



**Spokane Park Board  
Riverfront Park Committee**

4pm p.m. Monday, November 6, 2023  
Pavilion Conference Room/WebEx virtual meeting  
Dial in: 408-418-9388  
Access code: 2495 621 2376  
Jonathan Moog – Riverfront Park Director

**Committee members:**

Gerry Sperling – Chair  
Kevin Brownlee  
Doug Kelley  
Hannah Kitz

The Riverfront Park Committee meeting will be held in-person at the Pavilion Conference Room and virtually via WebEx at 4 p.m. on Monday, November 6. Committee members, staff, and presenters still have the option to participate virtually via WebEx during all meetings.

The public may listen to the meeting by calling 408-418-9388 and entering access code 2495 621 2376, when prompted.

Written public comment may be submitted via email or mail. Comments must be received no later than noon on November 6 by email to: [spokaneparks@spokanecity.org](mailto:spokaneparks@spokanecity.org) or mail to: Spokane Park Board, 5th floor City Hall, 808 West Spokane Falls Blvd., Spokane, Washington 99201. Submitted public comments will be presented to committee members prior to the meeting.

**Agenda**

**Call to order**

**Public comment**

**Action items**

- A. [Garco Construction, Inc. change order #4/Riverfront Park south suspension bridge renovation construction \(\\$81,987.99 plus applicable taxes\)](#) – Berry Ellison
- B. [Wesslen Construction change order #4/Riverfront lilac butterfly fabrication and installation \(\\$18,178.40, plus applicable taxes\)](#) – Berry Ellison
- C. [AEG Presents NW, LLC concert booking and production contract amendment #2](#) – Amy Lindsey
- D. [Riverfront Park - Rayce Rudeen Foundation Event Agreement](#) – Amy Lindsey

**Standing Report items**

- A. October 2023 Operations Report – Jonathan Moog

**AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION:** The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. Individuals requesting reasonable accommodations or further information may call, write, or email Risk Management at 509.625.6221, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or [mlovmaster@spokanecity.org](mailto:mlovmaster@spokanecity.org). Persons who are deaf or hard of hearing may

contact Risk Management through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

# Spokane Park Board

## Briefing Paper



<b>Committee</b>	Riverfront Committee	<b>Committee meeting date:</b> Nov 1, 2023	
<b>Requester</b>	Berry Ellison	<b>Phone number:</b> 509 625-6276	
<b>Type of agenda item</b>	<input type="radio"/> Consent <input type="radio"/> Discussion <input type="radio"/> Information <input checked="" type="radio"/> Action		
<b>Type of contract/agreement</b>	<input type="radio"/> New <input type="radio"/> Renewal/ext. <input type="radio"/> Lease <input checked="" type="radio"/> Amendment/change order <input type="radio"/> Other		
<b>City Clerks file</b> (OPR or policy #)	2023-0446		
<b>Master Plan Goal, Objective, Strategy</b> (Click <a href="#">HERE</a> for link to adopted plan)	Goal K, Objective 1	<b>Master Plan Priority Tier:</b> (pg. 171-175)	Tier 1
<b>Item title:</b> (Use exact language noted on the agenda)	Garco Construction, Inc. change order #4/Riverfront Park south suspension bridge renovation construction (\$81,987.99 plus applicable taxes)		
<b>Begin/end dates</b>	Begins: 08/01/2023	Ends: 06/01/2024	<input type="checkbox"/> 06/01/2525
<b>Background/history:</b> Change Order #4 consists of 1 addition to the Contractor's scope of work. Item 1 is added time and overhead expenses as a result of additional work required to remove and rebuild the south abutment corbel.			
<b>Motion wording:</b> Move to approve Garco Construction, Inc. change order #4/Riverfront Park south suspension bridge renovation construction (\$81,987.99 plus applicable taxes) from Park Capital Funds.			
<b>Approvals/signatures outside Parks:</b> <input checked="" type="radio"/> Yes <input type="radio"/> No If so, who/what department, agency or company: Garco Construction, Inc Name: Tim Loucks                      Email address: tloucks@garco.com                      Phone: 509 535-4688			
<b>Distribution:</b> Parks – Accounting Parks – Sarah Deatrich Requester: Berry Ellison Grant Management Department/Name:		nhamad@spokanecity.org scottk@garco.com	
<b>Fiscal impact:</b> <input checked="" type="radio"/> <b>Expenditure</b> <input type="radio"/> Revenue Amount: \$81,987.99 (plus applicable taxes)                      Budget code: 1950-54920-94000-48085  Reimbursed by Real Estate Excise Tax (REET) funds			
<b>Vendor:</b> <input checked="" type="radio"/> Existing vendor <input type="radio"/> New vendor			
<b>Supporting documents:</b> <input type="checkbox"/> Quotes/solicitation (RFP, RFQ, RFB) <input type="checkbox"/> W-9 (for new contractors/consultants/vendors) <input type="checkbox"/> Contractor is on the City’s A&E Roster - City of Spokane <input type="checkbox"/> ACH Forms (for new contractors/consultants/vendors) <input type="checkbox"/> UBI: Business license expiration date: <input type="checkbox"/> Insurance Certificate (min. \$1 million in General Liability)			

**CITY OF SPOKANE  
PARKS AND RECREATION DEPARTMENT  
CHANGE ORDER NO. 04**

NAME OF CONTRACTOR: Garco Construction, Inc

PROJECT TITLE: Riverfront Park South Suspension Bridge Renovation

CITY CLERK CONTRACT NUMBER: 2023-0446

=====

<u>DESCRIPTION OF CHANGE:</u>	<u>AMOUNT:</u>
Item #1: COR-010 - Add Time & Overhead	\$ 81,987.99

=====

**TOTAL AMOUNT: \$ 81,987.99**

<b>CONTRACT SUM (EXCLUDE SALES TAX)</b>	
ORIGINAL CONTRACT SUM (INCLUDE ALTERNATES)	\$ 2,099,949.00
NET AMOUNT OF PREVIOUS CHANGE ORDERS	\$ 107,054.26
CURRENT CONTRACT AMOUNT	\$ 2,207,003.26
CURRENT CHANGE ORDER (EXCLUDES SALES TAX)	\$ 81,987.99
<b>REVISED CONTRACT SUM</b>	<b>\$ 2,288,991.25</b>

<b>CONTRACT COMPLETION DATE</b>	
ORIGINAL CONTRACT COMPLETION DATE	01/22/2024
CURRENT COMPLETION DATE	01/22/2024
<b>REVISED COMPLETION DATE</b>	N/A

