



City of Longview

1525 Broadway
Longview, WA 98632
www.ci.longview.wa.us

City Council

*Mayor Don Jensen
Council Member Ken Botero
Council Member Chet Makinster
Council Member Steve Moon
Council Member Scott Vydra
Mayor Pro Tem Michael Wallin
Council Member MaryAlice Wallis*

Thursday, December 19, 2019

6:00 PM

2nd Floor, City Hall

The City Hall is accessible for persons with disabilities. Special equipment to assist the hearing impaired is also available. Please contact the City Executive Offices at 360.442.5004 48 hours in advance if you require special accommodations to attend the meeting.

1. CALL TO ORDER
2. INVOCATION*/FLAG SALUTE
3. ROLL CALL
4. APPROVAL OF MINUTES
19-000522 DECEMBER 3, 2019 SPECIAL MEETING MINUTES
DECEMBER 5, 2019 WORKSHOP MINUTES
DECEMBER 5, 2019 SPECIAL MEETING MINUTES
5. CHANGES TO THE AGENDA
6. PRESENTATIONS & AWARDS
7. CONSTITUENTS' COMMENTS (Thirty Minutes)
8. FOLLOW-UP TO PAST CONSTITUENTS' COMMENTS
9. PUBLIC HEARINGS
10. BOARD & COMMISSION RECOMMENDATIONS

- 19-000508 RECOMMENDATION FOR CONSIDERATION FROM THE CITY OF LONGVIEW ACCESSIBILITY ADVISORY COMMITTEE (CLAAC), NOVEMBER 2019 REGULAR MEETING.

RECOMMENDED ACTION:

CITY COUNCIL TO APPROVE THE USE OF \$6,750 FROM THE 2019-2020 ADA CAPITAL BUDGET PROVIDING FOR THE 13.5% LOCAL MATCH, COMPLETING THE NECESSARY FUNDING REQUIRED TO SUPPORT THE DESIGN AND COMPLETION OF THE 30TH AVENUE, OLYMPICS CORRIDOR CURB RAMP PROJECT.

11. **ORDINANCES & RESOLUTIONS**

- 19-000514 ORDINANCE NO. 3418: AMENDING THE 2019-2020 BIENNIAL BUDGET (SECOND READING)

RECOMMENDED ACTION:

MOTION TO APPROVE ORDINANCE NO. 3418 AMENDING THE 2019-2020 BIENNIAL BUDGET.

- 19-000513 RESOLUTION NO. 2319: AMENDING RESOLUTION NO. 1913, ESTABLISHING THE MEMBERSHIP QUALIFICATIONS FOR THE PROJECT LONGVIEW TEAM

RECOMMENDED ACTION:

MOTION TO APPROVE RESOLUTION NO. 2319.

12. **MAYOR'S REPORT**

13. **COUNCILMEMBERS' REPORTS**

- 19-000511 APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

RECOMMENDED ACTION:

MOTION TO APPROVE RECOMMENDED APPOINTMENTS

14. **CONSENT CALENDAR**

- 19-000517 APPROVAL OF CLAIMS

1ST HALF DECEMBER ACCOUNTS PAYABLE & 2ND HALF NOVEMBER PAYROLL

19-000510 AGREEMENT FOR MANAGEMENT AND OPERATION OF THE MINT VALLEY RACQUET AND FITNESS COMPLEX

RECOMMENDED ACTION:

MOTION TO AUTHORIZE THE CITY MANAGER TO SIGN THE ATTACHED PROFESSIONAL SERVICES AGREEMENT FOR THE MANAGEMENT AND OPERATION OF MINT VALLEY RACQUET COMPLEX ON BEHALF OF THE CITY.

19-000515 WASHINGTON WAY BRIDGE INTERFUND LOAN UPDATE

RECOMMENDED ACTION:

NO ACTION REQUIRED

15. CITY MANAGER'S REPORT

19-000512 CITIZEN APPOINTMENT TO AD HOC COMMITTEE RESPONSIBLE FOR IDENTIFYING CAMP SITES FOR THE UNHOUSED

RECOMMENDED ACTION:

MOTION TO APPOINT A CITY OF LONGVIEW RESIDENT TO THE AD HOC COMMITTEE RESPONSIBLE FOR IDENTIFYING AND RECOMMENDING ALTERNATIVE SITES FOR UNHOUSED CAMPERS.

19-000523 HOUSING PRESERVATION PROGRAM CONTRACT WITH HOUSING OPPORTUNITIES OF SOUTHWEST WASHINGTON FOR THE SYLVESTER APARTMENTS

RECOMMENDED ACTION:

MOTION TO APPROVE THE "COVENANT RUNNING WITH THE LAND" ASSOCIATED WITH THE DEPARTMENT OF COMMERCE HOUSING PRESERVATION PROGRAM GRANT CONTRACT FOR THE SYLVESTER APARTMENTS.

16. MISCELLANEOUS

17. ADJOURNMENT

*** Any invocation that may be offered at the Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker.**

NEXT REGULAR COUNCIL MEETINGS:

THURSDAY, JANUARY 9, 2020 - 7:00 P.M.

THURSDAY, JANUARY 23, 2020 - 7:00 P.M.



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Minutes

City Council

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Council Member Scott Vydra
Mayor Pro Tem Michael Wallin
Council Member MaryAlice Wallis*

Tuesday, December 3, 2019

6:00 PM

2nd Floor, City Hall

NOTICE IS HEREBY GIVEN, in accordance with RCW Chapter 42.30, that the City Council of the City of Longview, Washington, will meet with state legislators at Grant's Restaurant, 1405 17th Avenue, Longview, on Tuesday, December 3rd, at 6:00 p.m. to discuss the 2020 State Legislative Agenda. Final disposition shall be taken on no other matter.

Grant's Restaurant is accessible for persons with disabilities. Special equipment to assist the hearing impaired is also available. Please contact the City Executive Offices at 360.442.5004 48 hours in advance if you require special accommodations to attend the meeting.

1. DISCUSSION

19-000487 2020 STATE LEGISLATIVE AGENDA

The special meeting began at 6:02 p.m.

Present: Mayor Jensen, Councilor Botero, Councilor Makinster, Councilor Moon, Councilor Wallin, Councilor Wallis & Councilor Vydra

Staff: City Manager Kurt Sacha and Human Resources Director Chris Smith

19th District legislators: Senator Takko, Representative Blake, Representative Walsh, and Representative Orcutt

Gordon Thomas Honeywell lobbyists: Josh Weiss & Annika Vaughn

No action was taken.

The meeting ended at 8:34 p.m.

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**DECEMBER REGULAR MEETINGS RESCHEDULED DUE TO HOLIDAY:
THURSDAY, DECEMBER 19, 2019 - 6:00 P.M.**

**NEXT COUNCIL WORKSHOPS:
THURSDAY, DECEMBER 5, 2019 - 6:00 P.M. 2020 FEDERAL LEGISLATIVE AGENDA**



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Thursday, December 5, 2019

5:30 PM

2nd Floor, City Hall

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1. **CALL TO ORDER**

Mayor Jensen called the meeting to order at 5:35 p.m.

2. **ROLL CALL**

Present: Councilmember Ken Botero, Mayor Don Jensen, Councilmember Chet Makinster, Councilmember Steve Moon, Councilmember MaryAlice Wallis, Councilmember Mike Wallin, Councilmember Scott Vydra

Absent: None

Staff Present:

City Manager Kurt Sacha, City Attorney Jim McNamara, City Clerk Kaylee Cody, Public Works Director Jeff Cameron, Community & Economic Development Director John Brickey, Human Resources Director Chris Smith, City Engineer Ken Hash & Police Chief Jim Duscha

3. **WORKSHOP**

19-000488 2020 FEDERAL LEGISLATIVE AGENDA

**RECOMMENDED ACTION:
DIRECTION TO STAFF**

Joel Rubin of CFM Communications presented. No final action was taken.

4. ADJOURNMENT

The meeting adjourned at 6:30 p.m.

*Kaylee Cody
City Clerk*

Approved: _____
Mayor

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**NEXT REGULAR COUNCIL MEETINGS:
DECEMBER REGULAR MEETINGS RESCHEDULED DUE TO HOLIDAY
THURSDAY, DECEMBER 19, 2019 - 6:00 P.M.**



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Thursday, December 5, 2019

7:00 PM

2nd Floor, City Hall

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1. **CALL TO ORDER**

Mayor Jensen called the meeting to order at 7:03 p.m.

2. **INVOCATION*/FLAG SALUTE**

3. **ROLL CALL**

Present: Councilmember Ken Botero, Mayor Don Jensen, Councilmember Chet Makinster, Councilmember Steve Moon, Councilmember MaryAlice Wallis, Councilmember Mike Wallin, and Councilmember Scott Vydra

Absent: None

Staff Present:

City Manager Kurt Sacha, City Attorney Jim McNamara, City Clerk Kaylee Cody, Public Works Director Jeff Cameron, Community & Economic Development Director John Brickey, Human Resources Director Chris Smith, Parks & Recreation Director Jen Wills, City Engineer Ken Hash

4. **APPROVAL OF MINUTES**

19-000480 NOVEMBER 14, 2019 SPECIAL MEETING MINUTES
NOVEMBER 21, 2019 SPECIAL MEETING MINUTES

A motion was made by Councilor Vydra, seconded by Councilor Wallis, to approve the minutes as presented. The motion passed unanimously.

5. CHANGES TO THE AGENDA

Mayor Jensen added a board appointment under Mayor's Report.

6. PRESENTATIONS & AWARDS**19-000482 PROCLAMATION: LONGVIEW SALVATION ARMY'S RED KETTLE DAY****RECIPIENT: JULIE E. FEIST, CAPTAIN, LONGVIEW TEMPLE CORPS**

Mayor Jensen presented the proclamation to Larry Fiest of the Longview Salvation Army.

7. CONSTITUENTS' COMMENTS (Thirty Minutes)

Ray Van Tongeren of Longview addressed Council regarding boards & commissions.

William Wilkerson of Longview addressed Council regarding homelessness.

Allison Mattocks of Longview, Vice President of the Kelso-Longview Ministerial Association, addressed Council regarding homelessness and the cold weather shelter currently hosted by Longview First Christian Church.

Susan Lee Schwartz of Longview addressed Council regarding homelessness and the cold weather shelter currently hosted by Longview First Christian Church.

Gary Harper of Longview addressed Council regarding homelessness.

Shawn Nyman of Longview addressed Council regarding healthcare available for unhoused individuals in the community.

Sandra Board of Longview addressed Council regarding homelessness.

Jennifer Langley of Longview addressed Council regarding homelessness.

Spencer Boudreau of Longview addressed Council regarding homelessness.

Karen Berquist of Longview addressed Council regarding homelessness.

8. FOLLOW-UP TO PAST CONSTITUENTS' COMMENTS**9. PUBLIC HEARINGS****10. BOARD & COMMISSION RECOMMENDATIONS****11. ORDINANCES & RESOLUTIONS**

- 19-000486 ORDINANCE 3414: AMENDING CHAPTER 5.03 ADMINISTRATIVE PROVISIONS, REPEALING CHAPTER 5.04, AND AMENDING CHAPTER 5.05 "BUSINESS AND OCCUPATION TAX" OF THE LONGVIEW MUNICIPAL CODE, REGULATING BUSINESS AND OCCUPATION TAX IN LONGVIEW, WASHINGTON**

RECOMMENDED ACTION:

MOTION TO APPROVE ORDINANCE NO. 3414

A motion was made by Mayor Pro Tem Wallin, seconded by Councilor Botero, to approve Ordinance No. 3414. The motion carried unanimously.

- 19-000485 ORDINANCE 3416: APPROVING FRANCHISE AND MASTER LICENSE AGREEMENT WITH VERIZON WIRELESS TO INSTALL, OPERATE AND MAINTAIN A SMALL CELL WIRELESS COMMUNICATION SYSTEM IN CITY RIGHT OF WAY**

RECOMMENDED ACTION:

MOTION TO APPROVE ORDINANCE 3416 APPROVING A FRANCHISE AND MASTER LICENSE AGREEMENT WITH VERIZON WIRELESS TO INSTALL, OPERATE AND MAINTAIN A SMALL CELL WIRELESS COMMUNICATION SYSTEM IN CITY RIGHTS OF WAY

Colleen DeFraiser of Verizon Wireless was present to answer questions.

Karen Berquist of Longview addressed Council regarding internet availability in rural Cowlitz County.

A motion was made by Councilor Makinster, seconded by Councilor Vydra, to approve Ordinance 3416 approving franchise and master license agreement with Verizon Wireless to install, operate and maintain a small cell wireless communication system in city rights-of-way. The motion passed unanimously.

- 19-000493 ORDINANCE NO. 3418 AMENDING THE 2019-2020 BIENNIAL BUDGET (FIRST READING)**

RECOMMENDED ACTION:

NO ACTION REQUIRED - FIRST READING

No action was taken.

19-000483 ORDINANCE 3419: AN ORDINANCE OF THE CITY OF LONGVIEW, WASHINGTON, AMENDING SECTION 7.30.010 OF CHAPTER 7.30, SEVERE WEATHER SHELTERS, TO MODIFY THE STANDARDS FOR SEVERE WEATHER AND TO PROVIDE FOR THE TEMPORARY HOUSING OF THE HOMELESS DURING SEVERE WEATHER EVENTS, AND DECLARING AN EMERGENCY

RECOMMENDED ACTION:
MOTION TO APPROVE ORDINANCE NO. 3419

City Manager Sacha presented a staff report.

Allison Mattocks of Longview, Vice President of the Kelso-Longview Ministerial Association, addressed Council regarding funding for cold weather shelter operations.

Thaddius, surname unknown, of Longview addressed Council in support of Ordinance 3419.

Susan Lee Schwartz of Longview addressed Council in support of Ordinance 3419.

A motion was made by Councilor Botero, seconded by Councilor Wallis, to approve Ordinance 3419. The motion passed unanimously.

19-000474 RESOLUTION NO. 2316 – WATER RATES FOR 2020

RECOMMENDED ACTION:
MOTION TO ADOPT RESOLUTION NO. 2316.

Public Works Director Jeff Cameron presented a staff report.

A motion was made by Councilor Makinster, seconded by Councilor Wallis, to adopt Resolution No. 2316. The motion passed by the following vote:

Ayes - Mayor Jensen, Councilor Makinster, Mayor Pro Tem Wallin, Councilor Wallis & Councilor Vydra

Nays - Councilor Botero & Councilor Moon

19-000478 RESOLUTION 2317 - SOLID WASTE AND RECYCLING RATE INCREASE

RECOMMENDED ACTION:
MOTION TO ADOPT RESOLUTION NO. 2317

Shawn Higgins of Longview addressed Council regarding glass recycling.

Gary Harper of Longview addressed Council in support of maintaining water & sewer infrastructure.

A motion was made by Councilor Wallis, seconded by Councilor Vydra, to adopt Resolution No. 2317. The motion passed unanimously.

19-000476 RESOLUTION NO. 2318 – STORMWATER RATES FOR 2020**RECOMMENDED ACTION:**
MOTION TO ADOPT RESOLUTION NO. 2318.

No action was taken.

12. MAYOR'S REPORT

Mayor Jensen appointed David Nelson to the Housing Opportunities of Southwest Washington Board.

19-000492 CITY MANAGER'S CONTRACT RENEWAL

A motion was made by Councilor Makinster, seconded by Councilor Botero, to approve City Manager Sacha's contract renewal. The motion passed unanimously.

13. COUNCILMEMBERS' REPORTS

Mayor Pro Tem Wallin provided a report on the status of appointments to boards and commissions for 2020.

Councilor Wallis provided a report regarding the Longview Downtowners, a successful Small Business Saturday, and a new children's museum on Commerce Street.

14. CONSENT CALENDAR

A motion was duly made and passed approving the items on the Consent Calendar as though acted on individually.

19-000481 APPROVAL OF CLAIMS**2ND HALF NOVEMBER ACCOUNTS PAYABLE & 1ST HALF NOVEMBER PAYROLL****19-000479 PROJECT COMPLETION – 8TH/9TH AVENUE ALLEYWAY WATER & SEWER REPLACEMENT PROJECT****RECOMMENDED ACTION:**
MOTION TO ACCEPT AS COMPLETE THE 8TH/9TH AVENUE ALLEYWAY WATER & SEWER REPLACEMENT PROJECT**15. CITY MANAGER'S REPORT**

19-000484 2020 STATE LEGISLATIVE AGENDA**RECOMMENDED ACTION:****MOTION TO ADOPT THE 2020 STATE LEGISLATIVE AGENDA**

City Manager Sacha provided a staff report.

Josh Weiss of Gordon Thomas Honeywell was present for questions.

A motion was made by Councilor Botero, seconded by councilor Wallis, to adopt the 2020 State Legislative Agenda. The motion passed unanimously.

19-000473 CONTRACT AMENDMENT TO THE SOLID WASTE & RECYCLING COLLECTION AND DISPOSAL SERVICES CONTRACT**RECOMMENDED ACTION:****MOTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE CONTRACT AMENDMENT NO. 6 TO THE SOLID WASTE & RECYCLING COLLECTION AND DISPOSAL CONTRACT WITH WASTE CONTROL EQUIPMENT, INC.**

City Manager Sacha provided a staff report.

A motion was made by Councilor Makinster, seconded by Councilor Wallis, to authorize the city manager to execute Contract Amendment No. 6 to the solid waste & recycling collection and disposal contract with Waste Control Equipment, Inc. The motion passed unanimously.

19-000477 CONSULTANT AGREEMENT WITH PBS ENGINEERING AND ENVIRONMENTAL FOR LOCAL ROAD SAFETY PLAN**RECOMMENDED ACTION:****MOTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSULTANT AGREEMENT WITH PBS ENGINEERING AND ENVIRONMENTAL.**

City Manager Sacha provided a staff report.

