



Spokane Park Board
Jan. 14, 2016 – 1:30 p.m.
City Hall, City Council Chambers
808 W. Spokane Falls Blvd, Spokane, Washington

Park Board Members:

- X Chris Wright – President
- X Susan Traver – Vice President
- X Eadie, Leroy
- X Kelley, Ross
- X Van Voorhis, Ken
- X Dunau, Andy (arrived at 3:06 p.m.)
- X Selinger, Sam
- X Potratz, Preston
- X Pendergraft, Lauren
- X Sumner, Nick
- X McGregor, Ted
- X Mumm, Candace – Council Liaison
(arrived at 1:32 p.m.)

Parks Staff:

- Jason Conley
- Tony Madunich
- Garrett Jones
- Al Vorderbrueggen
- Angel Spell
- Jeff Bailey
- Sam Song
- Berry Ellison
- Sari Luciano
- Monique Cotton
- Katie Freeman

Guests:

- Paul Knowles
- Will Stone
- Jim Santorola

MINUTES

1. **Roll Call:** *Pamela Clarke*
See above
2. **Motion No. 1:** Ross Kelley moved to approve the Dec. 10, 2015, Regular Park Board Meeting Minutes and Study Session Notes.

Dr. Sam Selinger seconded.
Motion carried unanimously
3. **Additions or Deletions to the Agenda:**
A. Nominating Committee Report – *Chris Wright*
4. **Monthly Highlights:**
A. None
5. **Special Guests:**
A. Conservation Futures presentation - *Paul Knowles* – Spokane County park planner and real estate coordinator. Mr. Knowles presented a review of the Spokane County Conservation Futures history, and information on the nomination and acquisition process. He also explained the city's role in the process.
6. **Claims:**

A. Claims for the month of December 2015 – *Susan Traver*

Motion No. 2: Susan Traver moved to approve claims for the month of December 2015 in the amount of \$1,086,874.15.

Dr. Selinger seconded.

Motion carried unanimously.

7. **Financial Report & Budget Update:** – *Sari Luciano* provided the December Financial Report & Budget Update. Parks and Recreation Fund revenue is tracking at 99% of the projected budget. Parks and Recreation expenditures are tracking at 94% of the projected budget. The Golf Fund revenue is tracking at 100% of the projected budget. The Golf Fund expenditures are tracking at 99% of the projected budget.

8. **Special Discussion/Action Items:**

A. None

9. **Committee Reports**

Golf Committee: Jan. 12, 2016, *Preston Potratz*

A. 2016 Agreement for Operation of the Indian Canyon Municipal Golf Course – Mr. Potratz recapped the highlights of the newly-crafted golf pro contract, noting the golf pro accepts the course and facilities in current condition, and is responsible for the pro-shop, restaurant, driving range and instructional programs. Parks and Recreation is responsible for maintaining the course and driving range. The pro, in turn, receives 98% gross from operation of the driving range, cart and club rentals, and pro-shop sales; and 100% of food and beverage sales. A key change to the 2016 agreement involves increasing the length of the agreement from three years to five, and limiting potential extension to one additional five-year term.

Motion No. 3: Mr. Potratz moved to approve the 2016 Agreement for Operation of the Indian Canyon Municipal Golf Course.

Friendly amendments included the following: 1) *Candace Mumm* - Change Section 3.5 (g) to read: Turn the heat down to 60 degrees when the clubhouse/restaurant is closed. 2) *Ms. Mumm* - Change Section 3.5 (n) to read: The professional may conduct any business or social activity on the Golf Shop for any other purpose with first having obtained the express written consent of the Golf Manager. *Chris Wright* – Change Section 4 to read: Any extension will be in the sole discretion of the Park Board and the Golf Manager. The Golf Professional will advise the Golf Manager, in writing, no later than Aug. 1, 2020, of his or her desire to extend the contract. The extension request shall not preclude the Parks Department from issuing requests for qualifications for the following term. *Susan Traver* expressed concern on altering contract wording at this stage of the negotiations. Mr. Wright explained the changes are designed to give flexibility to the pro and Parks, specific to the timing of the potential five-year extension. *Chris Wright* – Change Section 11 to read: In the event of a state audit where findings involve violation(s) in the operation of facilities/services which are the sole responsibility of the pro, the Parks Department has the ability to terminate. The board agreed to submit the suggested Section 11 wording to City legal and accounting for refined wording.

Ken Van Voorhis seconded.

Motion passed unanimously with friendly amendment edits.

- B. There was a report on the 2015 golf season marketing activities.
- C. The next scheduled meeting is 8:05 a.m. Feb. 9, 2016, in the City Council Briefing Center.

Land Committee: Jan. 6, 2016, *Ken Van Voorhis*

A. St. Aloysius Agreement for Heath Park – Mr. Van Voorhis reviewed the history of the agreement, which was previously a lease. The new contract is an agreement between Parks, the St. Aloysius School and the neighborhood for Parks to maintain and manage the equipment at Heath Park.

Motion No. 4: Mr. Van Voorhis moved to approve the revised agreement with St. Aloysius for Heath Park.

Ross Kelley seconded.
Motion passed unanimously.

- B. There was an update on the Southside Sports Complex / KXLY Transaction.
- C. The next scheduled meeting is 3 p.m. Feb. 3, 2016, in the City Council Briefing Center Conference Room.

Recreation Committee: Jan. 7, 2016, *Sam Selinger*

- A. Action Item: None
- B. There was a report on a proposed policy that would allow cash prize money to be awarded for adult sports tournaments. Responding to feedback collected from various teams that participated in tournaments this past season, the Legal Department and appropriate Parks and Recreation personnel created a document that was presented to the committee for review and comment.
- C. The next scheduled meeting is 3 p.m. Feb. 4, 2016, in the City Hall Conference Room 2B.

Riverfront Park Committee: Jan. 11, 2016, *Andy Dunau*

A. Mid-Channel Howard Street Bridge (Blue Bridge) Replacement Recommendation – Mr. Dunau explained the Utilities Division has the funding to replace the bridge as part of putting in a new water main underneath the bridge. He explained a resolution is needed to support their efforts. Mr. Dunau noted this is a Utilities project, and is a replacement project not a repair or restoration. Leroy Eadie noted that to items need to be added to the resolution, including the following underlined items: 1) the bridge was erected in 1916 and; 2) the bridge is a fracture-critical structure currently not in conformance with AASHTO bridge standards. Preston Potratz explained the meaning of the bridge's fracture critical status. He explained if one member of the structure fails, it could result in the entire bridge failing. Ted McGregor expressed concerns on not investing more time on considering repair and restoration of the bridge. Chris Wright concurred with the concern, but explained the Park Board did not have the luxury of time regarding Utilities' project to replace the water line. Preston Potratz added there will be opportunities for public input as Utilities moves forward with the project.

Motion No. 5: Andy Dunau moved to accept the Mid-Channel Howard Street Bridge Replacement Resolution. Preston Potratz abstained, for transparency reasons, due to his firm being noted on the contract.

Preston Potratz seconded.

Motion passed with one nay vote from Ted McGregor and one abstention.

Carrousel Design Team Selection – Berry Ellison presented information on the selection process and justification on the decision to recommend NAC as the Carrousel Design Team. Ken Van Voorhis abstained, for transparency reasons, due to his firm being among the candidates.

Motion No. 6:

Ross Kelley seconded.

Motion passed with one abstention.

Stantec Contract Recommendation – Preston Potratz provided clarification on the various suggestions he made on a redline version of the recommendation. A friendly amendment by Ken Van Voorhis moved to accept Mr. Potratz's edits to the recommendation.

Motion No. 7: Andy Dunau moved to accept a resolution to ask the City of Spokane to enter into the stated contract with Stantec for the Recreation Rink and SkyRide design services with the following revision before finalizing the agreement: 1) resolve questions regarding the use of language dealing with City owners and Parks to have consistency and clarity throughout the contract; 2) strike the word "arbitration" in the consultant agreement; 3) integrate Sections 3,5, and 8 in the AIA Contract language; 4) correct a date typo; and, 5) accept Mr. Potratz's suggestions. Ken Van Voorhis abstained, for transparency reasons, due to his firm being among the candidates for the project.

Susan Traver seconded.

Motion passed with one abstention.

B. The next scheduled meeting is 3 p.m. Feb. 8, 2016, in the City Council Briefing Center.

Finance Committee: Jan. 12, 2016, *Susan Traver*

A. Desautel Hege Contract - Ms. Traver provided background on the contract explaining this is a much larger marketing contract which would specifically deal in large part with Recreation, Golf, Riverfront Park, revenue generators for Urban Forestry and Parks clarifying that Urban Forestry and Park and Recreation would normally be handled in-house.

Motion No. 8: Susan Traver moved to Desautel Hege (DH) Contract for an amount not to exceed \$315,000 per year beginning January 18, 2016, and extending through January 17, 2017, and may be extended for four (4) additional one-year contract terms subject to mutual agreement, with the total term of the contract not to exceed five (5) years for Advertising/Marketing & Brand Development.

Nick Sumner seconded.

Motion carried unanimously.

B. The next regularly scheduled meeting is 3 p.m. Feb. 9, 2016, in City Hall Conference Room 2B.

Urban Forestry Tree Committee: Jan. 5, 2016, *Lauren Pendergraft*

- A. Action Item: None
- B. Ms. Pendergraft reported on the committee's approval to designate two dawn redwoods, at A. Finch Arboretum, as Heritage Trees.
- C. The next regularly scheduled meeting is 4:15 p.m. Feb. 2, 2016, at the Woodland Center, Finch Arboretum.

By-Laws Committee: None

10. **Reports:**

Park Board President: *Chris Wright*

- 1. Mr. Wright announced he would email the Nominating Committee Report.

Liaison Reports:

- 1. Conservation Futures Liaison – None
- 2. Parks Foundation Liaison – None
- 3. Council Liaison – None
- 4. Parks Department Revenue & Sponsorship Subcommittee – None

Director's Report: *Leroy Eadie*

- 1. None

11. **Correspondence:**

A. Letters: Project Joy

B. Newsletters:

Corbin Senior Activity Center
Southside Senior and Community Center

12. **Public Comments:** None

13. **Executive Session:** None

14. **Adjournment:** 4:30 p.m.

A. Next Committee meeting dates:

Golf Committee: 8:05 a.m. Feb. 9, 2016, City Council Briefing Center

Land Committee: 3 p.m. Feb. 3, 2016, City Council Briefing Center Conference Room

Recreation Committee: 3 p.m. Feb. 4, 2016, City Hall Conference Room 2B

Riverfront Park Committee: 8:05 a.m. Feb. 8, 2016, City Council Briefing Center

Finance Committee: 3 p.m. Feb. 9, 2016, City Hall Conference Room 2B

Urban Forestry Committee: 4:15 p.m. Feb. 2, 2016, Woodland Center, Finch Arboretum

B. Next Park Board meeting: 1:30 p.m. Feb. 11, 2016, City Council Chambers

C. Next Joint City Council/Park Board Study Session: 3:30 p.m. Feb. 11, 2016, City Hall Conference Room 5A

Spokane County Conservation Futures Program

Program Overview & 2016 Nomination Round Preview

Spokane County Parks, Recreation & Golf



Our Talk

- Background
- How it works?
- How is land acquired?
- Q & A



Liberty Creek, Liberty Lake Regional
Park

Acquisitions



2013 - Mica Peak Conservation Area – 906 Acres
2014 – Trailhead Property Acquired – 5 Acres

Acquisitions



2000 – James T. Slavin Conservation Area – 628 Acres

Acquisitions

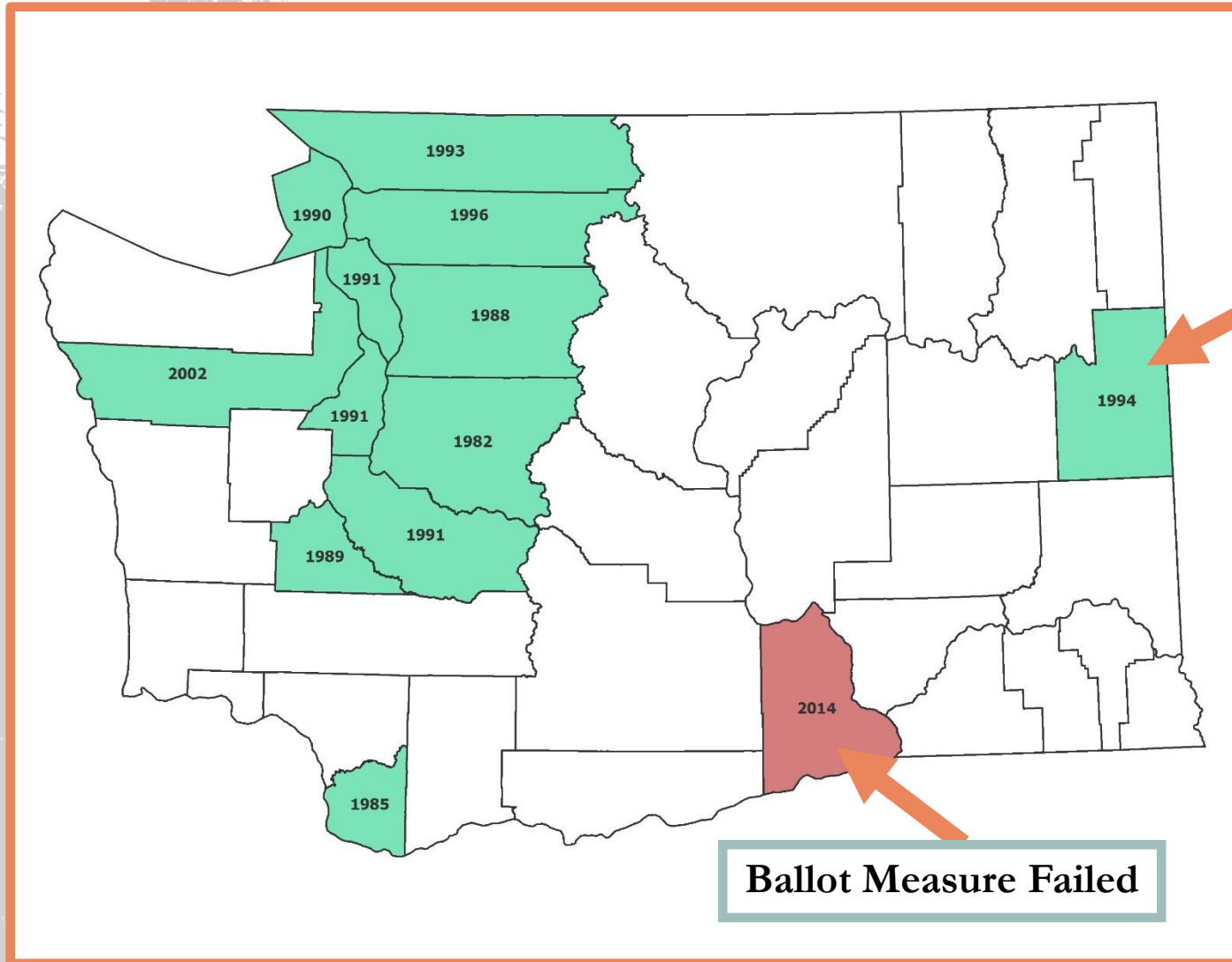


1995, 2005, 2011, 2012 – Dishman Hills Conservation Area – 1,234 Acres

Conservation Futures Legislation

- Passed in 1971 by State Legislature
- Legislature determined a need to preserve open space for the welfare and well-being of citizens.
- Enabled Counties to assess a property tax (up to 6.25 cents per 1,000 assessed value).
 - 2016 Spokane County CF tax rate: 4.67 cents per \$1,000 assessed value
 - \$9.37 per year on a \$150,000 home
- 2005 – 15% of CF Levy for M&O Enabled

Legislation's Result



Ballot Measure Passed (Year)

Ballot Measure Failed

Background

Spokane County Program History

- **1994** - Board of County Commissioners adopts Conservation Futures Tax Levy
- **1994** – Cedar Grove acquired.
- **1997** – Advisory ballot measure passes – 53%
- **2003** – Advisory ballot measure passes – 59%
- **2007** – Advisory ballot measure passes with a “no sunset” clause by 63%.
- **2015** – Program acquires 40th property, 7,601 acres total (all fee simple).

Who Makes Conservation Futures Work?

**Parks Advisory
Committee**

**Board of County
Commissioners**

Property Owners

**Land Evaluation
Committee**

**Spokane County
Residents & Voters**

**Spokane County
Parks Staff**

**City of Spokane
Parks staff / Lands
Committee / Park
Board**

**Washington
Department of
Fish & Wildlife**

Appraisers

Surveyors

How it works?

Board of County Commissioners' Role

County Commissioners

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graph TD; A[County Commissioners] --> B[Considers LEC / PAC Recommendations (e.g. Acquisition List)]; A --> C[Reviews and Approves Program Rules, Policies, etc.]; A --> D[Approves Purchase & Sale Agreements, use of Conservation Futures funds]; E[ALSO! Authorizes the Conservation Futures Property Tax Levy Annually];
```

**Considers LEC /
PAC
Recommendations
(e.g. Acquisition
List)**

**Reviews and
Approves Program
Rules, Policies, etc.**

**Approves Purchase
& Sale Agreements,
use of Conservation
Futures funds**

**ALSO! Authorizes the Conservation Futures
Property Tax Levy Annually**

How it works?

Land Evaluation Committee

City of Spokane
3 Volunteer Members

Spokane County
4 Volunteer Members

City of Spokane Valley
1 Volunteer Member



**Land Evaluation
Committee**

How it works?

Land Evaluation Committee's Role

Land Evaluation Committee

```
graph TD; A[Land Evaluation Committee] --> B[Tours, Evaluates, and Prioritizes Nominated Properties]; A --> C[Provides Recommendations to Board of County Commissioners & Park Advisory Committee]; A --> D[Considers Recommendations From, and Advises County Parks staff on all aspects of the Program];
```

**Tours, Evaluates,
and Prioritizes
Nominated
Properties**

**Provides
Recommendations
to Board of County
Commissioners &
Park Advisory
Committee**

**Considers
Recommendations
From, and Advises
County Parks staff
on all aspects of the
Program**

How it works?

County Parks Staff's Role

Spokane County Parks Staff

