

**Fourth Amendment to
Interlocal Agreement
Between the Cowlitz County Public Facilities District
and the City of Longview**

This Fourth Amendment to the Interlocal Agreement is dated the _____ day of December, 2017, by and between the Cowlitz County Public Facilities District, a municipal corporation duly organized and existing under the laws of the State of Washington, hereinafter "PFD", and the City of Longview, a political subdivision of and duly organized and existing under the laws of the State of Washington, hereinafter, "City".

WITNESSETH:

WHEREAS, the PFD and the City entered into the Interlocal Agreement dated July 27, 2007, recorded with the Cowlitz County Auditor on August 29, 2007, under No. 3345642, herein "the ILA".

WHEREAS, the ILA has previously been amended three times by the PFD and the City as follows: 1. Amendment dated November 12, 2008; 2. Amendment dated February 14, 2009; and 3. Amendment dated June 12, 2014.

WHEREAS, the PFD and the City completed performance of certain of their respective obligations required to date and continue to meet their continuing obligations as defined in the ILA, in a timely manner.

WHEREAS, RCW 36.100.030 and RCW 35.57.020 provide that a public facilities district may acquire, construct, own, remodel, maintain, equip, repair, finance and operate one or more regional centers;

WHEREAS, by Resolution No. 99 240, dated December 27, 1999, Cowlitz County, Washington (hereinafter the "County") established the PFD pursuant to RCW 36.100, for the purposes identified in that chapter and as further set forth in RCW 35.57, for all citizens living in and the visitors to the County and each of the municipalities located in the County;

WHEREAS, the City owns The Columbia Theatre for the Performing Arts (the "Columbia Theatre"), a regional center used for community events, and artistic, musical, theatrical, or other cultural exhibitions, presentations or performances and has leased the Columbia Theatre to the PFD in accordance with the ILA;

WHEREAS, the Columbia Theatre Association for the Performing Arts, hereinafter "Theatre Association", a nonprofit corporation, operates the Columbia Theatre under an Agreement with the City entitled "Agreement for Operation and Management of the Columbia Theatre for the Performing Arts", dated February 10, 2005, which Agreement was assigned to the PFD in accordance with the ILA;

WHEREAS, the tax defined at RCW 82.14.485 was first collected in November, 2007, by the PFD.

WHEREAS, the Legislature of the State of Washington enacted Chapter 164, Laws Washington 2017 (EHB 1201), which provides in part that the tax imposed by RCW 82.14.485 shall expire when bonds issued for certain construction improvements are retired but not more than forty years after the tax is first collected, thereby amending Ch. 486 Laws of Washington 2007 (EHB 2388), which provided authority for certain public facilities districts created under RCW 36.100 to implement a sales and use tax to provide funds to repay principal and interest payments on bonds issued for the purpose of remodeling and improving an existing regional center;

WHEREAS, the PFD, under the authority of RCW 82.14.390, imposed a sales and use tax in accordance with EHB 2388 at the rate of 0.020% that is generally applicable to the selling price or value of any articles sold or used within the corporate limits of the County to support the development of a regional theater center, hereinafter the "Retained Sales Tax";

WHEREAS, the PFD and City have the authority to enter into interlocal agreements under Chapter 39.34 RCW for joint and cooperative actions, including provisions to finance joint or cooperative undertakings, multipurpose community centers, regional centers and other facilities, including the design, construction, improvement, rehabilitation, maintenance and operation of a facility, and to provide for services to be provided by one government to another and to amend an interlocal agreement;

WHEREAS, the PFD and City have each determined that the continued improvement and rehabilitation of the Columbia Theatre to complete project items that were not completed would benefit their respective jurisdictions and each desires that the PFD further improve and rehabilitate the Columbia Theatre in order to promote the arts, culture, youth, elderly and community activities, and conference facilities, attract jobs, promote tourism and stimulate economic development;

WHEREAS, it is mutually beneficial for the PFD and City to obtain long term financing on favorable terms for the Columbia Theatre, including financing supported by Chapter 164, Laws Washington 2017 (EHB 1201).

