City of Spokane Park Board
Land Committee Meeting

Feb. 3, 2021 – 3:30 p.m.
WebEx teleconference meeting
Al Vorderbrueggen – Park Operations Director

Committee Members:
X Greta Gilman – Chair
X Hannah Kitz Joined at 3:54
X Sally Lodato
X Kevin Brownlee
Barb Richey (Absent Excused)

Parks Staff:
Nick Hamad
Al Vorderbrueggen
Fianna Dickson
Jo-Lynn Brown

Other City Staff:
James Richman

Guest(s):
Carol Ellis
Todd Colton
Meghan Lunney

SUMMARY

- Mr. Nick Hamad presented the SE Sports Complex License and development agreement, Amendment #1 with QueenB Radio, Inc. (KXLY) now Radio Park, LLC, it was approved to be offered to the Park Board for the Feb. 11th, meeting.
- Nick Presented the Upriver Park MOA with Avista Utilities, it was approved to be offered to Park Board at the Feb. 11th, meeting.
- Parks Operations and Park Planning provided updates.

MINUTES

The meeting was called to order at 3:34 p.m. by Chair, Greta Gilman.

Public Comments: Carol Ellis asked that the Land Committee consider investigating if the Public Utilities proposed surplus property at 31st and Napa and the partnership park is still on the table. Carol is offering to meet with all agencies and walk the site, the committee responded that that was a great idea, and if it looks like the development will move forward, they will consider the offer. Carol ask that the January Land Committee minutes include a document that was "flashed" on the screen in the meeting regarding a legal opinion. The document has been requested from the City of Spokane Legal Department; it will be provided when made available.

Action Items:

1. **Southeast Sports Complex License and development agreement, Amendment #1 with QueenB Radio, Inc. (KXLY) now Radio Park, LLC** Nick Hamad reviewed the terms of the original agreement and details about the development and the time extension to July 2026 or issuance of Certificate of Occupancy.

   Motion #1 – Greta Gilman moved to approve the Southeast Sports Complex License and development agreement, Amendment #1 with Radio Park, LLC, formally known as QueenB Radio, Inc. (KXLY), as presented.
   Sally Lodato seconded. The motion carried unanimously (4-0 vote). This will be offered to the Park Board as an action item on the agenda.

2. **Upriver Park memorandum of agreement with Avista Utilities** Nick Hamad provided a project review outlining the partnership and mutual benefits to Parks and Avista. The proposed park is comprised of vacated city street right of way (Upriver Drive) and City owned park property along the Spokane river. Avista Utilities develops and maintains the entire park area at no cost to parks. Having this agreement in place is a requirement of the shoreline development permit.

   Motion #2 – Greta Gilman moved to approve the Upriver Park memorandum of agreement with Avista Utilities as presented.
   Sally Lodato seconded. The motion carried unanimously (4-0 vote). This will be offered to the Park Board as an action item on the agenda.

Standing Report Items:

1. Mr. Al Vorderbrueggen provided the committee information about windstorm damage approximately 200K in property and asset damage and 300K-400K dollars for replanting and vegetation repair, trees will be replaced with a 2 to 1 ratio. Parks Staff has performed almost 100% of the tree removal work and done a great job. Replanting at Comstock will look different, consideration will be given to water conservation, future tree health, and access to the park.

Mr. Nick Hamad presented a Parks Planning update, the North Suspension Bridge renovation project

will be out to bid before the next Land Committee, Down River Golf Course improvement project will be out to bid next week. The Parks and Open Space Master plan is restarting the project kickoff will be the week of March 14th. He is assembling a Project Advisory Committee (PAC) to look at the project in more depth, estimates 6-7 meetings throughout the project.

Meeting adjourned at 4:21 p.m.

The next regularly scheduled Land Committee meeting is set for 3:30 pm Mar. 3, 2021.

Spokane Park Board
Briefing Paper

Committee	Land
Committee meeting date	Feb 3, 2021
Requester	Nick Hamad **Phone number**: 509-363-5452
Type of agenda item	◯ Consent ◯ Discussion ◯ Information ◉ Action
Type of contract/agreement	◉ New ◯ Renewal/ext. ◯ Lease ◯ Amendment/change order ◯ Other
City Clerks file (OPR or policy #)	OPR 2016-0420
Item title: (Use exact language noted on the agenda)	Southeast Sports Complex license and development agreement amendment #1 with QueenB Radio, Inc. (KXLY)
Begin/end dates	Begins: 02/12/2021 Ends: ☑ Open ended

Background/history:
In 2017, City of Spokane Parks entered a public private partnership with KXLY to develop improvements at the Southeast Sports Complex. As a part of this partnership, the entities entered a 'license and development agreement' where KXLY implements various access, parking, pedestrian, facility, and outdoor recreational improvements on park property in exchange for access across park land to an adjacent private development. These improvements were required to be completed within (4) years of entering the agreement.

While some improvements are currently complete, at no fault of its own, KXLY requires additional time to complete remaining improvements. This amendment provides a time extension for KXLY to complete the remaining improvements.

Motion wording:
Motion to approve Southeast Sports Complex license and development agreement amendment #1 with QueenB Radio, Inc. (KXLY)

Approvals/signatures outside Parks: ◉ Yes ◯ No
If so, who/what department, agency or company: QueenB Radio
Name: Carl Guenzel Email address: Phone:

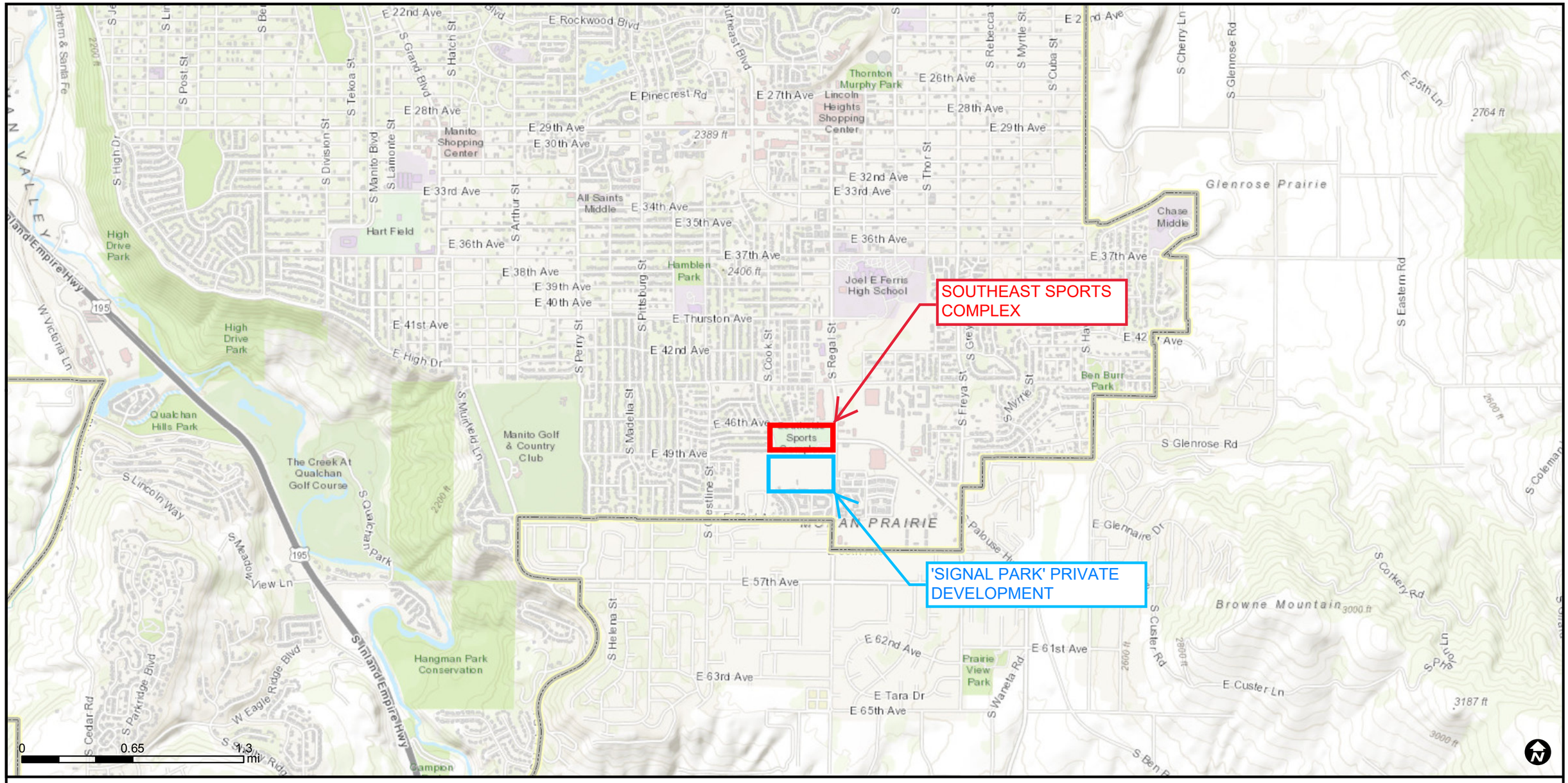
Distribution:
Parks – Accounting
Parks – Pamela Clarke
Requester: Nick Hamad
Grant Management Department/Name:

Fiscal impact: ◯ **Expenditure** ◉ **Revenue**
Amount: Budget code:

Vendor: ◯ Existing vendor ◯ New vendor
Supporting documents:

☐ Quotes/solicitation (RFP, RFQ, RFB)	☐ W-9 (for new contractors/consultants/vendors
☐ Contractor is on the City's A&E Roster - City of Spokane	☐ ACH Forms (for new contractors/consultants/vendors
☐ UBI: Business license expiration date:	☐ Insurance Certificate (min. $1 million in General Liability)

Southeast Sports Complex Location



Legend

City of Spokane Boundary

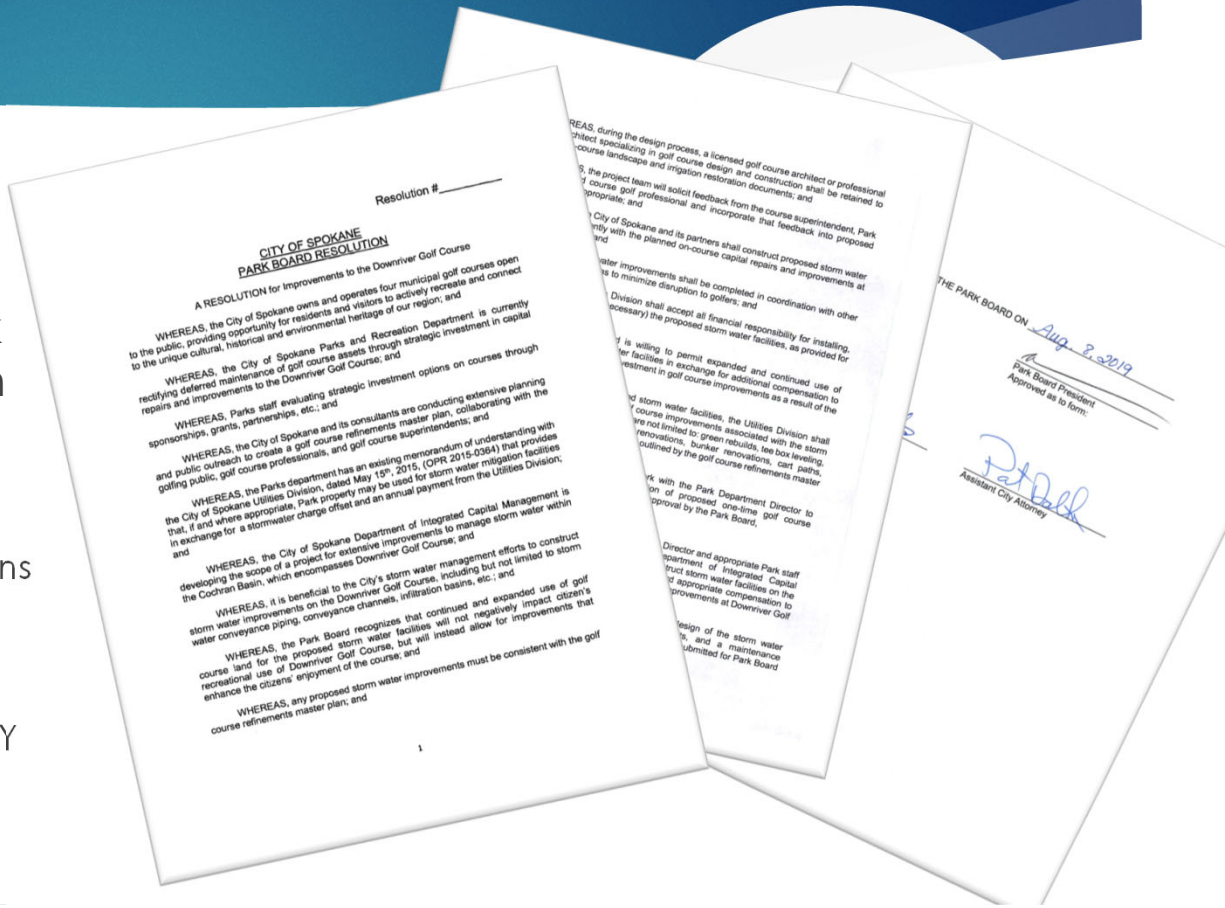
City of Spokane GIS

THIS IS NOT A LEGAL DOCUMENT:
The information shown on this map is compiled from various sources and is subject to constant revision. Information shown on this map should not be used to determine the location of facilities in relationship to property lines, section lines, streets, etc.

2/3/2021

Previous Agreement

- KXLY & Parks partnered entered access agreement in 2017.
- Parks permitted access across park property to private development in exchange for:
  - Reconstruction of Parks Parking lot
  - Reconstruction of Restrooms/Concessions
  - Construction of Regal Street pedestrian improvements
  - Construction of new soccer field on KXLY Property



Resolution #_____

CITY OF SPOKANE
PARK BOARD RESOLUTION

A RESOLUTION for Improvements to the Downriver Golf Course

WHEREAS, the City of Spokane owns and operates four municipal golf courses open to the public, providing opportunity for residents and visitors to actively recreate and connect to the unique cultural, historical and environmental heritage of our region; and

WHEREAS, the City of Spokane Parks and Recreation Department is currently rectifying deferred maintenance of golf course assets through strategic investment in capital repairs and improvements to the Downriver Golf Course; and

WHEREAS, Parks staff evaluating strategic investment options on courses through sponsorships, grants, partnerships, etc.; and

WHEREAS, the City of Spokane and its consultants are conducting extensive planning and public outreach to create a golf course refinements master plan, collaborating with the golfing public, golf course professionals, and golf course superintendents; and

WHEREAS, the Parks department has an existing memorandum of understanding with the City of Spokane Utilities Division, dated May 15th, 2015, (OPR 2015-0364) that provides that, if and where appropriate, Park property may be used for storm water mitigation facilities in exchange for a stormwater charge offset and an annual payment from the Utilities Division; and

WHEREAS, the City of Spokane Department of Integrated Capital Management is developing the scope of a project for extensive improvements to manage storm water within the Cochran Basin, which encompasses Downriver Golf Course; and

WHEREAS, it is beneficial to the City's storm water management efforts to construct storm water improvements on the Downriver Golf Course, including but not limited to storm water conveyance piping, conveyance channels, infiltration basins, etc.; and

WHEREAS, the Park Board recognizes that continued and expanded use of golf course land for the proposed storm water facilities will not negatively impact citizen's recreational use of Downriver Golf Course, but will instead allow for improvements that enhance the citizens' enjoyment of the course; and

WHEREAS, any proposed storm water improvements must be consistent with the golf course refinements master plan; and

1

...THE PARK BOARD ON Aug. 8, 2019

Park Board President

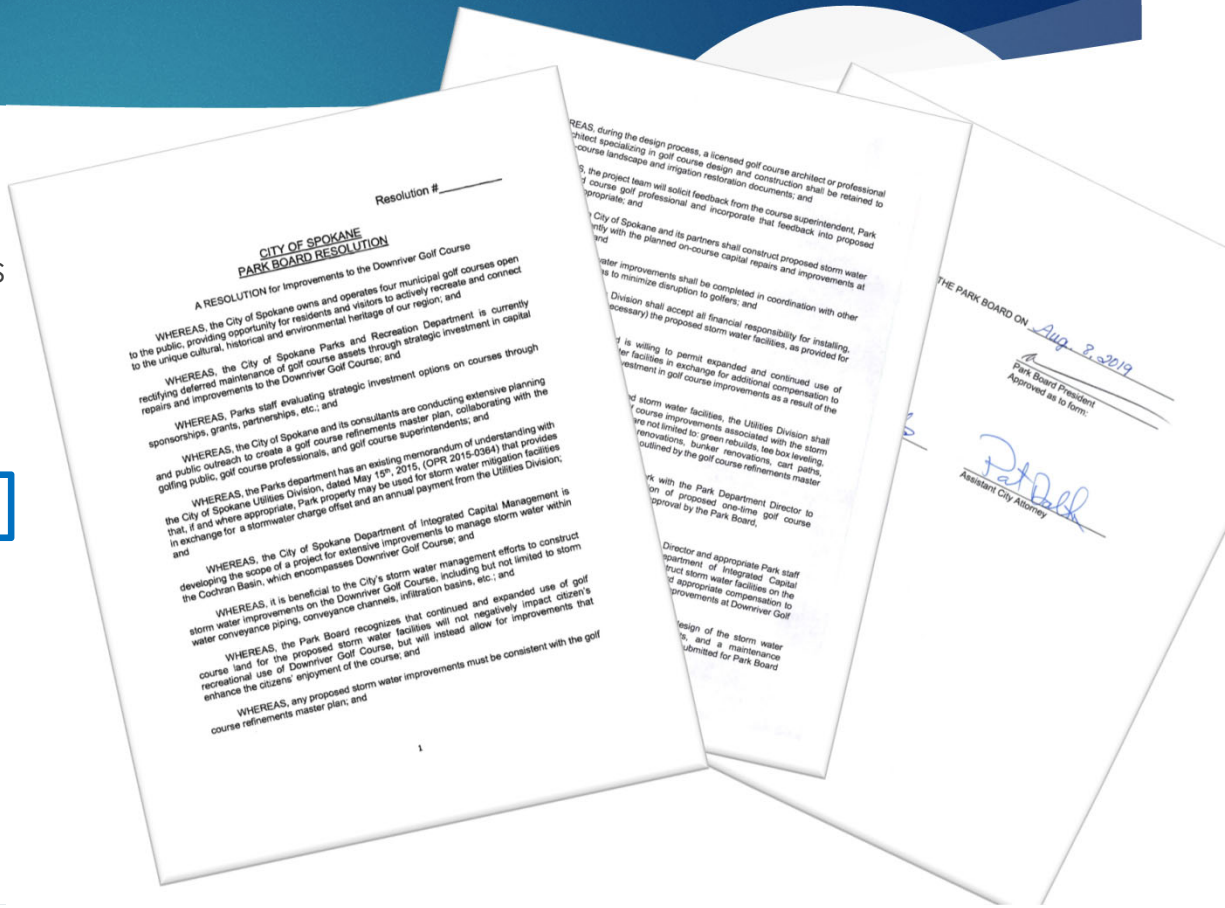
Approved as to form:

Assistant City Attorney

Previous Agreement

- Several Agreements included:
  - Access & reciprocal parking easements
  - Utility Easements
  - Ground lease for new soccer field on KXLY property
  - License and Development Agreement

Required improvements completed within 4 years of agreement (mid 2021)



