



**CITY OF WENATCHEE  
PUBLIC NOTICE**

**Re: Wenatchee City Council Meeting  
Thursday, March 11, 2021 @ 5:15 PM**

Due to the COVID-19 pandemic, and current legislative resolution extending the gubernatorial orders issued in response to the state of emergency, for the health and safety of the community and city staff and councilmembers, City Hall is closed to the public. The public may view the City Council meeting which is broadcast live on the city's YouTube channel "[Wenatchee TV](#)". Members of the public without internet access may listen to the City Council meeting and participate in any public hearings by calling **(509) 888-3298, passcode 66516**.

**En Español:**

POR FAVOR TOME NOTA, en consideración a la actual pandemia COVID-19, para la salud y seguridad de la comunidad y el personal de la ciudad y los miembros del Concejo, no tendremos público presente en la junta del Concejo de Wenatchee.

El público puede tener acceso a la junta en el canal de YouTube de la ciudad "Wenatchee TV". Los miembros del público sin acceso a Internet pueden escuchar esta junta llamando al **(509) 888-3298, passcode, 66516**.

Tammy Stanger, City Clerk  
301 Yakima Street, 3<sup>rd</sup> Floor • P.O. Box 519 • Wenatchee, WA 98807-0519  
Telephone: (509) 888-6204 • Facsimile: (509) 888-3636 • TTY: 711  
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## **WENATCHEE CITY COUNCIL**

**Thursday, March 11, 2021**

Wenatchee City Hall Council Chambers  
301 Yakima Street, 2<sup>nd</sup> Floor  
Wenatchee, WA 98801

### **AGENDA**

Due to the COVID-19 pandemic, and current legislative resolution extending the gubernatorial orders issued in response to the state of emergency (SCR 8402), for the health and safety of the community and city staff and councilmembers, City Hall is closed to the public. The public may view the City Council meeting which is broadcast live on the city's YouTube channel "[Wenatchee TV](#)". Members of the public without internet access may listen to the City Council meeting and participate in any public hearings by calling **(509) 888-3298, passcode 66516**.

#### **5:15 p.m. Regular Meeting**

##### **1. Call to Order, Pledge of Allegiance, and Roll Call.**

##### **2. Consent Items:**

- Motion to approve agenda, vouchers, and minutes from previous meetings.  
Vouchers:  
Claim checks #198074 through #198178 in the amount of \$311,738.69 for February 18, 2021  
Wires #1519 - #1520 in the amount of \$12,866.82 for February 25, 2021  
Claim checks #198179 through #198248 in the amount of \$443,205.68 for February 25, 2021  
Claim checks #198262 through #198274 in the amount of \$16,363.90 for February 26, 2021  
Benefits/deductions in the amount of \$928,210.40 for February 26, 2021  
Payroll distribution in the amount of \$497,707.96 for March 5, 2021  
Claim checks #198275 through #198329 in the amount of \$297,168.82 for March 4, 2021
- Motion for City Council to accept the work by the contractor, Rudnick & Sons, LLC, on City Project No. SW20-01, Chase Park Rehabilitation, and further authorize the Mayor to sign the Final Contract Voucher.
- Motion for City Council to adopt Resolution No. 2021-13, declaring certain personal property surplus to the needs of the City of Wenatchee and authorize the Department of Public Works to surplus the property.

##### **3. Presentations**

- Healthcare Heroes Proclamation
- Parks, Recreation & Cultural Services Phase 2 Plan
- Pavement Management Update

#### 4. Action Items.

- A. Resolution 2021-09 adopting a pledge to civility in public service.  
Presented by Executive Services Director Laura Merrill  
**Action Requested:** *City Council pass Resolution No. 2021-09 adopting a pledge to civility in public service.*
- B. Adoption of Resolution No. 2021-11 for the appointment of Cody Beeson to the Lodging Tax Advisory Committee.  
Presented by Executive Services Director Laura Merrill  
**Action Requested:** *Staff recommends the City Council pass Resolution No. 2021-11 appointing Cody Beeson to a two-year unexpired term on the Lodging Tax Advisory Committee through December 31, 2022.*
- C. Martinez Ten Percent (10%) Annexation Petition for review, adjustment, approval or denial  
Presented by Neighborhood and Community Services Coordinator Brooklyn Holton  
**Action Requested:** *For the City Council to:*  
*a. [accept, reject or geographically modify] the proposed annexation boundary;*  
*b. Adopt the proposed zoning regulation; and*  
*c. Assume [all or a portion] of existing city indebtedness by the annexation area.*
- D. DJML, LLC Ten Percent (10%) Annexation Petition for review, adjustment, approval or denial  
Presented by Neighborhood and Community Services Coordinator Brooklyn Holton  
**Action Requested:** *For the City Council to:*  
*a. [accept, reject or geographically modify] the proposed annexation boundary;*  
*b. Adopt the proposed zoning regulation; and*  
*c. Assume [all or any portion] of existing city indebtedness by the annexation area.*
- E. Multi-Family Tax Exemption Agreement with Central Cascade Properties, LLC  
Presented by Neighborhood and Community Services Coordinator Brooklyn Holton  
**Action Requested:** *Adopt Resolution 2021-12 authorizing the execution of a Multi-Family Housing Limited Property Tax Exemption Agreement with Central Cascade Properties, LLC.*
- F. Wenatchee Valley Decant Facility Use Agreement with Douglas County  
Presented by Deputy Public Works Director-Utilities Jessica Shaw  
**Action Requested:** *Staff recommends the City Council approve the Wenatchee Valley Regional Decant Facility Use Agreement with Douglas County and authorize the Mayor's signature.*
- G. Ordinance No. 2021-07 granting a franchise to Computer 5, Inc dba LocalTel Communications  
Presented by Executive Services Director Laura Merrill  
**Action Requested:** *Staff recommends the City Council adopt Ordinance No. 2021-07 granting a franchise to LocalTel Communications for the purposes of authorizing the use of the City right-of-way for a cable service.*

- H.** Interlocal Agreement between the City of Wenatchee and Chelan PUD for development projects funded with collaborative financing  
Presented by Executive Services Director Laura Merrill  
*Action Requested: Staff recommends the City Council authorize the Mayor to sign the Interlocal Agreement regarding Development Projects between the City of Wenatchee and Chelan County Public Utility District #1.*

**5. Reports.**

- a. Mayor's Report
- b. Reports/New Business of Council Committees

**6. Announcements.**

**7. Adjournment.**





**WENATCHEE CITY COUNCIL  
WORK SESSION  
Thursday, February 18, 2021  
Wenatchee City Hall Council Chambers  
301 Yakima Street, 2<sup>nd</sup> Floor  
Wenatchee, WA 98801  
MINUTES**

**DRAFT**

**Present:** Mayor Frank Kuntz, Councilmember Position 1 Jose Cuevas, Councilmember Position 2 Jim Bailey, Councilmember Position 4 Travis Hornby, Councilmember Position 5 Mark Kulaas, Councilmember At-Large “A” Linda Herald, Councilmember At-Large “B” Keith Huffaker

**Staff Present:** Executive Services Director Laura Merrill, City Attorney Steve Smith, City Clerk Tammy Stanger, IS Support Tim McCord, Community Development Director Glen DeVries, Housing Program Coordinator Sandra Van Osten, Police Chief Steve Crown, Planning Manager Stephen Neuenschwander

**5:15 p.m. Work Session.** The Mayor called the meeting to order at 5:15 p.m. The excused absence of Councilmember Ruth Esparza was noted for the record.

A. Shoreline Master Plan Update

Planning Manager Stephen Neuenschwander provided a presentation titled “City of Wenatchee Shoreline Master Program Periodic Update.” This update is required every 8 years. He provided an overview of the Shoreline Management Act and Shoreline Master Program; the periodic update process and schedule, and Shoreline Master Program next steps. The deadline for adopting the updated Shoreline Master Program is June 30, 2021. There are only minor updates needed at this time. Staff will bring the final Shoreline Master Program updates to City Council on May 13, 2021.

B. House Bill 1590 Funds for Homeless/Housing Services

Councilmember Linda Herald provided opening and concluding remarks, and Housing Programs Coordinator Sandra Van Osten, Community Development Director Glen DeVries, and Police Chief Steve Crown provided a power point presentation “Strategies to Housing the Unsheltered Homeless Population and Decrease Community Impacts in Chelan and Douglas Counties.” The presentation included the scope of problem, individual and community impacts, staff research and recommendations, 1590 funding background, and project description (phases 1 and 2). Council discussed. It was the consensus that with Wenatchee as the regional hub, Wenatchee cannot do it alone; it will only be feasible to move forward with a low-barrier shelter if there is another governmental agency willing to participate. Both Chelan and Douglas Counties have said

they are not willing to participate at this time. Also, the Council would like to see performance measures in place to be certain the plan is working. Service providers will need to be available on-site with assertive contact. Chief Crown addressed the Council that this is just a small piece and tools are needed to help people get headed in the right direction without using the leverage of the law. It was the consensus of the Council for the City Attorney to draft up an ordinance and for staff to move ahead with a plan and public engagement as much as possible.

With nothing further to discuss, the meeting adjourned at 6:57 p.m.

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Frank J. Kuntz, Mayor

Attest:

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Tammy L. Stanger, City Clerk



**WENATCHEE CITY COUNCIL**  
**Thursday, February 25, 2021**  
Wenatchee City Hall Council Chambers  
301 Yakima Street, 2<sup>nd</sup> Floor  
Wenatchee, WA 98801  
**MINUTES**

**DRAFT**

**Present:** Mayor Frank Kuntz, Councilmember Position 1 Jose Cuevas, Councilmember Position 2 Jim Bailey, Councilmember Position 3 Ruth Esparza, Councilmember Position 4 Travis Hornby, Councilmember Position 5 Mark Kulaas, Councilmember At-Large "B" Keith Huffaker

**Staff Present:** Executive Services Director Laura Merrill, City Attorney Steve Smith (via phone), City Clerk Tammy Stanger, IS Support Jessi Saucedo, Finance Director Brad Posenjak, Building/Fire Code Official Cliff Burdick, Public Works Director Rob Jammerman, Deputy Public Works Director Jessica Shaw.

**5:15 p.m. Regular Meeting**

**1. Call to Order, Pledge of Allegiance, and Roll Call.** Mayor Frank J. Kuntz called the regular meeting to order at 5:15 p.m. Councilmember Jose Cuevas led the Pledge of Allegiance. The excused absence of Councilmember Linda Herald was noted for the record.

**2. Consent Items**

*Motion by Councilmember Travis Hornby to approve the agenda, vouchers, and minutes from previous meetings. Councilmember Jose Cuevas seconded the motion. Motion carried (6-0).*

**3. Presentation**

- Red Cross Month Proclamation read by Councilmember Keith Huffaker. Ryan Rodin, Red Cross Executive Director of the Inland Northwest, said a few words and the Mayor thanked him for the efforts and great work of the Red Cross.

**4. Action Items**

- A. Sewer Capital Project Budget Updates
- (a) Project No. 1908-Knowles Road Sanitary Sewer
  - (b) Project No. 2105- School Street Sanitary Sewer
  - (c) Project No. 2106 Wastewater Treatment Plant Blower Building Improvements

Deputy Public Works Director-Utilities Jessica Shaw presented the staff report and an updated budget for the Knowles Road project.

Motion by Councilmember Keith Huffaker for City Council to approve the amended capital project budgets for the three projects listed above. Councilmember Jim Bailey seconded the motion. Motion carried (6-0).

- B. Ordinance #2021-11, authorizing the sale, issuance and delivery of not to exceed \$10,000,000 of the City's Water and Sewer Refunding Bonds

Finance Director Brad Posenjak presented the staff report.

Motion by Councilmember Ruth Esparza for City Council to adopt Ordinance No 2021-11 authorizing the sale, issuance and delivery of not to exceed \$10,000,000 of the City's Water and Sewer Refunding Bonds. Councilmember Travis Hornby seconded the motion. Motion carried (6-0).

- C. Code Enforcement Board Appointment – James Snyder

Building/Fire Code Official Cliff Burdick presented the staff report.

Motion by Councilmember Mark Kulaas for City Council to pass Resolution No. 2021-08, designating the appointment of James Snyder to the Code Enforcement Board for a two-year term ending December 31, 2022. Councilmember Jose Cuevas seconded the motion. Motion carried (6-0).

- D. An amendment of the City budget for two funding changes to the Chelan-Douglas Homeless Program:

- A new grant award by the Washington State Department of Commerce to the City of Wenatchee for the administration of the Treasury Rent Assistance Program (T-RAP).
- A funding increase amendment to the existing Eviction Rent Assistance Program (ERAP) grant between the Washington State Department of Commerce and the City of Wenatchee.

Housing Programs Coordinator Oliver Crain presented the staff report. Council asked questions.

Motion by Councilmember Keith Huffaker for City Council to accept the Chelan-Douglas Homeless Housing Task Force's recommendations and authorize the Mayor to: (1) Enter into a new grant agreement between the Department of Commerce and the City of Wenatchee for the Treasury Rent Assistance Program Grant (T-RAP); (2) Enter into a new Treasury Rent Assistance Program (T-RAP) sub grantee agreement with Chelan-Douglas Community Action Council; (3) Enter into an amended agreement to increase the funding for the existing Eviction Rent Assistance Program (ERAP) contract between the Department of Commerce and the City of Wenatchee; and (4) Enter into an amended agreement for the existing Eviction Rent Assistance Program (ERAP) sub grant contract with the Chelan-Douglas Community Action Council. Councilmember Travis Hornby seconded the motion. Motion carried (6-0).

E. Revisions to water and sewer utility credit policies

Finance Director Brad Posenjak presented the staff report. Council asked questions.

Motion by Councilmember Travis Hornby for City Council to adopt Ordinance No 2021-12, relating to water and sewer utility billing credit; amending WCC 4.08.060(5) and WCC 9.12.540(4); and adding WCC 9.12.540(5). Councilmember Keith Huffaker seconded the motion. Motion carried (6-0).

F. Rhinehart Ten Percent (10%) Annexation Petition for review, adjustment, approval or denial

Neighborhood and Community Services Coordinator Brooklyn Holton presented the staff report. Council asked questions.

Motion by Councilmember Mark Kulaas for City Council to accept the ten percent annexation petition, as presented and described and presented to the City Council, to accept the geographic boundary and the proposed annexation area option #2, as mapped as proposed annexation area #2, and at time of annexation will require simultaneous adoption of a proposed zoning regulation, and would require the assumption of all or any portion of existing city indebtedness by the area to be annexed. Motion seconded by Councilmember Jim Bailey. Motion carried (6-0).

## 5. Public Hearing Items

The Mayor called the public hearing to order and explained the public hearing process.

G. Public Hearing for Ordinance No. 2021-07 granting a franchise to Computer 5, Inc dba LocalTel Communications

Executive Services Director Laura Merrill presented the staff report. Council asked questions.