```
graph TD; A[Spokane County Parks Staff] --> B[Administer, Facilitate, & Manage the Program]; A --> C[Advise and Assist Property Owners, Nominators, LEC, PAC and County Commissioners]; A --> D[Negotiate and Facilitate County Land Acquisitions];
```

**Administer,
Facilitate, &
Manage the
Program**

**Advise and Assist
Property Owners,
Nominators, LEC,
PAC and County
Commissioners**

**Negotiate and
Facilitate County
Land Acquisitions**

**Also! Assist jurisdictions with Conservation
Futures-related projects as needed.**

How it works?

City of Spokane's Role

City Parks Staff

Attend all LEC meetings, tours, public meetings, & negotiate and facilitate City land acquisitions.

Park Director responsible for filling three (3) City LEC Positions

Lands

Committee

Member(s) often serve on the LEC. Lands Committee provides “go-no-go” recommendation to the LEC to evaluate nominations specific to the City of Spokane.

City Park Board

Member(s) often serve on the Lands Committee and the LEC. Park Board provides final support / approval to assume ownership of high ranking nominations identified for the City, should they be successfully acquired.

Please Note: The City Park Board is the decision making body for the City of Spokane, when determining whether or not to take on ownership of additional Park Land

How it works?



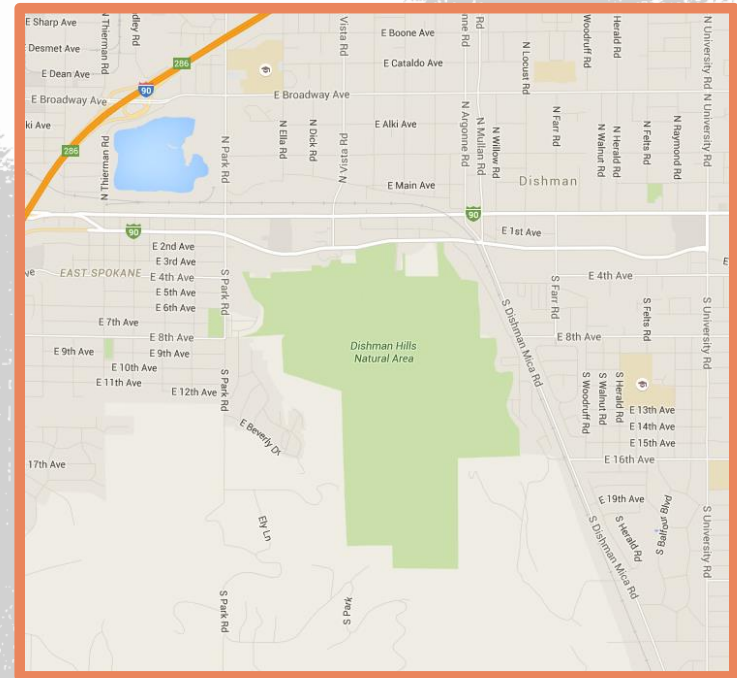
Who do we buy land from?

Anybody
who owns land
in Spokane County

How is land acquired?

What Makes A Successful Nomination?

- Location Matters!
 - Ability to Maintain (distance)
 - Expand or connect existing park land
 - Proximity to population
 - Access



How is land acquired?

What Makes A Successful Nomination?

- **Size Matters!**
 - Preserve more species
 - Provide more recreation
 - Simplify long-term management



How is land acquired?

What Makes A Successful Nomination?

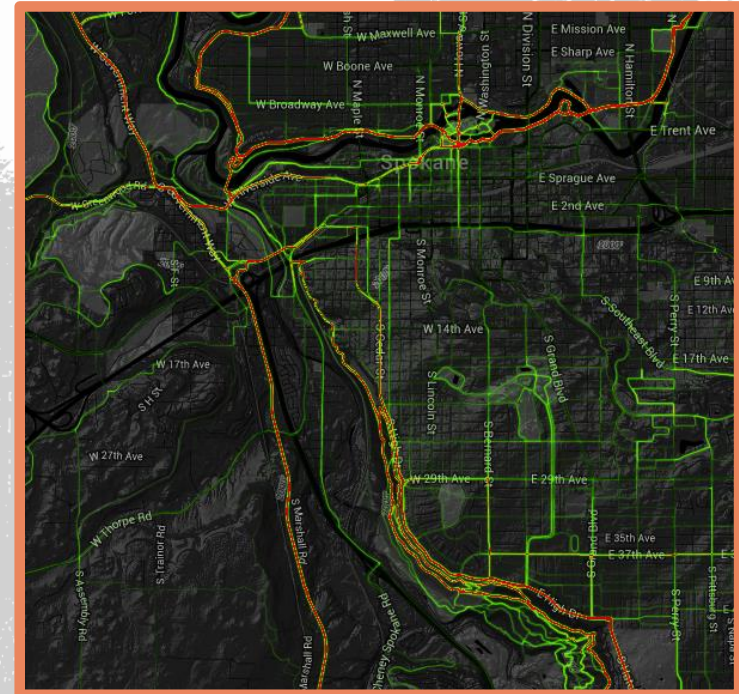
- **Quality Matters!**
 - High Quality Habitat
 - Water Resources
 - Erosion / Noxious Weeds



How is land acquired?

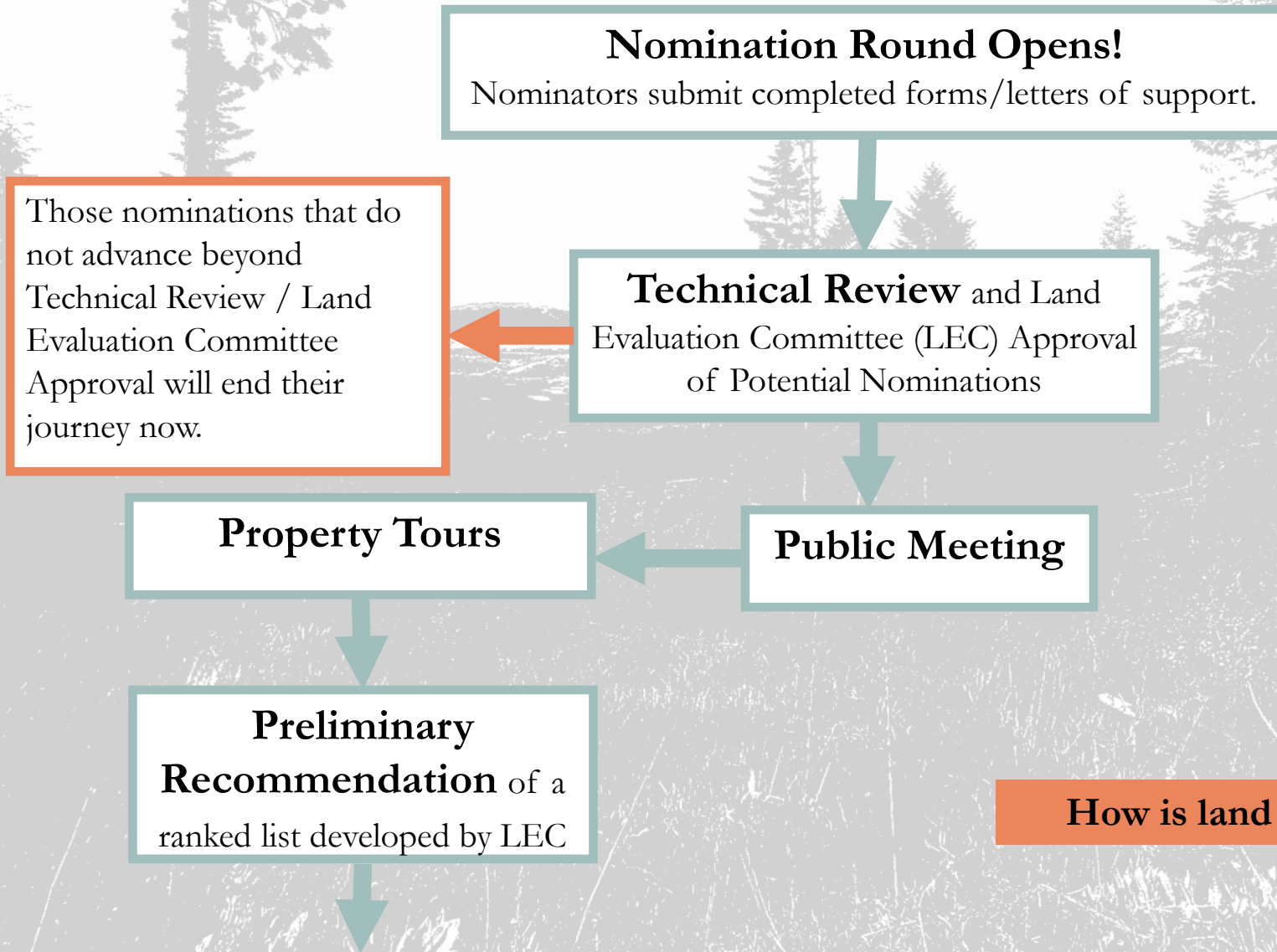
What Makes A Successful Nomination?

- **Connectivity Matters!**
 - Wildlife Movement
 - Species Diversity
 - People Movement



How is land acquired?

Open Nomination Round



Open Nomination Round

Final Review by Staff of top 15 (+/-) nominations for potential issues and provides recommendation to LEC

Final LEC Review & Recommendation forwarded to Park Advisory Committee (PAC) and Board of Spokane County Commissioners (BoCC) for Consideration

PAC Consideration and Recommendation forwarded to BoCC

BoCC may approve, revise, or reject recommended **Prioritized Acquisition List**

How is land acquired?

Unforeseen Opportunity

Nomination Received outside of Open Nomination Round with request to consider.

LEC considers nomination and determines whether or not to advance for further evaluation. Nominations that advance, are formally evaluated against the current top-ranked property on the List.

Recommendation to the PAC and BoCC to add property to the top of the List if ranked above current top-ranked property

How is land acquired?

Acquisition Begins!

2016 Prioritized Acquisition List Approved!

Properties Ranked
Below the “Top 15”

Property Owners and Nominators will be notified of their rank on List and encouraged to re-apply in the next nomination round.

Properties Ranked in the
“Top 15”

Property Owners and Nominators **Notified of their Rank on the List.**

How is land acquired?

Acquisition Begins!

Appraisal -

Beginning with the top-ranked property, Parks Staff contacts owner(s) and mutually select two (2) MAI Appraisers to conduct independent appraisals of property being pursued. According to rank, nominated property owners will be contacted & pursued as available resources permit.

“Deal or No Deal” -

Staff works with owner/seller to execute a Purchase and Sale Agreement.

Contingency Elimination -

Contingencies included within the Purchase and Sale Agreement are satisfied in preparation for closing such as: Phase I Environmental Site Assessment, Boundary Line Survey, and other matters as applicable.

Closing

- Purchase and Sale is completed!

How is land acquired?

Property Acquired! Now What?

~~Ponds~~

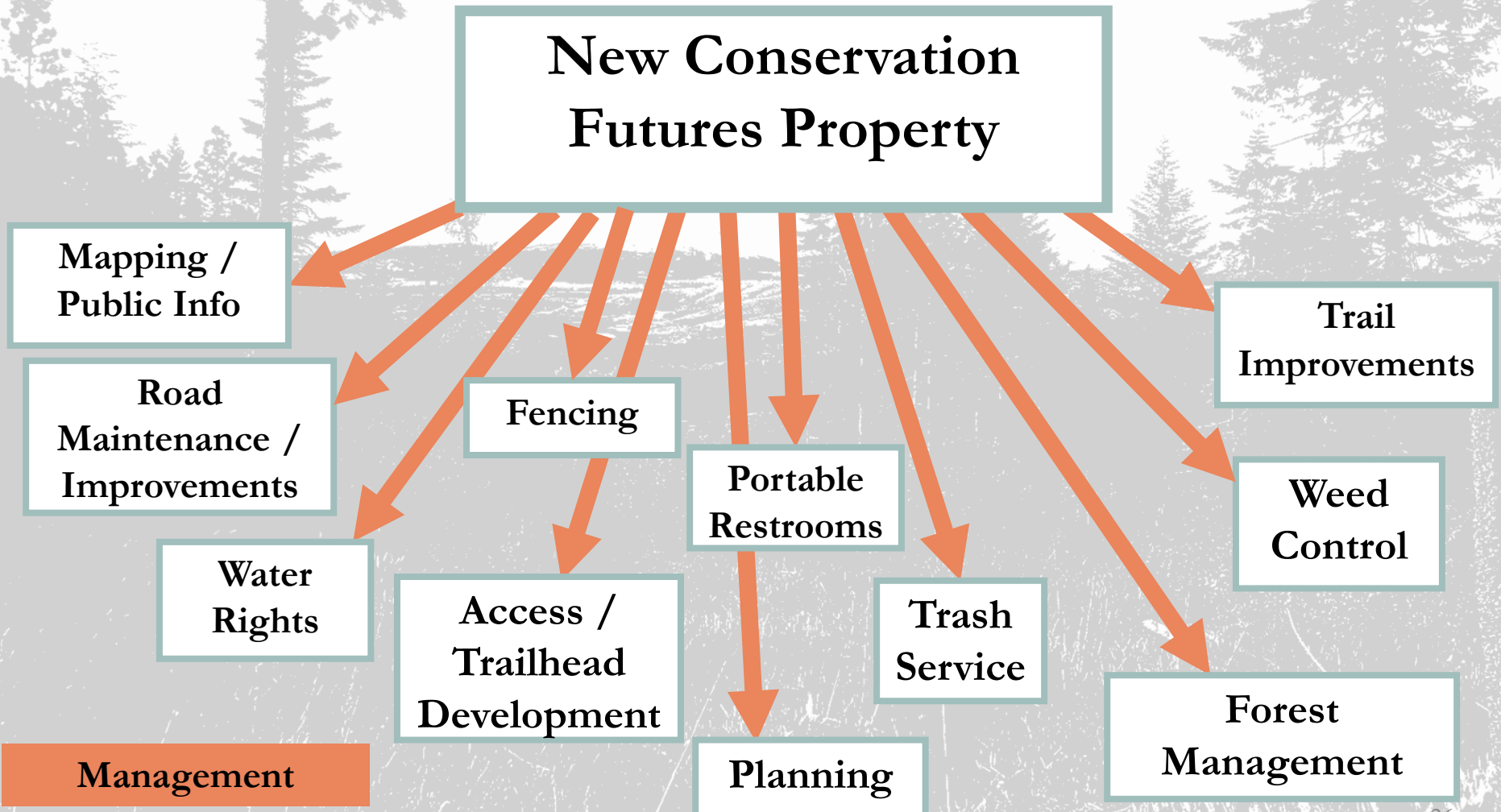
~~Playgrounds~~

Wildlife & Passive Recreation

~~Sports
Fields~~

~~Irrigated
Turf~~

Property Acquired! Now What?



Property Acquired! Now What?

Conservation Futures Maintenance & Operations

15% of CF Levy Annual Revenue

**Wages &
Benefits**
to maintain
& operate
the
properties

**Trailhead
Parking**
Areas,
planning,
kiosks, maps

**Gas,
supplies,
lumber,
spray, signs,
fencing**

Management

Property Acquired! Now What?

Distribution of 15% Maintenance & Operations

Based on Acreage Managed (2015)

City of Spokane Parks

Acreage*: 224

2015 Distribution: \$10,810

City of Cheney

Acreage*: 15

2015 Distribution: \$725

Spokane County Parks

Acreage*: 5,095

2015 Distribution: \$245,554

*Properties that generate revenue in excess of M&O allocation are not included, per allocation formula.

Management

Acquisitions



2008 – High Drive Conservation Area – 9.93 Acres

Acquisitions

An aerial photograph of a natural landscape. In the foreground, a stream flows through a field of tall, brown grasses. To the right, a rocky, gravelly slope descends towards the stream. The middle ground consists of a large, open area with patches of green grass and brown, dry vegetation. In the background, a dense forest of evergreen trees surrounds a body of water, likely Williams Lake. The sky is overcast with grey clouds.

2013 – Williams Lake Plunge Pool Conservation Area – 15 Acres

Acquisitions



2004 – Gateway Conservation Area – 7 Acres

Questions?

For more information, contact:

Paul Knowles

Park Planner & Real Estate Coordinator
Spokane County Parks, Recreation & Golf

@ pknowles@spokanecounty.org or (509) 477-2188.

Questions?

**CITY OF SPOKANE PARK AND RECREATION DEPARTMENT
DEC 2015 EXPENDITURE CLAIMS
FOR PARK BOARD APPROVAL - JAN 14, 2016**

PARKS & RECREATION:

SALARIES & WAGES	\$	577,077.98
MAINTENANCE & OPERATIONS	\$	181,894.39
CAPITAL OUTLAY	\$	128,259.05
PARK CUMULATIVE RESERVE FUND	\$	-
CAPITAL IMPROVEMENTS - 2015 - RFP	\$	63,928.67
CAPITAL IMPROVEMENTS - 2008 - PARK	\$	13,572.40
FRANKLIN PARK PROJECT - WATER DEPT.	\$	50.54
FINCH ARBORETUM PERPETUAL CARE FUND	\$	-
WEST QUADRANT TIF	\$	-
CDA PARK MASTER PLAN - PLANNING SERVICES	\$	-

GOLF:

SALARIES & WAGES	\$	83,148.52
MAINTENANCE & OPERATIONS	\$	30,741.86
CAPITAL OUTLAY	\$	8,200.74
TOTAL EXPENDITURES:	\$	<u>1,086,874.15</u>

CITY OF
SPOKANE
PARKS
& RECREATION

The logo for the City of Spokane Parks & Recreation is a dark blue circle. Inside the circle, there is a white stylized figure of a person walking or running. Above the figure is a white five-petaled flower. To the right of the figure is a white leaf-like shape.

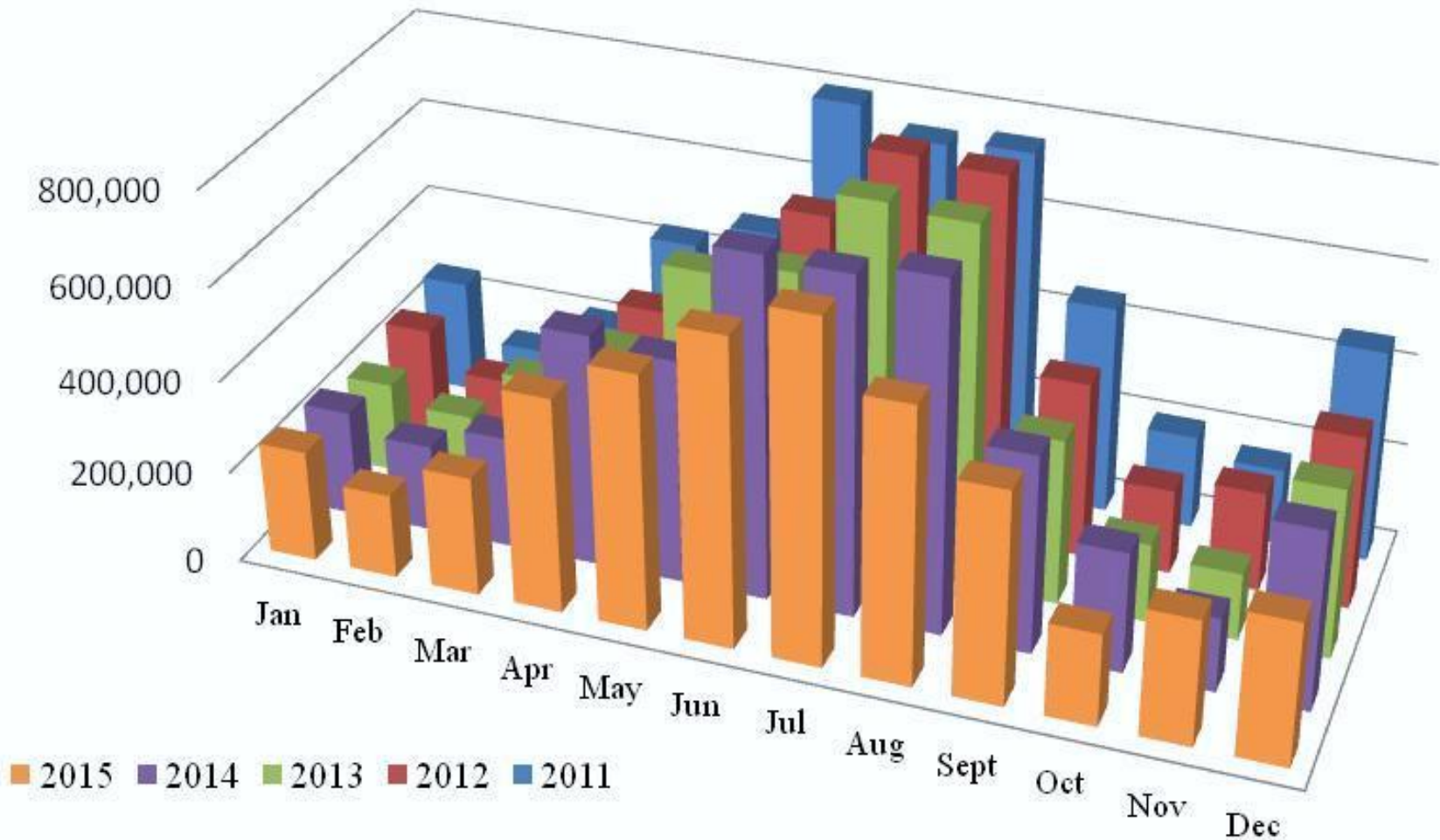
Preliminary Financial Report
December, 2015

City of Spokane Parks & Recreation
PARK FUND – Revenues & Expenditures
Preliminary - December 31, 2015
(reported in millions)

As of December (in millions)	2015 Budget	YTD Budget	YTD Actual	% YTD Budget
Park Revenue	5.01	5.01	4.93	99%
Transfers In	12.94	12.94	12.92	100%
Funds Available	17.94	17.94	17.86	100%
Expenditures	16.33	16.33	15.35	94%
Transfers Out	0.63	0.63	0.62	99%
Capital Outlay	1.33	1.33	0.71	54%
Wind Storm 2015	0.50	0.50	0.01	1%
NET	-0.85	-0.85	1.16	
Beginning Fund Balance	2.55	2.55	2.55	
Ending Fund Balance	1.69	1.69	3.70	

Revenue by Month - Park Fund

Revenue 5 Year Trendline

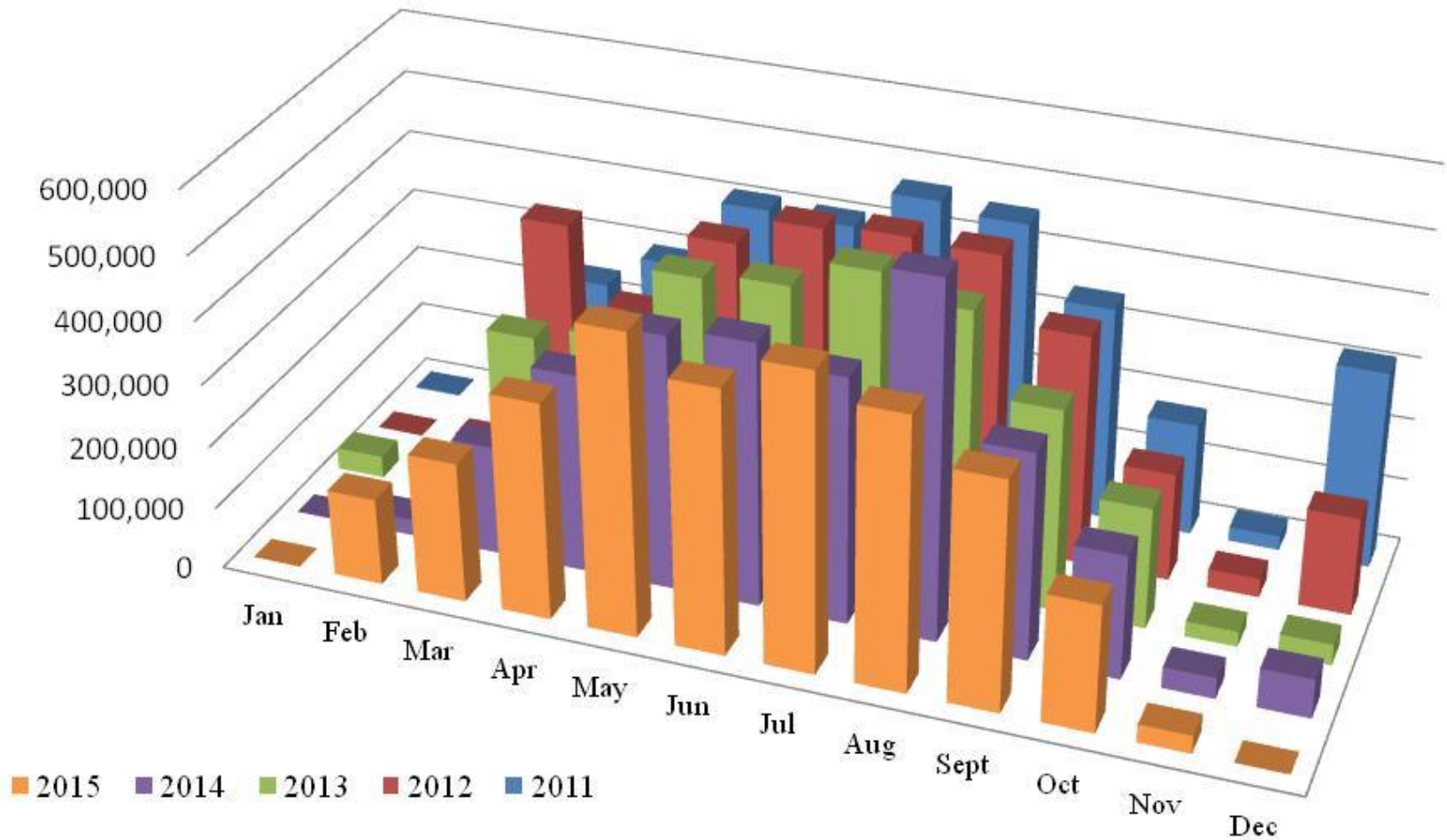


**City of Spokane Parks & Recreation
GOLF FUND – Revenues & Expenditures
Preliminary - December 31, 2015
(reported in millions)**

As of December (in millions)	2015 Budget	YTD Budget	YTD Actual	% YTD Budget
Golf Revenue	3.10	3.10	3.10	100%
Transfers In	0.27	0.27	0.31	114%
Funds Available	3.38	3.38	3.42	101%
Expenditures	2.95	2.95	2.93	99%
Transfers Out	0.02	0.02	0.01	50%
Capital Outlay	0.17	0.17	0.11	66%
Wind Storm 2015	0.15	0.15	0.00	1%
NET	0.09	0.09	0.36	
Beginning Fund Balance	0.16	0.16	0.16	
Ending Fund Balance	0.25	0.25	0.53	

Revenue by Month - Golf Fund

Revenue - 5 Year Trendline



**2016 AGREEMENT FOR
OPERATION OF
THE INDIAN CANYON MUNICIPAL GOLF COURSE**

THIS AGREEMENT made and entered into this 14th day of January 2016, by and between the SPOKANE PARKS AND RECREATION DEPARTMENT, a municipal corporation of the State of Washington, hereinafter referred to as "Parks and Recreation Department", and DOUG PHARES, GOLF PROFESSIONAL, hereinafter referred to as "Professional".

WHEREAS, the Parks and Recreation Department is the owner of Indian Canyon Municipal Golf Course, which ownership includes the land upon which said Golf Course is located, the buildings and other improvements which are a part thereof; and

WHEREAS, the services of a Golf Professional at Indian Canyon Municipal Golf Course are desired to operate the concession as well as to provide Golf Professional services throughout the playing season; and

WHEREAS, the Parks and Recreation Department wishes to contract with the Professional for the operation of the Clubhouse facilities, Restaurant/Coffee Shop, Pro Shop, and Practice Range.

NOW, THEREFORE, pursuant to the requirements of the Charter of the Parks and Recreation Department, and in consideration of the mutual covenants contained herein, the parties agree as follows:

Section 1. **CONTRACT DOCUMENTS.** This Agreement, and the Rules and Regulations for the Performance of Golf Professional Services constitute the contract documents, PROVIDED THAT, specific federal, state, and local requirements and the terms of this Agreement, respectively, supersede other inconsistent provisions. The contract documents are incorporated into this Agreement as fully as if they were set forth herein.

Section 2. **CONCESSION AND LEASE GRANTED.** The Parks and Recreation Department hereby grants to the Professional the concession to operate the clubhouse facilities, pro shop, practice range and the restaurant at Indian Canyon Municipal Golf Course located at 1000 S. Assembly Road, Spokane, Washington.

2.1 **The Concession Premises.** The concession shall be conducted on the golf course known as the Indian Canyon Municipal Golf Course,

2.2 **Condition of Premises.** The Professional has inspected and examined the premises and all facilities and fixtures thereon and accepts the same in their

present condition and agrees the City assumes no liability for and damages or lost revenue to the Professional resulting from any conditions that existing prior to the date of his signature and agrees to make no claims against the City for course contentions that existed prior to the date of signature. The Professional shall not make any alterations, changes, or additions to the clubhouse facilities, pro shop, practice range, restaurant, or any other property or facility, or to any fixtures or equipment owned by the Parks and Recreation Department without written consent of the Golf Manager, PROVIDED THAT, any alterations, changes, or additions consented to shall be subject to section 3.9(g) of this Agreement. The Professional shall not commit, permit, or allow any nuisance, waste, or injury in, upon, or to the Golf Course, or permit the use of the Golf Course for any illegal or immoral purpose.

Section 3. **OPERATING RESPONSIBILITIES OF PROFESSIONAL.** The following duties and responsibilities shall be the obligation of the Professional and his agents and employees.

- 3.1 Lessons. To use the practice range and to give competent golf instruction to all groups and levels of public players and make charges therefore. The Professional, or other PGA/LPGA qualified golf instructor, must be available to conduct lessons. Lessons will ONLY be taught by PGA, LPGA members or apprentices in good standing with the PGA.
- 3.2 Men's and Ladies' Clubs.
 - a. The Professional must offer a minimum of one clinic per season for each Men's and Ladies' Clubs.
 - b. The Professional must strive to increase active membership in the Men's and Ladies' Clubs.
- 3.3 Practice Range.
 - a. The Professional must supply 1,000 dozen top-quality, clean range balls at all times during the golfing season.
 - b. Range balls must be picked up daily to ensure availability and must be easily accessible to the golfing public.
 - c. The building adjacent to the driving range is owned by the Parks and Recreation Department. It may be used by the Professional for the only for uses specifically approved by the Golf Manager.
- 3.4 Pro Shop.
 - a. The Professional must display, sell, rent, and otherwise supply to the public all golf goods, clothing, merchandise, golf equipment, golf pull carts and golf cars, all of which will be of good quality, diversity, attentive upkeep, and kept up to date.

- b. The Pro Shop must be staffed with at least two people during prime time to meet, without delay, the needs of the golfing public unless there is inclement weather and the Professional determines that one staff member is sufficient. Prime time shall be described as 7:00 a.m., to 5:00 p.m., April 1 through October 1. The shop must be OPEN and staffed no later than daylight at all times during the season.
- c. Pro Shop employees must be friendly, well-dressed, and courteous to golfers, maintain a neat appearance, exercise good public relations skills, become familiar with regular customers' names and have good phone mannerisms. Employees will not be allowed to use tobacco products of any kind while on shift. Professional will ensure all employees maintain a high level of customer service.
- d. Prices charged for sale, rental, or repair of equipment and merchandise will be consistent with prices comparable with other golf courses in Spokane.

3.5 General Responsibilities.

- a. Cooperate with the Golf Manager to carry out the successful operation of the golf course and meet the goals and expectations of the Golf Committee and Spokane Park Board as defined in this contract.
- b. Supporting and enforcing Parks and Recreation Department policies to staff and the golfing public.
- c. Regulate the play and conduct of all persons on the golf course, including keeping off trespassers and preventing injury to the golf course by players and others during the golfing season.
- d. Enforce all rules and operations established by the Park Board of the Parks and Recreation Department, including adherence to the free play policy approved by the Park Board.
- e. Collect all fees, issuing receipts for greens fees, range balls, cart rentals, Pro Shop sales and cafe items, sign golfers in, and weekly transfer of fees and/or payments to the Parks and Recreation Department.
- f. Report tournament, fee, and sponsorship schedules to the Golf Manager each month.
- g. Close the Clubhouse/restaurant, with heat turned down to 60 degrees when course is closed or unplayable due to weather conditions.
- h. Provide and staff a starter for the 1st tee when deemed necessary. Professional needs to be available to the public golfers.
- i. Keeping the Golf Course open for the prescribed hours of play as described in

the Golf Operations Manual.

- j. All services rendered by the Professional shall be in accordance with the PGA Code of Ethics
- k. The Professional shall provide competent personnel necessary for such operations and shall supervise them in their work and shall pay them for their services at the Professional's sole cost and expense. Staff must include two Class "A" Assistants or Apprentices. No staff under 21 years of age will be allowed at the desk during the day until 6:00 p.m., unless approved by the Golf Manager. Desk staff will be over 19 years of age after 6:00 p.m., unless approved by the Golf Manager.
- l. The Professional shall not employ or allow family members or relatives of self and/or family members of City Golf staff maintenance to participate in the operation of the golf course, clubhouse, restaurant and golf professional activities in any manner without the specific written approval of the Golf Manager and Park Board.
- m. Personnel employed by the Professional shall not engage in conduct injurious to the interests of the Parks and Recreation Department in having an efficient and successful operation at the Golf Course.
- n. The Professional shall not conduct any business or social activity on the Golf Course premises, or use the Golf Course, Clubhouse, restaurant or Golf Pro Shop for any other purpose without first having obtained the express written consent of the Golf Manager. All outside activities on Golf Course premises need approval and revenue received will be divided with the Professional receiving sixty percent (60%) and the Parks and Recreation Department forty percent (40%).
- o. The Professional shall not be otherwise employed or engaged in other business which is in conflict with the responsibilities and duties of the Professional under this Agreement without the express written consent of the Golf Manager
- p. The Professional or designee shall make a daily physical inspection of the Clubhouse/restaurant, adjacent Parks and Recreation Department grounds, and Golf Course during the playing season, and reporting any unusual or unsafe conditions observed during said inspection to the Golf Manager immediately. Such reports shall be followed up in writing and the Professional shall at all times be safety conscious for the life of the contract. Clubhouse maintenance personnel will check in with the Golf Professional daily to discuss any maintenance items of concern regarding the clubhouse/restaurant area.
- q. Promote increased play and income during identified slow-play periods.
- r. Provide documentation that dollars were spent to advertise and promote the Golf Course, Pro shop, and/or Clubhouse/Restaurant services.
- s. Designate a qualified and easily accessible Golf Professional or PGA affiliate for

contact with Men's and Ladies' Clubs, Tournament Chairpersons and outside groups.

- t. The Head Golf Professional or PGA certified designee must cooperate with and be easily accessible daily by the golfing public and organized groups.
- u. The Head Golf Professional or his/her designee must communicate with the Golf Course Superintendent or designee on a daily basis regarding course conditions, practice range conditions, tournaments, and special events. Disputes between the Head Golf Professional and the Golf Course Superintendent will be resolved by the Golf Manager.
- v. Equal treatment of all golfers.
- w. Handle reservations in a fair and open manner as per Parks and Recreation Department guidelines.
- x. Promote Men's and Ladies' Club memberships and leagues.
- y. Attend Men's and Ladies' Club meetings and events.
- z. Ensure that all signage in and around the clubhouse/restaurant and Pro Shop is of excellent quality and appearance. All signage must be approved by the Golf Manager.

3.6 Sponsorships. It is in the best interests of both the Professional and the Parks and Recreation Department to support appropriate sponsorship and co-promotional opportunities on the Golf Courses. The Parks and Recreation Department may at any time enter into a sponsorship agreement to promote the operation of the golf course and may share a percentage of the revenue with the Professional depending on the nature of the sponsorship. If the Professional finds an appropriate sponsorship, the Parks and Recreation Department may agree to enter into an agreement with that sponsor and will share with the Professional the proceeds from that sponsorship. The amount of any sharing will be as agreed to between the Professional and the Golf Manager.

3.7 Management Duties.

- a. Professional must be current in the PGA Certification Program.
- b. Marshal the Golf Course daily, except during inclement weather and obvious slow times, to monitor play and check receipts.
- c. Cooperate with the Parks and Recreation Department's Junior program, including testing for knowledge of golf rules and courtesies, and providing a qualified PGA/LPGA instructor for the Parks and Recreation Department - City sponsored Junior golf program. This is either the Professional or his/her Assistant(s).

- d. Play in Pro/Ams to give club members an opportunity to participate (Pro and Assistant).
- e. Ensure a high-caliber, quality staff and instituting an ongoing staff-training program, as provided by PGA.
- f. Make a sincere effort to hire diverse workforce, in keeping with the City of Spokane's minority employment goals.

3.8 Restaurant/Food Service.

- a. The Professional will be responsible for the operation, management, and supervision of the food and beverage concessions in the Clubhouse/Restaurant and for furnishing an adequate stock of food and beverage supplies for the operation of the restaurant. The Professional may provide food and beverage services at other locations throughout the Golf Course, with the express written consent of the Golf Manager.
- b. The Cafe operation shall be friendly, courteous, and efficient, with quality service, food and beverage items and clean appearance. Staff shall be neat and clean.
- c. Prices charged shall be consistent with comparable operations in the area. Menu and prices shall be provided as an Addendum to the Agreement.
- d. The Professional will be responsible for obtaining all required food and beverage permits and licenses and complying with the Spokane Regional Health District Food Safety program.

3.9 Pro shop, Clubhouse/restaurant maintenance.

- a. The Parks and Recreation Department will furnish the Professional with a list of Parks and Recreation Department-owned restaurant equipment (if any City owned equipment is available), which Professional may choose to use all or part thereof. The City will make repairs to this equipment for the first sixty (60) days of the initial Agreement. Loaned equipment which is deemed useless during this Agreement shall be disposed of by mutual consent. When equipment has to be replaced or repaired, it shall be the responsibility of the Professional. The Parks and Recreation Department may purchase replaced equipment at the end of the Agreement based on the fair market appraised value.
- b. Maintenance of restaurant/food service area. It shall be the responsibility of the Professional to maintain the food service area, including all cleaning and regular maintenance to taps, hoods, plumbing and electrical.
- c. The Professional shall be responsible for providing routine maintenance and janitorial services for the Golf Clubhouse/restaurant and Pro Shop. The janitorial services shall include, but not be limited to: Cleaning of windows (inside and outside), shampooing and cleaning carpets twice a year, annual cleaning of

chairs, daily maintenance of lavatories, washbasins, other interior furnishing, equipment, and fixtures. The Professional agrees to keep the Pro Shop, Clubhouse, and restaurant in a clean and sanitary condition at all times to the satisfaction of the Parks and Recreation Department.

- d. The Professional agrees to keep the lavatories in the clubhouse/restaurant open at all times the Golf Course or Clubhouse/restaurant is open for business.
- e. The Professional agrees to keep the bulletin/reader board updated monthly and clear of out-of-date notices daily.
- f. The Professional will be responsible for 100% of all personal telephone, fax, computer equipment and services. Additionally, the Professional will be responsible for 50% of the Parks and Recreation Department telephone service. The Parks and Recreation Department will pay the gas and electric charges and will reimburse the professional for 100% of internet expenses related to operating the provided point of sale system.
- g. The Parks and Recreation Department encourages capital project improvements by the Professional. Prior to project approval the Parks and Recreation Department will determine the value of the improvement and will work out a depreciation schedule, where if the Professional leaves prior to the total depreciation of the improvement the Parks and Recreation Department will purchase the remaining value. All improvements will be clearly defined and become an agreed upon written addendum to this Agreement.
- h. The Parks and Recreation Department will pay for the installation of a monitored burglar alarm system at the Clubhouse/restaurant and the Professional will pay the monthly service charge for the system.

3.10 Golf Carts.

- a. The Professional shall make a minimum of fifty (50) golf carts available for rental at the Golf Course, and the carts must be kept in good condition and must be replaced and maintained on a regularly scheduled program. Carts will not be more than seven years old. Any cart more than five years old must pass an annual inspection by both the professional and Golf Manager.
- b. The Professional may purchase or lease new golf carts during the term of this Agreement and the Parks and Recreation Department has the option to purchase or assume lease of those carts upon expiration or termination of this or subsequent agreements, at appraised price, with the Professional under the terms provided below, and, PROVIDED THAT, the buy-out provisions will apply only under all of the following conditions:
 - i) The Parks and Recreation Department must approve the price prior to the Professional's purchase of the carts, and a copy of the bill of sale must be provided to the Parks and Recreation Department;

- ii) The carts purchased will be subject to a five-year (5) amortization of the purchase price;
- c. Arrangement should be made by the Professional for fueling of the golf carts. Professional may choose to provide his/her own fuel which must be from an approved above ground fuel tank. If Professional installs his/her own tank, location must be approved by the Parks and Recreation Department. The Professional may request to purchase fuel from the Parks and Recreation Department. All fueling arrangements will be made between the Professional and the Golf Manager.

Section 4. **TERM.** This Agreement shall commence on January 1, 2016 and shall terminate December 31, 2020. The Golf Manager, with the approval of the Park Board may extend this contract for one additional five-year term. Any extension will be conditioned on the Professional's operation having been satisfactory and not in default.

4.1 **Annual Evaluation.** The Golf Manager will conduct an annual formal written evaluation with the Golf Professional no later than February 15th and prior to any contract extension. Results of the evaluation will be discussed and share with the Golf Committee.

Section 5. **GOLF MANAGER.** The Golf Manager shall be the designated representative of the Parks and Recreation Department for the purpose of supervising and managing the Golf Course grounds, and to ensure compliance with the terms of this Agreement. The Professional shall first address any concerns to the Golf Manager.

5.1 **Maintenance.** The Parks and Recreation Department shall be responsible for the maintenance of Golf Course grounds, the practice range, parking area, snow removal in the parking area, lighting, flooring, restroom fixtures, plumbing, heating, and air conditioning. The Professional shall be responsible for minor maintenance, helping with general litter clean-up of the parking area, replacement of light bulbs, minor plumbing of restroom fixtures, and replacement of toilet paper, towels, and soap in the restrooms. Minor repairs and supplies will be done at the sole cost of the Professional. If the Professional and Golf Manager disagree on the definition of appropriate maintenance, a mutually agreed third-party will be consulted to reach a resolution.

5.2 **Golf Course Marshal.** The Parks and Recreation Department may, at its own cost and expense, provide a golf marshal at the course who shall ensure all players have paid the necessary fees and been issued receipts as well as provide other customer service as directed by the Golf Manager.

5.3 **Rules and Regulations.** The Park Board of the Parks and Recreation Department shall fix, by resolution, rules and regulations for the operation of the Golf Course, Golf Pro Shop and Clubhouse/restaurant, including but not limited to minimum number of hours of play for which the course is to be kept open each day and each week; (a reasonable number), minimum numbers of hours the Golf Pro Shop and Cafe are to be kept open each day and each week, amount of all fees, including but not limited to Greens fees: private cart daily fees, annual private cart

permit fees and season ticket fees.

Section 6. **CONSIDERATION PAID TO PARKS AND RECREATION.**

- 6.1 Parks and Recreation Department shall be entitled to the following:
- a. 2% of gross receipts from the operation of the practice range.
 - b. 2% of gross receipts from rental of golf carts and pull-carts.
 - c. 2% of gross receipts from Pro Shop sales which include club rentals.
 - d. 50% of the fee paid per person for Parks and Recreation Department sponsored golf lessons.
 - e. 40% of gross receipts from facility rentals. This includes the upstairs apartment, should it be rented during the contract.
 - f. 80% if gross receipts for the rental of the golf course for weddings.
 - g. 100% of green fees, until golf round incentives are reached. Refer to section 7.2 outlining green fee incentives.
 - h. 1% of the gross receipts generated from all golf lessons offered or sponsored through outside contractual agreements not otherwise arranged through the Parks & Recreation Department.
- 6.2 Cafe Facilities. The consideration paid to the Parks and Recreation Department has been established to include the cafe rent.

Section 7. **CONSIDERATION PAID TO THE PROFESSIONAL.**

- 7.1 The Professional shall be entitled to the following:
- a. 98% of gross receipts from the operation of the driving range
 - b. 98% of gross receipts from rental of golf carts and pull carts.
 - c. 98% of gross receipts from Pro Shop sales, including club rentals.
 - d. 50% of the fee paid per person for Parks and Recreation Department sponsored golf lessons.
 - e. 60% of gross receipts from facility rentals. This includes this upstairs apartment, should it be rented during the contract.
 - f. 20% of the gross receipts for the rental of the golf course for weddings.
 - g. 100% of Food and Beverage Sales.

- h. 99% of the gross receipts generated from all golf lessons offered or sponsored through outside contractual agreements not otherwise arranged through the Parks & Recreation Department

7.2 The City shall pay the Professional the following revenue, if applicable post accounting closing entries of the golf season:

For calendar years 2016-2018, the Professional will be entitled to revenue sharing calculated on the number of paid rounds of golf played at Indian Canyon based on the average number of paid rounds played per year for the last 10 years. Rounds are defined as regular rounds, discount rounds, tournament rounds, and hotel rounds. For calendar years 2016-2018, the adjusted average number of total rounds per year used to calculate revenue sharing is 32,000. Therefore, revenue sharing for calendar years 2016-2018 will be calculated as follows:

If the total number of rounds in a calendar year is greater than 32,000/year but less than 33,001 rounds per year, the Professional will receive 10% of the increased revenue from those rounds.

If the total number of rounds in a calendar year is greater than 33,000/year but less than 34,001 rounds per year, the Professional will receive 20% of the increased revenue from all rounds greater than 32,000.

If the total number of rounds in a calendar year is greater than 34,000/year, the Professional will receive 30% of the increased revenue from all rounds greater than 32,000.

At the end of 2018 golf season, the parties will meet and determine any future revenue sharing criteria for the remaining two years of the contract.

7.3 Apartment. The Professional, at his option, may have use of the apartment, located at Indian Canyon Golf Course, during the term of this Agreement. The Professional will be responsible for minor repairs, up to \$500.00 per repair. If the Professional chooses not to use the apartment, the Parks and Recreation Department shall have the right to rent or use the apartment as it chooses.

Section 8. **COLLECTION OF FEES BY PROFESSIONAL.**

8.1 The Professional shall cause to be delivered and deposited in the Parks and Recreation Department's designated bank, once every twenty four (24) consecutive hours, monies collected due and owing to the Parks and Recreation Department and all greens fees, all deposit receipts, required reports and season ticket sales. The Professional shall deliver all deposit receipts and required reports to the Park and Recreation Department accounting office by no later than 4:00 p.m. on each Tuesday of each week during the playing season.

8.2 The Parks and Recreation Department shall install and maintain a system of records and accounts of fees and gross revenues from which the amounts of fees and gross revenues from all sources can be readily ascertained. The Professional shall use such system for all fees and monies collected and received at the Golf Course; however, the Professional may install and maintain at his expense a system for Pro Shop and lesson sales if such system is approved in writing by the Golf Manager. The Professional shall permit the Parks and Recreation Department, through its designated representatives, to inspect such accounts and all other business records concerning operations at the Golf Course. At the end of the year, a financial report shall be sent to the Parks and Recreation Department of Spokane.

8.3 The Professional shall follow the City of Spokane Cash Handler Policy and Procedures Manual for collections of fees.

Section 9. **INDEMNIFICATION, INSURANCE, BOND.**

9.1 **Indemnification.** Each party shall be responsible and liable for the consequences of any act or failure to act on the part of itself, its employees, and its agents. Each party shall be responsible for its own negligence and shall defend, indemnify and hold the other party harmless from any loss, liability, damage, death or injury to any person or property, caused from any act or omission of itself, its agents, or employees (including reasonable attorney fees and court costs and amounts paid in settlement and judgment).

9.2 **Insurance.** The Professional shall throughout the duration of this Agreement, provide and maintain at his expense, in forms satisfactory to the Parks and Recreation Department a policy or policies for each of the following types of insurance:

- a. Combined single limit liability insurance covering bodily injury and property damage in an amount not less than TWO MILLION DOLLARS (\$2,000,000). Said insurance shall be on the comprehensive or commercial general liability occurrence form with coverage to include premises liability, golf cart liability, blanket contractual liability, owners and contractors protective liability (covering work performed for the Professional by independent contractors rather than employees), products and completed operations liability, stopgap liability, and the broad form comprehensive general liability endorsement, and liquor liability coverage.
- b. Statutory Washington Worker's Compensation Insurance and a minimum of ONE MILLION DOLLARS (\$1,000,000) Employer's Liability Insurance for all employees of the Professional.
- c. Comprehensive automobile liability insurance for owned, hired, and non-owned automobiles in an amount not less than ONE MILLION DOLLARS (\$1,000,000).

- d. Professional liability insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000).
- e. The Professional shall furnish Parks and Recreation Department with a Certificate of Insurance evidencing coverages in items a,b,c, and d above and shall provide an Additional Insured endorsement naming the Parks and Recreation Department of Spokane as additional insured under items a and c.
- f. The Professional, at the Professional's option may purchase and maintain such insurance as will insure the Professional against loss of use of the Professional's, and Parks and Recreation Department property due to fire or other hazards, however caused. The Professional waives all rights of action against the Parks and Recreation Department for loss of use of the Parks and Recreation Department and Professional's property, including consequential losses due to fire or other hazards however caused.

9.3 Bond. The Professional shall continuously maintain at his expense a surety/payment guarantee or employee dishonesty bond covering collection of fees on the premises for the benefit of the Parks and Recreation Department. The bond shall be in an amount not less than TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000) and must cover all employees. The Professional must additionally provide broad form money and securities coverage both inside and outside the premises in an amount not less than TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000).

9.4 Proof of the above requirements must be provided to the Parks and Recreation Department upon execution of this Agreement. The policies required herein shall provide not less than thirty (30) days prior written notice to the Parks and Recreation Department of any cancellation, expiration, modification, or reduction in coverage or liability limits.

Section 10. **INDEPENDENT CONTRACTOR.** The parties agree and acknowledge that the Professional is an independent contractor and not the agent or employee of the Parks and Recreation Department or City of Spokane, and that no liability shall attach to the Parks and Recreation Department or City of Spokane as a result of the acts or omissions of the Professional, his agents or employees. The Professional realizes that the Parks and Recreation Department employees other independent contractors as Golf Professionals and that each Professional's situation is unique. The compensation for each Professional is negotiated and may differ from other Professionals.

Section 11. **TERMINATION.**

- a. The Parks and Recreation Department reserves the right to terminate this Agreement upon the failure of the Golf Professional to perform any of the

conditions of this Agreement. The Parks and Recreation Department shall give ten (10) days written notice to the Professional stating the nature of the default. At the end of this ten-day period, the Parks and Recreation Department shall have the right to:

- i) Enter the Golf Pro Shop and Golf Course and take immediate possession thereof.
 - ii) Bring suit for and collect all fees and portions of gross revenue or any other monies required to be paid to the Parks and Recreation Department, which shall have accrued to the time of termination of the Professional's rights.
- b. The Professional is subject to immediate termination if the Professional violates any fiduciary duty to the Parks and Recreation Department, for example, by allowing play at less than the posted rates (excluding discounted rates approved by the Golf Manager).
 - c. The Professional is subject to immediate termination if the Professional or any employee is knowingly found to be in violation of food service regulations and/or alcohol service regulations/laws.
 - d. The Professional may terminate this Agreement by giving 90 days written notice. Such notice shall be given to the Golf Manager.

Section 12. **TIME TO BE DEVOTED BY PROFESSIONAL.**

- a. General. It is mutually understood the primary function of the Professional is to devote such time as necessary to satisfactorily and wholly carry out the duties of this agreement.
- b. Golf Season. During the golf season, the Professional is expected to be at the golf course on a regular basis, sufficient to meet the reasonable demands of the public and supervisory staff. When the Professional will be away from the golf course for a period exceeding forty-eight (48) hours, written notice must be given to the Golf Manager. The Head Professional shall endeavor to be available to the public during major tournaments. Time off unrelated to the golf business is discouraged. The Professional's personal tournament schedule shall be submitted to the Golf Manager before the season begins. Any changes to the schedule will also be submitted during the season.
- c. Off-Season. During the off-season the golf course shall be closed. The Professional however, is encouraged to open the clubhouse/restaurant, to support winter activities run either by the Professional or by Parks and Recreation Department.

Section 13. **REFUSE CHARGES.** Professional will pay the clubhouse/restaurant refuse bill during the playing season. On or before December 1, it will be the responsibility of the Professional to notify, in writing, the City Solid Waste Management Department to stop regular pick-up and that the

service will be changed to an "on-call" basis. The Superintendent will then be responsible for contacting the Solid Waste Management Department when pick-up is necessary. The Parks and Recreation Department will pay for these "on-call" services, when authorized by the Superintendent. On or before March 1, when the restaurant again reopens, the Professional will be responsible for notifying, in writing, the Solid Waste Management Department to resume regular pick-ups

In essence, the Parks and Recreation Department pays for refuse pick-up only during December, January and February.

The Written communications directed above should be copied and sent to the Golf Manager, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201.

Section 14. **TAXES AND FEES.** As an independent contractor, the Professional acknowledges that he is responsible for payment of any local, state, or federal taxes or fees with respect to the Professional's agents and employees and any taxes or licenses applicable to the Professional's business activity at the Golf Course. The Lessee shall pay any applicable taxes related to its use and occupancy of the premises, including, but not limited to the Leasehold Excise Tax required by RCW 82.29A. The burden is on the Lessee to show that it falls within a legal exemption.

Section 15. **ASSIGNMENT.** The parties acknowledge and agree that the Professional may not assign, transfer or sublease all or any part of his responsibilities, operations or interests under this Agreement without the express written consent of the Park Board. Any unauthorized assignment, sublease or transfer by the Professional shall be void and shall terminate this Agreement at the option of the Parks and Recreation Department.

Section 16. **SEVERABILITY.** In the event any one or more of these agreements and covenants are held invalid by a court of competent jurisdiction, they shall be severed and this Agreement shall not be voided in its entirety. This Agreement shall then be interpreted as if such invalid agreements and covenants were not contained herein.

Section 17. **ANTI-KICKBACK.** No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Contract.

Section 18. **NONWAIVER.** Waiver by the Parks and Recreation Department of any rights hereunder in any one instance shall not be deemed a waiver by Parks and Recreation Department in any subsequent instance to insist on full performance of the terms of this Agreement.

Section 19. **LIENS.** The Professional agrees that he shall pay, or cause to be paid,

all costs and expenses for work done and materials delivered to the premises and shall keep the premises free and clear of all liens for work performed thereon.

Section 20. **DISPUTES.** Should situations arise which cannot be resolved by the Professional and the Golf Manager, these questions shall be referred for determination to the Golf Committee of the Park Board and shall be subject to the final resolution by the Park Board as a whole. Any such resolution shall not be deemed a waiver by either party to any action in law or equity.

Section 21. **NONDISCRIMINATION.** No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Professional agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Professional.

Section 22. **Audit/Records.** The Professional and its subcontractors shall maintain for a minimum of three years following final payment all records related to its performance of the Agreement. The Professional and its subcontractors shall provide access to authorized City representatives, including the City Auditor, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Agreement, the federal law shall prevail.

Dated: _____

CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

DOUG PHARES

E-Mail address, if available:

dphares18@gmail.com

By: _____

Title: _____

15-726

Indian Canyon Contract Summary

January 14, 2016

Duration:

January 14, 2016 –December 31, 2020

Optional renewal: January 1, 2021-December 31, 2025

Highlights:

- Professional accepts the course and facilities in current condition.
- Professional is responsible for operation of Pro-shop, Restaurant, Driving Range, Instructional Programs, while Parks and Recreation is responsible for maintaining the golf course and driving range.
- Contract encourages Professional to generate year around revenues, via off-season activities.
- Contract includes termination language for both parties.
- Professional responsible for majority of equipment, furniture, leasehold improvements.

Revenue Sharing:

Paid to Parks and Recreation

2% gross from operation of driving range

2% gross from rental carts and pull carts

2% of gross from Pro-shop sales—including golf club rentals

50% of the per person fee paid for Parks and Recreation sponsored lessons

40% of gross receipts from facility rentals, including rental of apartment

80% of gross receipts for rental of golf course for weddings

100% of green fees, until round incentives are reached.

1% of gross receipts generated from private lessons (Director of Instruction)

Revenue Sharing:

Paid to Golf Professional

98% gross from operation of driving range

98% gross from rental carts and pull carts

98% of gross from Pro-shop sales—including golf club rentals

50% of the per person fee paid for Parks and Recreation sponsored lessons

60% of gross receipts from facility rentals, including rental of apartment

20% of gross receipts for rental of golf course for weddings

100% of food and beverage sales

99% of gross receipts generated from private lessons (Director of Instruction)

Revenue incentives paid after closing entries of golf season:

Incentives based on 10-year round average at Indian Canyon of 32,000 rounds.

For years 2016-2018 (first 3 years of contract)

10% of the increased revenue for paid rounds between 32,000 and 33,000.

20% of the increase revenue for paid rounds between 33,000 and 34,000.

30% of the increased revenue for paid rounds above 34,000.

Incentives will be re-negotiated at the conclusion of 2018 golf season.

Indian Canyon Restaurant Equipment

Contract 15-726

As referenced in the contract, Section 3.9 (a), the Parks and Recreation Department will furnish the Professional with a list of Parks and Recreation Department owned restaurant equipment.

- Industrial hood
- Handwashing sink
- Pre-wash dishwashing sink
- 3-compartment sink
- Grease trap

**CITY OF SPOKANE PARK BOARD
RESOLUTION**

A Resolution accepting Spokane Utilities Division's offer to replace the mid-channel Howard Street Bridge (the "Blue Bridge") within Riverfront Park.

WHEREAS, Riverfront Park was created for the grounds for Expo 74 and opened to the public as a city park in 1978, and

WHEREAS, Riverfront Park, after nearly 40 years as the central and iconic public gathering space for the City of Spokane, is in need of major capital improvements, and

WHEREAS, the Park Board adopted a Master Plan in 2014 identifying improvements to be made over the next 20 years, and

WHEREAS, the Park Board requested the City Council in the summer of 2014 to present a ballot bond measure to the citizens of Spokane for a \$64.3 million dollars in improvements to Riverfront Park, and

WHEREAS, the Citizens of Spokane overwhelmingly approved the 2014 Park Bond for Riverfront Park in the amount of \$64.3 million dollars, and

WHEREAS, studies were completed to identify the needs for bridge replacement and repair within Riverfront Park, including the Blue Bridge, and

WHEREAS, said studies have determined that the Blue Bridge, erected in 1916, is a fracture-critical structure currently not in conformance with AASHTO bridge standards, and is in need of repair or replacement to sustain existing loads and projected future pedestrian and vehicle loads, and

WHEREAS, costs of repair or replacement of the Blue Bridge was not in the original \$64.3 million dollar bond budget, and

WHEREAS, City of Spokane Utilities Department ("Utilities") desires to replace a water line in the Howard Street right-of-way and under the Blue Bridge, and has offered to fund replacement of the Blue Bridge in connection with installation of said water line, and

WHEREAS, current bridge standards and funding limitations associated with the offer from Utilities dictate that the Blue Bridge be replaced, not repaired, and

WHEREAS, the Blue Bridge is not on the local or national register of Historic Places, and

WHEREAS, the Park Board recognizes that the Blue Bridge is a well-recognized feature of Riverfront Park and is associated with Expo 74', and that a decision to replace rather than repair the bridge should occur only after consideration of other funding options, long-term benefits of replacement versus repair, and phasing of redevelopment projects within Riverfront Park, and

WHEREAS, the Park Board has consider such factors, and concluded that it is in the public interest to preserve as much of the \$64.3 million bond dollars for improvements to the grounds, recreational rink, carrousel building, pavilion, and regional playground, and that it welcomes the offer by Utilities to fund replacement the Blue Bridge, and

WHEREAS, the Park Board accepts said offer with understanding that Utilities will coordinate the final design of the replacement bridge so it is consistent and harmonious with other improvements and design elements in Riverfront Park, including the Howard Street promenade, and

NOW THEREFORE, IT IS HEREBY RESOLVED by the Park Board accepts Spokane Utilities offer to design, permit, and fund replacement the Blue Bridge, subject to assurances from Utilities that it will coordinate the final design of the replacement bridge with the Park Board so said design is consistent and harmonious with other improvements and design elements in Riverfront Park, including the Howard Street promenade.

Dated this ____ day of January, 2016.

Park Board President



BRIEFING PAPER

Howard St Mid-Channel Bridge

DATE: January 11, 2016

B. Ellison

Subject:

The Howard Street Mid-Channel Bridge is recommended for replacement. There has been some interest expressed from community groups regarding the memorialization of the current bridge structure. Additional information follows regarding the rationale for replacement.

Background:

In 2006, CH2M Hill conducted a “Downtown Spokane Streetcar Alternative Analysis” to consider opportunities for re-use of bridges along the Howard Street corridor.

In regard to the Mid-Channel Bridge, the study identified replacement as the appropriate strategy due to the following factors:

- High cost of rehabilitation as compared to replacement
- Advanced age of the existing structure
- Identified structural deficiencies
- **Inability for the bridge to currently support emergency vehicle traffic**
- Structural concerns relating to peak pedestrian loads
- Fracture-critical status
- Heightened level of maintenance and inspection

Fracture critical bridges (bridge designs that result in catastrophic failure of the whole bridge when one critical member fails) are no longer AASHTO (American Association of State Highway and Transportation Officials) supported designs. The City’s intent is to reduce such risks within its inventory when the opportunity is available and financially feasible. The Howard Street Mid-Channel Bridge is experiencing progressive deterioration of its fracture critical members, which continually increases risk.

Rehabilitation, the effort to strengthen existing members and clean-up corrosion, is a costly, time-consuming process which in the case of the Howard Street Mid-Channel Bridge could take longer than replacement construction. Additionally, the life-span of a rehabilitated bridge will be shorter than that of a new bridge.

The City of Spokane Utility Division is willing to fund and design a new structure to hold the necessary utility infrastructure within the bridge. Utility funds are not being offered for rehabilitation or aesthetic replication of the existing structure. Any aesthetic improvements to the surface of the bridge will be funded by the redevelopment bond or other sources. An additional study that would consider rehabilitation as an option for the Mid Channel Bridge would cost \$64,000 and would delay the design of the bridge enough that it would no longer qualify for the Utility Division’s funding.



BRIEFING PAPER

Howard St Mid-Channel Bridge

DATE: January 11, 2016

B. Ellison

Impact:

Were the City to rehabilitate the bridge rather than replace it, the following would result:

- Completion of the work could be delayed since the schedule for bridge rehabilitation would likely be longer than that of reconstruction. Consequently, commencement of work on Havermale Island could be delayed
- The safety of the bridge, and its fractural critical classification would still be of concern to the City
- Reoccurring and increasing maintenance costs would be perpetuated
- A shorter life-span return on investment
- The cost for rehabilitation of the bridge would fall solely to the Parks Department to fund

Mitigation for removal of the structure would be handled through the CH2M Hill design contract. Within that contract exists the scope and funding for a Historical Evaluation to include a Level II Historic American Engineering Record (HAER). In addition, the Parks and Recreation Department is working closely with the Office of Historic Preservation and the Washington State Department of Archaeology and Historic Preservation to consider any further action desired to memorialize the historic elements of the bridge as well as develop creative mitigation for the loss of the bridge.

Action:

While paying tribute to the historic structure of the bridge through design continuity; the Riverfront Park Redevelopment Team recommends that the Park Board support the decision to pursue replacement over rehabilitation. This will enhance the safety of the structure, allow emergency vehicle access, reduce risk and long term maintenance costs, extend the functional life of the bridge, and support the public interest to significantly impact the visitor experience from the promenade.

Berry Ellison, PLA
Program Manager
Riverfront Park Redevelopment

EXHIBIT A

RIVERFRONT PARK REDEVELOPMENT PROJECT

Architecture and Engineering Design Services
Recreational Rink and Skyride Facility – Stantec Architecture, Inc.
January 13, 2016

SCOPE OF WORK OVERVIEW

The scope of this contract includes a full set of design and management services required for successful execution and completion of the defined project below.

Stantec Architecture, Inc., Consultant, shall coordinate all Scope of Work outlined in this document through City Program Manager.

The total estimated capital construction cost for the Scope of Work is approximately FOUR MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$4,250,000.00); the value of this contract is FIVE HUNDRED NINE THOUSAND TWO HUNDRED SEVENTY AND NO/100 DOLLARS (\$509,270.00) not including taxes if applicable.

The scope outlined below totals an allowable cost not to exceed \$474,770.00. The remaining contracted expenses not outlined in the scope below include an estimate of \$34,500.00 for Expenses/Reimbursables. **All Consultants costs and expenses shall not exceed the total lump sum amount of FIVE HUNDRED NINE THOUSAND TWO HUNDRED SEVENTY AND NO/100 DOLLARS (\$509,270.00) not including taxes if applicable.**

DETAILED SCOPE OF WORK

Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.

1.0 SCHEMATIC CONCEPT ENGINEERING & DESIGN DEVELOPMENT CONCEPT:

Total allowable cost for task 1.0 not to exceed **ONE HUNDRED EIGHTY-NINE THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$189,900.00).**

Consultant shall complete Task 1 and provide all listed deliverables on or before **February 10, 2016**, unless otherwise agreed upon in writing by both parties.

- A. Deliverables for this task include electronic submittals of:
 - i. Site plan/Circulation plan
 - ii. Landscape Site Plan
 - iii. Civil Site Plan
 - iv. Floor Plan

EXHIBIT A

- v. Rink Plan
- vi. Summer Program Plan
- vii. Exterior Elevations
- viii. Building Sections
- ix. Cost Estimate
- x. 3D model of Building and Ice

(Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.)

- 1.1 Concept Site Development
- 1.2 Concept Building Development: One (1) client meeting
- 1.3 Concept Systems Development: Three (3) team meetings
- 1.4 Concept Cost Analysis: One (1) team meeting
- 1.5 Coordination with Public Spaces Consultant: Four (4) client meetings
- 1.6 Presentation of Concept Design to Steering Committee & Open House: Two (2) client meetings
- 1.7 Design Review Board Presentation: Three (3) client meetings.
- 1.8 Final Design Report
- 1.9 Project Management and Coordination: One (1) client meeting.
- 1.10 SEPA, CUP Support
- 1.11 Assist Owner with Application Materials for City of Spokane Design Review Board
- 1.12 Assist Owner as Required for Permit Approval

2.0 CONSTRUCTION DOCUMENTATION:

Total allowable cost for task 2.0 not to exceed **ONE HUNDRED FIFTY-SEVEN THOUSAND EIGHT HUNDRED FIFTY AND NO/100 DOLLARS (\$157,850.00)**.

Consultant shall complete Task 2 and provide all listed deliverables on or before **June 1, 2016**, along with the milestones listed below.

- A. Deliverables for this task include electronic submittals of:
 - i. Contract Drawings (22 x 34; 11 x 17)
 - a. Civil Engineering
 - b. Landscape and Architecture
 - c. Project Site Plan
 - d. Rink Plan

EXHIBIT A

- e. Floor Plan
- f. Reflected Ceiling Plan
- g. Summer Program Plan
- h. Exterior Elevations
- i. Interior Elevations
- j. Furniture Plan
- k. Schedules (doors and finish)
- l. Building Sections
- m. Structural Engineering
- n. Mechanical Engineering
- o. Electrical Engineering
- ii. Project Specifications (65% - 95%) (8 ½ x 11)
- iii. Cost estimate (65% - 95%) (8 ½ x 11)

(Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.)

- 2.1 Preparation of thirty percent (30%) submittal due **February 17, 2016**: One (1) team meeting
- 2.2 Preparation of sixty-five percent (65%) submittal due **March 24, 2016**: One (1) team meeting
- 2.3 Coordination with Public Spaces Consultant: One (1) client meeting
- 2.4 P&R Review
- 2.5 Preparation of ninety-five percent (95%) submittal due **May 5, 2016**: One (1) team meeting
- 2.6 Coordination with Public Spaces Consultant: One (1) client meeting
- 2.7 P&R Review
- 2.8 Permit Coordination
- 2.9 Preparation of one hundred percent (100%) submittal due **June 1, 2016**: One (1) team meeting
- 2.10 P&R Review
- 2.11 Project Management and Coordination: Four (4) client meetings

3.0 PROJECT BIDDING:

Total allowable cost for task 3.0 not to exceed **FOURTEEN THOUSAND TWO HUNDRED FORTY-FIVE AND NO/100 DOLLARS (\$14,245.00)**.

Consultant shall complete Task 3 and provide all listed deliverables on or before **July 1, 2016**.

EXHIBIT A

- A. Deliverables for this task include electronic submittals of:
- i. Pre-Bid meeting minutes (written, 8 ½ x 11)
 - ii. Addendum (written, 8 ½ x 11)
 - iii. Bid recommendation (written, 8 ½ x 11)

(Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.)

- 3.1 Conduct Pre-Bid Meeting: One (1) client meeting
- 3.2 Issue Addendum
- 3.3 Address Bidders Inquiries
- 3.4 Bid Evaluation and Recommendation
- 3.5 Project Management and Coordination: One (1) client meeting

4.0 CONSTRUCTION ADMINISTRATION:

Total allowable cost for task 4.0 not to exceed **ONE HUNDRED TWELVE THOUSAND SEVEN HUNDRED SEVENTY-FIVE AND NO/100 DOLLARS (\$112,775.00)**.

Consultant shall complete Task 4 and provide all listed deliverables within six to nine months as required to complete construction.

- A. Deliverables for this task include:
- i. Pre-Construction meeting minutes (written, 8 ½ x 11)
 - ii. Progress Meeting minutes (written, 8 ½ x 11)
 - iii. Construction Change Documentation (written, 8 ½ x 11)
 - iv. Contractor Pay Application Reviews (written, 8 ½ x 11)
 - v. Final Inspection Report (written, 8 ½ x 11)
 - vi. As-built Documentation (original size)

(Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.)

- 4.1 Conduct Pre-Construction Meeting: One (1) client meeting
- 4.2 Conduct Weekly Progress Meetings: Twenty-eight (28) team meetings with General Contractor
- 4.3 Submittal Review/Approval
- 4.4 Monthly Progress Reports

EXHIBIT A

- 4.5 Special Ice Meeting/Inspection: Six (6) team meetings
- 4.6 Preliminary Final Inspection: Five (5) client meetings
- 4.7 Final Inspection: Four (4) client meetings
- 4.8 Project Record Review
- 4.9 Project as-Built Preparation
