CITY

City of Everett
2060 Housing Trust Fund
2017 Maintenance and Operation Agreement

by and between

Cocoon House

and

the City of Everett, Washington

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City of Everett
2060 Housing Trust Fund Agreement

This 2060 Housing Trust Fund Agreement (the "HTF Agreement" or the "Agreement") by and between Cocoon House (hereinafter "the Grantee") and the City of Everett (hereinafter "the City") maintenance and operations of a homeless youth shelter (hereinafter "the Project").

RECITALS:

A. The Grantee is a non-profit corporation organized and existing under the laws of the State of Washington.

B. The City is a municipal corporation of the State of Washington.

C. The City has available in its 2060 Housing Trust Fund certain money to be used to support housing projects or units within housing projects that are affordable to Very Low-Income persons. "Very Low-Income" means gross annual household income (at the time of initial occupancy) is not more than fifty percent (50%) of the annual median income for the Seattle-Bellevue-Everett metropolitan statistical area, adjusted for household size, as estimated from time to time by the U.S. Department of Housing & Urban Development (HUD).

D. The Grantee desires to use 2060 funds for maintenance and operations for Cocoon Complex its transitional housing facility located at 2929 Pine Street, Everett, WA to provide housing and support services for very low-income, and homeless persons. The Grantee and the City desire that the Cocoon Complex be used for the provision of transitional housing to homeless and very low-income youth.

E. By Resolution No. 7118, the City Council of the City of Everett authorized funding from the 2060 Housing Trust Fund for the Project, in an amount not to exceed $37,500.00.

NOW, THEREFORE, in consideration of their mutual promises herein contained, the parties hereto agree as follows:

I. GRANT TERMS

A. The Grant

The Grantee is hereby provided a grant in the amount of $37,500.00 (the Grant). This grant shall be considered a grant. The Grantee will receive payment on a reimbursement basis for eligible maintenance and operation expenditures for the homeless family shelter operated by the Grantee.

B. The Project

The Grant is provided to the Grantee for the undertaking and performance of the Project. The Grant may be amended from time to time in any manner described elsewhere in this HTF Agreement, so long as the same remains consistent with maintenance and operations of the Cocoon Complex transitional housing facility operated by the Grantee, as now or hereafter amended.

C. Project Budget

Salaries and benefits	$37,500.00
Total	**$37,500.00**

D. Public Information

In all news releases and other public notices related to the Project funded under this HTF Agreement, the Grantee shall include information identifying the source of funds as the City of Everett 2060 Housing Trust Fund.

E. Resident Population of the Project

The shelter shall be operated as a transitional housing facility available exclusively to occupants whose gross annual household income (at the time of initial occupancy) is not more that fifty percent (50%) of the annual median income for the Seattle-Bellevue-Everett metropolitan statistical area, adjusted for household size, as estimated from time to time by the U.S. Department of Housing & Urban Development (HUD). If at any future time HUD ceases issuing said median household estimates, the income under this Agreement shall be as determined by the City.

Further, the Grantee shall verify the income of tenants of Assisted Units only in accordance with methods prescribed by or agreed to by the City.

II. TERM OF AGREEMENT

Services of the Subgrantee shall start on the 1st day of July 2017 and end on the 30th day of June 2018. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Subgrantee remains in control of 2060 funds or other assets. The City may, at its discretion, extend the term of this Agreement to allow for the expenditure of unexpended funds. This Agreement may be terminated by the City prior to its expiration date.

Following expiration or termination of this Agreement, the Grantee's obligations to the City shall remain in full force and effect until all requirements of this Agreement are completed.

III. PAYMENT AND DISBURSEMENTS

Disbursements by the City pursuant to this 2060 HTF Agreement shall be on a reimbursement basis covering actual expenditures by the Grantee. All funds received by the Grantee pursuant to this 2060 HTF Agreement must be used for services, work, supplies or materials identified in the Project Budget identified in Paragraph I. C. of this Agreement .

To receive disbursements the Grantee shall submit to the City a Request for Reimbursement/Actual Expenditure Report supported by copies of vouchers, invoices, salary and wage summaries, or other documentation.

The City reserves the right to withhold payments pending delivery of Project reports or documents as may be required under this 2060 HTF Agreement. All disbursements under this 2060 HTF Agreement shall be subject to audit and recovery of disallowed costs.