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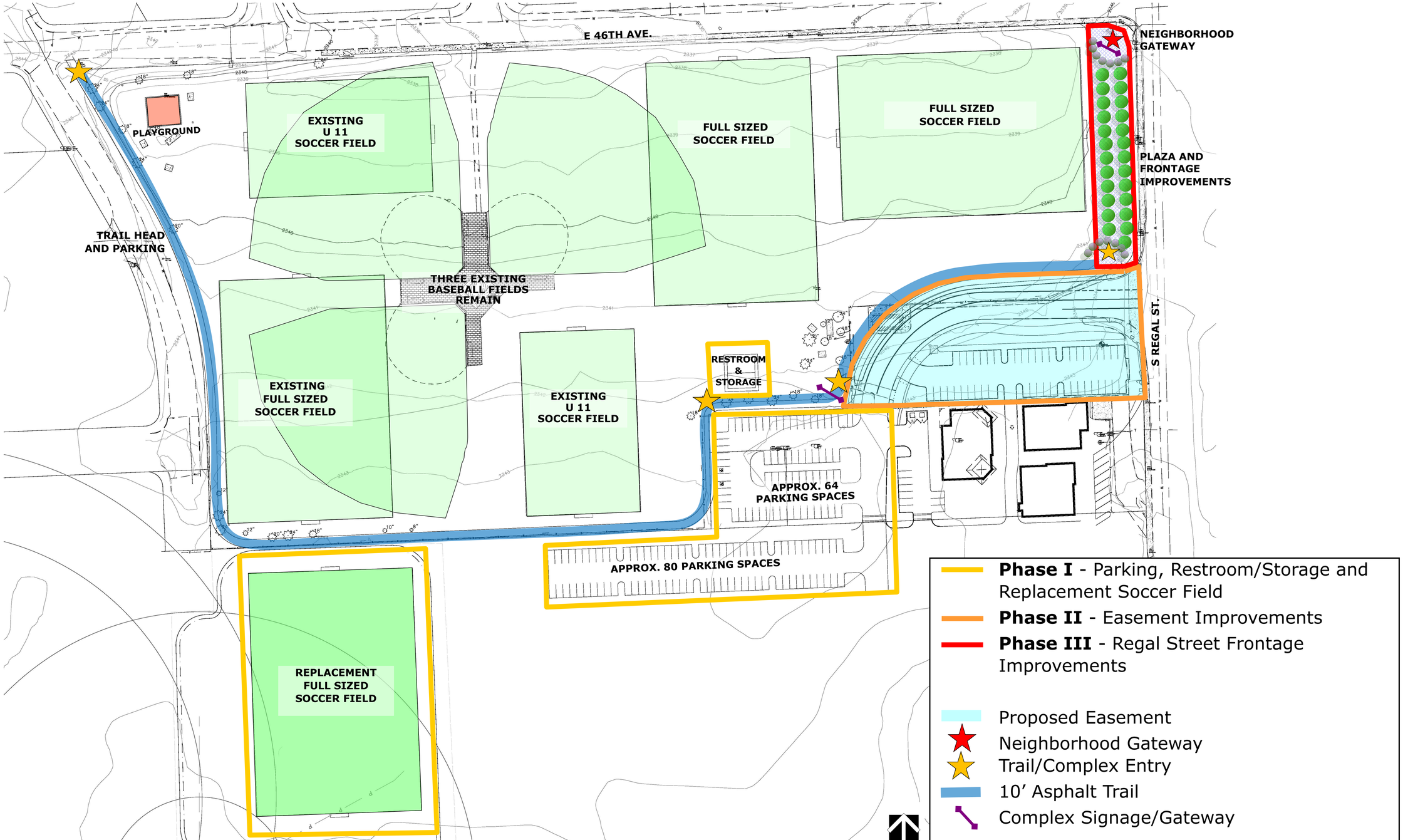
Approved as to form:

Assistant City Attorney

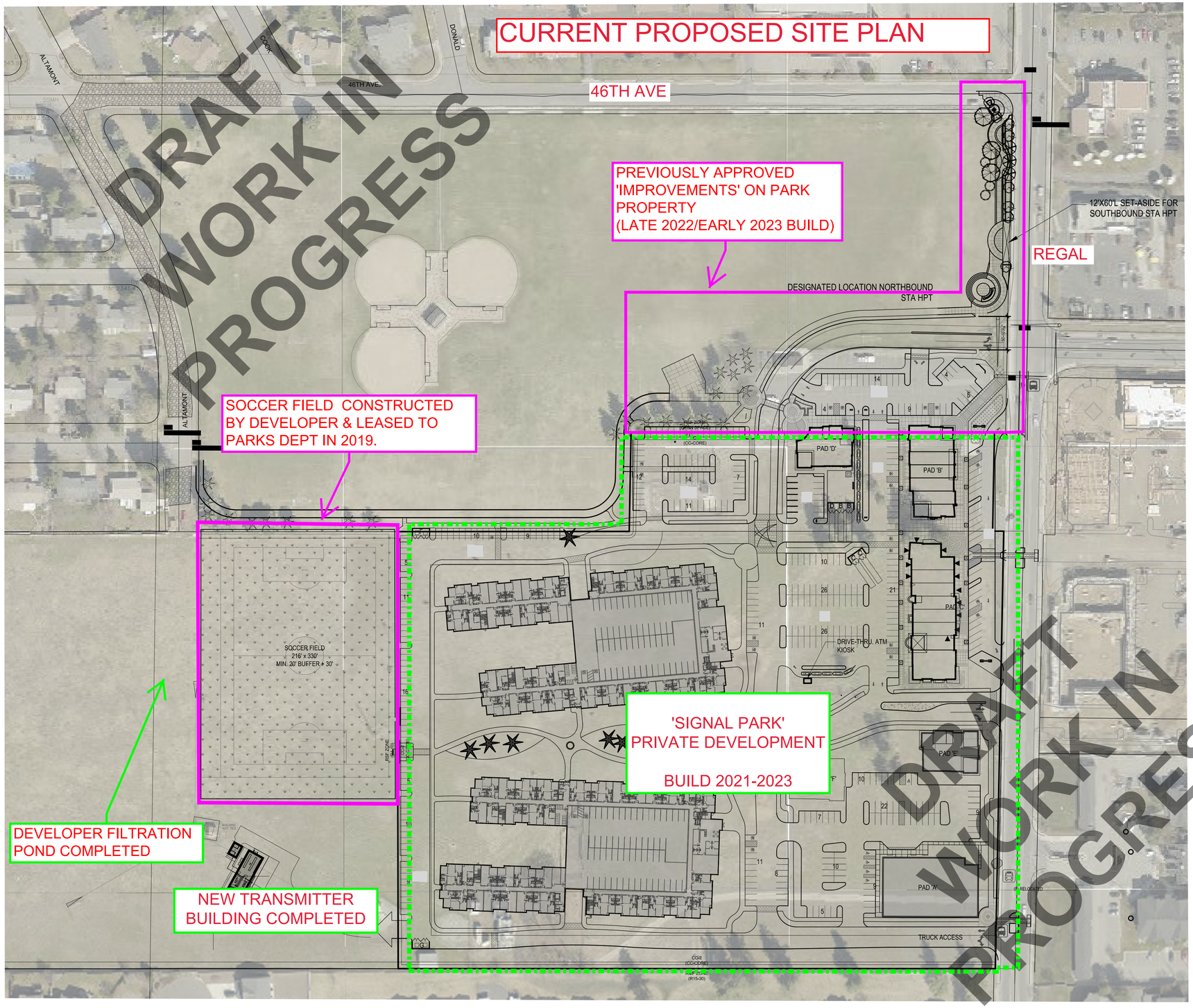


Southeast Sports Complex - Preferred Concept

Exhibit B

Michael Terrell Landscape Architecture, PLLC
1421 N Meadowwood Lane, Suite 150
Liberty Lake, WA 99019
(509) 922-7449
March 2, 2016

CURRENT PROPOSED SITE PLAN



SCALE:
1"=160'-0" @ 11x17
1"=80'-0" @ 22x34

NORTH

A. SUBJECT PROPERTY(S) DATA

PARCEL ADDRESS	PARCEL NUMBER	ZONING & LAND USE	PARCEL AREA
5222 S. REGAL ST.	34041.9077	CC-2 DC (CC-1) CC CORE	609,840 SF
2651 E. 49th AVENUE	34041.0038	RSF OPEN SPACE	85,378 SF
		ASSEMBLED PROPERTY AREA (ASSESSED):	695,218 SF
			15.96 ACRES

B. Required BLDG Setbacks & Landscaping

YARD / SITE LOCATION	REQ'D MIN. BUILDING SETBACK	SETBACK ADJACENT TO R-ZONE	REQ'D MIN LANDSCAPING
FRONT	0-FEET	10-FEET	5-FEET
SIDES	0-FEET	10-FEET	5-FEET
REAR	0-FEET	10-FEET	5-FEET
STREETS	12-FEET BACK OF CURB	12-FEET BACK OF CURB	6-FEET
USE BUFFER	-	-	6-FEET + FENCE
INTERIOR	-	-	10% PARKING AREA

C. BUILDING(S) AREA & REQUIRED PARKING

BUILDING INFORMATION		REQUIRED PARKING	
BLDG NAME	BLDG AREA	MINIMUM (1/1000 SF)	MAXIMUM (1/250 SF)
PAD 'A'	13,000 SF	13.0 STALLS	52.0 STALLS
PAD 'B'	9,300 SF	9.3 STALLS	37.2 STALLS
PAD-C	13,400 SF	13.4 STALLS	53.6 STALLS
PAD-'D'	5,100 SF	5.1 STALLS	20.4 STALLS
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TOTALS:	46,000 SF	46 Stalls	184 Stalls

RESIDENTIAL REQUIRED	438 Bedrooms	1 PER UNIT MINIMUM	438 Stalls
RESIDENTIAL PROVIDED:			603 Stalls
PROVIDED PARKING:			775 Stalls
LESS 138 SOCCER COMPLEX PARKING STALLS:			637 Stalls
DEVELOPMENT PARKING RATIO:			13.85 STALLS / 1,000 SF
REQUIRED ADA PARKING (5%):			39 ADA Stalls
PARKING LOT TREES (1 INTERIOR TREE PER 6 STALLS PER 'SMC' 17C.200.040(F)a):			129 TREES

D. PROJECT DATA

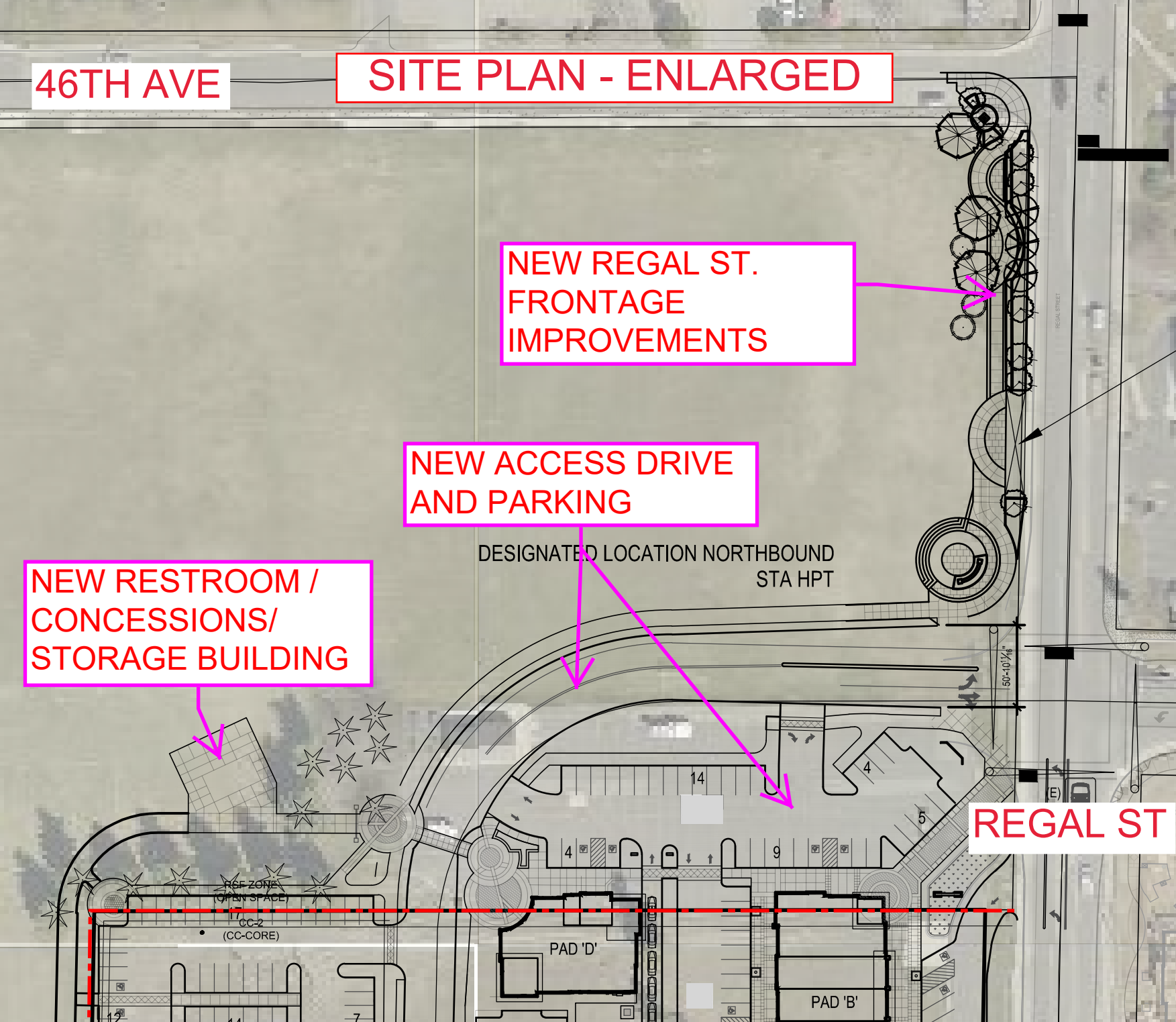
DATA	EXISTING	PROPOSED
OCCUPANCY GROUP	-	M, B, A2 & A3
CONSTRUCTION TYPE	-	TYPE-II & V-N
MAX. BLDG HEIGHT	-	55-FEET
MAX. FLOOR AREA RATIO (F.A.R.)	-	0.5
BLDG(S) SPRINKLED	-	YES
SEPA REQUIRED	-	YES
ESTIMATED PROJECT VALUE	-	$0
ESTIMATED START DATE	-	TBD

DRAFT
WORK IN
PROGRESS

Development Site Plan: Residential Buildings
Southgate - KXLY

5222 S REGAL ST, Spokane - WA | BWA: 13-175 | Schematic Design | Date: May 27, 2020

B W A BERNARDO | WILLS
ARCHITECTS PC


46TH AVE
SITE PLAN - ENLARGED
NEW REGAL ST. FRONTAGE IMPROVEMENTS
NEW ACCESS DRIVE AND PARKING
NEW RESTROOM / CONCESSIONS/ STORAGE BUILDING
DESIGNATED LOCATION NORTHBOUND STA HPT
REGAL ST
REGAL STREET
50'-10 1/16"
(E)
14
4
5
4
9
RSF ZONE (OPEN SPACE)
17
CC-2
(CC-CORE)
PAD 'D'
PAD 'B'
12
14
7

Proposed Schedule

- Developer Proposed Schedule Update:
  - 2nd Half 2021: Private Development Construction (Apartment)
  - 1st Half 2022: Park Improvement Plans
  - Park Improvements start in Fall 2022 / Spring 2023
  - Goal to complete Park Improvements in 2023
  - Additional ‘contingency’ time may be needed
  - Requesting extension through July 2026

AGREEMENT AMENDMENT

FIRST AMENDMENT OF LICENSE AND DEVELOPMENT AGREEMENT

This First Amendment of License and Development Agreement ("First Amendment") is entered into this _____ day of _____, 2021 (the "Effective Date") by and between QueenB Radio, Inc., d/b/a KXLY, a Washington corporation, Radio Park LLC, a Washington limited liability company (collectively "KXLY"), and the City of Spokane, a First Class Charter City acting through the City of Spokane Park Board (the "Park Board"), hereinafter jointly referred to as "Parties" and individually as a "Party."

RECITALS

A. The Parties previously entered into a License and Development Agreement, dated July 24, 2017 (hereinafter the "Agreement"), wherein KXLY agreed to complete certain Improvements, as defined in the Agreement; and

B. KXLY is developing Phase 1 of an apartment complex on Adjacent KXLY Property, as defined in the Agreement, and anticipates receiving Certificates of Occupancy for said Phase 1 in the 3rd quarter of 2023 ("Phase 1 Apartments"); and

C. KXLY has asked for an extension of time to complete the Improvements defined in the Agreement; and

D. The Parties wish to amend the Agreement to grant KXLY an extension of time to complete the Improvements;--

NOW, THEREFORE, the Parties agree as follows:

TERMS

1. License and Development Agreement: The License and Development Agreement dated July 24, 2017 is incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. Amendment**:** Section 2 of the Agreement is amended to read as follows (Subsections 2.1 through 2.10 shall remain unchanged):

    2. Responsibility of KXLY. KXLY through its agents and contractor, shall, at its sole cost and expense, design, engineer, construct, warrant and otherwise develop the Improvements pursuant to all appropriate Governmental Approvals and Permits; KXLY shall be responsible for obtaining all necessary Governmental Approvals including without limitation any design deviations. KXLY shall achieve Substantial Completion (as defined below) of the Improvements no later than the issuance of a certificate of occupancy for the Phase 1 Apartments or July 31, 2026, whichever first occurs. If KXLY, through no fault of its own, has not achieved Substantial Completion (as

defined below) of the Improvements ((~~within four (4) years of the Parties' mutual execution of this Agreement~~))by the agreed upon deadline, the Parties shall in good faith with due diligence reach a mutual agreement regarding reasonable time extensions, changes or alternatives to complete the Improvements. As used herein, the term "Substantial Completion" shall mean the stage in the progress of the Improvements when the Improvements are sufficiently complete in accordance with approved plans such that they may be utilized for their intended use. In addition, KXLY shall design a multi-purpose trail as generally depicted on Exhibit D. This multi-purpose trail shall not be constructed by KXLY, nor considered part of the Improvements.

CITY OF SPOKANE, PARK BOARD:

By: _____
Name: _____
Title: _____

Approved:

_____
Garrett Jones, Director of Parks and Recreation

Approved as to Form:

_____
Assistant City Attorney

KXLY:

QUEENB RADIO, a Washington Corporation

By: _____
Its: _____

RADIO PARK LLC

By: _____
Its: _____

agreement amendment request

KIEMLE HAGOOD
SPOKANE
601 W. Main Avenue, Suite 400
Spokane, WA 99201

January 12, 2021

Nick Hamad
City of Spokane Parks & Recreation
2304 E. Mallon Ave,
Spokane, WA 99202

Re: South Complex Development Agreement Extension

Nick,

Thank you for sending over your e-mail of December 8th outlining what the Parks Board will need to draft an extension. As you are aware this project has taken longer than we or anyone originally anticipated. With time comes opportunities and we feel we now have a much stronger project because of the time delay.

Originally, we had small retail planned for the East half of the property and large retail proposed on the West half. After our original planning we realized a large-scale retail project was going to be very difficult in this market. We transitioned to adding a residential component to our project to make it a more of a traditional mixed-use project. We are now going to kick off our project with a 153-unit residential building. This is a wrap project in which we build a 4-story parking structure and wrap the residential units around the parking garage. Phase two which is directly to the South will also be 153 units. The retail along the East half of the property will remain substantially the same as originally approved by the City of Spokane. We have also been working on how to name the project. In trying to keep with the history of the radio towers we have come of a project name of Signal Park. The retail will be called the Shops at Signal Park and phase one residential will be called the Frequency at Signal Park. We would love to work with the Parks Department to rename the soccer fields the South Complex at Signal Park. Soon I would love to sit down with you to discuss on how we can get this approved and work on some common signage. Below are the answers to the questions in your December 8th e-mail.

Work Completed to date:

- Soccer field was completed and turned over to the Parks Department on October 21, 2019.
- Underground utilities have been stubbed to the NW corner of the property.
- Filtration pond to handle all the onsite drainage has been completed to the West of the soccer field.
- 60,000 yards of fill dirt has been imported to the site.
- A new transmitter building has been constructed and the old transmitter building has been removed.
- Original Civil plans had to be modified and resubmitted to the City of Spokane and have been approved and permits issued in December of 2020.

agreement amendment request

Estimated schedule for private development:

- Apartment design has been completed and approved by the City of Spokane Design Review Board.
- SD drawings are being completed and will be submitted to the City of Spokane by the end of February 2021.
- Civil work will be starting in the early spring of 2021 under the permit issued in December of 2020.
- Phase 1 of the apartments will begin in the 2nd or 3rd quarter of 2021. The construction of phase 1 will take approximately 24 months with leasing starting the middle of 2023.

Estimated schedule for development of parks/public improvements) parking lot/vehicle access/restrooms/regal:

- As soon as we start construction of the phase 1 apartments Bernado Wills Architects will begin to work on the plans for the bathrooms and parks improvements. The Civil plans have already been completed and permitted. I would anticipate having plans to the Parks Department by the end of 2021.
- Final plans and permits for bathrooms by the spring of 2022.
- Our plan is to have all of the park's improvements completed along with the access to the intersection, parking and bathrooms when the phase 1 Apartments are completed.
- We are working with our contractors to come up with the exact start date to have both phases completed at the same time. I would anticipate starting on the park's improvement late in 2022 or early 2023.

Current site plan for the KXLY development:

- Attached.