Contractor's Acceptance: \_\_\_\_\_ Date: \_\_\_\_\_

City Approval: \_\_\_\_\_ Date: \_\_\_\_\_

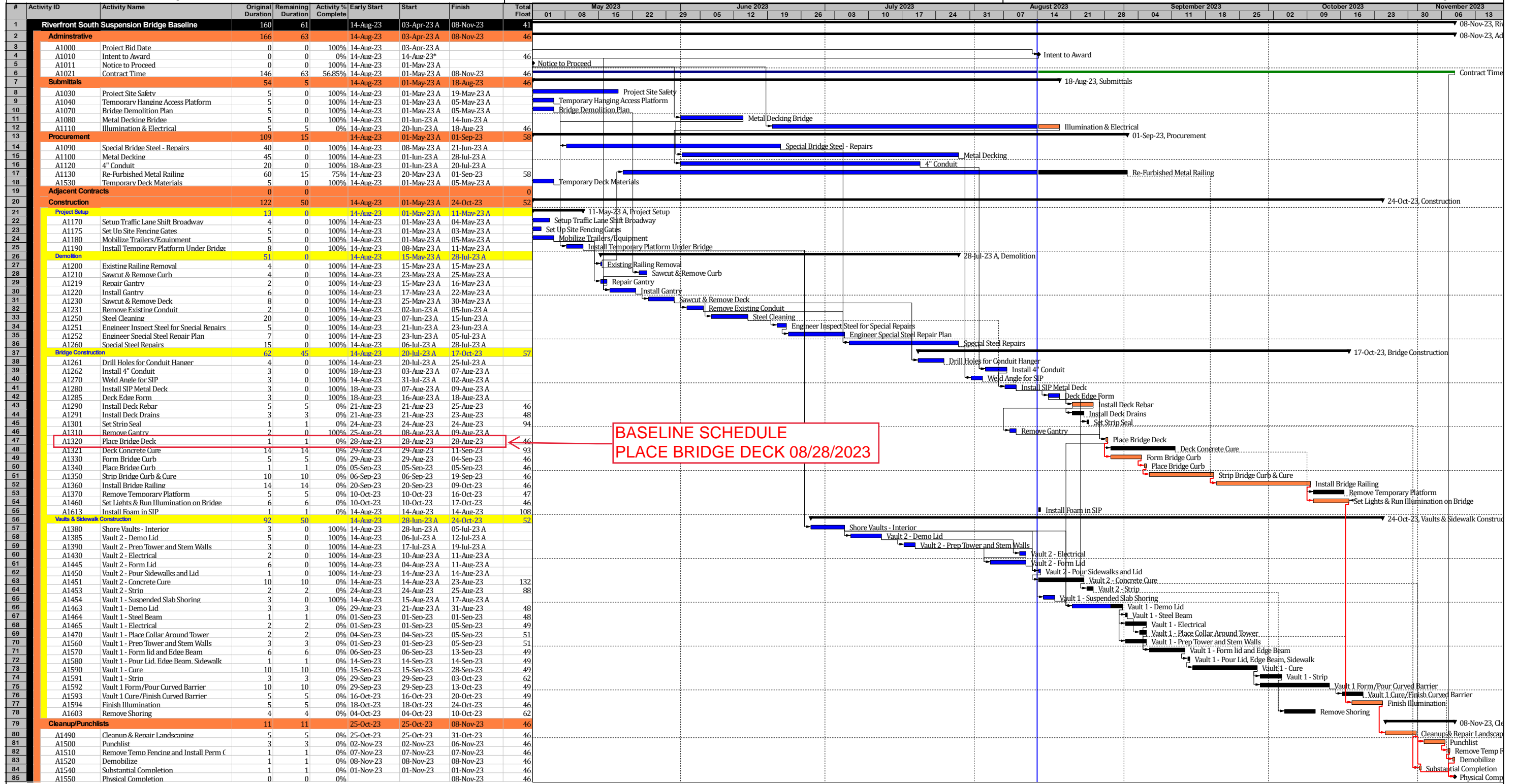
Attest: \_\_\_\_\_ City Clerk

Approved as to form: \_\_\_\_\_ Assistant City Attorney

**Riverfront Park South Suspension Bridge**  
Garco Job #23-13

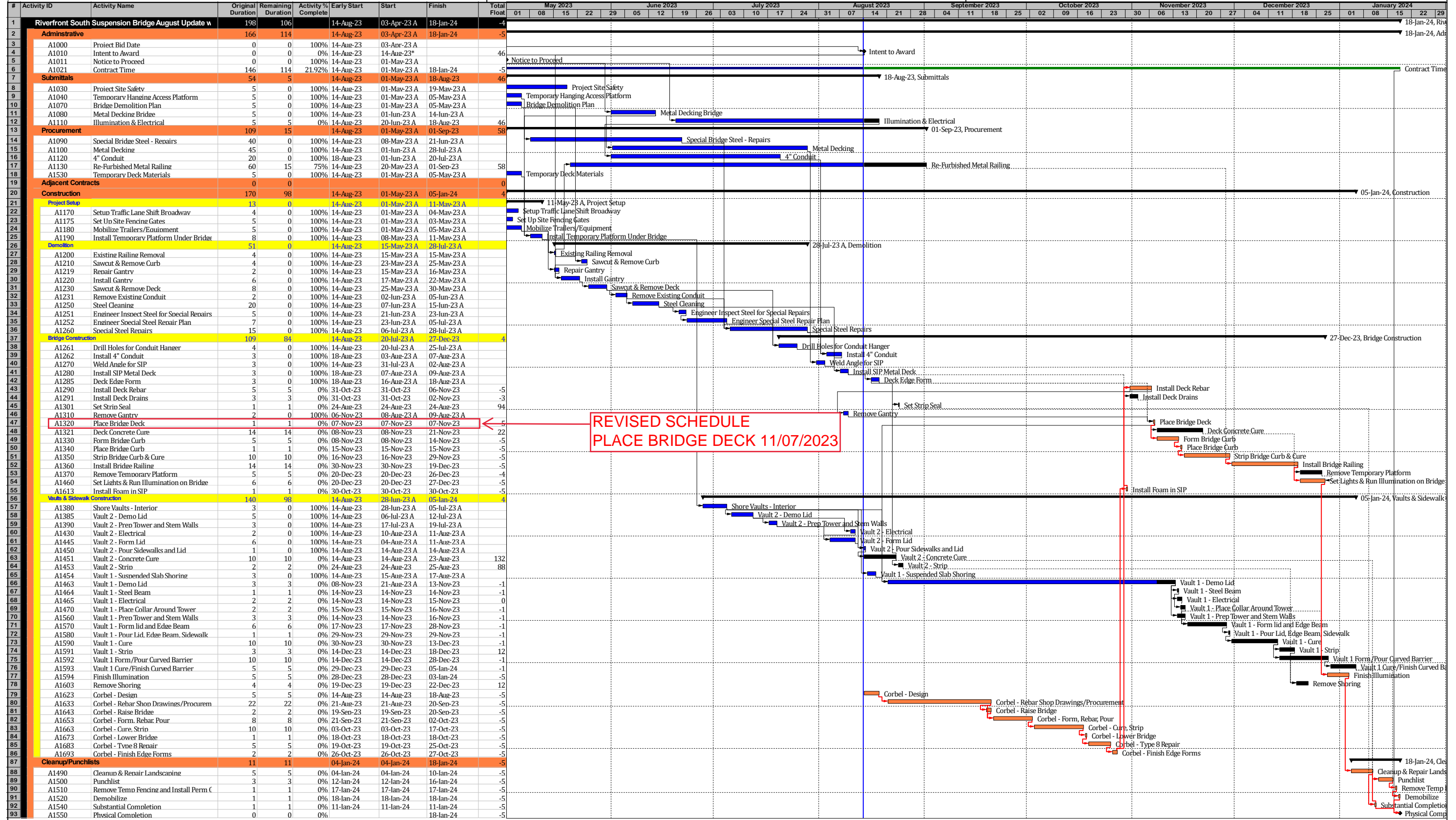
**COR 010 - Extended Overhead**

BI	Description	Qty	Unit	Direct Costs					Subcontractor Costs				
				Unit Prices			Item Totals		Unit Price	Subtotal	Prime Markup	Total w/ Markup	
				Labor	Equip	Material	Labor	Equipment					Material
	Extended Rent - Bridge Work Deck	8	Weeks			\$ 2,303.49	\$ -	\$ -	\$ 18,427.90		\$ -	12%	\$ -
	Extended Rent - Access Platform	8	Weeks			\$ 501.91	\$ -	\$ -	\$ 4,015.28		\$ -	12%	\$ -
	Extended Overhead - Labor	8	Weeks	\$ 3,221.60			\$ 25,772.80	\$ -	\$ -		\$ -	12%	\$ -
	Extended Overhead - Equipment	8	Weeks		\$ 1,924.10		\$ -	\$ 15,392.82	\$ -		\$ -	12%	\$ -
							\$ -	\$ -	\$ -		\$ -	12%	\$ -
							\$ -	\$ -	\$ -		\$ -	12%	\$ -
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							\$ -	\$ -	\$ -		\$ -	12%	\$ -
							\$ -	\$ -	\$ -		\$ -	12%	\$ -
	TOTAL DIRECT COSTS			\$ 3,221.60	\$ 1,924.10	\$ 2,805.40	\$ 25,772.80	\$ 15,392.82	\$ 22,443.18	\$ -	\$ -		\$ -
	Sales Tax	9%				9.0%			\$ 2,019.89				
	Contractor Markup			31%	21%	21%	\$ 7,989.57	\$ 3,232.49	\$ 5,137.24				
	TOTAL WITH MARKUP						\$ 33,762.37	\$ 18,625.31	\$ 29,600.31				\$ -
	TOTAL CO AMOUNT REQUESTED									\$			81,987.99



**BASELINE SCHEDULE  
PLACE BRIDGE DECK 08/28/2023**

█ Remaining Level of Effort   
 █ Actual Work   
 █ Critical Remaining Work   
 ▼ Summary  
█ Actual Level of Effort   
 █ Remaining Work   
 ◆ Milestone



REVISED SCHEDULE  
PLACE BRIDGE DECK 11/07/2023

Legend:  
Remaining Level of Effort (Green bar)  
Actual Work (Blue bar)  
Critical Remaining Work (Orange bar)  
Summary (Thick black arrow)  
Actual Level of Effort (Thin black bar)  
Remaining Work (Thin black bar)  
Milestone (Black diamond)