The Mayor asked if there was anyone from the public who wished to speak. There was no one who wished to speak.

No action was requested. Ordinance No. 2021-07 will be on the next regular meeting agenda on March 11, 2021, for final adoption.

## 6. Reports

a. Mayor's Report.

- (1) The Mayor reported that Glen DeVries, Sandra VanOsten and Chief Crown were attending the City of East Wenatchee's work session this evening on the 1590 funding.

- (2) It is the consensus of staff to go ahead with the INFRA application. The deadline is March 19. There are some additional considerations for this year's application (i.e. social equity, climate change, environmental justice, etc.). Meetings with Senators Cantwell and Murray and Congresswoman Schrier's team have been held, and additional meetings scheduled. Staff will be working hard to the finish line.
- (3) The Supreme Court ruled on the issue of arrests for drug possession. The Police Chief is frustrated at this ruling as it will have a significant impact on drug enforcement.
- (4) The Finance Committee met today and the 2020 budget came in much better than anticipated with about \$3,000,000 in additional funds in reserves than what was originally budgeted.

b. Reports/New Business of Council Committees

Councilmember Keith Huffaker reported that the Chamber banquet is coming up next week. He recently attended the Chamber Board meeting and they discussed current real estate trends, the high unemployment numbers in our region (mostly from the hospitality industry), and potential soil testing processes which may have an impact moving forward with developing land. He also reported that the waste facility is still doing very well, and that Douglas County is not interested in joining.

## 7. Announcements

The Mayor announced that David Erickson will have a presentation for the Council at the March 11 meeting to provide an update on Parks and Recreation programs and impacts related to Phase 2 COVID guidelines.

## 8. Adjournment.

With no further business the meeting adjourned at 6:20 p.m.

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Frank J. Kuntz, Mayor

Attest:


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Tammy L. Stanger, City Clerk



**CITY COUNCIL AGENDA REPORT**

**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Charlotte Mitchell, Capital Projects Manager  
Parks, Recreation, and Cultural Services 

**MEETING DATE:** March 11, 2021

**I. SUBJECT**

Final Acceptance for Chase Park Rehabilitation, City Project SW20-01

**II. ACTION REQUESTED**

Staff recommends the City Council accept the work performed by the contractor Rudnick and Sons LLC, on City Project No. SW20-01 – Chase Park Rehabilitation, and further authorize the Mayor to sign the Final Contract Voucher.

**III. OVERVIEW**

This project rehabilitated Chase Park. Improvements include sidewalk, a slide, swings, an ADA compliant picnic table, trees and a climbing boulder. The project was awarded to Rudnick and Sons LLC for construction on May 27, 2020. Construction started June 29, 2020 and was physically complete September 25, 2020.

**IV. FISCAL IMPACT**

This project came in 19% under the engineers estimate at \$60,883.73. After one change order to add in a foundation for the climbing boulder, the total amount paid to Rudnick and Sons, LLC was \$63,443.63. Cost savings from this project were able to be shifted to other projects in need of funding as shown below:

<b>Item</b>	<b>Cost</b>
Play Equipment	\$37,005.76
Play Area Surfacing	\$4,123.91
Construction	\$63,443.63
Trees	\$1,350.00
Materials Testing	\$1,684.00
<b>TOTAL</b>	<b>\$107,607.30</b>
2020 Budgeted Amount	\$160,970.80
Amount moved to Hale Park construction and art purchase	\$53,363.50
<b>Remainder</b>	<b>\$4,029.20</b>

V. **REFERENCE(S)**

1. Final Contract Voucher

VI. **ADMINISTRATIVE ROUTING**

Tammy Stanger, City Clerk  
Laura Merrill, Executive Services Director  
Brad Posenjak, Finance Director





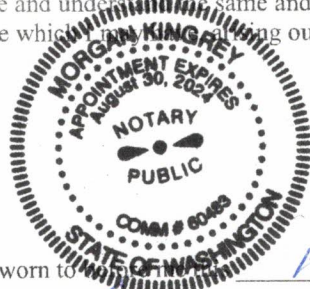
**City of Wenatchee  
Department of Public Works**

**Final Contract  
Voucher Certificate**

Contractor <b>Rudnick &amp; Sons LLC</b>			
Street Address 448 W Rolling Hill Ln			
City <b>Wenatchee</b>	State <b>WA</b>	Zip 98801	Date
City Project Number <b>SW20-01</b>	Federal-Aid Project Number <b>NA</b>	Highway Number <b>NA</b>	
Job Description (Title) <b>Chase Park Rehabilitation</b>			
Date Work Physically Completed <b>9/25/2020</b>		Final Amount <b>\$63,443.63</b>	

**Contractor's Certification**

I, The undersigned, having first been duly sworn, certify that I am authorized to sign for the claimant; that in connection with the work performed and to the best of my knowledge no loan, gratuity or gift in any form whatsoever has been extended to any employee of the City of Wenatchee nor have I rented or purchased any equipment or materials from any employee of the City of Wenatchee; I further certify that the attached final estimate is a true and correct statement showing all the monies due me from the City of Wenatchee for work performed and materials furnished under this contract; that I have carefully examined said final estimate and understand the same and that I hereby release the City of Wenatchee from any and all claims of whatsoever nature which may result from the performance of said contract, which are not set forth in said estimate.



*[Signature]*  
Contractor Authorized Signature Required  
**Beinwyn Rudnick**  
Type Signature Name

Subscribed and sworn to 19<sup>th</sup> day of February 20 21

X Morgan Kingrey Notary Public in and for the State of Washington,  
residing at Wenatchee WA

**City of Wenatchee**

City of Wenatchee hereby accepts the completed contract pursuant to Section 1-05.12 of the contract provisions.

X \_\_\_\_\_  
Mayor/or Designee

\_\_\_\_\_  
Date of Acceptance

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**COUNCIL AGENDA REPORT  
PUBLIC WORKS DEPARTMENT**

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**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Aaron Kelly, Public Works Operations Manager

**SUBJECT:** Resolution 2021-13 Declaring certain personal property surplus to the needs of the City.

**DATE:** March 4, 2021

**MEETING DATE:** March 11, 2021

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**I. OVERVIEW**

The City has various equipment and materials that are surplus to the needs of the City. The attached Resolution No. 2021-13 describes the process and Exhibit A lists the surplus equipment.

**II. ACTION REQUESTED**

Staff recommends that the City Council **adopt Resolution 2021-13 declaring certain personal property surplus to the needs of the City of Wenatchee and authorize the Department of Public Works to surplus the property.**

**III. FISCAL IMPACT Submitted to the Finance Committee Yes  No**

Proceeds for vehicles and equipment will go into each fund that that originally purchased the equipment and vehicles.

**IV. REFERENCE(S)**

1. Resolution 2021-13

**V. ADMINISTRATIVE ROUTING**

Tammy Stanger, City Clerk  
Brad Posenjak, Finance Director  
Rob Jammerman, Public Works Director

**RESOLUTION NO. 2021-13**

**A RESOLUTION,** declaring certain personal property surplus to the needs of the City of Wenatchee and authorizing the Public Works Department to dispose of the personal property identified herein.

**WHEREAS,** the City of Wenatchee owns the personal property legally described on Exhibit “A”; and

**WHEREAS,** the personal property described on Exhibit “A” is surplus to the needs of the City; and

**WHEREAS,** the City of Wenatchee has the statutory authority to dispose of said personal property under RCW 35A.11.010 and Chapter 1.34 WCC as currently enacted.

**NOW THEREFORE,** BE IT RESOLVED by the City Council of the City of Wenatchee, as follows: The personal property described on Exhibit “A” is declared surplus to the needs of the City of Wenatchee. The Public Works Department of the City of Wenatchee is hereby authorized and directed to sell, transfer and convey the personal property described on Exhibit “A” in accordance with Chapter 1.34 WCC.

**PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE,** at a regular meeting thereof, this 11<sup>th</sup> day of March, 2021.

CITY OF WENATCHEE, a Municipal  
Corporation

By: \_\_\_\_\_  
FRANK KUNTZ, Mayor

ATTEST:

By: \_\_\_\_\_  
TAMMY L. STANGER, City Clerk

APPROVED

By: \_\_\_\_\_  
STEVE D. SMITH, City Attorney

**EXHIBIT "A"**

<b>Item #</b>	<b>Qty</b>	<b>Description</b>	<b>Serial/VIN/Etc.</b>
1	3	Apple boxes of Street Signs	NA
2	5	Pallets of overhead Street Signs	NA
3	2	Cords of Black walnut wood from a Parks tree	NA
4	2	Kitchen stoves (white) from Veterans Hall	NA
5	1	Survey Level from Engineering	000068
6	1	Dodge Charger 1-12	2C3CDXKT4EH320012
7	1	Ice Machine (PSC)	NA
8	2	Rigging Blocks from Treatment Plant	NA
9	1	1997 Ford Taurus Sedan	1FALP52U2VG220542
10	1	1999 Ford Taurus Station Wagon	1FAFP58UXG231720
11	3	STIHL Weed Eaters	NA
12	1	Bedbug heat treatment unit	NA

# PROCLAMATION

**WHEREAS,** healthcare workers, to include all levels of staffing at each hospital, clinic, nursing home, and healthcare center, every emergency medical response team in our community, the National Guard and all the volunteers serving at the Town Toyota Center’s mass vaccination site – have proven during the COVID-19 health pandemic to be more than just essential workers but frontline heroes for all of North Central Washington; and

**WHEREAS,** the responsibility, dedication and fortitude of these devoted individuals to continue administering services in the face of a pandemic and uncertainty serves as an absolute inspiration to all; and

**WHEREAS,** the unified vision to protect life is realized at every sector within these organizations and the commitment of such heroes shines brightly even as dark days have been seen; and

**WHEREAS,** we are privileged to witness and hear of tireless collaborative caretaking efforts, which truly embody the definition of Servant Leadership; and

**WHEREAS,** the pledge healthcare workers have taken to provide quality care and ensure patient safety is and always has been critical to the welfare of our entire region; and

**WHEREAS,** the appreciation for these tireless heroes during this time simply cannot be overstated.

**NOW, THEREFORE,** I, Frank J. Kuntz, Mayor, City of the City of Wenatchee, Washington, do hereby proclaim March 11, 2021, to be **HEALTHCARE HEROES APPRECIATION DAY** and I encourage all to join me in this special observance.



**IN WITNESS WHEREOF,** I have caused the seal of the City of Wenatchee to be affixed on this 11<sup>th</sup> day of March, 2021.

/s/ Frank J. Kuntz

FRANK J. KUNTZ, Mayor



## CITY COUNCIL AGENDA REPORT

**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Laura Merrill, Executive Services Director  
Mayor's Office

**MEETING DATE:** March 11, 2021

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**I. SUBJECT**

Resolution 2021-09 adopting a pledge to civility in public service.

**II. ACTION REQUESTED**

City Council pass Resolution No. 2021-09 adopting a pledge to civility in public service.

**III. OVERVIEW**

The City Council was asked to consider adopting a pledge to civility in public service by fellow elected officials, Bob Bugert, Chelan County, Randy Smith, Chelan County PUD, J.C. Baldwin, Chelan-Douglas Regional Port District, and Steve McKenna, Chelan County PUD. The City Council discussed the request at the February 11, 2021 City Council meeting and requested that staff bring forward a resolution for consideration.

**IV. FISCAL IMPACT**

No fiscal impact.

**VI. REFERENCE(S)**

1. Resolution 2021-09

**VII. ADMINISTRATIVE ROUTING**

Tammy Stanger, City Clerk  
Brad Posenjak, Finance Director

## **RESOLUTION NO. 2021-09**

**A RESOLUTION,** adopting a pledge to civility in public service.

**WHEREAS,** fellow elected officials, Bob Bugert, Chelan County, Randy Smith, Chelan County PUD, J.C. Baldwin, Chelan-Douglas Regional Port District, and Steve McKenna, Chelan County PUD, invited the City Council of the City of Wenatchee and other elected and appointed officials in North Central Washington to consider and adopt a pledge of civility in public service; and

**WHEREAS,** the proposed pledge is consistent with the existing values and conduct of the City Council; and

**WHEREAS,** the Council believes there is a public benefit to expressing its values and standard of conduct by formally adopting the pledge.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE HEREBY RESOLVES** as follows:

### **SECTION I**

That the pledge to civility in public service shall be and hereby is adopted in the following form:

#### **“A Pledge to Civility in Public Service**

- Respect the right of our constituents to hold different opinions;
- Strive to understand differing perspectives and treat all individuals with dignity and respect;
- Speak truthfully without accusation and avoid distortion;
- Speak out in support of non-violence, inclusion and civil discourse;



- Choose words thoughtfully; and
- Refrain from rhetoric intended to humiliate, de-legitimize or question the patriotism of those whose opinions are different from ours.

We further pledge to exhibit and encourage the kind of personal qualities that are emblematic of a civil society: Gratitude, humility, openness, propriety, kindness, faith, a sense of duty and service to others, and a commitment to doing what we believe is in the best long-term interest of our communities.”

## SECTION II

The pledge to civility in public service is an aspirational goal intended to benefit the public in general. There are no intended individual beneficiaries of the pledge. The adoption of the pledge shall not form a basis for claims against the City.

**PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE** at a regular meeting thereof this 25th day of February, 2021.

CITY OF WENATCHEE, a Municipal  
Corporation

By \_\_\_\_\_  
FRANK J. KUNTZ, Mayor

ATTEST:

By \_\_\_\_\_  
TAMMY L. STANGER  
City Clerk

APPROVED:

By \_\_\_\_\_  
STEVE D. SMITH  
City Attorney



## CITY COUNCIL AGENDA REPORT

**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Laura Merrill, Executive Services Director  
Mayor's Office

**MEETING DATE:** March 11, 2021

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**I. SUBJECT**

Adoption of Resolution No. 2021-11 for the appointment of Cody Beeson to the Lodging Tax Advisory Committee.

**II. ACTION REQUESTED**

Staff recommends the City Council pass Resolution No/ 2021-11 appointing Cody Beeson to a two-year unexpired term on the Lodging Tax Advisory Committee through December 31, 2022.

**III. OVERVIEW**

At the regular joint meeting of the Lodging Tax Advisory Committee (LTAC) on February 17, 2021, the LTAC members recommended appointment of Cody Beeson, General Manager from the Hilton Garden Inn Wenatchee to the LTAC to replace Gina Muller, also of the Hilton Garden Inn. As the current term is still unexpired, the approval of this appointment will fulfill the remaining two-year term valid through December 31, 2022.

**IV. FISCAL IMPACT**

Not applicable.

**VI. REFERENCE(S)**

1. Resolution 2021-11

**VII. ADMINISTRATIVE ROUTING**

Tammy Stanger, City Clerk  
Brad Posenjak, Finance Director

## RESOLUTION NO. 2021-11

**A RESOLUTION**, appointing a member to the Lodging Tax Advisory Committee to fill an unexpired term ending December 31, 2022.