- 4.10 Project Management and Coordination

5.0 EXPRESSLY DISCLAIMED SERVICES

Following are those services that are not included and for which no responsibility is established (however coordination with associated Consultants is required):

- 5.1 Soils engineering for project site;
- 5.2 Site survey;
- 5.3 Any improvements beyond five feet zero inches (5'-0") from the ice surface or building footprint;
- 5.4 Permitting fees (plan check, building, etc.); and
- 5.5 Utility or site work beyond the five feet zero inches (5'-0") footprint of the building.

City of Spokane

CONSULTANT AGREEMENT

Title: **RIVERFRONT PARK REDEVELOPMENT ARCHITECTURE AND ENGINEERING FOR YEAR ROUND RECREATIONAL RINK & SKYRIDE FACILITY**

This Agreement is made and entered into by and between the City of Spokane as (“City”), a Washington municipal corporation, and **STANTEC ARCHITECTURE, INC.**, whose local Spokane address is: The Flour Mill, 621 West Mallon Avenue, Suite 309, Spokane, Washington 99201 as (“Consultant”).

WHEREAS, The City is desirous of selecting a Consultant to perform the necessary Architecture AND Engineering for the Recreation Rink and Skyride the City’s Riverfront Park Bond rehabilitation Project; and

WHEREAS, The Consultant was selected from a formal City procurement solicitation via a Request For Qualifications (RFQ # 4166-15); and

-- NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:

1. TERM OF AGREEMENT.

The term of this Agreement begins on January 1, 2016 and ends on May 1, 2019, unless amended by written agreement or terminated earlier under the provisions.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the work outlined in the “Scope of Work” (“Work”) on the beginning date, above. The City will acknowledge in writing when the Work is complete. Time limits established under this Agreement shall not be extended because of delays for which the Consultant is responsible, but may be extended by the City, in writing, for the City’s convenience or conditions beyond the Consultant’s control.

3. SCOPE OF WORK.

The General Scope of Work for this Agreement is described in **Exhibit A – Consultant’s Scope of Work**, which is attached to and made a part of this Agreement.

The Work is subject to City review and approval. The Consultant shall confer with the City periodically, and prepare and present information and materials (e.g. detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Consultant’s progress.

4. PAYMENT.

Total lump sum compensation for the term of Consultant’s services under this Agreement shall not exceed **FIVE HUNDRED NINE THOUSAND TWO HUNDRED SEVENTY AND NO/100 DOLLARS (\$509,270.00)**, not including taxes if applicable, unless modified by a written amendment to this Agreement. Lump Sum payment methodology shall be in accordance with the attached Exhibit B.

5. REIMBURSABLES

If the Agreement specified reimbursables to be compensated by the City, the following limitations apply. If no travel or direct charges are identified and allowed in the Agreement, the City shall provide no reimbursement.

it is typical for reimbursables to be billed at 1.1 times actual cost to cover administrative and accounting time, or alternatively for the consultant to include hours for these administrative tasks in the overall proposal



- A. City will reimburse the Consultant **at actual cost for** expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses or include a markup. Other direct charges may include, but are not limited to the following types of items: travel, printing, cell phone, supplies, materials, computer charges, and fees of subconsultants.
- B. The billing for third party direct expenses specifically identifiable with this project shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, subconsultant paid invoices, and other supporting documents used by the Consultant to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All charges must be necessary for the services provided under this Contract.
- C. The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Spokane Travel Policy, details of which can be provided upon request.
- D. **Airfare:** Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.
- E. **Meals:** Meals will be reimbursed at the Federal Per Diem daily meal rate (*excluding the "Incidental" portion of the published CONUS Federal M&I Rate*) for the city in which the work is performed. *Receipts are not required as documentation.* The invoice shall state "the meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.
- F. **Lodging:** Lodging will be reimbursed at actual cost incurred up to a maximum of the published General Services Administration (GSA) Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)
- G. **Vehicle mileage:** Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in affect at the time the mileage expense is incurred (currently that rate is 56.5 cents per mile.) Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.
- H. **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).
- I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.
- J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a mark up. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual cost incurred and may not include a mark up. Copies of all Subconsultant invoices that are rebilled to the City are required

6. PAYMENT PROCEDURES.

The Consultant may submit invoices to the City as frequently as once per month during progress of work, for partial payment for work completed to date. Payment shall be made by the City to the Consultant upon the City's receipt of an invoice containing the information listed below.

Invoices shall be submitted to:
CITY OF SPOKANE

PARKS AND RECREATION DEPARTMENT
5th Floor – City Hall
808 West Spokane Falls Boulevard
Spokane, WA 99201

Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):

- Invoice Date and Invoice Number
- **PARKS AND RECREATION DEPARTMENT**
- Project Coordinator: **Katie Freeman**
(Please do not put name in the address portion of the invoice)
- Department Contract No. OPR # _____
- Contract Title: **RIVERFRONT PARK REDEVELOPMENT ARCHITECTURE AND ENGINEERING FOR YEAR ROUND RECREATIONAL RINK & SKYRIDE FACILITY**
- Period covered by the invoice
- Project Title
- Employee's name and classification
- Employee's all-inclusive hourly rate excluding fixed fee and # of hours worked
- Total labor costs per Project
- Itemization of direct, non-salary costs (per Project, if so allocated)
- The following Sub-Consultant payment information will be provided [*if needed*] (attach Sub-Consultant invoices as backup):
 - Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).
 - Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).
- Cumulative costs per Project and for the total Agreement

7. TAXES, FEES AND LICENSES.

- A. Consultant shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Agreement. It is the Consultant's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.
- C. The Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.
- D. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Agreement shall be included in the project budgets.

8. CITY OF SPOKANE BUSINESS LICENSE.

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Consultant shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
Parks and Recreation Department - City of Spokane 5 th Floor – City Hall 808 West Spokane Falls Boulevard Spokane, Washington 99201	Contact Name: Riley Witt STANTEC ARCHITECTURE, INC. Flour Mill, 621 West Mallon Avenue, Suite 309 Spokane, Washington 99201

10. SOCIAL EQUITY REQUIREMENTS.

A. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. Consultant agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Consultant. Consultant shall seek inclusion of woman and minority business for subcontracting. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

11. INDEMNIFICATION.

The Consultant shall indemnify and hold the City and the State and their officers and employees harmless from all claims, demands, or suits at law or equity, including but not limited to attorney’s fees and litigation costs asserted by third parties for bodily injury (including death) and/or property damage which arise from the Consultant's negligence or willful misconduct under this Agreement; provided that nothing herein shall require a Consultant to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the conduct of the City, its agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Consultant's agents or employees and (b) the City, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the City of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the Consultant, its agents or employees. The Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the City and, solely for the purpose of this indemnification and defense, the Consultant specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The Consultant recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

The parties agree that the City is fully responsible for its own negligence, including negligent plant operations controlled by the City, and for its material breaches of this Contract. It is not the intent of this Section to limit this understanding.

12. INSURANCE.

The Consultant shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement. This Agreement shall be interpreted and construed in accord with the laws of Washington.

During the period of the Agreement, the Consultant shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48:

The Contractor represents that it and its employees, agents and subcontractors, in connection with the Contract, are protected against the risk of loss by the insurance coverages required in the RFQ # 4166-15, and the contract documents. The policies shall be issued by companies that meet with the approval of the City Risk Manager. The policies shall not be canceled without at least minimum required written notice to the City as Additional Insured.

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

13. AUDIT.

Upon request, the Consultant shall permit the City and any other governmental agency ("Agency") involved in the funding of the Work to inspect and audit all pertinent books and records. This includes work of the Consultant, any subconsultant, or any other person or entity that performed connected or related Work. Such books and records shall be made available upon reasonable notice of a request by the City, including up to three (3) years after final payment or release of withheld amounts. Such inspection and audit shall occur in Spokane County, Washington, or other reasonable locations mutually agreed to by the parties. The Consultant shall permit the City to copy such books and records at its own expense. The Consultant shall ensure that inspection, audit and copying rights of the City is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform Work under this Agreement.

14. INDEPENDENT CONSULTANT.

- A. The Consultant is an independent Consultant. This Agreement does not intend the Consultant to act as a City employee. The City has neither direct nor immediate control over the Consultant nor the right to control the manner or means by which the Consultant works. Neither the Consultant nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Consultant to act as an agent or legal representative of the City. The Consultant is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Consultant shall pay all income and other taxes as due. The Consultant may perform work for other parties; the City is not the exclusive user of the services that the Consultant provides.
- B. If the City needs the Consultant to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Consultant works on the City premises using City equipment, the Consultant remains an independent Consultant and not a City employee. The Consultant will notify the City Project Manager if s/he or any other Workers are within ninety (90) days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Consultant will be required to work from its own office space or in the field. The City may negotiate a reduction in Consultant fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

15. KEY PERSONS.

I would recommend modifying this paragraph to require that the consultant identify the consultants prime contact for the city in this contract and that this individual will not be changed or replaced without prior written approval by the city. Concurrently, the city should identify the prime contact for the consultant.



The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.



16. ASSIGNMENT AND SUBCONTRACTING.

The Consultant shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Consultant shall incorporate by reference this Agreement, except as otherwise provided. The Consultant shall ensure that all subconsultants comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the consultant from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

17. CITY ETHICS CODE.

- A. Consultant shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.
- B. Consultant shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two (2) years.
- C. Consultant shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Consultant. Promotional items worth less than \$25 may be distributed by the Consultant to a City employee if the Consultant uses the items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

18. NO CONFLICT OF INTEREST.

Consultant confirms that the Consultant or workers have no business interest or a close family relationship with any City officer or employee who was or will be involved in the consultant selection, negotiation, drafting, signing, administration or evaluation of the Consultant's work. As used in this Section, the term Consultant includes any worker of the Consultant who was, is, or will be, involved in negotiation, drafting, signing, administration or performance of the Agreement. The term "close family relationship" refers to: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law, daughter-in-law; or any parent, parent-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

19. ERRORS AND OMISSIONS, CORRECTIONS.

Consultant is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Agreement in the delivery of a final work product. The standard of care applicable to Consultant's services will be the degree of skill and diligence normally employed by professional engineers or Consultants performing the same or similar services at the time said services are performed. The Final Work Product is defined as a stamped, signed work product. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications, and/or other consultant services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.



I would be very uncomfortable with this unless it was qualified by a statement that it is only for the use and location intended for this project.

20. INTELLECTUAL PROPERTY RIGHTS.

- A. Copyrights. The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant for the Work, whether or not the Work is completed. The Consultant grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Consultant for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials developed solely for and paid for by the City to perform the Work, shall be promptly delivered to the City.
- B. Patents: The Consultant assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Consultant created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Consultant has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Consultant grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.
- C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project, and the City releases the Consultant from liability for any unauthorized reuse of such documents.

21. CONFIDENTIALITY.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act*) all materials received or created by the City of Spokane are **public records**. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material. Some records or portions of records are legally *exempt from disclosure* and can be redacted or withheld. The Public Records Act (RCW 42.56 and RCW 19.10) describes those exemptions. Consultant must familiarize themselves with the Washington State Public Records Act (PRA) and the City of Spokane's process for managing records.

The City will try to redact anything that seems obvious in the City opinion for redaction. For example, the City will black out (redact) Social Security Numbers, federal tax identifiers, and financial account numbers before records are made viewable by the public. However, this does not replace your own obligations to identify any materials you wish to have redacted or protected, and that you think are so under the Public Records Act (PRA).

Protecting your Materials from Disclosure (Protected, Confidential, or Proprietary): You must determine and declare any materials you want exempted (redacted), and that you also believe are eligible for redaction. This includes but is not limited to your bid submissions, contract materials and work products.

Contract Work Products: If you wish to assert exemptions for your contract work products you must notify the City Project Manager at the time such records are generated.

Please note the City cannot accept a generic marking of materials, such as marking everything with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. You may not exempt an entire page unless each sentence is entitled to exemption; instead, identify paragraphs or sentences that meet the RCW exemption criteria you are relying upon.

City's Response to a Public Records Act Requests: The City will prepare two versions of your materials:

Full Redaction: A public copy that redacts (blacks out) both the exemptions (such as social security numbers) identified by the City and also materials or text you identified as exempt. The fully redacted version is made public upon contract execution and will be supplied with no notification to you.

Limited Redaction: A copy that redacts (blacks out) only the exemptions (such as social security numbers) identified by the City. This does not redact (black out) exemptions you identified. The Limited Redaction will be released only after you are provided "third party notice" that allows you the legal right under RCW 42.56.540 to bring a legal action to enjoin the release of any records you believe are not subject to disclosure.

If any requestor seeks the Limited Redacted or original versions, the City will provide you "third party notice", giving ten business days to obtain a temporary restraining order while you pursue a court injunction. A judge will determine the status of your exemptions and the Public Records Act.

most architects professional insurance carriers will not recognize arbitration as an acceptable means of dispute resolution

22. DISPUTES.

Any dispute or misunderstanding that may arise under this Agreement, concerning the Consultant's performance, shall first be through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager. It shall be referred to the Director and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such disputes, including but not limited to mediation, ~~arbitration~~ and/or alternative dispute resolution processes. Nothing in this dispute process shall mitigate the rights of the City to terminate the Agreement. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Consultant to correct such work prior to the City payment. The City will provide to the Consultant an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute, or if the Consultant provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed. Waiver of any of these rights is not deemed a future waiver of any such right or remedy available at law, contract or equity.

23. TERMINATION.



- A. For Cause: The City or Consultant may terminate the Agreement if the other party is in material breach of this Agreement, and such breach has not been corrected to the other party's reasonable satisfaction in a timely manner. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- C. For City's Convenience: The City may terminate this Agreement without cause and including the City's convenience, upon written notice to the Consultant. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than ninety (90) business days prior to the effective date of termination.
- D. Actions upon Termination: if termination occurs not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to the actual termination date, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Consultant agrees this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.



"up to the date of"

- E. Upon termination, the Consultant shall provide the City with the most current design documents, contract documents, writings and other products the Consultant has produced to termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided however, that the City shall indemnify and hold the Consultant harmless from any claims, losses, or damages to the extent caused by modifications made by the City to the Consultant's work product.

I would suggest requesting a list of the consultants hourly rates to be used as the basis for any contract amendments for added services.

24. EXPANSION FOR NEW WORK.

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the New Work was not reasonably known either the City or Consultant at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes, emergency or sole source conditions, or other situations required in City opinion. Certain changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

25. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- D. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
- E. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of Spokane County.
- F. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- G. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.

- H. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- I. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- J. Additional Provisions: This Agreement may be modified by additional terms and conditions (“Special Conditions”) which shall be attached to this Agreement as Exhibit D. The parties agree that the Special Conditions shall supplement the terms and conditions of the Agreement, and in the event of ambiguity or conflict with the terms and conditions of the Agreement, these Special Conditions shall govern.
- K. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. If conflict occurs between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.
- L. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party’s draftsmanship.
- M. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

CONSULTANT

CITY OF SPOKANE

By _____
Signature Date

By _____
Signature Date

Type or Print Name

Type or Print Name

Title

Title

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Attachments: Exhibit A – Consultant’s Scope of Work
Exhibit B – Lump Sum Payment Schedule

**EXHIBIT B
PAYMENT
(LUMP SUM)**

- A. LUMP SUM AGREEMENT. Payment for all consulting services for this Project shall be on the basis of a lump sum amount as shown in the heading of this Agreement.
1. Maximum Total Amount Payable. The maximum amount payable, by the Agency to the Consultant under this Agreement, shall not exceed the amount shown in the heading of the Agreement as maximum amount payable unless a supplemental agreement has been negotiated and executed by the Agency prior to incurring any costs in excess of the maximum amount payable.
- B. MONTHLY PROGRESS PAYMENTS. Partial payments may be made upon request by the Consultant to cover the percentage of work completed and are not to be more frequent than one (1) per month.
- C. FINAL PAYMENT. Final payment of any balance due the Consultant of the gross amount earned will be made promptly upon its verification by the Agency after the completion of the work under this Agreement, contingent upon receipt of all PS&E, plans, maps, notes, reports, and other related documents which are required to be furnished under this Agreement. Acceptance of the final payment by the Consultant shall constitute a release of all claims for payment which the Consultant may have against the Agency unless such claims are specifically reserved in writing and transmitted to the Agency by the Consultant prior to its acceptance. The final payment shall not, however, be a bar to any claims that the Agency may have against the Consultant or to any remedies the Agency may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and that at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that the final audit reveals an overpayment to the Consultant, the Consultant agrees to refund the overpayment to the Agency within ninety (90) days of notice of any payment. The refund shall not constitute a waiver by the Consultant for any claims relating to the validity of a finding of the Agency of overpayment.

- D. INSPECTION OF COST RECORDS. The Consultant and its subconsultants shall keep available for inspection by representatives of the Agency for a period of three (3) years after final payment the cost records and accounts pertaining to this Agreement and all items related to or bearing upon these records with the following exception: if any litigation, claim, or audit arising out of, in connection with, or related to this Agreement is initiated before the expiration of the three (3)-year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

EXHIBIT A

RIVERFRONT PARK REDEVELOPMENT PROJECT

Architecture and Engineering Design Services
Recreational Rink and Skyride Facility – Stantec Architecture, Inc.
January 13, 2016

SCOPE OF WORK OVERVIEW

The scope of this contract includes a full set of design and management services required for successful execution and completion of the defined project below.

Stantec Architecture, Inc., Consultant, shall coordinate all Scope of Work outlined in this document through City Program Manager.

The total estimated capital construction cost for the Scope of Work is approximately FOUR MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$4,250,000.00); the value of this contract is FIVE HUNDRED NINE THOUSAND TWO HUNDRED SEVENTY AND NO/100 DOLLARS (\$509,270.00) not including taxes if applicable.

The scope outlined below totals an allowable cost not to exceed \$474,770.00. The remaining contracted expenses not outlined in the scope below include an estimate of \$34,500.00 for Expenses/Reimbursables. **All Consultants costs and expenses shall not exceed the total lump sum amount of FIVE HUNDRED NINE THOUSAND TWO HUNDRED SEVENTY AND NO/100 DOLLARS (\$509,270.00) not including taxes if applicable.**

DETAILED SCOPE OF WORK

Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.

1.0 SCHEMATIC CONCEPT ENGINEERING & DESIGN DEVELOPMENT CONCEPT:

Total allowable cost for task 1.0 not to exceed **ONE HUNDRED EIGHTY-NINE THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$189,900.00).**

Consultant shall complete Task 1 and provide all listed deliverables on or before **February 10, 2016**, unless otherwise agreed upon in writing by both parties.

- A. Deliverables for this task include electronic submittals of:
 - i. Site plan/Circulation plan
 - ii. Landscape Site Plan
 - iii. Civil Site Plan
 - iv. Floor Plan

EXHIBIT A

- v. Rink Plan
- vi. Summer Program Plan
- vii. Exterior Elevations
- viii. Building Sections
- ix. Cost Estimate
- x. 3D model of Building and Ice

(Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.)

- 1.1 Concept Site Development
- 1.2 Concept Building Development: One (1) client meeting
- 1.3 Concept Systems Development: Three (3) team meetings
- 1.4 Concept Cost Analysis: One (1) team meeting
- 1.5 Coordination with Public Spaces Consultant: Four (4) client meetings
- 1.6 Presentation of Concept Design to Steering Committee & Open House: Two (2) client meetings
- 1.7 Design Review Board Presentation: Three (3) client meetings.
- 1.8 Final Design Report
- 1.9 Project Management and Coordination: One (1) client meeting.
- 1.10 SEPA, CUP Support
- 1.11 Assist Owner with Application Materials for City of Spokane Design Review Board
- 1.12 Assist Owner as Required for Permit Approval

2.0 CONSTRUCTION DOCUMENTATION:

Total allowable cost for task 2.0 not to exceed **ONE HUNDRED FIFTY-SEVEN THOUSAND EIGHT HUNDRED FIFTY AND NO/100 DOLLARS (\$157,850.00)**.

Consultant shall complete Task 2 and provide all listed deliverables on or before **June 1, 2016**, along with the milestones listed below.

- A. Deliverables for this task include electronic submittals of:
 - i. Contract Drawings (22 x 34; 11 x 17)
 - a. Civil Engineering
 - b. Landscape and Architecture
 - c. Project Site Plan
 - d. Rink Plan

EXHIBIT A

- e. Floor Plan
- f. Reflected Ceiling Plan
- g. Summer Program Plan
- h. Exterior Elevations
- i. Interior Elevations
- j. Furniture Plan
- k. Schedules (doors and finish)
- l. Building Sections
- m. Structural Engineering
- n. Mechanical Engineering
- o. Electrical Engineering
- ii. Project Specifications (65% - 95%) (8 ½ x 11)
- iii. Cost estimate (65% - 95%) (8 ½ x 11)

(Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.)

- 2.1 Preparation of thirty percent (30%) submittal due **February 17, 2016**: One (1) team meeting
- 2.2 Preparation of sixty-five percent (65%) submittal due **March 24, 2016**: One (1) team meeting
- 2.3 Coordination with Public Spaces Consultant: One (1) client meeting
- 2.4 P&R Review
- 2.5 Preparation of ninety-five percent (95%) submittal due **May 5, 2016**: One (1) team meeting
- 2.6 Coordination with Public Spaces Consultant: One (1) client meeting
- 2.7 P&R Review
- 2.8 Permit Coordination
- 2.9 Preparation of one hundred percent (100%) submittal due **June 1, 2016**: One (1) team meeting
- 2.10 P&R Review
- 2.11 Project Management and Coordination: Four (4) client meetings

3.0 PROJECT BIDDING:

Total allowable cost for task 3.0 not to exceed **FOURTEEN THOUSAND TWO HUNDRED FORTY-FIVE AND NO/100 DOLLARS (\$14,245.00)**.

Consultant shall complete Task 3 and provide all listed deliverables on or before **July 1, 2016**.

EXHIBIT A

A. Deliverables for this task include electronic submittals of:

- i. Pre-Bid meeting minutes (written, 8 ½ x 11)
- ii. Addendum (written, 8 ½ x 11)
- iii. Bid recommendation (written, 8 ½ x 11)

(Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.)

- 3.1 Conduct Pre-Bid Meeting: One (1) client meeting
- 3.2 Issue Addendum
- 3.3 Address Bidders Inquiries
- 3.4 Bid Evaluation and Recommendation
- 3.5 Project Management and Coordination: One (1) client meeting

4.0 CONSTRUCTION ADMINISTRATION:

Total allowable cost for task 4.0 not to exceed **ONE HUNDRED TWELVE THOUSAND SEVEN HUNDRED SEVENTY-FIVE AND NO/100 DOLLARS (\$112,775.00).**

