



Public Health & Social Services

360 NW North Street
Chehalis WA 98532

Memorandum of Understanding

Memorandum of Understanding #: IMO_COVID-19_WALK-IN

Memorandum of Understanding: Chehalis COVID-19 Mass Vaccination Walk-in Clinic

This Memorandum of Understanding ("MOU") is entered into by and between, Lewis County Public Health & Social Services, hereinafter referred to as **LCPHSS**, and Chehalis, LLC, a Minnesota limited liability company, hereinafter referred to as **Owner**. LCPHSS and Owner are hereinafter sometimes individually referred to as the "Party" and collectively as the "Parties."

Preamble

Background: This endeavor is for LCPHSS to provide a space to be used for the safe and effective operation of a walk-in COVID-19 mass vaccination clinic for the residents of Lewis County, herein referred to as **GUESTS**, in the former Sears space located in that certain building known as the Lewis County Mall, herein the "**Shopping Center**," at 151 NE Hampe Way, Chehalis, WA 98532-2403; with the area designated for the LCPHSS walk-in vaccination clinic listed in EXHIBIT B of this MOU, herein the "**Space**." Subject to the terms and conditions of this MOU, the Space will initially be provided from April 14, 2021 through July 16, 2021 and need for the Space is expected to continue until there is no longer an active statewide FEMA event occurring for mass vaccinations in the State of Washington; with MOU amendments to extend this agreement in 30 to 90 day increments as needed based on the Governor's Healthy Washington Road to Recovery Plan and the continued need for mass vaccination events at this location for the health and safety of the residents of Lewis County.

Purpose: This agreement states the arrangement between LCPHSS and Owner, for use of the former Sears building (located at: 151 NE Hampe Way, Chehalis, WA 98532-2403) for a COVID-19 walk-in mass vaccination clinic.

Recitals

WHEREAS, COVID-19, a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency for COVID-19, beginning January 27, 2020; and

WHEREAS, on February 29, 2020, Washington Governor Jay Inslee declared a state of emergency in response to the continued and growing threat presented by COVID-19; and

WHEREAS, on March 13, 2020, the Lewis County Board of County Commissioners declared a present emergency, and continues to extend such order, which necessitates utilization of emergency powers granted pursuant to RCW 36.40.180 and RCW 38.52.070(2); and

WHEREAS, it is in the best interest of Lewis County to work with local organizations and businesses to coordinate acquiring necessary supplies for prevention, detection, treatment, and eradication of COVID-19; and

WHEREAS, the Parties agree to proceed as outlined herein and enter into this Memorandum of Understanding as a voluntary and mutually beneficial understanding.

Witnesseth

NOW THEREFORE, in consideration of the mutual benefits and covenants hereafter contained, the Parties agree hereto as follows:

General Terms and Conditions

1. Accounting and Payment for Facility Use Fee

Owner shall invoice LCPHSS on a monthly basis, per Exhibit A of this MOU. Payment shall be due no later than the first day of each month and shall be paid in advance each month. Amounts due per Exhibit A of this MOU for any period during the term of this MOU which is less than a month shall be a pro rata portion of the monthly amount due. All payments hereunder shall be payable to Owner by automatic clearing house ("ACH") transfer as follows: Vermillion State Bank, Routing: 091914370, Account: 052787.

2. Assignment and Subcontracting

Unless otherwise provided for in this MOU, and except for all staffing required to operate the COVID-19 mass vaccination clinic, no portion of this MOU may be assigned or subcontracted to any other individual, firm, or entity without the express and prior

written approval of the Lewis County (Washington) MOU Representative, herein the **MOU Representative**, and Owner.

3. Regulations and Requirements

This MOU shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington, and to any other provisions set forth in Special Terms and Conditions.

4. Public Records Law

Each Party will fulfill their independent obligations, separately, under the Washington Public Records Act (chapter 42.56 of the Revised Code of Washington). In the event one Party fails to fulfill its obligations pursuant to this section and due in whole or in part to such failure a court of competent jurisdiction imposes a penalty upon the other Party for violation of the Public Records Act, the failing Party shall indemnify the other for that penalty, as well as for all reasonable costs and reasonable attorney fees incurred by the other Party in the litigation giving rise to such a penalty. The obligations created by this section shall survive the termination of this MOU.

6. Political Activity Prohibited

None of the funds provided under this MOU shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office or ballot measure. However, no person engaged to perform such services pursuant to this MOU shall be precluded from devoting income derived from such services to any lawful political activity, or to the support of a candidate for public office or of a ballot measure.