**WHEREAS**, Cody Beeson has expressed interest in being appointed to the Lodging Tax Advisory Committee; and

**WHEREAS**, the Lodging Tax Advisory Committee interviewed and voted to recommend Cody Beeson to fill the current vacancy on the Committee.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF WENATCHEE** makes the following appointment to the Lodging Tax Advisory Committee:

**NAME & ADDRESS**

Cody S. Beeson  
2193 S. Melody Ln.  
East Wenatchee, WA 98802

**TERM EXPIRES**

December 31, 2022

**PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE** at a regular meeting thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF WENATCHEE, a Municipal  
Corporation

By: \_\_\_\_\_  
FRANK KUNTZ, Mayor

ATTEST:

By: \_\_\_\_\_  
TAMMY STANGER, City Clerk

APPROVED:

By: \_\_\_\_\_  
STEVE D. SMITH, City Attorney

## CITY COUNCIL AGENDA REPORT

**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Brooklyn Holton, Neighborhood and Community Services Coordinator  
Community Development

**MEETING DATE:** March 11, 2021

---

**I. SUBJECT**

Martinez Ten Percent (10%) Annexation Petition for review, adjustment, approval or denial.

**II. ACTION REQUESTED**

1. The City Council to:

- a. [accept, reject or geographically modify] the proposed annexation boundary;
- b. Adopt the proposed zoning regulation; and
- c. Assume [all or any portion] of existing city indebtedness by the annexation area

**Additional Detail:**

If the legislative body requires the adoption of a proposed zoning regulation and/or the assumption of all or any portion of indebtedness as condition to annexation, it is to record this action in its minutes.

Council acceptance is a condition precedent to circulation of the petition. There is no appeal from the council decision.

**III. OVERVIEW**

A ten percent (10%) annexation petition was submitted on February 18, 2021 with the signature representing the owner of Parcel Number(s) 222015680060. The proposed area, located along the west side of S Mission Street bordering City parcels to the north. The signatures on the petition represent ~100% of the assessed value, meeting the 10% requirement at this phase. Included in the annexation boundary is a sliver of Chelan County property with Parcel Number 222015680067 that connects the property at 1704 S Mission with the City Boundary.

Following a ten percent (10%) annexation meeting, a petition will be circulated for signatures. If the applicant(s) return a sufficient petition and it is certified by the Chelan County Assessor, a date will be scheduled by resolution for the sixty percent public hearing.

**IV. FISCAL IMPACT**

There are no estimated budget impacts as a direct result of the annexation and its process.

**V. PROPOSED PROJECT SCHEDULE**

March 11 (today) – approve the recommended annexation boundary

March 25 – bring to council a Resolution for 60% petition

April 8 – bring to council Ordinance for adoption and hold a public hearing

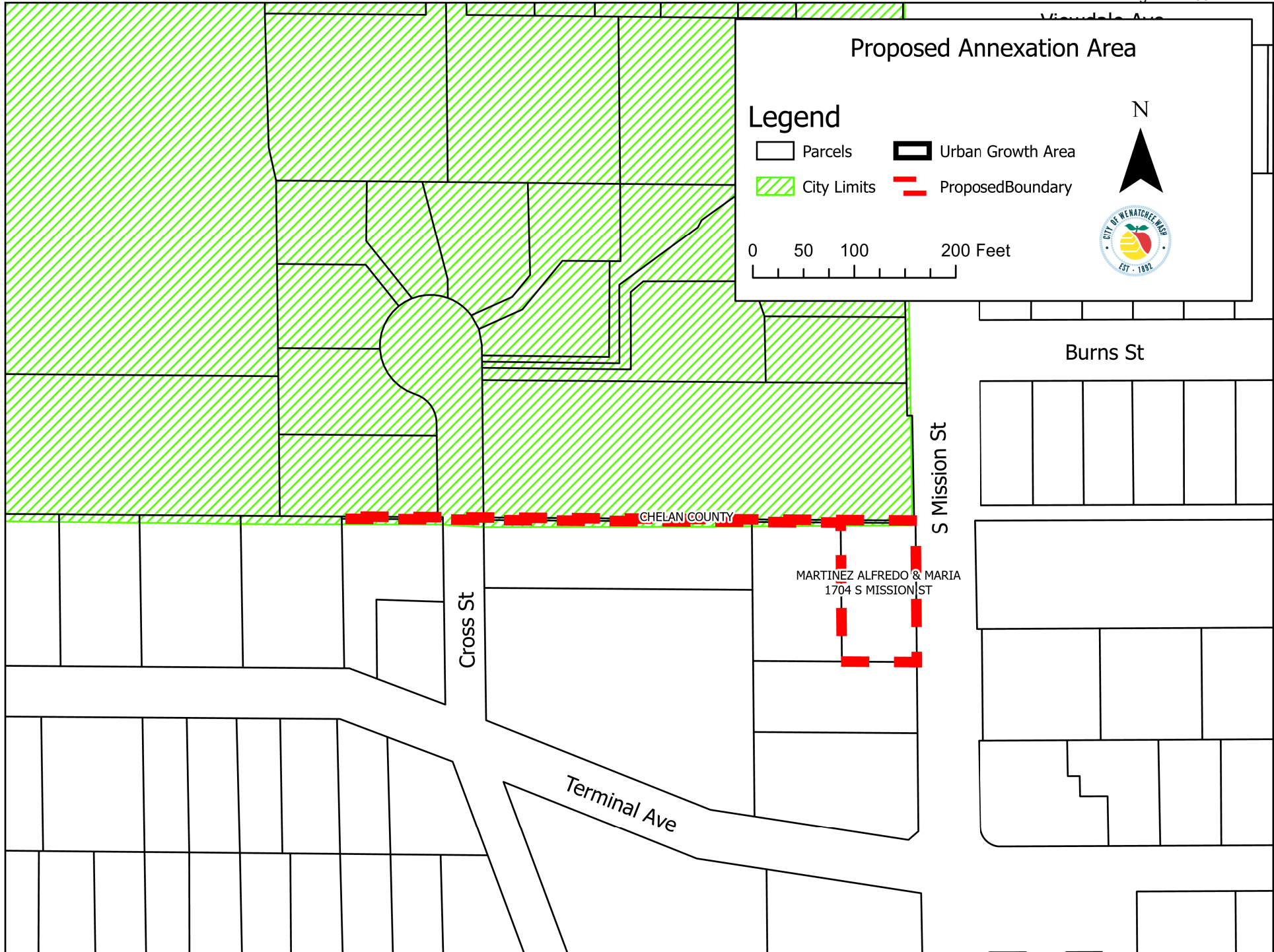
April 14 – Inform interested parties of new city boundaries

**VI. REFERENCE(S)**

1. Map of Annexation Area
2. Application Materials

**VII. ADMINISTRATIVE ROUTING**

Tammy Stanger, City Clerk  
Laura Merrill, Executive Services Director  
Brad Posenjak, Finance Director





**CITY OF WENATCHEE**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
PLANNING DIVISION  
1350 McKITTRICK STREET  
PO BOX 519, WENATCHEE, WA 98807-0519  
Phone: (509) 888-3261 Fax: (509) 888-3201

**PETITION TO ANNEX REVIEW APPLICATION -- \$250 FEE**

PAID: \$ <u>250.00</u>	PAYMENT #: <u>10071</u>	RECEIPT #: <u>P21-00007</u>
<b>CITY OF WENATCHEE</b>		
DATE STAMP: <u>FEB 18 2021</u>	FILE #: ANNEX - <u>21</u> - <u>02</u>	Year Numerical Order

Applicant Name (First/Last): Alfredo & Maria Martinez Date: 12-20-2020

Applicant Phone: (509) 393 4892 Applicant Email: Veryscustomhomes@gmail.com

Applicant Address: 1207 5th st wenatchee wa 98801

PROPOSED ANNEXATION AREA:

Address: 1704 S. MISSION ST

Parcel Number(s): \_\_\_\_\_

Additional Identifying Information: \_\_\_\_\_

TEN PERCENT CERTIFICATION

The undersigned, constituting not less than 10% in value according to the assessed valuation for general taxation of property described in the attached exhibit, incorporated herein by reference, hereby notify the Wenatchee City Council of the undersigned's intention to commence annexation proceedings. The undersigned requests that the City Council of the City of Wenatchee set a date for a meeting with the undersigned party(ies) to determine whether the City of Wenatchee will accept the proposed annexation and whether it will require the assumption of existing indebtedness by the area to be annexed and/or the adoption of a proposed zoning regulation.

**WARNING:** Every person who signs this petition with any other than their true name, or who knowingly signs more than one of these petitions, or signs a petition when they are otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

	<u>Name</u>	<u>Address</u>	<u>Signature</u>	<u>Date</u>
1.	<u>Alfredo Martinez</u>			
2.	<u>2016 S. Stirling Ave,</u>		<u>Moses Lake wa, 98837</u>	
3.	<u>Maria C. Martinez</u>			
4.				





**City of Wenatchee**  
1350 McKittrick, Suite A  
Wenatchee, WA 98801

**Receipt Number: PL21-00007**

**Payer/Payee:** JERRY'S CUSTOM HOMES  
1207 5th ST  
WENATCHEE WA 00000

**Cashier:** MARIA REYES  
**Payment Type:** CHECK (10071)

**Date:** 02/18/2021

**ANNEX-21-02 ANNEXATION 60% DIRECT PETITION 1704 S MISSION ST**

<u>Fee Description</u>	<u>Fee Amount</u>	<u>Amount Paid</u>	<u>Fee Balance</u>
Petition for Annexation	\$250.00	\$250.00	\$0.00
<b>ANNEX-21-02 TOTALS:</b>	<b>\$250.00</b>	<b>\$250.00</b>	<b>\$0.00</b>
<b>TOTAL PAID:</b>		<b>\$250.00</b>	

## CITY COUNCIL AGENDA REPORT

**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Brooklyn Holton, Neighborhood and Community Services Coordinator  
Community Development

**MEETING DATE:** March 11, 2021

---

**I. SUBJECT**

DJML, LLC Ten Percent (10%) Annexation Petition for review, adjustment, approval or denial.

**II. ACTION REQUESTED**

1. The City Council to:

- a. [accept, reject or geographically modify] the proposed annexation boundary;
- b. Adopt the proposed zoning regulation; and
- c. Assume [all or any portion] of existing city indebtedness by the annexation area

**Additional Detail:**

If the legislative body requires the adoption of a proposed zoning regulation and/or the assumption of all or any portion of indebtedness as condition to annexation, it is to record this action in its minutes.

Council acceptance is a condition precedent to circulation of the petition. There is no appeal from the council decision.

**2. OVERVIEW**

A ten percent (10%) annexation petition was submitted on January 6, 2021 with the signature representing the owner of Parcel Numbers 232028320070, 232028320060 and 232028320050. The proposed area, located at along Horselake Road is bordered to the east by parcels in the City otherwise fully bordered by unincorporated parcels and right of way. The signatures on the petition represent 100% of the assessed value, meeting the 10% requirement at this phase.

Following a ten percent (10%) annexation meeting, a petition will be circulated for signatures. If the applicant(s) return a sufficient petition and it is certified by the Chelan County Assessor, a date will be scheduled by resolution for the sixty percent public hearing.

**IV. FISCAL IMPACT**

There are no estimated budget impacts as a direct result of the annexation and its process.

**V. PROPOSED PROJECT SCHEDULE**

March 11 (today) – approve the recommended annexation boundary

March 25 – bring to council a Resolution for 60% petition

April 8 – bring to council ordinance for adoption

April 14 – Inform interested parties of new city boundaries

**VI. REFERENCE(S)**







1. Map of Annexation Area
2. Application Materials

**VII. ADMINISTRATIVE ROUTING**

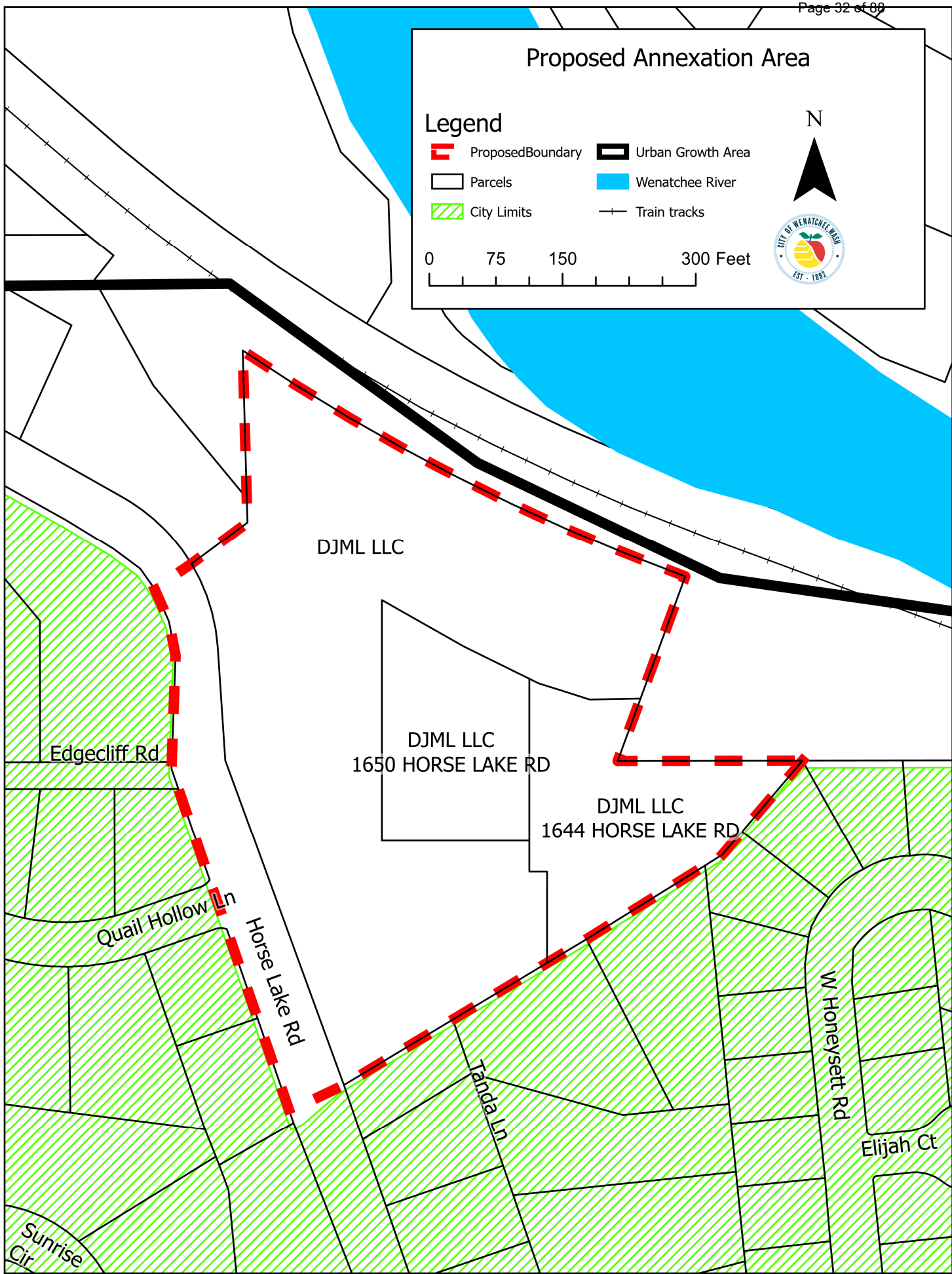


Tammy Stanger, City Clerk  
Laura Merrill, Executive Services Director  
Brad Posenjak, Finance Director

### Proposed Annexation Area

**Legend**

 Proposed Boundary	 Urban Growth Area
 Parcels	 Wenatchee River
 City Limits	 Train tracks

0 75 150 300 Feet





CITY OF WENATCHEE

**CITY OF WENATCHEE**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
PLANNING DIVISION  
1350 McKITTRICK STREET  
PO BOX 519, WENATCHEE, WA 98807-0519  
Phone: (509) 888-3261 Fax: (509) 888-3201

JAN 06 2021

**PETITION TO ANNEX REVIEW APPLICATION -- \$250 FEE**

PAID: \$ <u>250.00</u>	PAYMENT #: <u>1045</u>	RECEIPT #: <u>PL21-00001</u>
CITY OF WENATCHEE		
DATE STAMP: <u>JAN 06 2021</u>	FILE #: ANNEX - <u>21</u> - <u>01</u>	<u>Year</u> <u>Numerical Order</u>

Applicant Name (First/Last): DJML, LLC      Date: 1/5/2021

Applicant Phone: (509) 663-5588      Applicant Email: david@overcastlaw.com

Applicant Address: 23 S. Wenatchee Ave, Ste 320, Wenatchee, WA

PROPOSED ANNEXATION AREA:

Address: See below.