Consultant shall complete Task 4 and provide all listed deliverables within six to nine months as required to complete construction.

A. Deliverables for this task include:

- i. Pre-Construction meeting minutes (written, 8 ½ x 11)
- ii. Progress Meeting minutes (written, 8 ½ x 11)
- iii. Construction Change Documentation (written, 8 ½ x 11)
- iv. Contractor Pay Application Reviews (written, 8 ½ x 11)
- v. Final Inspection Report (written, 8 ½ x 11)
- vi. As-built Documentation (original size)

(Exhibit C, A/E Basic Services Terms, provides a general reference to services included in each of the Tasks below.)

- 4.1 Conduct Pre-Construction Meeting: One (1) client meeting
- 4.2 Conduct Weekly Progress Meetings: Twenty-eight (28) team meetings with General Contractor
- 4.3 Submittal Review/Approval
- 4.4 Monthly Progress Reports

EXHIBIT A

- 4.5 Special Ice Meeting/Inspection: Six (6) team meetings
- 4.6 Preliminary Final Inspection: Five (5) client meetings
- 4.7 Final Inspection: Four (4) client meetings
- 4.8 Project Record Review
- 4.9 Project as-Built Preparation
- 4.10 Project Management and Coordination

5.0 EXPRESSLY DISCLAIMED SERVICES

Following are those services that are not included and for which no responsibility is established (however coordination with associated Consultants is required):

- 5.1 Soils engineering for project site;
- 5.2 Site survey;
- 5.3 Any improvements beyond five feet zero inches (5'-0") from the ice surface or building footprint;
- 5.4 Permitting fees (plan check, building, etc.); and
- 5.5 Utility or site work beyond the five feet zero inches (5'-0") footprint of the building.

A/E Basic Services

EXHIBIT C

A/E Basic Design Services consist of the services described in the following pages. These design services include normal architectural, structural, civil, mechanical, and electrical engineering services. The Architect can rely on the accuracy of all Owner-supplied project data/information.

Schematic Design Services

In the Schematic Design phase, the A/E provides those services necessary to prepare Schematic design documents consisting of drawings and other documents illustrating the general scope, scale, and relationship of project components for approval by the Owner. Design should be conceptual in character, based on the requirements developed during the predesign phase, approved by the Owner, or program requirements provided by the Owner and reviewed and agreed upon by the A/E.

Schematic Design Services include:

Project Administration	Services related to schematic design administrative functions including consultation, meetings and correspondence, and progress design review conferences.
Disciplines Coordination	Coordination between the architectural work and engineering work and other involved consultants for the project. When specialty consultants are used, additional coordination beyond basic services may be required and negotiated for appropriate phases of the work.
Document Checking	Review and coordination of project documents.
Permitting Authority Consulting	Consultations, research of critical applicable regulations, preparation of written and graphic explanatory materials. The services apply to applicable laws, statutes, regulations, and codes.
Owner Data Coordination	Review and coordination of data furnished for the project by the Owner.
Architectural Design	Services responding to scope of work (program/predesign) requirements and consisting of preparation of conceptual site and building plans, schematic sections and elevations, preliminary selection of building systems and materials, development of approximate dimensions, areas and volumes.
Structural Design	Services consisting of recommendations regarding basic structural material and systems, analysis, and development of conceptual design solutions.
Mechanical Design	Services consisting of consideration of alternate materials, systems and equipment, and development of conceptual design solutions for energy sources/conservation, heating, ventilating and air conditioning (HVAC), plumbing, fire protection, and general space requirements.
Electrical Design	Services consisting of consideration of alternate systems, recommendations regarding basic electrical materials, systems and equipment, analysis, and development of conceptual design solutions for power service and distribution, lighting, communication raceways, fire detection and alarms, and general space requirements.
Civil/Site Design	Services consisting of site planning including layout of site features, building position, preliminary grading, location of paving for walkways, driveways and parking, and fencing locations. Also included are the normal connections required to service the building such as water, drainage, and sanitary systems, if applicable.
Specifications	Services consisting of preparation for Owner's approval of proposed development of architectural outline specifications, and coordination of outline specifications of other disciplines.
Materials Research	Services consisting of identification of potential of architectural materials, systems, and equipment.

Scheduling	Services consisting of reviewing and updating previously established project schedules or initial development of schedules for decision- making, design, and documentation.
Cost Estimating	Services consisting of development of a probable construction cost from quantity surveys and unit costs of building elements for the project. Parametric costs shall reflect the level of design elements presented in the schematic design documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program. Assist Owner with analyzing scope, schedule, and budget options to stay within the budget.
Presentations	Services consisting of appropriate presentation(s) of schematic design documents by the A/E to Owner representatives.

Design Development Services

In the Design Development Phase, the A/E shall provide those services necessary to prepare from the approved schematic design documents, the design development documents consisting of drawings and other documents to fix and describe the size and character of the entire project for approval by the Owner. Consideration shall be given to availability of materials, equipment and labor, construction sequencing and scheduling, economic analysis of construction and operations, user safety and maintenance requirements, and energy conservation.

Design Development Services include:

Project Administration	Services related to schematic design administrative functions including consultation, meetings and correspondence, and progress design review conferences with the Owner.
Disciplines Coordination	Coordination between the architectural work and engineering work and other involved consultants for the project. When specialty consultants are used, additional coordination beyond basic services may be required and negotiated for appropriate phases of the work.
Document Checking	Review and coordination of project documents.
Permitting Authority Consulting	Consultations, research of critical applicable regulations, preparation of written and graphic explanatory materials. The services apply to applicable laws, statutes, regulations, and codes.
Owner Data Coordination	Review and coordination of data furnished for the project by the Owner.
Architectural Design	Services consisting of continued development and expansion of architectural schematic design documents to establish the final scope, relationships, forms, size, and appearance of the project through plans, sections and elevations, typical construction details, three-dimensional sketches, materials selections, and equipment layouts.
Structural Design	Services consisting of continued development of the specific structural system(s) and schematic design documents in sufficient detail to establish basic structural system and dimensions, structural design criteria, foundation design criteria, preliminary sizing of major structural components, critical coordination clearances, and outline specifications or materials lists.
Mechanical Design	Services consisting of continued development and expansion of mechanical schematic design documents and development of outline specifications or materials lists to establish approximate equipment sizes and capacities, preliminary equipment layouts, required space for equipment, chases and clearances, acoustical and vibration control, visual impacts, and energy conservation measures.

Electrical Design	Services consisting of continued development and expansion of electrical schematic design documents and development of outline specifications or materials lists to establish criteria for lighting, electrical and communication raceways, approximate sizes and capacities of major components, preliminary equipment layouts, required space for equipment, chases, and clearances.
Civil/Site Design	Services consisting of continued development of civil/site schematic design documents and development of outline specifications required for the project that are normally prepared by the architect. See the Extra Services section for detailed civil design services beyond basic services.
Specifications	Services consisting of preparation for the Owner's approval of proposed General and Supplementary Conditions of the Contract for construction, development of architectural outline specifications, coordination of outline specifications of other disciplines, and production of design manual including design criteria, and outline specifications of materials lists.
Scheduling	Services consisting of reviewing and updating previously established schedules for the project.
Cost Estimating	Services consisting of development of a probable construction cost from quantity surveys and unit costs of building elements for the project. Parametric costs reflect the level of design elements presented in the design development documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program. Assist Owner with analyzing scope, schedule and budget options to stay within the BUDGET.
Presentations	Services consisting of appropriate presentation(s) of design development documents by the A/E to Owner representatives.

Construction Document Services

In the construction documents phase, the A/E shall provide the services necessary to prepare for approval by the Owner – from the approved design development documents; construction documents consisting of drawings, specifications, and other documents describing the requirements for construction of the project; and bidding and contracting for the construction of the project.

Construction Document Services include:

Project Administration	Services related to schematic design administrative functions including consultation, meetings and correspondence, and progress design review conferences.
Disciplines Coordination	Coordination of the architectural work, with the work of engineering, and with other involved consultants for the project.
Document Checking	Review and coordination of project documents.
Permitting Authority Consulting	Consultations, research of critical applicable regulations, preparation of written and graphic explanatory materials. The services apply to applicable laws, statutes, regulations, and codes. Assist in obtaining approval from approving agencies as required.
Owner Data Coordination	Review and coordination of data furnished for the project by the Owner.
Architectural Design	Services consisting of preparation of drawings based on approved design development documents setting forth in detail the architectural construction requirements for the project.
Structural Design	Services consisting of preparation of final structural engineering calculations, drawings, and specifications based on approved design development documentation, which details structural construction requirements for project.

Mechanical Design	Services consisting of preparation of final mechanical engineering calculation, drawings and specifications based on approved design development documentation, setting forth in detail the mechanical construction requirements for the project.
Electrical Design	Services consisting of preparation of final electrical engineering calculation, drawing and specifications based on approved design development documentation, setting forth in detail the electrical construction requirements for the project.
Civil/Site Design	Services consisting of continued development of civil/site schematic design documents and development of outline specifications required for the project that are normally prepared by the architect. See the Extra Services section for detailed civil design services beyond basic services.
Specifications	Services consisting of preparation for the Owner's approval of proposed General and Supplementary Conditions of the Contract for construction, development of architectural outline specifications, coordination of outline specifications of other disciplines, and production of design manual including design criteria, and outline specifications of materials lists.
Scheduling	Services consisting of reviewing and updating previously established schedules for the project.
Cost Estimating	Services consisting of development of a probable construction cost from quantity surveys and unit costs of building elements for the project. Parametric costs reflect the level of design elements presented in the design development documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program. Assist Owner with analyzing scope, schedule and budget options to stay within the BUDGET.

Bidding Phase

In the Bidding Phase, the A/E, following the Owner's approval of the Construction Documents and the most recent statement of probable construction cost, shall provide those services necessary for the A/E to assist the Owner in obtaining bids and in awarding and preparing contracts for construction. In the case of phased construction, the Owner may authorize bidding of portions of the work.

Bidding Phase services include:

Project Administration	Services consisting of bidding administrative functions.
Disciplines Coordination	Coordination between the architectural work and the work of engineering and other involved consultants for the project.
Bidding Materials	Services consisting of organizing, coordinating, and handling Bidding documents for reproduction, distribution and retrieval, receipt, and return of document deposits.
Addenda	Services consisting of preparation and distribution of Addenda as may be required during bidding and including supplementary drawings, specifications, instructions, and notice(s) of changes in the bidding schedule and procedure.
Bidding	Services consisting of participation in pre-bid conferences, responses to questions from bidders, and clarification or interpretations of the bidding documents, attendance at bid opening, and documentation and distribution of bidding results.
Analysis of Substitutions	Services consisting of consideration, analysis, comparisons, and recommendations relative to substitutions proposed by bidders prior to receipt of bids.
Bid Evaluation	Services consisting of validation of bids, participation in review of bids and alternates, evaluation of bids, and recommendation on award of contract.

Contract Agreements	Assist using Owner in notification of contract award, assistance in preparation of construction contract agreements when required, preparation and distribution of sets of contract documents for execution of the contract, receipt, distribution and processing, for Owner approval, of required certificates of insurance, bonds and similar documents, and preparation and distribution to contractor(s) on behalf of the Owner, of notice(s) to proceed with the work.
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Construction Contract Administration Phase

In the Construction Contract Administration phase, the A/E shall provide services necessary for the administration of the construction contract.

Project Administration	Services consisting of construction contract administrative functions including consultation, conferences, communications, and progress reports.
Disciplines Coordination	Coordination between the architectural work and the work of engineering and other involved consultants for the project. Reviewing and checking of documents (required submittals) prepared for the project.
Permitting Authority Consulting	Services relating to applicable laws, statutes, regulations and codes of regulating entities relating to the Owner's interests during construction of the project.
Construction Administration	Services consisting of processing of submittals, including receipt, review of and appropriate action on shop drawings, product data, samples, and other submittals required by the contract documents. Distribution of submittals to Owner, contractor, and field representatives as required. Maintenance of master file of submittals and related communications.
Construction Field Observation	Services consisting of visits to the site at intervals appropriate to the stage of construction or as otherwise agreed to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the contract documents, and preparing related reports and communications. A/E to chair project meetings.
Project Representation	Services consisting of assisting the Owner in selection of full- or part-time project representative(s).
Documents	Services consisting of preparation, reproduction, and distribution of clarification documents and interpretations in response to requests for clarification by contractors or the Owner. Maintenance of records and coordination of communications relative to requests for clarification or information (RFI). Preparation, reproduction and distribution of drawings and specifications to describe work to be added, deleted or modified, review of proposals, review and recommend changes in time for substantial completion, assisting in the preparation of modifications of the contracts and coordination of communications, approvals, notifications, and record-keeping relative to changes in the work. Additional fees for changes to the scope of a project shall be negotiated.
Scheduling	Services consisting of monitoring the progress of the contractors relative to established schedules and making status reports to the Owner.
Cost Accounting	Services consisting of maintenance of records of payments on account of the contract and all changes thereto, evaluation of applications for payment and certification thereof, and review and evaluation of cost data submitted by the contractors for work performed.

Project Closeout (2 Percent)

Project Closeout	Services initiated upon notice from the contractor that the work is sufficiently complete, in accordance with the contract documents, to permit occupancy or utilization for the use for which it is intended, and consisting of a detailed inspection for conformity of the work to the contract documents, issuance of certificate of substantial completion, issuance of a list of remaining work required (punch list), final inspections, receipt and transmittal of warranties, affidavits, receipts, releases and waivers of lien or bonds, permits, and issuance of final certificate for payment.
Record Documents (As-Builts)	Coordination between the architectural work and the work of engineering and other involved consultants for the project. Reviewing and checking of documents (required submittals) prepared for the project.
Operations and Maintenance Manuals	Services consisting of processing, reviewing, commenting on, taking appropriate action, and transmitting Operations and Maintenance Manuals provided by the contractor to Owner.
Warranty Period	Continued assistance to investigate contract problems that arise during the warranty period.

A/E Extra Services/Reimbursables and Other Services

The majority of projects should be completed within the structure of the basic fee schedule. However, some projects will be more complex and require a range of Extra Services/Reimbursables and Other Services, which will be negotiated for specific tasks. These services typically require specialist expertise and may not neatly fall within one phase of service or another. As projects become more complex, they demand a variety of special studies and services. Extra Services/Reimbursables are services generally provided by the same A/E providing the basic services, and Other Services are those services generally provided by additional specialty consultants, either as subs to the prime A/E or as independent consultants directly contracted with the Owner.

Extra services are not intended as an adjustment to basic services and should reflect actual anticipated cost. The following provides a guideline for evaluating the pricing of Extra and Other services, and establishing the eligibility of reimbursable expenses.

A. Pricing Consultants and Subconsultant Personnel

Employees of Firm	Per attached Hourly Rate Sheet
Consultants/Subconsultants	Hourly or as negotiated.
Special Consulting Services	When special consulting services not normally associated with traditional project design are necessary, the fee may be outside of the above guidelines.
Service Charge on Sub-Consultant	Ten percent service charge may be added to work incorporated by addenda to the original agreement.

B. A/E Extra Services/Reimbursable Expenses

When drafting the A/E agreement, the Project Manager should review the following list in determining eligible reimbursable items. It is not all inclusive or exclusive and should only be used as a guide.

Alternative Cost Studies	Additional costing beyond the parametric estimates required in basic services as requested by the Owner.
Energy Life Cycle Cost Analysis (ELCCA)	All projects over 25,000 square feet are required by Chapter 39.35 RCW to be analyzed for the cost of energy consumption and operation during its entire economic life.
Life Cycle Cost Analysis	All projects valued over \$5,000,000 or projects constructing new building space

(LCCA)	over 5,000 square feet are required to perform a life cycle cost analysis to evaluate the total cost of ownership for the building or building system. Agencies will utilize the Life Cycle Cost Tool (LCCT) which standardizes rates and methodology to perform the analysis.
Commissioning and Training	Cost to the A/E of assembly, tabulation, and indexing of all shop drawings and submittals on all equipment, controls, systems, and participating in an independent commissioning of the project and providing initial operator training on the maintenance of systems.
Enhanced Commissioning	A longer post occupancy phase, commonly referred to as enhanced commissioning, may be necessary to achieve the long-term desired performance of a new building or system. This work generally includes monitoring energy performance after construction, additional training to facility staff, and system adjustments to ensure the building continues to operate as originally designed.
On-Site Representative	On-site observation beyond the periodic site visits required under basic services for construction field observation.
Thermal Scans	Cost of an examination of a structure for thermal loss on existing facilities to be remodeled.
Value Engineering Participation and Implementation	Cost to the A/E for participation in the value engineering study and implementation of the accepted ideas that generate during the study.
Travel and Per Diem	Customary and approved costs to A/E during the course of basic and additional services (based on state rates and limited to between 50 and 350 miles).
Renderings, Presentations, and Models	Cost for special presentations, renderings, and models required for the project.
Document Reproduction	Additional cost of printing and mailing bidding and construction documents.
Advertising	Cost of required advertisements and placing bidding documents in plan centers announcing the bidding of the project.
Constructability Review Participation and Implementation	Cost to the A/E for participation in the constructability review and implementation of the accepted changes.
Leadership in Energy and Environmental Design	Cost of providing services for negotiation, documentation, and associated services required for sustainable design project certificates with the U.S. Green Building Council.
Separate Bid Packages	Cost to the A/E for preparation of separate bid packages typically used in GC/CM type projects.
Professional Liability Insurance	Where coverage is required in excess of \$1 million, reimbursement of excess premium costs will be considered as a reimbursable cost.

C. A/E Other Services

Consultant Selection Cost	Additional costs for private sector members of a selection committee if required (Chapter 39.80 RCW).
Specialty Consultants	<p>Cost of only those additional consultant services beyond A/E services provided under basic services. Specialty consultants include, but are not limited to:</p> <ul style="list-style-type: none"> • Acoustical Consultant • Civil Engineering additional services may include: <ul style="list-style-type: none"> ○ Studies, reports, and calculations required to determine adequacy of existing systems or those required for permit review such as drainage, fire protection, or sewer ○ Storm drainage design and connections ○ Design or study of issues for "sensitive areas" such as wetlands, steep

	<p>slopes, or flood plains</p> <ul style="list-style-type: none"> ○ Water supply connections to wells, treatment systems, storage, and off-site main extensions ○ Sanitary sewer design and infrastructure ○ Road and pavement improvements ○ Storm water quality and quantity computations, reports, design and details ○ Temporary erosion and sediment control reports and drawings ○ Special studies and reports for other agencies <ul style="list-style-type: none"> ● Communications Consultant ● Cost Estimating Consultant ● Electronic/Audio Visual Consultant ● Elevator Consultant ● Hazardous Material Consultant ● Hospital/Laboratory Consultant Interior ● Design Consultant Indoor Air Quality ● Consultant Kitchen Consultant ● Landscape Consultant ● Quality Control Consultant Security Consultant
Geotechnical Investigation	Cost of subsurface testing and evaluation.
Commissioning	Cost of an independent commissioning of the project.
HVAC Balancing	Cost to balance systems.
Site Survey	Cost of conducting a survey independent from design A/E.
Testing	Cost of a technician's services in acquiring and testing samples of materials used in the project as required in the state building code.
Energy LCCA Review	Fee to be paid for review of the energy life cycle cost analysis.
Value Engineering	Cost for performing the required value engineering study on a project by an independent multi-disciplined team.
Constructability Review/Plan Check	Cost for an independent consultant or contractor to review bid documents and determine if a project can be built as designed.
Graphics	Cost of special graphic and signage design.
Design/Code Plan Check	Cost of an independent plan check if not available within the local jurisdiction.
FF&E (Furniture, Fixtures, and Equipment)	Cost of performing the selection, scheduling, procurement, or installation of FF&E.
Other Reimbursable Expenses	Costs for requested documents, fax expenses, and special mail service when requested by owner.
Re-Design	Re-design of previously approved work.
Others	Other services not specifically described herein may be additional services.

D. Non-Eligible Expenses

- Consultants hired at A/E's option to perform basic services required by contract.
- Postage and handling of submittals, bid documents, correspondence, etc.
- Telephone expenses (local calls and line service).
- Copies of documents used by the A/E to perform normal services and not provided to owner.

Fee Modifications

It is recognized that there may be considerable variance between projects of a similar size and type that may necessitate modification of the A/E fee schedule. Examples of special circumstances that may necessitate such modifications include:

- Unusual site conditions
- Unique problems requiring specialized or extensive consulting services
- Renovations required by additions to an existing structure
- Unusually slow or fast development schedule (fast track, design build, GC/CM) Contractor design (fire protection systems)
- Large portions of work outside the control of the prime architect (wetlands mitigation)

§ COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither

the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

SCHEDULE OF BILLING RATES – 2015

Billing Level	Hourly Rate	Description
1	\$56	Entry-level position <input type="checkbox"/> Works under the supervision of a senior professional <input type="checkbox"/> Recent graduate from an appropriate post-secondary program or equivalent <input type="checkbox"/> Generally, less than four years' experience
2	\$64	
3	\$71	Junior Level position <input type="checkbox"/> Independently carries out assignments of limited scope using standard procedures, methods and techniques <input type="checkbox"/> Assists senior staff in carrying out more advanced procedures <input type="checkbox"/> Completed work is reviewed for feasibility and soundness of judgment <input type="checkbox"/> Graduate from an appropriate post-secondary program or equivalent <input type="checkbox"/> Generally, one to three years' experience
4	\$79	
5	\$87	
6	\$95	Fully Qualified Professional Position <input type="checkbox"/> Carries out assignments requiring general familiarity within a broad field of the respective profession <input type="checkbox"/> Makes decisions by using a combination of standard methods and techniques <input type="checkbox"/> Actively participates in planning to ensure the achievement of objectives <input type="checkbox"/> Works independently to interpret information and resolve difficulties <input type="checkbox"/> Graduate from an appropriate post-secondary program, with credentials or equivalent <input type="checkbox"/> Generally, three to six years' experience
7	\$102	
8	\$110	
9	\$118	First Level Supervisor or first complete Level of Specialization <input type="checkbox"/> Provides applied professional knowledge and initiative in planning and coordinating work programs <input type="checkbox"/> Adapts established guidelines as necessary to address unusual issues <input type="checkbox"/> Decisions accepted as technically accurate, however may on occasion be reviewed for soundness of judgment <input type="checkbox"/> Graduate from an appropriate post-secondary program, with credentials or equivalent <input type="checkbox"/> Generally, five to nine years' experience
10	\$127	
11	\$136	