# Spokane Park Board

## Briefing Paper



<b>Committee</b>	Riverfront	<b>Committee meeting date:</b> Nov 6, 2023	
<b>Requester</b>	Berry Ellison	<b>Phone number:</b> 625-6276	
<b>Type of agenda item</b>	<input type="radio"/> Consent <input type="radio"/> Discussion <input type="radio"/> Information <input checked="" type="radio"/> Action		
<b>Type of contract/agreement</b>	<input type="radio"/> New <input type="radio"/> Renewal/ext. <input type="radio"/> Lease <input checked="" type="radio"/> Amendment/change order <input type="radio"/> Other		
<b>City Clerks file</b> (OPR or policy #)	2022-0860		
<b>Master Plan Goal, Objective, Strategy</b> <small>(Click <a href="#">HERE</a> for link to the adopted plan)</small>	Goal K, Objective 1	<b>Master Plan Priority Tier:</b> <small>(pg. 171-175)</small>	Teir 1
<b>Item title:</b> (Use exact language noted on the agenda)	Wesslen Construction change order #4/Riverfront lilac butterfly fabrication and installation (\$18,178.40, plus applicable taxes)		
<b>Begin/end dates</b>	Begins: 09/14/2023	Ends: 12/31/2023	<input type="checkbox"/> 06/01/2525
<b>Background/history:</b>			
This change order consists of three value-added changes during the final weeks of fabrication.			
Item 1: During assembly, modifications to the frame and components were required to allow for proper assembly. The modifications included disassembly, cutting, burnishing, coatings, and reassembly. The added time and effort is offered to the City at a reduced rate as a cost-sharing proposal.			
Item 2: The contractor's budget for coatings was established at time of bid. During the fabrication process, several alternative coating methods were explored. The final method of surface preparation and coatings exceeded the original budget. The result of this exploration with the contractor led to the most feasible and durable coating system locally possible.			
Item 3: Several components were expected to be off-the-shelf and readily available during fabrication. However during procurement, the contractor spent many unexpected hours finding the components. Ultimately, the time spent by the contractor saved the project from lengthy delays.			
<b>Motion wording:</b>			
Move to approve Wesslen Construction change order #4/Riverfront lilac butterfly fabrication and installation (\$18,178.40, plus applicable taxes) from Park Capital Funds.			
<b>Approvals/signatures outside Parks:</b> <input checked="" type="radio"/> Yes <input type="radio"/> No			
If so, who/what department, agency or company: Wesslen Construction, Inc.			
Name: Jerry Wesslen		Email address: jerry@wesslen.com	Phone: (509) 534-4346
<b>Distribution:</b>			
Parks – Accounting		nhamad@spokanecity.org	
Parks – Sarah Deatrich		jmoog@spokanecity.org	
Requester: Berry Ellison		michael@wesslen.com	
Grant Management Department/Name:			
<b>Fiscal impact:</b> <input checked="" type="radio"/> Expenditure <input type="radio"/> Revenue			
Amount:		Budget code:	
\$18,178.40 (plus applicable taxes)		1950-54920-94000-56301-99999	
<b>Vendor:</b> <input checked="" type="radio"/> Existing vendor <input type="radio"/> New vendor			
<b>Supporting documents:</b>			
<input checked="" type="checkbox"/> Quotes/solicitation (RFP, RFQ, RFB)		<input type="checkbox"/> W-9 (for new contractors/consultants/vendors)	
<input type="checkbox"/> Contractor is on the City's A&E Roster - City of Spokane		<input type="checkbox"/> ACH Forms (for new contractors/consultants/vendors)	
<input type="checkbox"/> UBI:                      Business license expiration date:		<input type="checkbox"/> Insurance Certificate (min. \$1 million in General Liability)	





**To:**

Berry Ellison

**For Project:**

Riverfront Lilac Butterfly

**Description of Work:**

Item #1: During the assembly of the butterfly there were a few modifications that needed to happen. Refer to RFI 7,8,9.

Item #2: During the bidding portion of this project, the coating wasn't specified. Hydrab put together a number. After being awarded the project, the owner chose an epoxy paint. The cost of the new material was more than what was budgeted.

Item #3: During the construction of the butterfly there were a number of excessive research and acquisition of material that wasn't planned for. There is additional administration time to wrap it up.

<u>Item Description</u>	<u>Amount</u>
Item 1:	7,524.20
Item 2:	3,950.00
Item 3:	3,185.80

**Sub Total: \$ 14,660.00**

Jerry Wesslen 10/27/2023

Signature Date

Jerry Wesslen, President

Printed Name & Title

Overhead 16% \$ 2,345.60

Profit 6% \$ 879.60

Bond 2% \$ 293.20

Accepted by:

Sub Total \$ 18,178.40

\_\_\_\_\_  
Signature Date

WSST: 9% \$ 1,636.06

Printed Name & Title

**Grand Total: \$ 19,814.46**



**HYDRAFAB**  
NORTHWEST INC.

Hydrafab Northwest Inc  
3808 N. Sullivan Rd  
Building 15, Ste Z  
Spokane Valley, WA 99216  
United States

Ph: 509-535-0075

Fax: 509-535-3364

**Quote**

ID: 224859R1

Date: 19-Oct-23

**To**

Wesslen Construction  
5308 E Cataldo Ave  
Spokane Valley, WA 99212  
United States

**Quote To**

Michael Dewey  
Wesslen Construction  
5308 E Cataldo Ave  
Spokane Valley, WA 99212  
United States

Ph: 509-534-4346

Ph: 509-540-8459

Terms		Ship Via		Salesperson
Net 30 Days				DS0520
Quantity	Description	Unit Price	Amount	
1	Line: 001 Part: Labor & materials * Added labor and materials correcting issues durring assembly as noted on redlines. Reference RFI #'s 7,8 & 9 * ea Expiration Date: 03-Nov-23 Rev:	\$7,524.20	\$7,524.20	
1	Line: 002 Part: Budget adjustment for paint * Paint was quoted as a budget place holder because the final desision for the specification had not been determined. * ea Expiration Date: 03-Nov-23 Rev:	\$3,950.00	\$3,950.00	
1	Line: 003 Part: Labor & materials adjustment from orriginal quote * HNW is asking for additional funds to cover unforeseen cost overruns Including but not limited to shipping costs for hard to find items. 1. Torsion Spring aquistion. 2. Shaffler bearings - hard to find and supply was affected by Covid. 3. Design for manufacturing chalenges listed on "Project Notes" letter. * ea Expiration Date: 03-Nov-23 Rev:	\$3,185.80	\$3,185.80	
		Total:	\$14,660.00	
***PLEASE INCLUDE OUR QUOTE NUMBER ON YOUR WORK REQUEST OR P.O. AND SEND ALL ORDERS TO SALES@HYDRAFABNW.COM***  Quote Valid For 15 Days From Date Of Issue.				



**HYDRAFAB**  
NORTHWEST INC.

Hydrafab Northwest Inc  
3808 N. Sullivan Rd  
Building 15, Ste Z  
Spokane Valley, WA 99216  
United States

Ph: 509-535-0075

Fax: 509-535-3364

**Quote**

ID: 224859R1

Date: 19-Oct-23

**To**

Wesslen Construction  
5308 E Cataldo Ave  
Spokane Valley, WA 99212  
United States

Ph: 509-534-4346

**Quote To**

Michael Dewey  
Wesslen Construction  
5308 E Cataldo Ave  
Spokane Valley, WA 99212  
United States

Ph: 509-540-8459

Terms		Ship Via	Salesperson
Net 30 Days			DS0520
Quantity	Description	Unit Price	Amount
	Material Price Increases Applicable at Time of Order. Sales Tax Not Included in Quoted Dollar Total. Payment due upon completion unless credit terms are established. Credit Terms: FOB Hydrafab NW Inc. unless otherwise noted. THANK YOU FOR THE OPPORTUNITY TO QUOTE YOUR BUSINESS!		

**CITY OF SPOKANE  
PARKS AND RECREATION DEPARTMENT  
CHANGE ORDER NO. 04**

NAME OF CONTRACTOR: Wesslen Construction, Inc

PROJECT TITLE: Riverfront Lilac Butterfly Fabrication and Installation

CITY CLERK CONTRACT NUMBER: 2022-0860

<u>DESCRIPTION OF CHANGE:</u>	<u>AMOUNT:</u>
Item 1: Modifications During Assembly	\$ 9,330.01
Item 2: Added Budget for Coatings	\$ 4,898.00
Item 3: Added Budget for Component Procurement	\$ 3,950.39

=====

**TOTAL AMOUNT: \$ 18,178.40**

<b>CONTRACT SUM (EXCLUDE SALES TAX)</b>	
ORIGINAL CONTRACT SUM (INCLUDE ALTERNATES)	\$ 234,884.00
NET AMOUNT OF PREVIOUS CHANGE ORDERS	\$ 14,710.30
CURRENT CONTRACT AMOUNT	\$ 249,594.30
CURRENT CHANGE ORDER (EXCLUDES SALES TAX)	\$ 18,178.40
<b>REVISED CONTRACT SUM</b>	<b>\$ 267,772.70</b>

<b>CONTRACT COMPLETION DATE</b>	
ORIGINAL CONTRACT COMPLETION DATE	Dec 31,2023
CURRENT COMPLETION DATE	Dec 31,2023
<b>REVISED COMPLETION DATE</b>	N/A

Contractor's Acceptance: \_\_\_\_\_ Date: \_\_\_\_\_

City Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Attest: \_\_\_\_\_ City Clerk

Approved as to form: \_\_\_\_\_ Assistant City Attorney



**To:**

Berry Ellison

**For Project:**

Riverfront Lilac Butterfly

**Description of Work:**

Item #1: During the assembly of the butterfly there were a few modifications that needed to happen. Refer to RFI 7,8,9.

