



Anne McEnerny-Ogle, Mayor
Bart Hansen · Ty Stober · Linda Glover
Laurie Lebowsky · Erik Paulsen · Sarah J. Fox

November 8, 2021 - Vancouver City Council Meeting Minutes

WORKSHOPS

Workshops were conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS, or listen via the GoToMeeting conference call.

Councilmember Lebowsky was absent from workshops.

4:00-6:00 p.m. Funding Additional Fire Resources

Natasha Ramras, Chief Financial Officer, 360-487-8484

Summary

Staff presented Council with an overview of potential funding tools that could be utilized to fund Fire and EMS services.

COUNCIL CONSENT AGENDA MEETING

This meeting was conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS. Public access and testimony on Consent Agenda items and under the Community Forum were also facilitated via the GoToMeeting conference call.

Call to Order and Roll Call

The consent agenda meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor McEnerny-Ogle. This meeting was conducted remotely over video conference.

Present: Councilmembers Fox, Paulsen, Glover, Stober, Hansen,
Mayor McEnerny-Ogle

Absent: Councilmember Lebowsky

Motion by Councilmember Glover, seconded by Councilmember Stober, and carried unanimously to excuse Councilmember Lebowsky.

Community Communication (Items 1-5)

Mayor McEnerny-Ogle opened Community Communication on Consent Agenda items and, receiving no testimony, closed Community Communication.

Consent Agenda (Items 1-5)

Council requested Item 2 be pulled from the Consent Agenda for separate consideration.

Motion by Councilmember Glover, seconded by Councilmember Fox, and carried unanimously to approve Items 1 and 3-5 of the Consent Agenda.

Regarding Item 2, City Attorney Jonathan Young explained City staff received late notice from the Vancouver Housing Authority's (VHA) lender on the Fourth Plain Commons project of some necessary modifications (attached) to the associated parking easement, and noted legal staff had shared the requested modifications prior to the Council meeting.

Becky Rude, Assistant City Attorney, summarized the proposed modifications, and explained the parking easement is part of the terms of the overall purchase and sale agreement between the City and VHA.

Councilmember Fox stated she had not had a chance to review the proposed modifications yet, and requested Council delay action on this item until later in the agenda. Action on Item 2 was postponed to follow action on Item 6 of the agenda below.

1. Garbage, Recycling and Organics Collection Rate Increases for 2022

Staff Report 168-21

AN ORDINANCE relating to the collection of solid waste, recyclable materials and organics, and amending certain sections of VMC 6.12 to increase or

adjust rates and charges consistent with approved utility user taxes and rates and in accordance with current contracts for the coming year; providing for savings, severability and an effective date.

Summary

City Council is the rate-making authority for garbage, residential recycling, and organics collection services within the City of Vancouver. The City contracts with a private hauling company, Waste Connections of Washington, to provide comprehensive garbage, recycling and organics collection services to residents and businesses within city limits. The contract terms authorize Waste Connections to receive annual adjustments to customer rates based on changing operating conditions including:

- an inflation adjustment factor tied to a percentage of the CPI and fuel costs,*
- disposal tip fees,*
- the number of customers served and,*
- fees paid to the City to support solid waste related programs.*

All adjustments to rates are made in accordance with Exhibit D of the contract. Garbage rates also include the City's utility tax that is embedded within them. The City's utility tax does not apply to recycling or organics collection services.

Consistent with the contract, the updated model for 2022 requires an increase of 2.3 percent for garbage rates, while recycling, organics and selected other fees not linked to the disposal tip fee or utility tax, will need to increase by 2.1 percent, effective January 1, 2022. Key reasons for this increase are a 3.29 percent increase in the CPI, a 4.75 percent decrease in the diesel fuel index, and a 2.6 percent increase in the disposal tip fees. For the most typical residential customer with 32gallons per week of garbage, every-other-week recycling and every-other-week organics collection (96gallons for each) this means a monthly rate increase of 0.2 percent, from \$33.27 per month to \$33.33 per month, or an increase of \$0.06.

Inflation Adjustment Factor

Under the contract, collection costs for garbage, recycling and organics adjust at 80 percent of a blended and combined CPI (92 percent) and diesel fuel index (8 percent) – Inflation Adjustment Factor (IAF), which leads to a 2.12 percent increase for the collection cost component, the City Fee and other miscellaneous fees.

Disposal Tip Fees

On January 1, 2022, the disposal tip fee is scheduled to increase \$2.49 per ton (or 2.6 percent) from \$97.39 per ton to \$99.88 per ton. In addition to the allowed CPI increase on the base tip fee (going from \$95.72 per ton to \$98.08 per ton), this tip fee includes \$0.37 per ton for additional work being

done under the Clark County contract by Columbia Resource Company at the Central Transfer and Recycling Station (\$0.31 of this is new for 2022 related to construction access improvements for safety) as well as \$1.43 per ton for a surcharge approved by the Clark County Council in 2017 to make up for lost state funding for regional solid waste programs and planning.

Recycling Fees

The rates proposed for January 1, 2022, include adjustments to curbside (increasing from \$3.30 to \$3.37) and multi-family collection fees (increasing from \$1.33 to \$1.36) based on the Inflation Adjustment Factor (2.1%) detailed above as well as adjustments to the recycling processing surcharges which were added April 1, 2019 to recover costs associated with the local response to the global market issues and the ongoing need for supplying quality materials to these markets. Based on a review of operational factors, Clark County has indicated that the \$62.52 per ton processing fee in 2021 will be adjusted to \$48.56 on January 1, 2022. Through 2021, Vancouver residential customers paid recycling surcharges based on a \$68.11 “preliminary” per ton processing fee that was subsequently reduced by the County and Columbia Resource Company after City Council adopted the Vancouver 2021 rates. Also, during 2021 the contractor billed customers using the 2020 approved recycling surcharge rates rather than the lower rates authorized for 2021. Both of these overcharges are offset through a “true up” with 2022 reductions in the amounts of these fees. As a result, the proposed rates reflect a net \$0.25/mo. reduction for single family customers and a net \$0.20/mo. reduction for multi-family customers. The processing surcharge for curbside customers will decrease from \$1.46 per month to \$0.81 per month. The processing surcharge for multi-family customers goes from \$0.70 per month to \$0.29 per month. The combined impact for recycling fee components is a 12.1 percent decrease (\$0.58 per month) in curbside recycling charges and a 18.7 percent decrease (\$0.38 per month) in multi-family recycling charges.

Organics Fees

The rates proposed for January 1, 2022, include 2.1 percent adjustments to the organics rates, which are tied to the Inflation Adjustment Factor. For the standard subscription service of 96gallons collected every-other-week, the current rate of \$7.88 per month adjusts to \$8.05 per month. Recommended 2022 rates at other levels of service, following the same every-other-week schedule, are \$6.97 for 64-gallon carts, \$5.88 for 32-gallon carts, and \$4.80 for 20-gallon carts.

Typical Residential Rate Impact

For 2022 overall, the typical residential customer rates for 32gallons of weekly garbage service with recycling and organics collection increases 0.2 percent, or \$0.06 per month, under this recommendation. This reflects a \$0.47 increase in garbage charges, a net \$0.58 decrease in combined

recycling collection rate and recycling processing surcharge fees, and a \$0.17 increase in the organics charge. Households that have chosen different service levels may experience slightly different rate impacts.

Staff recommends adjusting customer rates as detailed in the Summary of Proposed 2022 Solid Waste Rates to meet the contractual obligations associated with the defined Inflation Adjustment Factor and to set the City Fee amount for the coming year. If approved, all adjustments will be effective January 1, 2022.

Request: On November 8, 2021, approve ordinance on first reading, setting date of second reading and public hearing for November 15, 2021.