NOW, THEREFORE, the PFD and City, in consideration of the mutual covenants defined in this Agreement, do now covenant and agree as follows:

I. THE PROJECT

The PFD remodeled the Columbia Theatre in accordance with the ILA.

The City issued Limited Tax General Obligation and Refunding Bonds, 2007 ("2007 Bonds"), a portion of the proceeds of which was used to improve, expand and rehabilitate the Columbia Theatre. The PFD has provided and is responsible for continuing to provide tax revenues from the Retained Sales Tax to the City sufficient to pay debt service on the portion of the 2007 Bonds that financed the Columbia Theatre improvements pursuant to the ILA.

The PFD and the City now desire to complete additional improvements to the Columbia Theatre project the budget for which is estimated at \$1,002,000.00.

In December 2017, the City expects to issue Limited Tax General Obligation and Refunding Bonds, 2017 ("2017 Bonds", and together with the 2007 Bonds, the "Bonds"), a portion of which bonds will be used to finance the improvements to the Columbia Theatre and a portion of which will refund the 2007 Bonds to lower the debt service payments.

In consideration of the City's agreement to issue such Bonds, the PFD agrees to continue to levy the Retained Sales Tax and to periodically transfer tax revenues from the Retained Sales Tax to the City in the amount necessary to repay the Bonds.

The construction improvements at the Columbia Theatre shall be designed and constructed to substantially conform to the description of features set forth in Exhibit "1", attached hereto and incorporated herein by this reference, subject to the availability of funds.

The PFD shall commence the construction improvements at the Columbia Theatre as soon as reasonably practical after such bonds are issued.

II. THE SITE

The location of the construction improvements to the Columbia Theatre shall be upon a portion of the real estate owned by the City located at 1231 Vandercook Way, Longview, Washington, hereinafter the "Site", which is described in the ILA and which is subject to the Lease between the City and the PFD. See Exhibit "2".

III. RESPONSIBILITIES OF THE PARTIES

3.1 Responsibilities of the PFD.

A. The PFD shall provide construction improvements at a cost of approximately one million two thousand dollars (\$1,002,000), which cost includes project costs and taxes.

1. The PFD shall arrange on its terms and conditions for the design and construction of the construction improvements to the Columbia Theatre. Design shall consider the requirements of the City, pursuant to the Longview Municipal Code, and the Theatre Association.

2. The PFD shall manage the design, including hiring of appropriate design personnel in accordance with State law, and construction of the Project.

3. The PFD shall account for project administration and shall approve and account for all design and construction expenditures.

4. The PFD shall to a reasonable standard coordinate design and construction activities to minimize impacts on the operation of the Theatre Association and the residential tenants in the apartments adjacent to the Site.

B. The PFD shall ensure that the Retained Sales Tax shall be maintained and continued at the maximum rate authorized by law until the Bonds issued and to be issued by the City in connection with the development of the Columbia Theatre Project are fully paid and retired.

C. Prior to using any 2017 Bond proceeds to finance additional improvements to the Columbia Theatre, the PFD shall, if required by the Department of Commerce, State of Washington, have an independent financial feasibility review performed by the Department as required by RCW 36.100.025.

D. Recognizing that the primary purpose for its Retained Sales Tax receipts is the payment of the Bonds to be issued by the City in connection with the joint and cooperative improvement and rehabilitation of the Columbia Theatre Project by the City and the PFD pursuant to the ILA, the PFD does hereby assure the City that the Retained Sales Tax receipts will be available for the payment of the debt service of the Bonds in accordance with the terms and conditions of the ordinance of the City Council approving the Bonds. The PFD

shall stay in existence as long as the Bonds are outstanding and covenants to levy and maintain the Retained Sales Tax at the maximum permitted limit for as long as the Bonds are outstanding. Consistent with this assurance the PFD agrees that until the City's Bonds are fully redeemed or defeased, tax revenues from the Retained Sales Tax shall be applied only for the following purposes and in the following order:

First, to continue to make transfers to the City on or before fifteen days prior to each Payment Date (which includes the City's mandatory sinking fund payments) sufficient for payment of the principal of and/or interest on the Bonds allocable to the Columbia Theatre Project, as required by the City's Bond authorizing ordinance;

