

LEWIS COUNTY PUBLIC FACILITIES DISTRICT

RESOLUTION NO. 2012-002

A RESOLUTION of the Board of Directors of the Lewis County Public Facilities District, approving the form of an “Interlocal Agreement” relating to the proposed Lewis County Event Center and Sports Complex.

WHEREAS, Pursuant to Chapter 36.100 RCW, by Resolution No. 07-247, the Board of County Commissioners of Lewis County (“the County”) created the Lewis County Public Facilities District (the “District”), with boundaries coextensive with the boundaries of the County, for the purpose of pursuing the design, construction, ownership, operation and/or financing of specifically, a public facility, including parking facilities, constituting a “regional center” as defined in RCW 35.57.020; and

WHEREAS, Section 2 of SSB 5984 (Chapter 4, Laws of 2012) (the “Legislation”) requires, among other things, the performance of an “independent financial feasibility review prior to a public facilities district entering into a “long-term lease, purchase, or development of a facility” under Chapter 36.100 RCW; and

WHEREAS, the District is financing and developing an Event Center as part of a larger regional center project being developed in cooperation with the City of Centralia and the Centralia School District; and

WHEREAS, the District, as “Landlord,” is considering entering into an “Event Center Lease Agreement” with Lewis County Event Center, LLC, as “Tenant,” under which the Tenant will contribute a modest portion of the cost of construction of the Event Center, will lease the Event Center from the District for a term of years, and will be responsible for operation and maintenance of the Event Center during that term; and

WHEREAS, because of lack of clarity in the Legislation, particularly in light of the stated intention of the Legislation’s lead sponsor in a June 6, 2012 letter to the Director of the Department of Commerce, it is not entirely clear that an independent feasibility review is legally required with respect to the contemplated Event Center lease; and

WHEREAS, the District desires to move expeditiously with construction of the Event Center, and desires to avoid delay that might be caused by lack of certainty concerning whether an independent financial feasibility review is required;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LEWIS COUNTY PUBLIC FACILITIES DISTRICT:

Section 1 Approval of Form of Interlocal Agreement.

The Board approves the form of Interlocal Agreement for Independent Financial Feasibility Review (the "Interlocal Agreement") attached as Exhibit A and incorporated herein by reference.

Section 2 Authorization of Execution of Interlocal Agreement.

The Chair of the Board is authorized to execute the Interlocal Agreement in substantially the form attached as Exhibit A, with such changes as he determines are consistent with the purposes of this resolution.

Section 3 Ratification of Prior Acts

Any action taken consistent with the authority of this resolution, after its passage but prior to its effective date or the effective date of the formation of the District, is ratified, approved, and confirmed.

ADOPTED this 26th day of June, 2012.



Todd Chaput, Chair



Peter Corwin, Secretary

**INTERLOCAL AGREEMENT
FOR
INDEPENDENT FINANCIAL FEASIBILITY REVIEW**

THIS AGREEMENT is entered into by and between the Lewis County Public Facilities District, a Washington municipal corporation (the “District”) and the Washington State Department of Commerce (the “State”), together the “Parties” and individually a “Party.”

WHEREAS, Section 2 of SSB 5984 (Chapter 4, Laws of 2012) (the “Legislation”) requires, among other things, the performance of an “independent financial feasibility review prior to a public facilities district entering into a “long-term lease, purchase, or development of a facility” under Chapter 36.100 RCW; and

WHEREAS, the District is financing and developing an Event Center as part of a larger regional center project being developed in cooperation with the City of Centralia and the Centralia School District; and

WHEREAS, the District, as “Landlord,” is considering entering into an “Event Center Lease Agreement” with Lewis County Event Center, LLC, as “Tenant,” under which the Tenant will contribute a modest portion of the cost of construction of the Event Center, will lease the Event Center from the District for a term of years, and will be responsible for operation and maintenance of the Event Center during that term; and

WHEREAS, the District desires to move expeditiously with construction of the Event Center, and desires to avoid delay;