*Julie Gilbertson, Solid Waste Supervisor, 360-487-7162;
David Galazin, Assistant City Attorney, 360-487-8500*

Motion approved the request.

2. Fourth Plain Commons Community Center funding & purchase

Staff Report 169-21

A RESOLUTION relating to the Fourth Plain Commons project; providing approval for and authorizing the City Manager to execute a Purchase and Sale Agreement and a Parking, Access, and Utilities Easement Agreement.

Summary

Commons Community Center

Fourth Plain Commons is a mixed-use project to be constructed in a low-income census tract (427.00) in the Fourth Plain Corridor. The development is a partnership between the City of Vancouver and the Vancouver Housing Authority and consists of two separate components: the Commons Community Center on the first floor and an 106-unit affordable housing development, located on floors 2-6. CDBG funds previously appropriated for this project will be used to support the community center, plaza, and shared space only.

The Commons Community Center will consist of a 9,758 square foot community space and is envisioned as a flexible area where people from the Fourth Plain community can gather, hold events, and access services. This space will include a commercial kitchen, office space for nonprofits to provide supportive services, a community gathering space, an outdoor space with infrastructure for farmers markets and food carts, and a space for

business incubation for food entrepreneurship. Construction on this project is scheduled to begin in November 2021 and take approximately 13 months.

Based on the Council-approved Section 108 Loan application, the City received approval from HUD in September to move forward with the loan authorization. The Section 108 loan program provides Community Development Block Grant (CDBG) jurisdictions the opportunity to leverage up to five times the jurisdiction's annual CDBG grant allocation. The loan is low-cost, flexible financing for economic development, public facility, and infrastructure projects. Currently, the City of Vancouver is eligible to borrow up to \$4,199,000 of Section 108 loan funds. Approval of the Section 108 loan contract will be considered under separate Council action.

The Section 108 loan will be used to support the purchase and buildout of the Commons Community Center including a percentage of onsite infrastructure including sewer, water, sidewalks, the foundation, etc. Any revenue generated from the Commons Community Center after expenses will be used to pay back the loan. Additionally, the City will set aside CDBG funds up to \$300,000 annually to make payments. The annual debt payments will be calculated based on LIBOR plus 20 points and the amount of money that is borrowed.

Purchase and Sale Agreement (PSA)

The Purchase and Sale Agreement provides the terms and conditions by which the City will acquire a commercial condominium unit containing approximately 19,006 square feet including interior space for a community center, a public plaza, and playground as part of an affordable housing project on vacant land located at 2200 Norris Road, Vancouver, Washington. The construction period is approximately 13 months. Under the PSA, the VHA, through 2200 Norris LLP, its Low-Income Housing Tax Credit partnership, will develop and construct certain improvements on the property that will include a comprehensive build out of a residential condominium with 106 low-income apartment units and related amenities and construction of the City's commercial condominium unit containing a warm vanilla building shell for the community center, in accordance with plans and specifications referenced in the PSA. The plans and specifications are very large architectural and engineering files, however these documents are available for review upon request.

The purchase price for the commercial unit is a not-to-exceed price of \$5,500,000 based on the total development cost of the Commons Community Center and the commercial unit's proportionate share of costs of shared improvements for the project. The City's obligation to perform under the PSA is contingent upon approval of the Section 108 loan.

Payment of the purchase price and closing of the PSA transaction will occur once the Project is deemed complete upon issuance of certification of substantial completion, in conformance with the PSA plans, by 2200 Norris LLP's architect pursuant to the industry standard AIA G704 Certificate of Substantial Completion Form. VHA is financing construction of the project and the City will pay the purchase price at Closing.

A draft form of the Purchase and Sale Agreement is attached. The substantive terms of the transaction have been mutually agreed upon by the parties and minor edits may still be necessary to prepare the execution form of the PSA.

Parking, Access, and Utilities Easement Agreement

The Parking, Access, and Utilities Easement Agreement is a condition of the Purchase and Sale Agreement and is intended to be granted concurrent with execution of the Purchase and Sale Agreement. The easement will provide for additional parking to support the Commons Project through construction of a parking lot on the vacant land portion of Fire Station #2's parcel. The parking lot will be constructed at VHA's sole expense, subject to an ongoing shared maintenance agreement with the City for the community center's proportionate use and will be available for use by residents of the Commons Project and the City.

The Parking Easement is excluded from the City's surplus property requirements pursuant to Vancouver Municipal Code 3.30.020(B)(3) as an intergovernmental transfer of property rights from the City to VHA, subject to RCW 39.33.015, for the public benefit purpose of providing related facilities, the parking lot, supporting the goals of affordable housing development in accordance with the requirements of RCW 39.33.015(8)(a) and RCW 43.63A.510 ("Public Benefit Purpose"). The Parking Easement contains a covenant that the land must be continuously used for and comply with the Public Benefit Purpose affordable housing requirements, otherwise the easement will terminate, and the parking lot improvements will become property of the City.

A draft form of the Parking, Access, and Utilities Easement Agreement is attached. The substantive terms of the easement have been mutually agreed upon by the parties and minor edits may still be necessary to prepare the execution form of the Parking Easement. The Parking Easement will be executed and recorded concurrent with the PSA, conditioned on the VHA's fulfillment of the affordable housing Public Benefit Purpose requirements.

Request: Adopt a resolution approving the transactions contemplated by the draft Purchase and Sale Agreement and the draft Parking,

Access, and Utilities Easement Agreement and authorizing the City Manager or his designee to sign the PSA, Easement, and all related documents necessary to facilitate the development, construction, and acquisition of the commercial condominium unit of the Fourth Plain Commons Project.

Peggy Sheehan, Community Development Programs Manager, 360-487-7952; Becky Rude, Assistant City Attorney, 360-487-8500

3. Appointment to Building and Fire Code Commission

The Building and Fire Code Commission advises City Council on building and fire codes and all proposed code changes; hears appeals of building official and fire code interpretations.

Council Committee 2 recently conducted interviews to fill two seats on the Building/Fire Code Commission. They recommend the reappointment of incumbent John Gentry and the appointment of Jimmy Stewart, with terms beginning January 31, 2022, and expiring January 31, 2028.

Request: Reappoint John Gentry and appoint Jimmy Stewart to the Building and Fire Code Commission, terms beginning January 31, 2022, and expiring January 31, 2028.

Council Committee 2

Motion approved the request.

4. Appointment to Lodging Tax Advisory Committee

The Lodging Tax Advisory Committee is a volunteer body that makes recommendations to the Vancouver City Council about how that tax revenue is spent. Over the years, the committee has helped award hundreds of thousands of dollars in lodging tax grants to local projects and events that increase tourism in the city.

During 2020, operations of LTAC were halted due to the effects of the pandemic and within that time the terms on LTAC had expired. After a recent recruitment and subsequent reappointment of the seven previous LTAC incumbents, the eighth seat remained and a recruitment for that was just concluded.

Council Subcommittee 1 interviewed for this mid-term appointment and

they recommend appointing Jennifer Kenney, with a term beginning immediately and expiring September 30, 2022.

Request: Appoint Jennifer Kenney to the Lodging Tax Advisory Committee, term beginning immediately and expiring September 30, 2022.

Council Committee 1

Motion approved the request.

5. Approval of Claim Vouchers

Request: Approve claim vouchers for November 8, 2021.

Motion approved claim vouchers in the amount of \$6,117,453.55.

Public Hearings (Item 6)

6. Section 108 Loan Ordinance for Fourth Plain Commons

Staff Report 164-21

AN ORDINANCE of the City of Vancouver, Washington, approving and authorizing a loan guarantee contract and note and related documents under Section 108 of the Housing and Urban Development Act of 1974, as amended to provide funds for the Commons Community Center as a part of the Fourth Plain Commons project and delegating authority to execute and deliver the note and the contract and related documents.