Item #2: During the bidding portion of this project, the coating wasn't specified. Hydrab put together a number. After being awarded the project, the owner chose an epoxy paint. The cost of the new material was more than what was budgeted.

Item #3: During the construction of the butterfly there were a number of excessive research and acquisition of material that wasn't planned for. There is additional administration time to wrap it up.

**Item Description**

**Amount**

Item 1:	7,524.20
Item 2:	3,950.00
Item 3:	3,185.80

**Sub Total: \$ 14,660.00**

*Jerry Wesslen*

10/27/2023

Signature

Date

Jerry Wesslen, President

Printed Name & Title

Overhead 16% \$ 2,345.60

Profit 6% \$ 879.60

Bond 2% \$ 293.20

Accepted by:

Sub Total \$ 18,178.40

WSST: 9% \$ 1,636.06

Signature

Date

Printed Name & Title

**Grand Total: \$ 19,814.46**

# Spokane Park Board

## Briefing Paper



<b>Committee</b>	Riverfront Park Committee	<b>Committee meeting date:</b> November 6, 2023
<b>Requester</b>	Amy Lindsey	<b>Phone number:</b> 509-209-6956
<b>Type of agenda item</b>	<input type="radio"/> Consent <input type="radio"/> Discussion <input type="radio"/> Information <input checked="" type="radio"/> Action	
<b>Type of contract/agreement</b>	<input type="radio"/> New <input type="radio"/> Renewal/ext. <input type="radio"/> Lease <input checked="" type="radio"/> Amendment/change order <input type="radio"/> Other	
<b>City Clerks file</b> (OPR or policy #)	OPR 2019-0560	
<b>Master Plan Goal, Objective, Strategy</b> (Click <a href="#">HERE</a> for link to adopted plan)	Revenue sources and funding	<b>Master Plan Priority Tier:</b> Partnerships (pg. 171-175)
<b>Item title:</b> (Use exact language noted on the agenda)	AEG Presents NW, LLC concert booking and production contract amendment	
<b>Begin/end dates</b>	Begins: 07/15/2019	Ends: 12/31/2025 <input type="checkbox"/> 06/01/2525
<b>Background/history:</b> Riverfront Spokane is seeking an amendment to the AEG Presents NW, LLC concert booking and production services agreement to reflect increases to the annual facility rental fee and maximum number of Music Events.		
<b>Motion wording:</b> Move to approve an amendment to the AEG Presents NW exclusive booking and concert production services agreement.		
<b>Approvals/signatures outside Parks:</b> <input checked="" type="radio"/> Yes <input type="radio"/> No If so, who/what department, agency or company: AEG Presents NW, LLC Name: Rob Thomas    Email address: rthomas@aegpresents.com    Phone: 720-220-9296		
<b>Distribution:</b> jmoog@spokanecity.org Parks – Accounting Parks – Sarah Deatrich Requester: Amy Lindsey Grant Management Department/Name:		
<b>Fiscal impact:</b> <input type="radio"/> Expenditure <input checked="" type="radio"/> Revenue Amount: \$400,000    Budget code: 1400-76120-36240-54341		
<b>Vendor:</b> <input checked="" type="radio"/> Existing vendor <input type="radio"/> New vendor		
<b>Supporting documents:</b> <input type="checkbox"/> Quotes/solicitation (RFP, RFQ, RFB) <input type="checkbox"/> W-9 (for new contractors/consultants/vendors) <input type="checkbox"/> Contractor is on the City's A&E Roster - City of Spokane <input type="checkbox"/> ACH Forms (for new contractors/consultants/vendors) <input checked="" type="checkbox"/> UBI: 602-638-221    Business license expiration date: 8/31/24 <input checked="" type="checkbox"/> Insurance Certificate (min. \$1 million in General Liability)		





**City of Spokane**  
**Parks and Recreation Department**

**CONTRACT AMENDMENT**

Title: **CONCERT PRODUCTION AND BOOKING SERVICES AGREEMENT**

This Amendment is made and entered into by and between the **CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT** as (“City”), a Washington municipal corporation, and **AEG Presents NW, LLC**, a Delaware limited liability company, whose address is 216 First Avenue South, Suite 320, Seattle, WA 98104-2534 (“AEG”), individually hereafter referenced as a “party”, and together as the “parties”.

*WHEREAS, the parties entered into a Concert Production and Booking Services Agreement (the “Agreement”), dated July 15, 2019, wherein AEG agreed to provide Concert Production and Booking Services for the City of Spokane Parks and Recreation Department on the terms and conditions set forth therein; and*

*WHEREAS, the annual rental fees have increased as well as the number of music events, thus, the original Agreement is formally amended by this written document, and*

*NOW, THEREFORE, in consideration of the terms and conditions contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:*

**1. CONTRACT DOCUMENTS.**

The Agreement, dated July 15, 2019, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

**2. EFFECTIVE DATE.**

This Contract Amendment shall be effective as of January 1, 2024.

**3. AMENDMENT.**

This original Contract is amended to include the following:

During the Term, beginning in the 2023 calendar year AEG will book and produce up to ~~fifteen (15)~~ **twenty (20)** Music Events per calendar year (inclusive of AEG co-promoted Music Events). Additional dates must be approved by City and are subject to current Pavilion community (nonprofit) venue rental rate in addition to the \$2 ticket rebate per City’s AXS Ticketing agreement.

The annual rental fees have increased. The new annual fee is \$80,000 per contract year for the remainder of the contract term, through Dec. 31 2025.

**4. COMPENSATION.**

For each calendar year of the remaining term, the Facility Rental Fee will be in the amount of **EIGHTY THOUSAND DOLLARS (\$80,000)**, which will be paid to the City in quarterly payments through-out the term, with the last payment for each calendar year made within thirty (30) days after the last Music Event for that calendar year.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained herein, the parties have executed this Contract Amendment by having legally-binding representatives affix their signatures below.

**AEG Presents NW, LLC**

**CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT**

By \_\_\_\_\_  
Signature Date

By \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

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

# Spokane Park Board

## Briefing Paper



<b>Committee</b>	Riverfront Park Committee	<b>Committee meeting date:</b> November 6, 2023
<b>Requester</b>	Amy Lindsey	<b>Phone number:</b> 509-209-6956
<b>Type of agenda item</b>	<input type="radio"/> Consent <input type="radio"/> Discussion <input type="radio"/> Information <input checked="" type="radio"/> Action	
<b>Type of contract/agreement</b>	<input checked="" type="radio"/> New <input type="radio"/> Renewal/ext. <input type="radio"/> Lease <input type="radio"/> Amendment/change order <input type="radio"/> Other	
<b>City Clerks file</b> (OPR or policy #)		
<b>Master Plan Goal, Objective, Strategy</b> (Click <a href="#">HERE</a> for link to adopted plan)	Revenue sources and funding	<b>Master Plan Priority Tier:</b> Rental Agreement (pg. 171-175)
<b>Item title:</b> (Use exact language noted on the agenda)	Riverfront Park - Rayce Rudeen Foundation Event Agreement	
<b>Begin/end dates</b>	Begins: 07/15/2019	Ends: 12/31/2025 <input type="checkbox"/> 06/01/2525
<b>Background/history:</b> Riverfront Spokane provided the Rayce Rudeen Foundation with ticketing services per Riverfront Spokane's AXS Ticketing master service agreement. This event agreement will allow for the distribution of \$82,170 in ticketing funds collected for admission to the S.A.F.E Fall Festival at the Spokane Pavilion on October 7, 2023.		
<b>Motion wording:</b> Move to approve Riverfront Park - Rayce Rudeen Foundation Event Agreement		
<b>Approvals/signatures outside Parks:</b> <input checked="" type="radio"/> Yes <input type="radio"/> No If so, who/what department, agency or company: Rayce Rudeen Foundation Name: Marsha Malsom    Email address: marsha@raycerudeen.org    Phone: 425-466-5479		
<b>Distribution:</b> jmoog@spokanecity.org Parks – Accounting Parks – Sarah Deatrich Requester: Amy Lindsey Grant Management Department/Name:		
<b>Fiscal impact:</b> <input checked="" type="radio"/> Expenditure <input type="radio"/> Revenue Amount: \$82,170    Budget code: 1400-76120-36240-54341		
<b>Vendor:</b> <input checked="" type="radio"/> Existing vendor <input type="radio"/> New vendor <b>Supporting documents:</b> <input type="checkbox"/> Quotes/solicitation (RFP, RFQ, RFB) <input type="checkbox"/> W-9 (for new contractors/consultants/vendors) <input type="checkbox"/> Contractor is on the City's A&E Roster - City of Spokane <input type="checkbox"/> ACH Forms (for new contractors/consultants/vendors) <input type="checkbox"/> UBI:    Business license expiration date: <input type="checkbox"/> Insurance Certificate (min. \$1 million in General Liability)		