IV. PROPERTY TAXES AND UTILITIES

Property taxes and utilities on the Premises shall be brought current through the date of recording this 2060 HTF Agreement. In the event the Grantee does not bring such taxes and utilities current prior to recording, the Grantee agrees to pay such taxes and utilities within ten (10) days of the date of executing this 2060 HTF Agreement and to provide to the City evidence of such payment. During the term of this Agreement, the Grantee shall pay all property taxes, if any, and utility billings as they become due and payable and shall keep the Premises free and clear of any liens for unpaid property taxes and utility billings.

V. MANAGEMENT OF THE PROJECT

A. In General

The Grantee agrees to keep the Premises in good condition and repair; not to remove or demolish any building thereon; and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting the Premises or requiring any alterations or improvements to be made; not to commit or permit waste thereof; not to commit, suffer, or permit any act upon the Premises in violation of law; and to do all other acts which from the character or use of the Premises may be reasonably necessary to preserve and conserve its value.

B. Occupancy Practices

The Grantee shall provide transitional housing to eligible residents. The Grantee further agrees as follows:

1. The Grantee shall market and assign all units in a manner which ensures equal access to all persons in any category protected by Federal, State, or local laws governing discrimination.

2. In regard to all units on the Premises, the Grantee shall not discriminate against any prospective resident or actual resident on the basis of race, religion, ethnic or national origin, gender, sexual orientation, age, disability, marital status, or any other factor which violates any applicable State, Federal, or local law governing discrimination in housing.

C. Occupancy Procedures

The Grantee shall establish occupancy procedures that shall include at least the following:

1. Each eligible applicant selected to receive shelter shall enter into a written occupancy agreement with the Grantee which shall contain those provisions as are required by Washington State law.

2. The Grantee shall establish reasonable rules of conduct and occupancy which shall be consistent with State and Federal law. The rules shall be in writing and shall be given to each resident.

D. Resident Services on the Premises

If resident services are provided on-site, the Owner shall provide the following on the Premises:

1. Residents shall be eligible to receive support services, including on-site case management services, provided by the service provider community.
2. The Owner agrees to maintain a contact list of service providers and to refer residents to appropriate providers when the provision of services will be of benefit to the residents.

VI. INSURANCE

The Owner shall comply with the following insurance provisions:

A. Liability

The Owner and the Owner shall obtain and maintain continuously at their own expense, for the term of this HTF Agreement, Commercial General Liability and Professional Liability insurance to indemnify for the activities and services of this Agreement, with a carrier subject to the approval of the City. Minimum limit of

coverage shall be $1,000,000 per occurrence. Claims-made Commercial General Liability coverage will not be accepted.

Such insurance shall be endorsed to include a "Cross Liability Endorsement," "Severability of Interests," or "Separation of Insured's" provision, indicating essentially that "except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claim is made or suit is brought."

B. Property Insurance with Special Causes of Loss & Builders Risk Insurance

From the date of commencement of a construction project, or if the Premises are vacant land at the date of execution of this Agreement, or otherwise from the date of this Agreement, the Owner shall, at no expense to the City, obtain and maintain a policy of Property Insurance with Special Causes of Loss and ensure that subcontractors obtain Builders Risk Insurance in the amount not less than the full replacement cost coverage and that insurance provided must be to full replacement cost valuation basis. Said policy shall be maintained until the expiration or termination of this Agreement, as applicable. The City shall be named as an additional insured on said policy/policies.

Prior to the execution of this Agreement, the Owner shall provide the City a certificate of insurance with additional insured endorsement as evidence of coverage and have City of Everett, its officers, elected officials, agents and employees named on its policy as an additional insured. Approval of insurance is a condition precedent to approval of this Agreement by Risk Management. All insurance shall be placed with insurance carriers licensed to do business in Washington State and with carriers subject to approval by the City.

C. Professional Services

If the Owner is providing a professional service, Professional Liability Insurance is required: a minimum limit of coverage shall be $1,000,000 per occurrence. The policy shall have a retroactive date prior to or coincident with the date of this Agreement, and the policy shall state the retroactive date. The Owner shall maintain coverage for the duration of this Agreement and for a minimum of three years following termination of this Agreement. The Owner shall annually provide the City with proof of renewal. If renewal of the coverage becomes unavailable, or economically unavailable (i.e., premiums quoted exceed ten per cent (10%) of the limits of liability), the Owner shall notify the City in writing of such unavailability and shall secure comparable coverage from another carrier acceptable to the City prior to expiration of the existing policy.