Fourth Plain Commons is a new-construction, mixed-use condominium project located in a low-income census tract (427.00) on the Fourth Plain Corridor. The development is a partnership between the City of Vancouver and the Vancouver Housing Authority and consists of two separate components: The Commons Community Center, with public plaza and outdoor playground, on the first floor and a 106-unit affordable housing development, located on floors 2-6. The CDBG funds will be used to support the purchase of the community center, plaza and shared space only. The Commons Community Center will consist of a 9,758-square-foot community space and is envisioned as a flexible area where people from the Fourth Plain community can gather, hold events, and access services. This space will include a commercial kitchen, office space for nonprofits to provide supportive services, a community gathering space, an outdoor space with infrastructure for a farmers market and food carts, and a space

for business incubation for food entrepreneurship. The thirteen-month construction on this project is scheduled to begin in November 2021.

Following City Council approval for the Section 108 loan application on July 26, 2021, the City received a commitment from HUD (September 2021) for approval of a Section 108 Loan of approximately \$4,199,000 to purchase and build out the community center and pay the cost of issuance. The Section 108 loan provides Community Development Block Grant (CDBG) jurisdictions the opportunity to leverage up to five times the jurisdiction's annual CDBG grant allocation. The loan is low-cost, flexible financing for economic development, public facility, and infrastructure projects. Initially the loan will be a variable rate note tied to three-month Treasury Auction Bill rate plus 35 basis points (0.35) but could eventually be converted to a fixed rate note. The Section 108 loan requires Council authorization and reduces the City's overall outstanding debt capacity. It commits the City to repay debt service for the next 20-years, however, the City always has the option to pay the loan off early with no penalty.

The City will set aside CDBG funds up to \$300,000 annually to make the debt service payments. In addition, the City's full faith and credit is pledged as a repayment source, if CDBG grant funds are not sufficient to meet the annual debt service requirements.

Authorization of the ordinance will delegate to the City Manager to execute and deliver the required documents on behalf of the City to HUD.

Request: On Monday November 8, 2021, subject to second reading and public hearing, approve the ordinance.

Peggy Sheehan, Community Development Programs Manager, 36-487-7952; Carrie Lewellen, City Treasurer, 360-487-8482

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Peggy Sheehan, Community Development Programs Manager, provided an overview of the project and the bond ordinance that will allow the City to borrow funding to purchase the Community Center of the Fourth Plain Commons Project.

Mayor McEnerny-Ogle opened the public hearing and, receiving no testimony, closed the public hearing.

Motion by Councilmember Stober, seconded by Councilmember Paulsen, and carried unanimously to approve Ordinance M-4352.

Regarding Item 2, Councilmember Fox requested Council consideration take place following the Community Forum.

7. **Community Forum**

Request:

Mayor McEnerny-Ogle opened the Community Forum and received the following testimony:

- Harold Hanson, Vancouver, expressed concerns about an unsanctioned camp north of Mill Plain Blvd and 112th Avenue and requested the City address it.
- Cathryn Chudy, Vancouver, urged the City to move as quickly as possible in implementing an early action package pertaining to reducing carbon emissions and improving the City's climate resiliency.
- Glen Yung, Vancouver, spoke regarding the earlier workshop on resourcing fire and EMS services and urged the City to consider utilizing bonds to pay for these services and also encouraged the Council to be wary of implementing impact fees, as those have a direct impact on housing costs.
- Cambrie Murray, Vancouver, urged the Council to begin conducting meetings in person again, and spoke in opposition to mask and vaccine mandates related to the COVID-19 pandemic.
- Diane Moeglein, Vancouver, urged the Council to begin conducting meetings in person again, and spoke in opposition to mask and vaccine mandates related to the COVID-19 pandemic.
- Justin Forsman, Vancouver, spoke in opposition to mask and vaccine mandates related to the COVID-19 pandemic and spoke in support of a silver-based currency.
- Kimberlee Elbon, La Center, Washington, expressed concerns about the Local Governments for Sustainability (ICLEI).
- Wynn Grcich, Vancouver, spoke in opposition to mask and vaccine mandates related to the COVID-19 pandemic.
- Patrick Locke, Ridgefield, Washington, spoke in opposition to mask and vaccine mandates related to the COVID-19 pandemic

There being no further testimony, Mayor McEnerny-Ogle closed the Community Forum.

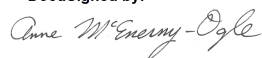
Following the Community Forum, Council considered Item 2 of the Consent Agenda: **Fourth Plain Commons Community Center funding & purchase (Staff Report 169-21)**

Councilmember Fox stated she was able to review the proposed modifications and had no further questions or concerns.

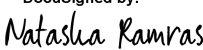
Motion by Councilmember Fox, seconded by Councilmember Paulsen, and carried unanimously to adopt Resolution M-4150, approving the request with the inclusion of revisions to the Parking Easement as outlined by the City Attorney's Office.

Adjournment

7:15 p.m.

DocuSigned by:

58CB15C0632F403...
Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:

BCF6734E40E94AE...
Natasha Ramras, City Clerk

Meetings of the Vancouver City Council are electronically recorded on audio and video. The audio files are kept in the office of the City Clerk for a period of six years.

After recording, return to:

Vancouver Housing Authority
2500 Main Street
Vancouver, WA 98109-1028
Attn: General Counsel

Space Above for Recording Information Only

PARKING, ACCESS, AND UTILITIES EASEMENT AGREEMENT

Grantor: City of Vancouver

Grantee: Housing Authority of the City of Vancouver

Abbrev. Legal Descriptions: Tax Lot #9 & #99 and #18 & #82, Robert Rockett DLC,
Section 24, Township 2 North, Range 1 East

Assessor's Tax Parcel ID Nos.: 029844000; 29849000

This Parking, Access, and Utilities Easement Agreement (this "Agreement") is made this ____ day of November, 2021 (the "Effective Date"), by and between the City of Vancouver, a Washington municipal corporation ("City") and Housing Authority of the City of Vancouver, a public body corporate and politic of the State of Washington("VHA").

A. City owns a parcel of land commonly known as 2106 Norris Road more particularly described in Exhibit A attached hereto (the "City Parcel"). The City Parcel currently includes a building for the City of Vancouver International District Fire Station #2 ("Fire Station"), an existing parking lot, and vacant land, with the vacant land portion of the City Parcel being the Easement Area, as defined below, that is the subject of this Agreement.

B. VHA owns a parcel of land, located adjacent to the City Parcel and more particularly described in Exhibit B (the "Commons Parcel").

C. VHA is leasing the Commons Parcel and Easement Area to 2200 Norris LLLP, a Washington limited liability limited partnership ("2200 Norris"), under that Lease Agreement between VHA and 2200 Norris of even date herewith- ~~("Lease Agreement"). The City has no~~

objection to the leasing of the Easement Area to 2200 Norris subject to the covenants and restrictions provided herein.

D. 2200 Norris will construct and operate an affordable housing project on the Commons Parcel in compliance with the definition of “affordable housing” provided by the Revised Code of Washington (RCW) 43.63A.510(4)(a), and a parking lot on the Easement Area (the “Commons Project”).

DE. VHA is the sole general partner of 2200 Norris.

EF. City and VHA are parties to that certain Condominium Purchase and Sale Agreement of even date herewith which establishes terms under which VHA will convey to the City the commercial unit within the Commons Project.

FG. The City and VHA wish to have the parking lot that is included in the Commons Project available for use by 2200 Norris, the residents of the Commons Project, the City, and their respective invitees.

GH. This Agreement is excluded from the City’s surplus property requirements pursuant to Vancouver Municipal Code 3.30.020(B)(3) as an intergovernmental transfer of property rights from the City to VHA subject to RCW 39.33.015 for the public benefit purpose of providing related facilities supporting the goals of affordable housing development in accordance with the requirements of RCW 39.33.015(8)(a) and RCW 43.63A.510 (“Public Benefit Purpose”).