**CITY OF SPOKANE**  
**PARKS AND RECREATION**  
**RIVERFRONT PARK EVENT AGREEMENT**

This Agreement is made and entered into by and between the **CITY OF SPOKANE PARKS AND RECREATION** as (“City”), a Washington municipal corporation, and **RAYCE RUDEEN FOUNDATION** a non-profit organization, whose address is 24201 East Knox Lane, Liberty Lake, Washington 99019, as (“Licensee”), individually hereafter referenced as a “party”, and together as the “parties”.

The parties agree as follows:

1. **PERFORMANCE.** The City will provide use of Riverfront Park for Licensee’s S.A.F.E. Fall Festival October 6 - 8, 2023, in accordance with the Riverfront Park Use Agreement attached as Exhibit B.
2. **CONTRACT TERMS.** The Contract shall begin October 1, 2023, and run through November 30, 2023, unless amended by written agreement or terminated earlier under the provisions.
3. **COMPENSATION.** The City Shall pay Licensee a maximum amount not to exceed **EIGHTY TWO THOUSAND AND ONE HUNDRED SEVENTY AND NO/100 DOLLARS (\$82,170.00)**, plus applicable tax, for everything furnished and done under this Contract The Licensee shall pay all expenses and applicable tax prior to the City remitting proceeds from sale of tickets to Event. This is the maximum amount to be paid under this Contract for the work described in Section 1 above, and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to this Contract.
4. **PAYMENT.** The Licensee shall submit its applications for payment to City of Spokane Parks and Recreation Department, 808 West Spokane Falls Boulevard, 5th Floor, Spokane, Washington 99201. Payment will be made via direct deposit/ACH within forty-five (45) days after receipt of the Licensee's application except as provided by state law. If the City objects to all or any portion of the invoice, it shall notify the Licensee and pay that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.
5. **COMPLIANCE WITH LAWS.** Each party shall comply with all applicable federal, state, and local laws and regulations.
6. **ASSIGNMENTS.** This Contract is binding on the parties and their heirs, successors, and assigns. Neither party may assign, transfer or subcontract its interest, in whole or in part, without the other party's prior written consent.

7. AMENDMENTS. This Contract may be amended at any time by mutual written agreement.

8. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Contract.

9. TERMINATION. Either party may terminate this Contract by thirty (30) days written notice to the other party. In the event of such termination, the City shall pay the Licensee for all work previously authorized and performed prior to the termination date.

10. INSURANCE. During the term of the Agreement, the Licensee shall maintain in force at its own expense, the following insurance coverages:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers; and
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this contract. It shall provide that the City, its officers and employees are additional insureds, but only with respect to the Contractor's services to be provided under this contract;
  - i. Acceptable supplementary Umbrella insurance coverage, combined with the Licensee's General Liability insurance policy must be a *minimum* of \$1,000,000, in order to meet the insurance coverages required under this Contract;
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from the Licensee or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the Licensee shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. **The certificate shall specify the City of Spokane as "Additional Insured"** specifically for Licensee's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the sixty (60) day cancellation clause, and the deduction or retention level. The Licensee shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

11. INDEMNIFICATION. The Licensee shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Licensee's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Licensee to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of

the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Licensee's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the Licensee, its agents or employees. The Licensee specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Licensee's own employees against the City and, solely for the purpose of this indemnification and defense, the Licensee specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Licensee recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

12. DEBARMENT AND SUSPENSION. The Licensee has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

13. SEVERABILITY. In the event any provision of this Contract should become invalid, the rest of the Contract shall remain in full force and effect.

14. STANDARD OF PERFORMANCE. The silence or omission in the Contract regarding any detail required for the proper performance of the work, means that the Licensee shall perform the best general practice.

15. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Licensee agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Licensee.

16. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Licensee shall be responsible for contacting the State of Washington Business License Services at [www.dor.wa.gov](http://www.dor.wa.gov) or 360-705-6741 to obtain a business registration. If the Licensee does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

17. AUDIT / RECORDS. The Licensee and its subcontractors shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Contract. The Licensee and its subcontractors shall provide access to authorized City representatives, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Contract, the federal law shall prevail.



18. CONFIDENTIALITY/PUBLIC RECORDS. Notwithstanding anything to the contrary, City will maintain the confidentiality of Licensee's materials and information only to the extent that is legally allowed in the State of Washington. City is bound by the State Public Records Act, RCW Ch. 42.56. That law presumptively makes all records in the possession of the City public records which are freely available upon request by anyone. In the event that City gets a valid public records request for Licensee's materials or information and the City determines there are exemptions only the Licensee can assert, City will endeavor to give Licensee notice. Licensee, at its own expense, will be required to go to Court to get an injunction preventing the release of the requested records. In the event that Licensee does not get a timely injunction preventing the release of the records, the City will comply with the Public Records Act and release the records.

19. DISPUTES. This Contract shall be performed under the laws of the State of Washington. Any litigation to enforce this Contract or any of its provisions shall be brought in Spokane County, Washington.

**RAYCE RUDEEN FOUNDATION**

**CITY OF SPOKANE  
PARKS AND RECREATION**

By \_\_\_\_\_  
Signature                      Date

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

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

**Attachments that are part of this Agreement:**

- Exhibit A – Certification Regarding Debarment
- Exhibit B – Riverfront Park Use Agreement

## EXHIBIT A

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
  - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.
  
2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
  
3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  
  2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. I understand that a false statement of this certification may be grounds for termination of the contract.

<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Program Title (Type or Print)
<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Name of Certifying Official (Type or Print)	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Signature
<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Title of Certifying Official (Type or Print)	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Date (Type or Print)

**EXHIBIT B**



**RIVERFRONT PARK USE AGREEMENT**

THIS AGREEMENT is between the CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT, as (“City”), and Rayce Rudeen Foundation, as (“Licensee”), a nonprofit organization, whose principal place of business is located at 24201 E. Knox Ln., Liberty Lake, WA 99019. The City and Licensee are collectively referred to as “the parties.” Multiple-year agreements are subject to annual review by the City and Licensee. This document, with attachments, comprises the complete agreement between the parties. The parties agree as follows:

1. **EVENT.** The event is described as follows *Rayce Rudeen Foundation - S.A.F.E. Fall Festival* and shall be referred hereafter as “the Event.”
  
2. **PREMISES.** The City grants the Licensee a non-exclusive revocable license to use specific area(s) and facilities (“Premises”) of Riverfront Park located at 507 North Howard Street, Spokane, Washington, for the above-identified event: The premises are highlighted on the attached Exhibit “B” Premises Use Map and referred to as *Clock Tower Meadow, Entire Pavilion.*

**3. USE DATE(S)**

Date	Time	Room	Usage
10/6/2023	All Day	Clock Tower Meadow	Load In
	All Day	Entire Pavilion	Load In
10/7/2023	All Day	Clock Tower Meadow	Event Day
	All Day	Entire Pavilion	Event Day
10/8/2023	All Day	Clock Tower Meadow	Load Out
	All Day	Entire Pavilion	Load Out

**4. RENTAL FEES**

Date	Time	Room	Usage	Price	Discount	Subtotal
10/6/2023	All Day	Clock Tower Meadow	Rayce Rudeen Foundation - S.A.F.E. Fall Festival	\$650.00	\$0.00	\$650.00
10/8/2023	All Day	Clock Tower Meadow	Load Out	\$650.00	\$0.00	\$650.00
10/7/2023	All Day	Clock Tower Meadow	Event Day	\$1,200.00	\$360.00	\$840.00
10/8/2023	All Day	Entire Pavilion	Load Out	\$0.00	\$0.00	\$0.00
10/7/2023	All Day	Entire Pavilion	Event Day	\$7,500.00*	\$2,250.00	\$5,250.00
10/6/2023	All Day	Entire Pavilion	Load In	\$0.00	\$0.00	\$0.00