A motion was made by Councilor Moon, seconded by Councilor Botero, authorizing the city manager to execute the consultant agreement with PBS engineering and Environmental. The motion passed unanimously.

16. MISCELLANEOUS

City Manager Sacha thanked Public Works Director Jeff Cameron, City Engineer Ken Hash & Transit Manager Amy Asher for their efforts to obtain a grant for 46th Avenue improvements. The grant was awarded on November 22nd.

17. ADJOURNMENT

The meeting adjourned at 8:40 p.m. The next meeting of the Longview City Council is scheduled for December 19th.

*Kaylee Cody
City Clerk*

Approved: _____
Mayor

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**NEXT REGULAR COUNCIL MEETINGS:
DECEMBER REGULAR MEETING RESCHEDULED DUE TO HOLIDAY
THURSDAY, DECEMBER 19, 2019 - 6:00 P.M. SPECIAL MEETING**



City of Longview

Agenda Summary

RECOMMENDATION FOR CONSIDERATION FROM THE CITY OF LONGVIEW ACCESSIBILITY ADVISORY COMMITTEE (CLAAC), NOVEMBER 2019 REGULAR MEETING.

RECOMMENDED ACTION:

CITY COUNCIL TO APPROVE THE USE OF \$6,750 FROM THE 2019-2020 ADA CAPITAL BUDGET PROVIDING FOR THE 13.5% LOCAL MATCH, COMPLETING THE NECESSARY FUNDING REQUIRED TO SUPPORT THE DESIGN AND COMPLETION OF THE 30TH AVENUE, OLYMPICS CORRIDOR CURB RAMP PROJECT.

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Address quality of place issues

Preserve and enhance neighborhoods

CITY ATTORNEY REVIEW: NOT REQUIRED

SUMMARY STATEMENT:

City of Longview Public Works applied for and was awarded a grant by the Cowlitz Wahkiakum Council of Governments (CWCOG) for the 30th Avenue (East side curb ramps) between Washington Way and Ocean Beach Highway allowing for critical pedestrian barrier elimination and creating ADA compliant curb ramps at six intersection corners.

Ken Hash, PW City Engineer stated that the City of Longview was awarded \$50,000 for construction portion of these six ramps that were identified to complete barrier removal along this stretch. In order for the city to move forward on the project, the grant is contingent on the city finding 13.5% in matching local funds. This figure would be \$6,750.

An additional \$5,000 will be required and funded by Public Works operational budget to conduct design work for the six ramps that would be installed.

The CLAAC is recommending use of \$6,750 from the 2019-2020 ADA capital budget providing for the 13.5% local match, completing the necessary funding required to support the design and completion of the 30th Avenue, Olympics Corridor curb ramp project.

STAFF CONTACT:

Brian Loos, Safety & Risk Manager

Attachments:

1. CLAAC 30th Ave Olympic Corridor Update and Recommendation

Olympics Corridor (30th Avenue from Washington Way to OB Highway)

Grant opportunity update. Public Works applied for with the Cowlitz Wahkiakum Council of Governments (CWCOG) for the 30th and Washington Way/Ocean Beach Highway (East side Curb Ramps) pedestrian barrier elimination to create ADA compliant curb ramps at six intersection corners.

Ken Hash, PW City Engineer stated that the City of Longview was awarded \$50,000 for construction portion of these six ramps that were identified to complete barrier removal along this stretch. In order for the city to move forward on the project, it is contingent on the city finding 13.5% in matching local funds. This figure would be \$6,750.

In speaking with the City Manager and City Engineer, they would like the City of Longview Accessibility Advisory Committee to consider using \$6,750 of the 2019/2020 ADA Capital Project Funds to match the CWCOG grant requirement of 13.5% (\$6,750). The city ADA coordinator is also in support of this consideration as well.

This is an extremely reasonable investment, very low cost to the city (about the cost of one curb ramp, to get six of them) that would benefit a significant number of people in our community, and it eliminates a handful of barriers and provides accessibility over a very highly traveled thoroughfare.

As a reminder, this was the 30th Avenue project that was PW #2 priority – Olympics (30th Corridor), recommended project on the PW project list for curb ramps. This would eliminate the following curb ramp barriers and create an unobstructed corridor on 30th Avenue (East side of street) from Ocean Beach Highway and Washington Way:

- 30th & Fir – NE Corner
- 30th & Fir – SE Corner
- 30th & Field – NE Corner
- 30th & Field – SE Corner
- 30th & Florida – NE Corner
- 30th & Florida – SE Corner

The total project cost will be \$55,000 and the additional \$5,000 will be funded by PW operational funds to conduct design work for the six ramps that would be installed.

Access to the funds would not be available until January 2020, but if the committee were to propose a recommendation in support of the project to city council, the city ADA coordinator could give a brief one or two slide presentation at a future council meeting with your recommendation prior to the end of the calendar year. If this were accomplished at the November 2019 meeting, it would provide ample time for staff to bring this project recommendation to council for their consideration.

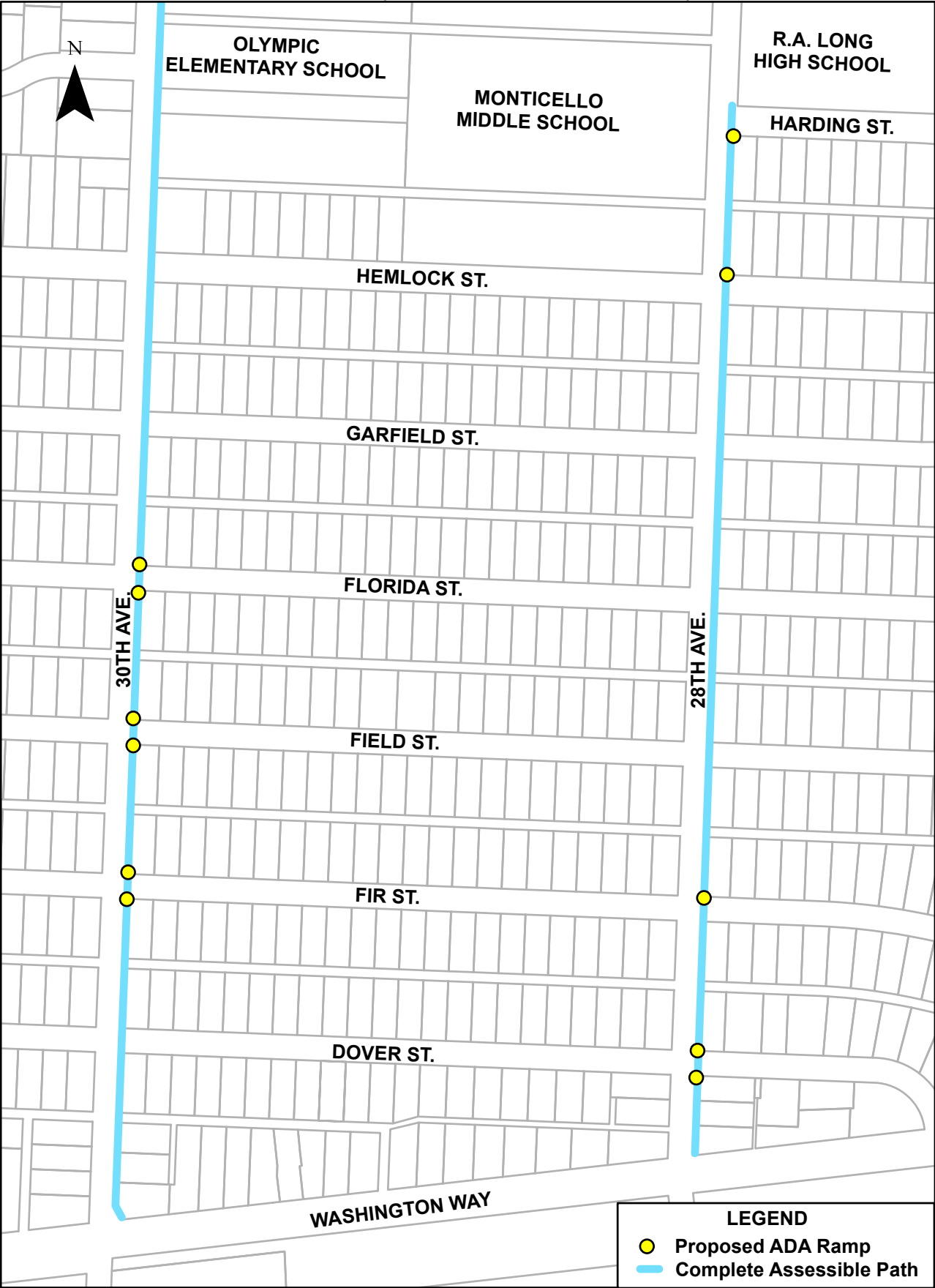
Remaining funding available from the 2019/2020 ADA capital projects budget is \$39,784. A committee recommendation and project approval from city council would bring available funding to \$33,034.

Recommendation:

The City of Longview Accessibility Advisory Committee reviewed this documentation above at their last regular meeting on Monday, November 18th, 2019. A motion and second was made to recommend to city council to consider and approve the use of \$6,750 from the 2019-2020 ADA capital budget to provide for the 13.5% local match to complete the necessary funding needed to support the completion of the 30th Avenue, Olympics Corridor curb ramp project. Committee chair, Bill Josh held a vote and it passed unanimously by all committee members present.

A map of the curb ramps impacted is attached following this document.

OLYMPIC (28th & 30th Corridors)





City of Longview

Agenda Summary

ORDINANCE NO. 3418: AMENDING THE 2019-2020 BIENNIAL BUDGET (SECOND READING)

RECOMMENDED ACTION:

MOTION TO APPROVE ORDINANCE NO. 3418 AMENDING THE 2019-2020 BIENNIAL BUDGET.

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Continue effective financial management

CITY ATTORNEY REVIEW: REQUIRED

SUMMARY STATEMENT:

The subject ordinance has been prepared to amend the 2019-2020 biennial budget to authorize expenditures unforeseen at the 2019-2020 biennial budget was adopted. These amendments affect the Economic Development Fund, Criminal Justice Assistance Fund, Public Safety Fund, Capital Projects Fund, and Mint Valley Complex Fund in the 2019-2020 biennial budget.

Budget amendment ordinances require two readings before the Council. This evening's reading represents the second reading of Ordinance No. 3418.

STAFF CONTACT:

Kurt Sacha, City Manager

Attachments:

1. ORD NO 3418

ORDINANCE NO. 3418

An Ordinance relating to public expenditures and declaring an emergency under the provisions of RCW 35A.34.150, fixing the amount of money required to meet such emergencies and authorizing the expenditure of money not provided for in the 2019-2020 biennial budget of the City.

WHEREAS, on December 19, 2018, the City Council of the City of Longview adopted the biennial budget of the City of Longview for 2019-2020; and

WHEREAS, it was thereafter determined by said City Council that additional funds are available and that additional expenditures should be authorized, and said matters were not contemplated at the time of the adoption of said 2019-2020 biennial budget:

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

Section 1. That the Economic Development Fund of the 2019-2020 City of Longview biennial budget shall be, and is hereby, amended as follows:

- a) Beginning resources required to balance shall be reduced to provide for a reduction in salaries and benefits in the Economic Development Fund: \$136,120.00
- b) Economic Development Fund salary and benefit expenditures shall be reduced to provide for a reduction in force: \$136,120.00

Section 2. That the Criminal Justice Assistance Fund of the 2019-2020 City of Longview biennial budget shall be, and is hereby, amended as follows:

- a) Beginning fund balance in the amount of \$108,540 and Improving Criminal Justice Responses (ICJR) grant revenues in the amount of \$225,000 shall be utilized to improve responses to domestic violence and provide for police public safety program and equipment expenditures: \$333,540.00
- b) Criminal Justice Assistance Fund expenditures shall be increased to provide for Improving Criminal Justice Responses (ICJR) to domestic Violence, dating violence and sexual assault and provide for other police public safety program and equipment expenditures: \$333,540.00

Section 3. That the Public Safety Fund of the 2019-2020 City of Longview biennial budget shall be, and is hereby, amended as follows:

- a) Beginning fund balance in the amount of \$257,500 shall be utilized to provide for pedestrian safety improvements: \$257,500.00
- b) Public Safety Fund appropriation shall be increased to provide for expenditures associated with the pedestrian safety improvements on 3rd, 30th and 7th Avenues: \$257,500.00

Section 4. That the Capital Projects Fund of the 2019-2020 City of Longview biennial budget shall be, and is hereby, amended as follows:

- a) Beginning resources required to balance in the amount of \$283,100 shall be increased to provide for Capital Project Fund expenditures: \$283,100.00
- b) Capital Project Fund expenditures shall be increased to provide for RA Long Park Plaza Improvements, Library Security Cameras, Athletic Facility Plan, Shay Locomotive infrastructure improvements and an LPD emergency HVAC system: \$283,100.00

Section 5. That the Mint Valley Complex Fund of the 2019-2020 City of Longview biennial budget shall be, and is hereby, amended as follows:

- a) Beginning fund balance shall be utilized to provide for start-up costs associated with managing and operating the Mint Valley Golf pro-shop and restaurant: \$150,000.00
- b) Mint Valley Golf appropriations shall be increased to provide for pro-shop supplies, restaurant equipment and supplies and merchandise inventory: \$150,000.00

Section 6. That by reason of the facts herein before set forth, an emergency is hereby declared under the provisions of RCW 35A.34.150, and it is hereby ordered that the foregoing appropriations and budget amendments be approved in excess of the 2019-2020 biennial budget for the purposes stated herein.

Section 7. This ordinance shall be in full force and effect from and after five (5) days from its passage and publication.

Passed by the City Council this _____ day of December, 2019. Approved by the Mayor this _____ day of December, 2019.

M A Y O R

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Published: _____



City of Longview

Agenda Summary

RESOLUTION NO. 2319: AMENDING RESOLUTION NO. 1913, ESTABLISHING THE MEMBERSHIP QUALIFICATIONS FOR THE PROJECT LONGVIEW TEAM

RECOMMENDED ACTION:

MOTION TO APPROVE RESOLUTION NO. 2319.

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Address quality of place issues

CITY ATTORNEY REVIEW: REQUIRED

SUMMARY STATEMENT:

Resolution No. 2319 simplifies the process of appointing members to the Project Longview Team. Resolution No. 2319 reduces the number of members and eliminates the requirement that members represent special business classifications. This Resolution calls for eleven members who are either residents of the City of Longview, or owners of a business, or owners of a property in the City of Longview. The reduction in membership will help ensure a quorum so that agenda items may be acted upon.

STAFF CONTACT:

Kurt Sacha, City Manager

Attachments:

1. Resolution No. 2319-Project Longview Committee

RESOLUTION NO. 2319

A Resolution amending Resolution 1913 regarding the Action Plan of the Longview Community Task Force; and authorizing the City Council to appoint a Team known as the “Community Assessment Action Team”, establishing the qualifications for membership on such Team, and prescribing the duties of such Team.

WHEREAS, the City Council of the City of Longview (“City”) has identified creating a financially strong diversified economy, creating a “sustainable” positive Longview image, and increasing the vitality of downtown, as priorities for the City; and

WHEREAS, the City believed it important for economic growth and tourism of the City to identify a work plan to carry out the recommendations of the Report and any other ideas to further such growth (hereinafter the “Action Plan”); and

WHEREAS, the Kelso-Longview Chamber of Commerce (the “Chamber”) is an organization of business and professional people working to advance local, commercial, industrial and civic development in the Kelso-Longview area providing valuable networking opportunities and support of economic growth and tourism in the community. On June 12, 2008 the City entered into a Memorandum of Understanding (the “MOU”) with the Chamber for the purpose of the Chamber to lead the “Longview Community Task Force” (the “Task Force”) in preparing an Action Plan; and

WHEREAS, the City Council wishes to amend Resolution 1913 to simplify the process of appointing members to the Community Task Force Action Team and reducing the total membership to a more manageable number to help ensure the presence of a quorum at Team meetings so that agenda items may be acted upon.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Longview, Washington, as follows:

SECTION 1. That Section 3 of Resolution 1913 is amended to provide as follows:

The Team shall consist of eleven members who are either residents of the City of Longview, or owners of a business or property in the City of Longview.

SECTION 2. This Resolution shall be in full force and effect from and after the 1st day of January, 2020.

PASSED by the City Council of the City of Longview, Washington, and approved by its Mayor at a regular meeting of said Council held on the _____ day of _____, 2019.

MAYOR

ATTEST:

City Clerk



City of Longview

Agenda Summary

APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

RECOMMENDED ACTION:

MOTION TO APPROVE RECOMMENDED APPOINTMENTS.

CITY ATTORNEY REVIEW: N/A

SUMMARY STATEMENT:

At the end of 2019, some terms on several City boards and commissions will expire or some members are resigning.

The following boards and commissions are appointed by the city manager and require council concurrence. City manager Kurt Sacha recommends the following appointments:

Appeal Board of Adjustment:

- Steven Dahl, reappointment to a 5-year term that will expire 12/31/2024.

Golf Advisory Committee:

- Kimberly Higgins, appointment as the Women's Club rep to 1-year term that will expire 12/31/2020.
- Kenneth Pence, reappointment as the Men's Club rep to 1-year term that will expire 12/31/2020.
- Chuck Bergquist, reappointment to a 3-year term that will expire 12/31/2022.

The following boards and commissions are appointed by the mayor and require council concurrence. Mayor Don Jensen recommends the following appointments:

Accessibility Advisory Committee:

- Lawrence Lanning, representing professional member from the building, engineering, and design industry, reappointment to a 3-year term that will expire 12/31/2022.
- Colleen Holten, representing disability at large, reappointment to a 3-year term that will expire 12/31/2022.
- Jerry Bakken, appointment to a 3-year term that will expire 12/31/2022.
- Sarah McCoy, representing disability at large, appointment to an unfulfilled term that will expire 12/31/2020.