Second, to provide for the Operation and Maintenance Costs of the PFD to the extent not otherwise funded;

Third, to establish and make payments into a Revenue Stabilization Reserve Account of the PFD authorized to be established by the PFD pursuant to Section 3.1 E of this Agreement for the sole purpose of the Columbia Theatre Project up to a maximum amount of \$4,000.00 each month, or more as the PFD may determine, until the total amount in the revenue stabilization reserve account, including interest earnings, equals the total debt service on the City's Bonds for the ensuing 12 months. Except as may be permitted as provided at 3.1 G, below, the PFD shall apply the funds in the account towards its payment obligations to the City set forth at section 3.1 E, First, above if or when necessary.

Fourth, after making the payments provided for herein at 3.1D First, Second and Third, to make payment of the obligation of the PFD to Cowlitz County as set forth in the agreement of the PFD and County and to do so prior to the payment provided herein at 3.1D, Fourth and Fifth.

Fifth, to make payments at least annually into a Depreciation Reserve Account of the PFD equal to the balance of the Retained Sales Tax plus interest remaining after meeting the three payment priorities listed above, to be expended as set forth in Section 3.1 G, below.

Sixth, receipt of Retained Sales Tax in excess of the funds required for debt service as provided at 3.1 D, First, herein above, and the purposes defined at 3.1 D, Second, Third and Fourth, herein above, may be used by the PFD as it determines for improvements to the Columbia Theatre, including but not limited to operating expenses of the Columbia Theatre.

E. The PFD hereby agrees that it will deposit the tax revenues received from the Retained Sales Tax in an account or accounts maintained by the PFD with the County as its treasurer to be used as set forth above as authorized by RCW 82.14.390 and not on design or construction activities.

F. Nothing in the ILA, including this Fourth Amendment, or the PFD Lease shall be interpreted in any manner that would cause the transfers by the PFD to the City of tax revenues from the Retained Sales Tax to be treated as repayment of a loan from the City or as payment of rent for the Columbia Theatre.

The obligation of the PFD to apply the Retained Sales Tax receipts for the purposes and in the order set forth above shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise.

The PFD shall deposit all Bond proceeds received from the City held by the County in a dedicated fund or account that is invested in investments permitted under the laws of the State. Bond proceeds may only be used for capital purposes, including construction costs and administrative and design costs of the Project, and not for operating expenses of the Columbia Theatre. The PFD shall cause the County to keep detailed records documenting the expenses incurred for the Columbia Theatre Project for which it uses the proceeds of the Bonds and the interest earnings on the investment of the Bond proceeds and shall provide a monthly accounting of the expenditures and investments and make the information available to the City. The PFD and County shall cooperate with the City in calculating and paying any arbitrage rebate owed in connection with the Bonds.

The PFD agrees that it will not use or permit to be used any of the proceeds of the Bonds in such a manner, and shall not take or allow to be taken any action in such a manner, as to cause the interest on the Bonds to be included in gross income for purposes of federal income taxation. The PFD specifically covenants not to take any action or permit any action to be taken if the result of such action would be to cause the Bonds to be bonds “federally guaranteed” or to be treated as “arbitrage bonds” or “private activity bonds” as defined by the Internal Revenue Code. The PFD shall obtain prior approval of bond counsel to the City before entering into any agreements relating to the management of the Columbia Theatre or leasing any portion of the Columbia Theatre.

The PFD agrees that it will be deemed an “obligated person” (within the meaning of SEC Rule 15c-2-12) in respect of the Bonds and the PFD shall provide information for and approve the section in the City’s official statement for the Bonds describing the PFD and the Regional Theatre Center. The PFD shall

cause the County as its treasurer to provide certain financial and operating data to the owners of the City's Bonds, as may reasonably be required.

F. The PFD shall continue to operate the Columbia Theatre for the Performing Arts under its agreement with the City and the Columbia Theatre for the Performing Arts, under assignment by the City of the Agreement for Operation and Management of the Columbia Theatre for the Performing Arts, dated February 10, 2005 and of the Amended Lease dated June 28, 1994, with the Longview Housing Authority (the "Housing Lease").