12	\$146	Highly Specialized Technical Professional or Supervisor of groups of professionals <input type="checkbox"/> Provides multi-discipline knowledge to deliver innovative solutions in related field of expertise <input type="checkbox"/> Participates in short and long range planning to ensure the achievement of objectives <input type="checkbox"/> Makes responsible decisions on all matters, including policy recommendations, work methods, and financial controls associated with large expenditures <input type="checkbox"/> Reviews and evaluates technical work <input type="checkbox"/> Graduate from an appropriate post-secondary program, with credentials or equivalent <input type="checkbox"/> Generally, ten to fifteen years' experience with extensive, broad experience
13	\$157	
14	\$166	
15	\$174	Senior Level Consultant or Management <input type="checkbox"/> Recognized as an authority in a specific field with qualifications of significant value <input type="checkbox"/> Provides multi-discipline knowledge to deliver innovative solutions in related field of expertise <input type="checkbox"/> Independently conceives programs and problems for investigation <input type="checkbox"/> Participates in discussions to ensure the achievement of program and/or project objectives <input type="checkbox"/> Makes responsible decisions on expenditures, including large sums or implementation of major programs and/or projects <input type="checkbox"/> Graduate from an appropriate post-secondary program, with credentials or equivalent <input type="checkbox"/> Generally, more than twelve years' experience with extensive experience
16	\$202	
17	\$232	
18	\$272	Senior Level Management under review by Vice President or higher <input type="checkbox"/> Recognized as an authority in a specific field with qualifications of significant value <input type="checkbox"/> Responsible for long range planning within a specific area of practice or region <input type="checkbox"/> Makes decisions which are far reaching and limited only by objectives and policies of the organization <input type="checkbox"/> Plans/approves projects requiring significant human resources or capital investment <input type="checkbox"/> Graduate from an appropriate post-secondary program, with credentials or equivalent <input type="checkbox"/> Generally, fifteen years' experience with extensive professional and management experience
19	\$308	
20	\$343	
21	\$379	



January 8, 2016
File: 2046055600

Attention: Berry Ellison, Program Manager
Parks and Recreation Division
City of Spokane
W. 808 Spokane Falls Blvd.
Spokane, WA 99201

Via email: bellison@spokanecity.org

Dear Mr. Ellison,

Reference: Fee Proposal, Recreational Rink and Skyride Facility, Riverfront Park.

Stantec Architecture Inc. (Stantec) welcomes the opportunity to provide the City of Spokane Parks and Recreation Division design services for the Recreational Rink and Skyride Facility project located in Riverfront Park (Park). The proposed project is an ice facility to be located on the southwest corner of the Park (corner of Spokane Falls Boulevard and Post Street). Improvements will also include a structure adjacent to both the new ice facility and the existing Skyride terminal which will house restrooms, ticketing, and rental functions for both facilities. The anticipated capital construction cost for the project has been defined as \$4,250,000, including an alternate Summer Program budget of \$500,000.

Whereas the referenced project is part of the overall redevelopment of the Park, there is a need to coordinate the rink development with the City of Spokane's "Public Spaces" consultant. It is also understood that all elements of the Park redevelopment are on different schedules, resulting in some coordination conflicts which have yet to be resolved. Access to final and complete owner-provided site and existing conditions information is a challenge due to various permitting requirements. These same permitting requirements (conditional use, shoreline, etc.) may ultimately affect the project scope and schedule.

Over the past two months Stantec has been working with Parks and Recreation Division staff to develop a project scope with deliverables for this project. We have based our fee proposal on this scope (delivered to the Owner in the 3.4 Deliverables; a separate contract. The final scope of work is attached to this document at Exhibit "A". In addition to the scope of work, we have also prepared a matrix of responsibility which highlights the level of responsibility of all three team members, Stantec, City of Spokane, and Berger Partnership, the Public Spaces consultant. This

Design with community in mind



January 8, 2016
Berry Ellison, Program Manager
Page 2 of 3

Reference: Fee Proposal, Recreational Rink and Skyride Facility, Riverfront Park.

"responsibility matrix" is attached as Exhibit "B". A description of A/E Basic Services is attached as Exhibit "C".

Based on this scope the following is a breakdown, by task, of our fee:

	Task Description	Proposed Fee
Task 1	Schematic Design/Design Development	167,900
Task 2	Construction Documentation	139,700
Task 3	Bidding Services	12,595
Task 4	Construction Administration	99,575
TOTAL		\$ 419,770
Summer Program	(estimated at 11% of Budgeted)	\$ 55,000
Expenses/Reimbursables	(estimate only)	\$ 34,500
Additional Services	Hourly or as agreed	

Please note that the above figures include travel time for Jim Maland, our ice designer. This is a direct request for involvement during the design processes and Jim's concern for quality during the construction period. It reflects a total of ten (10) site visits during those phases, two (2) during design and eight during construction, including the preliminary final and final inspections.

The following work elements are not included in the proposed fee above:

1. Soils engineering for project site.
2. Site survey.
3. Any improvements beyond 5'-0" from the ice surface or building footprint.
4. Permitting fees (plan check, building, etc.)
5. Utility or site work beyond the 5'-0" footprint of the building.
6. Items excluded or limited in the attached scope of work and/or matrix of responsibility.



January 8, 2016
Berry Ellison, Program Manager
Page 3 of 3

Reference: Fee Proposal, Recreational Rink and Skyride Facility, Riverfront Park.

As we have previously discussed, the schedule for this project is aggressive and will result in coordination issues with other elements of the Park redevelopment. As presented to Stantec, the proposed schedule has been established as the following:

Task	Completion date
Contract Execution	1/14/16
65% Submittal	TBD
95% Submittal	TBD
Bid Documents Complete	6/1/16

Please review this proposal and contact me directly if you have any questions or concerns. Everyone at Stantec is looking forward to working on this project and insuring that it is successful.

Regards,

Stantec Architecture Inc.

Riley Witt
Senior Planning Technician
Phone: (509) 340-1743
Fax: (509) 328-0423
riley.witt@stantec.com

Scott Somers, NCARB
Senior Architect

Attachment: as stated

c. Harvey Morrison
file

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Riverfront Park Recreational Rink and Skyride Facility

Date/Time: January 8, 2016

TASK NUMBER	TASK DESCRIPTION	CLIENT MEETING	TEAM MEETINGS
Task 1	SCHEMATIC CONCEPT ENGINEERING & DESIGN DEVELOPMENT CONCEPT	CLIENT MEETINGS	TEAM MEETINGS
1.1	Concept Site Development Stantec Ice Stantec Civil SPVV - LA		
1.2	Concept Building Development Stantec Ice Stantec PM/Arch	1	
1.3	Concept Systems Development Stantec Ice Stantec Mechanical Stantec Electrical Stantec Structural		3
1.4	Concept Cost Analysis Stantec Ice Stantec PM/Arch Roen		1
1.5	Coordination with Public Spaces Consultant Stantec PM/Arch Stantec Civil SPVV - LA	4	
1.6	Presentation of Concept Design to Steering Committee & Open House Stantec Ice Stantec PM/Arch SPVV - LA	2	
1.7	Design Review Board Presentation Stantec PM/Arch	3	
1.8	Final Design Report Stantec Ice Stantec PM/Arch Stantec Civil Stantec Structural Stantec Mechanical Stantec Electrical SPVV - LA Roen		

TASK NUMBER	TASK DESCRIPTION	CLIENT MEETING	TEAM MEETINGS
1.9	Project Management and Coordination Stantec PM/Arch	1	
1.10	SEPA, CUP Support Stantec PM/ARCH		
1.11	Assist Owner with Application Materials for City of Spokane Design Review Board		
1.12	Assist Owner As Required for Permit Approval Stantec PM/ARCH Stantec Civil SPVV - LA		
TASK 4 DELIVERABLES	<ul style="list-style-type: none"> • Site plan / Circulation plan • Landscape Site Plan • Civil Site plan • Floor Plan • Rink Plan • Summer Program Plan • Exterior Elevations • Building Sections • Cost Estimate • 3D model of Building and Ice (electronic) Note: All deliverables submittals will be electronic		

Task 2	CONSTRUCTION DOCUMENTATION	CLIENT MEETING	TEAM MEETINGS
2.1	Preparation of 65% Submittal Stantec Ice Stantec PM/Arch Stantec Civil Stantec Structural Stantec Mechanical Stantec Electrical SPVV - LA Roen		1
2.2	Coordination with Public Spaces Consultant Stantec PM/Arch Stantec Civil SPVV - LA	1	
2.3	P&R Review		
2.4	Preparation of 95% Submittal Stantec Ice Stantec PM/Arch Stantec Civil		1

Task 2	CONSTRUCTION DOCUMENTATION	CLIENT MEETING	TEAM MEETINGS
	Stantec Structural Stantec Mechanical Stantec Electrical SPVV - LA Roen		
2.5	Coordination with Public Spaces Consultant Stantec PM/Arch Stantec Civil SPVV - LA	1	
2.6	P&R Review		
2.7	Permit Coordination Stantec PM/Arch Stantec Civil Stantec Structural Stantec Mechanical Stantec Electrical SPVV - LA NREC Review		
2.8	Preparation of 100% Submittal Stantec Ice Stantec PM/Arch Stantec Civil Stantec Structural Stantec Mechanical Stantec Electrical SPVV - LA Roen		1
2.9	P&R Review		
2.10	Project Management and Coordination Meeting w/ City of Spokane PM Team	4	
TASK 2 DELIVERABLES:	<ul style="list-style-type: none"> • Contract Drawings (22 x 34; 11 x 17) <ul style="list-style-type: none"> ○ Civil Engineering ○ Landscape Architecture ○ Project Site Plan ○ Rink Plan ○ Floor Plan ○ Reflected Ceiling Plan ○ Summer Program Plan ○ Exterior Elevations ○ Interior Elevations 		

Task 2	CONSTRUCTION DOCUMENTATION	CLIENT MEETING	TEAM MEETINGS
	<ul style="list-style-type: none"> o Furniture Plan o Schedules (door and finish) o Building Sections o Structural Engineering o Mechanical engineering o Electrical Engineering • Project Specifications (65% - 95%) (8 ½ x 11) • Cost estimate (65% - 95%) (8 ½ x 11) Note: All deliverables submittals will be electronic.		

Task 3	PROJECT BIDDING	CLIENT MEETING	TEAM MEETINGS
3.1	Conduct Pre-Bid Meeting Stantec PM/Arch	1	
3.2	Issue Addendum Stantec Ice Stantec PM/Arch Stantec Civil Stantec Structural Stantec Mechanical Stantec Electrical SPVV - LA		
3.3	Address Bidders inquiries Stantec Ice Stantec PM/Arch Stantec Civil Stantec Structural Stantec Mechanical Stantec Electrical SPVV - LA		
3.4	Bid Evaluation and Recommendation Stantec PM/Arch		
3.5	Project Management and Coordination	1	
TASK 3 DELIVERABLES	<ul style="list-style-type: none"> • Pre-Bid meeting minutes (written, 8 ½ x 11) • Addendum (written, 8 ½ x 11) • Bid recommendation (written, 8 ½ x 11) Note: All deliverables submittals will be electronic.		

Task 4	Construction Administration	CLIENT MEETING	TEAM MEETINGS
4.1	Conduct Pre-Construction Meeting	1	

Task 4	Construction Administration	CLIENT MEETING	TEAM MEETINGS
	Stantec PM/Arch Stantec Ice		
4.2	Conduct Weekly Progress Meetings Stantec PM/Arch		28 (w/ G.C.)
4.3	Submittal Review/Approval Stantec Ice Stantec PM/Arch Stantec Civil Stantec Structural Stantec Mechanical Stantec Electrical SPVV - LA		
4.4	Monthly Progress Reports Stantec PM/Arch		
4.5	Special Ice Meeting/Inspection Stantec Ice Stantec PM/Arch		6
4.6	Preliminary Final Inspection Stantec Ice Stantec PM/Arch Stantec Mechanical Stantec Electrical SPVV - LA	1 1 1 1 1	
4.7	Final Inspection Stantec Ice Stantec PM/Arch Stantec Mechanical Stantec Electrical	1 1 1 1	
4.8	Project Record Review Stantec Ice Stantec PM/Arch Stantec Mechanical Stantec Electrical SPVV - LA		
4.9	Project as-Built Preparation Stantec Ice Stantec PM/Arch Stantec Structural		

Task 4	Construction Administration	CLIENT MEETING	TEAM MEETINGS
	Stantec Mechanical Stantec Electrical SPVV - LA		
4.10	Project Management and Coordination		
TASK 4 DELIVERABLES:	<ul style="list-style-type: none"> • Pre-Construction meeting minutes (written, 8 ½ x 11) • Progress Meeting minutes (written, 8 ½ x 11) • Construction Change Documentation (written, 8 ½ x 11) • Contractor Pay Application Reviews (written 8 ½ X 11) • Final Inspection Report (written, 8 ½ x 11) • As-built Documentation (original size) 		

A/E Basic Services

EXHIBIT C

A/E Basic Design Services consist of the services described in the following pages. These design services include normal architectural, structural, civil, mechanical, and electrical engineering services. The Architect can rely on the accuracy of all Owner-supplied project data/information.

Schematic Design Services

In the Schematic Design phase, the A/E provides those services necessary to prepare Schematic design documents consisting of drawings and other documents illustrating the general scope, scale, and relationship of project components for approval by the Owner. Design should be conceptual in character, based on the requirements developed during the predesign phase, approved by the Owner, or program requirements provided by the Owner and reviewed and agreed upon by the A/E.

Schematic Design Services include:

Project Administration	Services related to schematic design administrative functions including consultation, meetings and correspondence, and progress design review conferences.
Disciplines Coordination	Coordination between the architectural work and engineering work and other involved consultants for the project. When specialty consultants are used, additional coordination beyond basic services may be required and negotiated for appropriate phases of the work.
Document Checking	Review and coordination of project documents.
Permitting Authority Consulting	Consultations, research of critical applicable regulations, preparation of written and graphic explanatory materials. The services apply to applicable laws, statutes, regulations, and codes.
Owner Data Coordination	Review and coordination of data furnished for the project by the Owner.
Architectural Design	Services responding to scope of work (program/predesign) requirements and consisting of preparation of conceptual site and building plans, schematic sections and elevations, preliminary selection of building systems and materials, development of approximate dimensions, areas and volumes.
Structural Design	Services consisting of recommendations regarding basic structural material and systems, analysis, and development of conceptual design solutions.
Mechanical Design	Services consisting of consideration of alternate materials, systems and equipment, and development of conceptual design solutions for energy sources/conservation, heating, ventilating and air conditioning (HVAC), plumbing, fire protection, and general space requirements.
Electrical Design	Services consisting of consideration of alternate systems, recommendations regarding basic electrical materials, systems and equipment, analysis, and development of conceptual design solutions for power service and distribution, lighting, communication raceways, fire detection and alarms, and general space requirements.
Civil/Site Design	Services consisting of site planning including layout of site features, building position, preliminary grading, location of paving for walkways, driveways and parking, and fencing locations. Also included are the normal connections required to service the building such as water, drainage, and sanitary systems, if applicable.
Specifications	Services consisting of preparation for Owner's approval of proposed development of architectural outline specifications, and coordination of outline specifications of other disciplines.
Materials Research	Services consisting of identification of potential of architectural materials, systems, and equipment.

Scheduling	Services consisting of reviewing and updating previously established project schedules or initial development of schedules for decision- making, design, and documentation.
Cost Estimating	Services consisting of development of a probable construction cost from quantity surveys and unit costs of building elements for the project. Parametric costs shall reflect the level of design elements presented in the schematic design documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program. Assist Owner with analyzing scope, schedule, and budget options to stay within the budget.
Presentations	Services consisting of appropriate presentation(s) of schematic design documents by the A/E to Owner representatives.

Design Development Services

In the Design Development Phase, the A/E shall provide those services necessary to prepare from the approved schematic design documents, the design development documents consisting of drawings and other documents to fix and describe the size and character of the entire project for approval by the Owner. Consideration shall be given to availability of materials, equipment and labor, construction sequencing and scheduling, economic analysis of construction and operations, user safety and maintenance requirements, and energy conservation.

Design Development Services include:

Project Administration	Services related to schematic design administrative functions including consultation, meetings and correspondence, and progress design review conferences with the Owner.
Disciplines Coordination	Coordination between the architectural work and engineering work and other involved consultants for the project. When specialty consultants are used, additional coordination beyond basic services may be required and negotiated for appropriate phases of the work.
Document Checking	Review and coordination of project documents.
Permitting Authority Consulting	Consultations, research of critical applicable regulations, preparation of written and graphic explanatory materials. The services apply to applicable laws, statutes, regulations, and codes.
Owner Data Coordination	Review and coordination of data furnished for the project by the Owner.
Architectural Design	Services consisting of continued development and expansion of architectural schematic design documents to establish the final scope, relationships, forms, size, and appearance of the project through plans, sections and elevations, typical construction details, three-dimensional sketches, materials selections, and equipment layouts.
Structural Design	Services consisting of continued development of the specific structural system(s) and schematic design documents in sufficient detail to establish basic structural system and dimensions, structural design criteria, foundation design criteria, preliminary sizing of major structural components, critical coordination clearances, and outline specifications or materials lists.
Mechanical Design	Services consisting of continued development and expansion of mechanical schematic design documents and development of outline specifications or materials lists to establish approximate equipment sizes and capacities, preliminary equipment layouts, required space for equipment, chases and clearances, acoustical and vibration control, visual impacts, and energy conservation measures.

Electrical Design	Services consisting of continued development and expansion of electrical schematic design documents and development of outline specifications or materials lists to establish criteria for lighting, electrical and communication raceways, approximate sizes and capacities of major components, preliminary equipment layouts, required space for equipment, chases, and clearances.
Civil/Site Design	Services consisting of continued development of civil/site schematic design documents and development of outline specifications required for the project that are normally prepared by the architect. See the Extra Services section for detailed civil design services beyond basic services.
Specifications	Services consisting of preparation for the Owner's approval of proposed General and Supplementary Conditions of the Contract for construction, development of architectural outline specifications, coordination of outline specifications of other disciplines, and production of design manual including design criteria, and outline specifications of materials lists.
Scheduling	Services consisting of reviewing and updating previously established schedules for the project.
Cost Estimating	Services consisting of development of a probable construction cost from quantity surveys and unit costs of building elements for the project. Parametric costs reflect the level of design elements presented in the design development documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program. Assist Owner with analyzing scope, schedule and budget options to stay within the BUDGET.
Presentations	Services consisting of appropriate presentation(s) of design development documents by the A/E to Owner representatives.

Construction Document Services

In the construction documents phase, the A/E shall provide the services necessary to prepare for approval by the Owner – from the approved design development documents; construction documents consisting of drawings, specifications, and other documents describing the requirements for construction of the project; and bidding and contracting for the construction of the project.

Construction Document Services include:

Project Administration	Services related to schematic design administrative functions including consultation, meetings and correspondence, and progress design review conferences.
Disciplines Coordination	Coordination of the architectural work, with the work of engineering, and with other involved consultants for the project.
Document Checking	Review and coordination of project documents.
Permitting Authority Consulting	Consultations, research of critical applicable regulations, preparation of written and graphic explanatory materials. The services apply to applicable laws, statutes, regulations, and codes. Assist in obtaining approval from approving agencies as required.
Owner Data Coordination	Review and coordination of data furnished for the project by the Owner.
Architectural Design	Services consisting of preparation of drawings based on approved design development documents setting forth in detail the architectural construction requirements for the project.
Structural Design	Services consisting of preparation of final structural engineering calculations, drawings, and specifications based on approved design development documentation, which details structural construction requirements for project.

Mechanical Design	Services consisting of preparation of final mechanical engineering calculation, drawings and specifications based on approved design development documentation, setting forth in detail the mechanical construction requirements for the project.
Electrical Design	Services consisting of preparation of final electrical engineering calculation, drawing and specifications based on approved design development documentation, setting forth in detail the electrical construction requirements for the project.
Civil/Site Design	Services consisting of continued development of civil/site schematic design documents and development of outline specifications required for the project that are normally prepared by the architect. See the Extra Services section for detailed civil design services beyond basic services.
Specifications	Services consisting of preparation for the Owner's approval of proposed General and Supplementary Conditions of the Contract for construction, development of architectural outline specifications, coordination of outline specifications of other disciplines, and production of design manual including design criteria, and outline specifications of materials lists.
Scheduling	Services consisting of reviewing and updating previously established schedules for the project.
Cost Estimating	Services consisting of development of a probable construction cost from quantity surveys and unit costs of building elements for the project. Parametric costs reflect the level of design elements presented in the design development documents, plus appropriate design contingencies to encompass unidentified scope ultimately included in the program. Assist Owner with analyzing scope, schedule and budget options to stay within the BUDGET.

Bidding Phase

In the Bidding Phase, the A/E, following the Owner's approval of the Construction Documents and the most recent statement of probable construction cost, shall provide those services necessary for the A/E to assist the Owner in obtaining bids and in awarding and preparing contracts for construction. In the case of phased construction, the Owner may authorize bidding of portions of the work.

Bidding Phase services include:

Project Administration	Services consisting of bidding administrative functions.
Disciplines Coordination	Coordination between the architectural work and the work of engineering and other involved consultants for the project.
Bidding Materials	Services consisting of organizing, coordinating, and handling Bidding documents for reproduction, distribution and retrieval, receipt, and return of document deposits.
Addenda	Services consisting of preparation and distribution of Addenda as may be required during bidding and including supplementary drawings, specifications, instructions, and notice(s) of changes in the bidding schedule and procedure.
Bidding	Services consisting of participation in pre-bid conferences, responses to questions from bidders, and clarification or interpretations of the bidding documents, attendance at bid opening, and documentation and distribution of bidding results.
Analysis of Substitutions	Services consisting of consideration, analysis, comparisons, and recommendations relative to substitutions proposed by bidders prior to receipt of bids.
Bid Evaluation	Services consisting of validation of bids, participation in review of bids and alternates, evaluation of bids, and recommendation on award of contract.

Contract Agreements	Assist using Owner in notification of contract award, assistance in preparation of construction contract agreements when required, preparation and distribution of sets of contract documents for execution of the contract, receipt, distribution and processing, for Owner approval, of required certificates of insurance, bonds and similar documents, and preparation and distribution to contractor(s) on behalf of the Owner, of notice(s) to proceed with the work.
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Construction Contract Administration Phase

In the Construction Contract Administration phase, the A/E shall provide services necessary for the administration of the construction contract.

Project Administration	Services consisting of construction contract administrative functions including consultation, conferences, communications, and progress reports.
Disciplines Coordination	Coordination between the architectural work and the work of engineering and other involved consultants for the project. Reviewing and checking of documents (required submittals) prepared for the project.
Permitting Authority Consulting	Services relating to applicable laws, statutes, regulations and codes of regulating entities relating to the Owner's interests during construction of the project.
Construction Administration	Services consisting of processing of submittals, including receipt, review of and appropriate action on shop drawings, product data, samples, and other submittals required by the contract documents. Distribution of submittals to Owner, contractor, and field representatives as required. Maintenance of master file of submittals and related communications.
Construction Field Observation	Services consisting of visits to the site at intervals appropriate to the stage of construction or as otherwise agreed to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the contract documents, and preparing related reports and communications. A/E to chair project meetings.
Project Representation	Services consisting of assisting the Owner in selection of full- or part-time project representative(s).
Documents	Services consisting of preparation, reproduction, and distribution of clarification documents and interpretations in response to requests for clarification by contractors or the Owner. Maintenance of records and coordination of communications relative to requests for clarification or information (RFI). Preparation, reproduction and distribution of drawings and specifications to describe work to be added, deleted or modified, review of proposals, review and recommend changes in time for substantial completion, assisting in the preparation of modifications of the contracts and coordination of communications, approvals, notifications, and record-keeping relative to changes in the work. Additional fees for changes to the scope of a project shall be negotiated.
Scheduling	Services consisting of monitoring the progress of the contractors relative to established schedules and making status reports to the Owner.
Cost Accounting	Services consisting of maintenance of records of payments on account of the contract and all changes thereto, evaluation of applications for payment and certification thereof, and review and evaluation of cost data submitted by the contractors for work performed.

Project Closeout (2 Percent)

Project Closeout	Services initiated upon notice from the contractor that the work is sufficiently complete, in accordance with the contract documents, to permit occupancy or utilization for the use for which it is intended, and consisting of a detailed inspection for conformity of the work to the contract documents, issuance of certificate of substantial completion, issuance of a list of remaining work required (punch list), final inspections, receipt and transmittal of warranties, affidavits, receipts, releases and waivers of lien or bonds, permits, and issuance of final certificate for payment.
Record Documents (As-Builts)	Coordination between the architectural work and the work of engineering and other involved consultants for the project. Reviewing and checking of documents (required submittals) prepared for the project.
Operations and Maintenance Manuals	Services consisting of processing, reviewing, commenting on, taking appropriate action, and transmitting Operations and Maintenance Manuals provided by the contractor to Owner.
Warranty Period	Continued assistance to investigate contract problems that arise during the warranty period.

A/E Extra Services/Reimbursables and Other Services