7. Right to Review

This MOU is subject to review by any federal or state auditor. The Parties or their designees shall have the right to review and monitor the financial and service components of this MOU by whatever means are deemed expedient by the MOU Representative. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by Lewis County or LCPHSS agents or employees, inspection of all records or other materials which the Parties deem pertinent to the MOU and its performance, and any and all communications with or evaluations by service recipients under this MOU.

8. Modifications

Either Party may request changes in the MOU. Any and all agreed modifications shall be in writing, signed by each of the Parties.

9. Intentionally Omitted.

10. Termination for Public Convenience

Notwithstanding anything in Section 11 to the contrary, either Party may terminate the MOU, in whole or in part, whenever the terminating Party determines, in its sole and absolute discretion that such termination is in the interest of the terminating Party.

Such termination shall be effective upon 10 days' prior written notification to the other Party. If this MOU is so terminated, the Parties shall be liable only for the amounts required to be paid pursuant to the terms of this MOU up to and including the effective date of termination. Termination of this MOU by a Party at any time during the term as provided in this Section 10 shall not constitute a breach of the MOU by the terminating Party.

11. Suspension of Performance and Resumption of Performance

In the event of government closure, suspension, or limitation of funding in any way after the effective date of this MOU and prior to normal completion, Parties may give notice to the other Party to suspend performance as an alternative to termination. Parties may elect to give written notice to the other Party to suspend performance when the Party determines there is a reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow performance to be resumed prior to the end date of this MOU. Notice may include notice by facsimile or email to the MOU's Representative. The Parties shall suspend performance on the date stated in the written notice to suspend. During the period of suspension of performance, each Party may inform the other of any conditions that may reasonably affect the potential for resumption of performance. Notice may be contingent upon the occurrence or non-occurrence of a future event e.g. the failure of the State of Washington to pass a budget by a date specified in the notice.

When the Parties determine that the funding insufficiency is resolved, the Parties may give written notice to resume performance and a proposed date to resume performance. Upon receipt of written notice to resume performance, the Parties will give written notice to the other as to whether it can resume performance, and, if so, the date upon which it agrees to resume performance. If Parties give notice that they cannot resume performance, the Parties agree that the MOU will be terminated retroactive to the original date of suspension of performance.

If the funding issue is not resolved, the Parties may terminate the MOU under the "Termination for Convenience" clause.

12. Defense and Indemnity MOU

Either Party shall defend, protect, and hold harmless the other Party or any officers or employees thereof, from and against all claims, suits, or action arising from any intentional or negligent act or omission of the other Party or any employee, agent or representative of the other Party or any subcontractor, while performing under the terms of this MOU.

13. Resolution of Conflicts

In the event of an inconsistency in this MOU, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- i. Applicable federal and state statutes and regulations
- ii. Special terms and conditions

- iii. Exhibits
- iv. General terms and conditions
- v. Any other provision of this MOU whether incorporated by reference or otherwise.

14. Disputes, Venue and Choice of Law

Both Parties agree that any disputes that arise under or relating to this MOU that cannot be resolved to the satisfaction of both parties shall be submitted to mediation before either party starts litigation in any form. An impartial third party acceptable to both Lewis County and LCPHSS or its designated MOU Representative, shall have the expressed, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this MOU with respect to the rights and responsibilities of LCPHSS. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this MOU is not effective or binding unless made in writing and signed by LCPHSS or its MOU Representative and Owner.

15. Notices

Except as otherwise provided in this MOU, all notices, requests or demands ("Notice") required or permitted to be delivered herein shall be in writing and sent by a recognized overnight courier service or by certified United States mail, return receipt requested, postage prepaid, and shall be deemed to be delivered when received or refused by the intended party. All such Notices shall be addressed to the parties hereto at their respective addresses set forth below or at such other addresses as either party may hereafter specify by Notice, delivered in accordance herewith.