G. The PFD acknowledges that the Lease provides at paragraph 1.01 that it shall terminate on the effective date of the full and complete repayment of principal and interest of bonds by the PFD and confirms that the effect of this Fourth Amendment on the Lease is to extend the term of the Lease by up to an additional fifteen years, consistent with Ch. 164, Laws of Washington 2017. An Extension to the Lease will be executed and recorded.

3.2 Responsibilities of the City.

A. The City acknowledges that the Lease provides at paragraph 1.01 that it shall terminate on the effective date of the full and complete repayment of principal and interest of bonds by the PFD and confirms that the effect of this Fourth Amendment on the Lease is to extend the term of the Lease by up to an additional fifteen years, consistent with Ch. 164, Laws of Washington 2017. An Extension to the Lease will be executed and recorded.

B. The City shall issue Limited Tax General Obligation and Refunding Bonds, 2017 ("2017 Bonds"), of which approximately \$1,000,000.00 of the Net Proceeds will be deposited to the PFD as soon as reasonably possible upon compliance with the provisions of this Amendment, which bonds will be used to finance the improvements to the Columbia Theatre which are the subject of this Amendment and an additional portion of which will refund the existing 2007 Bonds (The City previously issued Limited Tax General Obligation and Refunding Bonds, 2007 ("2007 Bonds"), which were used to improve and rehabilitate the Columbia Theatre), in order to lower the debt service payments on the 2007 Bonds. It is anticipated that the debt service on the 2017 Bonds will be less than the debt service on the existing 2007 Bonds.

The actual amount transferred to the PFD will depend on the pricing of the Bonds at issuance and sale of the Bonds. The final maturity of the Bonds shall not exceed 40 years from the date the Retained Sales Tax was first levied by the PFD. The City reserves the right to determine all other terms of the Bonds, including but not limited to the right to combine the issuance of Bonds with the issuance of bonds for other purposes. Upon closing of the Bonds, or as soon as practicable thereafter, the City shall transfer to the County for deposit into an

account of the PFD the Net Proceeds. In addition, the City shall provide the PFD a schedule of the Debt Service on the Bonds, which schedule shall be attached to this Agreement as Exhibit "3.2 D". The City shall notify the PFD at least 30 days prior to each Payment Date of the Debt Service due on the Payment Date, but failure of the City to provide such notice shall not relieve the PFD's obligation to pay Debt Service. The City may pledge to the owners of the Bonds that the City will enforce the terms of this Agreement, including but not limited to the PFD's obligation to transfer to the City tax revenues from the Retained Sales Tax sufficient to pay Debt Service. The City shall use the tax revenues received from the PFD solely to pay Debt Service.

The City reserves the right to refund the Bonds as long as the Debt Service on the refunding Bonds does not exceed the Debt Service on the Bonds. The City shall provide the PFD at least 30 days written notice of the City's intent to issue refunding Bonds and shall provide the new Debt Service schedule on the refunded Bonds promptly after the refinancing Bonds are sold.

C. The total project budget will be an estimated \$1,002,000.00, of which \$750,000.00 is the estimated construction cost, \$60,000.00 is the estimated sales tax, \$60,000.00 are the estimated fees and contingencies are estimated at \$130,000.00. It is anticipated that bond proceeds may earn \$2,000.00 in interest. See Exhibit 6.3.

D. The City is designated as responsible for providing the continuing disclosure undertaking of information required of the PFD at paragraph 5.2, below. This responsibility shall not be terminated by City as long as the continuing disclosure is required of the PFD.

3.3 Lead Officials.

In order to facilitate the administration of the project and communication of the parties regarding their various undertakings which are set forth in this Agreement, each party does hereby designate its lead persons:

- A. PFD - President and Project Manager
- B. City - City Manager and Mayor.

IV. TERM

This Agreement shall be effective upon the date that the PFD and City, have signed this Amendment and the Amendment has been recorded with the County Auditor, with a copy filed with the Washington State Department of

Revenue. The Agreement shall remain in effect until the date that the PFD has paid or defeased, in full, all Bonds and other obligations or commitments that were issued or made for the design, acquisition, construction, operation or maintenance of the facilities, or until the Lease expires, whichever occurs last.