Parcel Number(s): 232028320070, 232028320050, 232028320060

Additional Identifying Information: 1644, 1650, & NNA Horse Lake Road Wenatchee, WA 98801

TEN PERCENT CERTIFICATION

The undersigned, constituting not less than 10% in value according to the assessed valuation for general taxation of property described in the attached exhibit, incorporated herein by reference, hereby notify the Wenatchee City Council of the undersigned's intention to commence annexation proceedings. The undersigned requests that the City Council of the City of Wenatchee set a date for a meeting with the undersigned party(ies) to determine whether the City of Wenatchee will accept the proposed annexation and whether it will require the assumption of existing indebtedness by the area to be annexed and/or the adoption of a proposed zoning regulation.

**WARNING:** Every person who signs this petition with any other than their true name, or who knowingly signs more than one of these petitions, or signs a petition when they are otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

	Name	Address	Signature	Date
1.	<u>DJML, LLC</u>	<u>23 S. Wenatchee Ave, Ste 320 Wenatchee, WA 98801</u>	<u>[Signature]</u>	<u>1/5/21</u>
2.				
3.				
4.				





## CITY COUNCIL AGENDA REPORT

**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Brooklyn Holton, Neighborhood and Community Services Coordinator  
Community Development

**MEETING DATE:** March 11, 2021

---

**I. SUBJECT**

Multi-Family Tax Exemption Agreement with Central Cascade Properties, LLC

**II. ACTION REQUESTED**

1. Adopt Resolution 2021-12 authorizing the execution of a Multi-Family Housing Limited Property Tax Exemption Agreement with Central Cascade Properties, LLC.

**III. OVERVIEW**

The attached Resolution 2021-12 authorizes the City of Wenatchee and Central Cascade Properties, LLC to enter into an agreement under the City's Multi-Family Tax Exemption (MFTE) program found in WCC 5.88 and RCW 8.14.

The Resolution authorizes the issuance of a Conditional Certificate of Acceptance of Tax Exemption associated with the construction of a 5-unit, market rate, residential complex located at 1315 – 5<sup>th</sup> Street.

Upon completion of the project and fulfillment of the terms of the agreement, the City will issue a Final Certificate of Tax Exemption that exempts the residential development from property tax for a period of eight (8) years. The exemption applies to housing improvements and does not include the land or any non-residential area.

An annual report is required to be completed each year the tax exemption is active, to document compliance with the requirements of the program.

**IV. FISCAL IMPACT**

No direct impacts to the City budget. The city will receive annual property tax on the land where the completed projects is located. The amount of property tax for the land is anticipated to be greater than or equal to the current assessed value of the non-occupied property.

**V. PROPOSED PROJECT SCHEDULE**

March 11, 2021 ~ Adopt Resolution 2021-12

Summer 2021 ~ Finalize project details and improvement value

Fall, 2021 ~ Submit to County a Final Certificate of Exemption

**VI. REFERENCE(S)**

1. Resolution 2021-12
2. Central Cascade Properties, LLC MFTE Application

**VII. ADMINISTRATIVE ROUTING**

Tammy Stanger, City Clerk  
Laura Merrill, Executive Services Director  
Brad Posenjak, Finance Director

## **RESOLUTION NO. 2021-12**

**A RESOLUTION,** authorizing the execution of a Multi-Family Housing Limited Property Tax Exemption Agreement.

**WHEREAS,** the City has, pursuant to RCW 84.14 et. seq. designated a Residential Target Area for the allowance of a limited property tax exemption for new multi-family residential housing; and

**WHEREAS,** the City of Wenatchee has codified in Wenatchee City Code (WCC) Chapter 5.88, a program whereby property owners in a Residential Target Area may qualify for a Final Certificate of Tax Exemption which certifies to the Chelan County Assessor that the owner is eligible to receive a limited property tax exemption; and

**WHEREAS,** Central Cascade Properties, LLC proposes to construct a 5-unit residential project at 1315 – 5<sup>th</sup> Street, Wenatchee, Washington; and

**WHEREAS,** 1315 – 5<sup>th</sup> Street is within the Residential Target Area; and

**WHEREAS,** Central Cascade Properties, LLC has applied to the City to receive an eight (8) year limited property tax exemption for the proposed project; and

**WHEREAS,** the City's tax exemption program requires Central Cascade Properties, LLC to enter into an agreement with the City regarding the terms and conditions of the project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE** that the Mayor, or his designee, shall be and hereby is authorized to execute a Multi-Family Housing Limited Property Tax Exemption Agreement with Central Cascade Properties, LLC, substantially in the form attached hereto as Exhibit “A”, which



agreement shall provide for the development of Central Cascade Properties, LLC development of the above-described project in accord with certain terms and conditions, in consideration for which the property related to the new multi-family housing will be certified by the City as qualifying for an eight (8)-year property tax exemption as provided by RCW 84.14.020.

**PASSED BY THE CITY COUNCIL OF THE CITY OF  
WENATCHEE** this \_\_\_\_\_ day of March, 2021.

CITY OF WENATCHEE, a municipal corporation

By \_\_\_\_\_  
FRANK KUNTZ, Mayor

ATTEST:

By \_\_\_\_\_  
TAMMY L. STANGER, City Clerk

APPROVED:

By \_\_\_\_\_  
STEVE D. SMITH, City Attorney

## EXHIBIT "A"

### MULTIFAMILY HOUSING LIMITED PROPERTY TAX EXEMPTION AGREEMENT

THIS AGREEMENT is entered into on the date signed below between Central Cascade Properties, LLC, hereinafter referred to as the "Applicant," and the City of Wenatchee, Washington, a municipal corporation hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the Applicant has applied for a limited property tax exemption as provided for in Chapter 84.14 RCW and WCC 5.88, as amended, for constructing multifamily residential housing in Wenatchee's designated residential target area; and

WHEREAS, the Applicant has submitted to the City preliminary site plans and floor plans for new or rehabilitated mixed-use with multifamily residential housing to be constructed on property situated approximately at 1315 – 5<sup>th</sup> Street and described more specifically as follows:

**PARCEL A – 222004420405**

T 22N R 20EWM S 04 LOT A BLA 2019-008 WE LOT 2 SP 2892;  
0.5300 ACRES

hereinafter referred to as the "Property;" and

WHEREAS, the City has determined that the improvements for permanent residential will, if completed as proposed, satisfy the requirements for a Final Certificate of Tax Exemption.

NOW, THEREFORE, in consideration of the mutual promises herein, City and Applicant do mutually agree as follows:

1. City agrees, upon execution of this Agreement following approval by the City Council, to issue a Conditional Certificate of Acceptance of Tax Exemption, which conditional certificate shall expire three (3) years from the date of approval of this Agreement by the Council unless extended by the Community Development Director as provided in WCC 5.88.
2. Agreement to construct improvements.
  - a. The Applicant agrees to construct on the Property multifamily residential housing substantially as described in the site plans, floor

plans, and elevations attached hereto, subject to such modifications thereto as may be required to comply with applicable codes and ordinances, that in no event shall such construction provide fewer than four new multifamily residential units for permanent residential occupancy, nor shall such permanent residential housing comprise less than fifty percent of the space intended for housing within a residential or mixed-use structure constructed pursuant to this Agreement.

- b. The Applicant agrees to comply with all applicable zoning requirements, land use regulations, and building and housing code requirements in effect at the time of new construction, rehabilitation or conversion, and further agrees that approval of this Agreement by the City Council, its execution by the Mayor or his/her designee, or issuance of a Conditional Certificate of Acceptance of Tax Exemption by the City pursuant to WCC 5.88 in no way constitutes approval of proposed improvements on the Property with respect to applicable provisions of said ordinance or obligates the City to approve proposed improvements.
- c. The Applicant agrees that the improvements will be completed within three years from the date of approval of this Agreement by the City Council, unless extended by the Community Development Director for cause as provided in WCC 5.88.

3. Requirements for Final Certificate of Tax Exemption.

The Applicant agrees, upon completion of the improvements and upon issuance by the City of a temporary or permanent Certificate of Occupancy, to file with the City's Department of Community Development the following:

- a. A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property;
- b. A description of the completed work and a statement of qualification for the exemption; and
- c. If applicable, a statement that the project meets the affordable housing requirements as described in Chapter 84.14 RCW; and
- d. A statement that the work was completed within the required three-year period of the issuance of the conditional certificate of tax exemption or any authorized extension.

4. Agreement to Issue Final Certificate.

The City agrees to file a Final Certificate of Tax Exemption with the Chelan County Assessor if the Applicant has successfully completed the improvements in accordance with the terms of this Agreement, has filed the materials described in Paragraph 3 above, has paid to the County a fee in the amount of \$50.00 to cover the Assessor's administrative costs, and has met all other requirements as provided in WCC 5.88.

5. Annual Certification.

The Applicant agrees, within 30 days after the first anniversary of the date of filing the final certificate of tax exemption and each year thereafter, for the tax exemption period, the property owner shall file a notarized annual report declaration with the Director of Community Development indicating the following:

- a. A statement of occupancy and vacancy of the multifamily units during the prior 12 months ending with the anniversary date; and
- b. A certification that the property continues to be in compliance with the contract with the city, including that it has not changed use, and, if applicable, that the property has been in compliance with the affordable housing requirements as described in WCC 5.88.015 since the date of the certificate approved by the city; and
- c. A description of any subsequent improvements or changes to the property after issuance of the certificate of tax exemption; and
- d. The total monthly rent or total sale amount of each unit produced; and
- e. The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption.
- f. Any additional annual reporting requirements that may be required for consistency with RCW 84.14.100, as applicable.

6. Notification of transfer of interest or change in use.

Applicant agrees to notify the Department of Community Development promptly of any transfer of Applicant's ownership interest in the Property or in the improvements made to the Property under this Agreement. Applicant further agrees to notify the Department of Community Development and the Chelan County Assessor within 60 days of any change of any or all of the permanent multi-family housing developed on the Property to another use. Such change in use may result in cancellation of the tax exemption and imposition of additional taxes, interest and penalty pursuant to State law.

7. Cancellation of Exemption - Appeal.

The City reserves the right to cancel the Final Certificate of Tax Exemption if at any time the property no longer complies with the terms of this Agreement or with the requirements of WCC 5.88, or for any other reason no longer qualifies for an exemption. If the exemption is canceled for non-compliance an additional tax will be imposed that includes: (a) the difference between the tax paid and the tax that would have been owed if it had included the value of the nonqualifying improvements dated back to the date that the improvements became nonqualifying; (b) a penalty of 20% of the difference; (c) interest at the statutory rate on the tax and penalties calculated from the date the tax would have been due without penalty if the improvements had been assessed without regard to the exemptions provided by Chapter 84.14 RCW and WCC 5.88. Upon determining that a tax exemption shall be canceled, the Mayor, on behalf of the City Council, shall notify the property owner by certified mail, return receipt requested. The property owner may appeal the determination in accordance with WCC 5.88.

8. Entire Agreement and Amendments.

This document represents the entire agreement of the parties as to the subject matter of this agreement.

No modification of the Agreement shall be made unless mutually agreed upon by the parties in writing.

9. Severability.

In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement which can be given effect without the conflicting terms or clause, and to this end, the terms of the Agreement are declared to be severable.

10. No Third Party Beneficiary Created.

Nothing in this agreement is intended to create a third party beneficiary relationship with any person or entity, known or unknown, as of the date of this agreement.

11. Attorney Fees.

In the event any formal litigation is commenced between the parties to this agreement, arising out of the obligations imposed by this agreement or the interpretation of this agreement, each party shall bear their own attorney's fees and costs incurred therein.

12. Binding Effect.

This agreement shall be binding upon and inure to the heirs, successors and assigns

of the parties hereto.

13. Recording.

The parties agree that this agreement shall be recorded with the Chelan County Auditor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

CITY OF WENATCHEE

APPLICANT

\_\_\_\_\_  
Glen DeVries  
Director, Department of  
Community Development

\_\_\_\_\_  
By \_\_\_\_\_  
(printed name)

Title: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF CHELAN )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021 personally appeared before me \_\_\_\_\_, to me known to be Director of Community Development, for the City of Wenatchee, the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath stated that he was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said municipal corporation.

WITNESS my hand office seal the date and year first above written

\_\_\_\_\_  
Print Name  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF CHELAN )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2021 personally appeared before me \_\_\_\_\_, to me known to be that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said party, for the uses and purposes therein mentioned, and on oath stated that she/he was authorized to execute said instrument.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Print Name  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_



**City of Wenatchee**  
**Department of Community Development**

**APPLICATION**

**Property Tax Exemption for Multifamily Housing**

(Pursuant to RCW 84.14 and Wenatchee City Ordinances 99-7, 99-20, 2001-29, and 2008-23)

**Program Requirements**

(For the complete set of program requirements, review Wenatchee City Code Chapter 5.88.)