HI. It is anticipated that upon completion of the Commons Project, the Commons Project and the Commons Parcel will be subjected to the condominium form of ownership and governed by a condominium owners association, subject to compliance with the Public Benefit Purpose and affordable housing requirements of this Agreement and the Commons Project.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and incorporating the background recitals above, the City and VHA hereby agree as follows:

1. Declaration of Easement Grant. City does hereby grant and convey to VHA, its successors and/or assigns, a perpetual, exclusive, nonpublic easement for the installation, construction (including temporary storage of materials and equipment during construction of the Commons Project), maintenance, repair, and improvement of the Parking Lot, and for ingress, egress, parking, and utilities over and across real property situated in Clark County, Washington legally described on Exhibit C and depicted on Exhibit D, being the vacant portion of the City Parcel (the “Easement Area”), which shall be appurtenant to the City Parcel and the Commons Parcel and which shall burden the City Parcel and benefit the

Commons Parcel. Such easement shall establish a vehicular parking area to be constructed by 2200 Norris, as more fully described herein (the "Parking Lot").

2. Public Benefit Purpose. In order to satisfy the requirements of RCW 39.33.015(2), VHA hereby covenants and agrees that the Easement Area and Parking Lot shall be designated and continuously used for the Public Benefit Purpose ("Public Benefit Covenant"). In the event that VHA violates this Public Benefit Covenant by failing or ceasing to use the Easement Area or Parking Lot allocated to the VHA Shared Split (as defined in Section 6.1 below) for the Public Benefit Purpose, the City shall have the remedies provided herein.

3. Compliance with Laws. VHA shall, at VHA's own cost and expense, comply with all applicable laws, statutes, ordinances, regulations, orders and requirements now or hereafter made or issued by any governmental entities and courts having jurisdiction, whether federal or state or county or municipal ("Applicable Laws"). If any license, permit, or other governmental authorization is required for the lawful use or occupancy of the Easement Area or Commons Parcel or any portion of the Easement Area or Commons Parcel, VHA shall procure and maintain such license, permit, or governmental approval so long as this Agreement remains in effect. The judgment of any court of competent jurisdiction, or the admission by VHA in a proceeding brought against VHA by any government entity, that VHA has violated any Applicable Laws shall be conclusive as between City and VHA and shall constitute a VHA default within the meaning of Section 8.

4. Utilities. VHA shall pay or cause to be paid prior to the delinquency date therefor, and hold City free and harmless from, all charges for the furnishing of gas, water, electricity, telephone service, internet and other public utilities to the Easement Area so long as this Agreement is in effect and for the removal of garbage and rubbish from the Easement Area so long as this Agreement is in effect. Without limiting the generality of the foregoing, VHA shall be solely responsible for all utility hook-up, connection, impact, metering and other fees in connection with utility service for the Easement Area. In the event that any utilities on the Easement Area are shared with City, City will install a separate meter and be solely responsible for the cost of utilities it uses.

5. Construction of Parking Lot.

5.1 Duty to Construct. VHA shall require that 2200 Norris construct or cause the Parking Lot to be constructed on the Easement Area in accordance with the development approvals and entitlements issued to or obtained by 2200 Norris from the City of Vancouver and other governmental agencies for the Commons Project and the Parking Lot (the "**Final Approvals**").

5.2 All Work on Written Contract. All work required in the construction of the Parking Lot, including any site preparation work, landscaping work, and utility

installation work, as well as actual construction work, shall be performed only by competent contractors licensed under the laws of the State of Washington and reasonably experienced in performance of comparable work, and shall be performed in accordance with written contracts with those contractors.

5.3 Construction Costs. VHA shall require 2200 Norris to pay when due all Construction Costs associated with the Parking Lot. The term "Construction Costs" means all hard and soft costs of construction of the Parking Lot described in any enforceable construction agreement with the contractor of the Parking Lot. Construction costs do not include any costs incurred by City except costs incurred or suffered by City as a result of 2200 Norris's non-payment of 2200 Norris's contractor.

5.4 Mechanics' Liens. VHA shall at all times keep the Easement Area free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Easement Area ("Mechanics' Liens"), except for liens for release of retainage as described in Chapter 60.28 RCW ("Retainage Liens"). Should VHA fail to pay and discharge or cause the Easement Area to be released from any such Mechanics' Lien within 30 days after service on VHA of written request from City to do so, City may pay, adjust, compromise, and discharge any such lien or claim of lien on any terms and in any manner that City may deem appropriate; provided, however, that VHA shall discharge any Retainage Liens only after it receives releases from the Department of Revenue, Labor and Industries, and Employment Security (all as required by Applicable Laws) and shall otherwise discharge any Retainage Liens in accordance with Washington statutes. VHA shall reimburse City for the full amount paid by City in paying, adjusting, compromising, and discharging any Mechanics' Lien.

5.5 Necessary Plans and Agreements. City, in its capacity as a property owner, agrees to take the following actions, within ten business days of VHA's written request, if and to the extent required to implement or finalize the Final Approvals for the Parking Lot or to facilitate the construction or operation of the Parking Lot:

5.5.1 Join in the grants of easements to public and/or private utility companies required to provide utility services to the Parking Lot or within the right-of-way of any streets shown on a recorded final map or parcel map;

5.5.2 Execute consents to or join in any reciprocal easement agreement or covenants, conditions, easements and/or restrictions entered into by VHA with owners or tenants of adjoining property, in connection with the creation, improvement, use and maintenance of any new or existing appurtenant easements required to construct and operate the Parking Lot; and

5.5.3 Execute such other documents, including maps, easements, covenants, consents, agreements, conditions, easements, restrictions, instruments and other documents as reasonably necessary to facilitate the construction or operation of the Parking Lot;

Provided, however, that City, in its capacity as a property owner, shall have the right to review and approve of any such map, easement, consent, grant, agreement, covenant, condition, easement, restriction, instrument or other document to be so executed or joined in by City, which approval shall not be unreasonably withheld, conditioned or delayed.

5.6 Permits and Authorizations. Should VHA deem it necessary or appropriate to obtain any zoning or land use permit to construct or operate the Parking Lot, City agrees to execute any documents, petitions, applications, utility easements and authorizations, that may be necessary or appropriate in its capacity as landowner; provided, however, that nothing within this Agreement shall be construed as limiting the City when acting in its governmental and regulatory capacity; and provided further, that any such permits, variances, or rezoning shall be obtained at the sole cost and expense of VHA, except to the extent that such documents, petitions, applications, utility easements and authorizations are for the exclusive benefit of City and not as a condition of the Parking Lot. City shall have the right to review and approve of any such documents, petitions, applications, utility easements, authorizations or other instrument to be so executed or joined in by City, which approval shall not be unreasonably withheld, conditioned or delayed.

5.7 Ownership of the Parking Lot. In the event this Agreement is terminated, the Parking Lot shall automatically and, without any act of VHA, 2200 Norris, the City, or any third party, become City's property, and VHA shall surrender the Parking Lot to City free and clear of all liens and encumbrances, other than those, if any, expressly permitted under this Agreement to survive the termination of this Agreement or otherwise created or consented to by City, and VHA agrees to execute, acknowledge, and deliver to City any instrument requested by City as necessary in City's opinion to perfect City's right, title, and interest to the Parking Lot and the Easement Area.

5.8 Archaeological Discovery. If any objects of cultural or archaeological significance are discovered on the Easement Area (a "Discovery"), VHA will comply with all Applicable Laws governing discovery and preservation of such items. In the event that compliance with Applicable Laws related to a Discovery creates either (a) a substantial impact to the Parking Lot, including material delays or a material increase in costs, or (b) conditions related to the Easement Area that are outside the scope of VHA's Parking Lot, then City and VHA will enter good faith negotiations to reasonably allocate Discovery costs associated with compliance with Applicable Laws.