TO OWNER:

Chehalis, LLC
Attn: Jean Langlais, President
1807 Market Blvd., PMB 330
Hastings, MN 55033

TO LCPHSS:

Lewis County Public Health & Social Services Department
Social & Community Services Division
Attn: J.P. Anderson, Director
360 NW North Street
Chehalis WA 98532

16. Miscellaneous Provisions

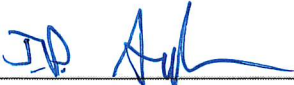
The Parties acknowledge and agree that any and all Recitals contained in the introductory clauses of this MOU including the Preamble and all Schedules and Exhibits attached to this MOU are incorporated herein and made a part hereof for all purposes. The individuals signing this MOU represent to the other party that they are fully authorized to execute this MOU. The captions, headings, and section numbers appearing in this MOU are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles or this MOU nor in

any way affect this MOU. All indemnifications by the parties under this MOU and all other obligations of either party set forth in this MOU that by their terms survive this MOU shall survive the expiration or earlier termination pursuant to this MOU. This MOU shall be governed by and construed in accordance with the laws of the State of Washington. The parties agree that venue for any cause of action arising out of, or having to do with, this MOU or any subsequent amendments shall be, and is, in Lewis County, Washington.

This MOU may be executed in multiple counterparts, and each counterpart when fully executed and delivered shall constitute one original instrument. The parties agree that execution or delivery by email, of a signed counterpart of this MOU will be deemed the same as delivery or execution of the wet ink original counterpart, provided such e-mail transmission to Owner is sent to the following e-mail addresses: dmcginnis@langlaislaw.com, jlanglais@langlaislaw.com, and danielle@rants-group.com, and such e-mail transmission to LCPHSS is sent to the following e-mail address: Michael.Baum@lewiscountywa.gov. Upon request of the other party, a party delivering an email counterpart of this MOU will provide to the requesting party a signed wet ink original of this MOU.

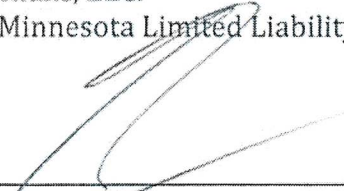
IN WITNESS WHEREOF, LCPHSS and Owner, by their respective officers and/or authorized representatives, have caused this Memorandum of Understanding to be executed on the day and year last set forth below.

Accepted:
Lewis County
Public Health & Social Services



J.P. Anderson
Director

Accepted:
Chehalis, LLC.
(a Minnesota Limited Liability Company)



Jean Langlais
President

Dated: 4.14.21

Dated: April 14, 2021

APPROVED AS TO FORM:
JONATHAN MEYER, Prosecuting Attorney



Amber Smith, WSBA# 53121

EXHIBIT A: FACILITY USE AGREEMENT

FACILITY & USE FEES: monthly use of the Space designated in EXHIBIT B of this MOU. Tables, chairs, desks, partitions, or any other temporary furniture, signs, or non-invasive temporary modifications to the Space will be provided by LCPHSS at its own cost and expense.

RATE: \$30,039.20 / Month. [This price is equal to \$0.80/month per square foot.] The Parties agree that while the MOU start date is April 14, 2021, there is no obligation to pay the facility use fee or utilities until Saturday April 17, 2021.

PERIOD OF AGREEMENT: April 14, 2021 through July 16, 2021, with anticipated need for facilities running until there is no longer an active statewide FEMA event occurring for mass vaccinations in Washington. Following the initial 93-day period, the contract may be extended in 30 to 90 day increments as needed via an amendment signed by both Parties. Need for continued use by LCPHSS will be evaluated based on the Governor's Guidance Healthy Washington Road to Recovery, and the continued need for Mass Vaccination events in the best interest of the residents and the community of Lewis County.

Additional fees and costs paid directly by LCPHSS

- Staff time (if not already covered by alternate funding)
- Security Services (as deemed appropriate by LCPHSS)
- Cleaning and maintenance of the Space, including all required supplies
- Refuse Removal. LCPHSS shall be obligated to enter into a written contract or contracts (with copy to Owner) with one or more competent, licensed waste removal contractors reasonably approved by Owner for removal of all of LCPHSS' garbage including the proper disposal of all bio-hazardous materials in accordance with all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. Any refuse container located outside the Space shall be placed in an area or areas approved by Owner.
- Porta Potty rental. At its sole cost and expense, LCPHSS will be providing GUESTS with porta potties which shall be placed in an area or areas within Common Parking A of Exhibit C as approved by Owner.

UTILITIES. Owner will be responsible for obtaining and timely paying for the following utility services for the Space: sewer/water, heat/gas, and electricity/air conditioning. On a monthly basis, Owner will invoice LCPHSS for each of these services which are separately metered. Copies of the invoices will be attached. LCPHSS will be responsible for obtaining, and timely paying for the following utility services for the Space: telephone, internet and any/or networking services (computer or otherwise). No variation, interruption, failure, or malfunction of any utility services for any cause whatsoever shall constitute an eviction or disturbance of LCPHSS' use and

possession of the Space or a breach by Owner of any of its obligations hereunder or render Owner liable for any damages (including, without limitation, consequential or special damages) or entitle LCPHSS to be relieved from any of its obligations hereunder. In the event of any such interruption of services, Owner shall use reasonable diligence to restore such service in any circumstances in which such interruption is caused by Owner's fault.