The proposed project must meet the following general criteria to be eligible for special valuation:

1. The project must be located within Wenatchee's urban center, as designated under Wenatchee City Code (WCC) 5.88.040.
2. The project must be a mixed-use or multi-family project that provides (4) four or more permanent dwelling units.
3. In the case of rehabilitation, the property must currently fail to comply with one or more standards of an applicable building or housing code.
4. The project must be completed three (3) years from the date of approval of the application.
5. The project must be designed to comply with all building and zoning codes, and any other applicable regulations.
6. For the project to qualify for the 12 year tax exemption, it must meet the affordable housing requirements as described in WCC 5.88.015 (1) (b).

**Applicant's Information**

Owner: Central Cascade Properties LLC  
 Address: PO Box 4331, Wenatchee WA 98807-4331  
 Phone: 509.710.5398 FAX: \_\_\_\_\_  
 E-mail: centralcascadeproperties@gmail.com

Owner's Representative: Emilka Furmanczyk (Central Cascade Properties LLC)  
 (if applicable) Managing member  
 Address: 1044 Surrey Rd  
Wenatchee, WA 98801  
 Phone: 509.710.5398 FAX: \_\_\_\_\_  
 E-mail: eskformanczyk@gmail.com

Note: This application must be signed by the property owner of record or designee. Please provide a power of attorney if the signer of this application is other than the property owner of record.

**Property Information**

Interest in property:  
 Fee Simple [ ] Contract purchase [ ] Other (describe) \_\_\_\_\_

County Assessor's parcel account number: 17862 / 222004420405



**Application for Property Tax Exemption**  
City of Wenatchee Department of Community Development

Street Address: 1315 5<sup>th</sup> St., Wenatchee WA 98801

Legal Description (Attach separate sheet if needed): \* See attached deed \*  
Lot 1 and 2, City of Wenatchee Short Plat  
No. 2892, Chelan County, Washington.

**Project Information**

Project Name or Designation: Central Cascade Properties<sup>LLC</sup> 5<sup>th</sup> St. Townhomes

Brief written description of the project (preliminary conceptual design, including site plan and floor plans of the units and structure must be submitted with this application): Five, Two-story,  
Two-Bedroom, Two-Bath Townhomes with  
garages.

Type of Project (check all that apply):

Residential Rental       Residential For-Sale       Mixed Use

Number of Dwelling Units Proposed: Rental 5 For Sale 0 Total 5

Floor area: Building total (sq. ft.) \_\_\_\_\_ For permanent residential occupancy (sq. ft.) \_\_\_\_\_

**Unit Information**

Size/Type	Total # of units	Average Square Feet per Unit
Studio	_____	_____
One Bedroom	_____	_____
Two Bedroom	<u>5</u>	<u>1,202</u>
Three + Bedroom	_____	_____
TOTAL	<u>5</u>	<u>1,202</u>

**Non-residential Space** (if applicable)

Description \_\_\_\_\_ Floor Area (sq. ft.) \_\_\_\_\_

\_\_\_\_\_

Projected total cost of new construction/rehabilitation: \$ 900,000

If mixed use: projected cost of residential improvements: \$ \_\_\_\_\_

Source of Cost Estimate: DOH Associates

Estimated construction start date: Spring 2020 Expected completion date: Fall 2020

**Application for Property Tax Exemption**  
City of Wenatchee Department of Community Development

**CHECK ALL THAT APPLY:**

**New Construction.** Will any occupied housing units be demolished? [ ] YES  NO

Were any occupied housing units demolished in the past 12 months on this site?  YES [ ] NO

Date of demolition (if applicable): 8/2019

# of existing units to be demolished 0 # of units demolished in past twelve months 1

Tenant  
relocated to  
a vacant  
unit.

[ ] **Rehabilitation of Vacant Units.** # of vacant housing units \_\_\_\_\_

Date units last occupied: \_\_\_\_\_ (Attach City affidavit of vacancy form)

Building [ ] is [ ] is not in compliance with applicable building and housing codes (verification required—please attach documentation).

[ ] **Rehabilitation of Occupied Units.** Will four or more additional units be created as part of a rehabilitation project? [ ] YES [ ] NO

If yes, will any residents be displaced as part of this project? [ ] YES [ ] NO

If yes, will each existing tenant be provided housing of comparable size, quantity, and price and a reasonable opportunity to relocate? [ ] YES [ ] NO

Explanation: \_\_\_\_\_

[ ] **Rehabilitation / Change of Use.** Has the building been vacant 12 months? [ ] YES [ ] NO

Does the change of use meet current zoning standards? [ ] YES [ ] NO

**Permits/Approvals Received/in Process.** Have you filed any application for a land use or building permit or other approval for this project?  YES [ ] NO

If yes, indicate type of permit or approval and date of application:

Type: Residential Demolition Permit

Date: 8/14/2019 (Completed)

Type: Building Permit

Date: \_\_\_\_\_

Type: \_\_\_\_\_

Date: \_\_\_\_\_

If yes, have any permits or approvals for this project been received?  YES  NO Demolition  
(Attach copies of any permits or approvals received.)

[ ] **Affordable Housing.** Will at least 20 percent of the housing units be rented/sold at an affordable price to low and/or moderate income households? [ ] YES  NO

Number of affordable rental housing units \_\_\_\_\_. Rent price of units \_\_\_\_\_.

Number of affordable owner housing units \_\_\_\_\_. For sale price of units \_\_\_\_\_.

(To be considered for the 12 year tax exemption, an explanation of how the property will satisfy the affordable housing commitment proposed is required to be attached to this application.)

**Attachments to Application**

Please attach and check the following:

- [ ] Application Fee \$50.00 made out to Chelan County Assessor.
- [ ] Preliminary conceptual design, including site plan and floor plans of the multifamily units and the overall structure.
- [ ] For rehabilitation of existing residential dwellings, affidavit of vacancy.
- [ ] For rehabilitation of an existing vacant structure, verification of non-compliance with applicable building and housing codes.

**Application for Property Tax Exemption**  
City of Wenatchee Department of Community Development

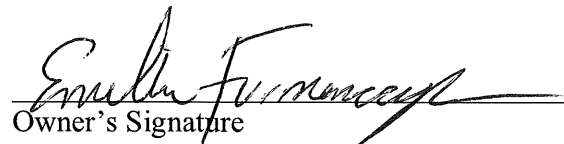
- Representative photographs of site and exterior of any existing structures on property (color Xerox is acceptable).
- If applicable, copies of permits/approvals already received for this project.
- If applicable, an explanation of how the property will satisfy the affordable housing commitment proposed.

**Statement of Potential Tax Liability**

If the exemption is canceled for non-compliance additional real property tax will be imposed that includes: (a) the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements dated back to the date that the improvements became nonqualifying; (b) a penalty of 20 percent of the difference; and (c) interest upon the tax and penalty amounts due at the standard statutory rate charged on delinquent property taxes calculated from the date the tax would have been due without penalty if the improvements had been assessed without regard to the exemptions provided by RCW 84.14 and City of Wenatchee Ordinances 99-7, 99-20, 2001-29, and 2008-23. The additional tax owed together with the interest and penalty will become a lien on the property at the time of property non-compliance.

**Certification**

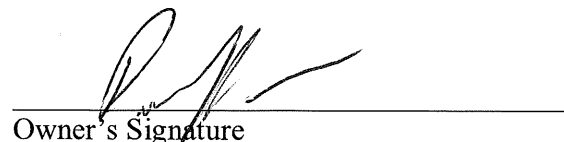
As owner(s) of the land described in this application, I hereby indicate by my(our) signature(s) below that I(we) are aware of the additional tax liability to which the property will be subject if the exemption authorized by RCW 84.14 and City of Wenatchee Ordinances 99-7, 99-20, 2001-29, and 2008-23 is canceled. I/We declare under penalty of perjury under the laws of the State of Washington that the above information and any attachments are accurate and correct to the best of my(our) knowledge.

  
Owner's Signature

11/19/2019  
Date

Emilka Furmanczyk  
Print Name

LLC-Managing Member  
Title

  
Owner's Signature

11/19/19  
Date

Paul Furmanczyk  
Print Name

LLC-Member  
Title



Existing Structures



## CITY COUNCIL AGENDA REPORT

**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Jessica Shaw, Deputy Public Works Director - Utilities  
Public Works

**MEETING DATE:** March 11, 2021

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**I. SUBJECT**

Wenatchee Valley Regional Decant Facility Use Agreement with Douglas County

**II. ACTION REQUESTED**

Staff recommends the City Council approve the Wenatchee Valley Regional Decant Facility Use Agreement with Douglas County and authorize the Mayor's signature.

**III. OVERVIEW**

The Wenatchee Valley Regional Decant Facility was designed to handle street sweepings and sediment removed from the urban stormwater systems in Wenatchee, East Wenatchee, Chelan County, and Douglas County, as well as the stormwater systems maintained locally by Washington State Department of Transportation and Chelan County Public Utility District. Up until 2021, the facility has only been used by the City of Wenatchee and Chelan County.

In fall of 2018, the Washington State solid waste rules were revised and a new permitting system for sites managing solid waste was created. Since then, the City has received multiple requests to use the decant facility. In January an agreement with the Washington State Department of Transportation was completed and they will start using the facility this month. Douglas county signed the use agreement in February and would also like to begin hauling to the decant facility in the next couple of weeks.

**IV. FISCAL IMPACT**

Under the proposed use agreement, Douglas County would pay an annual fee of \$2,400 per year and a tipping fee of \$180 per trip. The annual fee is intended to cover contract administration and facility repair and improvement. The tipping fee includes staff time, utilities, and equipment costs for managing the waste at the facility, as well as the hauling and disposal costs from Waste Management. Under Section 5.2 of the use agreement, the City has the ability to increase the tipping fee to offset increases to the hauling and disposal costs. These costs are set to increase May 1, 2021 under the recently completed agreement with Waste Management.

**VI. REFERENCE(S)**

1. Wenatchee Valley Regional Decant Facility Use Agreement – Douglas County

**VII. ADMINISTRATIVE ROUTING**

Tammy Stanger, City Clerk  
Laura Merrill, Executive Services Director  
Brad Posenjak, Finance Director  
Rob Jammerman, Public Works Director

Agenda Report No. 2021-12



City of Wenatchee  
Wenatchee Valley Regional Decant Facility  
Use Agreement

THIS FACILITY USE AGREEMENT (this "Agreement") is entered into this 23rd day of February 2021, between the City of Wenatchee, a municipal corporation (the "City"), a municipal corporation of the State of Washington and Douglas County (the "County"), collectively referred to herein as the "Parties.", in consideration of the mutual promises and covenants hereinafter set forth.

1.0 Purpose

1.1 The purpose of this Agreement is to allow the disposal of street waste at the Wenatchee Valley Regional Decant Facility (the "Facility") located at 1745 South Wenatchee, Wenatchee, Washington.

2.0 Term

2.1 The term shall commence on March 1, 2021 and terminate after five (5) years unless otherwise terminated upon mutual agreement of both Parties.

3.0 Premises

3.1 The City grants to the County the right to use the Facility in accordance with this Agreement.

4.0 Schedule

4.1 Use of the site is limited to the operating hours established by the City of Wenatchee. The typical hours of operation will be Monday through Friday from 7:00 AM to 3:30 PM. The Facility hours of operation may vary seasonally. The City will notify the County in advance of any changes to these hours of operation.

4.2 The Facility will be closed on all holidays observed by the City of Wenatchee.

4.3 Use of the Facility outside the established hours of operation must be pre-approved by the City.

5.0 Fees and Charges

5.1 The County will be billed an annual fee of \$2,400.00, which will be billed on the first quarter invoice and a tipping fee of \$180.00 per trip. The annual fee will be pro-rated for the first year based on the effective date of this Agreement.

5.2 The tipping fee may be increased based on changes to the City's waste disposal contract with Waste Management. The City shall notify the County in writing of any proposed changes to the tipping fee ninety (90) calendar days prior to the implementation of the new tipping fee.

- 5.3 If damages are incurred to the Facility attributable to the County, the cost of repairing the damage plus a 15% administration fee will be billed to County and shall be paid within 30 days of date of invoice.
- 5.4 If the County leaves a suspect load at the Facility as defined by the most current version of the Operations and Maintenance Plan, the County will be responsible for the testing and disposal costs as well as any costs associated with cleaning the Facility following the removal of the suspect load plus a 15% administration fee which shall be paid within 30 days of date of invoice.
- 5.5 The City will invoice County for tipping fees at the end of each quarter. Payment will be due within 30 days of date of invoice.
- 6.0 Use
  - 6.1 The City will operate and maintain the Facility.
  - 6.2 All use of the Facility shall be in accordance with the most current version of the Wenatchee Regional Decant Facility Operations and Maintenance Plan.
  - 6.3 Waste approved for disposal is limited to eductor truck waste from the maintenance of a separate stormwater system and street sweepings.
  - 6.3 Waste disposal logs must be submitted no later than the 5<sup>th</sup> of the month following the end of the quarter, i. e. April 5<sup>th</sup>, July 5<sup>th</sup>, October 5<sup>th</sup>, and January 5<sup>th</sup>.
- 7.0 Insurance
  - 7.1 The County agrees to maintain insurance or self-insure against all risks in any way related to, or arising out of, the use of the Facility. The County's insurance, in whichever form, shall be primary insurance for all risks related to, or arising out of, the County's use of the Facility.
- 8.0 Mutual Indemnification
  - 8.1 The County shall indemnify, defend and hold harmless the City, its respective officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the County, its officers, agents, contractors, employees and volunteers, in connection with or arising out of this Agreement.
  - 8.2 The City shall indemnify, defend and hold harmless the County, its respective officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property, occasioned by any negligent act, omission, or failure of the City, its officers, agents, and employees, in connection with or arising out of this Agreement.



9.0 Severability

9.1 In the event that any provision of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provision shall be enforced and validated to the extent permitted by law. All other provisions of this Agreement are severable, and the unenforceability or invalidity of any single provision hereof shall not affect the remaining provisions.

10.0 Modification; No Assignment

10.1 No alteration, changes, or amendments of this Agreement will be binding upon either party unless the same are written and executed by the parties.

10.2 This Agreement shall not be assignable by the County.

11.0 Time is of the Essence

11.1 Time is of the essence of this Agreement, and of each and every term, condition and provision.

12.0 Waiver

12.1 The waiver by the City or the County of any breach of any term contained in this Agreement shall not be deemed to be a waiver of such term for any subsequent breach of the same or any other term.

13.0 Attorneys Fees

13.1 In the event of litigation regarding any terms of this Agreement, the Parties shall bear their own attorney fees and costs incurred therein.

14.0 Notices

14.1 Notices under this Agreement must be in writing and must be sent by registered or certified mail to the last known address of the party to whom the notice is to be given, as designated by such party in writing. The City and County hereby designate their addresses as follows:

City of Wenatchee  
Public Works Director  
P.O. Box 519, Wenatchee, WA 98807-0519

Douglas County  
Assistant County Engineer  
Stormwater Program Manager  
140 19th St NW Suite A, East Wenatchee WA 98802

15.0 Governing Law/Venue

15.1 This Agreement is governed by the laws of the State of Washington. The jurisdiction of any action hereunder shall be in the Superior Court, Chelan County, Washington.