5.9 Impacts to Fire Station; Coordination.

5.9.1 If during construction of the Parking Lot, 2200 Norris causes a net reduction in number of existing parking stalls used by Fire Station employees, then VHA will temporarily provide the Fire Station with the additional parking stalls required to offset the net reduction.

5.9.2 ~~During construction~~ Except as provided in Section 5.9.1, VHA will maintain the Fire Station's access to its existing parking lot during all hours.

5.9.3 Before the commencement of construction VHA will prepare a Construction Impact Mitigation Plan, with input from City, 2200 Norris and Fire Station, which is intended to reduce or eliminate certain anticipated impacts, to the extent reasonably practicable, to the Fire Station arising from the construction of the Parking Lot, including with respect to transportation, noise, and dust control. VHA will require 2200 Norris to direct its contractor to make commercially reasonable efforts to contain dust and odor on site and to schedule its work in a manner designed to minimize the impacts to the Fire Station.

5.9.4 VHA shall offer to meet regularly with a designated representative of the Fire Station in order to discuss and address impacts of the construction of the Parking Lot and methods for eliminating or minimizing adverse impacts to the Fire Station.

6. Parking Agreement.

6.1 VHA and the City agree to a shared use and allocation of maintenance costs and responsibilities of the Parking Lot as follows: VHA at 82.3 percent and the City at 17.7 percent (the "Shared Split").

6.2 The Parking Lot stalls shall be divided between VHA and the City in accordance with the Shared Split and as mutually agreed to between the parties

6.3 For purposes of this Agreement, "Maintenance" is defined as the work normally necessary to preserve and keep the Parking Lot, including all roadways, road structures, sidewalks, landscaping, and road facilities in a good and reasonably safe condition. Maintenance of the Parking Lot includes normal road improvement and maintenance work to adequately maintain the Parking Lot and related drainage facilities to permit all weather access, and includes prompt patching or filling of holes, treating for an extended life, repairing cracks, repairing and resurfacing roadbeds, gravelling, grading, repairing and maintaining drainage structures, removing debris, maintaining any signs, markers, striping, and lighting, if any, and maintenance, repair, or improvements required by law.

6.3.1 VHA will regularly determine the nature and cost of the Maintenance needed for the Parking Lot, including payment of prevailing wage in accordance with Washington law, Chapter 39.12 RCW ("Maintenance Costs"), and will prepare a budget for such Maintenance Costs annually, subject to the City's review and approval, which approval shall not be unreasonably withheld ("Maintenance Budget"). ~~The~~ VHA shall perform the approved Maintenance and the Maintenance Costs shall be divided between VHA and the City in accordance with the Shared Split.

6.3.2 In the case of an emergency, VHA will determine the nature of the repairs to be undertaken, the contractor to perform the maintenance or repairs, and the costs for such maintenance or repairs, provided that such repairs must be performed in compliance with RCW 39.12. In such a case, VHA may repair the Parking Lot to the extent required to resolve the emergency at its sole cost and expense and invoice the City for such emergency repair costs in accordance with the Shared Split.

~~6.46.3.3~~ The City may at any time require reasonable and necessary documentation from VHA for any Maintenance performed, including emergency repairs, and any Maintenance Costs or emergency repair costs charged to justify the City's payment of its Shared Split, which request shall not be unreasonably made. In the event that the VHA does not reasonably comply with such documentation requests, the City shall have no obligation whatsoever to reimburse the VHA or pay its Shared Split of the Maintenance Costs or any costs associated with or arising from any maintenance, repair, or improvement of the Parking Lot.

~~6.56.4~~ If VHA desires to improve or reconstruct improvements to the Parking Lot ("Capital Improvements"), VHA shall determine the nature and cost of the improvements and present such Capital Improvements to the City for consideration. Upon the City's approval of the Capital Improvements, which approval shall not be unreasonably withheld, the City shall pay for the Capital Improvements in accordance with the Shared Split unless the parties agree to a different cost allocation by written agreement.

~~6.66.5~~ The City may notify VHA in writing of any Maintenance necessary to adequately maintain the Parking Lot in a good and reasonably safe condition and VHA must perform, or present the City a plan to perform, such Maintenance within 60 days of receipt of the written notice. If, after 60 days of VHA's receipt of written notice, VHA has failed to act, the City may perform such Maintenance after providing an additional 15 days' notice and recover the cost thereof from the VHA in accordance with the Shared Split.

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7. Indemnity and Insurance.

7.1 VHA Indemnity. VHA shall hold harmless, indemnify, and defend City, its elected and appointed officials, officers, employees and agents, from any and all claims, actions, suits, liability, loss, damages, or expenses (including by not limited to reasonable attorney fees) (collectively, "Claims") resulting from the construction of the Parking Lot and occupation and use of the Easement Area by VHA after the Effective Date except to the extent that such Claims are the sole result of the negligence or willful misconduct of City. VHA shall retain the right to obtain indemnity or recovery for any liability or costs VHA incurs relating to contaminants, Hazardous Substances, wastes or materials on the Property from other potentially responsible party under appropriate state or federal environmental laws. This section shall survive the termination of this Agreement.

7.2 City's Indemnity. City shall hold harmless, indemnify, and defend VHA, its officers, directors, and assigns, from any and all Claims resulting from the occupation and use of the Easement Area by City before the Effective Date, except to the extent that such Claims are the sole result of the negligence or willful misconduct of VHA. City shall retain the right to obtain indemnity or recovery for any liability or costs City incurs relating to contaminants, Hazardous Substances, wastes or materials on the Easement Area from other potentially responsible party under appropriate state or federal environmental laws. This section shall survive the expiration or earlier termination of this Agreement.

7.3 Industrial Indemnification Waiver. The foregoing indemnities contained in Sections 7.1 and 7.2 are specifically and expressly intended to constitute a waiver of the indemnifying party's immunity under Washington's Industrial Insurance Act, RCW Title 51, with respect to the indemnifying party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed by them.

7.4 General Liability Insurance. VHA will require that 2200 Norris procure and maintain for the duration of this Agreement commercial general liability (CGL) insurance written on an occurrence (and not "claims-made") basis, insuring against all liability of 2200 Norris with respect to the Easement Area, including contractual liability coverage recognizing the liability assumed by 2200 Norris under Section 7.1 above providing coverage at least as broad as ISO policy form CG 00 01. Such insurance shall name 2200 Norris as named insured and City as additional insured thereunder and shall be primary and non-contributing with respect to any insurance maintained by City. Such policy shall be annually renewing and not have a deductible in excess of Ten Thousand Dollars (\$10,000). Such insurance shall be issued by an

insurance company licensed by the State of Washington insuring 2200 Norris and City against loss or liability caused by or connected with operation, occupation and use of the Easement Area by 2200 Norris, shall expressly provide that such policies shall not be canceled or altered without 30 days' prior written notice to City, and be issued in amounts not less than the following:

7.4.1 \$2,000,000 CGL Limit for injury to or death of one person and, subject to that limitation for the injury or death of one person, of not less than \$5,000,000 for injury to or death of two or more persons as a result of any one accident or incident; written as an Umbrella or Excess Coverage and as an option, written as Single Combined Limit or separate for \$1,000,000 Automobile Losses that occur during ingress, egress or around the leased property; and

7.4.2 \$5,000,000 CGL Limit for damage to or destruction of any property.