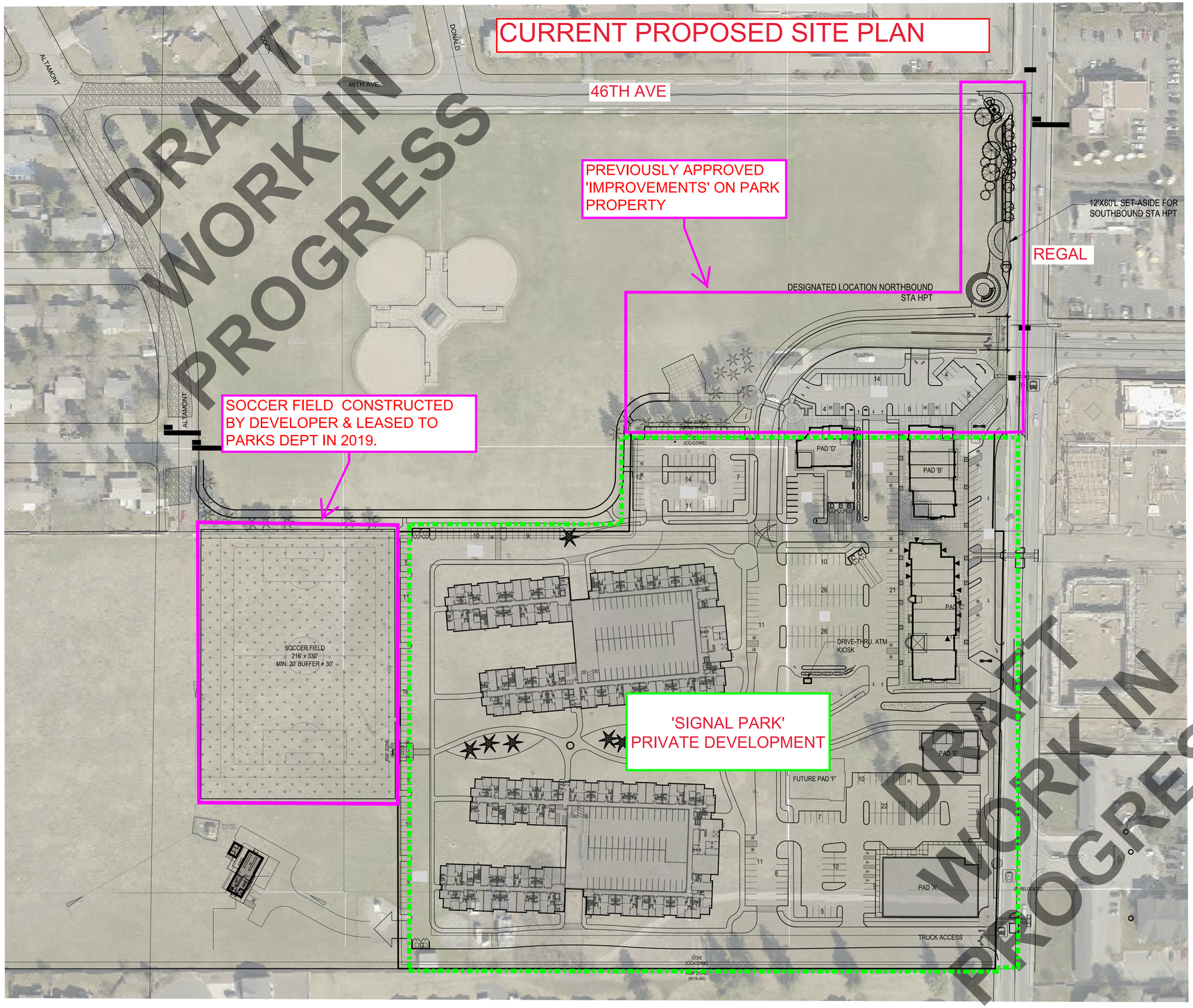
Nick, as you can see the above schedule our goal is to have the parks portion of the project completed by 2023 and feel this is a realistic time frame. With there still being uncertainty in the market we would like to ask for an extension our agreement to the earlier of issuance of the Certificate of Occupancy of the Phase 1 Apartments or July 31, 2026. This will allow us some time incase our project get delayed.

If you or anyone at the Parks Department has any questions, please reach out to myself and I would be happy to answer all questions.

Sincerely,

Carl Guenzel
Signal Park

CURRENT PROPOSED SITE PLAN



DRAFT WORK IN PROGRESS

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SEPA REQUIRED	-	YES
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ESTIMATED START DATE	-	TBD

DRAFT WORK IN PROGRESS

SCALE:
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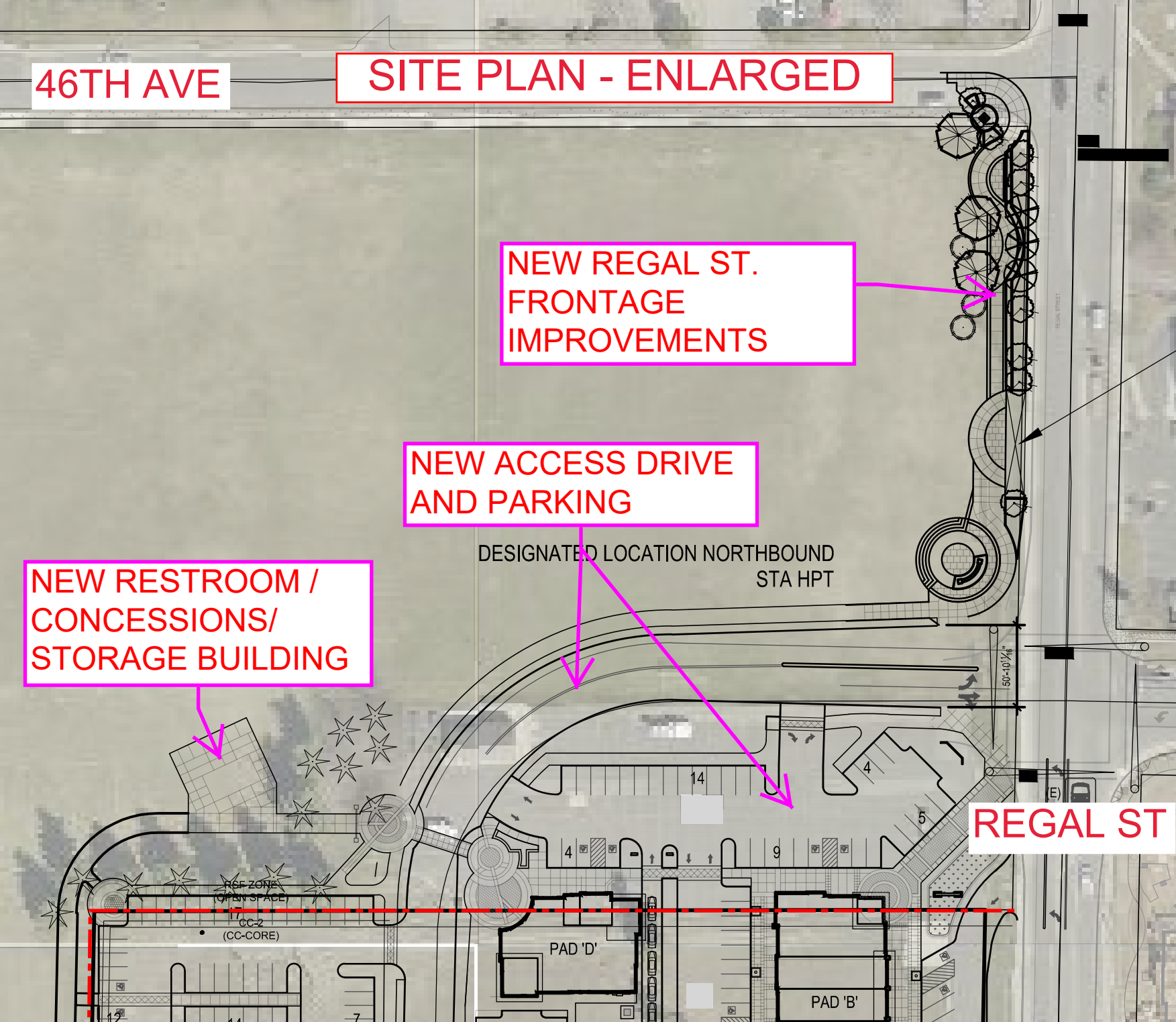
NORTH

Development Site Plan: Residential Buildings
Southgate - KXLY

5222 S REGAL ST, Spokane - WA | BWA: 13-175 | Schematic Design | Date: May 27, 2020

B W A BERNARDO | WILLS ARCHITECTS PC


46TH AVE
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NEW REGAL ST. FRONTAGE IMPROVEMENTS
NEW ACCESS DRIVE AND PARKING
NEW RESTROOM / CONCESSIONS/ STORAGE BUILDING
DESIGNATED LOCATION NORTHBOUND STA HPT
REGAL ST
REGAL STREET
50'-10 1/16"
(E)
14
4
5
4
9
RSF ZONE (OPEN SPACE)
17
CC-2
(CC-CORE)
PAD 'D'
PAD 'B'
12
14
7

AGREEMENT AMENDMENT

FIRST AMENDMENT OF LICENSE AND DEVELOPMENT AGREEMENT

This First Amendment of License and Development Agreement ("First Amendment") is entered into this _____ day of _____, 2021 (the "Effective Date") by and between QueenB Radio, Inc., d/b/a KXLY, a Washington corporation, Radio Park LLC, a Washington limited liability company (collectively "KXLY"), and the City of Spokane, a First Class Charter City acting through the City of Spokane Park Board (the "Park Board"), hereinafter jointly referred to as "Parties" and individually as a "Party."

RECITALS

A. The Parties previously entered into a License and Development Agreement, dated July 24, 2017 (hereinafter the "Agreement"), wherein KXLY agreed to complete certain Improvements, as defined in the Agreement; and

B. KXLY is developing Phase 1 of an apartment complex on Adjacent KXLY Property, as defined in the Agreement, and anticipates receiving Certificates of Occupancy for said Phase 1 in the 3rd quarter of 2023 ("Phase 1 Apartments"); and

C. KXLY has asked for an extension of time to complete the Improvements defined in the Agreement; and

D. The Parties wish to amend the Agreement to grant KXLY an extension of time to complete the Improvements;--

NOW, THEREFORE, the Parties agree as follows:

TERMS

1. License and Development Agreement: The License and Development Agreement dated July 24, 2017 is incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. Amendment**:** Section 2 of the Agreement is amended to read as follows (Subsections 2.1 through 2.10 shall remain unchanged):

    2. Responsibility of KXLY. KXLY through its agents and contractor, shall, at its sole cost and expense, design, engineer, construct, warrant and otherwise develop the Improvements pursuant to all appropriate Governmental Approvals and Permits; KXLY shall be responsible for obtaining all necessary Governmental Approvals including without limitation any design deviations. KXLY shall achieve Substantial Completion (as defined below) of the Improvements no later than the issuance of a certificate of occupancy for the Phase 1 Apartments or July 31, 2026, whichever first occurs. If KXLY, through no fault of its own, has not achieved Substantial Completion (as

defined below) of the Improvements ((~~within four (4) years of the Parties' mutual execution of this Agreement~~))by the agreed upon deadline, the Parties shall in good faith with due diligence reach a mutual agreement regarding reasonable time extensions, changes or alternatives to complete the Improvements. As used herein, the term "Substantial Completion" shall mean the stage in the progress of the Improvements when the Improvements are sufficiently complete in accordance with approved plans such that they may be utilized for their intended use. In addition, KXLY shall design a multi-purpose trail as generally depicted on Exhibit D. This multi-purpose trail shall not be constructed by KXLY, nor considered part of the Improvements.

CITY OF SPOKANE, PARK BOARD:

By: _____
Name: _____
Title: _____

Approved:

_____
Garrett Jones, Director of Parks and Recreation

Approved as to Form:

_____
Assistant City Attorney

KXLY:

QUEENB RADIO, a Washington Corporation

By: _____
Its: _____

RADIO PARK LLC

By: _____
Its: _____

08/03/17 SB

ORIGINAL AGREEMENT

AGENDA SHEET FOR PARKBOARD MEETING OF: APRIL 14, 2016

Submitting Division	Contact Person	Phone No.
Parks & Recreation	Garrett Jones	X5462

OPR16-0420

DEPARTMENT
- ☐ Finance
- ☐ Operations
- ☐ Recreation/Golf
- ☐ Riverfront Park
- ☑ Parks & Recreation

COMMITTEE
- ☐ Riverfront
- ☐ Golf
- ☐ Recreation
- ☑ Land
- ☐ Urban Forestry
- ☐ Finance

RECEIVED
AUG 02 2017
CITY CLERK'S OFFICE

CLERK'S FILE _____
RENEWS _____
CROSS REF _____
ENG _____
BID _____
REQUISITION _____

AGENDA WORDING:

Approve the Access and Reciprocal Parking Easement and License and Development Agreement with Queen B Radio, Inc with the following contingencies:
1. Final city legal review of documents including Exhibits
2. 1984 RCO Project restrictions
3. Soccer Field lease

BACKGROUND:
(Attach additional sheet if necessary)

QueenB Radio, Inc has been negotiating with city staff and the Park Board on an easement, reciprocal parking agreement, development agreement and soccer lease back to the city for recreation use. The agreements were approve at Land Committee on April 6, 2016 and forwarded on to the full Park Board for further consideration.

RECOMMENDATION:

Approve these documents with contingencies

Fiscal Impact:	**Budget Account:**
Expenditure: $0	
Revenue: $0	

ATTACHMENTS: Include in Packets: 1) Access and Reciprocal Parking Easement with exhibits; 2) License and Development Agreement with exhibits; 3) Letter of Intent; 4) City Legal Opinion
On file for Review in Office of City Clerk

SIGNATURES:

Requestor - Garrett Jones

Dept. Mgr. - Al Vorderbrueggen

Parks Accounting – ~~Nicole Edwards~~ Mark Buening

Legal Dept. - Pat Dalton

Director of Parks and Recreation

DISTRIBUTION:

Parks: Nicole Edwards
Parks: Pamela Clarke
Parks: Sari Luciano
Parks: Lori Harvey

Budget Manager: Tim Dunivant
Requester: G. Jones, A. Vorderbrueggen

PARK BOARD ACTION:

APPROVED BY
SPOKANE PARK BOARD:

4-14-16

OPR2016-0420

ORIGINAL AGREEMENT

LICENSE AND DEVELOPMENT AGREEMENT

This License and Development Agreement ("**Agreement**") is made as of this 24TH day of July, 2017 (the "**Effective Date**"), by and between QueenB Radio, Inc., d/b/a KXLY, a Washington corporation ("**KXLY**"), and the City of Spokane, a First Class Charter City acting through the City of Spokane Park Board ("**Park Board**"), hereinafter jointly referred to as "**Parties**" and individually as a "**Party**".

RECITALS

A. The Parties have entered into an Access and Reciprocal Parking Easement, of even date herewith ("**Easement and Agreement**"), that provides, among other things, for (i) the dedication of an easement and construction of improvements on real property owned by the Park Board as described in the attached Exhibit A (the "**Park Property**"), and (ii) a reciprocal parking and access easement benefitting the Park Property on property owned by KXLY.

B. KXLY owns certain real property in Spokane, Washington, consisting of approximately 14 acres, as described on the attached Exhibit B ("**KXLY Property**"). The KXLY Property contains two existing broadcast towers, a generator building, improvements and open space. The Parties have entered into a Ground Lease with City of Spokane Park Board, of even date herewith (the "**Ground Lease**"), pursuant to which KXLY agrees to lease a portion of the KXLY Property to the Park Board, for purposes of construction, operation, maintenance, repair and replacement of a sports/soccer field.

C. Adjacent and to the east of the KXLY Property is an additional fifteen (15) acres of property, owned by KXLY, which is located south of the intersection of Regal Street and the Palouse Highway ("**Adjacent KXLY Property**"). See Exhibit C.

D. The Park Property is presently developed as a youth sporting complex which includes soccer fields, baseball diamonds, surface parking, restrooms and a concessions and storage area/building. In order to construct the improvements contemplated by the Easement and Agreement, it is necessary to reconfigure a sports field on the Park Property, relocate existing improvements and buildings, plus construct a new sports/soccer field on the KXLY Property.

E. Through this Agreement, the Parties desire to cooperate with each other in developing and constructing the identified improvements upon the following terms, covenants and conditions. Exhibit D, attached hereto, contains a depiction of the Improvements (defined herein).

NOW, THEREFORE, the Parties agree as follows:

1. Definitions. The following capitalized terms have the meaning set forth below:

ORIGINAL AGREEMENT

1.1 "**Governmental Approvals**" means the receipt of valid Permits, permission or other approvals and entitlements necessary for the construction, use and operation of the Improvements that are issued by a Governmental Authority.

1.2 "**Governmental Authority**" means any federal, Washington State, Spokane County or City of Spokane governmental entity that exercises executive, legislative, administrative, regulatory, judicial, or public authority with respect to the Park Property, and/or the KXLY Property.

1.3 "**Improvements**" mean the following:

1.3.1 construction of public vehicle and pedestrian access from the Regal Street and Palouse Highway intersection on a street with associated pedestrian/multimodal improvements into the Park Property ("**Joint Access**");

1.3.2 reconstruction of the parking lot located on Exhibit A;

1.3.3 reconstruction of restrooms, concession and storage buildings with associated underground utilities located on Exhibit A;

1.3.4 construction of sidewalk, hardscapes, signage with landscaping adjacent to the west side of Regal Street from 46th Avenue to the Regal Street and Palouse Highway intersection; and

1.3.5 installation of a soccer field on KXLY Property.

1.4 "**Improvement Work**" means the construction and installation of the Improvements according to the Improvement Plans, requirements of any Governmental Authority and other agreed documents.

AGREEMENT TEXT AMENDED

1.5 "**Permits**" means all written approvals, licenses, permits, authorizations, consents, grants, franchises, orders, exemptions, deviations, variances, notices or registrations with or by any Governmental Authority under any law, ordinance, regulation or standard that authorizes development and use of the Improvements.

2. Responsibility of KXLY. KXLY through its agents and contractor, shall, at its sole cost and expense, design, engineer, construct, warrant and otherwise develop the Improvements pursuant to all appropriate Governmental Approvals and Permits; KXLY shall be responsible for obtaining all necessary Governmental Approvals including without limitation any design deviations. If KXLY, through no fault of its own, has not achieved Substantial Completion (as defined below)of the Improvements within four (4) years of the Parties' mutual execution of this Agreement, the Parties shall in good faith with due diligence reach a mutual agreement regarding reasonable time extensions, changes or alternatives to complete the Improvements. As used herein, the term "Substantial Completion" shall mean the stage in the progress of the

ORIGINAL AGREEMENT

Improvements when the Improvements are sufficiently complete in accordance with approved plans such that they may be utilized for their intended use. In addition, KXLY shall design a multi-purpose trail as generally depicted on Exhibit D. This multi-purpose trail shall not be constructed by KXLY, nor considered part of the Improvements.

AGREEMENT TEXT AMENDED

2.1 Design Standards. The Improvements identified in section 1.3.1 shall be similar in design and construction for those improvements installed by the Park Board on other City sports fields within the past ten (10) years. The Joint Access shall be designed as a local access commercial street with a design deviation to reduce the width of the right of way, address aspects of the site, provide traffic calming features, achieve superior design function and terminate at the Adjacent KXLY Property.

2.2 Submission of Preliminary Improvements Plans. KXLY shall submit to the Parks Department preliminary plans which contain (i) a site plan depicting the proposed Improvements, to include but not be limited to, the location of buildings, structures, pedestrian and vehicle ingress and egress to the Park Property, (ii) renderings showing the elevation and general appearance of the Improvements, and (iii) such other matters that will reasonably lead to the development of the Improvement Plans set forth in Section 2.4 below, hereinafter "**Preliminary Improvements Plans**."

The Parties shall meet and confer in good faith in order to reach agreement on the Preliminary Improvements Plans. The Park Board shall approve or disapprove of the Preliminary Improvements Plans within thirty (30) days from KXLY's delivery of the Preliminary Improvements Plans; provided, the Park Board shall not unreasonably withhold, condition, or delay approval of the Preliminary Improvements Plan. In the event the Parks Department disapproves the Preliminary Improvements Plans, KXLY shall revise the Preliminary Improvements Plans as KXLY deems necessary, and thereafter resubmit the same to the Parks Department for review and approval, which approval of the Preliminary Improvements Plans shall not be unreasonably withheld, conditioned or delayed. If the Parties are unable to resolve any disagreement over the Preliminary Improvements Plans within a reasonable period of time not to exceed thirty (30) days following KXLY's delivery of the revised Preliminary Improvements Plans, then either Party may invoke the provisions of Section 7 of this Agreement.

2.3 Park Board Approval of Final Improvement Plans. Within one hundred (180) days after approval of the Preliminary Improvements Plans, or as otherwise mutually agreed, KXLY shall prepare or cause to be prepared the following documents, in substantial conformance with the approved Preliminary Improvements Plans for review and approval by the Parks Department:

2.3.1 documents, including but not limited to working drawings, elevations, plans and specifications which will be the basis for construction

documents, along with identifying the persons and entities that will develop, design, and construct the Improvements (the "**Improvement Development Plan**"); and

2.3.2 a schedule for the completion of the Improvements according to the Improvement Development Plan ("**Improvement Schedule**").

The identified terms set forth in 2.2.1 and 2.3.2 above are collectively referred to as the "**Improvement Plans.**"

The Parties shall meet and confer in good faith in order to reach agreement on the Improvement Plans. The Park Board's approval of the Improvement Plans shall not be unreasonably withheld, conditioned or delayed. If the Parties are unable to resolve any disagreement over the Improvement Plans within a reasonable period of time not to exceed thirty (30) days following KXLY's delivery of the Improvement Plans, then either Party may invoke the provisions of Section 7 of this Agreement.

2.4 Governmental Approval of Improvements. KXLY shall, at no cost or expense to the City of Spokane and/or Park Board, obtain all Governmental Approvals and Permits that are required for the Improvements to be done on the Park Property and KXLY Property. The Park Board (or the City of Spokane) shall cooperate, review and sign all applications for Permits and approvals necessary for construction and promptly provide to KXLY any information in the Park Board's possession that is required to make application for or to obtain any such approvals and Permits

2.5 Construction of Improvements. KXLY shall cause the Improvements to be commenced and completed in accordance with the terms of this Agreement through a licensed, bonded and insured general contractor (the "**General Contractor**"), at no cost or expense to the City of Spokane and/or Park Board. KXLY shall pay the General Contractor's costs and fees to construct the Improvements. KXLY shall indemnify, defend, and hold the City of Spokane and Park Board harmless from any claim(s) that construction of the Improvements was subject to Washington public works and prevailing wage requirements.