V. FINANCING PLAN

5.1. The Financing Plan. The City shall borrow funds as described in paragraph 3.2 above through the issuance of the Bonds to finance the construction improvements of the Project. See Exhibit "5.1" attached hereto.

5.2. Permanent Financing. As a condition of the City's issuance of the Bonds under Section 3.2 D, the PFD pledges the annual Retained Sales Tax revenues from the sales and use tax imposed in accordance with Ch. 164, 2017 Laws of the State of Washington to the extent required to satisfy the debt service requirements of the portion of the Bonds allocable to the Regional Theatre Center Project. Estimates of these payments are described in Exhibit 3.2 D. However, the exact amounts to be paid will be determined according to the actual debt service schedule established when the Bonds are issued. The PFD covenants to impose and maintain the Retained Sales Tax, within applicable legal limits, until the portion of said Bonds, both principal and interest, are fully paid and retired. The PFD further represents that the PFD reasonably expects to be able, at all times during which the Bonds may remain outstanding, to meet the requirements of RCW 82.14.390 relating to matching funds. The PFD agrees to remit to the City tax revenues from the Retained Sales Tax sufficient for Debt Service Payments not later than fifteen (15) days prior to each date set for the City's payment of principal and/or interest on the Bonds (the "Bond Payment Date"). The City shall notify the PFD of the amount required not later than thirty (30) days prior to each such Bond Payment Date. The City may pledge to the owners of the City's Bonds that the City will enforce the terms of this Agreement, including but not limited to the PFD's obligation to transfer to the City tax revenues from the Retained Sales Tax sufficient for the Debt Service Payments, and the City shall use the tax revenues received from the PFD solely to pay debt service on the portion of the Bonds allocable to the Columbia Theatre Project. Furthermore, the PFD acknowledges that its obligation to transfer tax revenues from the Retained Sales Tax for Debt Service Payments may be material to the offer and sale of the City's Bonds, and may be disclosed to potential purchasers and purchasers of those Bonds. The City shall covenant in the City Bond Resolution to maintain the tax exemption for the City Bonds, and shall provide to the PFD copies of annual financial information and operating data and any material event notices filed by the City with securities information repositories pursuant to its continuing disclosure undertaking under SEC Rule 15c2-12 in respect of the City's Bonds.

5.3 Existing Tax Revenues. The PFD is not obligated to, but may use funds from the Sales and Use Tax or Lodging Tax previously imposed by the PFD in relation to its development of the Conference Center as further provided in the Interlocal Agreement with the PFD and the County dated June 17, 2003.

VI. DESIGN AND CONSTRUCTION

6.1. General. The PFD shall manage the design and construction of the Columbia Theatre Project in accordance with the provisions set forth herein. The PFD shall be the lead agency with the primary responsibility for the design and construction of the Project on behalf of the City and the PFD, all subject to the agreements and limitations set forth herein.

6.2 Design and Construction Management. The PFD will contract with a professional licensed architect, who will be responsible for the design, preparation of specifications, bid preparation and review, and construction management for the Project, under the direction of the PFD.

6.3. Budget. A preliminary project budget has been adopted by the PFD, a copy of which is attached hereto as Exhibit "6.3" and incorporated herein by this reference. Changes to the preliminary budget may be made by the PFD after providing opportunity for review and input by the City. See Section 6.5, herein.

6.4. Schedule and timeline. A project schedule shall be prepared by the PFD and updated periodically. The preliminary schedule is set forth on Exhibit "6.4" attached hereto. It is anticipated that construction shall be commenced on or before April 25, 2018, subject to the provisions of Section 3.1 C. See Section 6.5, herein.

6.5 Prior to using any 2017 Bond proceeds to finance additional improvements to the Columbia Theatre, the PFD shall, if required by the Department of Commerce, State of Washington, have an independent financial feasibility review performed by the Department as required by RCW 36.100.025.

6.6. Bid. When the PFD is satisfied with the design of the facility and appropriate specifications are prepared and approved by the PFD, after review and input by the City, and the determination by the PFD and the City that the funds for the Project are available in such amount as shall reasonably fund said Project, the PFD will follow State bid law and seek a contract for construction of the facility with the lowest responsible bidder. Following the bid and contracting, the progress, quality, reporting and changes regarding the Project will be subject to the contract documents with the architect and contractor.