Library Board:

- Jennifer Fenton, appointment to a 5-year term that will expire 12/31/2024.

Salary Commission:

- Robert Patterson, reappointment to a 4-year term that will expire 12/31/2023.

LEOFF Disability Board:

- Chet Makinster, reappointment to a 2-year term that will expire 12/31/2021.

A committee of three council members (Chet Makinster, Mike Wallin, and Don Jensen) reviewed applications and recommend the following appointments to be appointed by the city council:

Historic Preservation Commission:

- Jason Hanson, reappointment to a 3-year term that will expire 12/31/2022.
- Jonell Kenagy, reappointment to a 3-year term that will expire 12/31/2022.

Lodging Tax Advisory Committee:

- Bill Marcum reappointed to a 1-year term that will expire 12/31/2020.
- Gian Morelli reappointed to a 1-year term that will expire 12/31/2020.

Mosquito Control District:

- Bill Josh, reappointment to a 2-year term that will expire 12/31/2021.

Parks & Recreation Board:

- Michelle Rabideau, appointment to a 3-year term that will expire 12/31/2022.
- Teri Weir, appointment to a 3-year term that will expire 12/31/2022.

Planning Commission:

- Kalei LaFave, appointment to a 4-year term that will expire 12/31/2023.

Sister City Commission:

- Lars Pedersen, reappointment to a 3-year term to expire on 12/31/2022.
- Gary Harper, appointment to a 3-year term to expire on 12/31/2022.

As an FYI:

Additionally, the city manager has made the following appointments that **do not** require council concurrence:

Loan Review Board:

- Joe Amrine, reappointment to a 3-year term that will expire 12/31/2022.
- Bob Gregory, reappointment to a 3-year term that will expire 12/31/2022
- Marchelle Knapp, reappointment to a 3-year term that will expire 12/31/2022
- Katie Ribelin, reappointment to a 3-year term that will expire 12/31/2022.
- Marc Silva, appointment to a 3-year term that will expire 12/31/2022.

Stormwater Advisory:

- Eric Pucci, reappointment to a 2-year term to expire on 12/31/2021.
- Casey Heaton, appointment to a 2-year term to expire on 12/31/2021.

Visual Arts Commission:

- Sue Piper, reappointment to a 3-year term to expire on 12/31/2022.

Additionally, the mayor has made the following appointments that **do not** require council concurrence:

Civil Service Commission:

- Hal Mahnke, reappointment to a 6-year term that will expire 12/31/2025.

Housing Opportunities of Southwest Washington

- Allan Rudberg, reappointed to a 5-year term that will expire 12/31/2024.
- Traci Wood, reappointed to a 5-year term that will expire 12/31/2024.

RECOMMENDED ACTION:

Approve above recommended appointments.

STAFF CONTACT:

Don Jensen, Council Appointments Committee
Mike Wallin, Council Appointments Committee
Chet Makinster, Council Appointments Committee
Kurt Sacha, City Manager



City of Longview

Agenda Summary

APPROVAL OF CLAIMS

1ST HALF DECEMBER ACCOUNTS PAYABLE & 2ND HALF NOVEMBER PAYROLL

Based upon the authentication and certification of claims and demands against the city, prepared and signed by the City's auditing officer, and in full reliance thereon, it is moved and seconded as shown in the minutes of this meeting that the following vouchers/warrants are approved for payment:

FIRST HALF DECEMBER 2019 ACCOUNTS PAYABLE: \$978,845.05, CHECKS NO. 18179-18482

SECOND HALF NOVEMBER 2019 PAYROLL:

\$83,794.07, checks no. 487-504

\$747,966.51, direct deposits

\$990,070.94, wire transfers

\$1,821,831.52 Total

STAFF CONTACT:

Kaylee Cody, City Clerk

John Baldwin, Fiscal Analyst

Chresta Larson, Human Resources Specialist

Attachments: None



City of Longview

Agenda Summary

AGREEMENT FOR MANAGEMENT AND OPERATION OF THE MINT VALLEY RACQUET AND FITNESS COMPLEX

RECOMMENDED ACTION:

MOTION TO AUTHORIZE THE CITY MANAGER TO SIGN THE ATTACHED PROFESSIONAL SERVICES AGREEMENT FOR THE MANAGEMENT AND OPERATION OF MINT VALLEY RACQUET COMPLEX ON BEHALF OF THE CITY.

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Address Quality of Place

CITY ATTORNEY REVIEW: REQUIRED

SUMMARY STATEMENT:

Attached is the Professional Services Agreement with Mr. Don Harlan for the management and operation of the Mint Valley Racquet and Fitness Complex. Consistent with previous agreements, this is a three-year term starting January 1, 2020 and ending December 31, 2022.

The facility provides individual and group recreation opportunities for tennis, racquet, walleyball, and fitness members and hosts outside tournaments, Southwest Washington high school tennis tournaments, as well as USTA junior tournaments drawing participants from as far away as Victoria BC and Idaho. Multiple USTA adult leagues use the facility throughout the year drawing hundreds of players from the Portland-Vancouver area. Mr. Harlan has been providing these services and the overall day-to-day operations for more than 22 years for the Mint Valley Racquet Complex.

Prior to contracting with Mr. Harlan, the City was required to subsidize the facility's operation by more than \$30,000 per year. Having an asset like the Mint Valley Racquet Complex not only increases the City's quality of place for those that live and work here, but it is also a major attraction for visitors to the area. Tournaments for both pickleball and tennis draw in youth and adults from outside our area to the community.

Annually, the facility typically costs the City about \$2,000 - \$3,000 per year to maintain (insurance and minor repairs) that fall within City obligations. Lease payments and revenue sharing will offset the cost to the City and enable citizens and visitors alike to enjoy the amenity.

STAFF CONTACT:

Jennifer Wills, Parks and Recreation Director

Attachments:

1. 2020 PSA Donald Harlan Racquet Complex Agreement

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is entered into the date last below written between the CITY OF LONGVIEW, WASHINGTON ("CITY") AND DONALD HARLAN ("PROFESSIONAL")

1. SERVICES BY PROFESSIONAL

- A. **Performance of Services.** The Professional shall perform the services described in the scope of work attached hereto as Attachment A. All Services will be rendered to the best of the Professional's ability and in a timely and professional manner in compliance with all standards and rules reasonably established by the City.
- B. **Modification.** The City periodically may make changes to the services that are within the general scope of the Agreement by giving the Professional written notice of such changes. If any change results in an increase or a reduction in the work that was contemplated to be performed by the Professional as described in Attachment A, the Professional's compensation hereunder shall be modified accordingly.

2. PAYMENT

- A. The City shall pay the Professional for such services: (Check One)
 - ☐ Hourly: _____ per hour, plus actual expenses, but not more than a total of _____.
 - ☐ Fixed Sum: A total amount of: _____.
 - ☒ Other: See Services and Compensation Attachment A, for all services performed, and expenses incurred under this agreement.
- B. The Professional shall maintain time and expense records and provide them not more frequently than monthly to the City, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.
- C. All invoices shall be paid by mailing a City warrant within 30 days of receipt of a proper invoice after approval of the Professional's completed tasks/deliverables to the date of the invoice or monthly report, as appropriate.
- D. The Professional shall keep cost records and accounts pertaining to the Agreement available for inspection by the City's representatives for three (3) years after final payment. Copies shall be made available on request.
- E. If the services rendered do not meet the requirements of the Agreement, the Professional will correct or modify the work to comply with the

Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.

3. TERM AND TERMINATION OF AGREEMENT

A. **Term.** This Agreement shall remain in effect for three (3) years as described in Attachment A unless terminated earlier in accordance with Paragraph 4.B. of this Agreement.

B. **Rights upon Termination.** This Agreement shall remain in effect and terminated earlier in accordance with Section 4 of Attachment A.

4. OWNERSHIP OF WORK PRODUCT

All data, materials, reports, memoranda, and other documents developed under this Agreement, whether finished or not, shall become the property of the City, shall be forwarded to the City at its request and may be used by the City as it sees fit. The City agrees that if it uses products prepared by the Professional for purposes other than those intended in this Agreement, it does so at its sole risk and it agrees to hold the Professional harmless therefore.

5. GENERAL ADMINISTRATION AND MANAGEMENT

The City Manager of the City, or his/her designee, shall be the City's representative and shall oversee and approve all services to be performed, coordinate all communications, and review and approve all invoices under this Agreement.

6. INDEMNIFICATION AND HOLD HARMLESS

A. The Professional shall protect, defend, indemnify, and save harmless the City, its officers, employees, and agents from any and all cost, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omission of the Professional. The Professional agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agent. For this purpose the Professional, by mutual negotiation, hereby waives, as respects the City only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.

B. The City shall protect, defend, indemnify and save harmless the Professional, its officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omission of the City. The City agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or

agents. For this purpose, the City, by mutual negotiation, hereby waives, as respects the Professional only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW

- C. The Professional will indemnify, defend, and hold the City (and its elected officials, officers, employees, successors, assigns, insurers, licensees, distributors, independent Professionals, and agents) harmless from all claims, damages, losses, and expenses (including reasonable attorneys' fees incurred on such claims and in proving the right to indemnification) arising out of or resulting from any claim, action, or other proceeding that is based upon (a) the Professional's breach of any obligations, representations, or warranties under the Agreement, (b) the Professional's outside business activities, or (c) the infringement or misappropriation by the Professional of any foreign or United States patent, copyright, trade secret, or other proprietary right in results.

7. INSURANCE; RISK OF LOSS

The Professional shall maintain insurance that is sufficient to protect the Professional's business against all applicable risks, as set forth in Attachment B. The Professional will cause the indemnified parties, as described in Section 7 above, to be named as additional insureds on the policy required under the Agreement and shall cause its insurance to be primary to any insurance carried by the indemnified parties. The Professional will provide the City with certificates of insurance and other supporting materials as City reasonably may request to evidence Professional's continuing compliance with this Section 8. The Professional will be liable for all loss or damage, other than ordinary wear and tear, to the City's property in the Professional's possession or control that is caused by the Professional. In the event of any such loss or damage, the Professional will pay the City the full current replacement cost of such equipment or property within thirty (30) days after its loss or damage.

8. INDEPENDENT PROFESSIONAL

- A. **Nature of Relationship.** The Professional shall be and act as an independent Professional (and not as the employee, agent, or representative of the City) in the performance of the services for the City. This Agreement shall not be interpreted or construed as creating or evidencing an association, joint venture, partnership, or franchise relationship among the parties or as imposing any partnership, franchise, obligation, or liability on any party. The Professional will not represent himself/herself as an employee of the City. The Professional shall not be entitled to, and shall not attempt to, create or assume any obligation, express or implied, on behalf of the City. So long as the Professional is

able to adequately perform all of the Professional's obligations under the Agreement in a skilled and workmanlike manner. Since the Professional will not be an employee of the City, the Professional will not be entitled to any of the benefits that the City may make available to its employees, such as but not limited to vacation leave, sick leave, or insurance programs, including group health insurance or retirement benefits; nor shall the Professional permit or cause any of the Professional's employees, agents, or subcontractors to perform any services under the Agreement in such a way as to cause or enable them to become, or claim to have become, employees, common law or otherwise, of the City. In addition, the Professional acknowledges that as an independent contractor, he/she/it and or his/her/its agents, servants, or employees are not eligible to recover worker's compensation benefits from or through the City in the event of injury.

- B. Professional Responsible for Business License, Taxes and Records.** The Professional shall obtain a Longview Business License prior to commencing any work under this Agreement. The Professional will be solely responsible for and will file, on a timely basis, all tax returns and payment required to be filed with or made to any federal, state, or local tax authority with respect to the Professional's performance of the services and receipt of fees under the Agreement. The Professional will be solely responsible for and must maintain adequate records of expenses incurred in the course of performing the services under the Agreement. No part of the Professional's payment will be subject to withholding by the City for the payment of any social security, federal, state or any other employee payroll taxes; nor shall the City be obligated to make any such withholdings and/or payments on behalf of any employee, subcontractor, supplier, or other person working for or engaged by the Professional to perform the Professional's obligations under the Agreement. The City will regularly report amounts paid to the Professional by filing Form 1099-MISC with the Internal Revenue Service as required by law.

9. SUBLETTING OR ASSIGNING AGREEMENT

Neither the City nor the Professional shall assign, transfer, or encumber any rights, obligations, duties, or interests accruing or arising from this Agreement without the express prior written consent of the other. Subject to the foregoing, the Agreement will be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.

10. FUTURE SUPPORT

The City makes no commitment and assumes no obligations for the support of the Professional's activities except as set for in this Agreement.

11. GENERAL PROVISIONS

- A. **Governing Law.** The Agreement will be governed by the laws of the State of Washington and its choice of law rules. The Professional irrevocably consents to the exclusive personal jurisdiction and venue of the federal and state courts located in Cowlitz County, Washington or the applicable federal court for such County, with respect to any dispute arising out of or in connection with the Agreement, and agrees not to commence or prosecute any action or proceeding arising out of or in connection with the Agreement other than in the aforementioned courts.
- B. **Severability.** If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The City and the Professional agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- C. **Nonwaiver.** Any failure by the City to enforce strict performance of any provision of the Agreement will not constitute a waiver of the City's right to subsequently enforce such provision or any other provision of the Agreement.
- D. **City Marks.** The Professional will not use any trade name, trademark, service mark, or logo of the City (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the City's express prior written consent.
- E. **Notices.** All notices and other communications required under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address as follows:

CITY:

Jennifer Wills, Director of Parks and Recreation
2920 Douglas Street
Longview, WA 98632
360-442-5405
Jenniferw@mylongivew.com

PROFESSIONAL:

Donnie Harlan
4004 Pennsylvania Street
Longview, WA 98632
360-636-4770
donnie@mintvalley.net

F. **Legal Fees/Venue.** In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys' fees, costs and expenses. The venue for any dispute related to this Agreement shall be Cowlitz County, Washington.

G. **Counterparts.** The Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document.

H. **Captions.** The captions in this Agreement are for convenience only and do not in any way limit or amplify particular provisions.

12. EXTENT OF AGREEMENT/MODIFICATION

This Agreement together with attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified, or added to only by written instrument properly signed by both parties hereto.

INWITNESS WHEREOF, the parties have executed this Agreement as of _____, 201_.

PROFESSIONAL

CITY OF LONGVIEW

By:_____

By:_____

Printed Name:_____

Printed Name:_____

Title:_____

Title:_____

Address:_____

Approved as to form:

City/State/ZIP:_____

By:_____

City Attorney

Tax ID#_____

**ATTACHMENT A
SERVICES & COMPENSATION**

1. GENERAL PROVISIONS

1.01 The City hereby grants to the Professional the concession of Complex for a period of three (3) years, commencing the 1st day of January, 2020, and terminating on the 31st day of December, 2022.

1.02 The Professional shall, during the term of this Agreement, devote his time, skill and attention to promote the total operation of the Complex, including the activities of junior tennis, complete lesson program, men's and women's leagues and activities, tournaments, clinics and exhibitions, fitness programs, as well as any other matters of public recreation, which the Professional and the Director mutually agree will be beneficial in promoting racquet sports and fitness activities. Professional shall conduct no operations or activities at the Complex other than as are set forth herein.

2. OBLIGATIONS OF PROFESSIONAL

2.01 Professional shall operate such concession every day, including Sundays and holidays, with the exception of Christmas day, and during such hours as are approved by the Director. Closure is permitted only with the approval of the Director or his or her designees. The Professional shall not be absent from the premises for a period of more than eight (8) consecutive days without first notifying the Director of said absence. Failure to notify the Director of such absence shall not constitute grounds for terminating this Agreement unless failures occur more than twice in any calendar year. During such time of absence, suitable personnel shall be placed in charge of the Professional's duties.

2.02 The Professional shall provide, at his own expense, such other employees as he may deem necessary, to aid and assist him in the performance of his duties. The Professional shall provide adequate supervision over all personnel employed by him and the services of such employees shall be available to the public at all times while the Complex is open. Any complaint by the public about employees shall be subject to review by the Director.

2.03 Professional's personnel shall at all times while on duty be clean and neatly groomed, courteous, efficient, and attired appropriately for the Complex.

2.04 Professional shall at all times maintain a high standard of services to the public, to the satisfaction of the Director. Upon written notice by the Director that the conduct of any of Professional's personnel is detrimental to the best interests of the public, or to City, Professional shall, within five (5) business days thereafter, furnish evidence satisfactory to the Director of correction of such deficiency.

2.05 Professional shall staff the Complex with personnel to conduct the operations authorized hereunder, in sufficient number to meet public demand for prompt, courteous,

and efficient service. Professional shall adjust the number of his assigned personnel, or hours of operation, as mutually agreed upon with the Director. Professional shall, in writing, inform the Director of the full names of each of his personnel assigned to the Professional's staff in January and July each year.

2.06 Professional shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, age, disability, marital status or national origin, in violation of the law. Professional shall take affirmative action, as necessary, to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, age, national origin, disability, or marital status, in violation of the law. Such action shall include but not be limited to employment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Professional shall comply with all applicable federal, state, and City statutes, ordinances, regulations, directives, and laws.

2.07 Professional shall not discriminate in the provision of services because of color, race, creed, national origin, religion, sex, sexual orientation, age, or physical or mental handicap in accordance with Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and all other applicable laws and regulations requiring no discrimination. Professional shall also comply with Federal, State, and City Equal Employment Opportunity requirements.

2.08 Professional shall comply with the Americans with Disabilities Act as it relates to all operations under his jurisdiction including but not limited to court usage, instructional lessons, tournament play, and retail sales. It is the responsibility of Professional to make reasonable accommodations for qualified individuals with disabilities. Reasonable accommodations may include but not be limited to modifications to rules and equipment, pairing or grouping of individuals for reservations, co-participation between facility users and/or staff and patrons, instructional techniques, and consideration of any other means of allowing for full participation of an individual.