FACILITIES USED: Subject to the terms and conditions set forth in this MOU, Owner grants to LCPHSS and LCPHSS authorized providers for the COVID-19 Mass Vaccination clinic the Space for the sole purpose indicated in this agreement. Owner is delivering the Space to LCPHSS in "As-Is" condition. Subject the terms set forth in the Scheduling Section of this MOU and to any rules and regulations prescribed from time to time by the Owner, the use and occupation by LCPHSS and LCPHSS authorized providers shall include the use in common with others entitled thereto of the parking lot. The use and occupation by LCPHSS, LCPHSS authorized providers, and each of their employees, contractors, volunteers, and GUESTS shall not include the use or occupation of any other common area of the Shopping Center, including without limitation, the common area restrooms which are for use by all other Shopping Center tenants with access keys. LCPHSS acknowledges that authorized persons will have access to the restrooms located in the Space and that GUESTS will have access to porta potty rentals which will be supplied by LCPHSS.

GUEST access to and from the Space shall be limited to the main entrance of the Space only.

Smoking is prohibited on the premises.

Owner shall have the right to enter the Space at all reasonable hours for the purpose of inspecting the same or of making repairs, additions, or alterations thereto or for the purpose of exhibiting the same to prospective tenants, purchasers, or others. The exercise of such right shall not be deemed an eviction or disturbance of LCPHSS' use or possession.

PURPOSE: LCPHSS and LCPHSS authorized staff, personnel, and providers for the COVID-19 Mass Vaccination clinic will use the Space for the sole purpose indicated in this agreement.

USE PERIOD AND TIME SCHEDULE: LCPHSS and LCPHSS authorized providers for the COVID-19 Mass Vaccination walk-in clinic will move in, use, and occupy the Space in accordance with the dates and times indicated in this MOU. At the expiration or earlier termination of this MOU, LCPHSS will vacate and surrender possession of the Space in good order and condition, free of all hazardous materials, ordinary wear and tear excepted. LCPHSS will not extend time for the occupancy beyond the need for mass vaccination events or use of the premises for any purpose not agreed upon in this MOU, or permanently install or remove equipment without the express written permission of Owner. If the Space is not surrendered on the MOU termination date, LCPHSS shall indemnify Owner against any loss or liability resulting from delay by LCPHSS in so surrendering the premises, including without limitation, claims made by any succeeding tenant founded on such delay.

CONDUCT OF PERSONS: GUESTS will be solely responsible for the orderly conduct of all persons in their party using the premises during all times covered by the agreement. LCPHSS

reserves the right to eject or cause to be ejected from the premises any person due to unlawful conduct, publicly offensive language or other offensive conduct as determined by the walk-in clinic management and LCPHSS authorized personnel. The Lewis County Sheriff, at his or her discretion, will determine the need and number of security officers necessary for a particular event. Said security will be paid at the sole cost and expense of LCPHSS.

CONTROL OF BUILDING: Once liability insurance is provided by LCPHSS to the Owner, LCPHSS will be authorized to begin staging and set-up upon signature of this MOU by LCPHSS and the Owner, or affirmative verbal approval by the Owner – and will be provided with a key to the Space by the property management personnel authorized to do so by the Owner.

CARE OF THE SPACE AND EQUIPMENT USE: LCPHSS will not injure, mark, or deface the Space or equipment used by or available to LCPHSS and LCPHSS authorized providers for the COVID-19 Mass Vaccination walk-in clinic. LCPHSS agrees to keep the Space clean and safe during all periods of occupation and use. Ordinary wear and tear has been considered and is included in the fee for use of the premises for the purposes of this agreement. Owner reserves the right to require LCPHSS and LCPHSS authorized providers for the COVID-19 Mass Vaccination clinic to take such reasonable protective measures as necessary to insure the preservation and protection of the premises and the safety of event GUESTS.

