

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is entered into the date last below written between the CITY OF LONGVIEW, WASHINGTON ("CITY") AND SHEA, CARR & JEWELL, INC. (dba SCJ ALLIANCE) ("CONTRACTOR")

1. SERVICES BY CONTRACTOR

- A. **Performance of Services.** The Contractor shall perform the services described in the scope of work attached hereto as Attachment A. All Services will be rendered consistent with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances (Standard of Care) and as expeditiously as is consistent with such professional skill and care and the orderly progress of the project 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 Contractor 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 Contractor as described in Attachment A, the Contractor's compensation hereunder shall be modified accordingly.

2. PAYMENT

- A. The City shall pay the Contractor for such services: (Check One)
() Hourly: _____ per hour, plus actual expenses, but not more than a total of _____.
(X) Fixed Sum: A total amount of: \$14,400.00.
() Other: _____,
for all services performed, and expenses incurred under this Agreement.
- B. The Contractor 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 Contractor's completed tasks/deliverables to the date of the invoice or monthly report, as appropriate.
- D. The Contractor 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 Contractor 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. DISCRIMINATION AND COMPLIANCE WITH LAWS

- A. The Contractor agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability or other circumstance prohibited by federal, state or local law or ordinance, except for a bona fide occupational qualification.
- B. In accordance with the Standard of Care, the Contractor shall take reasonable care to comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement, including where applicable the Longview Municipal Code.
- C. Violation of this Section 3 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

4. TERM AND TERMINATION OF AGREEMENT

- A. **Term.** This Agreement shall remain in effect until completion of the services described in Attachment A and final payment therefore unless terminated earlier in accordance with Paragraph 4.B. of this Agreement.
- B. **Rights upon Termination.** This Agreement may be terminated by either party without cause upon thirty days' written notice, in which event all finished or unfinished documents, reports, or other material or work of Contractor pursuant to this Agreement shall be submitted to the City, and the Contractor shall be entitled to just and equitable compensation at the rate set forth in Paragraph 2 for any satisfactory work completed prior to the date of termination.
- C. **Noninterference with business.** During the course of the Contractor's performance of the services for the City and for a period of twelve (12) months after the completion of such services, the Contractor will not interfere with the City's business in any manner, including without limitation, encouraging anyone to leave the City's employ or encouraging any employee or independent contractor to sever that person's relationship with the City.

5. 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 Contractor for purposes other than those

intended in this Agreement, it does so at its sole risk and it agrees to hold the Contractor harmless therefore.

6. 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.

7. INDEMNIFICATION AND HOLD HARMLESS

- A. The Contractor shall protect, indemnify, and save harmless the City, its officers, officials, employees, volunteers 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 Contractor in performance of this agreement. The Contractor 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 Contractor, 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. In the event the City incurs any judgment, and/or award, to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Contractor. The provisions of this section shall survive the expiration or termination of this Agreement.
- B. The City shall protect, defend, indemnify and save harmless the Contractor, 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 Contractor only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the Contractor incurs any judgment, and/or award arising therefrom all such fees, expenses, and costs shall be recoverable from the City.
- C. The Contractor will indemnify, defend, and hold the City (and its elected officials, officers, employees, successors, assigns, insurers, licensees, distributors, independent contractors, and agents) harmless from all claims, damages, losses, and expenses arising out of or resulting from any claim, action, or other proceeding that is based upon (a) the Contractor's breach of any obligations, representations, or warranties under the Agreement, (b) the Contractor's outside business activities, or (c) the infringement or misappropriation by the Contractor of any foreign or United States patent, copyright, trade secret, or other proprietary right in results.