7.5 Casualty Insurance. VHA will require that 2200 Norris maintain for the duration of the Agreement casualty insurance for the full replacement value of the buildings and improvements on the Easement Area against loss or destruction by fire and the perils commonly covered under the standard extended coverage endorsement to fire insurance policies in the county where the Easement Area are located, providing coverage at least as broad as ISO policy forms CP 10 30 and CP 00 10.

7.6 Waiver of Subrogation. Any insurance carried by either party as required by this Agreement shall include a clause or endorsement denying to the insurer a right of subrogation against the other party to the extent rights have been waived by the insured prior to occurrence of an injury or loss. Each party, notwithstanding any provisions of this Agreement to the contrary, hereby waives any rights of recovery against the other for injury or loss due to hazards covered by insurance containing such a clause or endorsement.

8. Default.

8.1 Events of Default. Each of the following events shall be an "Event of Default" by VHA and a "breach" of this Agreement:

8.1.1 Failure to continuously abide by the Public Benefit Covenant;

8.1.2 Failure to perform any term, condition, covenant, or requirement of this Agreement, or failure to satisfy a covenant encumbering the City Parcel, if such failure is not cured within 90 days after VHA receives from City of written notice of such failure;

~~8.2 — City's Remedies. This Agreement may be revoked by the City and terminated upon an Event of Default, if not cured within the provided cure period, and shall automatically terminate upon a breach of the Public Benefit Covenant or upon an Unpermitted Transfer, as defined in Section 12 below.~~

~~8.38.2 City's Default.~~ City shall be in default under this Agreement if City fails to cure any breach of its obligations under this Agreement within ~~30~~180 days after receipt of written notice from VHA specifying in reasonable detail the nature of City's breach; provided, however, that if the nature of City's breach is such that more than ~~30~~90 days are required for performance, then City shall not be in default if City commences the cure of such breach within ~~30~~180 days of the receipt of such notice from VHA and pursues such curative action with due diligence to completion.

~~8.48.3 Injunctive Relief.~~ Each party acknowledges and agrees that a non-defaulting party may be irreparably harmed by a breach of this Agreement, and, notwithstanding the cure periods set forth above in this Section 8, in the event of such irreparable harm, the non-defaulting party shall be entitled without waiting for the expiration of such cure periods to obtain equitable relief in the form of specific performance, a temporary restraining order, a temporary or permanent injunction, or any other equitable remedy that may be available. The foregoing remedies are not exclusive.

~~8.4 Lender's Remedies. In all instances City shall not exercise any of its remedies hereunder without having given notice of the Event of Default to Wells Fargo, National Association (the "Lender"). The Lender shall have the same cure period after the giving of a notice as provided to VHA, plus an additional period of 90 days. If the Lender elects to cure the default, City agrees to accept such performance as though the same had been done or performed by VHA. Notwithstanding anything to the contrary contained herein, the Lender shall be deemed a third-party beneficiary of the provisions of this Section 8.4 for the sole and exclusive purpose of entitling the Lender to exercise its rights to notice and cure, as expressly stated in this Section 8.4.~~

~~8.5 City's Remedies. Subject to Sections 8.1 and 8.4 above, and in addition to any rights in law or equity, the City may immediately terminate this Agreement following an uncured Event of Default.~~

9. Costs and Attorney Fees. In the event a party hereunder takes any action to enforce this Agreement, with or without bringing suit, brings suit or action to enforce this Agreement or obligation under the law, or to collect any money due thereunder or to foreclose a lien, the non-prevailing party must pay all costs and expenses incurred by the prevailing party in connection with such suit or action, including a litigation guaranty report issued by a title

company doing business in Clark County, Washington, and the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorney fees at trial and upon any appeal or petition for review thereof.

10. Hazardous Substances.

10.1 The term "Hazardous Substance", as used in this Agreement, means any substance, material, or waste which is: (a) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant," or any other terms comparable to the foregoing terms under any provision of Washington law or federal law; (b) petroleum and any fraction thereof; (c) asbestos and asbestos containing materials; (d) polychlorinated biphenyls; (e) radioactive materials; (f) mold; (g) Methyl Tertiary Butyl Ether ("MTBE"); or (h) determined by Washington, federal, or local governmental authority to be capable of posing a risk of injury to health, safety, property, or the environment. Without limiting the foregoing, Hazardous Substance means and includes any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous, toxic or radioactive substance, or other similar term, by any environmental laws including any federal, state, or local environmental statute, regulation, or ordinance presently in effect that may be promulgated in the future, as such as statutes, regulations, and ordinances may be amended from time to time.

10.2 CITY MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE CONDITION OF THE EASEMENT AREA, THE PRESENCE OF ANY HAZARDOUS SUBSTANCE ON THE CITY PARCEL, OR WITH RESPECT TO COMPLIANCE WITH ANY ENVIRONMENTAL LAW.

10.3 VHA shall not bring onto, create or dispose of, in or about the Easement Area, any Hazardous Substances other than as is required for or customary for construction, maintenance, repair, and operation of a comparable project and done in compliance with Applicable Laws; and VHA shall not engage in any activity that violates any environmental laws. VHA, at VHA's sole expense, shall promptly take all investigatory and remedial action reasonably required or ordered by governmental authorities for the clean-up of any Hazardous Substances in, on, or about the Easement Area due to actions of VHA. VHA shall provide all notices or reports required pursuant to any Environment Law requiring notices or reports by VHA. VHA shall provide prompt written notice to City upon discovery of the existence of Hazardous Substances on the Easement Area and all notices of violation of environmental laws received by VHA.

11. Not a Public Easement. This Agreement is intended to grant a private and not a public easement. Nothing in this Agreement shall be construed to provide for public use or entry onto the Easement Area.

12. Run with the Land. The Agreement granted herein and its corresponding benefits and burdens shall run with the land and shall benefit and burden the Commons Parcel and the City Parcel. This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto. Notwithstanding the foregoing, this Agreement may only be assigned or transferred with written consent from the City and any assignment or transfer without the City's written consent shall be deemed an "Unpermitted Transfer" resulting in automatic termination of the Agreement-; provided, however, as a result of foreclosure by Lender, a transfer or deed in lieu shall not require the City's consent nor constitute an "Unpermitted Transfer."

13. City Parcel Surplus. Upon expiration or termination of the Low Income Housing Covenant Agreement dated November __, 2021, recorded on the Commons Parcel and in the event that the City determines the City Parcel is surplus to the needs of the City in accordance with VMC 3.30, the City shall have the right to terminate this Agreement for the sole purpose of disposing of the City Parcel pursuant to VMC 3.30.

14. General Provisions.

14.1 Force Majeure. Except as otherwise expressly provided in this Agreement, if the performance of any act required by this Agreement to be performed by either City or VHA is prevented or delayed by reason of any act of God, strike, lockout, labor trouble, discovery of unexpected subsurface conditions or artifacts, inability to secure materials, restrictive governmental laws or regulations or any other cause (except financial inability), provided such condition is not the fault of the party required to perform the act, the time for performance of the act will be extended for a reasonable period equivalent to the period of delay and performance of the act during the period of delay will be excused. However, nothing contained in this section shall excuse the performance of any act rendered difficult or impossible solely because of the financial condition of the party required to perform the act.

14.2 Notice to the Parties. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given under this Agreement shall be in writing and shall be deemed duly served and given when personally delivered to City or to any managing employee of City, or, in lieu of personal service, when sent by express mail or expedited courier that allows for tracking,

If to City at:

Vancouver City Manager
City of Vancouver
415 W. 6th Street
PO Box 1995
Vancouver, WA 98668-1995

With a copy to:

City of Vancouver
ATTN: City Attorney
PO Box 1995
Vancouver, WA 98668-1995

If to VHA at:

Housing Authority of the City of Vancouver
2500 Main Street
Vancouver, WA 98660
Attn: Roy A. Johnson

A party may change its address for the purpose of this section by giving written notice of that change.