D. Workers' Compensation

The Owner shall provide or purchase Workers' Compensation Insurance coverage to meet the Washington state industrial insurance regulations and cause any contractors or subcontractors working on behalf of the Owner to also carry such insurance prior to performing work on the Project. The City will not be responsible for payment of workers' compensation premiums or for any other claim or benefit

for the Owner, its employees, consultants, Project contractors or subcontractors, which might arise under the Washington state industrial insurance laws that address workers' compensation.

E. General Requirements

Insurance shall be placed with insurance carriers licensed to do business in the State of Washington and with carriers subject to approval by the City. Insurance carriers providing insurance in accordance with this Agreement shall be acceptable to the City, and shall have an AM Best rating of A: VII or better.

Prior to the execution of this Agreement, the Owner shall provide the City a certificate of insurance with additional insured endorsement as evidence of coverage and have City of Everett, its officers, elected officials, agents and employees named on its policy as an additional insured. Approval of insurance is a condition precedent to approval of this SHP Agreement by Risk Management. All insurance shall be placed with insurance carriers licensed to do business in Washington State and with carriers subject to approval by the City.

The City maintains the right to receive a certified copy of all insurance policies. The Owner's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice has been given to the City.

The Owner shall include all subcontractors as insured's under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the same insurance requirements as stated herein for the Owner.

The Owner's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Owner's insurance and shall not contribute with it.

VII. Reserved

VIII. ENVIRONMENTAL REVIEW

The Grantee retains responsibility for fulfilling the requirements of the State Environmental Policy Act (SEPA) and regulations and ordinances adopted thereunder.

IX. Reserved

X. REPORTING REQUIREMENTS; ANNUAL REPORTS

Once the Project has been completed, the Grantee shall, for the term of the Agreement, submit to the City upon request tenant information, which may include, but is not limited to, income, household size, race, disability status, beds occupied, number of persons turned away, etc.

XI. AUDITS; INSPECTIONS

The Grantee agrees that it and the Project are subject to audit by the City and to recovery for any audit exception which occurs due to its negligence or failure to comply with the terms of this HTF Agreement.

At any time during the term of this Agreement, the City or its designee may enter and inspect the physical premises of the Grantee's office and inspect all accounting and other records pertaining to the Project.

XII. BREACH BY THE GRANTEE; REMEDIES

In the event of a material breach of any of the provisions of this 2060 HTF Agreement by the Owner, the City may give written notice thereof to the Owner by registered or certified mail addressed to the Owner at the notice address determined pursuant to this Agreement. If such violation is not corrected to the satisfaction of the City within thirty (30) days after the date such notice is mailed (or within such shorter or longer time as the City, in its sole discretion, may determine), the City may, without further prior notice, declare in writing a default under this Agreement, declare the Loan principal immediately due and payable pursuant to the terms of this Agreement and the Promissory Note, impose penalty interest on the Promissory Note as provided therein, and terminate or suspend this 2060 HTF Agreement

The City also may, if it deems it appropriate, apply to any court, State or Federal, for remedy for breach of contract; for specific performance of this 2060 HTF Agreement; for an injunction against any violation by the Owner of this 2060 HTF Agreement; for the appointment of a receiver to take over and operate the Project in accordance with the terms of this 2060 HTF Agreement; or for such other and further relief as may be appropriate, it being agreed by the Owner that the injury to the City arising from a default under and of the terms of this 2060 HTF Agreement would be irreparable and that it would be extremely difficult to ascertain the amount of compensation to the City which would afford adequate relief, in light of the purposes and policies of the 2060 Housing Trust Fund. As an alternative, the City may, in its sole discretion, submit the matter to arbitration.

XIII. NONWAIVER OF BREACH

The City's failure to insist upon strict performance of any of the terms of this 2060 HTF Agreement, or to exercise any rights or remedies herein, or its acceptance of any defective performance in any one or more instances, shall not be construed to be a waiver or relinquishment of any rights, and shall not prevent the City from pursuing that or any other right at any future time, unless stated in a writing signed by an authorized representative of the City and attached to the original Agreement.