16.0 Termination & Modification

16.1 The City reserves the right to modify or terminate this Agreement at any time in the event it deems modification or termination is necessary to preserve the integrity and function of the Facility. The City shall notify the County in writing of any proposed modifications or termination thirty (30) calendar days prior to the implementation of such modifications or termination.


16.2 If the COUNTY terminates this Agreement prior to the expiration date, the COUNTY shall pay the annual fees pro-rated to the termination date of the Agreement.

DATED this 23rd day of February, 2021.


BOARD OF COUNTY COMMISSIONERS

DOUGLAS COUNTY, WASHINGTON



  
\_\_\_\_\_  
Marc S. Straub, Chair

  
\_\_\_\_\_  
Kyle Steinburg, Vice Chair

  
\_\_\_\_\_  
Dan Sutton, Member

ATTEST:  
  
\_\_\_\_\_  
Tiana Rowland, Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Jim Mitchell, Civil Deputy Prosecuting Attorney  
WSBA #31031

CITY OF WENATCHEE,  
a Washington municipal corporation

By: \_\_\_\_\_

Frank Kuntz, Mayor

ATTEST:

By: \_\_\_\_\_

Tammy Stanger, City Clerk

DATED this \_\_\_\_ day of \_\_\_\_\_, 2021.

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date



## CITY COUNCIL AGENDA REPORT

**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Laura Merrill, Executive Services Director  
Mayor's Office

**MEETING DATE:** March 11, 2021

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**I. SUBJECT**  
Ordinance No. 2021-07 granting a franchise to Computer 5, Inc dba LocalTel Communications

**II. ACTION REQUESTED**  
Staff recommends the City Council adopt Ordinance No. 2021-07 granting a franchise to LocalTel Communications for the purposes of authorizing the use of the City right-of-way for a cable service.

**III. OVERVIEW**  
The City of Wenatchee has a franchise agreement for cable service with Computer 5, Inc dba as Localtel (LocalTel) which began in 2005 and expired in 2020. Staff began discussions with LocalTel staff in the fall of 2020 for the subsequent renewal. The changes to the proposed franchise agreement mainly serve to align this franchise agreement with other recently approved cable service franchises relating to the Public, Educational, and Governmental (PEG) Access programming and application fees, and provide for a new ten-year term. This item must be heard and then subsequently approved at a City Council meeting no earlier than five days after the initial introduction. The proposed updates to the franchise were reviewed at a public hearing on February 25<sup>th</sup>, 2021, no public comments were received. Staff recommends the City Council adopt Ordinance No. 2021-07 granting a franchise to LocalTel Communications for the purposes of authorizing the use of the City right-of-way for a cable service.

**IV. FISCAL IMPACT**  
Cable Service Franchise Agreements allow the City to collect a cable service franchise fee; Localtel remits approximately \$115,000 annually.

**VI. REFERENCE(S)**  
1. Ordinance 2021-07

**VII. ADMINISTRATIVE ROUTING**

Rob Jammerman, Public Works Director  
Tammy Stanger, City Clerk  
Brad Posenjak, Finance Director

**ORDINANCE NO. 2021-07**

AN ORDINANCE GRANTING A NON-EXCLUSIVE CABLE FRANCHISE TO PROVIDE CABLE SERVICE IN THE CITY OF WENATCHEE, WASHINGTON, AND SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE.

**WHEREAS**, Computer 5, Inc., dba LocalTel Communications, (Grantee) has requested a Cable Franchise from the City of Wenatchee (“City”) to authorize the use of the City Rights-of-Way for the Grantee to provide Cable Service; and

**WHEREAS**, the Grantee intends to utilize transmission capacity acquired through a permit or license agreement on the Chelan County Public Utility District’s (“District”) Broadband System to provide Cable Service to the City; and

**WHEREAS**, the City entered into a Communications Infrastructure Right-of-Way Use Agreement with the District dated January 27, 2005 that requires, inter alia, that any retail internet service provider providing cable services over the District’s Broadband System to obtain a cable franchise from the City; and

**WHEREAS**, Washington law, as well as the federal Cable Act of 1984, as amended, authorize the City to grant a Cable Franchise for the use and occupancy of Rights-of-Way for the provision of Cable Service; and

**WHEREAS**, the City is authorized to and has established standards in Chapter 5.04, Wenatchee City Code, Ordinance No. 3125 (hereinafter referred to as the “Cable Code”) to grant and renew one or more nonexclusive revocable Cable Franchises in the City; and

**WHEREAS**, the City seeks to promote the development of Cable Services on a competitive basis within the City, while at the same time ensuring high quality customer service; and

**WHEREAS**, the City, after due evaluation of the Grantee's application for a Franchise, has determined that the Grantee meets the City's requirements for a cable franchise.

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

**SECTION 1. DEFINITIONS**

For the purpose of this Franchise, unless otherwise provided herein, the terms, phrases, words, abbreviations and their derivations shall have the meaning given in Chapter 5.04 of the Wenatchee City Code ("Cable Code"). Words used in the present tense include the future tense, words in the single number include the plural number, and words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

"Basic Cable Service" means any Cable Service tier that includes the lawful retransmission of local television broadcast signals and any Public, Educational, and Governmental Access programming required by this Cable Code or this Franchise to be carried on the basic tier. Basic Cable Service as defined herein shall be consistent with 47 U.S.C. § 543(b)(7) (1997).

"Broadband System" means the District's high-speed, high capacity, fiber optic system that is being utilized by the Grantee to provide Cable Service in the City.

"Communications Infrastructure Right-Of-Way Use Agreement" or "District Use Agreement" means the agreement, as it now exists or as it hereafter may be amended, between

the City and the District under which the District is authorized to install, maintain and operate its Broadband System in the City's rights-of-way on a wholesale basis.

“Direct Incremental Costs” means the costs actually incurred by the Grantee in meeting an obligation under its Franchise, including payment to the District, which it would not otherwise have incurred in order to either operate and conduct the business of its Cable System or meet another obligation of the Franchise.

“District” means Public Utility District No. 1 of Chelan County, Washington.

“Franchise Area” means the entire geographic area within the City of Wenatchee as it is now constituted or may in the future be constituted.

“Grantee” means Computer 5, Inc., dba LocalTel Communications, or the lawful successor(s), transferee(s), or assignee(s) thereof.

“Gross Revenues” shall have the meaning as given in Chapter 5.04 of the City Cable Code.

“Rights-of-Way” means the surface of and the space above and below any street, road, highway, path, sidewalk, alley, court, or easement, now or hereafter dedicated for utility or other similar public use compatible with cable system operations.

## **SECTION 2. GRANT OF FRANCHISE**

### 2.1 Grant.

- A. Grantee is hereby granted a Cable Service Franchise, subject to the terms and conditions of this Cable Service Agreement and Franchise Ordinance (hereinafter referred to as the “Franchise”).
- B. This grant provides Grantee the individual authority, right and privilege, to provide Cable Services within the City of Wenatchee, Washington, as it is now or may in the future be constituted.

2.2 Right of City to Grant Franchise.

Grantee acknowledges and accepts the right of City to grant this Franchise by passage of an ordinance.

2.3 Term.

The initial Franchise granted by this Ordinance shall commence upon its acceptance pursuant to Section 8.5, and shall expire ten (10) years thereafter, unless extended, renewed, revoked or terminated sooner as provided for in this Franchise.

2.4 Application.

Grantee has satisfied, or the City hereby waives, the requirements of Sections 5.04.110 through 5.04.140 of the Cable Code, with respect to the application for and granting of this Franchise, except Grantee shall pay City an application fee pursuant to WCC 5.04.140(2) in the amount of \$5000.

2.5 Franchise Not Exclusive.

A. The Franchise granted herein is not exclusive, and shall not be construed as any limitation upon the right of City, through its proper offices, and in accordance with applicable law, to grant to other persons or corporations rights, privileges or authority similar to or different from the rights, privileges and authority herein set forth, in the same or other Rights-of-Ways or public places or other places the Grantee is entitled to occupy by this Franchise Ordinance.

B. The Grantee's use of the District's Broadband System shall be in accordance with the District's Communications Infrastructure Right-Of-Way Use Agreement with the City, and shall be conducted so as not to unreasonably interfere with other uses of the Rights-of-Way.



2.6 Binding Contract.

- A. This Franchise Ordinance (including all of Grantee's particular rights, powers, protections, privileges, immunities and obligations associated therewith as the same exist on the date hereof shall constitute a legally binding contract between the City and Grantee, and as such, cannot be amended, modified or changed without the mutual consent of the parties in any manner whatsoever, provided, however, that nothing herein contained shall preclude the City from the proper exercise of its police powers.
- B. This Franchise Ordinance shall be construed in a manner consistent with all applicable federal and State laws.
- C. Grantee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Grantee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power.
- D. The provisions of Chapter 5.04 of the City Code, "Cable Code," as in effect on the effective date of this Franchise Ordinance, are hereby incorporated herein by reference as if set out in full, and form part of the terms and conditions of this Franchise, unless otherwise provided for in this Franchise. In the event of any conflict between the terms and conditions of this Franchise and the provisions of the Cable Code, the Franchise shall control.
- E. In the event of a change in state or federal law which by its terms would require the City to amend this Agreement, the Parties shall negotiate in good faith to modify the Franchise in a mutually agreed upon manner. In the event of a dispute

concerning any matter within the scope of the Agreement, the Parties agree to immediately meet and confer in good faith in an attempt to resolve the dispute. In the event the dispute cannot be resolved within ninety (90) days, or whatever longer period may be mutually acceptable, either Party may call for arbitration pursuant to RCW Chapter 7.04, et. seq. except as herein modified. If the Parties agree to arbitration, such arbitration shall be before one disinterested arbitrator, if one can be agreed upon, otherwise before three disinterested arbitrators, one named by the City, one by the Grantee, and one by the two thus chosen. If all arbitrators have not been appointed within three (3) business days after written notice of demand for arbitration is given by one Party to the other, then either Party may apply to the Chelan County Superior Court, upon not less than three (3) business days written notice to the other, for appointment of the necessary arbitrators remaining to be appointed, and the judicial appointment shall be binding and final. If arbitration is selected by the Parties, the arbitrator or arbitrators shall resolve all matters of disagreement in accordance with the laws of the State of Washington as applied to the facts found by him/her or them, if applicable. The arbitrator or arbitrators shall resolve all disputes between the Parties and the decision of the arbitrator or arbitrators shall be final, conclusive and binding on the Parties. The Parties agree to share equally in the costs of arbitration and each Party shall be responsible for its own attorney's fees and costs.

F. This Franchise shall be construed and enforced in accordance with the substantive laws of the State of Washington. If the parties don't agree to arbitration as set forth herein, venue shall lie in the Superior Court of Chelan County, Washington.

2.7 Franchise Renewal.

Renewal of this Franchise shall be in accordance with applicable law including, but not necessarily limited to, the Cable Communications Policy Act of 1984, as amended. City and Grantee may enter into renewal negotiations at any time during the term of the Franchise.

2.8 Competitive Neutrality.

In the event the City grants an overlapping franchise for Cable Services within the Cable Service Territory under terms and conditions materially different from those terms applied to the Grantee pursuant to this Franchise that puts the Grantee at a competitive disadvantage and substantially impairs the value of this Franchise Agreement to the Grantee, then the Grantee may elect within six (6) months of the grant of such overlapping franchise agreement to negotiate with the City in good faith to modify the terms of the Agreement relative to said overlapping area, and if the Parties fail to reach an agreement, the Grantee may elect to obtain a new franchise agreement pursuant to the renewal provisions of this Agreement, the Cable Code, and the then applicable provisions of state and federal law.

**SECTION 3. GENERAL REQUIREMENTS**

3.1 Annual Franchise Fee.

As compensation for this Franchise and in consideration of permission to use the Rights-of-Way of the City for the provision of Cable Service, and to defray the costs of Franchise obligations, the Grantee shall pay to the City on an annual basis throughout the

term of this Franchise, a sum totaling five percent (5%) of the Grantee's Gross Revenues derived from the provision of Cable Services, or the maximum percentage of Gross Revenues allowed by the Cable Communications Act of 1984, as it may be amended. Consistent with federal law, such franchise fees shall not be applicable to Gross Revenues for non-Cable Services, including but not limited to Internet access and telecommunications services as defined under federal law.

- A. Payments due City under this Section shall be computed and paid by Grantee as set forth in the City Cable Code, Sections 5.04.170(2),(3) and (4) as now exist or as may be hereafter amended. Each payment shall be computed and paid quarterly, for the preceding quarter, as of March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after the dates listed in the previous sentence.
- B. No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the City may have for further sums payable under the provisions of this Franchise. City's right to audit, and Grantee's obligations to retain records related to the franchise fee audit, shall expire three (3) years from the date on which each Franchise Fee payment by the Grantee is due.

### 3.2 Liability Insurance.

- A. Upon the effective date of this Franchise, the Grantee shall, at its sole expense, take out and maintain during the life of this Franchise commercial general liability insurance with a company licensed to do business in the State of Washington that

shall protect the Grantee, the City, and the City's officials, officers, and employees from claims which may arise from operations under this Franchise, whether such operations are by the Grantee, its officers, directors, employees and agents, or any subcontractors of Grantee. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from all of Grantee's operations, products, services or use of automobiles, or construction equipment. The amount of insurance for Single Limit Coverage applying to Bodily and Personal Injury and Property Damage shall be two million dollars (\$2,000,000.00) per occurrence and five million dollars (\$5,000,000.00) in the annual aggregate. The following endorsements shall attach to the liability policy:

- (1) The policy shall cover Personal Injury as well as Bodily Injury.
- (2) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries and property damage.
- (3) Broad Form property damage liability shall be afforded.
- (4) The City shall be named as an additional insured on the policy.
- (5) An endorsement stating that the policy shall not be cancelled, or materially modified so as to be out of compliance with the requirements of this Section, or not renewed without thirty (30) days advance written notice of such event being given to the City.

Grantee shall provide City with a certificate of insurance verifying the above coverages at the commencement of this franchise and thereafter upon reasonable request of the City.

3.3 Indemnification.

- A. Except as otherwise provided herein, the Grantee shall, at its sole cost and expense, indemnify, hold harmless, release and defend City, its officials, boards, commissions, agents, and employees from and against any and all lawsuits, claims, actions, demands, damages, disability, losses, expenses including reasonable attorney's fees and other defense costs or liabilities of any nature that may be asserted by any person, from any cause whatsoever, arising out of or in any way connected with the operations, expressly authorized herein, the exercise of the Franchise pursuant to this Franchise, and/or the activities of Grantee, its subcontractors, employees and agents hereunder, including copyright infringement or other program related liability.