The majority of projects should be completed within the structure of the basic fee schedule. However, some projects will be more complex and require a range of Extra Services/Reimbursables and Other Services, which will be negotiated for specific tasks. These services typically require specialist expertise and may not neatly fall within one phase of service or another. As projects become more complex, they demand a variety of special studies and services. Extra Services/Reimbursables are services generally provided by the same A/E providing the basic services, and Other Services are those services generally provided by additional specialty consultants, either as subs to the prime A/E or as independent consultants directly contracted with the Owner.

Extra services are not intended as an adjustment to basic services and should reflect actual anticipated cost. The following provides a guideline for evaluating the pricing of Extra and Other services, and establishing the eligibility of reimbursable expenses.

A. Pricing Consultants and Subconsultant Personnel

Employees of Firm	Per attached Hourly Rate Sheet
Consultants/Subconsultants	Hourly or as negotiated.
Special Consulting Services	When special consulting services not normally associated with traditional project design are necessary, the fee may be outside of the above guidelines.
Service Charge on Sub-Consultant	Ten percent service charge may be added to work incorporated by addenda to the original agreement.

B. A/E Extra Services/Reimbursable Expenses

When drafting the A/E agreement, the Project Manager should review the following list in determining eligible reimbursable items. It is not all inclusive or exclusive and should only be used as a guide.

Alternative Cost Studies	Additional costing beyond the parametric estimates required in basic services as requested by the Owner.
Energy Life Cycle Cost Analysis (ELCCA)	All projects over 25,000 square feet are required by Chapter 39.35 RCW to be analyzed for the cost of energy consumption and operation during its entire economic life.
Life Cycle Cost Analysis	All projects valued over \$5,000,000 or projects constructing new building space

(LCCA)	over 5,000 square feet are required to perform a life cycle cost analysis to evaluate the total cost of ownership for the building or building system. Agencies will utilize the Life Cycle Cost Tool (LCCT) which standardizes rates and methodology to perform the analysis.
Commissioning and Training	Cost to the A/E of assembly, tabulation, and indexing of all shop drawings and submittals on all equipment, controls, systems, and participating in an independent commissioning of the project and providing initial operator training on the maintenance of systems.
Enhanced Commissioning	A longer post occupancy phase, commonly referred to as enhanced commissioning, may be necessary to achieve the long-term desired performance of a new building or system. This work generally includes monitoring energy performance after construction, additional training to facility staff, and system adjustments to ensure the building continues to operate as originally designed.
On-Site Representative	On-site observation beyond the periodic site visits required under basic services for construction field observation.
Thermal Scans	Cost of an examination of a structure for thermal loss on existing facilities to be remodeled.
Value Engineering Participation and Implementation	Cost to the A/E for participation in the value engineering study and implementation of the accepted ideas that generate during the study.
Travel and Per Diem	Customary and approved costs to A/E during the course of basic and additional services (based on state rates and limited to between 50 and 350 miles).
Renderings, Presentations, and Models	Cost for special presentations, renderings, and models required for the project.
Document Reproduction	Additional cost of printing and mailing bidding and construction documents.
Advertising	Cost of required advertisements and placing bidding documents in plan centers announcing the bidding of the project.
Constructability Review Participation and Implementation	Cost to the A/E for participation in the constructability review and implementation of the accepted changes.
Leadership in Energy and Environmental Design	Cost of providing services for negotiation, documentation, and associated services required for sustainable design project certificates with the U.S. Green Building Council.
Separate Bid Packages	Cost to the A/E for preparation of separate bid packages typically used in GC/CM type projects.
Professional Liability Insurance	Where coverage is required in excess of \$1 million, reimbursement of excess premium costs will be considered as a reimbursable cost.

C. A/E Other Services

Consultant Selection Cost	Additional costs for private sector members of a selection committee if required (Chapter 39.80 RCW).
Specialty Consultants	Cost of only those additional consultant services beyond A/E services provided under basic services. Specialty consultants include, but are not limited to: <ul style="list-style-type: none"> • Acoustical Consultant • Civil Engineering additional services may include: <ul style="list-style-type: none"> ○ Studies, reports, and calculations required to determine adequacy of existing systems or those required for permit review such as drainage, fire protection, or sewer ○ Storm drainage design and connections ○ Design or study of issues for "sensitive areas" such as wetlands, steep

	<p>slopes, or flood plains</p> <ul style="list-style-type: none"> ○ Water supply connections to wells, treatment systems, storage, and off-site main extensions ○ Sanitary sewer design and infrastructure ○ Road and pavement improvements ○ Storm water quality and quantity computations, reports, design and details ○ Temporary erosion and sediment control reports and drawings ○ Special studies and reports for other agencies <ul style="list-style-type: none"> ● Communications Consultant ● Cost Estimating Consultant ● Electronic/Audio Visual Consultant ● Elevator Consultant ● Hazardous Material Consultant ● Hospital/Laboratory Consultant Interior ● Design Consultant Indoor Air Quality ● Consultant Kitchen Consultant ● Landscape Consultant ● Quality Control Consultant Security Consultant
Geotechnical Investigation	Cost of subsurface testing and evaluation.
Commissioning	Cost of an independent commissioning of the project.
HVAC Balancing	Cost to balance systems.
Site Survey	Cost of conducting a survey independent from design A/E.
Testing	Cost of a technician's services in acquiring and testing samples of materials used in the project as required in the state building code.
Energy LCCA Review	Fee to be paid for review of the energy life cycle cost analysis.
Value Engineering	Cost for performing the required value engineering study on a project by an independent multi-disciplined team.
Constructability Review/Plan Check	Cost for an independent consultant or contractor to review bid documents and determine if a project can be built as designed.
Graphics	Cost of special graphic and signage design.
Design/Code Plan Check	Cost of an independent plan check if not available within the local jurisdiction.
FF&E (Furniture, Fixtures, and Equipment)	Cost of performing the selection, scheduling, procurement, or installation of FF&E.
Other Reimbursable Expenses	Costs for requested documents, fax expenses, and special mail service when requested by owner.
Re-Design	Re-design of previously approved work.
Others	Other services not specifically described herein may be additional services.

D. Non-Eligible Expenses

- Consultants hired at A/E's option to perform basic services required by contract.
- Postage and handling of submittals, bid documents, correspondence, etc.
- Telephone expenses (local calls and line service).
- Copies of documents used by the A/E to perform normal services and not provided to owner.

Fee Modifications

It is recognized that there may be considerable variance between projects of a similar size and type that may necessitate modification of the A/E fee schedule. Examples of special circumstances that may necessitate such modifications include:

- Unusual site conditions
- Unique problems requiring specialized or extensive consulting services
- Renovations required by additions to an existing structure
- Unusually slow or fast development schedule (fast track, design build, GC/CM) Contractor design (fire protection systems)
- Large portions of work outside the control of the prime architect (wetlands mitigation)

City of Spokane

CONSULTANT AGREEMENT

Title: **PUBLIC RELATIONS, ADVERTISING AND BRANDING THE RIVERFRONT PARK BOND REHABILITATION PROJECT**

This Agreement is made and entered into by and between the City of Spokane as ("City"), a Washington municipal corporation, and **DESAUTEL HEGE COMMUNICATIONS (DH)**, whose address is 315 West Riverside Avenue, Suite 200, Spokane, Washington 99201 as ("Consultant").

WHEREAS, The City is desirous of selecting a Consultant to perform the necessary public relations, advertising, and branding of the City's Riverfront Park Bond rehabilitation Project; and

WHEREAS, The Consultant was selected from a formal City procurement solicitation via a Request For Qualifications (RFQ # 4192-15); and

-- NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:

1. TERM OF AGREEMENT.

The term of this Agreement begins on January 18, 2016 and ends on January 17, 2017, unless amended by written agreement or terminated earlier under the provisions.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the work outlined in the "Scope of Work" ("Work") on the beginning date, above. The City will acknowledge in writing when the Work is complete. Time limits established under this Agreement shall not be extended because of delays for which the Consultant is responsible, but may be extended by the City, in writing, for the City's convenience or conditions beyond the Consultant's control.

3. SCOPE OF WORK.

The General Scope of Work for this Agreement is described in Exhibit A – Consultant's Scope of Work, which is attached to and made a part of this Agreement.

The Work is subject to City review and approval. The Consultant shall confer with the City periodically, and prepare and present information and materials (e.g. detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Consultant's progress.

4. PAYMENT.

Total **ANNUAL** compensation for Consultant's services under this Agreement shall not exceed **THREE HUNDRED AND FIFTEEN THOUSAND AND NO/100 DOLLARS (\$315,000.00)**, unless modified by a written amendment to this Agreement. This Agreement has the possibility of four (4) additional one (1) year extensions, upon mutual agreement of the parties.

The Consultant is entitled to monthly Progress Payments of **SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00)**, each month during the duration of the Agreement.

5. REIMBURSABLES

If the Agreement specified reimbursables to be compensated by the City, the following limitations apply. If no travel or direct charges are identified and allowed in the Agreement, the City shall provide no reimbursement.

- A. City will reimburse the Consultant at actual cost for expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses or include a markup. Other direct charges may include, but are not limited to the following types of items: travel, printing, cell phone, supplies, materials, computer charges, and fees of subconsultants.
- B. The billing for third party direct expenses specifically identifiable with this project shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, subconsultant paid invoices, and other supporting documents used by the Consultant to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All charges must be necessary for the services provided under this Contract.
- C. The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Spokane Travel Policy, details of which can be provided upon request.
- D. **Airfare:** Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.
- E. **Meals:** Meals will be reimbursed at the Federal Per Diem daily meal rate (*excluding the "Incidental" portion of the published CONUS Federal M&I Rate*) for the city in which the work is performed. *Receipts are not required as documentation.* The invoice shall state "the meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.
- F. **Lodging:** Lodging will be reimbursed at actual cost incurred up to a maximum of the published General Services Administration (GSA) Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)
- G. **Vehicle mileage:** Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in affect at the time the mileage expense is incurred (currently that rate is 56.5 cents per mile.) Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.
- H. **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).
- I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.
- J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a mark up. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual cost incurred and may not include a mark up. Copies of all Subconsultant invoices that are rebilled to the City are required

6. PAYMENT PROCEDURES.

The Consultant may submit invoices to the City as frequently as once per month during progress of work, for partial payment for work completed to date. Payment shall be made by the City to the Consultant upon the City's receipt of an invoice containing the information listed below.

Invoices shall be submitted to:

CITY OF SPOKANE
PARKS AND RECREATION DEPARTMENT
5th Floor – City Hall
808 West Spokane Falls Boulevard
Spokane, WA 99201

Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):

- Invoice Date and Invoice Number
- **PARKS AND RECREATION DEPARTMENT**
- Project Coordinator: **Katie Freeman**
(Please do not put name in the address portion of the invoice)
- Department Contract No. OPR # _____
- Contract Title: **PUBLIC RELATIONS, ADVERTISING AND BRANDING THE RIVERFRONT PARK BOND REHABILITATION PROJECT**
- Period covered by the invoice
- Project Title
- Employee's name and classification
- Employee's all-inclusive hourly rate excluding fixed fee and # of hours worked
- Total labor costs per Project
- Itemization of direct, non-salary costs (per Project, if so allocated)
- The following Sub-Consultant payment information will be provided *[if needed]* (attach Sub-Consultant invoices as backup):
 - Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).
 - Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).
- Cumulative costs per Project and for the total Agreement

7. TAXES, FEES AND LICENSES.

- A. Consultant shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Agreement. It is the Consultant's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.
- C. The Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.
- D. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Agreement shall be included in the project budgets.

8. CITY OF SPOKANE BUSINESS LICENSE.

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Consultant shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
Parks and Recreation Department - City of Spokane 5 th Floor – City Hall 808 West Spokane Falls Boulevard Spokane, Washington 99201	Firm Contact Name: _____ DESAUTEL HEGE COMMUNICATIONS (DH) 315 West Riverside Avenue, Suite 200 Spokane, Washington 99201

10. SOCIAL EQUITY REQUIREMENTS.

A. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. Consultant agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Consultant. Consultant shall seek inclusion of woman and minority business for subcontracting. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

11. INDEMNIFICATION.

The Consultant shall indemnify and hold the City and the State and their officers and employees harmless from all claims, demands, or suits at law or equity, including but not limited to attorney’s fees and litigation costs asserted by third parties for bodily injury (including death) and/or property damage which arise from the Consultant's negligence or willful misconduct under this Agreement; provided that nothing herein shall require a Consultant to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the conduct of the City, its agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Consultant's agents or employees and (b) the City, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the City of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the Consultant, its agents or employees. The Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the City and, solely for the purpose of this indemnification and defense, the Consultant specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The Consultant recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

The parties agree that the City is fully responsible for its own negligence, including negligent plant operations controlled by the City, and for its material breaches of this Contract. It is not the intent of this Section to limit this understanding.

12. INSURANCE.

The Consultant shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement. This Agreement shall be interpreted and construed in accord with the laws of Washington.

During the period of the Agreement, the Consultant shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48:

The Contractor represents that it and its employees, agents and subcontractors, in connection with the Contract, are protected against the risk of loss by the insurance coverages required in the contract documents. The policies shall be issued by companies that meet with the approval of the City Risk Manager. The policies shall not be canceled without at least minimum required written notice to the City as Additional Insured.

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

13. AUDIT.

Upon request, the Consultant shall permit the City and any other governmental agency ("Agency") involved in the funding of the Work to inspect and audit all pertinent books and records. This includes work of the Consultant, any subconsultant, or any other person or entity that performed connected or related Work. Such books and records shall be made available upon reasonable notice of a request by the City, including up to three (3) years after final payment or release of withheld amounts. Such inspection and audit shall occur in Spokane County, Washington, or other reasonable locations mutually agreed to by the parties. The Consultant shall permit the City to copy such books and records at its own expense. The Consultant shall ensure that inspection, audit and copying rights of the City is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform Work under this Agreement.

14. INDEPENDENT CONSULTANT.

- A. The Consultant is an independent Consultant. This Agreement does not intend the Consultant to act as a City employee. The City has neither direct nor immediate control over the Consultant nor the right to control the manner or means by which the Consultant works. Neither the Consultant nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Consultant to act as an agent or legal representative of the City. The Consultant is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Consultant shall pay all income and other taxes as due. The Consultant may perform work for other parties; the City is not the exclusive user of the services that the Consultant provides.
- B. If the City needs the Consultant to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Consultant works on the City premises using City equipment, the Consultant remains an independent Consultant and not a City employee. The Consultant will notify the City Project Manager if s/he or any other Workers are within ninety (90) days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Consultant will be required to work from its own office space or in the field. The City may negotiate a reduction in Consultant fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

15. KEY PERSONS.

The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, without the express written consent of the City, which shall not be unreasonably withheld. If any such

individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.

16. ASSIGNMENT AND SUBCONTRACTING.

The Consultant shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Consultant shall incorporate by reference this Agreement, except as otherwise provided. The Consultant shall ensure that all subconsultants comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the consultant from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

17. CITY ETHICS CODE.

- A. Consultant shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.
- B. Consultant shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two (2) years.
- C. Consultant shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Consultant. Promotional items worth less than \$25 may be distributed by the Consultant to a City employee if the Consultant uses the items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

18. NO CONFLICT OF INTEREST.

Consultant confirms that the Consultant or workers have no business interest or a close family relationship with any City officer or employee who was or will be involved in the consultant selection, negotiation, drafting, signing, administration or evaluation of the Consultant's work. As used in this Section, the term Consultant includes any worker of the Consultant who was, is, or will be, involved in negotiation, drafting, signing, administration or performance of the Agreement. The term "close family relationship" refers to: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law, daughter-in-law; or any parent, parent in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

19. ERRORS AND OMISSIONS, CORRECTIONS.

Consultant is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Agreement in the delivery of a final work product. The standard of care applicable to Consultant's services will be the degree of skill and diligence normally employed by professional engineers or Consultants performing the same or similar services at the time said services are performed. The Final Work Product is defined as a stamped, signed work product. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications, and/or other consultant services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.

20. INTELLECTUAL PROPERTY RIGHTS.

- A. Copyrights. The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant for the Work, whether or not the Work is completed. The Consultant

grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Consultant for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials developed solely for and paid for by the City to perform the Work, shall be promptly delivered to the City.

- B. Patents: The Consultant assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Consultant created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Consultant has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Consultant grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.
- C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project, and the City releases the Consultant from liability for any unauthorized reuse of such documents.

21. CONFIDENTIALITY.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act*) all materials received or created by the City of Spokane are **public records**. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material. Some records or portions of records are legally *exempt from disclosure* and can be redacted or withheld. The Public Records Act (RCW 42.56 and RCW 19.10) describes those exemptions. Consultant must familiarize themselves with the Washington State Public Records Act (PRA) and the City of Spokane's process for managing records.

The City will try to redact anything that seems obvious in the City opinion for redaction. For example, the City will black out (redact) Social Security Numbers, federal tax identifiers, and financial account numbers before records are made viewable by the public. However, this does not replace your own obligations to identify any materials you wish to have redacted or protected, and that you think are so under the Public Records Act (PRA).

Protecting your Materials from Disclosure (Protected, Confidential, or Proprietary): You must determine and declare any materials you want exempted (redacted), and that you also believe are eligible for redaction. This includes but is not limited to your bid submissions, contract materials and work products.

Contract Work Products: If you wish to assert exemptions for your contract work products you must notify the City Project Manager at the time such records are generated.

Please note the City cannot accept a generic marking of materials, such as marking everything with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. You may not exempt an entire page unless each sentence is entitled to exemption; instead, identify paragraphs or sentences that meet the RCW exemption criteria you are relying upon.

City's Response to a Public Records Act Requests: The City will prepare two versions of your materials:

Full Redaction: A public copy that redacts (blacks out) both the exemptions (such as social security numbers) identified by the City and also materials or text you identified as exempt. The fully redacted version is made public upon contract execution and will be supplied with no notification to you.

Limited Redaction: A copy that redacts (blacks out) only the exemptions (such as social security numbers) identified by the City. This does not redact (black out) exemptions you identified. The Limited Redaction will be released only after you are provided "third party notice" that allows you the legal right under RCW 42.56.540 to bring a legal action to enjoin the release of any records you believe are not subject to disclosure.

If any requestor seeks the Limited Redacted or original versions, the City will provide you "third party notice", giving ten business days to obtain a temporary restraining order while you pursue a court injunction. A judge will determine the status of your exemptions and the Public Records Act.

22. DISPUTES.

Any dispute or misunderstanding that may arise under this Agreement, concerning the Consultant's performance, shall first be through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager. It shall be referred to the Director and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such disputes, including but not limited to mediation, arbitration and/or alternative dispute resolution processes. Nothing in this dispute process shall mitigate the rights of the City to terminate the Agreement. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Consultant to correct such work prior to the City payment. The City will provide to the Consultant an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute, or if the Consultant provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed. Waiver of any of these rights is not deemed a future waiver of any such right or remedy available at law, contract or equity.

23. TERMINATION.

- A. For Cause: The City or Consultant may terminate the Agreement if the other party is in material breach of this Agreement, and such breach has not been corrected to the other party's reasonable satisfaction in a timely manner. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- C. For City's Convenience: The City may terminate this Agreement without cause and including the City's convenience, upon written notice to the Consultant. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than ninety (90) business days prior to the effective date of termination.
- D. Actions upon Termination: if termination occurs not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to the actual termination date, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Consultant agrees this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.

- E. Upon termination, the Consultant shall provide the City with the most current design documents, contract documents, writings and other products the Consultant has produced to termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided however, that the City shall indemnify and hold the Consultant harmless from any claims, losses, or damages to the extent caused by modifications made by the City to the Consultant's work product.

24. EXPANSION FOR NEW WORK.

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the New Work was not reasonably known either the City or Consultant at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes, emergency or sole source conditions, or other situations required in City opinion. Certain changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

25. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- D. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
- E. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of Spokane County.
- F. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- G. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.

- H. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- I. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- J. Additional Provisions: This Agreement may be modified by additional terms and conditions (“Special Conditions”) which shall be attached to this Agreement as Exhibit D. The parties agree that the Special Conditions shall supplement the terms and conditions of the Agreement, and in the event of ambiguity or conflict with the terms and conditions of the Agreement, these Special Conditions shall govern.
- K. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. If conflict occurs between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.
- L. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party’s draftsmanship.
- M. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

CONSULTANT

CITY OF SPOKANE

By _____
Signature Date

By _____
Signature Date

Type or Print Name

Type or Print Name

Title

Title

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Attachments: Exhibit A – Consultant’s Scope of Work

16-402

CITY OF SPOKANE
PARKS & RECREATION DIVISION & RIVERFRONT PARK REDEVELOPMENT
Marketing, Advertising, and Brand Development Services – Desautel Hege
January 8, 2016

SCOPE OF WORK OVERVIEW

The scope of this contract includes assistance in development and implementation of strategic marketing campaigns, video production, public engagement, and advertising designed to leverage and promote the multiple assets of the Parks & Recreation Division. The Consultant shall work with City staff to manage overall communication and marketing strategies. The Consultant shall provide formal reports regularly to City staff and occasionally to the Park Board.