8. INSURANCE; RISK OF LOSS

The Contractor shall maintain insurance that is sufficient to protect the Contractor's business against all applicable risks, as set forth in Attachment B. The Contractor shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives or employees. The Contractor's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. The Contractor will cause the indemnified parties, as described in Section 7 above, to be named as additional insureds on the policies required under the Agreement (except Workers' Compensation and Professional Liability) and shall cause its insurance to be primary to any insurance carried by the indemnified parties. The Contractor will provide the City with certificates of insurance and other supporting materials as City reasonably may request to evidence Contractor's continuing compliance with this Section 8. The Contractor will be liable for all loss or damage, other than ordinary wear and tear, to the City's property in the Contractor's possession or control that is caused by the Contractor. In the event of any such loss or damage, the Contractor will pay the City the full current replacement cost of such equipment or property within thirty (30) days after its loss or damage.

9. INDEPENDENT CONTRACTOR

- A. ***Nature of Relationship.*** *The Contractor shall be and act as an independent Contractor (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 Contractor will not represent himself/herself as an employee of the City. The Contractor 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 Contractor is able to adequately perform all of the Contractor's obligations under the Agreement in a skilled and workmanlike manner. Since the Contractor will not be an employee of the City, the Contractor 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 Contractor permit or cause any of the Contractor'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 Contractor 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. **Contractor Responsible for Business License, Taxes and Records.** The contractor shall obtain a Longview Business License prior to commencing any work under this Agreement.

The Contractor 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 Contractor's performance of the services and receipt of fees under the Agreement. The Contractor 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 Contractor'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 Contractor to perform the Contractor's obligations under the Agreement. The City will regularly report amounts paid to the Contractor by filing Form 1099-MISC with the Internal Revenue Service as required by law.

10. SUBLETTING OR ASSIGNING AGREEMENT

Neither the City nor the Contractor 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.

11. FUTURE SUPPORT

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

12. 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 Contractor 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 Contractor 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 Contractor will not use any trade name, trademark, service mark, or logo of the City (or any name, mark, or log 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 City of Longview Parks and Recreation 2920 Douglas Street Longview, WA 98632
CONTRACTOR:	Brett Bures, Project Manager SCJ Alliance 8730 Tallon Lane NE, Suite 200 Lacey, WA 98516

- F. **Legal Fees.** In any lawsuit between the parties with respect to the matters covered by the Agreement, each party shall pay its own attorneys' fees costs and expenses.
- 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.

13. 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 March 22, 2018.

CONTRACTOR

CITY OF LONGVIEW

By:_____

By:_____

Printed Name:_____

Printed Name:_____

Title:_____

Title:_____

Address:_____

Approved as to form:

City/State/ZIP:_____

By:_____

Tax ID#_____

City Attorney

ATTACHMENT A SERVICES & COMPENSATION

1. The Services

1.1 Description and Deliverables

City of Longview Archie Anderson Master Plan Update Scope of Work

The purpose of this planning effort is to update the Archie Anderson Park Master Plan per the RFP issued by the City of Longview. The existing Archie Anderson Master Plan, adopted 2011, is considered outdated and is in need of an update to reflect the current needs and culture for park users. SCJ Alliance (SCJ) envisions an approximately four (4) month project process with a large amount of coordination, cooperation, and clear expectations between with City of Longview and SCJ.

To accomplish this task a number of activities are necessary, including:

- City Coordination
- Research and Analysis
- Community Outreach and Public Participation
- Schematic Designs
- Preparation of the Final Master Plan.

The analysis outlined above will be built on the parks plans and studies completed previously by the City. Key work elements include:

Project Initiation: Coordination and kick-off meeting to clearly understand the scope of services and define responsibilities.

Research and Analysis: Review existing plans and documents related to the Archie Anderson Park. The intent is to review past practices and proposals that will help to guide the update to the existing master plan for Archie Anderson Park.

Community Outreach and Public Participation: As described in the RFP, a large amount community outreach, city staff, city committees, and city commissions is expected. SCJ will prepare and implement a public outreach plan that will guide community input strategies and provide insight into priorities of the community. SCJ will incorporate various methods of outreach to maximize opportunities to deliver updates and receive data.