The indemnification obligation of Grantee shall not be limited in any way by the application of any workmen's compensation acts, disability benefit acts or other employee benefit acts and the Franchisee expressly waives the protection afforded by such laws. The foregoing indemnification obligations are a material inducement to the City to grant this Franchise and it has been mutually negotiated.

- B. City does not, and shall not, waive any rights against Grantee which it may have by reason of this indemnification, because of the acceptance by City, or the deposit with City by Grantee, of any of the insurance policies described in this Franchise.

- C. This indemnification obligation of Grantee shall apply to all damages and claims for damages of any kind suffered by reason of any of the operations referred to in this Section, regardless of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- D. Grantee shall not be required to indemnify City for damages to the extent arising from or caused by the sole negligence or gross negligence or willful misconduct of the City or its officials, agents, or employees.
- E. With respect to any claims which are subject to indemnity hereunder, Grantee shall immediately notify the City's Executive Services Director of any such claims which have been filed against the Grantee or Grantee and City jointly, and shall provide the City with a copy of the same. City shall give the Grantee written notice of its obligation to indemnify the City within a reasonable time of City's receipt of a claim or action pursuant to this Section. If the City determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City.

#### 3.4 Procedure for Remediating Franchise Violations.

- A. The City shall provide the Grantee with a detailed written notice of any Franchise violation upon which it proposes to take action. Unless the nature of the violation requires a more rapid cure, the Grantee shall have sixty (60) days within which to demonstrate to the City's reasonable satisfaction that a violation does not exist, cure such violation, or, if the violation cannot be corrected in sixty (60) days, to submit a plan satisfactory to the City to correct the violation. Said sixty (60) day cure period shall not apply to the payment of franchise fees.

- B. If the Grantee fails to cure the violation within the applicable time period, or the Grantee's plan of correction is not reasonably effective, the City may pursue any remedy available to it at law or in equity; provided, however, that any revocation or termination of the Franchise shall be governed by Section 5.04.220 of the Cable Code.
- C. The Grantee shall have thirty (30) days to appeal any final decision of the City to the Chelan County Superior Court.
- D. All notices, reports or demands required to be given in writing under this Franchise Agreement shall be deemed to be given when delivered personally to the Person designated below, or when five (5) days have elapsed after it is deposited in United States mail in a sealed envelope, with registered or certified mail, postage prepaid thereon, or on the next business day if sent by express mail or overnight air courier addressed to the party to which notice is being given, as follows:

If to City: Mayor  
City of Wenatchee  
129 S. Chelan  
Wenatchee, WA 98801

If to Grantee: LocalTel Communications  
341 Grant Road  
Wenatchee, WA 98801

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.



## **SECTION 4. SYSTEM CAPABILITIES**

### 4.1 System Capabilities

- A. The Grantee's Cable Service shall be delivered via the District's Broadband System. The System shall provide for a minimum bandwidth capacity of 50-870 MHz.
- B. The Grantee shall comply with all customer service obligations with respect to customers whose premises are passed by portions of the District's Broadband System which are fully activated, tested and available for Service.
- C. Grantee agrees to cooperate with City from time to time in a periodic review, relating to change in law, technology, and services and agrees to furnish City with information relating to services and technological changes including plans and developments within the industry.

### 4.2 Periodic Evaluation, Review and Modification.

City and Grantee acknowledge and agree that the field of cable service is a rapidly changing one that may experience many regulatory, technical, financial, marketing and legal changes during the term of this Franchise. Therefore, to provide for the maximum degree of flexibility in this Franchise, and to help achieve a continued, advanced and modern System, the following evaluation and review provisions will apply:

- A. The City may request evaluation and review sessions at any time sixty (60) months after the acceptance of the Franchise, and every two (2) years thereafter during the term of this Franchise, and Grantee shall cooperate in such review and evaluation. The City shall use its best efforts to coordinate such evaluation and

review sessions with other municipalities in the metropolitan area which are receiving Cable Service from Grantee.

- B. Cable Service topics which may be discussed at any evaluation and review session include, but are not limited to, channel capacity, system performance, programming, PEG access, node capacity, high definition television, local office, technology, trends in industry, changes in the multi-channel video market, municipal uses of cable, subscriber complaints, judicial rulings, FCC rulings and any other relevant topics that may arise.
- C. During an evaluation and review session, Grantee shall fully cooperate with the City and shall provide without cost such reasonable information and documents which are in the possession of Grantee as the City may reasonably request to perform the evaluation and review.
- D. As a result of an evaluation and review session, Grantee and the City shall, in good faith, review the terms of any proposed change and any proposed amendment to this Franchise and seek to reach agreement on such change or amendment.
- E. The City and Grantee shall act in good faith during such negotiations and shall be obligated to agree to the reasonable requests of the other party for changes in the Cable Services or amendment to the Franchise when the change or amendment is not inconsistent with the other terms of the Franchise or with applicable law or regulations; and, is technically feasible and economically reasonable; and, will not result in a material alteration of the rights and duties of the parties under the Franchise or rights of the District. Any changes requiring a modification of

District's Broadband System will require the District's consent in its agreement with the Grantee as well as a possible amendment of the District's Use Agreement.

## **SECTION 5. SERVICES AND PROGRAMMING**

### 5.1 Programming.

- A. Grantee shall not delete or change the mix, level, or quality of programming and services, or so limit as to effectively eliminate any broad category of programming within its control without complying with the modification procedures required under federal law, including notice requirements.
- B. In the event of a modification proceeding under federal law, the mix, level, and quality of services provided by the Grantee during its first year of actively providing Cable Service under this Franchise shall be deemed the mix and quality of services required under this Franchise throughout its term.

### 5.2 Leased Commercial Access.

Grantee shall make available to the public in a manner consistent with 47 U.S.C. §532 and associated FCC Rules and Regulations, a Channel or portion of a Channel of the Cable System for commercial use by persons other than Grantee, for a fee or charge.

## **SECTION 6. SUPPORT FOR LOCAL CABLE RELATED NEEDS**

### 6.1 Public, Educational and Governmental Access.

- A. Access Channels. The Grantee shall provide two (2) Access Channels for use by the City for original, non-commercial video programming for Public, Educational and Governmental (PEG) Access programming and subject to the conditions set forth below.

B. Additional Channel. In addition to the two (2) PEG Access Channels described above, if desired by the City, the Grantee shall make one (1) additional PEG Access Channel available to the City within one hundred eighty (180) days of a written request by the City for either educational, governmental or public access purposes. Any such request for an additional PEG Access Channel must meet the following conditions:

- (1) The City has made a determination, after notice and opportunity for public comment, that the use of the first two dedicated Access Channels is consistent with community needs and interests, and that an additional dedicated PEG Access Channel is required to meet more fully such community needs and interests.
- (2) The first two dedicated PEG Access Channels provided under this Franchise are in use and programmed with PEG Access programming during at least eighty percent (80%) of the time during any consecutive thirteen (13) hour period for ten (10) consecutive weeks. For purposes of this computation, all time allocated to character generated or similar programming shall be excluded from the determination of the aggregate time such channel is in use and programmed with PEG Access programming during the period in question.
- (3) At least one-third (1/3) of the programming presented during such ten (10) week period is produced within or relates directly to the City.

- (4) At least two-thirds (2/3) of the aggregate hours utilized for PEG Access programming on any one of the two (2) existing channels during such ten (10) week period represents programming that is not repeat programming.
- C. Grantee Use of Additional Channel. Upon thirty (30) days written notice to the City, the Grantee may make use of such additional PEG Access Channel for its own programming purposes if at any time after one hundred eighty (180) days of its operation the City cannot meet the above criteria justifying the need for said channel for a period of ten (10) consecutive weeks.
- D. Unused Channels. If demand for use of the PEG Access Channels does not warrant activation of any or all such channels, City and Grantee (upon the mutual written agreement of City and Grantee), reserve the right to have the PEG Access Channel(s) returned to the Grantee for the Grantee's use if the City shall provide consent in writing to the Grantee. In such event, the Grantee shall notify its customers of Grantee's intention to utilize the PEG Access Channel by providing Subscribers with a thirty (30) day prior written notice. Subject to the above circumstances, the Grantee may in any manner use the PEG Access Channel during those hours that the City or other governmental, public or educational entity is not using the channels(s).
- E. Access Channel Designations. Grantee acknowledges and agrees that it will use reasonable efforts to retain the same channel number designations for Access Channels as those that are currently utilized as of the acceptance date of this Franchise. Subject to subsection 6.1(G), Grantee reserves all rights under the Cable Act to specify channel locations.

F. Non-Commercial Use. PEG Access Channels shall be non-commercial, not-for-profit, and non-competitive. The PEG Access Channels shall not be used for commercial purposes, such as leasing capacity, advertising, or any use whatsoever that may generate revenue (subject to the permissible uses as outlined in this subsection) for the Grantor or any other Person, or compete with current or future services provided by the Grantee, its designee or assignee. Notwithstanding the foregoing, City and Grantee agree that the City may receive and acknowledge financial support for the provision of PEG Programming for charitable, educational or governmental access purposes with a fifteen (15) second video and/or audio acknowledgment window at the beginning and end of the sponsored program. This window may only contain the name and logo of each sponsor.

G. Analog or Digital Format. Grantee has the option to air the PEG Access Channels in analog, digital or other format, provided that the PEG Access Channels shall be kept in analog format if Grantee has a tier or service in analog format. The PEG Access Channels may be placed on any tier or service available to all Subscribers, including the digital tier provided, however, that PEG Access Channels shall be carried on the lowest tier or service, as distinguished from premium service tiers. Each PEG Access Channel shall contain distinct content not aired on other channels.

6.2 Indemnification and Restrictions. The City shall indemnify, save and hold harmless the Grantee from and against any and all liability resulting from the City's use of the two-way insertion points under subsection 6.3 and the aforementioned PEG channels whether City operates the PEG Channels from a third party's Facilities or from Grantee's

Facilities. Grantee shall not be responsible for operating and managing the PEG Channels including approving any PEG programming and/or for obtaining releases from programmers for any PEG programming. City reserves the right to permit a third party to operate and manage the PEG Channels on the City's behalf.

6.3 Insertion Points. Upon written request, Grantee shall provide, at no cost to the City, up to seven (7) insertion points at City Hall, City Planning Department, Police Station, up to two fire stations, the City library and the City Public Works Department, provided that users of such insertion points shall hold the Grantee harmless from any and all liability or claims arising out of their use. City shall provide the addresses of the foregoing insertion points to Grantee. Grantee shall not be required to provide an insertion point to such buildings where the drop line between the building and City's feeder cable exceed two hundred (200) feet, unless the City agrees to pay the Direct Incremental Cost of extending such drop line beyond two hundred (200) feet. The City shall not request the Grantee to provide any insertion point unless the same is required of all Cable Operators in the Service Area. If, at any time, the City requests that the insertion point be moved from its original location to another location, City shall pay the entire cost for the move.

6.4 Technical Support from Grantee. Upon receipt of a call or other communication from the City to Grantee identifying a technical problem and requesting assistance, Grantee shall provide technical assistance or diagnostic services to determine whether or not a problem with a PEG signal is the result of matters for which Grantee is responsible, and if so, Grantee shall take corrective action. If the problem persists and there is a dispute about the cause, then the parties shall convene a meeting or telephone call with personnel from Grantee and City in order to determine the course of action to remedy the problem.

6.5 Financial Support for PEG Access. Grantee formerly made a one-time capital contribution to the City in the amount of one hundred thousand dollars (\$100,000), and Grantee shall continue to collect from and bill each Subscriber an amount of eight cents (\$0.08) per month per Subscriber for recovery of the one-time capital contribution. Grantee shall, annually and at the request of the City, provide the City with the amount of capital contribution collected and the amount remaining to be collected. Once the Grantee has been fully reimbursed for the one hundred thousand dollar (\$100,000) capital contribution, Grantee shall continue collecting the amount of eight cents (\$0.08) per month per Subscriber, and the amount shall be remitted to the City, payable on a quarterly basis, within forty-five (45) days of the close of each calendar quarter. In the event of a dispute, the City, if it so requests, shall be furnished a statement of said payment, reflecting the PEG capital support collected from Subscribers. At any time, the Grantee may request a report of how the capital dollars are being used. City and Grantee acknowledge that PEG funds are only to be used for capital costs and not for operational costs. PEG capital support shall be for the exclusive use of the City and shall not be used for purposes other than as described under Section 13 herein. The City shall be responsible for installing, operating, maintaining and replacing the equipment purchased as necessary.

6.6 Free Drops. Subject to the availability of the District's Broadband System to the Grantee, Grantee may provide on a voluntary basis, without charge and within the Service Area, one drop activated for Basic Cable Service to all elementary and secondary public school classrooms and public libraries. Additionally, Grantee shall provide, without charge, one drop of Basic Cable Service, at a location designated by the City, so that City may view



and monitor PEG Access programming. The drop shall be within one hundred twenty-five (125) feet of Grantee's feeder cable.

- 6.7 PEG Fees Not Franchise Fees. Grantee agrees that the PEG Fee in Section 6 in no way modifies or otherwise affects Grantee's obligation to pay Franchise Fees to the City. Grantee agrees that although the sum of Franchise Fees and PEG Fee may total more than five percent (5%) of Grantee's Gross Revenues in any twelve-month period, the PEG Fee is not to be offset or otherwise credited in any way against any Franchise Fee payments under this Franchise.

### **SECTION 7. CONSTRUCTION AND SERVICE PROVISIONS**

- 7.1 Obligations of District

The City and the Grantee recognize and agree that the Grantee intends to provide Cable Service utilizing the fiber optic transport facilities of the District's Broadband System and therefore the Grantee will have no direct control over the installation, operation or maintenance of the physical facilities located within the City's Rights-of-Way. In order to meet the City's construction and operational requirements the Grantee agrees to include within its use or license agreement with the District service level provisions and obligations, including compliance with all applicable FCC technical standards, as set out in Sections 4 and 5 of the District's Communications Infrastructure Right-Of-Way Use Agreement. The Grantee agrees that the failure of the District to reasonably meet these standards will constitute a default of this Franchise subject to the remedial provisions of this Franchise Ordinance.

7.2 Construction Schedule

It is understood and agreed by the parties that construction of the District's Broadband System is subject to the budget and planning process of the District.

7.3 Line Extension

Subject to the availability of the District's Broadband System to the Grantee, the Grantee agrees to extend service at no additional cost to all areas within the City having a density of twenty-five (25) or more homes per linear mile. In less dense areas lines will be extended upon request of the home owners at the incremental cost of all Parties seeking to have the distribution line so extended, and subject to the availability of the District's Broadband System to the Grantee in that area.