2.09 The parties hereto mutually pledge to work together in a spirit of cooperation and to negotiate in all areas and among all parties involved in order to develop the Complex to its full potential and to give the best service to the patrons of this facility. The City and Professional shall jointly negotiate, prepare and participate in a joint marketing and promotion program. Examples of this joint marketing and promotion include lessons offered under the auspices of City's recreation program, placing City's and Professional's program materials in the Complex and City offices, and allowing the Professional a quarter page advertisement in the recreation programs guides to publicize racquet and fitness opportunities at the Complex. Professional shall, as a part of this Agreement, work with the Director and City officials, in promoting racquet sports and the Complex. Professional shall use his best efforts to develop and maintain cooperative working relationships with the aforesaid persons and other interested organizations in order to provide the best programs and services possible for the public. Professional and City staff will discuss opportunities to use the Complex as a location for City recreation classes and activities at mutually beneficial times.

2.10 The Professional shall provide, and be responsible for, the following duties:

- A. The Professional shall be responsible for the enforcement of all existing rules and regulations governing the use of the Complex, a copy of which is attached hereto.
- B. The Professional shall be under the direct responsibility of and accountable to the Director who shall together with the Professional review and establish hours of operation, and pricing of fees, membership dues, and lessons so as to remain competitive with the racquet sports and fitness facilities market.
- C. The Professional shall retain and be fully responsible for the collection of all revenues associated with the operation of the Complex. Professional shall keep complete records of accounts with regard to all moneys collected hereunder and make said reports available to the Director in an annual report and audit.
- D. The Professional shall provide the City with a quarterly use report due the last day of the following month. The Professional and Director will work together to determine the reporting requirements to be provided – and the report will include data such as memberships (fitness and racquet), court use, tournament use, numbers of individuals, lessons, and events to have a better understanding of the operation of the facility.
- E. The Professional will procure, at his expense, all janitorial supplies including paper products, cleansers, light bulbs, etc., and will be responsible for all janitorial functions within the Complex and maintain the same in a safe, neat, sanitary, and orderly condition in compliance with City's direction, any and all applicable present and future laws, and general rules and regulations of any governmental authority in force now or at any time during the term of this Agreement relating to sanitation, public health, safety, or welfare. Professional shall remedy without delay any defective, dangerous, or unsanitary conditions. Professional shall correct such situation within a reasonable time, or City may, at its option, do so at Professional's sole cost and expense, payable upon demand, provided that City shall have first provided reasonable notice of such condition to Professional, and Professional shall have failed or refused to correct such situation within a reasonable period of time. Professional is not responsible for the replacement of plumbing, the heating and air-conditioning plant, exterior painting of the Complex, floor coverings, and other capital repairs related to the Complex.
- F. The Director may, at any time, without notice, enter the Complex to determine if repairs, housekeeping and maintenance satisfactory to City are being performed. If it is determined that said housekeeping or maintenance is not satisfactory, City shall so notify Professional in writing. If said housekeeping or maintenance is not performed by Professional within thirty (30) day after receipt of written notice, City, or its agents, shall have the right to enter the Complex and perform the maintenance therefor. However, maintenance required to avoid substantial harm

to the building, its contents or other persons, or health and safety items shall be performed immediately. The reasonable cost thereof shall be borne by Professional payable on demand. The City shall also be held accountable for responding to facility operations needs within thirty (30) days written notice so as not to detract from the public's enjoyment of the complex nor hamper the Professional's ability to provide services.

- G. Professional shall conduct his operations in a first-class, businesslike, efficient, courteous, and accommodating manner. The Director shall have the right to make reasonable objections to the quality and character of articles sold and services offered to the public and the appearance and condition of the premises utilized by the Professional for its operations. The Director also reserves the right to prohibit the sale or rental of any items of merchandise which are deemed objectionable or completely unrelated to a racquet sports and fitness complex. Professional shall promptly meet and confer with the Director regarding any such objectionable items or practice upon written notification by the Director.
- H. The Professional shall provide to the City a full financial disclosure according to generally accepted accounting principles of his entire operation at the Complex by April 30th of each year, and shall make available his books and records for audit at a mutually convenient time and place. If at any time the Director or the City's Finance Director deems Professional accounting practices or procedures inadequate or not in accordance with general accepted accounting principles, Professional shall make requested adjustments to its practices and procedures. Any other internally prepared financial or statistical reports reasonably requested by the Director from time to time during the term hereof shall be provided by Professional, without cost to City, within a reasonable period of time. To the extent permitted by law, City shall keep the financial reports and records referred to above confidential. Professional shall retain all its books and records of account for the term hereof for not less than two (2) calendar years following the last day of such term. Such books and records of account shall show all Professional's gross receipts, commissions, and other income derived from his operations, pursuant to this Agreement, all deductions therefrom, supporting documents, and all other information required by this Agreement. At any time within two (2) calendar years following the last day of the term hereof, upon written notification to Professional, City may, at its sole cost and expense, inspect, audit, and copy Professional's books, records of account, and supporting documentation relating to Professional's operations at the Complex.
- I. Professional shall, at his sole cost and expense, obtain and maintain in full force and effect throughout the term of this Agreement any and all applicable permits and business licenses which may be required by any law, including administrative regulations and local ordinances, for the conduct of Professional's operations hereunder.

2.11 Professional accepts the Complex in the condition existing immediately prior to this

agreement. City shall repair or replace any part of the Complex damaged or destroyed by casualty. Professional shall, at his sole cost and expense, equip and maintain such facilities with all such appliances and equipment as may be necessary or convenient to Professional's operations hereunder. City shall have no obligation to equip or improve such facilities. However, all equipment proposed to be installed or otherwise provided by Professional shall be subject to the inspection and approval of the Director. City shall permit Professional to use whatever City owned equipment, if any, that City may subsequently place at such facility being in proper working order. Any such equipment used by Professional shall be taken "as is", inventoried, repaired or renovated, if necessary, at the sole expense of Professional and returned to City at the end of the term hereof. Professional shall at his sole cost and expense, perform proper and timely maintenance. Professional shall make no refurbishment or alterations to the Complex, whether in whole or in part, nor construct additional improvements upon the said premises without the prior written approval of the Director. Any such work shall be at Professional's sole cost and expense. Any such improvements shall be the property of the Professional during the term of this Agreement. Upon termination of this Agreement, City may, at its option, require removal by Professional, at Professional's sole cost, of any or all Professional-made improvements, including, but not limited to, trade fixtures, furniture, furnishings and equipment installed by Professional. Professional may have thirty (30) days to remove such furniture, furnishing, and equipment. Professional shall not encumber, mortgage or transfer any property of City, and shall not permit any condition to exist which would presently, or upon the passage of time, create any lien or encumbrance on any City property, by or through Professional. Professional shall be permitted to remove, upon expiration or earlier termination of this Agreement, all personal property owned by Professional. All injury or damage to City property caused by such removal shall be repaired at Professional's sole cost and expense. Professional shall remove all such personal property within three (3) calendar weeks from such date.

Should Professional fail to remove or dispose of such property, City may, at its election, consider such property abandoned and may dispose of same at Professional's expense or after sixty (60) days declare the personal property of Professional's to be City property.

2.12 The City and Professional shall jointly make and maintain an on-going inventory list of all city owned property situated in the complex, and Professional shall agree thereto and accept the possession thereof. Said inventory list shall be preserved and maintained. Upon the termination of this Agreement, Professional shall surrender the premises, equipment, goods and merchandise not the personal property of the Professional, in good order and repair (except for reasonable wear and tear), together with funds representing the value of all unearned membership payments and/or prepaid tennis or racquetball court use fees. The inventory prepared pursuant to this section shall be consulted and compared with the surrender of items to the City as provided. Any deficiency in value of merchandise held for resale shall be resolved by payment as outlined in Section 3.08.

3. LEASE PAYMENTS AND REVENUE SHARING

LEASE PAYMENTS

Effective 01.01.2020 – 12.31.2022

Lease payment of \$250/month for 36 months beginning 01-01-2020 and continuing through 12-31-2022 due to the City of Longview by or before the last day of each month.

REVENUE SHARING

In addition to \$250/month lease payments, Revenue Sharing calculated at or over \$56,000/year of Ordinary Business Income per IRS Form 1120S for the Taxable Years of 2020, 2021, and 2022.

Payments are as follows:

Effective: Payment Due 05.01.2021 for Taxable Year 2020
 Payment Due 05.01.2022 for Taxable Year 2021
 Payment Due 05.01.2023 for Taxable Year 2022

Examples:

- 1) Ordinary business income = 58,000 less 56,000 = 2,000 x 20% = \$400
- 2) Ordinary business income = 60,000 less 56,000 = 4,000 x 20% = \$800
- 3) Ordinary business income = 65,000 less 56,000 = 9,000 x 20% = \$1,800

4. PROVISIONS FOR EXTENSION, AMENDMENT, TERMINATION

4.01 One hundred twenty (120) days or more prior to the expiration of this Agreement, the City may, in its sole discretion, offer to the Professional an extension of this Agreement of two (2) years commencing on the anniversary date of this Agreement. No more than two extensions may be offered under this Agreement.

The Professional acknowledges that such extension of this Agreement is solely within the discretion of the City and that the Professional has no right to such an extension unless offered by the City. Any such extension shall be evidenced by a written Agreement between the parties subject to such terms and conditions as may then be agreeable to the City and the Professional.

Upon the expiration of this Agreement at the end of the term set forth above, and provided that the City consents, Professional may continue to provide services on a month-to-month basis (not to exceed ninety (90) days).

4.02 If the Professional should fail or neglect for a period of thirty (30) consecutive days or more to perform the obligations of the Professional as set forth in this Agreement or any significant portion of such obligations (as reasonably determined by the City) and after having been notified in writing by the City of the failure or neglect in performance with reasonable time to cure after the notice, this Agreement may be terminated by the City on sixty (60) days written notice to the Professional. The Director shall be authorized to

terminate this Agreement, without serving such notice of default to Professional, upon the occurrence of any of the following events:

1. The failure of Professional to maintain in full force and effect all forms of insurance required hereunder.
2. A major breach of service after notice of continued violation.
3. Significant health or safety violations which cause or may cause facility closure unless such violation is out of Professional's control.
4. Conviction of a felony criminal offense, or a misdemeanor offense involving theft, sex, or illegal drugs.
5. Disability which incapacitates the Professional for an aggregate of six months.
6. Abandonment of or absence from the premises by the Professional without the approval of the City beyond that which is allowed in Section 2.01.

4.03 If, in the event Professional breaches this Agreement, and the Director terminates this Agreement pursuant to this Section, the Director may take immediate possession of the facility and operate the Complex in any manner deemed appropriate by the Director for City's benefit and the public's best interest, without any liability therefore to Professional.

4.04 If the City should fail or neglect for a period of thirty (30) consecutive days or more to perform the obligations of the City as set forth in this Agreement or any significant portion of such obligations (as reasonably determined by the Professional) and after having been notified in writing by the Professional of the failure or neglect in performance with reasonable time to cure after the notice, this Agreement may be terminated by the Professional on sixty (60) days written notice to the City.

4.05 Upon the death of the Professional or upon the filing of a voluntary or involuntary petition in bankruptcy, and thereafter the Professional's adjudication of bankruptcy, or if the Court shall take jurisdiction of the Professional and his assets pursuant to proceedings under any Federal Reorganization Act, or any receiver of the Professional's assets shall be appointed or if the Professional shall be divested of his interest in the Agreement by other operation of law, or the making of any general assignment for the benefit of creditors, or upon the occurrence of any act which operates to deprive the Professional permanently of the rights, powers and privileges necessary for the proper conduct and operation of the concession granted herein, or upon the abandonment and discontinuance of the operation of the business described herein, the City may, at its election, cancel this Agreement and remove the Professional and all of his employees from the premises and the Professional hereby waives any notice of such election, or demand for payment of the amounts agreed upon as the same become due, or the performance of any covenants herein; provided, however, that the failure of the City to declare this Agreement and concession terminated upon the default of the Professional or any of the reasons set out above shall not bar the right of the City to declare this Agreement null and void and at an end upon any subsequent violation of the terms of this Agreement by the Professional.

4.06 Upon expiration of the term hereof, whether at the end of the original term of this Agreement, an extension hereof, or prior thereto by reason of default on the part of the Professional, the Professional may remove all of his personal property and furniture and

equipment installed by him, except for items affixed to the premises, and shall deliver the premises to the City in as good condition as at the beginning of the term except for reasonable wear and tear. Upon expiration or termination hereof, however, the Professional shall be allowed a period of up to three (3) additional calendar weeks to remove all of his merchandise and equipment from the Complex, and to conduct sales thereof during said period of time. The Professional during said period, however, shall cooperate with the City and with any new Professional employed by the City to effect a smooth transition in connection with operation of the concession of the Complex.

4.07 Either City or Professional may terminate this Agreement at no cost at any time upon 180 days or more written notice to the other. City may terminate Agreement upon less than 180 days written notice, but in such case must compensate Professional for the balance of time up to 180 days based upon recent average annual net income derived by Professional under Agreement. (For example, if the Agreement is terminated by City upon 30 days written notice, City shall compensate Professional for 150 days of average annual net income.) Professional may terminate Agreement upon less than 180 days written notice, but in such case must compensate City for its reasonable costs of soliciting and recruiting a new racquet sports and fitness services provider at Complex.

This Section 3.07 shall expire one (1) year after entering into this Agreement.

4.08 Upon the termination of this Agreement, the City shall purchase, and the Professional may elect to sell to the City some or all of the pro shop inventory of stock- in-trade and merchandise, and equipment of the Professional's at prices to be determined as follows:

1. General pro shop inventory: The lesser of Professional's cost or fair market value computed on the basis of wholesale prices. Any disagreements shall be settled by a third party, whose service is mutually agreeable to both parties.
2. Equipment owned by Professional: The fair market value is to be determined by independent appraisal.

Payment of the purchase price established thereunder shall be made in cash within forty-five (45) days following the effective date of termination.

5. FORCE MAJEURE

5.01 Neither City nor Professional shall be deemed in violation of this Agreement if they are prevented from performing any of their obligations hereunder by reason of strike, boycott, labor dispute, embargo or shortage of energy or materials. Neither City nor Professional shall be deemed in violation of this Agreement if either is prevented from performing any of its obligations hereunder by reason of acts of God, acts of a public enemy, acts of superior governmental authority, weather conditions, riot, rebellion, sabotage, or any other circumstances for which it is not responsible or which are not reasonably within its control.

ATTACHMENT "B"

INSURANCE REQUIREMENTS

The Professional shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Professional, his agents, representatives, employees, or subcontractors. The cost of such insurance shall be paid by the Professional. Insurance shall meet or exceed the following unless otherwise approved by the City.

A. Minimum Insurance

1. Commercial General Liability coverage with limits not less than \$1,000,000 per occurrence /\$2,000,000 annual aggregate,
2. Stop/Gap/Employers Liability coverage with limits not less than \$1,000,000 per accident/disease,
3. Business Automobile Liability coverage with limits not less than \$1,000,000 per accident for any auto,
4. Workers' Compensation coverage as required by the Industrial Insurance Laws of the State of Washington.

B. Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City.

C. Other Provisions.

Commercial General Liability policies shall be endorsed to:

1. Include the City, its officials, employees, and volunteers as insureds,
2. Provide that such insurance shall be primary as respects any insurance or self-insurance maintained by the City,
3. Each insurance policy shall provide that coverage shall not be canceled except after thirty (30) days' written notice has been given to the City.

D. Acceptability of Insurers

Insurance shall be placed with insurers with a rating acceptable to the City.

E. Verification of Coverage

Professional shall furnish the City with certificates of insurance required by this clause. The certificates are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

F. Subcontractors

Professional shall require subcontractors to provide coverage that complies with the requirements stated herein.



City of Longview

Agenda Summary

WASHINGTON WAY BRIDGE INTERFUND LOAN UPDATE

RECOMMENDED ACTION:

NO ACTION REQUIRED

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Continue effective financial management

CITY ATTORNEY REVIEW: REQUIRED

SUMMARY STATEMENT:

Resolution No. 2166 established an interfund loan in the amount of \$1,435,000.00 from the General Fund to the Arterial Street Fund for the purpose of providing for the City's share of costs for the Washington Way Bridge. The Resolution calls for City staff to present to Council the status of the loan on an annual basis.

The effective date of the original loan was January 1, 2016. Principal repayments from the Arterial Street Fund to the General Fund are as follows.

- September 2016 \$300,000.00
- December 2017 \$300,000.00
- December 2018 \$100,000.00

In December 2019, the Arterial Street Fund will repay additional principal in the amount of \$100,000.00. Following the principal repayment of \$100,000.00 in December, the remaining principal obligation on this interfund loan will total \$635,000.00. The estimated interest payment for the period January 1, 2019 through December 31, 2019 totals \$16,957.53. The average interest rate on the outstanding principal balance for 2019 was 2.31%.

Had the City sought conventional bond financing for its share of the Washington Way Bridge in 2016, life-to-date bond interest costs at 3 percent would have totaled \$124,200.00. Having borrowed the funds internally from ourselves, life-to-date interest charges total \$50,127.15, resulting in interest savings of \$74,012.85.