<b>Subtotal</b>	\$10,000.00
Discounts	\$2,610.00
Tax	\$0.00
<b>Rental Total</b>	<b>\$7,390.00</b>

5. EVENT FEES					
Events					
Time	Item/Title	Qty/Price	Subtotal	Discounts	Total
	20yd Dumpster	1 Each @ \$450.00/Each	\$450.00	\$0.00	\$450.00
	6' Construction Fence	180 Each @ \$15.00/Each	\$2,700.00	\$0.00	\$2,700.00
	Electrical Inspection	1 Each @ \$125.00/Each	\$125.00	\$0.00	\$125.00
	Stage Transport Fee	1 Each @ \$1,200.00/Each	\$1,200.00	\$0.00	\$1,200.00
<b>Department Totals</b>					
	<b>Department</b>		<b>Subtotal</b>	<b>Discounts</b>	<b>Disc Subtotal</b>
	Events		\$4,475.00	\$0.00	\$4,475.00
					<b>Totals</b>
<b>Event Charges</b>					<b>\$14,475.00</b>
Less Discounts					\$2,610.00
<b>Subtotal</b>					<b>\$11,865.00</b>
<b>TOTAL</b>					<b>\$11,865.00</b>

6. ADDITIONAL CHARGES. Additional items used and not detailed above will be added to final Event charges invoice.

7. TAXES. The Licensee understands all paid admission events held at the Premises are subject to city and state admission taxes. The Licensee agrees to pay these and all other taxes imposed in connection with its Event.

8. SECURITY DEPOSIT. The Licensee shall pay a refundable security deposit of 25% to the City of: **\$2,966.25** for the use of the Premises, payable by **10/2/2023** via certified check or other form acceptable to the City within sixty (60) days from event. The deposit shall be held by the City, without interest accruing, as a security deposit to secure full performance of the Licensee's obligations under this Agreement, including payment of use fees against potential damages to the Premises, incidental expenses, and liquidated damages, as appropriate.

9. LIQUIDATED DAMAGES. If the Licensee cancels the event, or if the City reasonably deems itself insecure because of the Licensee's apparent or actual inability to perform the Agreement as fully promised, the City may declare a default, and the Licensee shall pay to the City of Spokane, a sum of **\$11,865.00** as liquidated damages for the loss of use fees. The City may apply the security deposit (if applicable) against the above sums. The parties agree that the damages, for the City's loss of use fees are difficult to ascertain or predict. Thus, the above set forth amount of liquidated damages is a reasonable estimate of the damages which would actually be suffered by the City for the loss of use fees. This remedy is in addition to all other remedies available in contract or law.

10. MINIMUM SUPPORT PERSONNEL. The Licensee agrees to employ at its sole expense and liability, the minimum security, admission, and support personnel as necessary to assure the safety of the participants,

patrons, and Premises.

11. NOTIFICATION TO PARTICIPANTS OR PARENTS OR GUARDIANS OF MINOR PARTICIPANTS

Licensee is required by this Agreement to provide minors and parents of minors with notice that Licensee is not part of the City, is not an agent of the City, and is, other than by the express terms of this Agreement, not in any way affiliated with the City. The activities and services offered by Licensee are not the activities or services of the City.

12. FOOD AND BEVERAGE EXCLUSIVITY.

Levy Hospitality is the exclusive service provider for concession food and beverage operations, alcohol sales and service and catering at the U.S. Pavilion, Loeff Carrousel and Numerica Skate Ribbon and SkyRide. Additionally, Levy Hospitality is the exclusive service provider for catering services in Riverfront Spokane outdoor venues. Licensee and Licensee vendors will follow City's process and procedure for procuring and selling City's exclusive beverage partner products, which will be provided by Swire Coca-Cola. The exceptions is juice made from fresh squeezed fruit and fresh drip coffee & tea.

13. CONCESSION. Levy Hospitality our exclusive service provider for all concessions, catering and alcohol services within the US Pavilion, Loeff Carrousel, Numerica Skate Ribbon and all catering in Riverfront park private outdoor rental spaces.

14. TICKETING

A. Ticketing Sales Rights. City and AXS shall serve as the sole and exclusive provider of primary and resale ticketing software sales and services with respect to all events, free or paid, at Riverfront Park and associated Venues. AXS shall have the sole and exclusive right to sell all tickets via any means in connection with all Events. In connection with the sale, resale or issuance of tickets, Event Organizer/Licensee will not endorse, support, integrate with, promote, receive revenue or any other compensation from or authorize the use of, any third party internet sign related to the sale of tickets, ticketing company, or software system related to the sale of tickets for Events. Service fees will apply per City of Spokane – AXS Ticketing master service agreement and will be outlined in the associated Use Agreement fees.

B. Ticket Proceeds. AXS shall collect all proceeds from the sale of tickets to Events make on AXS channels via AXS's merchant accounts and deposit all such proceeds, including any applicable sales taxes, into an account managed by AXS, and shall be entitled to deduct any credit card processing fees or other fees due to AXS from Event Organizer/Licensee prior to disbursing the Client Fee and the remaining net ticket proceeds to the City. AXS will provide City/Licensee with access to reports summarizing all applicable account activity. The City will then remit any remaining ticketing proceeds to Licensee, minus Convenience Fees.



15. EVENT RESPONSIBILITIES

A. The Licensee is solely responsible for planning, organizing, promoting, and implementing all aspects of the Event on the Premises.

B. The Licensee shall comply with all federal, state and local laws, including the rules and regulations of the City of Spokane Parks and Recreation Department.

C. The Licensee agrees to comply with the Terms and Conditions for all Public and Private Special Uses as outlined in the attached Exhibit "A" for current Riverfront Park Special Use Information.

D. The Licensee shall provide necessary facility infrastructure equipment and/or services such as: tables, benches, fencing, staging, sound and lights, health and safety mandated equipment or services, canopies, alternative power sources installed by a certified electrician, portable restrooms, security and other to be determined event logistics. Licensee is solely responsible for ensuring that all equipment and infrastructure is in good working condition and utilizing the equipment in a safe manner, as per oral or written instructions provided by the manufacturer

E. The Licensee shall comply with all City approved methods of securing temporary event structures and equipment.

F. The Licensee and the City each have the right to hang and/or display mutually agreed upon sponsorship logos, signs, banners and other promotional materials on the Premises in mutually agreeable locations.

G. To the extent the Licensee elects to utilize its own overnight and event security on the Premises, the Licensee is solely responsible for these costs.

H. Licensee food vendors shall sell exclusively Swire Coca-Cola branded products procured from City as sole source supplier per Riverfront Park Terms of Use.

I. The City shall insure that existing electrical outlets are operational and functional on the Premises. The Licensee will not be charged for electrical use. To the extent the Licensee elects to utilize electrical support greater than that provided by the City through its existing electrical outlets on the Premises, the Licensee is solely responsible for any and all additional electrical support costs.

J. The Licensee will provide the City with a site map (Exhibit "C") showing the exact location of all event elements 7 days prior to move in. The Licensee and City will mutually agree on the final site layout 7 days prior to move in.

K. The City and Licensee will exchange contact information to be used during event dates to insure compliance with the terms of this Agreement.

16. CARE OF THE PREMISES. Licensee has inspected the Premises, accepts its condition and agrees that there are no repairs, changes, or modifications to be made to the Premises by the City to accommodate

Licensee's intended use of the Premises. Licensee accepts the Premises "as is," subject to all existing liens, encumbrances and other matters of record and all zoning and building regulations which affect the Premises. Licensee acknowledges that the City, its agents, officers, or employees have not made any representations or warranty with respect to the Premises or the suitability for Licensee's intended use and that no representations or warranty have been made as to the state of construction or repair of the Premises.

Licensee shall not cause or permit anything to be done to injure, mark, or in any manner deface the Premises or any equipment located on the Premises. Licensee shall keep the Premises and facilities clean and safe from damage. In the event of damage to the Premises or equipment, the Licensee shall pay to the City, on demand, the sums needed to fully restore the Premises or equipment, or repair the damage. The damage shall include crowd damage as a result of failure to maintain order, and / or failure to have a sufficient security force in place necessary to maintain order.

17. LIABILITY. Licensee shall indemnify, defend, and hold the City and the City's lessees of the Premises harmless from all claims arising from Licensee's use of the Premises or the conduct of Licensee's activities, or from any activity, work or thing done, permitted or suffered by Licensee in or about the Premises. Licensee shall further indemnify, defend, and hold the City harmless from all claims, liabilities, costs, attorneys' fees and expenses arising from any breach or default in the performance of any obligation to be performed by Licensee under the terms of this License Agreement, or arising from any act or omission of Licensee or of its agents, employees, or invitees. Licensee specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by Licensee's own employees against the City and, solely for the purpose of this indemnification and defense, Licensee specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. Licensee recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. In case any action or proceeding is brought against the City by reason of any claim, Licensee, upon notice from the City, shall defend the same at Licensee's expense, by counsel approved in writing by the City. Licensee, as a material part of the consideration to the City, hereby assumes all risk of and waives any claims Licensee might have in respect to the damage to property or injury to persons in, upon or about the Premises from any cause whatsoever, except that which is caused by the City's sole negligence.

