within the incorporated boundaries of the City of Wenatchee. These measures include updates and amendments to the comprehensive plan; development regulations, environmental regulations, and any other rules, actions or regulations deemed necessary to implement the Growth Management Act.
3. RCW Chapters 36.70 and 36.70A authorize the adoption of development regulations.
4. The Planning Commission conducted workshops on the proposed revisions between September and November of 2017 and in January 2018.
5. The City of Wenatchee issued a determination of nonsignificance on February 7, 2018 and provided copies of the environmental documents to the Department of Ecology SEPA Register for the amendments on February 7, 2018.
6. Notice of the public 60 day review and comment period, and public hearing dates were published in the Wenatchee World on February 7, 2018.
7. On February 7, 2018, the City of Wenatchee provided formal notice to the Washington State Department of Commerce of the intent to adopt amendments to the Wenatchee City Code with a request for expedited review per RCW 36.70A.106. Additional notices were provided to local and regional agencies for the 60 day review and comment periods/environmental determinations.
8. On February 21, 2018, the City of Wenatchee Planning Commission conducted an advertised public hearing. The Planning Commission entered into the record the files on this amendment, accepted public testimony, and deliberated the merits of the proposal.
9. The City of Wenatchee Planning Commission has reviewed the entire record and public testimony as it relates to the proposed amendments to the Wenatchee City Code.
10. The State Environmental Policy Act (SEPA) in WAC 197-11-800 authorizes local governments to set flexible thresholds for projects that are categorically exempt from SEPA review.

CONCLUSIONS OF LAW

1. The procedural and substantive requirements of the State Environmental Policy Act have been complied with.
2. The procedural requirements of RCW 36.70A have been complied with.

3. The proposed amendments are consistent with the Chelan County Countywide Planning Policies and the City of Wenatchee Urban Area Comprehensive Plan.
4. The proposed amendments are consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.
5. The proposed amendments have been reviewed and processed in accordance with the requirements of Title 10 Zoning, Title 12 Environmental Protection, and Title 13 Administration of Development Regulations of the City of Wenatchee Code.

EXHIBIT "B"

12.04.030 Categorical exemptions and threshold determinations.

(2) Flexible Thresholds for Categorical Exemptions.

(a) The city of Wenatchee establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:

(i) For residential dwelling units ~~in WAC 197-11-800(1)(b)(i)~~ up to 20 dwelling units;

(ii) For agricultural structures ~~in WAC 197-11-800~~ up to 30,000 square feet;

(iii) For office, school, commercial, recreational, service or storage buildings ~~in WAC 197-11-800(1)(b)(iii)~~ up to 12,000 square feet and up to 40 parking spaces;

(iv) For parking lots ~~in WAC 197-11-800(1)~~ up to 40 spaces;

(v) For landfills and excavations ~~in WAC 197-11-800(1)(b)(v)~~ up to 500 cubic yards.

(b) Whenever the city establishes new levels under this section, such levels shall be filed with the Department of Ecology headquarters office, Olympia, Washington 98504 under WAC 197-11-800(1)(e).