STAFF CONTACT:

Kurt Sacha, City Manager

Attachments:

1. 2019 Interfund interest- General Fund - Arterial Street Fund

Interfund loan interest
ASF loan from General Fund

		Amount financed	\$1,435,000.00	
Accrual Period	Principal Repaid *	Month-End Principal Balance	Pool Rate	Interest
Jan-16		1,435,000.00	0.3870%	462.79
Feb-16		1,435,000.00	0.4202%	502.49
Mar-16		1,435,000.00	0.4488%	536.69
Apr-16		1,435,000.00	0.4288%	512.77
May-16		1,435,000.00	0.4244%	507.51
Jun-16		1,435,000.00	0.4931%	589.67
Jul-16		1,435,000.00	0.4895%	585.36
Aug-16		1,435,000.00	0.4854%	580.46
Sep-16	300,000.00	1,135,000.00	0.5168%	618.01
Oct-16		1,135,000.00	0.4739%	448.23
Nov-16		1,135,000.00	0.4672%	441.89
Dec-16		1,135,000.00	0.5070%	479.54
Total interest due				1,369.66
				Balance of 2016
Jan-17		1,135,000.00	0.6299%	595.78
Feb-17		1,135,000.00	0.6303%	596.16
Mar-17		1,135,000.00	0.7003%	662.37
Apr-17		1,135,000.00	0.8283%	783.43
May-17		1,135,000.00	0.8978%	849.17
Jun-17		1,135,000.00	0.9778%	924.84
Jul-17		1,135,000.00	1.0734%	1,015.26
Aug-17		1,135,000.00	1.1102%	1,050.06
Sep-17		1,135,000.00	1.1286%	1,067.47
Oct-17		1,135,000.00	1.1385%	1,076.83
Nov-17		1,135,000.00	1.1484%	1,086.20
Dec-17	300,000.00	835,000.00	1.1583%	1,095.56
Total interest due				10,803.12
				Fiscal 2017
Total interest due				12,172.78
				Period total

Accrual Period	Principal Repaid *	Month-End Principal Balance	Pool Rate	Interest	
Interfund loan interest					
ASF loan from General Fund					
Jan-18		835,000.00	1.4288%	994.21	
Feb-18		835,000.00	1.4730%	1,024.96	
Mar-18		835,000.00	1.5746%	1,095.66	
Apr-18		835,000.00	1.7149%	1,193.28	
May-18		835,000.00	1.7951%	1,249.09	
Jun-18		835,000.00	1.8866%	1,312.76	
Jul-18		835,000.00	1.9859%	1,381.86	
Aug-18		835,000.00	2.0146%	1,401.83	
Sep-18		835,000.00	2.0622%	1,434.95	
Oct-18		835,000.00	2.2317%	1,552.89	
Nov-18		835,000.00	2.4012%	1,670.84	
Dec-18	100,000.00	735,000.00	2.5707%	1,788.78	
Total interest due				16,101.10	Fiscal 2018
Average interest rate				Interest proof	
1.92828%				0.00	
Jan-19		735,000.00	2.4924%	1,526.60	
Feb-19		735,000.00	2.5128%	1,539.09	
Mar-19		735,000.00	2.5230%	1,545.34	
Apr-19		735,000.00	2.5405%	1,556.06	
May-19		735,000.00	2.4956%	1,528.56	
Jun-19		735,000.00	2.5054%	1,534.56	
Jul-19		735,000.00	2.4775%	1,517.47	
Aug-19		735,000.00	2.2877%	1,401.22	
Sep-19		735,000.00	2.1942%	1,343.95	
Oct-19		735,000.00	2.0553%	1,258.87	
Nov-19		735,000.00	1.8279%	1,119.59	
Dec-19	100,000.00	635,000.00	1.7735%	1,086.25	
Total interest due **				16,957.53	Fiscal 2019
Average interest rate				Interest proof	
2.30715%				0.00	

* Principal repaid at month end.

** December interest estimated at 2019 trend rate.



City of Longview

Agenda Summary

CITIZEN APPOINTMENT TO AD HOC COMMITTEE RESPONSIBLE FOR IDENTIFYING CAMP SITES FOR THE UNHOUSED

RECOMMENDED ACTION:

MOTION TO APPOINT A CITY OF LONGVIEW RESIDENT TO THE AD HOC COMMITTEE RESPONSIBLE FOR IDENTIFYING AND RECOMMENDING ALTERNATIVE SITES FOR UNHOUSED CAMPERS.

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Preserve and enhance neighborhoods

CITY ATTORNEY REVIEW: REQUIRED

SUMMARY STATEMENT:

On Tuesday, December 3, 2019 Cowlitz County Commissioners established an ad hoc committee to recommend sites for homeless campers located on Cowlitz County property by the end of January.

The Committee shall consist of Commissioner Dennis Weber, City of Kelso Manager Andy Hamilton, City of Longview Manager Kurt Sacha and one citizen representative appointed by the City of Kelso and one city representative appointed by the City of Longview.

As of 12:00 p.m. on Thursday, December 12, 2019, (the time at which the City of Longview Council agenda is posted) the City had received notice from the following Longview citizens interested in serving on this ad hoc committee. The names of those interested in serving on the Committee appear below.

- Nic Mather
- Karen Bergquist
- Ruth Kendall
- Jenny Oskey
- Bill Josh

STAFF CONTACT:

Kurt Sacha, City Manager

Attachments: None



City of Longview

Agenda Summary

HOUSING PRESERVATION PROGRAM CONTRACT WITH HOUSING OPPORTUNITIES OF SOUTHWEST WASHINGTON FOR THE SYLVESTER APARTMENTS

RECOMMENDED ACTION:

MOTION TO APPROVE THE "COVENANT RUNNING WITH THE LAND" ASSOCIATED WITH THE DEPARTMENT OF COMMERCE HOUSING PRESERVATION PROGRAM GRANT CONTRACT FOR THE SYLVESTER APARTMENTS.

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Address quality of place issue

Preserve and enhance neighborhoods

CITY ATTORNEY REVIEW: REQUIRED

SUMMARY STATEMENT:

Housing Opportunities of Southwest Washington (HOSWWA) is desirous of accepting a State of Washington Department of Commerce Housing Preservation Program grant award in the amount of \$394,675.00. The purpose of the project is to rehabilitate and preserve affordable housing units at the Sylvester Apartments located at 1540 Commerce Avenue.

Due to the specific terms and conditions associated with this grant award contract between HOSWWA and the Department of Commerce, HOSSWA director Jennifer Westerman is seeking the City of Longview's approval prior to HOSWWA acceptance of this grant contract. Specifically, the grant contract imposes the following condition on the contractor HOSWWA.

Covenant Running with the Land

HOSWWA shall cause to be recorded a covenant running with the land limiting the use of the property to residential housing units for low income households. At the time of initial occupancy, residents in no less than fifty percent (50%) of the total units funded and shall have gross annual household incomes at or below thirty percent (30%) of the area median income and the remaining residential units continue to be subject the AMI restrictions as outlined in Attachment B of the attached Housing Preservation Program contract. Attachment B appears on page 17 of 28.

Additionally, the covenant associated with the grant contract requires a Commitment Period consisting of fifteen (15) years. The contract will terminate in 2034.

STAFF CONTACT:

Kurt Sacha, City Manager

Attachments:

1. Department of Commerce - Housing Preservation Program Contract
2. Department of Commerce - Leasehold Deed of Trust
3. Department of Commerce - Low Income Housing Covenant Agreement
4. Department of Commerce - Promissory Note

State of Washington
Department of Commerce
Housing Preservation Program
Contract Number: 18P-94115-004
Asset Manager: Angela Snow
Phone: (360) 725-2957
E-Mail: Angela.Snow@commerce.wa.gov

Housing Authority of the City of Longview
820 11th Ave
Longview, WA 98632
UBI #: 601-144-735
Contact: Katie Bonus
Phone: (360) 423-0140
E-Mail: Katie.Bonus@hpsv.wa.org

SPECIFIC TERMS AND CONDITIONS
HOUSING PRESERVATION PROGRAM CONTRACT
FOR
HOUSING AUTHORITY OF THE CITY OF LONGVIEW

Project: Sylvester Apartments

PART I: INTRODUCTION

The Department of Commerce, a department of the state of Washington, (hereinafter referred to as the "DEPARTMENT"), including its successor agency, has received appropriations from the Washington State Legislature under the authority of Chapters 43.185 RCW, Washington State Housing Assistance Program and 43.185A RCW, Washington State Affordable Housing Program to provide financial assistance to local governments, local housing authorities, regional support networks, nonprofit community or neighborhood based organizations, federally recognized Indian Tribes in Washington and regional or statewide non-profit housing assistance organizations (all such entities are hereafter referred to as an "Eligible Organization") to assist low and very low-income households in meeting their basic housing needs. By appropriation in the 2017-2019 biennial budget the state Legislature made funding available to ensure the long-term viability of the existing Housing Trust Fund (HTF) multifamily rental portfolio. Through a competitive funding process, affordable housing projects currently active in the Housing Trust Fund (HTF) portfolio were awarded Housing Preservation Program (HPP) funding. Preservation project activities may include major building improvements, system replacements, and/or other activities that add to the depreciable basis of a building. Project activities must result in demonstrable reduction in operating and/or utility costs of the affordable housing project.

The DEPARTMENT has selected Housing Authority of the City of Longview, a Washington municipality corporation, (hereinafter referred to as the "CONTRACTOR") to receive Housing Preservation Program (HPP) funding to undertake the rehabilitation of a local housing project that furthers the goals and objectives of the Housing Assistance and/or Affordable Housing Programs.

PART II: SCOPE OF WORK

2.01 Project Description and Property Location

The purpose of this project is to rehabilitate and preserve affordable housing units at Sylvester Apartments (the "Project"). Specific activities associated with the Project are outlined in the HPP Updated Sources & Uses approved by the DEPARTMENT and incorporated into this Contract by reference. This Project is located at 1540 Commerce Ave, Longview, WA 98632. The real property located at this address and any improvements now existing or hereafter constructed thereon are hereinafter referred to as the "Property". The existing Property is in the HTF portfolio, having previously received HTF funding from the DEPARTMENT under the contract(s) #5-92-416-17B (the "Original Capital Contract(s)").

Certain eligible activities completed before execution of this contract (the "Contract"), but not incurred earlier than April 1, 2018, may be reimbursed with prior approval from the DEPARTMENT.

2.02 HPP Award Terms of Funding:

A. The total award in the form of a Recoverable Grant shall be Three Hundred Ninety-Four Thousand Six Hundred Seventy-Five Dollars and 00/100 (\$394,675.00) (the "Award").

B. Administrative and Monitoring Fees:

1. **Administrative Fee:** \$3,946.75 (One percent (1%) of the Award) due at closing or before a second voucher is processed.
2. **Monitoring Fee:** \$3,946.75 (One percent (1%) of the Award) due at closing or before a second voucher is processed.

C. Grant Terms and Conditions:

1. **Funding Period:** Refer to Attachment A, which is incorporated into this Contract.
2. **Method of Re-Payment:** Refer to Attachment A.

Special Conditions:

If CONTRACTOR derives a significant portion of its operating budget from a third party providing operating subsidy, and if that third party funding amount decreases, the CONTRACTOR must notify the DEPARTMENT in a timely manner of such decrease.

D. Funding Budget

HPP General:	\$394,675.00
TOTAL:	\$394,675.00

Funds shall be disbursed as outlined in the most current budget as approved by the DEPARTMENT and incorporated into this Contract by reference.

E. Requirements for Drawdown of HPP Award Funds

1. Except as approved by the DEPARTMENT, prior to the drawdown of HPP Award funds, the CONTRACTOR shall provide documentation, in a form acceptable to the DEPARTMENT, that the following actions are complete.
 - a. Recording of the HPP Covenant, leasehold Deed of Trust and if applicable, Assignment, Assumption and Consent Agreement.
 - b. The CONTRACTOR has in place all applicable construction, land use, environmental, zoning permits and other federal, state and local governmental approvals as necessary for undertaking the activity for which the specific draw request is to be used.
 - c. If the Project includes acquisition of land and/or buildings, then an appropriate appraisal must be reviewed and approved by the DEPARTMENT.
2. All funds shall be drawn down within six (6) months of the completion date as referenced in the Schedule approved by the DEPARTMENT and incorporated into this Contract by reference.
3. Funds SHALL NOT be used to add or expand the capacity of the property beyond that which was intended by the Original Capital Contract (as amended, if applicable).
4. Funds SHALL NOT be used to repay any debt associated with the applicable Property or building(s).

2.03 Security

A. Promissory Note and Deed of Trust

The Recoverable Grant shall be evidenced by a Promissory Note (the "Promissory Note") and secured by a Leasehold Deed of Trust in favor of the DEPARTMENT (the "Deed of Trust"). The Deed of Trust shall be recorded in Cowlitz County, Washington and the original returned to the DEPARTMENT after recordation. The original Promissory Note shall be returned to the DEPARTMENT at Contract execution.

The amount secured by the Deed of Trust and Promissory Note shall include:

- (a) Payment in the amount of \$394,675.00, according to the terms of the Promissory Note, payable by the CONTRACTOR to the DEPARTMENT, including all renewals, modifications and extensions thereof, and
- (b) Performance of each agreement, term and condition set forth in this Contract, including, without limitation, payment of any Shared Appreciation due pursuant to the terms of this Contract.

The subject Property is located at 1540 Commerce Ave, Longview, WA 98632. This Promissory Note shall run concurrent with the Promissory Note on the "Original Capital Contract."

B. Title Insurance

The CONTRACTOR shall purchase a standard coverage lender's policy of title insurance insuring the lien position of the Deed of Trust in an amount not less than \$394,675.00.

C. Covenant Running with the Land

The CONTRACTOR shall cause to be recorded a covenant running with the land (the "Covenant") limiting the use of the Property to residential rental housing for low income households. At the time of initial occupancy, residents in no less than fifty percent (50%) of the total units funded by the "Original Capital Contract" shall have gross annual household incomes at or below thirty percent (30%) of the area median income of the county identified in Attachment B and the remaining residential units continue to be subject to the AMI restrictions as outlined in the "Original Capital Contract". The Commitment Period, as defined in Section 2.05 below, shall be fifteen (15) years. This Covenant shall run concurrent with the Covenant on the "Original Capital Contract". Attachment B is incorporated into this Contract.

D. Cross Default

The DEPARTMENT has not and will not cross default or cross collateralize the Grant made hereunder with any other loan or agreement.

2.04 Sale or Change in Use

Except as otherwise provided for herein, if the use of the Property changes to something other than that stated in Section 2.06 and Attachment B of this Contract prior to completion of the Commitment Period (as defined in Section 2.05), either by the CONTRACTOR, its successors or assigns, or as a result of a sale or refinance of the Property, the DEPARTMENT will share in the appreciated value of the Property as described below. The DEPARTMENT reserves the right in some circumstances to waive Shared Appreciation where the funds generated by a sale or refinance of the Property are to be reinvested in affordable housing for low-income households to serve the populations targeted in this Contract, pursuant to a plan agreed to by the CONTRACTOR and the DEPARTMENT.

Shared Appreciation

The DEPARTMENT's Shared Appreciation will be due and payable, by the then current owner of the Property, if any or all of the following occurs:

- a. Sale or refinance of the Property for a use other than that stated in Section 2.06 and Attachment B of this Contract;
- b. Change in use as stated in Section 2.06 and Attachment B of this Contract.

Shared Appreciation is the DEPARTMENT's proportionate share of the appreciated value of the Property, together with the appreciated value of the improvements constructed thereon regardless of whether such improvements are developed by the CONTRACTOR, its assigns, or by any lessee of the Property. Shared Appreciation (SA) is the product of the Net Proceeds (NP) less Total Original Development Costs (TODC) multiplied by the fraction whose numerator is the Original Principal (OP) amount of the state award

(Award) and whose denominator is the sum of Total Original Development Costs: $SA = (NP - TODC) \times (OP / TODC)$.

TODC costs include:

1. The cost of acquisition, including purchase price, the costs of surveys and inspections, appraisal, title insurance, pro-ration of real estate taxes and property insurance at closing, recording and escrow fees, attorney fees, repairs prior to occupancy; plus
2. The cost of the initial development, including the cost of construction, hazardous materials abatement, architectural and engineering fees, developer fees, construction management fees, construction period interest and taxes, loan fees, environmental reports, soils reports, traffic studies, permit fees, impact fees, and accounting costs.

Net Proceeds shall be calculated as follows:

The value as determined by an appraisal satisfactory to the DEPARTMENT in the event the Property is not sold to a bona fide third party or the sales price if sold to a bona fide third party, any balance remaining in the escrow account for replacement and operating reserves established pursuant to this Contract, and any insurance or condemnation proceeds received. For this purpose, bona fide third party is defined as an organization that is eligible to receive Housing Trust Fund funds, has experience managing Housing Trust Fund properties, and intends to continue the purpose and use stated in Section 2.06 and Attachment B of this contract.

Less the sum of the following:

1. The actual reasonable approved costs of sale (if the Property is sold), including appraisal, real estate commissions, real property excise tax, escrow fees, recording fees, title, and insurance premiums, less
2. Cost of depreciable improvements made to the Property subsequent to completion of the work funded or financed by this Contract.

Therefore, the DEPARTMENT's Contingent Interest (Shared Appreciation) percentage is Original Principal divided by Total Original Development Costs, multiplied by an amount equal to Net Proceeds less Total Original Development Costs: $SA = (OP / TODC) \times (NP - TODC)$.

Example:

Award =	\$1,000,000.00
Total Project Development Costs =	\$3,000,000.00

Calculation to Determine the Shared Appreciation Percentage:

Award Amount Divided by Total Project Development Cost Amount = Shared Appreciation %.

Using the Example above $\$1,000,000.00 / \$3,000,000.00 = 33.33\%$ (33.33% is the Shared Appreciation percentage DEPARTMENT will utilize to calculate its shared appreciation value of the Property).

Lease or Rent

The CONTRACTOR agrees that any decision or action to lease, sub-lease, or rent, except to eligible tenants as identified in Section 2.06 of this Contract, or otherwise transfer its control over the Property, except as otherwise permitted herein, during the term of the Commitment Period, must be submitted in writing and approved by the DEPARTMENT in writing at least sixty (60) days prior to the execution of such decision or action. Any such transfer shall not affect CONTRACTOR's obligations under this Contract period. The CONTRACTOR is also responsible for ensuring that it and any sub-lessee are in compliance with all provisions of this Contract.