14.3 Conflict Resolution. The parties will first attempt to mediate any controversy or claim arising out of or relating to this Agreement prior to initiating binding arbitration. The parties shall first attempt to mutually agree upon a mediator. If the parties are unable to agree, then either party may submit a demand for mediation with JAMS, and the mediator shall then be selected according to JAMS's procedures. If the parties are unable to resolve such dispute by mediation, then in that case any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be subject to arbitration. All settlement negotiations pursuant to this section shall remain confidential and shall be treated as compromise and settlement discussions for purposes of the applicable rules of evidence, including Rule of Evidence 408. The arbitrator shall have the power to award fees, costs and expenses, as well as reasonable attorney fees and witness fees, against the party that loses on substantially all of its claim(s) but only if the arbitrator determines that the proceeding was commenced or opposed in bad faith or recklessly or with intent to hinder or delay the other party from receiving the benefits to which it is entitled hereunder. The parties shall otherwise bear their own attorney fees, witness fees, costs, and expenses.

14.4 JURY TRIAL WAIVER. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THE AGREEMENT OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

14.5 Governing Law. This Agreement, and all matters relating to this Agreement, shall be governed by the laws of the state of Washington in force at the time any need for interpretation of this Agreement or any decision or holding concerning this Agreement arises.

14.6 Severability. If any term, provision or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law; provided, however, that the parties agree to meet and confer, in good faith, to negotiate a replacement provision that is consistent with the intent of the parties and the remainder of the Lease.

14.7 Approvals by City. If City's approval is required under any provisions of this Agreement, such approval shall be obtained in the manner described in Section 5.6.

14.8 No Partnership or Joint Venture. Nothing in this Agreement shall be construed to render City in any way or for any purpose a partner, joint venturer, or associate in any relationship with VHA other than that of easement grantor and grantee nor shall this Agreement be construed to authorize either to act as agent for the other.

14.9 Headings. Headings and captions used in this Agreement are for convenience only, do not define or limit the scope of this Agreement, and are not intended to interpret or change the meaning of any of the provisions of this Agreement.

14.10 Estoppel Certificates. Each party shall execute, acknowledge, and deliver to the other party, within ten business days' request, a certificate certifying:

14.10.1 That this Agreement is unmodified and in full force and effect or, if there have been modifications, that this Agreement is in full force and effect, as modified, and that the modifications are as described in (or attached to) the certificate.

14.10.2 That the party delivering the certificate has not given to the other party notice of default under this Agreement that has not been cured and, to the best of the party's knowledge and belief, no default exists or, if there has been notice given or a default exists, certifying to those facts and to the accuracy of the description of the default.

14.10.3 If the certificate is delivered by City, whether, to City's actual knowledge, all necessary construction, repairs, and maintenance, have been completed in accordance with the provisions hereof, without City giving any representation that the construction, repairs, and maintenance were performed or completed in compliance with applicable laws (including ordinances, regulations, and rules).

14.10.4 Certificates delivered under this section may be relied on by the receiving party's prospective lenders, prospective tenants, and prospective successors in interest under this Agreement.

14.11 Third Party Beneficiary. 2200 Norris will be a third-party beneficiary of this Agreement and is entitled to enforce its provisions as if a party hereto so long as (1) 2200 Norris is a party to the Lease Agreement, (2) the premises described in the Lease Agreement includes the Easement Area, and (3) the Lease Agreement remains in full force and effect.

~~14.11~~ 14.12 Counterparts; Amendments. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which together shall constitute one document. This Agreement supersedes all prior agreements between the parties with respect to the subject hereof and all discussions, understandings, offers, and negotiations with respect thereto, whether oral or written. This Agreement shall not be amended or modified, except in a writing signed by each party hereto. If amended or modified as permitted by this section, the term "Agreement" shall thereafter be read as including all said amendments and modifications. All exhibits that are referenced in this Agreement or attached to it are incorporated herein and made a part hereof as if fully set forth in the body of the document.

~~14.12~~14.13 Recording the Agreement. The parties agree that this Agreement will be recorded at VHA's expense in the official records of Clark County, Washington.

Signatures on following page

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

CITY OF VANCOUVER

By: _____

Name: _____

Its: _____

Approved as to Form:

By: _____

By: Jonathan Young, City Attorney

State of Washington)

) ss.

County of Clark)

This record was acknowledged before me on _____,
2021 by _____ as _____ of the
City of Vancouver, a Washington municipal corporation.

Dated: _____, 2021.

Notary Seal

Notary Public for Washington

Name of Notary

My appointment expires: _____

Housing Authority of the City of Vancouver,
a public body corporate and politic of the
State of Washington

Roy A. Johnson, Executive Director

State of Washington)
) ss.
County of Clark)

This record was acknowledged before me on _____,
2021 by _____ as _____ of
Housing Authority of the City of Vancouver, a public body corporate and politic of the State
of Washington.

Dated: _____, 2021.

Notary Seal

Notary Public for Washington

Name of Notary

My appointment expires: _____

EXHIBIT A

Legal Description of the City Parcel

A portion of the Robert Rockets Donation Land Claim (D.L.C.) in the Southwest quarter of the Southwest quarter of Section 24, Township 2 North, Range 1 East, Willamette Meridian, City of Vancouver, Clark County, Washington, described as follows:

Beginning at concrete monument with triangular brass cap in case with cover marking the Southwest corner of the Joseph Durgan Donation Land Claim (said point also being on the North line of the Edward Moore Donation Land Claim and also being on the East Right-of-Way Line of Norris Road);

Thence North 88°54'01" West, along the North line of said Edward Moore Donation Land Claim, for a distance of 50.00 feet to a 1/2" iron pipe set in a survey for "Fourth Plains School" by U. Ernest Nelson in May and October 1944 and recorded in Clark County Surveyor Bin File No. 251-G (said point bears South 88°54'01" East, 319.61 feet from a concrete monument with 2" brass disc marking the Northwest corner of the Edward Moore Donation Land Claim);

Thence North 00°58'44" East, along the West Right-of-Way Line of Norris Road parallel with and 50.00 feet West measured at right angles to the West line of the Joseph Durgan Donation Land Claim, for a distance of 293.67 feet to the TRUE POINT OF BEGINNING;

Thence continuing North 00°58'44" East, along said West Right-of-Way Line, for a distance of 201.62 feet;

Thence leaving said West Right-of-Way Line, North 81°44'54" West, for a distance of 468.31 feet to the East line of the "Kadow Tract" as described under Clark County Auditor's File Number F-53945 (recorded February 6, 1946);

Thence South 01°32'22" West, along the East line of said "Kadow Tract". For a distance of 201.38 feet;

Thence leaving said East line, South 81°44'54" East, for a distance of 470.30 feet to the TRUE POINT OF BEGINNING.

EXCEPT that portion conveyed in Deed of Dedication to the City of Vancouver, a municipal corporation of the State of Washington on November 19, 2018 under Auditor's File No. 5565215.