XIV. GOVERNING LAW; VENUE STIPULATION

This HTF Agreement has been and shall be construed as having been entered into and delivered within the State of Washington, and it is mutually understood and agreed by each party hereto that this 2060 HTF Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance, and by applicable Federal laws and regulations.

Any action at law, suit in equity, or judicial proceeding for the enforcement of this 2060 HTF Agreement or any provision thereof shall be instituted and maintained only in any of the courts of competent jurisdiction at Everett in Snohomish County, Washington, unless the City determines a Federal forum is appropriate to the issue raised.

XV. RELATIONSHIP OF THE PARTIES

The parties intend that an independent contractor/City relationship will be created by this 2060 HTF Agreement. Except to the extent specific Grantee performance is required by this Agreement, the City is interested only in the results to be achieved and the implementation of services will lie solely with the Grantee. No agent, officer, employee, servant, or representative of the Grantee shall be deemed to be an officer, employee, agent, servant, or representative of the City for any purpose, and the employees of the Grantee are not entitled to any of the benefits the City provides for City employees. The Grantee will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, contractors and subcontractors, or otherwise during the performance of this 2060 HTF Agreement. Neither party shall have the power to bind or obligate the other party except as set forth in this Agreement. No joint venture is being undertaken as a result of this 2060 HTF Agreement and the parties are not general partners. Nothing herein shall be construed as reserving to the City the right to control the Grantee's business.

XVI. HOLD HARMLESS AND INDEMNIFICATION

To the maximum extent permitted by law, the Owner agrees to protect, hold harmless, indemnify and defend, at its own expense, City of Everett and its elected and appointed officials, officers, employees and agents, from any loss, expense, or claim for damages of any nature whatsoever, arising out of the performance of this 2060 HTF Agreement, including claims by the Owner's employees or third parties, including litigation costs and reasonable attorney's fees, except for those damages caused solely by the negligence or willful misconduct of City of Everett, its elected or appointed officials, officers, employees or agents acting within the scope of their appointment or employment.

With respect to the Owner's obligations to hold harmless, indemnify and defend provided for herein, but only as such obligations relate to claims, actions or suits filed against the County, the Owner further agrees to waive its immunity under the Industrial Insurance Act, Title 51 RCW, for any injury or death suffered by the Owner's employees caused by or arising out of the Owner's acts, errors or omissions in the performance of this Agreement. This waiver is mutually negotiated by the parties.

XVII. SEVERABILITY

It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held by a court to be invalid or void, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall remain in full force and effect and shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

If it should appear that any provision hereof is in conflict with any statute or ordinance of the United States, the State of Washington, or City of Everett, said provision which may conflict therewith shall be deemed modified to conform to such statutory provision.

XVIII. NOTICES

Notices and other communications by and between the parties hereto shall be in writing, shall be personally delivered or sent by certified mail, return receipt requested, postage prepaid, and shall be deemed given when so delivered or received. All notices shall be addressed as follows:

CITY:

Ross Johnson
City of Everett
Planning and Community Development
2930 Wetmore Avenue
Suite 8A
Everett, WA 98201

GRANTEE:

Joseph Alonzo
Cocoon House
2929 Pine Street
Everett WA 98201

Either party may change the address to which notices and other communications shall be sent, by notice to the other party in the manner and with the effect set forth in this Section XXIV.

XIX. ASSIGNABILITY OF OBLIGATIONS

The Grantee shall not assign any of its obligations under this 2060 HTF Agreement without City approval, but shall remain obligated at all times to perform according to the terms of this 2060 HTF Agreement.

XX. ENTIRE AGREEMENT; MODIFICATION

This 2060 HTF Agreement constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them. This Agreement may not be amended or modified in any manner except by an instrument in writing signed by a duly authorized officer or representative of each of the parties hereto.

XXI. TIME OF THE ESSENCE

Time is of the essence in the performance of each party's obligations under this Agreement. Each party will carry out its obligations under this Agreement diligently and in good faith.

IN WITNESS WHEREOF the parties have signed this Agreement to be effective as of the date first above written.

Ray Stephanson
Mayor, City of Everett

12-22-2017
Date

Attest:

Sharon Fuller, City Clerk

12/22/2017
Date

Approved as to form:

James Iles
City Attorney

12/20/17
Date

Grantee:

Cocoon House

Joseph Alonzo
Interim Executive Director

11/8/17
Date