There are two (2) distinct elements that will require directed services:

- **Riverfront Park** – Assist in the development of comprehensive advertising and promotional campaigns to support Riverfront Park brand awareness and the Riverfront Park Redevelopment.
- **Parks and Recreation** – Assist in the development of comprehensive advertising and promotional campaigns to support the City of Spokane’s Parks and Recreation Division featured events.

Consultant shall coordinate all Scope of Work outlined in this document through City staff.

Marketing, advertising, and brand development services beginning January 18, 2016 and running through January 17, 2017, which may be extended for four (4) additional one year contract terms subject to mutual agreement, with the total contract term not to exceed five (5) years. Yearly contract expenditure not to exceed THREE HUNDRED FIFTEEN THOUSAND AND NO/100 DOLLARS (\$315,000.00), which includes all Consultant fees and all expenses related to fulfilling entire Scope of Work.

DETAILED SCOPE OF WORK

- 1) **RESEARCH:** \$30,000 (not to exceed)
 - a. Strategy session with Park and Rec Division staff
 - i. Facilitation of strategy session with key City staff to identify goals and objectives, audience considerations, SWOT analysis.
 1. Non-exhaustive deliverable list:
 - a. Development and implementation of creative exercises
 - b. Session facilitation
 - c. Results/recommendation memo
 - ii. Timeline: Q1 2016

- iii. Cost: \$2000
- b. Research analysis
 - i. Secondary research review of existing Parks & Rec Division research
 - ii. Best practices review of other park revitalization projects
 - iii. Best practices in engagement outreach
 - iv. Deliverables:
 - 1. Key findings research report
 - 2. Recommendations for additional research, if applicable
 - v. Timeline: Q1 2016
 - vi. Cost: \$3500
- c. Develop methodology to gauge ongoing community perceptions about Riverfront Park Redevelopment
 - i. Specific methodologies will depend on research needs that are identified in Research Analysis, but may include:
 - 1. Quantitative phone survey
 - 2. Focus groups
 - 3. Insight interviews
 - 4. Online survey
 - 5. Intercept interviews
 - ii. Deliverables:
 - 1. Research strategy memo
 - 2. Key findings & research report
 - iii. Timeline will be dependent on identified research needs
 - iv. Cost will be determined on mix of methodologies, but not to exceed \$30,000 combined total with 1)a and 1)b above, allowing up to \$24,500 for 1)c.

2) PLANNING: \$25,000

- a. Develop a marketing and advertising plan; including:
 - i. Goals and objectives
 - ii. Audience considerations
 - iii. Strategies and tactics
 - iv. Timeline
 - v. Deliverable: comprehensive marketing plan

- vi. Timeline: Q1 2016
- vii. Cost: \$8,000
- b. Monthly meetings
 - i. 2 DH team members will facilitate monthly meetings.
 - ii. Timeline: monthly, ongoing.
 - iii. Cost: \$600/month
- c. Ongoing event support
 - i. Determine the right mix of tactics
 - ii. Deliverables may include:
 - 1. Paid media/ad placement
 - 2. Video and ad production
 - 3. Community outreach support
 - 4. Collateral development
 - iii. Timeline will be dependent on events and RFP schedule
 - iv. Cost will be determined on mix of tactics developed; however, shall not exceed \$25,000 combined with 2)a and 2)b, allowing for up to \$16,400 total cost toward 2)c

3) IMPLEMENTATION: \$250,000

- a. Mix of marketing, advertising, and communication tactics will be identified in marketing, advertising and communication plan.
- b. DH shall develop quarterly plans that outline strategic priority tactics with associated costs to implement for that quarter.
- c. Tactics may include:
 - i. Development of strategic advertising concept and campaign(s) for Riverfront Park
 - ii. Marketing campaign creative development to promote existing Riverfront Park and the Riverfront Park Redevelopment
 - iii. Shooting and editing of videos such as commercials, construction updates, interviews with those working on project and those who work in the park, etc.
 - iv. Development of graphics, and other creative elements associated with Riverfront Park brand and promotions
 - v. Development of strategic advertising campaign(s) for Parks and Recreation Division featured programs

- vi. Marketing campaign creative development to promote major programs and events, such as Aquatics season, Sports, etc.
- vii. Shooting and editing of videos for Parks and Recreation Division, such as commercials, promotional videos
- viii. Assist City staff in professional photography (primarily focused on, but not limited to: Golf, Aquatics, Sports, Outdoor Recreation, various City parks.
- ix. Campaign media buys—procurement, placement and billing strategy (includes standard agency commission 15%), anticipated 50% of overall budget – minimum of \$157,500; could include TV, radio, print, online, etc.
- x. Production
- d. Deliverables: Quarterly strategy implementation reports and applicable tactics
- e. Cost and timeline will be outlined in quarterly plans, but shall not exceed \$250,000

4) MEASUREMENT: \$10,000

- a. Establish output/outcome measures for each campaign
 - i. Measures will be identified in marketing, advertising and communication plan and may include:
 - 1. Digital analytics
 - 2. Advertising focus groups
 - 3. Earned media coverage tracking
 - 4. Attendance tracking at events
 - 5. Ticket/season pass sales, other outputs, etc.
 - ii. Deliverable: quarterly reports of marketing efforts and results to City staff
 - iii. Timeline: quarterly, ongoing
 - iv. Cost: \$10,000

City of Spokane

CONSULTANT AGREEMENT

Title: **RIVERFRONT PARK REDEVELOPMENT ARCHITECTURE AND ENGINEERING FOR YEAR ROUND RECREATIONAL RINK & SKYRIDE FACILITY**

This Agreement is made and entered into by and between the City of Spokane as (“City”), a Washington municipal corporation, and **STANTEC ARCHITECTURE, INC.**, whose local Spokane address is: The Flour Mill, 621 West Mallon Avenue, Suite 309, Spokane, Washington 99201 as (“Consultant”).

WHEREAS, The City is desirous of selecting a Consultant to perform the necessary Architecture AND Engineering for the Recreation Rink and Skyride the City’s Riverfront Park Bond rehabilitation Project; and

WHEREAS, The Consultant was selected from a formal City procurement solicitation via a Request For Qualifications (RFQ # 4166-15); and

-- NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:

1. TERM OF AGREEMENT.

The term of this Agreement begins on January 1, 2016 and ends on May 1, 2019, unless amended by written agreement or terminated earlier under the provisions.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the work outlined in the “Scope of Work” (“Work”) on the beginning date, above. The City will acknowledge in writing when the Work is complete. Time limits established under this Agreement shall not be extended because of delays for which the Consultant is responsible, but may be extended by the City, in writing, for the City’s convenience or conditions beyond the Consultant’s control.

3. SCOPE OF WORK.

The General Scope of Work for this Agreement is described in **Exhibit A – Consultant’s Scope of Work**, which is attached to and made a part of this Agreement.

The Work is subject to City review and approval. The Consultant shall confer with the City periodically, and prepare and present information and materials (e.g. detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Consultant’s progress.

4. PAYMENT.

Total lump sum compensation for the term of Consultant’s services under this Agreement shall not exceed **FIVE HUNDRED NINE THOUSAND TWO HUNDRED SEVENTY AND NO/100 DOLLARS (\$509,270.00)**, not including taxes if applicable, unless modified by a written amendment to this Agreement. Lump Sum payment methodology shall be in accordance with the attached Exhibit B.

5. REIMBURSABLES

If the Agreement specified reimbursables to be compensated by the City, the following limitations apply. If no travel or direct charges are identified and allowed in the Agreement, the City shall provide no reimbursement.

it is typical for reimbursables to be billed at 1.1 times actual cost to cover administrative and accounting time, or alternatively for the consultant to include hours for these administrative tasks in the overall proposal



- A. City will reimburse the Consultant **at actual cost for** expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses or include a markup. Other direct charges may include, but are not limited to the following types of items: travel, printing, cell phone, supplies, materials, computer charges, and fees of subconsultants.
- B. The billing for third party direct expenses specifically identifiable with this project shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, subconsultant paid invoices, and other supporting documents used by the Consultant to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All charges must be necessary for the services provided under this Contract.
- C. The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Spokane Travel Policy, details of which can be provided upon request.
- D. **Airfare:** Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.
- E. **Meals:** Meals will be reimbursed at the Federal Per Diem daily meal rate (*excluding the "Incidental" portion of the published CONUS Federal M&I Rate*) for the city in which the work is performed. *Receipts are not required as documentation.* The invoice shall state "the meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.
- F. **Lodging:** Lodging will be reimbursed at actual cost incurred up to a maximum of the published General Services Administration (GSA) Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)
- G. **Vehicle mileage:** Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in affect at the time the mileage expense is incurred (currently that rate is 56.5 cents per mile.) Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.
- H. **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).
- I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.
- J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a mark up. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual cost incurred and may not include a mark up. Copies of all Subconsultant invoices that are rebilled to the City are required

6. PAYMENT PROCEDURES.

The Consultant may submit invoices to the City as frequently as once per month during progress of work, for partial payment for work completed to date. Payment shall be made by the City to the Consultant upon the City's receipt of an invoice containing the information listed below.

Invoices shall be submitted to:
CITY OF SPOKANE

PARKS AND RECREATION DEPARTMENT
5th Floor – City Hall
808 West Spokane Falls Boulevard
Spokane, WA 99201

Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):

- Invoice Date and Invoice Number
- **PARKS AND RECREATION DEPARTMENT**
- Project Coordinator: **Katie Freeman**
(Please do not put name in the address portion of the invoice)
- Department Contract No. OPR # _____
- Contract Title: **RIVERFRONT PARK REDEVELOPMENT ARCHITECTURE AND ENGINEERING FOR YEAR ROUND RECREATIONAL RINK & SKYRIDE FACILITY**
- Period covered by the invoice
- Project Title
- Employee's name and classification
- Employee's all-inclusive hourly rate excluding fixed fee and # of hours worked
- Total labor costs per Project
- Itemization of direct, non-salary costs (per Project, if so allocated)
- The following Sub-Consultant payment information will be provided [*if needed*] (attach Sub-Consultant invoices as backup):
 - Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).
 - Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).
- Cumulative costs per Project and for the total Agreement

7. TAXES, FEES AND LICENSES.

- A. Consultant shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Agreement. It is the Consultant's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.
- C. The Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.
- D. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Agreement shall be included in the project budgets.

8. CITY OF SPOKANE BUSINESS LICENSE.

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Consultant shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
Parks and Recreation Department - City of Spokane 5 th Floor – City Hall 808 West Spokane Falls Boulevard Spokane, Washington 99201	Contact Name: Riley Witt STANTEC ARCHITECTURE, INC. Flour Mill, 621 West Mallon Avenue, Suite 309 Spokane, Washington 99201

10. SOCIAL EQUITY REQUIREMENTS.

A. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. Consultant agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Consultant. Consultant shall seek inclusion of woman and minority business for subcontracting. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

11. INDEMNIFICATION.

The Consultant shall indemnify and hold the City and the State and their officers and employees harmless from all claims, demands, or suits at law or equity, including but not limited to attorney’s fees and litigation costs asserted by third parties for bodily injury (including death) and/or property damage which arise from the Consultant's negligence or willful misconduct under this Agreement; provided that nothing herein shall require a Consultant to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the conduct of the City, its agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Consultant's agents or employees and (b) the City, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the City of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the Consultant, its agents or employees. The Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the City and, solely for the purpose of this indemnification and defense, the Consultant specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The Consultant recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

The parties agree that the City is fully responsible for its own negligence, including negligent plant operations controlled by the City, and for its material breaches of this Contract. It is not the intent of this Section to limit this understanding.

12. INSURANCE.

The Consultant shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement. This Agreement shall be interpreted and construed in accord with the laws of Washington.

During the period of the Agreement, the Consultant shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48:

The Contractor represents that it and its employees, agents and subcontractors, in connection with the Contract, are protected against the risk of loss by the insurance coverages required in the RFQ # 4166-15, and the contract documents. The policies shall be issued by companies that meet with the approval of the City Risk Manager. The policies shall not be canceled without at least minimum required written notice to the City as Additional Insured.

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

13. AUDIT.

Upon request, the Consultant shall permit the City and any other governmental agency ("Agency") involved in the funding of the Work to inspect and audit all pertinent books and records. This includes work of the Consultant, any subconsultant, or any other person or entity that performed connected or related Work. Such books and records shall be made available upon reasonable notice of a request by the City, including up to three (3) years after final payment or release of withheld amounts. Such inspection and audit shall occur in Spokane County, Washington, or other reasonable locations mutually agreed to by the parties. The Consultant shall permit the City to copy such books and records at its own expense. The Consultant shall ensure that inspection, audit and copying rights of the City is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform Work under this Agreement.

14. INDEPENDENT CONSULTANT.

- A. The Consultant is an independent Consultant. This Agreement does not intend the Consultant to act as a City employee. The City has neither direct nor immediate control over the Consultant nor the right to control the manner or means by which the Consultant works. Neither the Consultant nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Consultant to act as an agent or legal representative of the City. The Consultant is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Consultant shall pay all income and other taxes as due. The Consultant may perform work for other parties; the City is not the exclusive user of the services that the Consultant provides.
- B. If the City needs the Consultant to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Consultant works on the City premises using City equipment, the Consultant remains an independent Consultant and not a City employee. The Consultant will notify the City Project Manager if s/he or any other Workers are within ninety (90) days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Consultant will be required to work from its own office space or in the field. The City may negotiate a reduction in Consultant fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

15. KEY PERSONS.

I would recommend modifying this paragraph to require that the consultant identify the consultants prime contact for the city in this contract and that this individual will not be changed or replaced without prior written approval by the city. Concurrently, the city should identify the prime contact for the consultant.



The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.



16. ASSIGNMENT AND SUBCONTRACTING.

The Consultant shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Consultant shall incorporate by reference this Agreement, except as otherwise provided. The Consultant shall ensure that all subconsultants comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the consultant from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

17. CITY ETHICS CODE.

- A. Consultant shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.
- B. Consultant shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two (2) years.
- C. Consultant shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Consultant. Promotional items worth less than \$25 may be distributed by the Consultant to a City employee if the Consultant uses the items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

18. NO CONFLICT OF INTEREST.

Consultant confirms that the Consultant or workers have no business interest or a close family relationship with any City officer or employee who was or will be involved in the consultant selection, negotiation, drafting, signing, administration or evaluation of the Consultant's work. As used in this Section, the term Consultant includes any worker of the Consultant who was, is, or will be, involved in negotiation, drafting, signing, administration or performance of the Agreement. The term "close family relationship" refers to: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law, daughter-in-law; or any parent, parent-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

19. ERRORS AND OMISSIONS, CORRECTIONS.

Consultant is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Agreement in the delivery of a final work product. The standard of care applicable to Consultant's services will be the degree of skill and diligence normally employed by professional engineers or Consultants performing the same or similar services at the time said services are performed. The Final Work Product is defined as a stamped, signed work product. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications, and/or other consultant services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.



I would be very uncomfortable with this unless it was qualified by a statement that it is only for the use and location intended for this project.

20. INTELLECTUAL PROPERTY RIGHTS.

- A. Copyrights. The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant for the Work, whether or not the Work is completed. The Consultant grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Consultant for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials developed solely for and paid for by the City to perform the Work, shall be promptly delivered to the City.
- B. Patents: The Consultant assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Consultant created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Consultant has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Consultant grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.
- C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project, and the City releases the Consultant from liability for any unauthorized reuse of such documents.

21. CONFIDENTIALITY.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act*) all materials received or created by the City of Spokane are **public records**. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material. Some records or portions of records are legally *exempt from disclosure* and can be redacted or withheld. The Public Records Act (RCW 42.56 and RCW 19.10) describes those exemptions. Consultant must familiarize themselves with the Washington State Public Records Act (PRA) and the City of Spokane's process for managing records.

The City will try to redact anything that seems obvious in the City opinion for redaction. For example, the City will black out (redact) Social Security Numbers, federal tax identifiers, and financial account numbers before records are made viewable by the public. However, this does not replace your own obligations to identify any materials you wish to have redacted or protected, and that you think are so under the Public Records Act (PRA).

Protecting your Materials from Disclosure (Protected, Confidential, or Proprietary): You must determine and declare any materials you want exempted (redacted), and that you also believe are eligible for redaction. This includes but is not limited to your bid submissions, contract materials and work products.

Contract Work Products: If you wish to assert exemptions for your contract work products you must notify the City Project Manager at the time such records are generated.

Please note the City cannot accept a generic marking of materials, such as marking everything with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. You may not exempt an entire page unless each sentence is entitled to exemption; instead, identify paragraphs or sentences that meet the RCW exemption criteria you are relying upon.

City's Response to a Public Records Act Requests: The City will prepare two versions of your materials:

Full Redaction: A public copy that redacts (blacks out) both the exemptions (such as social security numbers) identified by the City and also materials or text you identified as exempt. The fully redacted version is made public upon contract execution and will be supplied with no notification to you.

Limited Redaction: A copy that redacts (blacks out) only the exemptions (such as social security numbers) identified by the City. This does not redact (black out) exemptions you identified. The Limited Redaction will be released only after you are provided "third party notice" that allows you the legal right under RCW 42.56.540 to bring a legal action to enjoin the release of any records you believe are not subject to disclosure.

If any requestor seeks the Limited Redacted or original versions, the City will provide you "third party notice", giving ten business days to obtain a temporary restraining order while you pursue a court injunction. A judge will determine the status of your exemptions and the Public Records Act.

most architects professional insurance carriers will not recognize arbitration as an acceptable means of dispute resolution

22. DISPUTES.

Any dispute or misunderstanding that may arise under this Agreement, concerning the Consultant's performance, shall first be through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager. It shall be referred to the Director and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such disputes, including but not limited to mediation, ~~arbitration~~ and/or alternative dispute resolution processes. Nothing in this dispute process shall mitigate the rights of the City to terminate the Agreement. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Consultant to correct such work prior to the City payment. The City will provide to the Consultant an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute, or if the Consultant provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed. Waiver of any of these rights is not deemed a future waiver of any such right or remedy available at law, contract or equity.

23. TERMINATION.



- A. For Cause: The City or Consultant may terminate the Agreement if the other party is in material breach of this Agreement, and such breach has not been corrected to the other party's reasonable satisfaction in a timely manner. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- C. For City's Convenience: The City may terminate this Agreement without cause and including the City's convenience, upon written notice to the Consultant. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than ninety (90) business days prior to the effective date of termination.
- D. Actions upon Termination: if termination occurs not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to the actual termination date, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Consultant agrees this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.



"up to the date of"

- E. Upon termination, the Consultant shall provide the City with the most current design documents, contract documents, writings and other products the Consultant has produced to termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided however, that the City shall indemnify and hold the Consultant harmless from any claims, losses, or damages to the extent caused by modifications made by the City to the Consultant's work product.

I would suggest requesting a list of the consultants hourly rates to be used as the basis for any contract amendments for added services.

24. EXPANSION FOR NEW WORK.

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the New Work was not reasonably known either the City or Consultant at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes, emergency or sole source conditions, or other situations required in City opinion. Certain changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

25. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- D. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
- E. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of Spokane County.
- F. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- G. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.

- H. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- I. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- J. Additional Provisions: This Agreement may be modified by additional terms and conditions (“Special Conditions”) which shall be attached to this Agreement as Exhibit D. The parties agree that the Special Conditions shall supplement the terms and conditions of the Agreement, and in the event of ambiguity or conflict with the terms and conditions of the Agreement, these Special Conditions shall govern.
- K. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. If conflict occurs between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.
- L. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party’s draftsmanship.
- M. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

CONSULTANT

CITY OF SPOKANE

By _____
Signature Date

By _____
Signature Date

Type or Print Name

Type or Print Name

Title

Title

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Attachments: Exhibit A – Consultant’s Scope of Work
Exhibit B – Lump Sum Payment Schedule

**EXHIBIT B
PAYMENT
(LUMP SUM)**

- A. LUMP SUM AGREEMENT. Payment for all consulting services for this Project shall be on the basis of a lump sum amount as shown in the heading of this Agreement.
1. Maximum Total Amount Payable. The maximum amount payable, by the Agency to the Consultant under this Agreement, shall not exceed the amount shown in the heading of the Agreement as maximum amount payable unless a supplemental agreement has been negotiated and executed by the Agency prior to incurring any costs in excess of the maximum amount payable.
- B. MONTHLY PROGRESS PAYMENTS. Partial payments may be made upon request by the Consultant to cover the percentage of work completed and are not to be more frequent than one (1) per month.
- C. FINAL PAYMENT. Final payment of any balance due the Consultant of the gross amount earned will be made promptly upon its verification by the Agency after the completion of the work under this Agreement, contingent upon receipt of all PS&E, plans, maps, notes, reports, and other related documents which are required to be furnished under this Agreement. Acceptance of the final payment by the Consultant shall constitute a release of all claims for payment which the Consultant may have against the Agency unless such claims are specifically reserved in writing and transmitted to the Agency by the Consultant prior to its acceptance. The final payment shall not, however, be a bar to any claims that the Agency may have against the Consultant or to any remedies the Agency may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and that at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that the final audit reveals an overpayment to the Consultant, the Consultant agrees to refund the overpayment to the Agency within ninety (90) days of notice of any payment. The refund shall not constitute a waiver by the Consultant for any claims relating to the validity of a finding of the Agency of overpayment.

- D. INSPECTION OF COST RECORDS. The Consultant and its subconsultants shall keep available for inspection by representatives of the Agency for a period of three (3) years after final payment the cost records and accounts pertaining to this Agreement and all items related to or bearing upon these records with the following exception: if any litigation, claim, or audit arising out of, in connection with, or related to this Agreement is initiated before the expiration of the three (3)-year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.



2015 RATE SHEET

PARTNER...\$225.00 per hour

VICE PRESIDENT...\$200.00 per hour

ACCOUNT DIRECTOR/ART DIRECTOR...\$170.00 per hour

ACCOUNT EXECUTIVE...\$150.00 per hour

ACCOUNT COORDINATOR/DESIGNER...\$135.00 per hour

CRISIS RATE...\$300.00 per hour

STAFF DAY RATE...\$1,200/DAY

PARTNER DAY RATE...\$1,600/DAY