NOW, THEREFORE, pursuant to chapter 39.34.080 and in consideration of the terms, conditions, covenants, and performances contained herein,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. **Retention of Independent Consultant.** Subject to applicable procurement rules and regulations, the State shall promptly retain an independent consultant to perform an independent financial feasibility review of the type contemplated by Section 2 of the Legislation. The State will consult with the District concerning the consultant to be retained, but the State shall have the sole final decision concerning the identification and retention of the consultant. The District shall promptly provide all information necessary for the consultant to conduct the independent financial feasibility review, including but not limited to information fully identifying the scope of the project to be reviewed.
2. **Schedule for Completion of Independent Review.** Subject to applicable procurement rules and regulations, the State shall use reasonable efforts to have the independent financial feasibility review regarding the contemplated lease completed within one month of the date of this Agreement, and sooner, if practicable.
3. **Cost of Independent Review.** The District shall be responsible for the cost of the independent financial feasibility review. The State shall invoice the District, with supporting

materials, for the cost of that review, including the State's actual administrative costs, and the District shall pay the invoice within 15 business days. The Parties anticipate the review to cost up to \$4500, but the State, acting reasonably, shall have the sole final decision concerning the appropriate time and cost for carrying out the review. The State shall promptly inform the District if it anticipates that the review will cost in excess of \$4500.

4. **Term.** The term of this Agreement shall begin on the date of execution and terminate on September 30, 2012, or earlier if agreed to in writing by the Parties. The term of this Agreement may be modified and continued only by written amendment signed by both Parties.

5. **Agency Contacts and Notifications.** All contact and notifications between the Parties will be between the following designated representatives of each Party, as follows:

State:

Jaime Kaszynski
Research Project Manager
Research Services/Local Government Fiscal Note Program
Innovation & Policy Priorities Division
Washington State Department of Commerce
P.O. Box 42525, Olympia, WA 98504-2525
Phone: 360-725-2717
Email: jaime.kaszynski@commerce.wa.gov

District:

Rose A. Bowman
Lewis County Treasurer
360 Northwest North Street
Chehalis, WA 98532-1900
360-740-1110
Email: Rose.Bowman@lewiscountywa.gov

6. **No Indemnification.** Each party to this agreement shall be solely responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this agreement. Subcontracts, if any, shall include a comprehensive indemnification clause holding harmless the District, the Washington State Department of Commerce, the state of Washington, and their officers, employees and authorized agents. The provisions in this section shall survive the termination of this Agreement.

7. **Disputes.** The designated representatives herein under Section 5 of this Agreement, Agency Contacts, shall use their best efforts to resolve disputes between the Parties. If these individuals are unable to resolve a dispute, the matter shall be reviewed by the department directors of each Party or designee. The Parties agree to exhaust each of these procedural steps before seeking to resolve disputes in a court of law or any other forum.

8. **Venue.** This Agreement shall be deemed to be made in the County of Thurston, State of Washington, and the legal rights and obligations of the State and District shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the superior court situated in the County of Thurston, State of Washington, and each Party shall be liable for its own attorneys' fees and costs.

9. **Records Retention and Audit.** During the Term of this Agreement and for a period not less than six (6) years from the date of the final payment to the State, the records and accounts pertaining to this Agreement and accounting thereof are to be kept available for inspection and audit by the city, state and/or the Federal Government, and copies of all records, accounts, documents, or other data pertaining to this Agreement will be furnished upon request. The State and District shall have full access to and right to examine and copy said records, during normal business hours and as often as it deems necessary. The Parties agree that the Services performed herein are subject to audit by either or both Parties at the expense of the Party requesting the audit.

10. **Authorized Signatures.** The undersigned acknowledge that they are authorized to execute this Agreement and bind their respective agencies to the obligations set forth herein.

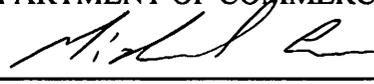
IN WITNESS WHEREOF, The Parties hereto have executed this Agreement as of the last date written below.

LEWIS COUNTY PUBLIC FACILITIES
DISTRICT


By: Todd Chaput, Chair of Board

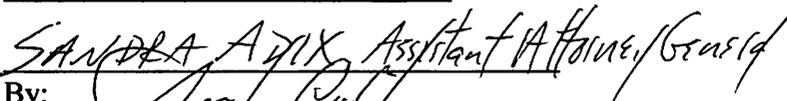
Date: 6-29-12

STATE OF WASHINGTON
DEPARTMENT OF COMMERCE


By: Michael Carr

Date: 7/16/2012

APPROVED AS TO FORM ONLY


By: Sandra Adix, Assistant Attorney General

Date: 07/10/2012