6.7. Meetings. A progress meeting shall be conducted at a minimum once every two weeks with the construction contractor, the PFD, City, and the Theatre Association, to resolve construction issues, update work schedules and plan the efficient progression of the work.

6.8. Quality. Continuous observation and documentation of all construction activity, including budget, cost and schedule, shall be prepared and provided by the PFD.

6.9. Reports. Periodic construction reports shall be prepared and maintained by the PFD.

6.10. Changes. Changes to the plans for the Project will be subject to the agreements with the architect and contractor, which will include provisions with respect to the process of changes and change orders. Changes, subject to such provisions, may be made by the PFD, after opportunity for review and input by the City and the Theatre Association.

6.11. As Built. The PFD will obtain As Built plans for the facility and deliver a copy to the City and the Theatre Association.

VII. MANAGEMENT AND ADMINISTRATION

7.1. Indemnification by City. To the extent permitted by law, the City shall hold the PFD, its appointed officials, contractors, agents, and/or volunteers harmless from and indemnify PFD from all costs, expenses, claims, judgments and liability, including attorney fees incurred by PFD, to the facilities renovated or constructed as provided herein or as the result of injury, which may arise from or be incurred as the result of the activities of City herein defined.

7.2. Insurance. The Parties shall mutually undertake to secure and maintain appropriate insurance coverage for the facilities. The PFD shall require appropriate insurance be provided by any consultants and contractors the PFD retains to carry out the terms of this Agreement.

7.3. Indemnification by PFD. To the extent permitted by law, the PFD shall hold City, its elected officials, employees, contractors, agents, and/or volunteers harmless from and indemnify City from all costs, expenses, claims, judgments and liability, including attorney fees incurred by City, which may arise from or be incurred as the result of the activities of the PFD herein defined, except in the circumstances of the sole negligence of the City.

VIII. Miscellaneous

8.1 Definitions.

- 8.1.1 Bonds means the bonds, notes or other evidences of indebtedness, or portion of such indebtedness if part of a larger issue, issued by the City to finance or refinance the Columbia Theatre, including bonds previously issued as provided in the ILA and those contemplated by this Amendment.
- 8.1.2 City means the City of Longview, a political subdivision of and existing under the laws of the State of Washington.
- 8.1.3 Code means the Internal Revenue Code of 1986, as amended, and all applicable regulations and rulings thereunder.
- 8.1.4 Columbia Theatre or Columbia Theatre Association is the non-profit corporation in good standing under the laws of the State of Washington, which corporation is entitled the Columbia Theatre Association for the Performing Arts, and which is the operating entity of the Columbia Theatre.
- 8.1.5 County means Cowlitz County, Washington, a political subdivision of the State of Washington.
- 8.1.6 Debt Service means the amount to be paid on the next succeeding Payment Date to pay the principal of (including sinking fund payments for term bonds), premium, if any, and interest on any Bonds.
- 8.1.7 Debt Service Fund means the special fund(s) or account(s) established by the City under the bond ordinance for the purpose of paying Debt Service on the Bonds.
- 8.1.8 Depreciation Reserve Account means the fund established by the PFD to accumulate funds for major repairs of systems and the facility.
- 8.1.9 Net Proceeds, when used with reference to the Bonds, means the principal amount of the Bonds, plus original issue premium, if any, and less original issue discount, if any, and less the proceeds of the Bonds used to pay costs of

issuance, including bond insurance, underwriter's discount and other costs of issuance.

8.1.10 Operation and Maintenance Costs means all necessary costs of operation and maintenance of the PFD, including but not limited to administrative and general expenses, costs of insurance (including reasonable contributions for self-insurance reserves, if any), consulting technical services and repairs and replacements (to the extent not properly classifiable as capital costs), real estate taxes, if any, but excluding depreciation, amortization of intangibles or other bookkeeping entries of a similar nature and Debt Service on the Bonds.