Neither the City nor any officer, agent or employee of the City will be liable to Licensee, or its partners, directors, officers, contractors, agents, employees, guests, invitees, or licensees, for any loss, injury, or damage to Licensee or to any other person, or to its or their property, irrespective of the cause of such injury, damage or loss, unless solely caused by or solely resulting from the sole negligence or willful misconduct of the City or its employees in the operation or maintenance of the Premises without contributory negligence on the part of the Licensee or any of its licensees, or its or their employees, agents, or contractors, or any other lessees or occupants of the Premises. Furthermore, neither the City, nor any officer, agent or employee of the City will be liable (i) for any such damage caused by other lessees or persons in or about the Premises, or caused by quasi-public work; or (ii) for consequential damages arising out of any loss of the use of the

Premises or any equipment or facilities therein, by Licensee or any persons claiming through or under Licensee. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

Licensee shall require each participant, or the parent/guardian of a minor participant, to execute a waiver indemnifying, releasing, and holding harmless the Licensee and the City from any and all claims arising from any loss, liability, damage, death or injury to any person or property, from any act or omission of the Licensee and the City, their officers, elected officials, employees, agents, participants or subcontractors arising directly or indirectly as a result of the activities and services provided by the Licensee and the City.

18. **INSURANCE**. During all times relevant to this License Agreement, Licensee shall maintain in force at its own expense, each insurance noted below.

A. Worker's Compensation insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers;

B. General Liability insurance on an occurrence basis with a combined single limit of not less than \$1,000,000 each occurrence and aggregate for Bodily Injury and Property Damage. It shall provide that the City, its agents, officers and employees are Additional Insureds but only with respect to the Company's services to be provided under this Agreement; and

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from the Licensee or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the Licensee shall furnish acceptable Certificates of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" as well as all of the parties who are additional insureds, and include applicable policy endorsements, the sixty (60) day cancellation clause, and the deduction or retention level. The Licensee shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

19. **NONDISCRIMINATION**. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Licensee agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Licensee.

20. **AGREEMENT SUSPENDED**. In the event of impossibility or impracticality of the event/activity because the Premises or any part is destroyed or damaged or rendered unfit for occupancy or in case of emergency or

strike, this Agreement shall at the option of the City be suspended and the City shall return to the Licensee any advance payment without further liability or obligation. The Licensee waives all rights of actions against the City for loss of use of the Premises, including consequential losses, due to fire or other hazards, however caused.

21. ASSIGNMENT. This Agreement is not assignable without prior written approval of the City, which shall not be unreasonably withheld.

22. SEVERABILITY / NON-WAIVER. The illegality or unenforceability of any of the provisions of this Agreement shall not render the remainder unenforceable. Waiver by the City of any provision of this Agreement in any specific circumstance shall not be deemed a waiver in any subsequent circumstance.

23. FORCE MAJEURE EVENT. In the event either Party is unable to carry out its material obligations under this Agreement by reason of a Force Majeure Event (as defined below), the same shall not constitute a breach of this Agreement by such Party and the other Party shall have no right to seek damages or terminate this Agreement. As used herein, the term "Force Majeure Event" shall mean the occurrence of an event outside the reasonable control of the applicable Party such as an act or regulation of public authority; fire; riot or civil commotion; labor dispute; terrorist acts or threats; acts or declarations of war; disease; pandemic; substantial interruption in, or substantial delay or failure of, technical facilities; artist illness, incapacity or death; accident; failure or substantial and extraordinary delay of necessary transportation services; war conditions; emergencies; inclement weather or acts of God.

24. CANCELLATION. A refund of the Venue Deposit shall be made only if (a) Licensee is not in default under, and has otherwise complied with the terms and conditions of, the Use Agreement and (b) written notice of the cancellation is received by Riverfront Park at least sixty (60) days prior to the actual date of the event. Cancellations received fifty nine (59) days or less prior to the actual date of the event shall result in the forfeiture of the Venue Deposit paid, and in the event that payment of the Venue Deposit has not yet been made to Riverfront Park, the Venue Deposit shall nonetheless be immediately due and payable to Riverfront Park. Cancellations due to smoke: Riverfront Park will allow for venue rental cancellations with a full refund if the air quality index is in the Unhealthy – Hazardous (151 - 500) range.

23. CONTRACT DOCUMENTS. This Agreement, with attachments including but not limited to provisions in Exhibit "A" (Riverfront Park Terms and Conditions for All Public and Private Special Uses), comprises the complete understanding between the parties. To the extent terms vary or are in conflict between this document and Exhibit A, the terms of this agreement govern.

**LICENSEE: RAYCE RUNDEEN FOUNDATION**

Dated: \_\_\_\_\_

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

Marsha Malsam      CEO

\_\_\_\_\_

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

Approved: \_\_\_\_\_

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

Riverfront Park Director

Email: \_\_\_\_\_

**CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT**

Dated: \_\_\_\_\_

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

Director

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

Approved as to form: \_\_\_\_\_

City Clerk

Assistant City Attorney

Attachments which are a part of this Agreement:

Exhibit "A" Riverfront Park Terms and Conditions for All Public and Private Special Uses

Exhibit "B" Premises Use Venue Map

Exhibit "C" Certificate of Insurance (COI)

**EXHIBIT A**  
**TERMS AND CONDITIONS FOR RIVERFRONT PARK – PUBLIC AND PRIVATE EVENTS**

This statement of Terms and Conditions relates to the non-exclusive revocable license to use specific area(s) and facilities (“Premises”) of Riverfront Park located at 507 North Howard Street, Spokane, Washington 99201, for the subject event between the CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT, as “The City,” and the party identified on the associated Riverfront Park Use Agreement or Group Reservation Contract, hereinafter referred to as “Licensee.” To the extent terms vary or are in conflict between this document and the Riverfront Park Use Agreement or contract, if applicable, the terms of the Riverfront Park Use Agreement or contract shall govern.

**EVENTS IN RIVERFRONT PARK**

These Terms and Conditions apply to all special uses which are staged within the boundaries of Riverfront Park, or have impact upon its property and/or facilities. It is the sole responsibility of Licensee to ensure participants have knowledge of and are in compliance with the following Terms and Conditions.

**LAWS, RULES, & REGULATIONS**

Licensee may use the Premises during such times and for the purposes set forth in the associated Use Agreement or Group Reservation Contract and at no other time and for no other purpose without the City’s prior written consent. Licensee shall comply with all Laws applicable to Licensee, the Premises, this License Agreement and Licensee’s activities and obligations hereunder, and shall have the sole responsibility for costs, fees, or expenses associated with such compliance. As used herein, the term “Laws” shall mean any and all statutes, laws, ordinances, codes, rules or regulations or any order, decision, injunction, judgment, award or decree of any public body or authority having jurisdiction over Licensee, the Premises, this License Agreement, and/or Licensee’s obligations under this License Agreement. If any governmental license or permit is required or

desirable for the proper and lawful conduct of Licensee’s activities in or on the Premises, or if the failure to secure such a license or permit might in any way affect the City, then Licensee, at Licensee’s sole cost and expense, shall procure and thereafter maintain such license or permit and submit the same to inspection by the City. Licensee, at Licensee’s sole cost and expense, shall at all times comply with the requirements of each such license or permit.

**CONDITION OF PREMISES**

Licensee has inspected the Premises, accepts its condition and agrees that there are no repairs, changes, or modifications to be made to the Premises by the City to accommodate Licensee’s intended use of the Premises. Licensee accepts the Premises "as is," subject to all existing liens, encumbrances and other matters of record and all zoning and building regulations which affect the Premises. Licensee acknowledges that the City, its agents, officers or employees have not made any representations or warranty with respect to the Premises or the suitability for Licensee’s intended use and that no representations or warranty have been made as to the state of construction or repair of the Premises.

**SITE PLAN**

Depending on the nature of the event, a site plan may be required. If an activity interferes with normal park operations or requires special arrangements, including, but not limited to additional power, potable water, fencing, vendor information booths, tents, canopies, stages, air inflated balloon or characters, first-aid stations, lost & found areas, portable restrooms, vehicles on site, temporary concession booths, beverage gardens and/or temporary reduction of irrigation park grounds, or additional on-site signs or banners, a site plan will be required. All canopies, tents, inflatables and other similar structures MUST be secured by weights. NO STAKES ALLOWED. A site plan must show the

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locations of all elements of the activity. This plan may need the approval of other city and county departments and/or agencies. The City always retains the right to alter site plans if, in the opinion of park management, certain grounds/facility conditions cannot support the special use as planned or if the set up interferes with normal park operations.