7.4 Customer Service Standards.

The Grantee shall at all times comply will all applicable FCC customer service standards and the service standards set out in the City's Cable Code. To the extent that specific customer service standards require the District to perform work on its Broadband System, such as responding to and remedying service disruptions, the Grantee agrees to include within its use or license agreement with the District service level provisions and obligations that would require compliance with such standards, as set out in Section 5 of the District's Communications Infrastructure Right-Of-Way Use Agreement. The Grantee agrees that the failure of the District to reasonably meet these standards will constitute a default of this Franchise subject to the remedial provisions of this Franchise.

## **SECTION 8. REGULATION**

### 8.1 Franchise Regulation.

This Franchise shall be subject to regulation by City in accordance with all of the lawful provisions of the Cable Code.

### 8.2 Transfer or Sale.

- A. The Grantee shall not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, an interest in or control of this Cable Franchise or its Cable Service without the prior consent of the City, which consent shall not be unreasonably denied or delayed and may be denied only upon a good faith finding by the City that the proposed transferee lacks the legal, technical, or financial qualifications to consummate the transaction and operate the Cable Service so as to perform its obligations under this Franchise. This Section shall not apply to sales of property or equipment in the normal course of business. Consent from the City shall not be required for a transfer in trust, mortgage, or other instrument of hypothecation, in whole or in part, to secure an indebtedness, or for a pro forma transfer to a corporation, partnership, or other entity controlling, controlled by, or under common control with a Grantee.
- B. In the case of any sale or transfer of ownership of an interest in or control of this Franchise or Cable Service, the City shall have one hundred twenty (120) days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with FCC Regulations and the requirements of this Code. If the City fails to render a final decision on the request within one hundred twenty (120) days after receipt by the

City of all required information, such request shall be deemed granted unless the requesting party and the City agree to an extension of the one hundred twenty (120) day period.

8.3 Force Majeure.

In the event Grantee's performance of any of the terms, conditions, obligations or requirements of this Franchise or the Cable Code is prevented or impaired due to any cause beyond its reasonable control or not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof. Such causes beyond Grantee's reasonable control or not reasonably foreseeable shall include, but shall not be limited to, acts of God, civil emergencies and labor unrest or strikes, severe weather, unavailability of equipment or facilities during the initial construction of the Cable System, untimely delivery of equipment, or the inability of a Grantee to obtain access to an individual's property.

8.4 Severability.

If any material section, sentence, phrase, provision, paragraph or term of this Franchise is held void or otherwise rendered unenforceable by any court of competent jurisdiction, such provision shall be deemed severable from this Franchise, and the remainder of this Franchise shall continue in full force and effect.

8.5 Acceptance.

Grantee shall, within 15 days after the effective date of this Ordinance, file with the City Clerk of the City its acceptance in writing of the provisions, terms and conditions of this Ordinance. If Grantee shall fail to so file its written acceptance of the same within such

period, then the rights and privileges granted hereunder shall be deemed forfeited and null and void with respect to Grantee.

**PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE,**

**WASHINGTON** this \_\_\_\_ day of \_\_\_\_\_, 2021.


CITY OF WENATCHEE, a municipal  
corporation,

By: \_\_\_\_\_  
FRANK J. KUNTZ, Mayor

ATTEST:

By: \_\_\_\_\_  
TAMMY L. STANGER, City Clerk

APPROVED:

By:   
STEVE D. SMITH, City Attorney

ACCEPTED AND APPROVED BY GRANTEE:

**Grantee Name:** Computer 5\*, Inc. dba LocalTel Communications  
**Type of Entity:** Corporation  
**State of formation:** Washington  
**Address for Notice Purposes:** 341 Grant Road, Wenatchee, WA 98802  
**Phone No.:** (509) 884-0611  
**Fax No.:** (509) 884-3557  
**E-mail Address:** John@clandt.com

By: \_\_\_\_\_  
John J. Seabeck, Vice President

Date: \_\_\_\_\_



## CITY COUNCIL AGENDA REPORT

**TO:** Frank Kuntz, Mayor  
City Council

**FROM:** Laura Merrill, Executive Services Director  
Mayor's Office

**MEETING DATE:** March 11, 2021

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**I. SUBJECT**

Interlocal Agreement between the City of Wenatchee and Chelan County Public Utility District No.1 for development projects funded with collaborative financing.

**II. ACTION REQUESTED**

Staff recommends the City Council authorize the Mayor to sign the Interlocal Agreement regarding Development Projects between the City of Wenatchee and Chelan County Public Utility District No. 1

**III. OVERVIEW**

The City of Wenatchee (City) and Chelan County Public Utility District No. 1 (PUD) each have development projects that will provide upgraded public facilities and improve recreation along the waterfront while ultimately encouraging private development within the City of Wenatchee. The City has been actively working towards redeveloping the North Wenatchee area, specifically along the new McKittrick extension which will build out Columbia Street and provide the necessary utilities for future private development. The PUD is interested in master planning Riverfront Park (Park Project) which is a highly trafficked park located along the waterfront, near Pybus Market and directly across from a future housing project that will build over 400 apartments. The City and PUD recognize that by combining resources and evaluating options for collaborative planning, more effective redevelopment is possible.

The proposed interlocal specifies the following:

- PUD and the City will each contribute up to \$200,000 toward a service agreement for a consultant to develop plans and specifications for the Park Project. Funds remaining from this combined \$400,000 may be spent on construction/bidding documents following completion of the park master plan, subject to an additional scope of work mutually agreed upon by the City and PUD.
- The City will contribute \$2,000,000 (inclusive of the \$200,000 set aside for design) for Park Project construction costs.
- The PUD shall pay to the City the sum of \$300,000 for use on the other City capital improvement projects. The City intends to use this funding towards filling the gap on the Columbia Street build out.

Staff recommends the City Council authorize the Mayor to sign the Interlocal Agreement regarding Development Projects between the City and PUD.

**IV. FISCAL IMPACT**

There is no impact to the general fund. The City will contribute \$2,000,000 in available LRF funding for the Riverfront Master Planning effort. The \$300,000 PUD contribution will be deposited into fund 304 for the Columbia Street project.

**VI. REFERENCE(S)**

1. Interlocal Agreement re Development Projects

**VII. ADMINISTRATIVE ROUTING**

Tammy Stanger, City Clerk  
Rob Jammerman, Public Works Director  
Brad Posenjak, Finance Director

## **INTERLOCAL AGREEMENT RE: DEVELOPMENT PROJECTS**

THIS INTERLOCAL AGREEMENT (“Agreement”) is hereby entered into this date by and between the CITY OF WENATCHEE (the “City”), and CHELAN COUNTY PUD #1 (the “District”), sometimes collectively referred to as the “Parties.”

WHEREAS, the City has local revitalization financing (LRF) funding that can only be used for improvement projects along the waterfront of the Columbia River, including on property upon which the District operates and maintains the Wenatchee Riverfront Park (“Park”) pursuant to the District’s license to operate the Rock Island Hydroelectric Project No. 943 (“Rock Island”); and

WHEREAS, the District desires assistance from the City with LRF funds for a design study and future implementation of improvements to the Park (“Park Project”); and

WHEREAS, the City desires the District to contribute money for capital improvement projects that have a mutual benefit; and

WHEREAS, the City and District desire to take advantage of the different sources of funding to implement these improvement projects; and

WHEREAS, as a result of the cooperative planning meetings between the Parties, the City and the District desire to continue their cooperative efforts through final design, public procurement, construction and financing of the Park Project;

WHEREAS, the City is authorized by chapter 39.104 Revised Code of Washington (RCW) (the “Act”), under certain conditions, to establish an increment area within the boundaries of the City and to finance public improvements using local revitalization financing in order to promote and facilitate the orderly redevelopment of and to encourage economic growth and development within the increment area; and

WHEREAS, improvements to the Park will benefit the District and the general public by providing upgraded public facilities and improving recreation in this area; and

WHEREAS, in accordance with the provisions of the Act, the City Council enacted Ordinance 2009-26 (the “Ordinance”) establishing the Local Revitalization Financing District -Wenatchee Waterfront (the “LRF Waterfront District”), describing the public improvements, the boundaries of the LRF Waterfront District, estimating the cost of public improvements and the portion of those public improvement costs to be financed by local revitalization financing, including payment of public improvement costs on a “pay-as-you-go” basis; and

WHEREAS, the City has determined that the Park Project, the costs associated with the Park Project, and the contractual obligations identified in this Agreement are eligible and otherwise qualify under 39.104 RCW for reimbursement as determined in the Ordinance.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the foregoing representations, which are incorporated by this reference into the Agreement, the City and the District agree as follows:



### **1. Purpose/Recitals.**

The purpose of this Agreement is to provide for the continued cooperation of the Parties for the design, public procurement, and construction of the Park Project. The foregoing Recitals are incorporated into this Agreement by reference.

### **2. Term.**

This Agreement shall be effective on the latest date of execution by the Parties ("Effective Date").

This Agreement shall terminate on completion of the payment provisions set out at Section 5 hereof.

Upon termination of this Agreement, all obligations and liabilities incurred by the Parties through the date of termination shall be preserved until satisfied.

Notwithstanding any provision of this Agreement to the contrary, the rights and obligations of this Agreement set out at Sections 6 and 7 shall survive termination of this Agreement.

### **3. Scope of Work.**

The Scope of Work for the City's other capital improvement projects shall be prepared by the City. The Scope of Work for the Park Project shall be developed by consultants mutually agreed upon by the Parties to perform such work. Upon District approval of the development plans and specifications, those documents will be attached to this Agreement and incorporated by reference herein.

### **4. Project Completion.**

District shall lead the design study and future project implementation for the Park Project, including:

- 4.1. Coordinating with City and consultant for drafting of design plan, plans and specifications, and community outreach.
- 4.2. Administering the bidding and contract award, consistent with public bid laws for the Park Project, including: a.) Preparing bid documents; b.) Advertising for construction bids; c.) Awarding of the construction contract.
- 4.3. Administering the construction contract for the Park Project, including: a.) Scheduling the construction work in coordination with the City; b.) Disbursement of payments to the Park Project contractor; c.) Administration of change orders; and d.) Coordinating with the City to provide traffic control and access to the Park during construction; e.) Coordinating and providing all inspection and permitting necessary to the Project; and f.) Coordinating final acceptance of the Park Project following construction, including, inter alia, obtaining the City's written acknowledgement of final completion prior to final acceptance of the Park Project ("Final Acceptance").
- 4.4. Providing field engineering, including survey control and construction staking and as built drawings.
- 4.5. Administering and managing the budget for this Park Project.

## **5. Project Funding.**

The District and the City shall fund the construction of the Park Project as follows:

5.1. The District and the City will each contribute up to \$200,000 toward a service agreement for a consultant to develop plans and specifications for the Park Project as stated in Section 3. The City shall pay the District for its share of this service agreement. Funds remaining from this combined \$400,000 may be spent on construction/bidding documents following completion of the park master plan, subject to an additional scope of work mutually agreed upon by the City and District.

5.2. The City will contribute \$2,000,000, inclusive of the \$200,000 paid by the City for design pursuant to paragraph 5.1 above, for Park Project construction costs. The District shall invoice the City for expenses it has incurred for the design work and the Park Project consistent with LRF requirements, and the City shall reimburse the District within 30 days of invoice. The District may elect to match Park Project construction costs as part of a separate agreement with the City that addresses relicensing of the Rock Island Project and the District's pursuit of early-action credit.

5.3 The District shall bear its own administrative costs and expenses associated with the PUD Park Project, including without limitation, construction management costs.

5.4 Within 90 days of entering into this Agreement, the District shall pay to the City the sum of \$300,000 for use on the other City capital improvement projects.

## **6. Records.**

The Parties shall keep and maintain accurate and complete records pertaining to all related agreements, costs and work. Each party shall have full access and right to examine any records during the term of this Agreement and for six (6) years thereafter. All records, books, documents and other materials maintained, prepared or issued by each Party in the implementation of this Agreement shall be the property of the issuing Party, and each Party shall have the responsibility of the retention and release of these materials. The records retention period shall be tolled during the pendency of any claims or suits related in any way to this Agreement and any records for which a party has custody or responsibility shall not be destroyed or purged until final resolution of all claims or lawsuits.

## **7. Mutual Indemnity.**

The District shall indemnify, defend and hold harmless the City, its officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the District, its officers, agents, and employees, in connection with this Agreement.

The indemnification obligation of District shall not be limited in any way by the application of any workmen's compensation acts, disability benefit acts or other employee benefit acts and the District expressly waives the protection afforded by such laws. The foregoing waiver and indemnification obligations have been mutually negotiated.

The City shall indemnify, defend and hold harmless the District, its officers, agents, employees, contractors, and subcontractors from and against any and all claims, losses or liability, or any portion

thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the City, its officers, agents, and employees, in connection with this Agreement.

The indemnification obligation of the City shall not be limited in any way by the application of any workmen's compensation acts, disability benefit acts or other employee benefit acts and the City expressly waives the protection afforded by such laws. The foregoing waiver and indemnification obligations have been mutually negotiated.

**8. Severability.**

In the event that any provision of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provision shall be enforced and validated to the extent permitted by law. All other provisions of this Agreement are severable, and the unenforceability or invalidity of any single provision hereof shall not affect the remaining provisions.

**9. Attorney's Fees.**

In the event of litigation regarding any of the terms of this Agreement, each party shall pay their own attorney's fees and costs.

**10. Construction.**

This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings among the Parties with respect thereto. This Agreement may be amended only by an agreement in writing signed by the Parties.

**11. Mutual Negotiation and Construction.**

This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and mutually drafted by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

**12. Governing Law; Venue.**

This Agreement is governed by the laws of the state of Washington, without regard to its conflict of law provisions. The jurisdiction of any action hereunder shall be in the Superior Court, Chelan County, Washington.

**13. Public Disclosure.**

The obligations of the parties regarding confidential information may be subject to state and federal public disclosure laws, as now exist or as may be hereafter amended. The parties may disclose confidential information to the extent it is required to be disclosed pursuant to the public disclosure laws. If a public disclosure of confidential information is requested, the party receiving the request agrees to notify the other of such request at least ten (10) business days prior to disclosure being made. The other party may immediately seek a protective order in the appropriate court. The receiving party will reasonably cooperate with the other in such action, but is under no obligation to obtain or seek any court protection.

**14. Relationship of Parties.**

The Parties intend that an independent contractor relationship will be created by this Agreement. The conduct and control of the Projects Contracts and safety measures required by Projects Contracts lie solely with the City and its Contractor. Neither party, their officers, employees, agents, contractors or subcontractors shall be considered an agent or employee of the other for any purpose and neither party is entitled to any of the benefits that the other provides for its respective employees.

**15. No Third Party Beneficiaries.**

This Agreement is made and entered into for the sole benefit of the Parties, and the Parties intend that no other person or entity shall be a direct or indirect beneficiary of this Agreement.

APPROVED BY:

THE CITY OF WENATCHEE

This \_\_ day \_\_\_\_\_ of 2021.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

APPROVED BY:

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

This \_\_ day of \_\_\_\_\_, 2021.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_