1. LCPHSS and LCPHSS authorized providers for the COVID-19 Mass Vaccination clinic will not injure, mark or deface the Space, including but not limited to placing nails, tacks, hooks or screws into any part of the Space; or adhere signs or posters to painted or glass surfaces by any means including duct tape. Upon approval of this MOU, posters and signs necessary for the smooth and effective operation of the vaccine clinic as may be deemed necessary by LCPHSS, or personnel authorized by LCPHSS are permitted to hang with painter's tape or gaffer tape within the designated Space.
2. In the event of damage or alteration to the Space or equipment by LCPHSS and LCPHSS authorized providers for the COVID-19 Mass Vaccination clinic, LCPHSS agrees to pay the Owner to restore the Space or equipment to the state that said Space or equipment was in upon signing of this agreement; or repair the damage or replace altered or damaged portions, all at LCPHSS sole cost and expense.

LAWFUL USE: LCPHSS agrees to comply with all Federal, State, and local laws and regulation; and that all employees, contractors and volunteers are fully and properly licensed, permitted, reviewed, and authorized to provide all services they will provide at the facility.

SCHEDULING: As long as this MOU is in force and there is an active statewide FEMA event occurring for mass vaccinations in the State of Washington, and COVID-19 mass vaccination events continue to be required on the premises to address the ongoing public health emergency; for the safety of GUESTS, LCPHSS personnel, LCPHSS authorized providers for the COVID-19 Mass Vaccination clinic, volunteers, and security services, Owner agrees not to schedule events on the premises allocated to LCPHSS under EXHIBIT C of this MOU that would hamper, interrupt, prevent, disrupt, or interfere with mass vaccination clinic operations. Nor will Owner schedule

events on the premises that will unreasonably disrupt, prevent, or cause to be rerouted the traffic flow of authorized personnel or GUESTS attending and moving through the COVID-19 mass vaccination clinic.

OCCUPANCY INTERRUPTIONS: In the event that the Space or any part of the Space is destroyed or damaged by fire, flood, or any other cause or if any casualty or unforeseen occurrence strikes, labor disputes, or acts of military authorities, render the fulfillments of this contract difficult or impossible to perform, this Agreement will be at once canceled. Owner will not, in any such case, be held liable or responsible to the LCPHSS for any damage caused by said cancellation and Owner will be relieved from any further liability by reason of this Agreement, and the LCPHSS will make no claims for compensation or for damages against Owner.

FOOD SAFETY PERMITS: Events that are open to the general public and where food or beverage are sold, require that all food booths obtain the appropriate food safety permits which are obtained through the Lewis County Health Department.

INSURANCE: LCPHSS shall obtain at its own cost and expense, commercial general liability insurance in the minimum amounts below.

1. **Liability Insurance.** LCPHSS shall during the entire term of the MOU keep in full force and effect an insurance policy of general commercial liability with broad form property damage and contractual liability endorsements, insuring Owner and LCPHSS against any liability arising out of the ownership, occupancy or use, or maintenance of the Space, and the business operated by LCPHSS (including, but not limited to, activities of LCPHSS and those of LCPHSS' employees, officers, agents, servants, contractors, customers, clients, visitors, GUESTS, or other licensees or invitees with respect to the Space). LCPHSS' insurance policy as stated herein shall insure the Space against loss, damage or liability for personal injury or bodily injury (including death) or loss or damage to property with a combined single limit of not less than \$2,000,000.00 per occurrence. The policy shall name Owner and such other parties as Owner may designate to LCPHSS as additional insureds as their interests may appear, and shall contain a clause that the insurer will not cancel or change the insurance without first giving Owner thirty (30) days prior written notice. LCPHSS' insurance as stated herein will be the primary and non-contributory with any insurance carried by Owner. The insurance shall be with an insurance company satisfactory to Owner. LCPHSS shall furnish Owner with a copy of the certificate of insurance evidencing the required insurance prior to LCPHSS taking possession of the Space and at least thirty (30) days prior to any expiration of the policy(s). LCPHSS shall cause its policies of insurance not to be cancellable or subject to reduction of coverage without thirty (30) days prior written notice to Owner.
2. The LCPHSS insurers shall have a minimum A.M. Best's rating of A- and shall be licensed to do business in the State of Washington. LCPHSS shall provide to the Owner, a completed copy of a certificate of insurance, as evidence of such coverage prior to use of the facility. FAILURE TO DO SO MAY RESULT IN REVOCATION OF THIS AGREEMENT.

EXHIBIT B: THE SPACE

Area allocated to LCPHSS by Owner according to this MOU agreement include suites 101 and 102, for a total of 37,549 square feet.