2.05 Period of Performance and Length of Commitment

- A. The effective date of this Contract shall be the date of the last signature.
- B. The length of commitment to serve the target population will be fifteen (15) years, and shall commence on November 15, 2019 and end on November 14, 2034 and shall run concurrent with the Commitment Period on the "Original Capital Contract". This shall be considered the "Commitment Period".
- C. The CONTRACTOR shall complete the activities in Section 2.01 of this Contract in accordance with the Schedule that has been approved by the DEPARTMENT.
- D. The CONTRACTOR shall notify, in writing, and consult with the DEPARTMENT whenever any event affects the timely completion of the Project.
- E. The termination date of this Contract shall be November 14, 2034.

2.06 Target Population and Benefit Standard

For the Commitment Period, defined in Section 2.05 above, no less than fifty percent (50%) of the thirty-five (35) units, funded in the "Original Capital Contract", as set forth in Attachment B, shall be rented to households who at the time of initial occupancy have gross annual household incomes at or below thirty percent (30%) of the area median income of the county identified in Attachment B. The remaining residential units continue to be subject to the AMI restrictions as outlined in the "Original Capital Contract".

2.07 Tenant Rent

Rents to be paid by tenants whose current gross annual household incomes are at or below the median income level for the HUD income limits area in which the Project is located (the "median income level") shall not exceed thirty percent (30%) of the monthly income of the target population as defined in Section 2.06 above. Maximum rents are determined by the number of bedrooms in each unit minus the monthly allowance for utilities (excluding telephone, cable television and other telecommunications), paid by the tenant.

Over-Income Tenants

Unless prohibited by law or requirements of any other public funding source for the Project, the CONTRACTOR may incorporate provisions in tenant lease agreements which will allow:

- A. Adjusting rents to be paid by any household whose income, after initial occupancy, exceeds the highest Area Median Income ("AMI") level identified in Attachment B of this Contract

(defined as "over-income tenants") to the next AMI level under which the household qualifies, and/or

B. Adjusting rents to be paid by any household whose income, after initial occupancy, exceeds 80% of the AMI to the lesser of the Fair Market Rent ("FMR") for the unit size or 30% of the actual income of the household, and/or

C. Terminating lease agreements of households whose income exceed 80% of the AMI.

If an over-income tenant's income later decreases, the rent paid by that household should be reduced to the appropriate AMI level under which the household qualifies, but it should be no lower than the lowest AMI identified in Attachment B of this Contract.

When determining the next or the appropriate AMI level under which a household qualifies, the following are the HPP standard AMI levels: 30%, 35%, 40%, 45%, 50%, 60%, 65%, and 80%.

The following exceptions apply to contracts that are funded in part or in whole with federal program funds:

- For the over-income tenants residing in HOME Program Assisted units, the CONTRACTOR shall follow the 24 CFR Part 92.252.
- For the over-income tenants residing in National Housing Trust Fund Program Assisted units, the CONTRACTOR shall follow 24 CFR Part 93.302.

2.08 Comprehensive Management Plan

The CONTRACTOR shall provide to the DEPARTMENT, according to a negotiated timeline, a management plan for the operation of the Property (the "Management Plan") that meets the requirements of the Housing Trust Fund Guideline and Procedure Handbook available on the DEPARTMENT's website (www.commerce.wa.gov).

The DEPARTMENT may require additional information to be included in the Management Plan. The DEPARTMENT's failure to expressly approve or disapprove the Management Plan within a sixty (60) day period after submission shall be deemed approval thereof.

2.09 Capital Needs Assessment – Reserved

2.10 Placed in Service – Reserved

2.11 Final HPP Contract Close Out

Upon the expiration of the Commitment Period, and if payment is required, then upon full payment of the Promissory Note, the DEPARTMENT will complete a Close Out. The Deed of Trust recorded against the Property will be reconveyed and the Promissory Note will be marked "Paid" and returned to the CONTRACTOR of record at the time of Close Out. Any excess HPP monies that may be in the CONTRACTOR's possession shall be returned by the CONTRACTOR to the DEPARTMENT.

2.12 Insurance

The CONTRACTOR shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state of Washington – Department of Commerce should there be any claims,

suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the CONTRACTOR or Subcontractor, or agents of either, while performing under the terms of this Contract.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington – Department of Commerce, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The CONTRACTOR shall instruct the insurers to give DEPARTMENT thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The CONTRACTOR shall submit to DEPARTMENT, prior to execution of this Contract, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, the CONTRACTOR shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The CONTRACTOR shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of activities as outlined in Section 2.01 but no less than \$1,000,000.00 per occurrence. Additionally, the CONTRACTOR is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

Automobile Liability. In the event that performance pursuant to the activities outlined in Section 2.01 involves the use of vehicles, owned or operated by the CONTRACTOR or its Subcontractor, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000.00 per occurrence, using a Combined Single Limit for bodily injury and property damage.

Professional Liability, Errors and Omissions Insurance. In the event CONTRACTOR provides professional services, CONTRACTOR shall maintain Professional Liability Insurance in such limits as are appropriate in light of the type and extent of services provided. The CONTRACTOR shall maintain Errors and Omissions Insurance in minimum limits of no less than \$1,000,000.00 per occurrence to cover all activities by the CONTRACTOR and licensed staff employed or under contract to the CONTRACTOR. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under this policy.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the CONTRACTOR for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Contract shall be \$100,000.00 or the highest of planned reimbursement for the Contract period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name DEPARTMENT as beneficiary.
- B. Subcontractors that receive \$10,000.00 or more per year in funding through this Contract shall secure fidelity insurance as noted above. Fidelity insurance secured by Subcontractors pursuant to this paragraph shall name the CONTRACTOR as beneficiary.

- C. The CONTRACTOR shall provide, at DEPARTMENT's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary who is covered, the amounts, the period of coverage, and that the DEPARTMENT will be provided thirty (30) days advance written notice of cancellation.

2.13 Property Insurance

The CONTRACTOR shall keep the Property insured in an amount sufficient to permit such insurance to be written at all times on a replacement cost basis. Throughout the term of this Contract such insurance shall cover the following hazards:

- Loss or damage by fire and such other risks;
- Loss or damage from leakage or sprinkler systems now or hereafter installed in any building on the premises;
- Loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed in a building or building on the premises.

The state of Washington – Department of Commerce, its agents, officers, and employees shall be specifically named as loss payee or additional insureds on all policies and all policies shall be primary to any other valid and collectable insurance.

2.14 Historical or Cultural Review, Human Remains

Prior to approval and disbursement of any funds awarded under this Contract, CONTRACTOR shall complete the requirements of Governor's Executive Order 05-05, where applicable, or CONTRACTOR shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. CONTRACTOR agrees that the CONTRACTOR is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural artifacts and agrees to hold harmless the DEPARTMENT and the state of Washington in relation to any claim related to such historical or cultural artifacts discovered, disturbed, or damaged as a result of the project funded by this Contract.

In addition to the requirements set forth in this Contract, CONTRACTOR shall, in accordance with Governor's Executive Order 05-05, coordinate with the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommended consultation with any affected tribe(s), during Project design and *prior to construction* to determine the existence of any tribal cultural resources affected by Project. CONTRACTOR agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

The CONTRACTOR agrees that if historical or cultural artifacts are discovered during construction, the CONTRACTOR shall immediately stop construction and notify the local historic preservation officer and the state's historic preservation officer at DAHP. If human remains are uncovered, the CONTRACTOR shall stop work, report the presence and location of the remains to the coroner and local law enforcement immediately, and contact DAHP and the concerned tribe's cultural staff or committee.

The CONTRACTOR shall require this provision to be contained in all subcontracts for work or services resulting from this Contract.

In addition to the requirements set forth in this Contract, CONTRACTOR agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources;

RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permits.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 05-05.

In the event that the CONTRACTOR finds it necessary to amend the construction work performed under this Contract, the CONTRACTOR may be required to re-comply with Governor's Executive Order 05-05 or Section 106 of the National Historic Preservation Act.

2.15 Final Development Costs

The CONTRACTOR shall provide to the DEPARTMENT the Project's final total development costs including a detailed breakdown by cost category.

PART III: PROGRAM TERMS AND CONDITIONS

3.01 Non-Recourse Award

Notwithstanding anything to the contrary herein, CONTRACTOR, its assigns and their respective members, partners, officers, directors, employees, agents and contractors shall have no personal liability for payment of the indebtedness evidenced hereby or performance of the covenants set forth in the Promissory Note, in the Deed of Trust or in this Contract, and the sole recourse of the holder of the Promissory Note shall be confined to the exercise of its rights under the Deed of Trust, provided that nothing shall diminish the CONTRACTOR's liability for damages or deficiencies resulting from theft, waste, fraud, material misrepresentation and misuse of rents.

3.02 Casualty, Condemnation, Etc.

In the event of any fire or other casualty to the Property or eminent domain proceedings resulting in condemnation of the Property or any part thereof, CONTRACTOR shall have the right to rebuild the Property, and to use all available insurance or condemnation proceeds therefore, provided that (a) such proceeds are sufficient to keep the loan in balance and rebuild the Property in a manner that provides adequate security to the DEPARTMENT for repayment of the loan, or if such proceeds are insufficient to provide adequate security to keep the loan in balance, then CONTRACTOR has funded any deficiency, (b) DEPARTMENT shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and such approval shall not be unreasonably withheld, and (c) no uncured material default then exists under this Contract, the Promissory Note, the Deed of Trust or the Covenant. If the casualty or condemnation affects only part of the Property and total rebuilding is infeasible, then such insurance and/or condemnation proceeds may be used for partial rebuilding and partial repayment of the loan in a manner that provides adequate security to the DEPARTMENT for repayment of the remaining balance of the Grant.

The DEPARTMENT shall be specifically named as a lender loss payee on all policies, and all policies shall be primary to any other valid and collectable insurance.

3.03 Project and Related Press Releases

The CONTRACTOR shall provide all Project-related press releases to the DEPARTMENT. Press releases shall identify the DEPARTMENT as a Project financier. If signage is erected during construction or rehabilitation, signage shall identify the Project as one funded by the DEPARTMENT and HPP.

The CONTRACTOR may affix, in a publicly viewed common area, a plaque or other approved permanent signage that identifies the DEPARTMENT, program, and housing as an investment of the people of the State of Washington.

3.04 Reserve Requirements – this section reserved

3.05 Annual Reporting

Performance reports must be completed by the CONTRACTOR and submitted to the DEPARTMENT as prescribed by the current HTF Guidelines and Procedures Handbook, unless otherwise outlined here in after.

- A. Affordable housing units that have reduced AMI, in order to comply with HPP funding requirements, must identify those units on the HTF Annual Report.
- B. The reserve account balances shall be carried forward each year and reserve account activity shall be identified on the HTF Annual Report.
- C. Reductions in operating and/or utility costs shall be reported on by the CONTRACTOR no less than annually for the term of three years following the completion of preservation activities at the Project. The reporting will occur in a form and manner to be established by the DEPARTMENT.

Failure to file timely annual performance reports in accordance with DEPARTMENT requirements may result in penalties that may include, but not be limited to, the DEPARTMENT denying the CONTRACTOR's application in future funding rounds.

3.06 Program Income

All interest earned on HPP funds and held by the CONTRACTOR shall accrue to the benefit of the CONTRACTOR and be applied to the eligible costs of the approved Project.

3.07 Refinance

Approval of the DEPARTMENT shall be required for refinancing the Property. Such approval shall be at the DEPARTMENT's sole discretion and will not unreasonably be withheld. Approval will be based on the current DEPARTMENT guidelines, and factors to be considered shall include but not be limited to the following: enhancement of Property value; use of the refinance proceeds in furtherance of the DEPARTMENT's affordable housing objectives; improvement of the position of the DEPARTMENT's lien; and pay-down of the debt owed to the DEPARTMENT.

3.08 Reimbursement

Unless otherwise noted in this Contract, drawdown of funds will be made on a reimbursement basis for expenses incurred after formal execution of this Contract. At the time of drawdown, the CONTRACTOR shall provide appropriate documentation to support all costs claimed.

The CONTRACTOR shall submit reports, in a form and manner to be established by the DEPARTMENT, with each request for reimbursement regarding work under this Contract identifying the portion of Contract Amount expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned businesses.

The DEPARTMENT shall expend the Contract Award in accordance with the DEPARTMENT-approved budget. Any revision to the approved budget must be made according to procedures issued by the DEPARTMENT, must be consistent with approved Updated HPP Sources and Uses, and are subject to the General Terms and Conditions of this Contract.

The CONTRACTOR shall receive payment from the DEPARTMENT for eligible HPP expenditures through Electronic Funds Transfer. Request for payments will be made using the State's on-line Secure Access Washington (SAW) system. Payment schedules shall be established as a special condition of this Contract and will be based on adherence to and performance of Project timelines and milestones. State funds may not be used to fund any activities or costs incurred prior to the execution of this Contract unless consented to in writing by the DEPARTMENT.

3.09 Audit

Except as otherwise approved by the DEPARTMENT, the CONTRACTOR shall provide the DEPARTMENT with an annual audit that meets the requirements of the Housing Trust Fund Guideline and Procedure Handbook available on the DEPARTMENT's website (www.commerce.wa.gov).

3.10 Receipt of Non-HPP Funding

The CONTRACTOR shall notify the DEPARTMENT, upon receipt and in its HTF Annual Report, of any other public or private subsidy for the Project at any time during the Commitment Period. Such written notification shall explain the source of the funds, conditions and the effect upon the Project. The DEPARTMENT reserves the right to amend, reduce and or restructure its award to the CONTRACTOR based upon the CONTRACTOR's receipt of additional project funding.

3.11 Acquisition and Disposition of Property and Equipment

The use of proceeds from the sale or lease of real property acquired with HPP funds shall be directed by the terms and conditions specified in Part II, Scope of Work.

3.12 Billing Procedures and Payment

The DEPARTMENT will pay the CONTRACTOR upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the DEPARTMENT, not more often than monthly.

The invoices shall describe and document, to DEPARTMENT'S satisfaction, a description of the work performed, the progress of the Project, and fees. The invoice shall include the Contract Number: 18P-94115-004. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of Fifty and 00/100 Dollars (\$50.00) or more in order to receive reimbursement.

Payment shall be considered timely if made by DEPARTMENT within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The DEPARTMENT may, in its sole discretion, terminate this Contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Contract shall be made by the DEPARTMENT.

Duplication of Billed Costs

The CONTRACTOR shall not bill the DEPARTMENT for services performed under this Contract, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

3.13 Stored Materials – This Section 3.13 only applies to construction and rehabilitation Projects

The DEPARTMENT may withhold any disbursement for materials or fixtures ("Stored Materials") for the Project until such time as the same have been incorporated into the Improvements and permanently affixed to the real property. Any disbursement of funds, in whole or in part, that is to pay for any Stored Materials will be made on a case-by-case basis and will be subject, in addition to satisfaction of the other conditions to disbursements contained in this Contract, and to the DEPARTMENT's receipt of evidence reasonably acceptable to the DEPARTMENT that: (a) such Stored Materials are included within the coverage's of insurance policies carried by CONTRACTOR in accordance with this Contract; (b) such Stored Materials have been, or upon disbursement of the requested advance will be, fully paid for with the ownership thereof vested in the CONTRACTOR free of any liens or claims of third parties; (c) such Stored Materials are stored either on the Property or in a bonded warehouse; (d) such Stored Materials are suitably protected against casualty, theft or damage; and (e) such Stored Materials, if they are finished components, are ready for installation and are appropriate for purchase during the current stage of construction.

3.14 Nondiscrimination

The CONTRACTOR shall make the Project facilities available in a manner that assures fair, equal, and non-discriminatory treatment to all persons. During the performance of this Contract, the CONTRACTOR shall comply with all federal and state nondiscrimination laws, including but not limited to chapter 49.60 RCW, Washington's Law Against Discrimination; 42 U.S.C. 12101 et seq., the American with Disabilities Act ("ADA"); and Title VII of the Civil Rights Act of 1964, Public Law 88-352. The funds provided under this Contract shall not be used to fund religious worship, exercise, or instruction.

3.15 Tax Credit Entity – this section reserved

3.16 Notice in the Event of Default – this section reserved

PART IV: INTERPRETATION OF CONTRACT

4.01 Construction

All terms and provisions in this Contract, as well as the attachments, shall be construed in accordance with their ordinary and customary meaning. Where there is a conflict between this Contract and the CONTRACTOR's HPP application, the Contract controls.

4.02 Entire Agreement

This Contract including referenced attachments represents all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

4.03 Conformance

If any provision of this Contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

4.04 Order of Precedence

In the event of an inconsistency in this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- i. Applicable Federal and State of Washington statutes and regulations.
- ii. Specific Terms and Conditions as contained in this basic Contract instrument
- iii. Attachment I - General Terms and Conditions
- iv. Any other provision, term or material incorporated herein by reference or otherwise incorporated

4.05 Approval

This Contract shall be subject to the written approval of the DEPARTMENT's authorized representative and shall not be binding until so approved. This Contract may be altered, amended or waived only by a written amendment executed by both parties.

4.06 Rights and Obligations

All rights and obligations of the parties to this Contract shall be subject to and governed by the Specific Terms and Conditions contained in the text of this Contract instrument and the following documents are incorporated into this Contract by reference:

- HUD Income Limits found on HUD's website
- Attachment A - Funding Period and Re-Payment Terms
- Attachment B - Multi-Family Target Population to be Served by Project
- Attachment I - General Terms and Conditions
- CONTRACTOR's HPP Application
- Approved Schedule and Budget
- Deed of Trust and Promissory Note
- Low Income Housing Covenant Agreement
- Housing Trust Fund Guideline and Procedure Handbook available on the DEPARTMENT's website (www.commerce.wa.gov)
- The 2018 Housing Preservation Program Notice of Funding Availability (NOFA)

This Contract 18P-94115-004 is executed by the persons signing below who warrant that they have the authority to execute this Contract.