8.1.11 Payment Date means the dates specified in the ordinance authorizing Bonds as dates for the payment of interest on, principal (including sinking fund installments) or premium, if any, with respect to the Bonds.

8.1.12 PFD means the municipal corporation operating under the name the Cowlitz County Public Facilities District, which was established by the County by its Resolution No. 99 240, dated December 27, 1999, pursuant to RCW 36.100, for the purposes identified in that chapter and as further set forth in RCW 35.57, for all citizens living in and the visitors to Cowlitz County and each of the municipalities located in the county.

8.1.13 PFD Lease means the lease between the City and the PFD which defines the occupancy of the PFD at the Site.

8.1.14 Retained Sales Tax means the nonvoted sales and use tax imposed or to be imposed by the PFD in accordance with RCW 82.14.390 at a rate of 0.020% of the selling price in the case of a sales tax or value of the article used in the case of a use tax, within the corporate limits of Cowlitz County.

8.1.15 Revenue Stabilization Reserve Account means the fund established by the PFD in accordance with section 3.1 E, Third, to accumulate funds to pay for the principal and interest payments on the Bonds as necessary.

8.2 Integration and Amendment. This Agreement and any collateral instruments, including the building lease referred to at paragraphs 3.1 and 3.2,

above, referenced herein or attached hereto contain the entire agreement between the City and the PFD and shall not be modified or amended in any manner except by an instrument in writing executed by the City and the PFD. No prior agreement, correspondence, or portions thereof shall be used to interpret, modify, or explain the terms of the Agreement in the event that a dispute arises with respect to the Agreement. This Agreement and the referenced building lease shall be interpreted to effectuate the intent of both agreements.

8.3 Waiver. No waiver of any breach of any covenant or agreement contained herein shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults that were in existence at the time such payment or payments or performance were accepted by it. The exercise of any remedy provided by law or the provisions of this Agreement shall not exclude other remedies.

8.4 Assignment. Neither the PFD, nor the City shall assign this Agreement, or any part hereof, without the written consent of the other parties. The Agreement shall inure to the benefit of and be binding upon the PFD and the City and their successors and permitted assigns.

8.5 Applicable Law and Venue. This Agreement shall be construed in accordance with the laws of the State of Washington. Venue for any dispute related to the Agreement shall be Cowlitz County, Washington.

8.6 Filing. A copy of this Agreement shall be filed by the PFD with the Auditor of Cowlitz County, Washington, within five days of the date of its execution, provided, however, that failure to file this Agreement shall not affect the validity of the Agreement. All fees relating to such recording shall be paid by the PFD.

8.7 Severability. If a court of law determines any provision of the Agreement to be unenforceable or invalid, the parties hereto agree that all other portions of this Agreement shall remain valid and enforceable.

8.8 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the PFD and the City and their successors and permitted assigns. No other person or entity shall have any right of action or interest in this Agreement based upon any provision of the Agreement.

8.9 Force Majeure. The timing or performance by any party under this Agreement shall be excused during any extraordinary natural events or weather conditions, war, riots, labor disputes or inability to procure required supplies or materials, delays in environmental review, permitting, or other environmental requirements or work, including environmental mitigation, delays as a result of legal or administrative challenges brought by parties other than the signatories to this Agreement, provided that nothing in this section excuses the PFD of its obligation to pay the debt service herein provided.

8.10 Notices. All communications, notices and demands of any kind which any party requires or desires to give to any of the other parties shall be in writing and either served on the following individual or deposited in the U.S. Mail, certified mail, postage prepaid, return receipt requested, and addressed as follows:

If to the PFD: Brian Magnuson, Chairperson (or successor)
Cowlitz County Public Facilities District
430 Washington Street
Longview, WA 98632

Copy to:
Paul R. Roesch, Jr. (or successor attorney)
Attorney at Law
1315 14th Ave
P.O. Box 1594
Longview, WA 98632

If to City: City Manager
City of Longview
1525 Broadway
Longview, WA 98632

8.11 Compliance with Laws. Both the PFD and the City shall comply with all applicable federal, state and local laws, regulations and rules in performing this Agreement.