Schematic Designs: Schematic designs will be used to develop alternatives and layouts based on the data received from stakeholder and community members from the outreach effort.

Preparation of the Final Master Plan: Prepare updated plan reflecting the information collected through the outreach and stakeholder participation.

Specific work elements to support the above described tasks are described below.

Phase 1 – Project Initiation

To start this project SCJ will coordinate with City staff to hold a kick-off meeting. The intent of the kick-off meeting is to define the scope, direction, and goals as well as obtain historical and internal information regarding the Archie Anderson Park Master Plan. Outline roles and responsibilities between the City of Longview and SCJ.

Task 1.1 Review of Existing Documentation

SCJ will review conduct a document review existing plans, reports, documents, and Comprehensive Plan to gain an understanding of past practices, goals, policies, and schematics. The following reports will be considered for review:

- Archie Anderson Parks Master Plan
- Comprehensive Plan Elements related to Parks
- Past schematic drawings, proposals, and schematics.

Task 1.2 – Meeting with City of Longview Staff

A Kick-off meeting between the City of Longview and SCJ will be conducted to start this project. The kick-off meeting is intended introduce ourselves, gain institutional knowledge of park, and outline the project scope and effort. At the kick off meeting the following shall be addressed:

- Outline roles and responsibilities
- Identify stakeholders and City representatives
- Create a work plan
- Create a schedule

Phase 1 Deliverables

- Schedule
- Work Plan
- Meeting Minutes
- Identification of stakeholders and City representatives

Phase 2 – Research and Analysis

This phase and effort is intended to gain and understand the influences on the Archie Anderson Park. This effort will include speaking with representatives of the City, stakeholders, and conducting site analysis that will help in us to prepare an updated plan that builds on the past but creates a direction to the City's desired future.

Task 2.1 – Meetings with City Representative and Stakeholders

Meeting with City representatives and stakeholders within the community is vital to understanding the many perspectives between the community and city representatives. SCJ

envisions accommodating two (2) “all day” sessions in cooperation with the City of Longview to obtain the data and knowledge needed to be gathered. SCJ will interview and collection all information received and provide a summary of meetings.

Task 2.2 – Identification of Environmental Constraints

As requested in the original proposal, SCJ will conduct an environmental assessment of the Archie Anderson Park to determine if any critical areas are located within or near the park. This effort will include reviewing soils maps, existing topographic maps, and available GIS data to determine the likelihood of the presence of critical areas. A summary of all findings will be provided and included in the final master plan update.

Task 2.3 – Identification of Historical Significance

SCJ, in cooperation and coordination with the City of Longview, will outline resources available to determine if any historical significances are present within Archie Anderson Park. A summary of findings will be provided

Phase 2 Deliverables

- Meeting/Interviews with City representatives and stakeholders
- Identify environmental constraints
- Identify any historical significances
- Data collection
- Summary of all meetings, interviews, and findings.

Phase 3 – Community Outreach and Public Participation

Community outreach and public participation is proposed to be a coordinated effort between the City of Longview and SCJ. Understanding the constraints associated with this project, ongoing community outreach and public participation will rely heavily on a strong web presence and a social media platform. This web and social media presence will allow for project overviews, education, surveys, data collection, updates in schedule, meeting notifications, design concepts, etc. SCJ will create a website that will inform the community, provide updates, and list the goals of the community. This website is proposed to be linked to both the City of Longview’s website and the City of Longview’s social media platform (i.e. Facebook).

Task 3.1 - Website

SCJ will create a website that is informative and interactive. It will allow for people to comment on the proposed update to the Mater Plan and provide a survey that people can take to collect and obtain data of what people want for the Archie Anderson Park.

Task 3.2 - Survey

In coordination with the City of Longview, SCJ will create a survey for people to take which will be geared towards improvements to the Archie Anderson Park Master Plan update. The survey will help to identify if the community would like to see improvements of active or passive recreation or if a regional park or a neighborhood park is preferred. The data from this survey will be useful analysis for outlining the community desires.