DEPARTMENT OF COMMERCE,
a department of the state of Washington

**HOUSING AUTHORITY OF THE CITY
OF LONGVIEW,**
a Washington municipality corporation

Signature

Signature

Diane Klontz

Printed Name

Printed Name

**Assistant Director, Community Services
and Housing Division**

Title

Title

Date

Date

Contract Template Approved as to Form by:

Sandra Adix,
Assistant Attorney General, State of Washington

Date: 11/18/09

Draft - Review - 10.22.19

ATTACHMENT A
Contract Number: 18P-94115-004

FUNDING PERIOD AND RE-PAYMENT TERMS

I. Funding Period			
Grant#	Number of Years	Start Date	End Date
1	15	11/15/2019	11/14/2034

II. Re-Payment Terms	
1	The Recoverable Grant (Grant # 18P-94115-004) will have no expectation of repayment if the terms and conditions of the Contract have been met through the Commitment Period, as defined in Section 2.05.B of this Contract. However, if the Property is sold, refinanced, transferred, the use changes during the Commitment Period, or the CONTRACTOR is materially out of compliance with the terms and conditions of this Contract, the award amount, plus a proportional share of the appreciated value of the Property will be due and payable to the DEPARTMENT within thirty (30) days of such event.

Draft - Review - 10.4.20

ATTACHMENT B
Contract Number: 18P-94115-004
Sylvester Apartments

Multi-Family Target Population to be Served Through the Contract Commitment Period

AMI Counties and Area	
County	AMI Area
Cowlitz	Longview, WA MSA

Income Levels		
AMI %	Multi-Family Units	Homeless Multi-Family Units
At or Below 30%	18	
At or Below 35%		
At or Below 40%		
At or Below 45%		
At or Below 50%	17	
At or Below 55%		
At or Below 60%		
At or Below 65%		
Below 80%		
*Un-Restricted		
Totals=	35	
GRAND TOTAL=		35

*Where "un-restricted" means the unit(s) will not be income or rent restricted.

ATTACHMENT I
GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "DEPARTMENT" shall mean the Department of Commerce.
- C. "Contract" or "Agreement" means the entire written agreement between DEPARTMENT and the CONTRACTOR, including the Special Terms and Conditions, Attachments, Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this Contract shall be the same as delivery of an original.
- D. "CONTRACTOR" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the CONTRACTOR.
- E. "Personal Information" shall mean information identifiable to any person including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "Subcontractor" shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this Contract under a separate contract with the CONTRACTOR. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALLOWABLE COSTS

Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum award amount stated in the Special Terms and Conditions.

3. ALL WRITINGS CONTAINED HEREIN

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

4. AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

6. APPROVAL

This Contract shall be subject to the written approval of DEPARTMENT's Authorized Representative and shall not be binding until so approved. This Contract may be altered, amended, or waived only by a written amendment executed by both parties.

7. ASSIGNMENT

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of DEPARTMENT.

8. ATTORNEYS' FEES

Unless expressly permitted under another provision of this Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorney's fees and costs.

9. AUDIT

A. General Requirements

CONTRACTOR's are to procure audit services based on the following guidelines.

The CONTRACTOR shall maintain its records and accounts so as to facilitate audits and shall ensure that Subcontractors also maintain auditable records.

The CONTRACTOR is responsible for any audit exceptions incurred by its own organization or that of its Subcontractors.

DEPARTMENT reserves the right to recover from the Grantee all disallowed costs resulting from the audit.

Responses to any unresolved findings and disallowed or questioned costs shall be included with the audit report. The CONTRACTOR must respond to DEPARTMENT requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

B. State Funds Requirements

In the event an audit is required, if the CONTRACTOR is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the CONTRACTOR.

The CONTRACTOR shall include the above audit requirements in any subcontracts.

In any case, the CONTRACTOR's records must be available for review by DEPARTMENT.

C. Documentation Requirements

The CONTRACTOR must send a copy of any audit report no later than nine (9) months after the end of the CONTRACTOR's fiscal year(s) by sending a scanned copy to auditreview@commerce.wa.gov or a hard copy to:

Department of Commerce
ATTN: Audit Review and Resolution Office
1011 Palm Street SE
PO Box 42525
Olympia WA 98504-2525

In addition to sending a copy of the audit, when applicable, the CONTRACTOR must include:

- Corrective action plan for audit findings within three (3) months of the audit being received by DEPARTMENT.
- Copy of the Management Letter and Management Decision Letter, where applicable.

If the CONTRACTOR is required to obtain a Single Audit consistent with Circular A-133 requirements, a copy must be provided to DEPARTMENT; no other report is required.

10. CODE REQUIREMENTS

All construction and rehabilitation Projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

1. All material provided to the CONTRACTOR by DEPARTMENT that is designated as "confidential" by DEPARTMENT;
2. All material produced by the CONTRACTOR that is designated as "confidential" by DEPARTMENT; and
3. All personal information in the possession of the CONTRACTOR that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The CONTRACTOR shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The CONTRACTOR shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of DEPARTMENT or as may be required by law. The CONTRACTOR shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the CONTRACTOR shall provide DEPARTMENT with its policies and procedures on confidentiality. DEPARTMENT may require changes to such policies and procedures as they apply to this Contract whenever DEPARTMENT reasonably determines that changes are necessary to prevent unauthorized disclosures. The CONTRACTOR shall make the changes within the time period specified by DEPARTMENT. Upon request, the CONTRACTOR shall immediately return to DEPARTMENT any Confidential Information that DEPARTMENT reasonably determines has not been adequately protected by the CONTRACTOR against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The CONTRACTOR shall notify DEPARTMENT within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

12. CONFORMANCE

If any provision of this Contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

13. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, DEPARTMENT may, in its sole discretion, by written notice to the CONTRACTOR terminate this Contract if it is found after due notice and examination by DEPARTMENT that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this Contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The CONTRACTOR and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on the Housing Trust Fund including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the twenty-four (24) month period preceding the start date of this Contract. Identify the individual by name, the agency previously or currently employed by, job title or

position held, and separation date. If it is determined by DEPARTMENT that a conflict of interest exists, the CONTRACTOR may be disqualified for an award.

In the event this Contract is terminated as provided above, DEPARTMENT shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of this Contract by the CONTRACTOR. The rights and remedies of DEPARTMENT provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which DEPARTMENT makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

14. COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by DEPARTMENT. DEPARTMENT shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the CONTRACTOR hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to DEPARTMENT effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under this Contract, but that incorporate pre-existing materials not produced under this Contract, the CONTRACTOR hereby grants to DEPARTMENT a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The CONTRACTOR warrants and represents that the CONTRACTOR has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to DEPARTMENT.

The CONTRACTOR shall exert all reasonable effort to advise DEPARTMENT, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The CONTRACTOR shall provide DEPARTMENT with prompt written notice of each notice or claim of infringement received by the CONTRACTOR with respect to any Materials delivered under this Contract. DEPARTMENT shall have the right to modify or remove any restrictive markings placed upon the Materials by the CONTRACTOR.

15. DISALLOWED COSTS

The CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

16. DISPUTES

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of DEPARTMENT, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the CONTRACTOR's name, address, and Contract number; and
- be mailed to the Director and the other party's (respondent's) Contract Contact within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

17. DUPLICATE PAYMENT

The CONTRACTOR certifies that work to be performed under this Contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

18. GOVERNING LAW AND VENUE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

19. INDEMNIFICATION

To the fullest extent permitted by law, the CONTRACTOR shall indemnify, defend, and hold harmless the state of Washington, DEPARTMENT, agencies of the State and all officials, agents and employees of the State, for, from and against all claims for injuries or death arising out of or resulting from the performance of this Contract. "Claim" as used in this Contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The CONTRACTOR's obligation to indemnify, defend, and hold harmless includes any claim by CONTRACTOR's agents, employees, representatives, or any subcontractor or its employees.

The CONTRACTOR expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to the CONTRACTOR's or any subcontractor's performance or failure to perform this Contract. CONTRACTOR's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

The CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

20. INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Contract. The CONTRACTOR and its employees or agents performing under this Contract are not employees or agents of the state of Washington or DEPARTMENT. The CONTRACTOR will not hold itself out as or claim to be an officer or employee of DEPARTMENT or of the state of Washington by reason hereof, nor will the CONTRACTOR make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

21. INDUSTRIAL INSURANCE COVERAGE

The CONTRACTOR shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the CONTRACTOR fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, DEPARTMENT may collect from the CONTRACTOR the full amount payable to the Industrial Insurance Accident Fund. DEPARTMENT may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by DEPARTMENT.

under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the CONTRACTOR.

22. LAWS

The CONTRACTOR shall comply with all applicable laws, ordinances, codes, regulations and policies of local and state and federal governments, as now or hereafter amended including, but not limited to:

Washington State Laws and Regulations

- A. Affirmative action, RCW 41.06.020 (1).
- B. Boards of directors or officers of non-profit corporations – Liability - Limitations, RCW 4.24.264.
- C. Disclosure-campaign finances-lobbying, Chapter 42.17A RCW.
- D. Discrimination-human rights commission, Chapter 49.60 RCW.
- E. Ethics in public service, Chapter 42.52 RCW.
- F. Housing assistance program, Chapter 43.185 RCW
- G. Interlocal cooperation act, Chapter 39.34 RCW.
- H. Noise control, Chapter 70.107 RCW.
- I. Office of minority and women's business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC.
- J. Open public meetings act, Chapter 42.30 RCW.
- K. Prevailing wages on public works, Chapter 39.12 RCW.
- L. Public records act, Chapter 42.56 RCW.
- M. Relocation assistance - real property acquisition policy, Chapter 8.26 RCW.
- N. Shoreline management act of 1971, Chapter 90.58 RCW.
- O. State budgeting, accounting, and reporting system, Chapter 43.88 RCW.
- P. State building code, Chapter 19.27 RCW and Energy-related building standards, Chapter 19.27A RCW, and Provisions in buildings for aged and handicapped persons, Chapter 70.92 RCW.
- Q. State Coastal Zone Management Program, Publication 01-06-003, Shorelands and Environmental Assistance Program, Washington State Department of Ecology.
- R. State environmental policy, Chapter 43.21C RCW.
- S. State Executive Order 05-05 Archeological and Cultural Resources.

23. LICENSING, ACCREDITATION AND REGISTRATION

The CONTRACTOR shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

24. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

25. LOCAL PUBLIC TRANSPORTATION COORDINATION

Where applicable, CONTRACTOR shall participate in local public transportation forums and implement strategies designed to ensure access to services.

26. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Contract, the CONTRACTOR shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the CONTRACTOR's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts with DEPARTMENT. The CONTRACTOR shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

27. PAY EQUITY

The CONTRACTOR agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- a. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- b. CONTRACTOR may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
 - (i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
 - (ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.
 - (iii) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by the DEPARTMENT, if the DEPARTMENT or the Department of Enterprise Services determines that the CONTRACTOR is not in compliance with this provision.

28. POLITICAL ACTIVITIES

Political activity of CONTRACTOR employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

29. PREVAILING WAGE LAW

The CONTRACTOR certifies that all contractors and subcontractors performing work on the Project, as "Project" is defined in the Specific Terms and Conditions of this Contract, shall comply with state Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The CONTRACTOR shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW and shall make such records available for DEPARTMENT's review upon request.

If the funding under this Contract is in the form of a repayable loan that is incurring interest, is not forgivable, and is required to be repaid in full, this loan in and of itself is not expected to trigger a requirement that state prevailing wages be paid on the Project. Notwithstanding the foregoing, CONTRACTOR acknowledges that the full set of facts for its Project must be considered to ascertain the applicability of Prevailing Wages law, Chapter 39.12 RCW, and a definitive determination can only be obtained from the Washington State Department of Labor and Industries. If the Project is receiving other public funds and/or the CONTRACTOR is a public entity (e.g., a city, county, housing authority), the CONTRACTOR may be required to pay prevailing wages on the Project. The CONTRACTOR agrees that it is responsible for determining if Prevailing Wages laws, Chapter 39.12 RCW, apply to the Project and that DEPARTMENT will not make such a determination.

CONTRACTOR will be responsible for any prevailing wage payments that may be required by law. DEPARTMENT strongly recommends that CONTRACTOR consult with the Washington State Department of Labor and Industries and/or private legal counsel to determine whether or not prevailing wages must be paid on the Project and, if so, what wage rates apply. CONTRACTOR acknowledges that failure to secure a determination from the Washington State Department of Labor and Industries prior to commencement of work on the Project can result in significant additional cost to the Project.

If the funding provided under this Contract is in whole or in part a grant or a forgivable loan, the CONTRACTOR agrees that Prevailing Wages on Public Works, Chapter 39.12 RCW, shall apply to the Project, and all contractors and subcontractors performing work on the Project shall consult with Washington State Department of Labor and Industries, as necessary, and file the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040.

30. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees for bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as Project costs.

31. PUBLICITY

The CONTRACTOR agrees not to publish or use any advertising or publicity materials in which the state of Washington or DEPARTMENT's name is mentioned, or language used from which the connection with the state of Washington's or DEPARTMENT's name may reasonably be inferred or implied, without the prior written consent of DEPARTMENT.

32. RECAPTURE

In the event that the CONTRACTOR fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, DEPARTMENT reserves the right to recapture funds in an amount to compensate DEPARTMENT for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the CONTRACTOR of funds under this recapture provision shall occur within the time period specified by DEPARTMENT. In the alternative, DEPARTMENT may recapture such funds from payments due under this Contract.

33. RECORDS MAINTENANCE

The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract.

CONTRACTOR shall retain such records for a period of six (6) years following the termination date of this Contract. At no additional cost, these records, including materials generated under this Contract, shall be subject at all reasonable times to inspection, review or audit by DEPARTMENT, personnel duly authorized by DEPARTMENT, the Office of the State Auditor, and federal and State officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

34. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the CONTRACTOR shall complete registration with the Washington State Department of Revenue.

35. RIGHT OF INSPECTION

At no additional cost all records relating to the CONTRACTOR's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by DEPARTMENT, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The CONTRACTOR shall provide access to its facilities for this purpose.

36. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the execution date of this Contract and prior to normal completion, DEPARTMENT may terminate this Contract under the "Termination for Convenience" clause, without the ten (10) business day notice requirement. In lieu of termination, this Contract may be amended to reflect the new funding limitations and conditions.

37. SEVERABILITY

The provisions of this Contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Contract.

38. SUBCONTRACTING

The CONTRACTOR may only subcontract work contemplated under this Contract if it obtains the prior written approval of DEPARTMENT.

If DEPARTMENT approves subcontracting, the CONTRACTOR shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, DEPARTMENT in writing may: (a) require the CONTRACTOR to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the CONTRACTOR from subcontracting with a particular person or entity; or (c) require the CONTRACTOR to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The CONTRACTOR is responsible to DEPARTMENT if the Subcontractor fails to comply with any applicable term or condition of this Contract. The CONTRACTOR shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the CONTRACTOR to DEPARTMENT for any breach in the performance of the CONTRACTOR's duties.

Every subcontract shall include a term that DEPARTMENT and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

39. SURVIVAL

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

40. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the CONTRACTOR's income or gross receipts, any other taxes, insurance or expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

41. TERMINATION FOR CAUSE

In the event DEPARTMENT determines the CONTRACTOR has failed to comply with the conditions of this Contract in a timely manner, DEPARTMENT has the right to suspend or terminate this Contract. Before suspending or terminating this Contract, DEPARTMENT shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days, this Contract may be terminated or suspended.

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

DEPARTMENT reserves the right to suspend all or part of this Contract, withhold further disbursement of funds awarded by this Contract, or prohibit the CONTRACTOR from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the CONTRACTOR or a decision by DEPARTMENT to terminate this Contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the CONTRACTOR: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of DEPARTMENT provided in this Contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

42. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract DEPARTMENT may, by ten (10) business days written notice, beginning on the second (2nd) day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, DEPARTMENT shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

43. TERMINATION PROCEDURES

Upon termination of this Contract, DEPARTMENT, in addition to any other rights provided in this Contract, may require the CONTRACTOR to deliver to DEPARTMENT any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

DEPARTMENT shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by DEPARTMENT, and the amount agreed upon by the CONTRACTOR and DEPARTMENT for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by DEPARTMENT, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of DEPARTMENT. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Contract. DEPARTMENT may withhold from any amounts due the CONTRACTOR such sum as the Authorized Representative determines to be necessary to protect DEPARTMENT against potential loss or liability.

The rights and remedies of DEPARTMENT provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the CONTRACTOR shall:

1. Stop work under this Contract on the date, and to the extent specified, in the notice;

2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under this Contract that is not terminated;
3. Assign to DEPARTMENT, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case DEPARTMENT has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to DEPARTMENT and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if this Contract had been completed, would have been required to be furnished to DEPARTMENT;
6. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
7. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Contract, which is in the possession of the CONTRACTOR and in which DEPARTMENT has or may acquire an interest.

44. TREATMENT OF ASSETS

Title to all property furnished by DEPARTMENT shall remain in DEPARTMENT. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in DEPARTMENT upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this Contract, shall pass to and vest in DEPARTMENT upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by DEPARTMENT in whole or in part, whichever first occurs.

- A. Any property of DEPARTMENT furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by DEPARTMENT, be used only for the performance of this Contract.
- B. The CONTRACTOR shall be responsible for any loss or damage to property of DEPARTMENT that results from the negligence of the CONTRACTOR or which results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.
- C. If any DEPARTMENT property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify DEPARTMENT and shall take all reasonable steps to protect the property from further damage.
- D. The CONTRACTOR shall surrender to DEPARTMENT all property of DEPARTMENT prior to settlement upon completion, termination or cancellation of this contract

All references to the CONTRACTOR under this clause shall also include CONTRACTOR's employees, agents or Subcontractors.

45. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of DEPARTMENT.

When Recorded Return To:

Washington State Department of Commerce
Housing Trust Fund
1011 Plum Street SE
Post Office Box 42525
Olympia, Washington 98504-2525

Attention: HFU Contracts/Fiscal Group

LEASEHOLD DEED OF TRUST

Grantor (Borrower): Housing Authority of the City of Longview
Grantor (Lessor): Cowlitz County Public Facilities District
Beneficiary (Lender): Department of Commerce
Grantee (Trustee): Cascade Title
Legal Description (abbreviated): See Legal Description Below
Assessor's Tax Parcel ID#: 00504
Contract Number: 18P-04115-004

THIS LEASEHOLD DEED OF TRUST (hereinafter called "Deed of Trust") is made this ____ day of _____, 20____, between Housing Authority of the City of Longview, a Washington municipality, whose mailing address is 820 11th Ave Longview, WA 98632 as Grantor ("Lessee"); Cascade Title, whose mailing address is 1425 Maple Street Longview, WA 98632 as Trustee ("Trustee"); and the Washington State Department of Commerce, or its successor agency, as Beneficiary ("Beneficiary"), whose location and mailing addresses are 1011 Plum Street SE, P.O. Box 42525, Olympia, Washington 98504-2525.

1. Grant. Lessee hereby irrevocably grants, bargains, sells and conveys to Trustee in trust, with power of sale, the following described property in Cowlitz County, Washington:

That certain leasehold estate (hereinafter called "leasehold estate"), together with and including all right, title and interest of Grantor therein, which said leasehold estate embraces and covers the real property hereinafter described, situated, lying in the City of Longview, County of Cowlitz, State of Washington, and is more particularly described as: The leasehold estate created by that certain Lease (hereinafter called "Lease") dated the 9th of December, 2010, executed by and between Cowlitz County Public Facilities District, a Longview Housing Authority, as Lessor, and Housing Authority of the City of Longview, a Washington municipality, as Lessee, for a term of 34 years beginning on the 1st day of November, 2010, which the Lease was recorded

on the 27th day of January, 2011, as Instrument No. 3431151, in the Office of the County Auditor of Cowlitz, state of Washington, and covers the following described property:

LOTS 15, 16, 17, 18 AND 19, BLOCK 82, LONGVIEW NO. 2, AS RECORDED IN VOLUME 5 OF PLATS, PAGE 15, RECORDS OF COWLITZ COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF COWLITZ, STATE OF WASHINGTON

(the "Property")

TOGETHER WITH all right, title and interest of Lessor in and to all options to purchase, options of first refusal and renewal options with respect to the Lease or said property or any portion thereof or any interest therein and in and to any greater estate in said property (including the fee simple estate) as may be subsequently acquired by or release to Lessee.

TOGETHER WITH all interest, estate or other claims, both in law or equity, which Lessee now has or may hereafter acquire in said property.

1.1. The Lease shall not be modified or changed in any way without the written consent of Beneficiary.

1.2. Beneficiary shall be immediately furnished with all Notices of Default served by Lessor of the Lease on Lessee.

1.3. In the event Grantor shall fail to make payment due on the Lease or to perform any term or covenant as provided therein, in addition to any such default constituting a default under this Deed of Trust, Beneficiary may, at its option, make the defaulted payments or perform the term or covenant and add the same to the amount due under this Leasehold Deed of Trust without waiving any of its rights under this Leasehold Deed of Trust and the Note which it secures.

1.4. If both the Lessor's and the Lessee's estate under the Lease shall at any time become vested in one owner, this Leasehold Deed of Trust and the lien created hereby shall not be destroyed or terminated by the application of the doctrine of merger, and in such event, Beneficiary shall continue to have and to enjoy all of the rights, title, interest and privileges of Beneficiary as to the separate estates. In addition, foreclosure of said property shall not destroy or terminate the Lease by application of the doctrine of merger or as a matter of law or as a result of foreclosure unless Beneficiary or any purchaser at foreclosure sale shall so elect. In the event that Lessee shall, at any time prior to the payment in full of all indebtedness secured by this Deed of Trust, acquire fee simple title to said property, such fee simple title shall not merge with the leasehold estate encumbered by this Deed of Trust, but such fee simple title shall immediately, without further action on the part of the Lessee, become subject to the lien hereof. In the event of such acquisition by Lessee, Lessee agrees to execute and deliver to Beneficiary such further instruments, conveyances and assurances as Beneficiary may reasonably require in order to further confirm and assure that the fee simple title so acquired by Grantor is subject to the terms, provisions and lien of this Deed of trust. The provisions of this paragraph shall not

apply in the event Beneficiary acquires the fee of said property, except if Beneficiary shall so elect. Said Property is not used for agricultural or farming purposes.

2. Obligations Secured. This deed is given for the purpose of securing payment in the amount of Three Hundred Ninety-Four Thousand Six Hundred Seventy-Five Dollars and 00/100 dollars (\$394,675.00) payable by the Lessee to the Beneficiary evidenced by a Promissory Note between Housing Authority of the City of Longview and the Washington State Department of Commerce dated _____, 20____ and Housing Preservation Program Contract Number 18P-94115-004 between Housing Authority of the City of Longview and Washington State Department of Commerce as now or hereafter amended, securing performance of each term and condition of said Contract and Promissory Note, together with all future advances.

3. Protection of Security. To protect the security of this Deed of Trust, Lessee covenants and agrees:

3.1. To keep the Property in good condition and repair; to permit no waste thereof; to complete any building, structure or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, conditions and restrictions affecting the property.

3.2. To pay before delinquent all lawful taxes and assessments upon the Property; to keep the Property free and clear of all other charges, liens, or encumbrances impairing the security of this Deed of Trust.

3.3. To keep all buildings now or hereafter on the Property continuously insured against loss by fire or other hazards in an amount not less than the replacement cost of the Property. Except as otherwise provided herein and in the Contract the amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order, as the Beneficiary shall determine, subject to the rights of any senior lien-holder. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, and subject to the rights of the Beneficiary or beneficiaries of any senior deed of trust, all rights of Lessee in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

3.4. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

3.5. To pay all costs, fees and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured hereby and Trustee's and attorney's fees actually incurred, as provided by statute.

3.6. Should Lessee fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances or other charges against the Property, Beneficiary may, but shall not be obligated, to pay the same, and the amount so paid shall be added to and become a part of the debt secured by this Deed of Trust.

4. General Conditions. The parties hereto agree that:

4.1. In the event of any fire or other casualty to the Property or eminent domain proceedings resulting in condemnation of the Property or any part thereof, Lessor shall have the right to rebuild the Property, and to use all available insurance or condemnation proceeds therefore, provided that (a) such proceeds are sufficient to keep the loan in balance and rebuild the Property in a manner that provides adequate security to the Beneficiary for repayment of the loan, or if such proceeds are insufficient to provide adequate security or to keep the loan in balance, then Grantor has funded any deficiency, (b) Beneficiary shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and such approval shall not be unreasonably withheld, and (c) no material default then exists under the Contract, the Note, this Leasehold Deed of Trust or the Covenant. If the casualty or condemnation affects only part of the Property and total rebuilding is infeasible, then such insurance and/or condemnation proceeds may be used for partial rebuilding and partial repayment of the loan in a manner that provides adequate security to the Beneficiary for repayment of the remaining balance of the loan.

4.2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

4.3. The Trustee shall reconvey all or any part of the Property covered by this Leasehold Deed of Trust to the person entitled thereto on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligations secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

4.4. Power of Sale. Pursuant to Chapter 31.24 of the Revised Codes of Washington ("Deeds of Trust Act") and upon default by Grantor without timely cure and after written notice of thirty (30) days in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, all sums secured hereby shall immediately become due and payable. In such event and upon written notice of Beneficiary, the property shall be sold, in accordance with the Deeds of Trust Act of the State of Washington, at public auction to the highest bidder. Any person may bid at the Trustee's sale. Subject to the rights of the beneficiary or beneficiaries of any senior deed of trust, the proceeds of the sale shall be applied as follows: (1) to the expense of the sale, including a reasonable Trustee's fee and attorney's fee; (2) to the obligation secured by this Deed of Trust; (3) the surplus, if any, shall be distributed to the person or persons entitled thereto.

4.5. A Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Lessee had or had the power to convey at the time of the execution of this Deed of Trust, and such as Lessor may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of a bona fide purchaser for value.

4.6. The power of sale conferred by this Leasehold Deed of Trust and by the Deeds of Trust Act of the State of Washington is not an exclusive remedy; Beneficiary may cause this Leasehold Deed of Trust to be foreclosed as a mortgage.

4.7. Beneficiary may at any time appoint or discharge the Trustee.

4.8. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto and their successors and assigns. The terms "Lessee," "Trustee," and "Beneficiary" include their successors and assigns.

5. Acceleration. Except as otherwise provided for in the contract, if without Beneficiary's prior written consent, all or any part of the Property or any interest in it is sold, conveyed, transferred, encumbered, or the Property is not used as required by the Low Income Housing Covenant Agreement between Beneficiary and Lessee, Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the date of this Deed of Trust. If Beneficiary exercises this option, Beneficiary shall give Lessee notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is delivered or mailed within which Lessee must pay all sums secured by this Deed of Trust. If Lessee fails to pay these sums prior to the expiration of this period, Beneficiary may invoke any remedies permitted by this Leasehold Deed of Trust without further notice or demand on Lessee.

{SIGNATURE AND NOTARY BLOCKS FOLLOW}

Draft - Review - 10.21.19

WITNESS the hand and seal of the Grantor on the day and year first written above.

HOUSING AUTHORITY OF THE CITY OF LONGVIEW,
a Washington municipality corporation,

By: _____

Printed Name: _____

Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF COWLITZ)

On this _____ day of _____, 2019, before me, the undersigned, a
Notary Public in and for the state of Washington, duly commissioned and sworn,
_____ is the person who appeared before me, and said person acknowledged
that he/she signed the instrument, on oath stated that he/she was authorized to execute the instrument and
acknowledged it as the _____ of **Housing Authority of the City of
Longview**, a Washington municipality corporation, and acknowledged said instrument to be the free and
voluntary act and deed of such corporation, for the uses and purposes mentioned in the instrument.

(Seal or Stamp)

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

NOTARY PUBLIC in and for the state of Washington

My Commission Expires: _____

When Recorded Return To:

Washington State Department of Commerce
Housing Trust Fund
1011 Plum Street SE
Post Office Box 42525
Olympia, Washington 98504-2525

Attention: HFU Contracts/Fiscal Group

LOW INCOME HOUSING COVENANT AGREEMENT

Grantor (Borrower): Housing Authority of the City of Longview
Beneficiary (Lender): Department of Commerce
Legal Description (abbreviated): See Legal Description Below
Assessor's Tax Parcel ID#: 00504
Contract Number: 18P-94115-004

This Low Income Housing Covenant Agreement (the "Covenant") is made by Housing Authority of the City of Longview, a Washington municipality corporation ("Grantor") and is part of the consideration for the financial assistance provided by the Department of Commerce, a department of the state of Washington ("Grantee"), to Housing Authority of the City of Longview pursuant to a Housing Preservation Program Fund Contract Number 18P-94115-004 (the "Contract"), for the rehab of real property legally described as follows:

**LOTS 15, 16, 17, 18 AND 19, BLOCK 82, LONGVIEW NO. 2, AS RECORDED IN
VOLUME 5 OF PLATS, PAGE 15, RECORDS OF COWLITZ COUNTY,
WASHINGTON.**

SITUATE IN THE COUNTY OF COWLITZ, STATE OF WASHINGTON

(the "Property").

This Covenant will be filed and recorded in the official public land records of Cowlitz County, Washington and shall constitute a restriction upon the use of the property and is construed as running with the land which shall pass to and be binding upon the Grantor, its successors and assigns, heirs, grantees, or lessees of the Property, beginning November 15, 2019 and ending November 14, 2034. Each and every contract, deed or other instrument covering or conveying the Property, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants, regardless of whether such covenants are set forth in such contract, deed, or other instruments.

NOW, THEREFORE, it is hereby covenanted, commencing November 15, 2019 and terminating November 14, 2034, as follows:

1. The thirty-five (35) residential units on the Property will be rented to households who at the time of initial occupancy have gross annual household incomes as set forth in Attachment B attached hereto of the local area median income for Longview, WA MSA, adjusted for the imputed household size, as estimated from time to time by the United States Department of Housing and Urban Development ("HUD"). If HUD ceases to provide such estimates of median income, then median income shall mean such comparable figure for Cowlitz County, Washington published or reported by a federal, state, or local agency as the Department shall select. Rents shall not exceed thirty percent (30%) of the monthly income of the target population (as defined in Section 2.06 in the contract) be adjusted for household size and are less the monthly allowance for customary utilities and services (excluding telephone, cable television and other telecommunications), to be paid by tenant.

2. The Grantor will provide safe and sanitary housing, and will comply with all state and local housing codes, licensing requirements, and other requirements regarding the condition of the structure and the operation of the project in the jurisdiction in which the housing is located.

3. The Grantor will keep any records and make any reports relating to compliance with this covenant that the Department may reasonably require.

4. DEFAULT: If a violation of this Covenant occurs, the Department (or its successor agency) may, after thirty (30) days' notice to the Grantor, institute and prosecute any proceeding at law or equity to abate, default the loan, prevent, or enjoin any such violation or to compel specific performance by the Grantor of its obligations hereunder; provided that, the Grantor shall not be required by any provision herein to evict a residential tenant. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage, or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

IN WITNESS HEREOF, Housing Authority of the City of Longview has executed this Covenant on the _____ day of _____, 2019.

WITNESS:

HOUSING AUTHORITY OF THE CITY OF LONGVIEW,
a Washington municipality corporation,

By: _____

Printed Name: _____

Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF COWLITZ)

On this _____ day of _____, 2019, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared _____ to me personally known (or proved on the basis of satisfactory evidence) to be the _____ of **Housing Authority of the City of Longview**, a Washington municipality corporation, and acknowledged said instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes mentioned, and on oath stated that he/she was authorized to execute the said instrument.

(Seal or Stamp)

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

NOTARY PUBLIC in and for the state of Washington

My Commission Expires: _____

ATTACHMENT B
Contract Number: 18P-94115-004
Sylvester Apartments

Multi-Family Target Population to be Served Through the Contract Commitment Period

AMI Counties and Area	
County	AMI Area
Cowlitz	Longview, WA MSA

Income Levels		
AMI %	Multi-Family Units	Homeless Multi-Family Units
At or Below 30%	18	
At or Below 35%		
At or Below 40%		
At or Below 45%		
At or Below 50%		
At or Below 55%		
At or Below 60%		
At or Below 65%		
Below 80%		
*Un-Restricted		
Totals=	35	
GRAND TOTAL		35

*Where "un-restricted" means the unit(s) will not be income or rent restricted.

PROMISSORY NOTE

Sylvester Apartments

\$394,675.00

Longview, WA

FOR VALUE RECEIVED, Housing Authority of the City of Longview, a Washington municipality corporation ("Borrower"), promises to pay in lawful money of the United States of America, to the order of State of Washington Department of Commerce, or its successor agency, ("Lender") at 1011 Plum Street SE, Post Office Box 42525, Olympia, Washington 98504-2525, the principal sum of Three Hundred Ninty-Four Thousand Six Hundred Seventy-Five Dollars and 00/100 (\$394,675.00), or so much thereof as may be advanced hereunder.

This Promissory Note ("Note") is subject to the terms and conditions of the Housing Preservation Program Fund Contract Number 18P-94115-004 ("Contract") executed between the Borrower and the Lender. Disbursement of the funds evidenced by this Note is to be made subject to the terms and conditions of the Contract. Borrower agrees that a schedule of the dates and amounts of advances and repayments on this Note certified by an officer of Lender shall be conclusive evidence for all purposes of such dates and amounts. All amounts payable hereunder shall be paid without any set-off or deduction of any nature.

Except as otherwise provided for in the Contract, in the event the Property is sold or the Property is not used as required by the Contract prior to the end of the Commitment Period required in the Contract, Lender, or its successor agency, shall be entitled to (1) the unpaid principal balance of this Note and any accrued interest, and (2) an amount representing the prorated, appreciated value of the Property as defined in the Contract.

In case Borrower defaults in payment of this Note, Borrower agrees to pay all of Lender's costs of collection, including but not limited to, reasonable attorney's fees incurred by Lender or the holder of this Note whether or not suit is instituted. If any legal proceedings are instituted relating to this Note, including without limitation any arbitration, bankruptcy, trial, or appellate proceedings, Borrower shall pay Lender's costs, including reasonable attorney's fees in all such proceedings.

Borrower hereby waives presentment and demand for payment, notice of dishonor, protest, notice of protest, and any other notice not specifically required by the Contract.

This Note is secured by a Leasehold Deed of Trust (the "Deed of Trust") covering property situated in Cowlitz County, Washington, and shall be construed, enforced and otherwise governed by the laws of the State of Washington.

Notwithstanding anything to the contrary herein, Borrower, its assigns and their respective members, partners, officers, directors, employees, agents and contractors shall have no personal liability for payment of the indebtedness evidenced hereby or performance of the covenants set forth in this Note, in the Deed of Trust or in the Contract, and the sole recourse of the holder of this Note shall be confined to the exercise of its rights under the Deed of Trust and the Contract, provided that nothing shall diminish the Borrower's liability for damages or deficiencies resulting from theft, waste, fraud, material misrepresentation and misuse of rents.

Oral arrangements or oral commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt are not enforceable under the laws of the state of Washington.

The individual, by signing below, warrants that he/she has the authority to sign this Note.

Housing Authority of the City of Longview,
a Washington municipality corporation

By: _____

Printed
Name: _____

Title: _____

Date: _____

Draft - Review - 10.21.19