2.6 Construction Management. KXLY shall be responsible for, through its General Contractor or otherwise, performing the construction of the Improvements with reasonable care, prudence, attention to quality, timing, and cost control to ensure compliance with the terms of this Agreement.

2.7 Construction Inspection. KXLY and the Park Board shall each designate a qualified person to inspect and confirm the Improvements are constructed in accordance with the Governmental Approvals and Permits, and all applicable laws. The Parties and designees shall have the right to make reasonable inspection of the construction progress at

all times, provided that such inspection is coordinated with the General Contractor's representative at the construction site and does not unnecessarily interfere with the progress of the Improvements.

2.8 Bonds, Liens and Warranty. The General Contractor shall provide payment and performance bonds guaranteeing: (a) the payment of all laborers, suppliers and material men and (b) the performance of the Improvements, respectively. KXLY shall indemnify, hold harmless, and defend the Park Board from and against any lien and pay the lien plus reasonable attorney fees without cost or expense assessed against the City or Park Board. The General Contractor shall warranty the Improvements to be free from defects, subsidence and failure for a period of two (2) years after final acceptance by the Parties. The Park Board shall be a beneficiary of this warranty.

2.9 Compliance. The Improvements shall be completed in compliance with the Plan and all applicable Governmental Approvals and Permits, all applicable laws and the terms of this Agreement. No changes shall be made to the Plan or any Governmental Approvals or Permits without the Parks Department prior written approval.

2.10 Availability of Collected Stormwater. KXLY intends to collect and store stormwater on the KXLY Property in a pond or similar feature. KXLY agrees to permit the Park Board to use the collected stormwater for irrigation at its cost and expense. KXLY will install "Purple Pipe" from the developed stormwater pond to an area adjacent to the sports field developed on the KXLY Property.

3. License and Real Property Interests.

3.1 License. The Park Board hereby grants KXLY, General Contractor and their respective consultants a non-exclusive license to enter and remain on areas of the Park Property as reasonably necessary ("**Licensed Area**") to inspect, stake or mark, demolish, construct, improve and otherwise install and complete the Improvements in accordance with the terms of this Agreement. KXLY shall, and shall cause its agents, consultants, and General Contractor to, exercise best efforts to avoid creating unreasonable noise, dust or other inconvenience to patrons, guests and invitees of the Park Property. The Improvements construction shall be performed with due care, returning the remainder of the Licensed Area to the condition in which it was found, reasonable wear and tear excepted. Without limiting the foregoing:

(a) Representatives of KXLY, General Contractor and the Parks Department shall meet periodically, as requested, in order to establish the particular details and scheduling of the Improvements that may (i) cause significant noise, dust, fumes or odors (such as, by way of example and not limitation, demolition, excavation, paving, and painting), (ii) involve the movement of construction vehicles or heavy equipment in areas regularly used by patrons, guests, invitees or

employees using the Park Property, (iii) alter regular pedestrian or vehicular access to the Park Property or (iv) otherwise materially disrupt the normal operation and use of the Park Property, to the extent commercially practicable, so as to eliminate or minimize interference with the normal operation of the Park Property.

(b) KXLY, its agents, consultants, and General Contractor shall, and they shall cause all subcontractors to, take all appropriate safety measures to protect patrons, guests, invitees, and employees of the Park Board from injury or damage.

(c) The Parties, their agents, consultants, and contractors shall cooperate and coordinate construction activities in a manner that does not interfere with or delay the Improvements.

4. Term. This Agreement shall commence on the Effective Date and shall terminate upon completion of the Improvements and commencement of the Lease Agreement where KXLY leases the developed sports field in section 1.3.5 to the Park Board upon the following terms: (1) the rent is one dollar ($1.00) per year; (2) the initial term is 20 years with the Park Board given one right to renew for an additional 20-years upon the same terms; (3) the use, occupancy, maintenance and liability shall be at the sole expense of the Park Board; and (4) subject to additional terms, conditions and covenants that are usual and customary in similar agreements. The Lease shall contain a First Right of Refusal that may be exercised at the end of the renewal term.

5. Indemnity.

5.1 Indemnification Obligation. KXLY shall defend, indemnify and hold the Park Board, and its officers, directors, employees, agents, contractors, lessees, guests, invitees, successors and assigns of each of the foregoing (collectively, the **"Park Board Indemnitees"**) harmless against and from any and all claims, costs, damages or expenses arising from the conduct, management, or performance of the Improvements, including, without limitation, any and all claims arising from: (a) any breach or default on the part of KXLY or the General Contractor in performance of any covenant or agreement on its part to be performed pursuant to the terms of this Agreement; and (b) any act of negligence or willful misconduct of KXLY, the General Contractor, or any of their agents, servants, employees, contractors, subcontractors, or licensees. Such indemnity shall include any and all costs, attorney fees, expenses, and liabilities incurred in or about any such claim, action, or proceeding brought thereon, and if any action or proceeding be brought against any of the Park Board Indemnitees by reason of any such claim. KXLY, on notice from the Park Board, shall defend against such action or proceeding, unless such action or proceeding is defended by counsel for any carrier of public liability insurance provided herein.

5.2 Limitation on Indemnification. If and to the extent this Agreement is a contract or agreement subject to Revised Code of Washington (**"RCW"**) Section 4.24.115 as in effect on the date of this Agreement, all provisions of this Agreement pursuant to

which KXLY agrees to indemnify the Park Board Indemnitees against liability for damages arising out of bodily injury to persons or damage to property (**"Damages"**) in connection with the construction, alteration, repair, addition to, subtraction from, improvement to or maintenance of any improvement to the Park Board Property (**"Indemnities"**) will be limited by the provisions of this Section 5.2. None of such Indemnities will apply to Damages caused by or resulting from the sole negligence of the indemnitee, its agents or employees. To the extent that any such Damages are caused or result from the concurrent negligence of (a) the indemnitee or its agents or employees and (b) the indemnitor or its agents or employees, the Indemnities will apply only to the extent of the indemnitor's negligence. If RCW 4.24.115 is hereafter amended to eliminate or modify the limitations on indemnities set forth therein, this Section 5.2 will automatically and without further act by either Party be deemed amended to remove any of the limitations contained in this Section 5.2 that are no longer required by then-applicable law. KXLY and the Park Board have specifically negotiated the waiver of and hereby specifically waive any provisions of any industrial insurance act, including Title 51 of the RCW, or any other employee benefit act which might otherwise operate to release or immunize KXLY from its obligations under Section 5.1 and this Section 5.2.

6. KXLY's Liability Insurance.

(a) KXLY shall, or cause its General Contractor to purchase and maintain such insurance set forth below that may arise out of or result from KXLY's or the General Contractor's acts or omissions under this Agreement to include its agents, contractors or anyone acting on behalf of KXLY.

(b) The comprehensive general liability insurance shall include premises operations (including explosion, collapse, and underground coverage), elevator, independent contractors, completed operations, and blanket contractual liability on all written contracts, all including broad form property damage coverage.

(c) The comprehensive general and automobile liability insurance shall be written for not less than limits of liability as follows:

(A) Comprehensive general liability insurance with a limit not less than $1,500,000.00 each occurrence covering liability arising from bodily injury, property damage, independent contractors, products-completed operations, and liability assumed under an insured contract.

(B) Comprehensive automobile liability insurance with a limit of not less than $1,500,000.00 each occurrence covering liability arising from bodily injury and property damage.

(C) Professional liability insurance with a limit of not less than $1,500,000.00 including errors and omissions or equivalent coverage for claims arising out of KXLY's, its contractors' (including the General Contractor) and their subcontractors' negligent or willful errors or omissions during the performance of the construction services contemplated by this Agreement. Such insurance shall also include coverage for reasonable attorneys' fees and investigation costs.

(d) The foregoing policies shall contain a provision that coverages afforded under the policies will not be canceled or be nonrenewable until at least thirty (30) days' prior written notice has been given to the Park Board. Certificates of insurance from KXLY and the General Contractor showing such coverages to be in force and naming the Park Board as an additional insured shall be filed with the Park Board prior to commencement of the Improvements.

7. Dispute Resolution.

7.1 If either party has a disagreement, dispute, claim, or seeks relief ("**Dispute**") against the other party under this Agreement, notice of the same shall be sent to the other party. The notice shall provide a brief description of the Dispute. Within forty-eight (48) hours of delivering the notice, the Parties shall meet and confer to resolve the Dispute. If the Dispute is not resolved within five (5) days from the notice, the matter may be resolved according to section 7.2.

7.2 Following conclusion of the process in section 7.1, the Project Neutral (defined below) shall impartially consider the Dispute and render a written decision that is final and binding. The Project Neutral shall be jointly selected within ten (10) days of delivery of the Dispute and be a design professional (such as an architect) who has knowledge of similar property and projects in Spokane County.

The Project Neutral's decision shall be based upon the facts and legal authority relating to the Dispute. The Project Neutral may conduct an independent investigation into any presented matter and may request the Parties submit additional information. The Project Neutral shall conduct a hearing and then issue a written decision within thirty (30) days of the delivery of the Dispute. The Parties shall share the fees and costs of the Project Neutral.

8. Events of Default; Remedies.

8.1 Events of Default -- KXLY. Upon the occurrence of any one or more of the following events which shall continue and not be cured in accordance with the notice and opportunity to cure provisions set forth in this Section, the Park Board may, at its option, declare an "Event of Default" under this Agreement:

(a) KXLY fails to comply with any term or fails to perform any of its obligations under this Agreement and such failure has a material adverse effect on the Park Board or creates a material risk of injury to person or damage to property;

(b) KXLY fails to comply with any term or fails to perform any of its obligations under this Agreement, where such failure is not within the terms of Section 8.1(a) above, and continues for a period of ten (10) days after written notice from the Park Board;

(c) if any representation or warranty made by KXLY in this Agreement shall have been false or misleading as of the day it was made, provided that if such untrue representation or warranty is susceptible of being cured, KXLY shall have the right to cure such representation or warranty within ten (10) days of receipt of notice from the Park Board;

(d) any Governmental Approvals or Permits required to perform the Improvement expire or otherwise are not in full force and effect.

8.2 Events of Default -- the Park Board. If the Park Board fails to comply with any term or fails to perform any of its obligations under this Agreement for a period of thirty (30) days after written notice from KXLY, KXLY may, at its option, declare an Event of Default under this Agreement.

8.3 Cure. If a default subject to a cure period hereunder is not reasonably susceptible of cure within the applicable cure period provided above, but the defaulting Party commences to cure such default within the applicable cure period and thereafter diligently prosecutes the cure to completion, and completes such cure within thirty (30) days of commencing the cure, such default shall not become an Event of Default; provided, if the nature of the default is such that it cannot be fully cured within 30 days due to circumstances not under the defaulting Party's control, the period of time in which defaulting Party must cure the violation shall be extended for such additional time reasonably necessary to complete the cure.

8.4 Remedies. Upon the occurrence of any Event of Default, the non-defaulting Party may, in addition to other rights as shall be granted under any other provision of this Agreement, but without waiving such other rights, (a) perform any and all work necessary to complete, secure and/or protect the Improvements, (b) bond or discharge any lien upon such Party's property not bonded or discharged by the defaulting Party as required hereunder, (c) specifically enforce the defaulting Party's unperformed obligations, and (d) seek arbitration as set forth in Section 7 herein or exercise all rights and remedies available at law or in equity through a court with personal and subject matter jurisdiction.

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9. Forced Delay. Performance by either Party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, general lack of transportation, general governmental restrictions, regulations, orders or priority, unusually severe weather, breach of this Agreement by the other Party, or acts or failures to act of Governmental Authority after diligent best efforts to cause the Governmental Authority to act. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within fifteen (15) days of the commencement of the cause. In the event the time for performance of a Party's obligation is extended under this Section 9, the Parties shall reasonably and in good faith cooperate to minimize the duration of the extension and shall revise the Skywalk Plan to reflect the resulting extension.

10. Notice. All notices required or permitted to be given hereunder shall be in writing, may be given by personal delivery, United States mail (certified, return receipt requested) or overnight delivery by a service retaining evidence of delivery, and shall be deemed delivered when received at the address set forth below.

If to the Park Board: Attn: Leroy Eadie, Director of Parks and Recreation
5th Floor City Hall
808 W Spokane Falls Blvd
Spokane, WA 99201

With copies to: City of Spokane
Office of the City Attorney
City Hall, Fifth Floor
808 W. Spokane Falls Blvd.
Spokane, WA 99201

If to KXLY: QueenB Radio, Inc.
Attn: Tim Anderson
500 W. Boone Avenue
Spokane, WA 99201

With a copy to: Stanley M. Schwartz
Witherspoon Kelley
422 West Riverside Avenue, Suite 1100
Spokane, WA 99201

11. Binding Effect. This Agreement will bind and inure to the benefit of the Parties and their successors and assigns.

ORIGINAL AGREEMENT

12. Entire Agreement. This Agreement shall supersede any prior representation or agreement, written or oral. This Agreement shall not be subject to modification or amendment except in a writing executed by both Parties.

13. Attorney Fees. In any action to enforce any provision of this Agreement, the prevailing Party shall be entitled to recover in addition to any other amounts awarded, its reasonable attorney fees and costs of action.

14. Governing Law. This Agreement shall be interpreted and governed by and under the laws of Washington.

15. Authority. If either Party is a corporation or partnership or other entity, each person executing this Agreement on behalf of such Party hereby represents and warrants that such Party is a duly formed and existing entity and has full right and authority to execute and deliver this Agreement and that each person signing on behalf of such Party is authorized to do so.

16. Counterparts. This Agreement may be executed in multiple counterparts, and each counterpart, when fully executed and delivered, shall constitute an original instrument, and all such multiple counterparts shall constitute but one and the same instrument.

[*signature page follows*]

ORIGINAL AGREEMENT

IN WITNESS WHEREOF, KXLY and the Park Board do hereby execute this Agreement as of the Effective Date.

CITY OF SPOKANE, PARK BOARD:

By: _____
Name: Christopher J Wright
Title: President

By: _____
Name: _____
Title: _____

Approved:

Jason Conley for Leroy Eadie
Leroy Eadie, Director of Parks and Recreation

Attest:

Spokane City Clerk

Approved as to Form:

_____
_____,Assistant City Attorney

KXLY:

QUEENB RADIO, a Washington Corporation

By: Elizabeth Murphy Burns
Its: President CEO

ORIGINAL AGREEMENT

IN WITNESS WHEREOF, KXLY and the Park Board do hereby execute this Agreement as of the Effective Date.

CITY OF SPOKANE, PARK BOARD:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Approved:

_____
Leroy Eadie, Director of Parks and Recreation

Approved as to Form:

_____
_____,Assistant City Attorney

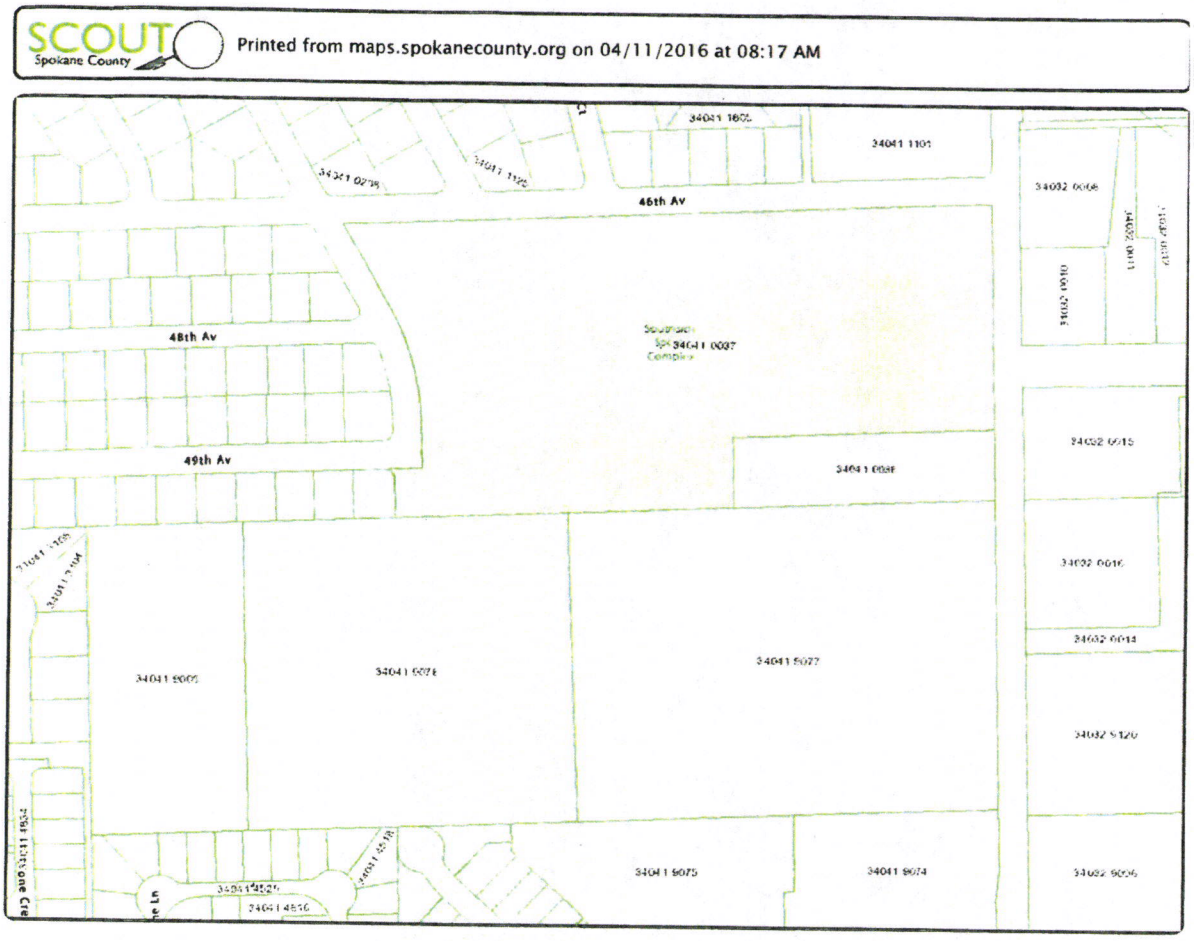
KXLY:

QUEENB RADIO, a Washington Corporation

By: Kelly Elizabeth M Benn
Its: President

ORIGINAL AGREEMENT

EXHIBIT A
Park Property

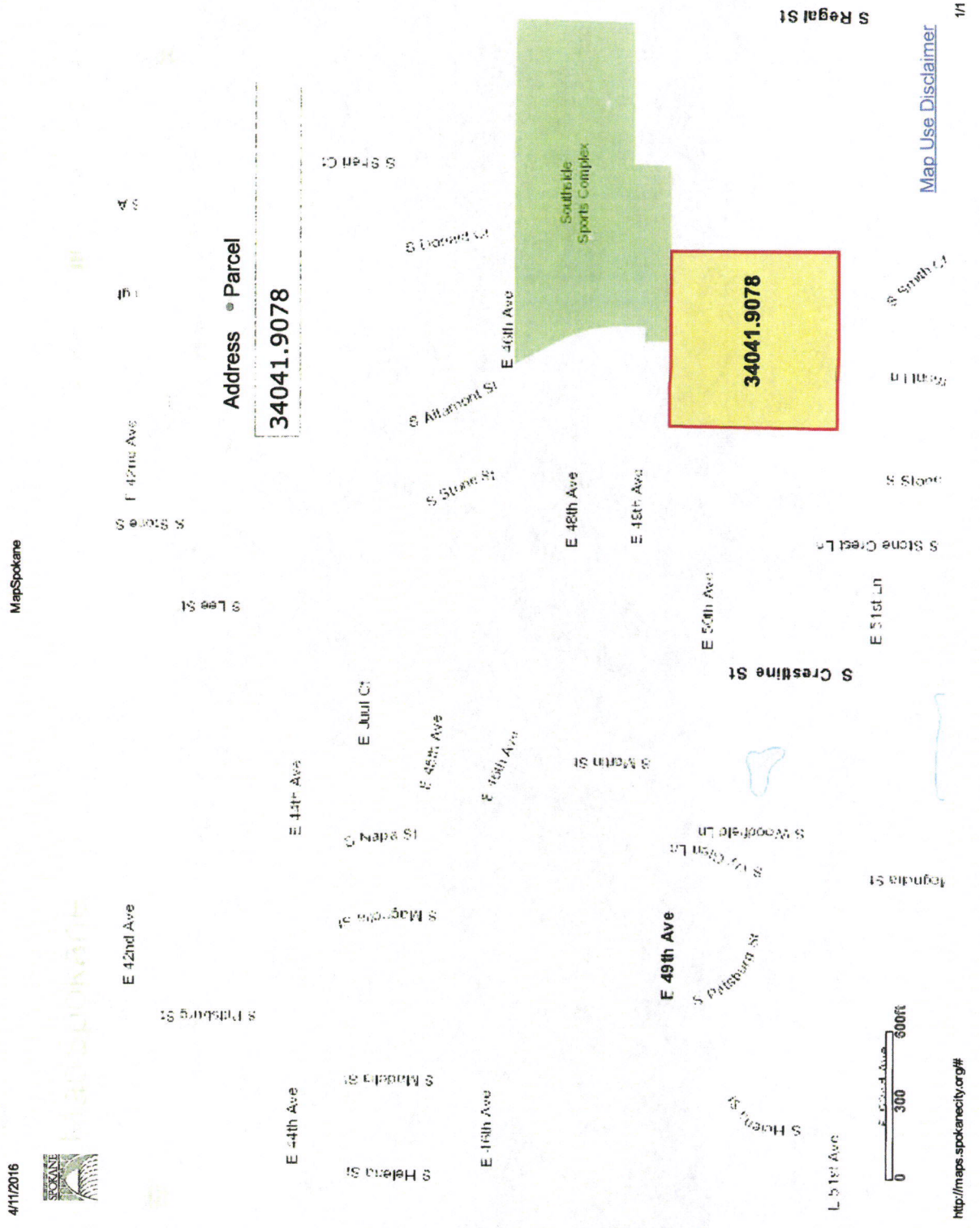


ORIGINAL AGREEMENT

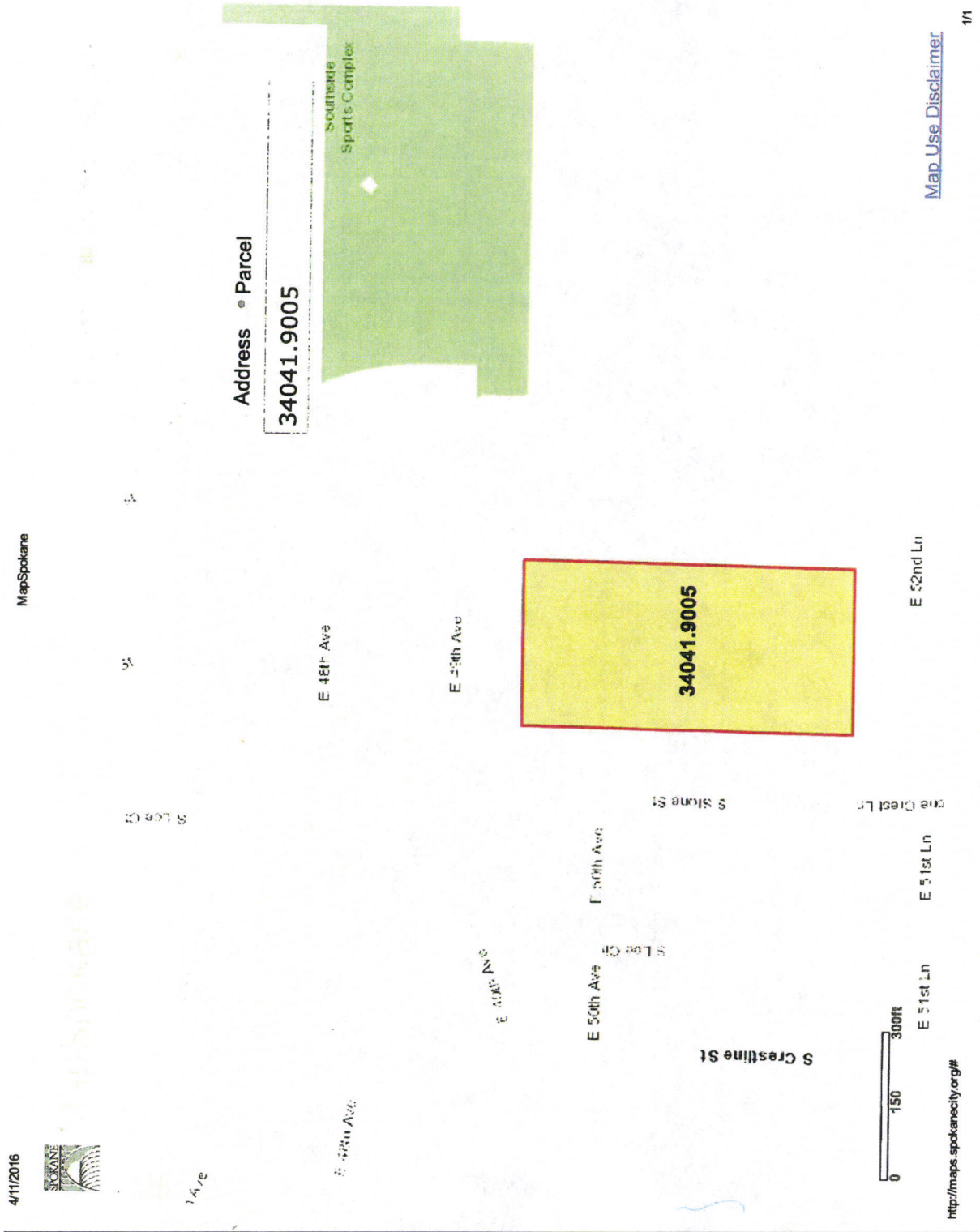
EXHIBIT B
KXLY Property

[The exhibit follows this page.]

ORIGINAL AGREEMENT



ORIGINAL AGREEMENT

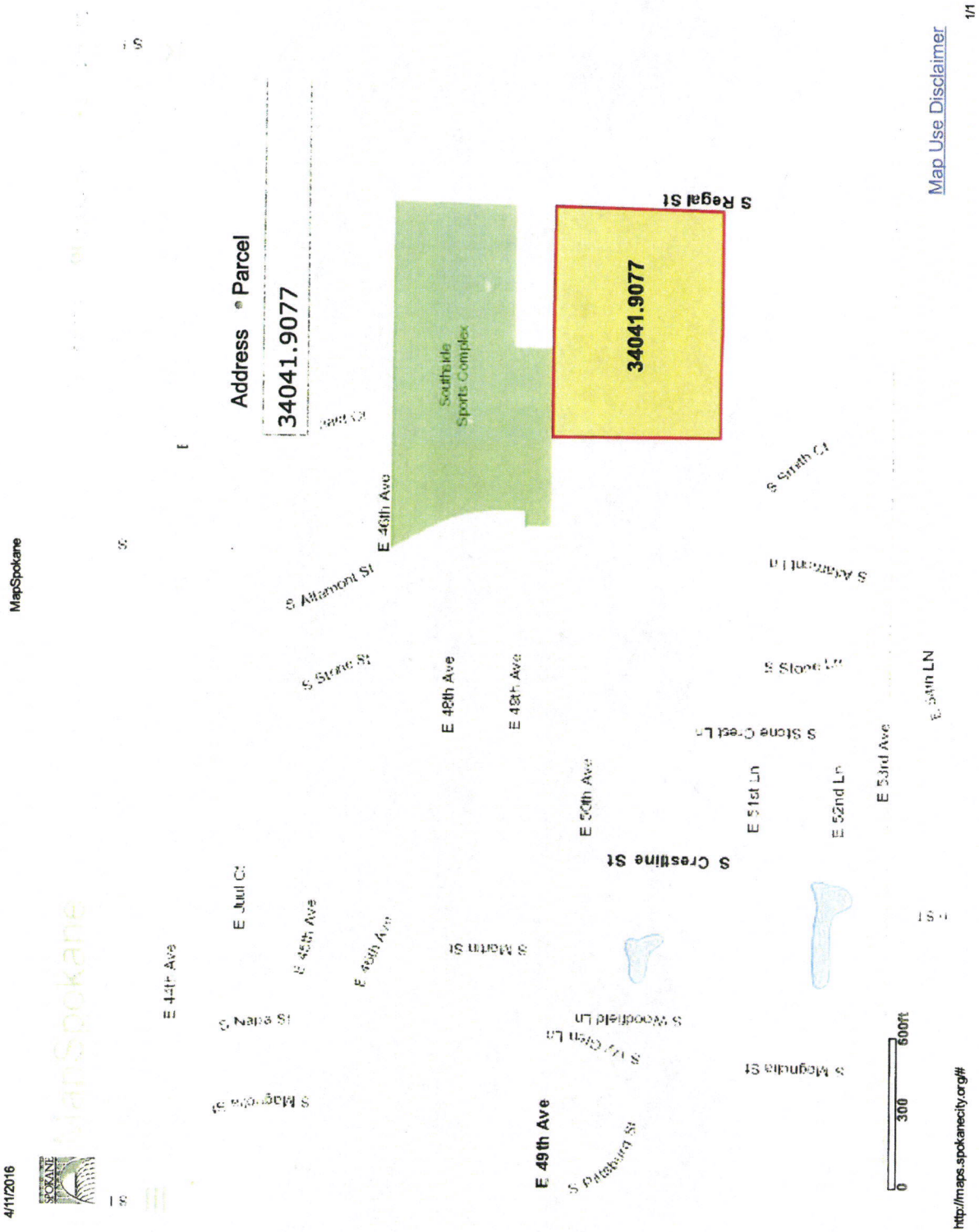


ORIGINAL AGREEMENT

EXHIBIT C
Adjacent KXLY Property

[The exhibit follows this page.]

ORIGINAL AGREEMENT

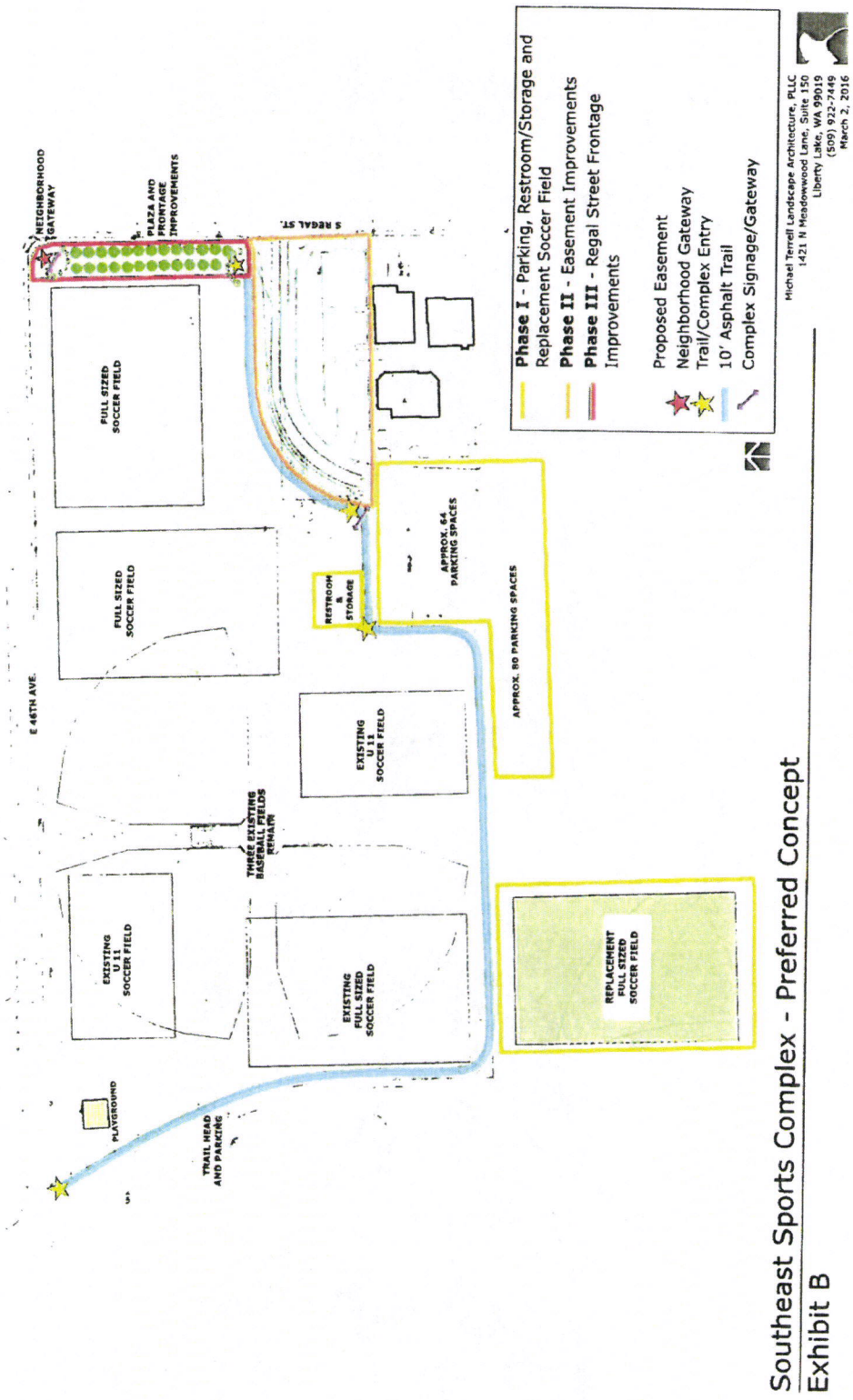


ORIGINAL AGREEMENT

EXHIBIT D
Depiction of Improvements

[The exhibit follows this page.]

ORIGINAL AGREEMENT



ORIGINAL AGREEMENT

MEMORANDUM

November 8, 2016

To: City of Spokane Park Board

From: Pat Dalton, Assistant City Attorney

Re: KXLY/Southside Athletics Complex

Dear Park Board Members,

This Office has examined the legal requirements and limitations of Park Board authority as those limitations and requirements apply to the Regal Property transaction. We have examined various documents necessary for the construction of public vehicle and pedestrian access, reconstruction of existing parking lots, restrooms, concession and storage buildings, sidewalks, hardscape, signage and landscaping , and the installation of a soccer filed on the KXLY/Southside Athletics Complex site. We have also examined the License and Development Agreement, the Ground Lease, and Access and Parking Easements. We have previously opined that the Park Board has the legal authority to grant a "perpetual easement" across park property in favor of KXLY and further has the legal authority to enter into a long-term agreement to lease real property from KXLY.

It is our opinion that Park Board has the legal authority to approve the Ground Lease With City of Spokane Park Board, which is on the Board's Agenda for the Board's November meeting. Assuming the Park Board approves the Ground Lease, it will go to the Mayor for his signature.

Spokane Park Board
Briefing Paper

Committee	Land
Committee meeting date	Feb 3, 2021
Requester	Nick Hamad **Phone number**: 509-363-5452
Type of agenda item	◯ Consent ◯ Discussion ◯ Information ◉ Action
Type of contract/agreement	◉ New ◯ Renewal/ext. ◯ Lease ◯ Amendment/change order ◯ Other
City Clerks file (OPR or policy #)	
Item title: (Use exact language noted on the agenda)	Upriver Park memorandum of agreement with Avista Utilities
Begin/end dates	Begins: 02/12/2021 Ends: ☑ Open ended

Background/history:
Avista Utilities is interested in partnering with City of Spokane Parks to develop 'Upriver Park', directly adjacent Avista's corporate campus within the Logan Neighborhood. Avista desires that the proposed park be consistent with other city parks aesthetically and functionally. The proposed park is comprised of vacated city street right of way (Upriver Drive) and city owned park property along the Spokane River. The centennial trail is currently adjacent to Upriver Drive and, as a part of park construction, is reconstructed as a new separated, paved trail surrounded by park landscaping. Under this agreement, Avista Utilities develops and maintains the entire park area (including city property) at their sole cost and expense. Avista's commitment to design and construct the park is contingent upon the City's vacation of Upriver Park at no cost or expense to Avista.

Reciprocal easements for the park area are included as Exhibits to this MOA.

Motion wording:
Motion to approve Upriver Park memorandum of agreement with Avista Utilities

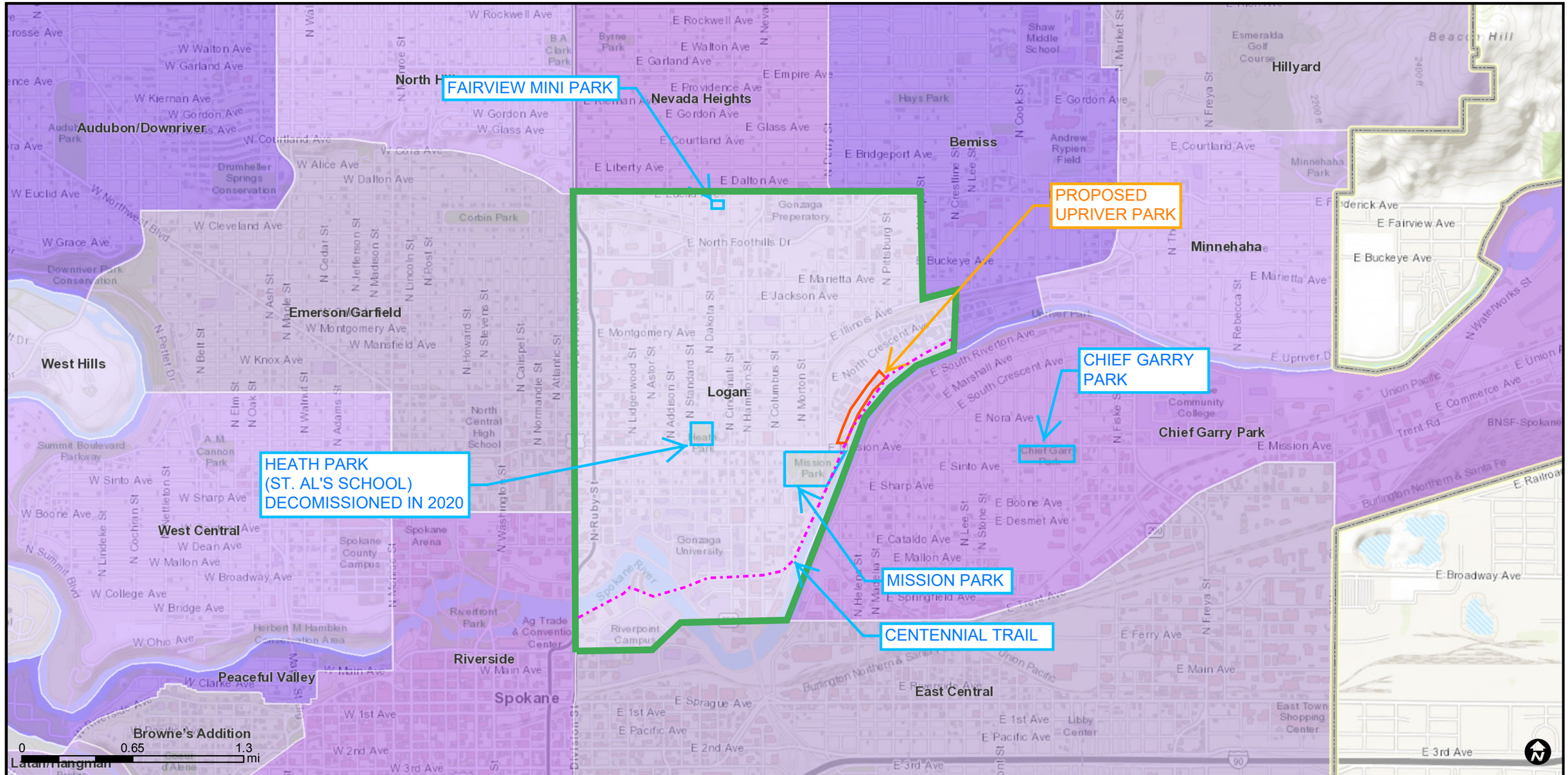
Approvals/signatures outside Parks: ◉ Yes ◯ No
If so, who/what department, agency or company: Avista Utilities
Name: Bruce Howard Email address: Bruce.Howard@avistacorp.com Phone: 509.495.2941

Distribution:
Parks – Accounting
Parks – Pamela Clarke
Requester: Nick Hamad
Grant Management Department/Name:

Fiscal impact: ◯ **Expenditure** ◉ **Revenue**
Amount: Budget code:

Vendor: ◯ Existing vendor ◯ New vendor
Supporting documents:
☐ Quotes/solicitation (RFP, RFQ, RFB)
☐ Contractor is on the City's A&E Roster - City of Spokane
☐ UBI: Business license expiration date:
☐ W-9 (for new contractors/consultants/vendors
☐ ACH Forms (for new contractors/consultants/vendors
☐ Insurance Certificate (min. $1 million in General Liability)

Logan Neighborhood Parks



Legend

- City of Spokane Boundary
- **Neighborhood Council**
  - 1
  - 2
  - 3
  - 4
  - 5

City of Spokane GIS

THIS IS NOT A LEGAL DOCUMENT:
The information shown on this map is compiled from various sources and is subject to constant revision. Information shown on this map should not be used to determine the location of facilities in relationship to property lines, section lines, streets, etc.

2/3/2021

PHOTOS

Photo 1. Looking west at the intersection of Upriver Drive and Mission Avenue.

Photo 2. Looking northeasterly at the proposed parking area for park users.

Photo 3. Looking northeasterly at the approximate location of the proposed south plaza.

Photo 4. Looking south on Upriver Drive toward the Spokane River. The photo shows the jersey barriers, the dense invasive vegetation and bicyclists.