8.12 Timing of the Essence. Time is of the essence in this Agreement.

8.13 Supplemental Agreements. The parties agree to complete and execute all supplemental documents necessary or appropriate to fully implement the terms of this Agreement.

8.14 Interlocal Cooperation Act. The performance of the obligations of this Agreement shall be in compliance with the provisions of RCW 39.34, the Interlocal Cooperation Act. The parties agree that no separate legal administrative entities are necessary in order to carry out this Agreement. For purposes of RCW 39.34.030(4)(a), the board of the PFD and the City Manager of the City shall serve as the administrator responsible for administering the joint and cooperative undertaking among the parties to this Agreement. There shall be no "joint board" as that term is used in RCW 39.34.030(4)(a).

IN WITNESS HEREOF, the PFD and City have executed this agreement effective as of the date first written above.

Cowlitz County Public Facilities District,
A Washington Municipal Corporation

By: _____
Brian Magnuson, Date
President

By: _____
Joan Landau, Date
Secretary

By: _____
Mik Hendrickson, Date
Vice Chairperson

By: _____
Norm Krehbiel, Director Date

By: _____
Betty Erickson, Director Date

Approved as to form:

By: _____
George E. Moore, Director Date

Paul R. Roesch, Jr., WSB# 4820
Attorney for PFD

By: _____
Dick Stumph, Director Date

City of Longview
A Political Subdivision

By: _____
David Campbell Date
City Manager

Approved as to form:

James McNamara
Attorney for City

Exhibit Title Page
(Exhibits are attached hereto)

Exhibit 1: Essential Features of Project

Exhibit 2: Legal Description of Site

Exhibit 3.2: Allocation Chart

Exhibit 5.1: Financing Plan

Exhibit 6.3: Preliminary Project Budget

Exhibit 6.4: Initial Project Schedule

Exhibit "1": Essential Features of Project
(see Article I, above)

The Project anticipates completion of the HVAC system with the addition of a chiller to provide air conditioning in the theatre building and other improvements as funds permit, which were anticipated but not completed in the Columbia Theatre Project, previously completed.

Exhibit "2": Legal Description of Site

Real property situated in Cowlitz County, Washington, described as follows:

Lots 15, 16, 17, 18 & 19, Block 82, Plat of Longview No. 10 in Cowlitz County, Washington, subject to the Amended Lease dated June 28, 1994, between the City of Longview and the Longview Housing Authority, which Amended Lease was recorded under Cowlitz Auditor's No. 950420051.

Exhibit "3.2": Allocation Chart

To be provided by City

Exhibit 5.1: Financing Plan

City Bond Proceeds	\$1,000,000.00
Estimated Interest to be earned	\$ 2,000.00
Total Project Funding	\$1,002,000.00

Exhibit 6.3: Preliminary Project Budget

Chiller	\$750,000
Subtotal construction	\$750,000

Sales Tax @ 8%	<u>\$ 60,000</u>
Total Construction Cost	\$810,000

Arch./Engineering fees	\$ 50,000
Project Admin. fees	\$ 10,000
Project contingency	<u>\$130,000</u>
Total project cost	\$1,000,000

Note: Estimated interest to be earned \$2,000.00

Exhibit 6.4 – Initial Project Schedule

<u>Task</u>	<u>Complete</u>
1. City Council conceptual approval of agreements/ bond sale	November 16, 2017
2. Amend Columbia Theater Lease	December 6, 2017
3. Write & approve Amended ILA, City/PFD	December 8, 2017
4. PFD & City approve bond structure/amount	December 8, 2017
5. Architect selection & contract approval by PFD Board	December 14, 2017
6. Sell bonds	December 12, 2017
7. Close bond sale	December 27, 2017
8. Design development	February 1, 2018
9. Construction documents	March 1, 2018
10. Advertise for bids for construction	April 1, 2018
11. Review bids & award construction contract	April 12, 2018
12. Start construction	April 25, 2018
13. Construction completed	June 25, 2018

NOTE: Prior to using any 2017 Bond proceeds to finance additional improvements to the Columbia Theatre, the PFD shall, if required by the Department of Commerce, State of Washington, have an independent financial feasibility review performed by the Department as required by RCW 36.100.025.