Phase 3 Deliverables

- Ongoing community outreach and public communication
- Surveys, stakeholder meetings, workshops, focus groups social media
- Prepare written, graphic, and web materials to support the project effort
- Data collection
- Written summary of input.

Phase 4 – Schematic Designs

Task 4.1 – Schematic Designs

After compiling the information received from the community and coordinating with the City of Longview SCJ will provide up to 3 design concepts for review and comment to help determine a preferred option to present to City officials.

Phase 4 Deliverables

- Up to 3 schematic Design

Phase 5 – Preparation of the Final Updated Master Plan

With the information and data collected, SCJ will prepare an updated Archie Anderson Park Master Plan suited for the City of Longview. SCJ, in cooperation with the City of Longview will prepare findings, recommended strategies and exhibits that present the preferred plan.

Phase 5 Deliverables

- Final Updated Master Plan

Phase 6 – Meetings

SCJ will attend up to 3 meeting days to meet with the community, City representatives, and stakeholders. These meetings will be coordinated with the City of Longview for locations, arrangements, and information to be presented. SCJ envisions these meetings to be organized in a manner that allows for “back to back” scheduling.

The meeting times and dates shall be determined at the project kick-off meeting as outlined in Phase 1.

Phase 6 Deliverables

- 3 community/stakeholder/City representative meetings.

Costs

Due to the limited budget, SCJ is proposing a total lump sum fee of \$14,400 for the work outlined in this scope of work. If work is requested outside of this scope of work, an amendment will be prepared to include the additional work requested.

1.2 Schedule

Contractor will begin providing services on April 16, 2018 and will complete services on August 15, 2018.

1.3 Designated Personnel

Contractor's main point of contact at the City will be Brett Buress, or such other personnel as City may designate from time to time.

2. Compensation

2.1 Amount and Basis

Contractor will submit an invoice to the City for services performed and reimbursable expenses. The invoice will be in a form and content reasonably acceptable to City and will describe (a) the services performed; (b) the number of hours expended performing the services; and (c) any reimbursable expenses. Contractor will furnish such receipts, documents, and other supporting materials as City reasonably may request to verify the content of any invoice.

ATTACHMENT “B”

INSURANCE REQUIREMENTS

The Contractor 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 contractor, his agents, representatives, employees, or subcontractors. The cost of such insurance shall be paid by the Contractor. Insurance shall meet or exceed the following unless otherwise approved by the City.

A. Minimum Scope and Amounts of Insurance

1. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The Public Entity shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the Public Entity using an additional insured endorsement at least as broad as ISO CG 20 26. Minimum 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 insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be as least as broad as Insurance Services Office (ISO) form CA 00 01. Minimum 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.
- ◆
5. Professional Liability insurance appropriate to the Contractors profession. Minimum coverage with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

B. Self-Insured Retentions

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

C. Other Insurance Provisions.

The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect to the city. Any insurance, self-insurance, or self-insured pool coverage

maintained by the city shall be excess of the Contractors insurance and shall not contribute with it.

Commercial Insurance Policies identified in Attachment “B”, subsection A of this agreement shall be endorsed to:

1. Include the City, its officers, officials, employees, volunteers and agents 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 current A.M. Best rating not less than A:VII.

E. Verification of Coverage

The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work. The certificates of liability insurance 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. Notice of Cancellation

The Contractor shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

G. Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days’ notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

H. City Full Availability of Contractor Limits

If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella

liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor

I. Subcontractors

Contractor shall require all subcontractors to provide coverage which complies with the requirements stated herein.

SPECIAL RIDER
TO
ATTACHMENT “B”
INSURANCE REQUIREMENTS

For
PROFESSIONAL SERVICE CONTRACTS

Add the following to section A. Minimum Insurance:

5. Consultant's Errors & Omission or Professional Liability with limits not less than \$1,000,000 per claim and as an annual aggregate.