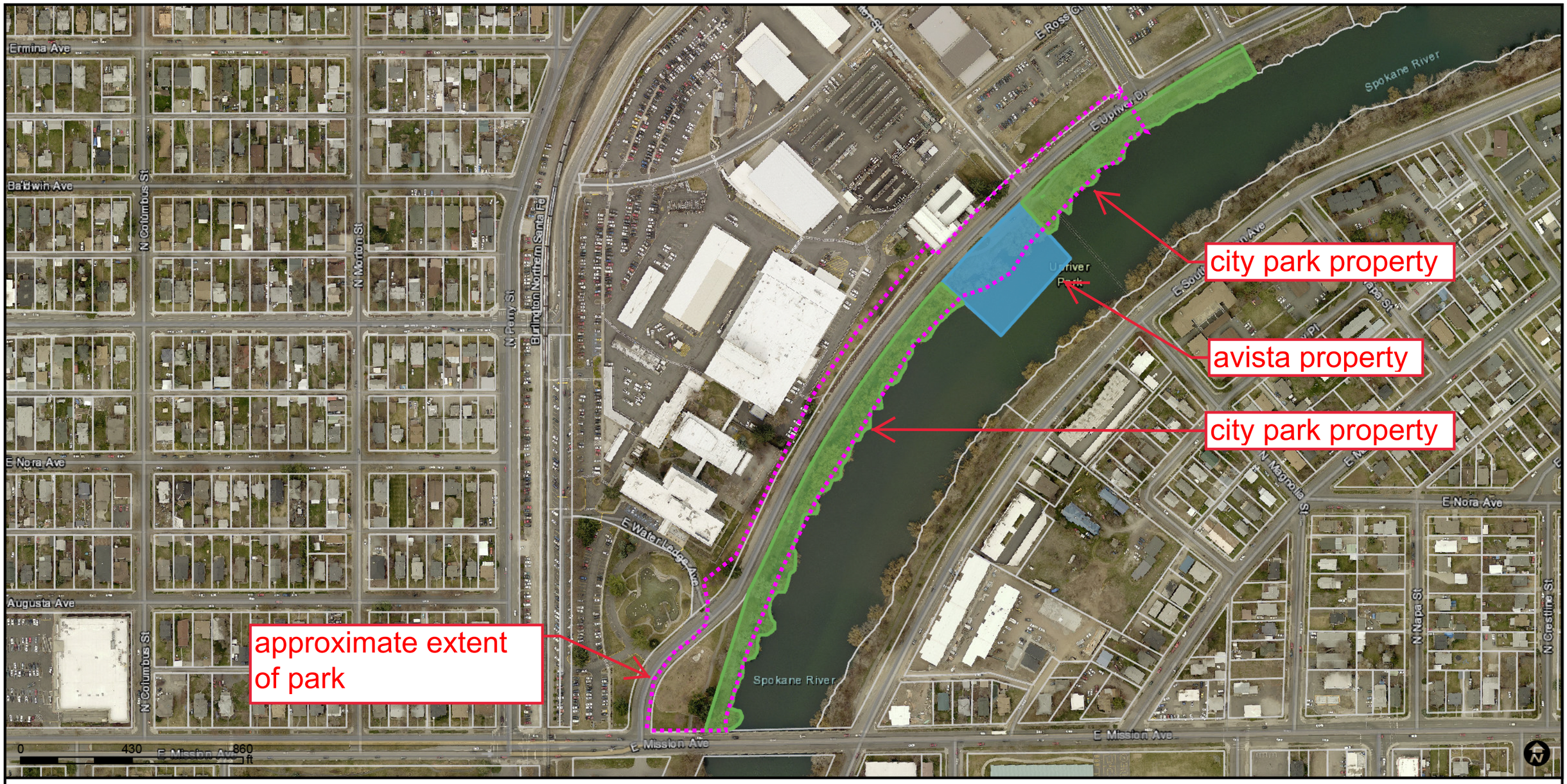
Photo 5. Looking northerly at the approximate location of the dock.

Photo 6. Looking south at the intersection of the east Avista entrance and the Centennial Trail pullout area. The Upriver Park will have a turnout in this section.

Photo 7. Looking northwesterly near the pullout. This area is the proposed north plaza area, brick arch and benched seating.

Photo 8. Looking south at the intersection of N. Center Street and Upriver Drive. This is the endpoint of the Park. Traffic will turn left on Upriver Drive.

City of Spokane Map



Legend

City of Spokane Boundary

City Street

Other

Alley
Collector
Driveway

Easement
Freeway
Freeway Ramp

Highway
Local
Major Arterial

Merge Lane
Minor Arterial
Other Ramp

Unimproved
Parcel

City of Spokane GIS

THIS IS NOT A LEGAL DOCUMENT:
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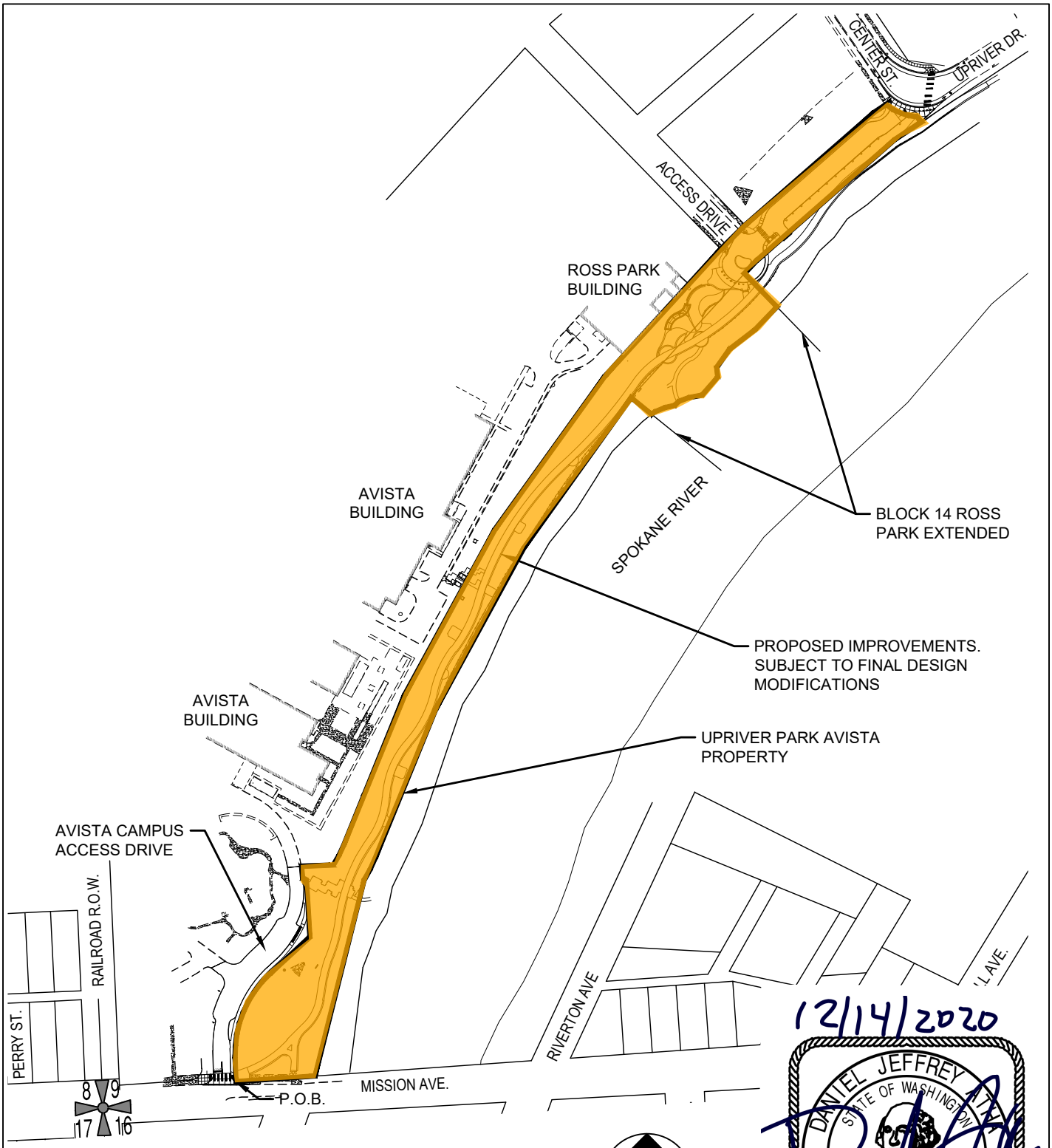
9/4/2019



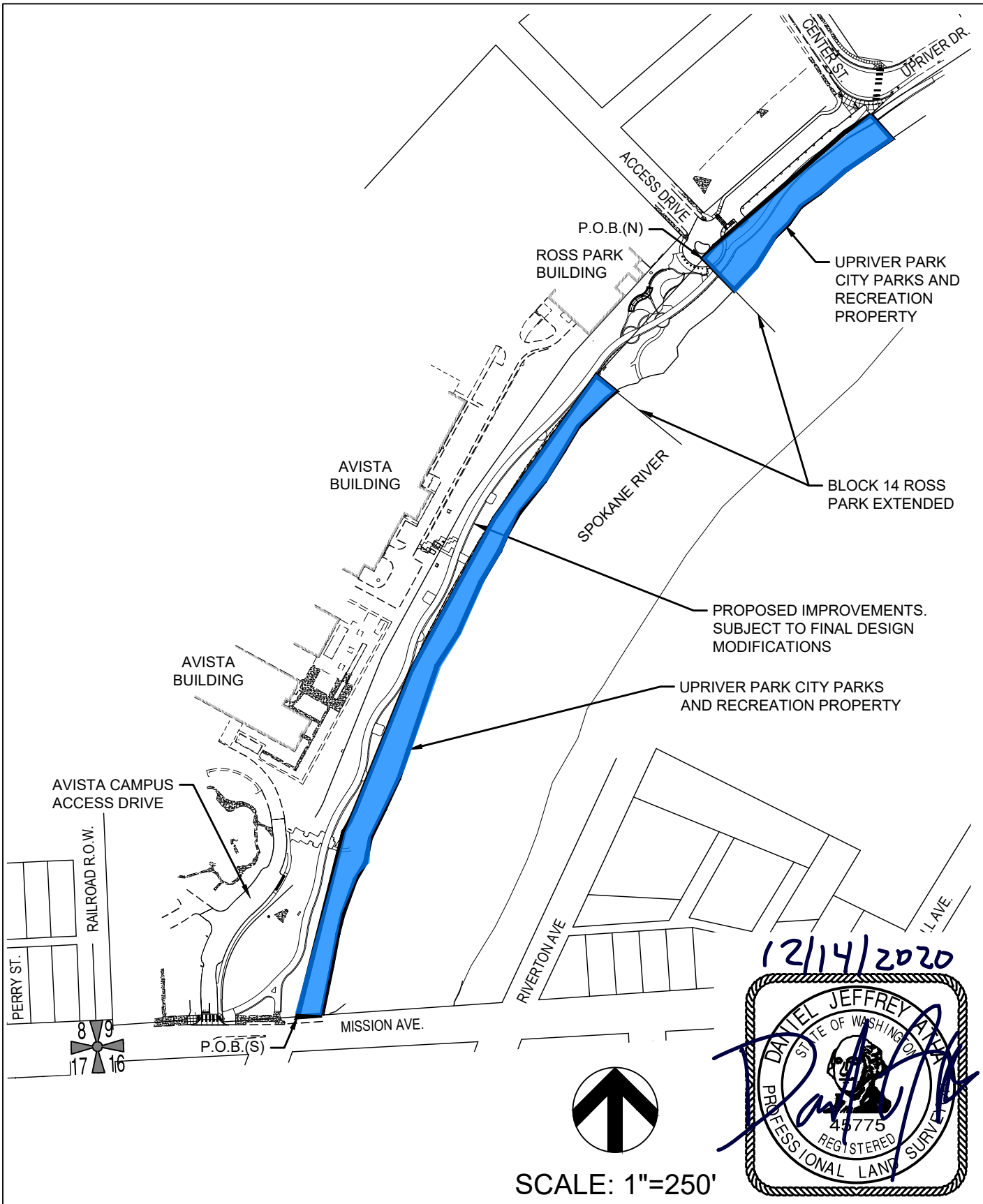
SCALE: 1"=250'

12/14/2020

DANIEL JEFFREY ATTY
STATE OF WASHINGTON
45775
REGISTERED
PROFESSIONAL LAND SURVEYOR

COFFMAN ENGINEERS
10 N. Post Street, Suite 500
Spokane, WA 99201
ph 509.328.2994
www.coffman.com

TITLE: UPRIVER PARK - AVISTA PROPERTY			
PROJECT: UPRIVER PARK			REF:
CLIENT: CITY OF SPOKANE PARKS AND RECREATION			SHEET NO: EX-2
PROJ. NO.	192177	CHECKED	SAA
DATE	12/11/2020	DRAWN	CWD

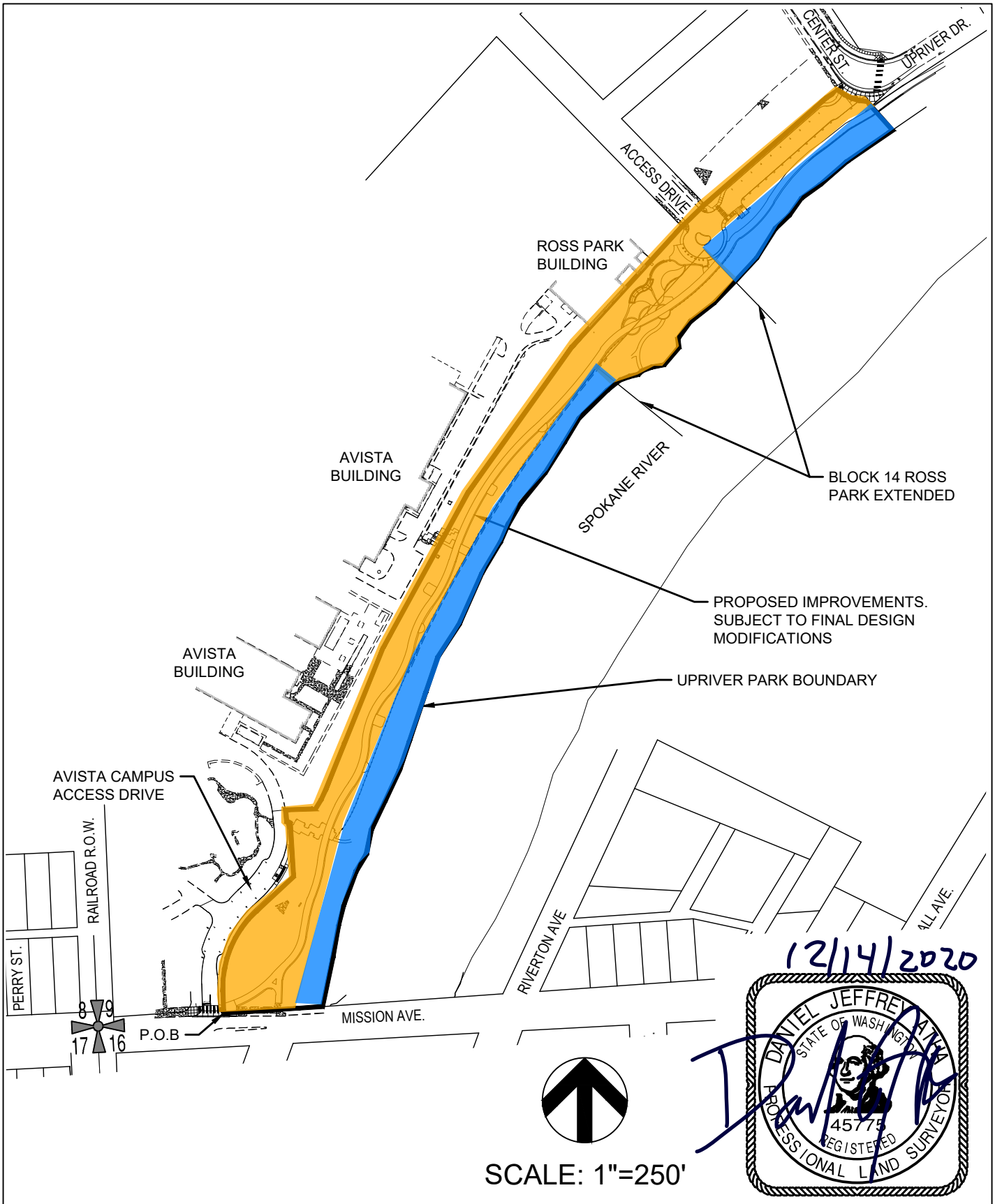


12/14/2020

DANIEL JEFFREY ARNOLD
STATE OF WASHINGTON
45775
REGISTERED
PROFESSIONAL LAND SURVEYOR

COFFMAN ENGINEERS
10 N. Post Street, Suite 500
Spokane, WA 99201
ph 509.328.2994
www.coffman.com

TITLE: UPRIVER PARK - PARKS AND REC. PROPERTY			
PROJECT: UPRIVER PARK			REF:
CLIENT: CITY OF SPOKANE PARKS AND RECREATION			SHEET NO: EX-3
PROJ. NO.	192177	CHECKED	SAA
DATE	12/11/2020	DRAWN	CWD



SCALE: 1"=250'

12/14/2020

DANIEL JEFFREY ARKA
STATE OF WASHINGTON
45775
REGISTERED
PROFESSIONAL LAND SURVEYOR

COFFMAN ENGINEERS
10 N. Post Street, Suite 500
Spokane, WA 99201
ph 509.328.2994
www.coffman.com

TITLE:	UPRIVER PARK BOUNDARY		
PROJECT:	UPRIVER PARK		REF:
CLIENT:	CITY OF SPOKANE PARKS AND RECREATION		SHEET NO: EX-1
PROJ. NO.	192177	CHECKED	SAA
DATE	12/11/2020	DRAWN	CWD

Agreement Outline

- Avista desires to develop new park comprised of both Avista Property and Public Park Property.
- Avista at no cost to Parks, designs and constructs the park.
- Avista at no cost to Parks maintains, operates, repairs the park and park improvements at same frequency and quality as other Avista properties.
- Avista agrees that City of Spokane Park Code 12.06A.040 - rules and regulations, applies to Avista property within the Park area. Avista's private security may monitor activity within the Park.
- Avista and Parks grant and convey perpetual non-exclusive easements for Park Purposes. The park is open to the public!
- Agreement contingent upon successful vacation of Upriver Drive at no cost to Avista.

Upriver Park

Park Development

MEMORANDUM OF AGREEMENT
UPRIVER PARK

This Memorandum of Agreement ("MOA") is entered into between Avista Corporation, d/b/a Avista Utilities and f/k/a The Washington Water Power Company ("Avista"), a Washington corporation, and City of Spokane Parks and Recreation ("Parks"), hereinafter collectively referred to as the Parties.

Background and Purpose

A. Avista has petitioned the City to vacate Upriver Drive between the Upriver Drive/Mission Avenue intersection and the Upriver Drive/North Center Street intersection, which is approximately 1/3 of a mile in length and consists of approximately 2.5 acres of land (the "Upriver Drive");

B. Avista is requesting the vacation for the limited purposes of developing Upriver Park ("Park") for public use, providing public park access, public river access for non-motorized boaters and for realigning the Centennial Trail adjacent to the Spokane River, and for no other purposes.

C. The Park will be comprised of the vacated portions of Upriver Drive and the land owned by Parks lying between the vacated right-of-way and the Spokane River;

D. Parks finds that development of additional park land within the City of Spokane (the "City") along the Spokane River corridor is consistent with Parks goals and objectives, and that privately owned and maintained park facilities, when permanently open for public use, increase the level of park services provided to the citizens of Spokane;

E. Upon the City's approval of Avista's street vacation request, Avista will own certain property located in the City and County of Spokane, Washington, generally described as those portions of Upriver Drive between Mission Avenue and North Center Street, vacated by City of Spokane Ordinance No. C35824, and all other property owned by Avista adjacent to said vacated right-of-way and the Spokane River that is located in the City and County of Spokane, State of Washington, and legally described in Exhibit "A" (the "Avista Property");

F. Parks owns certain property that is located in the City and County of Spokane, State of Washington, and adjacent to the Avista Property and legally described in Exhibit "B" (the "Park Property");

G. Upriver Park shall be comprised of the Avista Property and the Park Property (the "Park Area"), said Park Area being depicted on Exhibit "C"; and

H. The Parties desire to enter into this MOA under which the Parties will (i) exchange non-exclusive reciprocal easements covering the Park Area, which will be substantially in the form attached as Exhibit "D", and (ii) grant each other certain rights and obligations to the Park Area.

NOW, THEREFORE, in consideration of the premises and the mutual benefits to be derived by the Parties hereto, the adequacy and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

AGREEMENT

Section 1 Upriver Park

1. Street Vacation:

   1.1 Avista's pursuit of the vacation of Upriver Drive by the City and its commitment to design and construct the Park are contingent upon the City's vacation of Upriver Drive at no cost or expense to Avista.

2. Park Development and Operation

2.1 Avista will, at no cost or expense to Parks, design the Park. The final design of the Park will be subject to mutual agreement between Avista and Parks, but will generally conform to the design depicted on Exhibit "C".

2.2 Avista will, at no cost or expense to Parks, construct the Park, as depicted on Exhibit C; provided that Avista's obligation to commence construction of the Park is contingent upon Avista's approval of an acceptable and reasonable budget for the same.

2.3 Parks will ensure that the City does not unreasonably withhold or delay any necessary permits to construct the Park; provided that the design and construction of the Park shall be done in accordance with all applicable Federal, State and local laws and regulations including without limitation any and all rules applicable to the Centennial Trail. Those portions of Centennial Trail in the Park shall be managed consistent with the provisions of chapter 79A.05 RCW, the rules and regulations adopted thereunder, and the Spokane River Centennial Trail Interagency Cooperative Agreement between Washington State Parks and Recreation Commission, City of Spokane, Spokane County, and City of Spokane Valley, dated August 25, 2014, as updated and amended from time to time.

2.4 Avista will, at no cost or expense to Parks, maintain, operate, repair the Park, including improvements, at the same frequency and quality as is performed on Avista's other park properties.