EXHIBIT B

Legal Description of the Commons Parcel

A portion of the Robert Rockett Donation Land Claim (D.L.C.) in the Southwest quarter of the Southwest quarter of Section 24, Township 2 North, Range 1 East, Willamette Meridian, City of Vancouver, Clark County, Washington, described as follows:

Beginning at concrete monument with triangular brass cap in case with cover marking the Southwest corner of the Joseph Durgan Donation Land Claim (said point also being on the North line of the Edward Moore Donation Land Claim and also being on the East Right-of-Way Line of Norris Road);

Thence North 88°54'01" West, along the North line of said Edward Moore Donation Land Claim, for a distance of 50.00 feet to a 1/2" iron pipe set in a survey for "Fourth Plains School" by U. Ernest Nelson in May and October 1944 and recorded in Clark County Surveyor Bin File No, 251-G (said point bears South 88°54'01" East, 319.61 feet from a concrete monument with 2" brass disc marking the Northwest corner of the Edward Moore Donation Land Claim);

Thence North 00°58'44" East, along the West Right-of-Way Line of Norris Road parallel with and 50.00 feet West measured at right angles to the West line of the Joseph Durgan Donation Land Claim, for a distance of 495.29 feet to the TRUE POINT OF BEGINNING;

Thence continuing North 00°58'44" East, along said West Right-of-Way Line, for a distance of 201.62 feet to the South Right-of-Way Line of East Fourth Plain Boulevard;

Thence North 81°44'54" West, along said South Right-of-Way Line, for a distance of 306.78 feet;

Thence leaving said South Right-of-Way Line, South 01°32'22" West, for a distance of 150.00 feet;

Thence North 88°26'58" West, for a distance of 158.45 feet to the East line of the "Kadow Tract" as described under Clark County Auditor's File Number F-53945 (recorded February 6, 1946);

Thence South 01°32'22" West, along the East line of said "Kadow Tract", for a distance of 32.76 feet;

Thence leaving said East line, South 81°44'54" East, for a distance of 468.31 feet to the TRUE POINT OF BEGINNING.

EXHIBIT C

Legal Description of the Easement Area

A portion of that tract of land labeled and described as "Exhibit B – BLA PARCEL 2" in that BOUNDARY LINE ADJUSTMENT deed under Clark County Auditor's File Number 5238922 BLA (recorded December 9, 2015), located in a portion of the Robert Rockets Donation Land Claim (D.L.C.) in the Southwest quarter of the Southwest quarter of Section 24, Township 2 North, Range 1 East, Willamette Meridian, City of Vancouver, Clark County, Washington, described as follows:

Beginning at a concrete monument marking the Southwest corner of the Joseph Durgan Donation Land Claim (said point also being on the North line of the Edward Moore Donation Land Claim and also being on the East Right-of-Way Line of Norris Road); Thence North 88°54'01" West, 50.00 feet, along the North line of said Edward Moore Donation Land Claim to the West Right-of-Way Line of Norris Road; Thence North 00°58'44" East, 293.67 feet along said West Right-of-Way Line of Norris Road to the Southeast corner of said BLA-Parcel 2; Thence leaving said West Right-of-Way Line along the southerly line of BLA-Parcel 2 North 81°44'54" West, 319.95 feet to the **TRUE POINT OF BEGINNING**; Thence continuing along the southerly line of BLA-Parcel 2, North 81°44'54" West, 150.34 feet to the southeast corner, also being a point on the East line of the "Kadow Tract" as described under Clark County Auditor's File Number F-53945 (recorded February 6, 1946); Thence North 01°32'22" East 201.38 feet along the East line of said "Kadow Tract" and west line of said BLA-Parcel 2 to the northwest corner thereof and the southwest corner of BLA-Parcel 1 per said Auditors file Number 5238922; Thence along the southerly line of said BLA-PARCEL 1 and Northerly line of said BLA-Parcel 2, South 81°44'54" East, 173.88 feet to a point; Thence South 8°15'06" West, 200.0 feet the **TRUE POINT OF BEGINNING**. Containing 32,422 square feet or 0.744 acres more or less.

Subject to Easements and Restrictions of Record.

Bearings based on survey #68-12, Washington state plane NAD83 (2011), south zone Washington state reference network.

EXHIBIT D
Depiction of the Easement Area

[TO BE INSERTED]

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To: Vancouver City Council and Staff
Citizen Forum Public Comment/November 8, 2021/Cathryn Chudy

Yesterday, thousands of people on every continent took to their streets demanding governments move from climate inaction to climate justice. What they are asking for is a world that works for all of us. This means rejecting false solutions and empty promises. A spokesperson for the COP26 Coalition, said in a statement. "We won't tolerate warm words and long-term targets anymore, we want action now."

Five young climate activists spent two weeks on hunger fasts at the Capitol in Washington DC, struggling to find hope for a safe and healthy future. They begged their Congressional representatives to make bold policy decisions that will make a difference to slow the accelerating impacts of catastrophic climate change in their lifetime. One of the young fasters was observed pleading with a key senator as he rushed by her: "I want to live"

At the federal level, uncertainty over the content and pace of climate policy means that state and local climate policy decisions take on even greater urgency, recognizing that the current lull in climate disaster impacts will not spare us from what comes at us next. We can't let the rain relief we are experiencing now blur the intensity of the drought and life threatening heat domes of this past summer. Concrete actions to reduce emissions and evolve resilience in our city and community should not wait until a future date certain. Timely, meaningful and effective climate policy must be set in motion as soon as possible and reflected in day-to-day decisions that are made by city staff and our City Council.

I appreciate Council member Ty Stober's question last week about the Early Action Package previewed by the City Council in July. I am encouraged that Senior Policy Analyst Rebecca Small is now in place to work with internal staff and external partners to move the actions in that package forward. I would like to see our City Council members actively involving themselves in that process as well.

The recent Columbian editorial about Vancouver leadership having a clear vision for the future refers to "wise development that provides jobs, boosts the economy, and adds to the aesthetics of the city." "Aesthetics" are the window dressing, but the rubber meets the road in ensuring we don't dig deeper with fossil fuel infrastructure that will only continue to add to the problem whose wide-ranging impacts have been felt especially by those who are focused less on "aesthetics" and "vibrancy" but are simply struggling to find a way to survive and stay healthy.

The homeless tents featured in a recent City Council candidate's messaging to voters are not the result of "extreme politics" but rather reflect a system of inequality that focuses more on safety and prosperity for some rather than equity, survival, health, prosperity and safety for all.

The present and future well being of **all** who live here should be the underlying measure of a meaningful vision for Vancouver. This means continuing the momentum set in place by our current City Council to do as much as we can, as fast as we can, to keep our Vancouver safe, healthy and affordable for all, by reducing emissions in all sectors, especially transportation, buildings and energy, and our natural systems.

From: [Kimberlee Elbon](#)
To: [City of Vancouver - Office of the City Manager](#); [Kimberlee Elbon](#)
Subject: TO ALL ICLEI-Local Government for \$u\$tainability !\$!\$!\$!\$!\$!\$
Date: Monday, November 8, 2021 11:57:12 AM

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Addressing the mayor, city council member\$, Clark County Manager\$ and ALL Employee\$ in Vancouver Washington USA and Clark County that WE THE PEOPLE, MySelf included - DEMAND TRANSPARENCY in this current - what I call - \$ociali\$tic Government - AND

WE THE PEOPLE, MySelf included DEMAND the above entitie\$ listed to \$TOP I REPEAT STOP THE in\$lee ILLEGAL and CRIMINAL MANDATES\$ that ARE HARMING THE PEOPLE here in Clark County and across what use to be My GREAT STATE OF WASHINGTON !!!

WE WILL DO WHAT IT TAKES for WE THE PEOPLE to get OUR COUNTY AND CITY BACK TO THE PEOPLE

WE ARE ORGANIZED and 'REQUEST' to address the mayor, city council and Clark County Managers at a PUBLIC local place that does not require MASK\$ - WE WANT AN IN PERSON MEETING. MAKE IT HAPPEN and Thank You.

When THE PEOPLE UNDERSTAND They actually have NO SAY in what is going on in Their \$crew ball government - They might want TRANSPARENCY and OUT OF the ICLEI-Local Government for \$u\$tainability Agenda 21 green new one world order equity agenda\$ this City government and County Managers ARE MEMBER\$ OF. EDUCATING THE PEOPLE IS KEY.

I am also wanting this email to be in PUBLIC RECORDS, read out loud and talked over in your 'private' meetings.

Thank you and consider THE PEOPLE.
Kimberlee Elbon
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