### **RUNS, WALK, & RACES**

The City reserves the right to change the routes of runs/walks/races if, at the discretion of the City, the route interferes with normal park operations, raises public safety concerns or the turf conditions cannot support the event. Participants must stay on pathways in the park. The City encourages the use of cones, free standing signage, and volunteers to make sure participants stay on course. Signs are not allowed to be nailed, stapled, or bungee corded to trees, buildings, light poles, or road signs, and/or stakes driven into the ground, and/or the marking of any pavement or hard surface. Any marking used to designate the route must be removed at the conclusion of the event.

### **VEHICLES IN THE PARK**

Private vehicles are not allowed in Riverfront Park without a valid vehicle permit. Vehicle permits may be obtained by contacting your event manager. All vehicles related to an event must have a vehicle permit displayed in the front window when on park property. Proof of insurance may be requested before vehicle permits are issued. Vehicles may not remain on Riverfront Park grounds during an event unless stated on an approved facility use agreement and vehicle permit. To remain on site a vehicle must: 1) have a vehicle permit in front window; 2) be shown on the site plan; and 3) must not interfere with normal park operations. A \$25.00 fee will be issued to vehicles found on park grounds without proper vehicle permits or if the vehicle is located in an unauthorized location. Vehicles may also be impounded at the owner's expense. All damages to park grounds or facilities that have been caused by vehicles will be billed directly to Licensee.

### **INSURANCE REQUIREMENTS**

For public and private events with over 200 attendees, a Certificate of Insurance (COI) will be required before a final permit is approved. The Licensee is required to provide a COI which shows \$1 million in worker's compensation, general liability insurance, and automobile insurance and a policy endorsement which names the City of Spokane (808 W. Spokane Falls Blvd., Spokane, WA 99201) as additional insured.

A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers;

B. General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage. It shall provide that the City, its agents, officers and employees are Additional Insureds but only with respect to the Consultant's services to be provided under this Agreement; and C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverages required by this Agreement, the Consultant shall furnish an acceptable Certificate of Insurance (COI) to the City at the time the Consultant returns the signed Agreement.

### **FOOD & BEVERAGE EXCLUSIVITY**

Riverfront Park has an exclusive service provider for select concession food and beverage operations, alcohol sales and service and catering at the U.S. Pavilion, Loeff Carrousel and Numerica Skate Ribbon and SkyRide.

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### **BEVERAGE SALES**

Riverfront Spokane is the exclusive provider of all non-alcoholic beverages in Riverfront Park. Non-alcoholic beverage sales and/or sampling may not occur without written approval by Park management.

### **ALCOHOL POLICY**

The procurement and distribution of alcoholic beverages within Riverfront Spokane outdoor venues is subject to review and approval of Riverfront management and the Washington State Liquor and Cannabis Board (WSLCB). Licensees must be granted a permit through the WSLCB that must be displayed on premise throughout the duration of the special event. Additionally, licensee must obtain a special event permit through the Spokane Fire Department and work collaboratively with park management and rangers on security plans to ensure proper public safety protocols are implemented.

### **TOBACCO-FREE PARK ZONES POLICY**

In September 2009, the Spokane Parks and Recreation Board established a Tobacco-Free Zones policy for Spokane Parks and Recreation Areas and Facilities. This policy requires that tobacco-free zones be established at large public events conducted in Parks and Recreation areas and/or facilities. Rules of procedure include, but are not limited to the following: 1) tobacco-free zones areas are established where children recreate such as playgrounds, swimming pools, splash pads, picnic shelters, park restrooms, skate parks, formal gardens, etc.; 2) a current list of community events where tobacco use will be restricted is available through the Riverfront Park Special Events coordinator (other events may be added as appropriate); 3) the Spokane Parks and Recreation Department will provide and install standardized tobacco-free one signs when required; 4) temporary event signage will be the responsibility of the event licensee; 5) the promotion of tobacco based products is prohibited at all park properties and events conducted on park property; 6) each and every request for an event permit will require a review

of the Tobacco policy with the user group; and 7) enforcement of this policy will be self-directed and by peer pressure influence. Voluntary compliance will be encouraged through signage, educational material and public information releases. The entire Tobacco-Free Zone Policy is available through the Riverfront Park events office.

### **GARBAGE, WASTE WATER, & GARABGE DISPOSAL**

Site plans must include plans for the disposal of excess garbage or other waste directly related to the event. Storm drains, man holes, restrooms, grass/shrubbery or the river are not to be used for this disposal. Proper disposal methods will be strictly enforced. Licensee will be charged for disposal of waste or any damage which occurs as a result of improper disposal.

### **PERSONNEL & EQUIPMENT**

Depending on the nature of the event, extra services, including security personnel or additional equipment may be required. The cost will be paid by the licensee. All extra services must be requested no later than 21 working days prior to the event. If available, extra services/equipment requested less than 10 days prior to the event will be charged at twice the regular rate.

### **RESTROOMS**

While many areas of Riverfront Park are equipped with restroom facilities, these may not be adequate for large events. The County Health Department advises to have one (1) portable restroom for every 250 people. The number and location of portable restrooms will be determined by the Park's Event Manager. Five percent (5%) of all portable rest rooms must be ADA approved. Licensee is solely responsible for the expense of portable restroom(s).

### **MUSIC/PUBLIC ADDRESS SYSTEMS/NOISE ORDINANCE**

P.A. systems cannot be used after 10:00 p.m. unless a variance has been granted by the City of Spokane Code Enforcement office and Riverfront

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Park management. The City retains the right to control the P.A. volume. When music or a public address system is necessary for a special use activity, manager approval is necessary and the licensee is responsible to: 1) get proper approval from the Park and City of Spokane Code Enforcement office; 2) use professional audio / stage technicians; 3) adhere to "start/end" times; 4) ensure the use of approved staging; 5) provide all extra services and equipment as necessary; and 6) inappropriate language or actions may result in the privilege being revoked.

#### **PUBLIC ACCESS/GREEN SPACE**

It is the desire of the City to maintain free public access to Riverfront Park facilities and grounds. However, under certain circumstances, restricting public access to park facilities and areas may be allowed. It is the licensee's responsibility to provide appropriate signs directing the public to alternate pathways away from any limited access areas. Spokane Parks and Recreation Department desires to maintain all city parks as open green spaces. To accomplish this, Riverfront Park may have limited scheduling to allow time for re-seeding, watering and growing time. Scheduling shall reflect a policy to minimize impact and maximize renovation and growing time.

#### **NONDISCRIMINATION**

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Licensee agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Licensee.

#### **DAMAGES**

Licensee shall not cause or permit anything to be done to injure, mark, or in any manner deface the Premises or any equipment located on the Premises. Licensee shall keep the Premises and facilities clean and safe from damage. In the event of damage to the Premises or equipment, the Licensee shall pay to the City, on demand, the sums needed to fully restore the Premises or equipment, or repair the damage. The damage shall include crowd damage as a result of failure to maintain order, and / or failure to have a sufficient security force in place necessary to maintain order.

#### **AGREEMENT SUSPENDED**

In the event of impossibility or impracticality of the event/activity because the Premises or any part is destroyed or damaged or rendered unfit for occupancy or in case of emergency or strike, this Agreement shall at the option of the City be suspended and the City shall return to the Licensee any advance payment without further liability or obligation. The Licensee waives all rights of actions against the City for loss of use of the Premises, including consequential losses, due to fire or other hazards, however caused.

#### **APPEALS**

All restrictions, conditions and fees, or the denial of a permit may be appealed to the Riverfront Park Director or designee. Appeals must be at least thirty (30) days in advance of the activity and must be in writing. The name, address and phone number of the applicant; name of the activity, a description of the proposed activity, date of the requested usage and the nature of the appeal must all be on the appeal request. Your park representative will make every attempt to be in contact with you within 10 working days with the results of the appeals process.

#### **INDEMNIFICATION**

Licensee shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury

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(including death) and/or property damage which arise from Licensee's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require Licensee to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of Licensee's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of Licensee, its agents or employees. Licensee specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by Licensee's own employees against the City and, solely for the purpose of this indemnification and defense, Licensee specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. Licensee recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

#### **CONTRACT DOCUMENTS**

This statement of Terms and Conditions and the Licensee's associated Use Agreement or Group Reservation Contract comprise the complete understanding between the parties.

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