2.5 Without limiting its rights in and ownership of the Avista Property, Avista agrees that the City of Spokane Park Code as codified in Chapter 12.06A of the Spokane Municipal Code, as may be amended, will apply to the Avista Property included within the Park Area, specifically, Section 12.06A.040 with respect to park rules and regulations; Section 12.06A.020 with respect to the authority of City Park Rangers to enforce the rules and regulations; and Section 12.06A.050 with respect to the penalty for violations of the park rules and regulations (the "Park Code"). The City and Avista will work together to place appropriate signage in the Park to notify the public that the Park Code applies. For the avoidance of doubt, the Parties agree that Avista's private security contractor may monitor activity within the Park, may request that violators of the Park Code cease any activity that violates the Park Code; provided, however, Avista's private security contractor shall not be responsible for the active enforcement of the Park Code.

2.6 Except as otherwise provided in this MOA, neither party shall obligated to contribute or pay any funds for the construction, improvement, reconstruction, repair, operation, or maintenance of the Park; provided, both parties and their respective invitees and permittees (which shall include the general public) shall have full use of the Park, subject to the terms of this MOA.

3. Easements:

3.1 The Easements shall be substantially in the form prescribed in Exhibit D.

Section 2 Miscellaneous Provisions

1. Recitals. All of the recitals set forth above in the Background and Purpose section of this MOA are incorporated herein by this reference as though fully set forth herein.

2. Indemnity.

2.1 Avista shall indemnify, defend, and hold Parks harmless from all claims arising from the Avista's use, occupancy, management, and maintenance of the Park or from any activity, work or thing done, permitted or suffered by Avista in or about the Park, except to the extent such claim resulted from the act or omission of the City of Spokane or Parks' employees, agents or contractors in which case this indemnity provision shall be valid and enforceable only to the extent such claim arose from the act or omission of Avista's employees, agents, or contractors.

2.2 Parks shall indemnify, defend, and hold Avista harmless from all claims arising from Parks' use, occupancy, management, and maintenance of the Park or from any activity, work or thing done, permitted or suffered by the City of Spokane or Parks in or about the Park, except to the extent such claim resulted from the act or omission of Avista's employees, agents or contractors in which case this

indemnity provision shall be valid and enforceable only to the extent such claim arose from the act or omission of the City of Spokane or Parks' employees, agents, or contractors.

3. Insurance.

   3.1 Avista shall, at its sole expense, obtain and keep in force throughout the term of this MOA commercial general liability insurance on an occurrence basis with a combined single limit of no less than $1 million per occurrence and $2 million General Aggregate, naming the City of Spokane Parks Department, its officers, employees, contractors, agents, and other such persons or entities Parks may designate as additional insureds. The policy shall contain cross liability endorsements, and shall provide coverage for liability arising out of or relating to Avista's use and occupancy of the Park, including non-owned automobile liability. Alternatively, Avista may self-insure in full satisfaction of its insurance requirements under this MOA.

   3.2 Parks shall, at its sole expense, obtain and keep in force throughout the term of this MOA commercial general liability insurance on an occurrence basis with a combined single limit of no less than $1 million per occurrence and $2 million General Aggregate, naming Avista, its officers, employees, contractors, agents, and other such persons or entities as Avista may designate as additional insureds. The policy shall contain cross liability endorsements, and shall provide coverage for liability arising out of or relating to Parks' use and occupancy of the Park, including non-owned automobile liability. Alternatively, Parks may self-insure in full satisfaction of its insurance requirements under this MOA.

4. Attorneys' Fees and Costs; Governing Law and Venue. In the event legal action is instituted to enforce or interpret the terms of this MOA or any decision of an arbitrator(s), the prevailing party in such action shall be entitled to recover their reasonable attorneys' fees and costs incurred in such action, as determined by the court(s) or by the arbitrator(s). In the event of any appeals from such actions, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in such appeals. The term "costs" shall include, in addition to statutory costs and disbursements, all costs associated with discovery depositions, expert witness fees, and out-of-pocket costs incurred by the prevailing party in the prosecution or defense of the action. For the purpose of this Paragraph 4, the term "action" shall be deemed to include any arbitration proceeding or any proceeding commenced in any court of general or limited jurisdiction, including any proceeding commenced in the bankruptcy courts of the United States. Venue and jurisdiction for any action shall lie in Spokane County, Washington and this MOA shall be construed and enforced in accordance with the laws of the State of Washington.

5. Entire Agreement. Except as expressly stated herein, this MOA is the entire MOA between the Parties with respect to the subject matter hereof. No other understandings, oral or otherwise, regarding the subject matter of this MOA will bind the signatories to this MOA unless agreed to by both Parties in writing.

6. Severability. The invalidity or unenforceability of any provision of the MOA will not affect any other provisions; the MOA will be construed in all respects as if such invalid or unenforceable provisions were omitted.

7. Amendments/Modifications. Any amendment or modification to the provisions of this MOA will not be effective unless made by written amendment executed by both Parties.

8. Assignment. Neither party shall assign this MOA without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed. If this MOA is assigned by either Party, the Agreement will be fully binding upon, inure to the benefit of, and be enforceable by the successors, assigns, and legal representatives of the respective Parties.

9. Third Party Beneficiaries. Nothing in this MOA is intended to confer any right or benefit on a person or entity not a Party to this MOA, or impose any obligations of either Party to the MOA on persons or entities not a Party to the MOA.

10. Waiver of Provisions. The failure of a Party to insist upon or enforce performance of any of the provisions or to exercise any rights under this MOA will not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon any such provisions or rights in that or any other instance; rather, the same will be and remain in full force and effect.

11. Negotiation. This MOA, and each of the terms and provisions hereof, are deemed to have been explicitly negotiated, and the language in all parts of this MOA shall, in all cases, be construed according to their fair meaning and not strictly for or against either Party.

12. Effectiveness. This MOA is effective on the date of the last signature below.

13. Notice. All written notices required to be given pursuant to the terms hereof shall be delivered to the addresses listed below, by one of the following methods: (a) hand delivered whereby delivery is deemed to have occurred at the time of delivery; (b) a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the business day following deposit with the courier; or (c) deposited in the United States mail, certified mail, return receipt requested, postage prepaid, whereby delivery is deemed to have occurred on the third business day following deposit with the United States Postal Service; (d) electronic transmission (email) provided that the transmission is completed no later than 4:00 p.m. Pacific Standard Time on a business day and the original also is sent as described in (a), (b), or (c) above, whereby delivery is deemed to have occurred at the end of the business day on which the electronic transmission is completed.

Avista:
Attn: Meghan Lunney
1411 E. Mission Ave., MSC-8
Spokane, WA 99252
Email: Meghan.lunney@avistacorp.com

With a copy to:
Attn: Todd Colton
1411 E. Mission Ave., MSC-8
Spokane, WA 99252
Email: todd.colton@avistacorp.com

Parks:
City of Spokane, Park Board
Attn: Parks and Recreation Director
808 West Spokane Falls Boulevard
Spokane, WA 99201
Email: gjones@spokanecity.org

With a copy to:
Office of the City Attorney
Attn: James Richman
808 W. Spokane Falls Boulevard
Spokane, WA 99201
Email: jrichman@spokanecity.org

This MOA has been signed by each Party's authorized representative on the date(s) set forth below.

Avista Corporation	**City of Spokane, Park Board**
_____	_____
(*Signature*)	(*Signature*)
_____	_____
(*Printed Name*)	(*Printed Name*)
_____	_____
(*Title*)	(*Title*)

(*Date Signed*)

(*Date Signed*)

Attest:

Approved as to form:

_____

City Clerk

_____

Assistant City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF AVISTA PROPERTY

Upriver Park Avista Property Description

COMMENCING at the Southwest Quarter of Section 09 Township 25 North Range 43 East located in the City of Spokane, Spokane County, Washington, thence North 86°00'01" East a distance of 209.56 feet to the intersection of Mission Avenue and Upriver Drive, thence North 38°24'38" East a distance of 40.63 feet to the northeast corner of said Mission Avenue and Upriver Drive also being the **POINT OF BEGINNING;**

thence North 01°57'06" West a distance of 42.34 feet;

thence with the easterly right of way line of said Upriver Drive in a northeasterly direction with a tangent curve turning to the right with a radius of 192.27 feet, having a chord bearing of North 22°39'45" East and a chord distance of 160.16 feet, a central angle of 49°13'43" and an arc length of 165.20 feet;

thence North 47°16'37" East a distance of 95.40 feet;

thence leaving said easterly right of way line North 03°31'43" West a distance of 99.07 feet;

thence North 62°43'14" West a distance of 7.44 feet;

thence North 05°39'00" West a distance of 22.55 feet;

thence North 87°57'10" East a distance of 56.08 feet to a point on the westerly right of way line of said Upriver Drive;

thence with said westerly line in a northeasterly direction with a non-tangent curve turning to the left with a radius of 192.27 feet, having a chord bearing of North 27°58'00" East and a chord distance of 39.81 feet, a central angle of 11°53'09" and an arc length of 39.89 feet;

thence North 22°01'26" East a distance of 285.96 feet;

thence North 28°39'35" East a distance of 331.98 feet;

thence North 35°33'01" East a distance of 332.05 feet;

thence North 42°23'38" East a distance of 303.45 feet;

thence North 45°34'30" East a distance of 60.00 feet;

thence North 48°49'50" East a distance of 301.92 feet;

thence North 56°30'00" East a distance of 24.08 feet to the intersection of the westerly right of way line of Upriver Drive and the westerly right of way line of Center Street;

thence leaving said westerly line North 56°30'00" East a distance of 1.38 feet;

thence in an easterly direction with a non-tangent curve turning to the left with a radius of 94.21 feet, having a chord bearing of South 68°32'55" East and a chord distance of 58.27 feet, a central angle of 36°01'42" and an arc length of 59.24 feet;

thence South 41°19'01" East a distance of 12.41 feet to a point on the easterly right of way line of said Upriver Drive;

thence with said easterly right of way line South 56°30'00" West a distance of 56.59 feet;

thence South 48°49'50" West a distance of 324.22 feet;

thence South 42°23'38" West a distance of 30.58 feet to a point on the easterly line of Block 14 Ross Park Addition extended recorded in Volume “A” of plats page 141;

thence with said easterly line South 44°12'42" East a distance of 82.01 feet to a point on the approximate westerly high-water line of the Spokane River;

thence leaving said easterly line and with said westerly line in a southwesterly direction approximately 307.68 feet to a point on the west line of Block 14 Ross Park Addition extended recorded in Volume “A” of plats page 141;

thence leaving said westerly line and with said west line North 51°01'22" West a distance of 46.58 feet to a point on the easterly right of way line of said Upriver Drive;

thence with said easterly line South 35°33'01" West a distance of 324.84 feet;

thence South 28°39'35" West a distance of 324.89 feet;

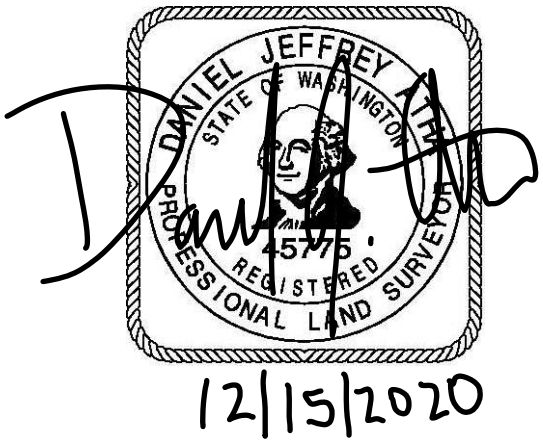
thence South 22°01'26" West a distance of 282.48 feet;

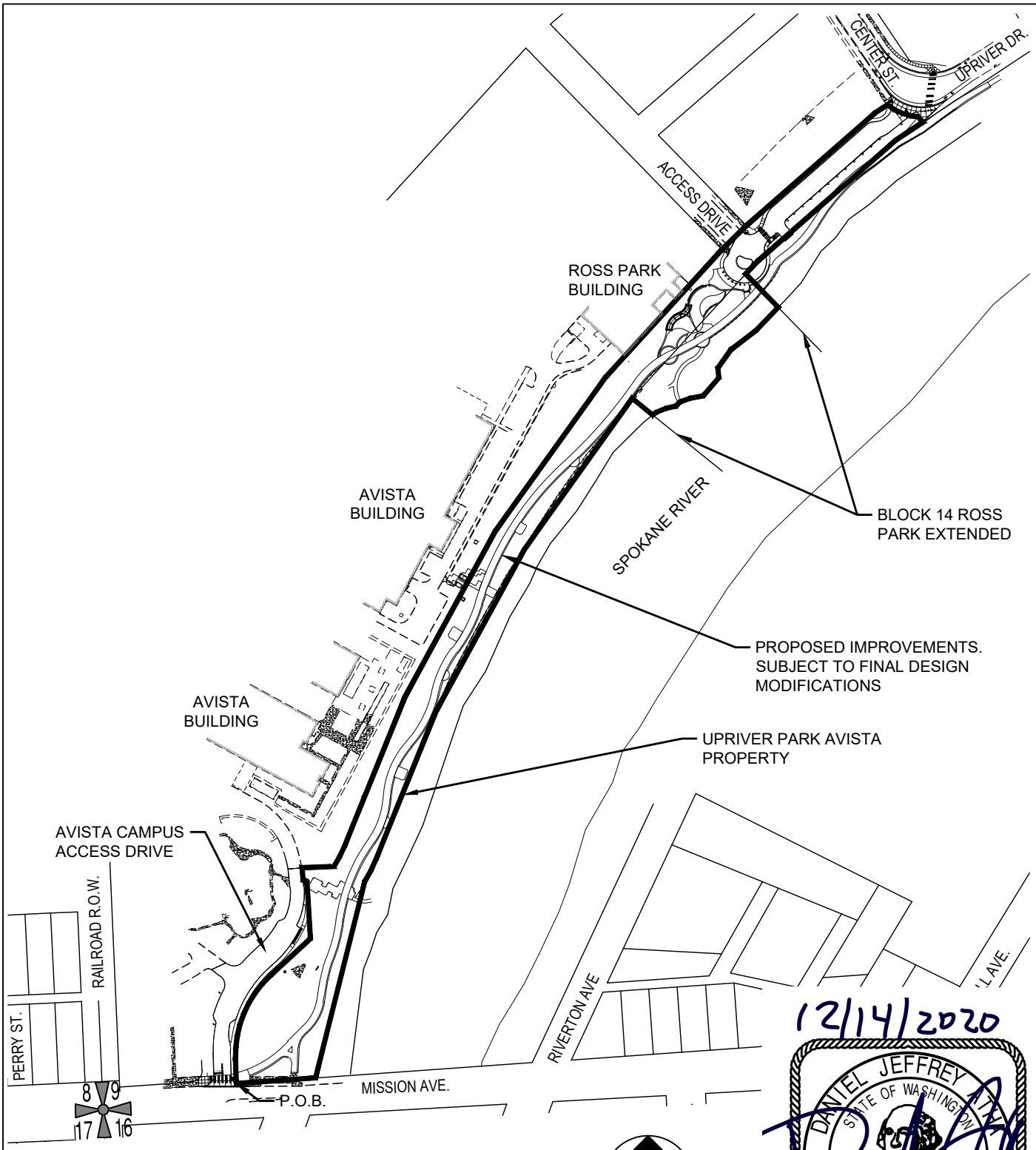
thence in a southwesterly direction with a tangent curve turning to the right with a radius of 252.27 feet, having a chord bearing of South 27°00'11" West and a chord distance of 43.79 feet, a central angle of 09°57'31" and an arc length of 43.85 feet;

thence leaving said easterly line South 14°02'14" West a distance of 356.09 feet to a point on the north right of way line of Mission Avenue;

thence with said north line South 86°00'01" West a distance of 139.85 feet to the **POINT OF BEGINNING**.

Containing ± (3.84 A.C.) of land more or less.





SCALE: 1"=250'

12/14/2020

DANIEL JEFFREY ATKINS
STATE OF WASHINGTON
45775
REGISTERED
PROFESSIONAL LAND SURVEYOR

COFFMAN ENGINEERS
10 N. Post Street, Suite 500
Spokane, WA 99201
ph 509.328.2994
www.coffman.com

TITLE: UPRIVER PARK - AVISTA PROPERTY			
PROJECT: UPRIVER PARK			REF:
CLIENT: CITY OF SPOKANE PARKS AND RECREATION			SHEET NO: EX-2
PROJ. NO.	192177	CHECKED	SAA
DATE	12/11/2020	DRAWN	CWD

EXHIBIT B
LEGAL DESCRIPTION OF PARK PROPERTY

Upriver Park City of Spokane Parks North Property Description

COMMENCING at the Southwest Quarter of Section 09 Township 25 North Range 43 East located in the City of Spokane, Spokane County, Washington, thence with said South line of Section 9 North 86°00'01" East a distance of 209.56 feet to the intersection of Mission Avenue and Upriver Drive, thence North 38°24'38" East a distance of 40.63 feet to the northeast corner of said Mission Avenue and Upriver Drive; thence with the north right of way line of Mission Avenue North 86°00'01" East a distance of 139.85 feet; thence leaving said north line North 14°02'14" East a distance of 356.09 feet to a point on the easterly right of way line of Upriver Drive; thence with said right of way line in a northeasterly direction with a non-tangent curve turning to the left with a radius of 252.27 feet, having a chord bearing of North 27°00'11" East and a chord distance of 43.79 feet, a central angle of 09°57'31" and an arc length of 43.85 feet; thence North 22°01'26" East a distance of 282.48 feet; thence North 28°39'35" East a distance of 324.89 feet; thence North 35°33'01" East a distance of 324.84 feet; thence North 42°23'38" East a distance of 296.31 feet to the **POINT OF BEGINNING;**

thence continuing with said easterly right of way line North 42°23'38" East a distance of 30.58 feet;

thence North 48°49'50" East a distance of 324.22 feet;

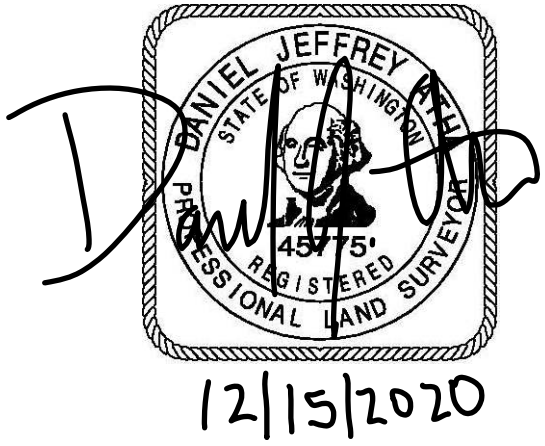
thence North 56°30'00" East a distance of 56.59 feet;

thence leaving said easterly line South 41°19'01" East a distance of 58.86 feet to a point on the approximate westerly high-water line of the Spokane River;

thence with said westerly line in a southwesterly direction approximately 410.61 feet to a point on the east line of Block 14 Ross Park Addition extended recorded in Volume “A” of plats page 141;

thence leaving said westerly line and with said east line extended North 44°12'42" West a distance of 82.01 feet to a point on the easterly right of way line of Upriver Drive also being the **POINT OF BEGINNING**.

Containing ± 25,350 S.F. of land more or less.



12/15/2020

Upriver Park City of Spokane Parks South Property Description

COMMENCING at the Southwest Quarter of Section 09 Township 25 North Range 43 East located in the City of Spokane, Spokane County, Washington, thence with said South line of Section 9 North 86°00'01" East a distance of 209.56 feet to the intersection of Mission Avenue and Upriver Drive, thence North 38°24'38" East a distance of 40.63 feet to the northeast corner of said Mission Avenue and Upriver Drive; thence with the north right of way line of Mission Avenue North 86°00'01" East a distance of 139.85 feet to the **POINT OF BEGINNING**

thence leaving said north line North 14°02'14" East a distance of 356.09 feet to a point on the easterly right of way line of Upriver Drive;

thence with said easterly line in a northeasterly direction with a non-tangent curve turning to the left with a radius of 252.27 feet, having a chord bearing of North 27°00'11" East and a chord distance of 43.79 feet, a central angle of 09°57'31" and an arc length of 43.85 feet;

thence North 22°01'26" East a distance of 282.48 feet;

thence North 28°39'35" East a distance of 324.89 feet;

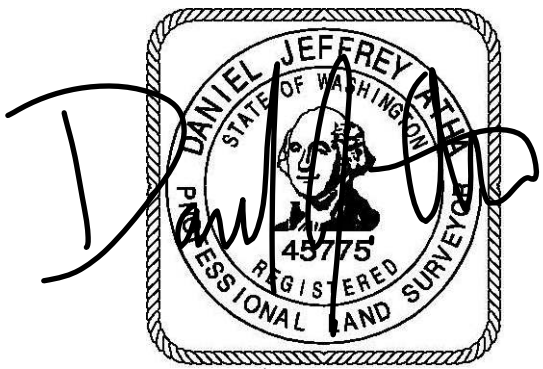
thence North 35°33'01" East a distance of 324.84 feet to a point on the westerly line of Block 14 Ross Park Addition extended recorded in Volume “A” of plats page 141;

thence leaving said easterly line and with said westerly line South 51°01'22" East a distance of 46.58 feet to a point on the approximate westerly high-water line of the Spokane River;

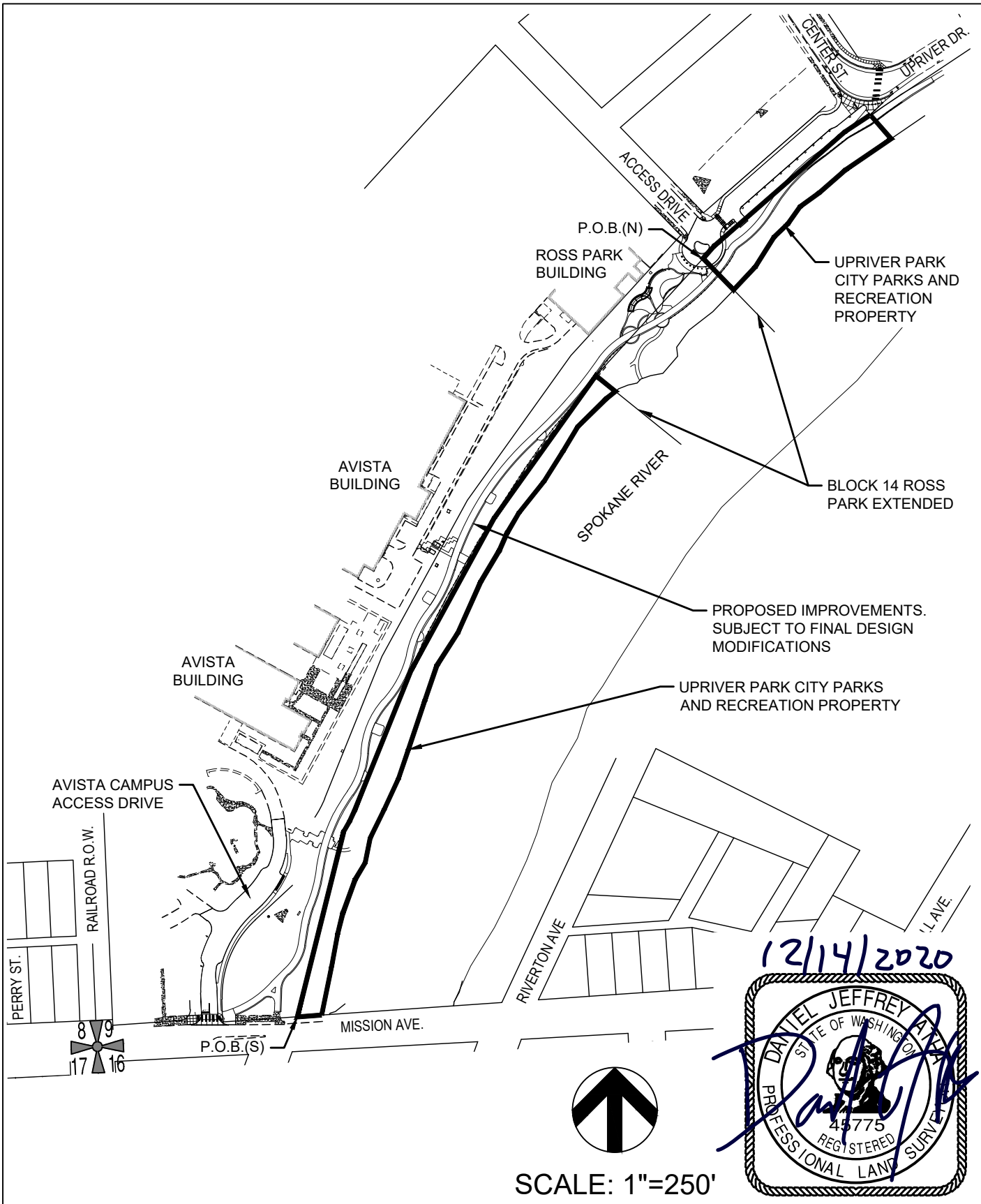
thence with said westerly line in a southwesterly direction approximately 1256.12 feet to a point on said north right of way line of Mission Avenue;

thence leaving said westerly line and with said north line South 86°00'01" West a distance of 45.19 feet to the **POINT OF BEGINNING**.

Containing ± 53,470 S.F. of land more or less.



12/15/2020



SCALE: 1"=250'

12/14/2020

DANIEL JEFFREY ARNOLD
STATE OF WASHINGTON
45775
REGISTERED
PROFESSIONAL LAND SURVEYOR

COFFMAN ENGINEERS
10 N. Post Street, Suite 500
Spokane, WA 99201
ph 509.328.2994
www.coffman.com

TITLE: UPRIVER PARK - PARKS AND REC. PROPERTY			
PROJECT: UPRIVER PARK			REF:
CLIENT: CITY OF SPOKANE PARKS AND RECREATION			SHEET NO: EX-3
PROJ. NO.	192177	CHECKED	SAA
DATE	12/11/2020	DRAWN	CWD

EXHIBIT C
DEPICTION OF PARK AREA

Upriver Park Overall Property Description

COMMENCING at the Southwest Quarter of Section 09 Township 25 North Range 43 East located in the City of Spokane, Spokane County, Washington, thence North 86°00'01" East a distance of 209.56 feet to the intersection of Mission Avenue and Upriver Drive, thence North 38°24'38" East a distance of 40.63 feet to the northeast corner of said Mission Avenue and Upriver Drive also being the **POINT OF BEGINNING;**

thence North 01°57'06" West a distance of 42.34 feet;

thence with the easterly right of way line of said Upriver Drive in a northeasterly direction with a tangent curve turning to the right with a radius of 192.27 feet, having a chord bearing of North 22°39'45" East and a chord distance of 160.16 feet, a central angle of 49°13'43" and an arc length of 165.20 feet;

thence North 47°16'37" East a distance of 95.40 feet;

thence leaving said easterly line North 03°31'43" West a distance of 99.07 feet;

thence North 62°43'14" West a distance of 7.44 feet;

thence North 05°39'00" West a distance of 22.55 feet;

thence North 87°57'10" East a distance of 56.08 feet to a point on the westerly right of way line of said Upriver Drive;

thence with said westerly line in a northeasterly direction with a non-tangent curve turning to the left with a radius of 192.27 feet, having a chord bearing of North 27°58'00" East and a chord distance of 39.81 feet, a central angle of 11°53'09" and an arc length of 39.89 feet;

thence North 22°01'26" East a distance of 285.96 feet;

thence North 28°39'35" East a distance of 331.98 feet;

thence North 35°33'01" East a distance of 332.05 feet;

thence North 42°23'38" East a distance of 303.45 feet;

thence North 45°34'30" East a distance of 60.00 feet;

thence North 48°49'50" East a distance of 301.92 feet;

thence North 56°30'00" East a distance of 24.08 feet to the intersection of the westerly right of way line of Upriver Drive and the westerly right of way line of Center Street;

thence leaving said westerly line North 56°30'00" East a distance of 1.38 feet

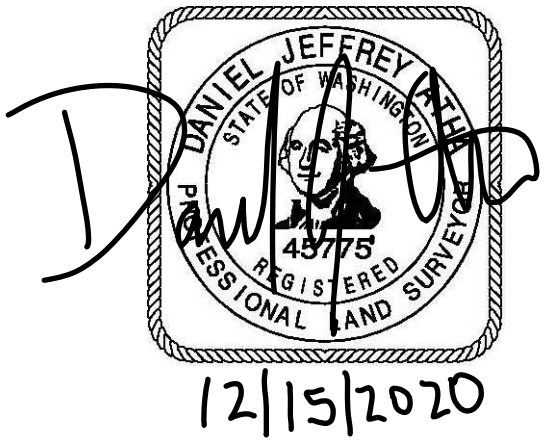
thence in an easterly direction with a non-tangent curve turning to the left with a radius of 94.21 feet, having a chord bearing of South 68°32'55" East and a chord distance of 58.27 feet, a central angle of 36°01'42" and an arc length of 59.24 feet;

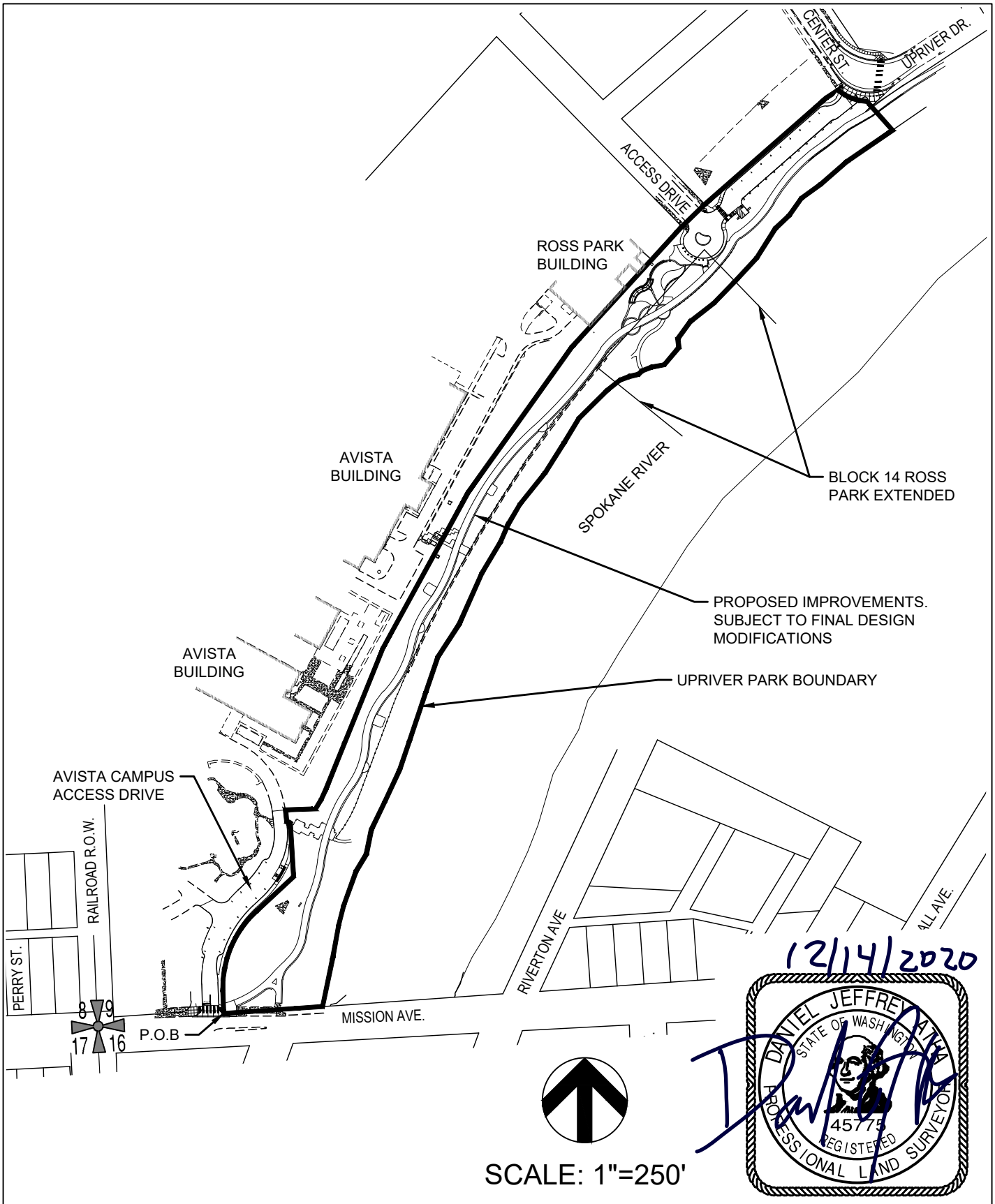
thence South 41°19'01" East a distance of 71.27 feet to a point on the approximate westerly high-water line of the Spokane River;

thence with said westerly line in a southwesterly direction approximately 2024.00 feet to a point on said north right of way line of Mission Avenue;

thence leaving said westerly line and with said north line South 86°00'01" West a distance of 185.04 feet to the **POINT OF BEGINNING**.

Containing ± (5.65 A.C.) of land more or less.





SCALE: 1"=250'

12/14/2020

DANIEL JEFFREY ALKA
STATE OF WASHINGTON
45775
REGISTERED
PROFESSIONAL LAND SURVEYOR

COFFMAN ENGINEERS
10 N. Post Street, Suite 500
Spokane, WA 99201
ph 509.328.2994
www.coffman.com

TITLE:	UPRIVER PARK BOUNDARY		
PROJECT:	UPRIVER PARK		REF:
CLIENT:	CITY OF SPOKANE PARKS AND RECREATION		SHEET NO: EX-1
PROJ. NO.	192177	CHECKED	SAA
DATE	12/11/2020	DRAWN	CWD

EXHIBIT D
RECIPROCAL EASEMENT

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City of Spokane
Attn: Clerk
808 W. Spokane Falls Blvd
Spokane, WA 99201

(space above this line for Recorder's use)

RECIPROCAL EASEMENT

This Reciprocal Easement (this "Easement") is made and entered into this ____ day of _____, 2021 (the "Effective Date"), by and between Avista Corporation, a Washington corporation ("Avista") and City of Spokane Parks and Recreation ("Parks"), hereinafter collectively referred to as the "Parties."

WHEREAS, Avista owns certain property located in the City and County of Spokane, Washington, generally described as those portions of Upriver Drive between Mission Avenue and North Center Street, vacated by City of Spokane Ordinance No. C35824, and all other property owned by Avista adjacent to said vacated right-of-way and the Spokane River that is located in the City and County of Spokane, State of Washington, and legally described in Exhibit "A" (the "Avista Property");

WHEREAS, Parks owns certain property that is located in the City and County of Spokane, State of Washington, and contiguous to the Avista Property and legally described in Exhibit "B" ("Park Property").

WHEREAS, the Parties desire to utilize the Avista Property and the Park Property together as a public park ("Upriver Park") and enter into this Easement under which Avista grants Parks a non-exclusive easement to the Avista Property and Parks grants Avista a non-exclusive easement to the Park Property for such purpose.

NOW, THEREFORE, in consideration of the premises and mutual benefits to be derived by the Parties hereto, the adequacy and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. Avista and Parks hereby grant and convey to the other and reserve to themselves perpetual non-exclusive easements on, over, upon, under and across their respective properties, which constitute Upriver Park.

2. The easements granted herein are specifically intended to be appurtenant easements that shall run with the land for the term indicated herein and shall benefit and provide ingress and egress over, upon and across the above-described easements for the benefit of the public, irrespective of any changes in ownership thereof. This Easement shall be binding upon the successors, heirs, and assigns of the parties hereto.

CITY OF SPOKANE, PARK BOARD

By _____
Its: Chair

AVISTA CORPORATION, A WASHINGTON PUBLIC UTILITY CORPORATION

By _____
Its: _____

Attest:

_____
City Clerk

Approved as to form:

_____
Assistant City Attorney

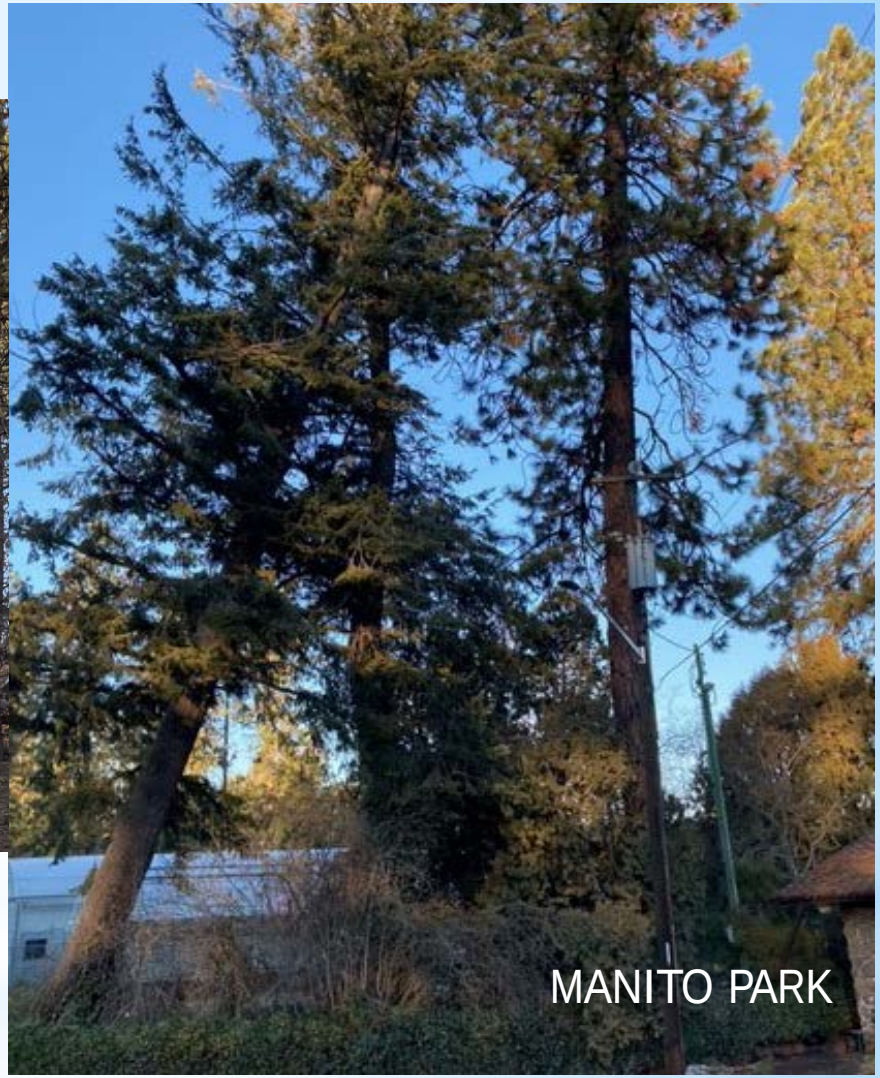
[NOTARY BLOCKS]

*Park Report

Land Committee

February 3, 2020

CANNON HILL PARK



MANITO PARK

*January 13 Wind Storm

AUDUBON PARK

BEN BURR PARK

*January 13 Wind Storm

HIGH DRIVE

CANNON HILL PARK

*January 13 Wind Storm

SUMMARY OF TOTAL ESTIMATES:				
LABOR	Listed below through 1/28/21		$	43,464
	OT Hrs @ $48/hr avg	$ 13,416		
	Reg Hrs @ $32/hr avg	$ 30,048		
RENTAL	Estimate		$	4,800
SUPPLIES	Estimate		$	12,500
CONTRACTS	Land Expressions (not to exceed)		$	19,000
FACILIITIES	Damage listed below		$	102,500
		ESTIMATE TOTAL	$	182,264

FACILITY DAMAGE THROUGHOUT THE SYSTEM

Park	Amenity	Status	Repair/Replace	Estimated Cost
Comstock	Bathhouse	Damaged	Repair	$6,000
	Tennis Crt fence	Destroyed	Replace	$10,000
	Tennis Crt surface	Damaged	Repair	$7,500
	Swing set	Replace	Replace	$15,000
	Picnic Tables	Destroyed	Repair	$1,600
	Picnic BBQs	Destroyed	Replace	$2,000
	Benches	Destroyed	Replace	$5,500
	Irrigation	Unknown	Repair	$15,000
	Bleachers	Destroyed	Replace	$3,200
	Rock Wall	Damaged	Repair	$3,500
	Backstop	Destroyed	Replace	$5,000
RFP	Butterfly	On Ground		
	Light Blades	Unknown		

Expenses and Restoration

			FEMA Category		
Minor equipment	Vendor	Notes		Cost	Invoice or
Diameter / logging tape for Dave	Spokane Power Tool			70	
chainsaw pants	Tree Stuff / Sherrill			650	will use fo
Peavey /log rolling tool	Tree Stuff			200	
Boise Cascade	*Revenue +*				revenue
Tiger Trucking	NTE 10k contract			*10000*	expenditu
? Trucking	NTE 10k contract			*10000*	expenditu
On-call contract work					
CDA Park - 3 tree removals	Bartlett (on call city wide contract)	unable to remove due to nearby trees, unsafe to climb		$ 3,136.86	
Grand Blvd - hangers prune - 3 trees	Bartlett (on call city wide contract)	add on work while working nearby (Manito Blvd)		$ 1,283.66	
Patrick Byrne Park - 1 tree remove	Bartlett (on call city wide contract)	communication line conflict - TS required		$ 1,279.58	
Manito Blvd, across from 2125 S Manito Bl	Bartlett (on call city wide contract)	difficult location street/house, lower by TS contractor		$ 2,229.18	
S Adams (High Drive Bluff area)	Bartlett (on call city wide contract)	difficult location over the road/houses TS Contractor		$ 1,427.13	
				$ 9,356.41	
Restoration					
Root removals / grinding - many in-house / Land Expressions				10,000	very rough
replacement trees + installation by TS cont	300	500		$150,000.00	tree cost i
replacement trees (trees only)	300	175		$ 52,500.00	tree cost e
				212,500	
Overtime	date	# Hours			notes
Jeff Perry	1/15/2021	1			removals - part
Jeff Perry	1/16/2021	8			
Jeff Perry	1/18/2021	0.5			
Jeff Perry	1/22/2021	8			
Lars Erpenbach					
Michael Urlatcher			average overtime pay		
		17.5	70	$ 1,225.00	
Estimate of reg hours on storm damage UI	4 people x 8hrs x 10 days (regular)	320	35	$ 11,200.00	as of 1/27
donation / fund raising opportunities					

*January 13 Wind Storm

*Questions?