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**License and Cooperation Agreement for the Construction, Maintenance and
Operation of the Frick Environmental Center**

Made this 18 day of DEC. 2013

BY AND BETWEEN

THE CITY OF PITTSBURGH,

Hereinafter referred to as the "City"

AND

The PITTSBURGH PARKS CONSERVANCY, INC.

Hereinafter referred to as the "PPC"

**Providing Capital Improvements, Management, Maintenance, and Related Activities for
The Frick Environmental Center**

WITNESSETH:

WHEREAS, the City and the PPC entered into and have extended their Cooperation Agreement (the "Cooperation Agreement"), which is intended to establish an alliance to provide infrastructure improvements, special care, and restoration for the City's parks, particularly the four regional parks: Frick, Schenley, Highland and Riverview; and

WHEREAS, among the amenities of Frick Park is the Frick Environmental Center (the "Center"), which offers nature programs and environmental education to users of the park; and

WHEREAS, the Center's main building (the "FEC Facility") was destroyed by fire in 2002; and

WHEREAS, the Center is located in the Frick Woods Nature Reserve portion of Frick Park, which was part of the original acreage of Frick Park donated by Henry Clay Frick; and

EXECUTION VERSION

WHEREAS, consistent with its mission and the Cooperation Agreement, PPC now desires to assist with the rebuilding and maintenance and operations of the FEC Facility and the provision of related programs at the Center for the benefit of the general public; and

WHEREAS, the PPC and the City now wish to enter into this License and Cooperation Agreement for the Construction, Maintenance, and Operation of the Frick Environmental Center (the "Agreement") to describe the plans for rebuilding the FEC Facility and to define the scope of the additional services to be provided by the PPC for the Center;

NOW; THEREFORE, in consideration of the premises and each intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE I: TERMS OF AGREEMENT

1.1 LICENSE OF FEC FACILITY AND SURROUNDING PORTION OF FRICK WOODS NATURE RESERVE: The City hereby agrees to license to the PPC, upon the terms and conditions hereinafter set forth the following: 1) the FEC Facility property comprising the area outlined in red on the drawing attached hereto as Exhibit A and incorporated herein for the use and operation thereof and 2) the remaining Center property comprising the area detailed on the drawing attached hereto as Exhibit A-1 incorporated herein of approximately one hundred and fifteen (115) acres of Frick Park that surround the FEC Facility as part of the Frick Woods Nature Reserve (collectively the FEC Facility and surrounding exterior area shall be referred to herein as either the "Center" and/or "Licensed Premises"). The license of the Frick Woods Nature Reserve portion of the Center is intended to be non-exclusive.

1.2 CONSIDERATION: In consideration of the rights granted in this Agreement, the PPC agrees to restore and maintain the Licensed Premises (as further defined in Section 1.1 and Article II) in good repair and in a safe condition while performing the: 1) Project Work and 2) Maintenance and Operations Work (as further defined in Article III) contemplated herein. In consideration of the services to be rendered by the PPC under this Agreement, the City shall begin to provide the PPC with Eighty Five percent (85%) of its annual earnings from the external Frick Park Trust Fund to use for the operation and maintenance of the Center starting with the 2014 distribution and thereafter for a period consistent with the remaining term of the Agreement. The funding shall be forwarded to the City prior to distribution to the PPC and said distributions to the PPC shall be subject to the following requirements:

A. All funding shall be contingent upon: 1) the City's prior review and approval of the PPC's previous year's expenses for the Center, and 2) the PPC's submission to the City of its proposed Operating and Capital Budget (collectively the "Annual Budget") for the Center for the then-upcoming year. The annual distribution from the Frick Park Trust Fund shall be made in a timely fashion, unless the City has

notified the PPC of objections to the previous year's expenses within 60 days of submission by the PPC.

B. The 2014 distribution will be available to the PPC beginning in January, 2015, after the PPC's submission of its 2015 Budget to the Mayor's Budget Office.

C. All distributions are further subject to receipt by the City of the distributions from the Frick Park Trust, compliance with the Frick Park Trust conditions/requirements and any required final approval(s) by the Trustee for the external Frick Park Trust. In no event will the City's approval of the Center Annual Budget or any specific expense therein obligate it to pay the PPC with other funding sources should an expenditure later be determined not to be allowable by the Trustee of the external Frick Park Trust Fund.

D. Funding to the PPC shall be paid from the following account: JDE 5000771200.50000.00, or another account so designated by the City for Frick Park Trust Funds. *57201 Item 1195*

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1.3 **TERM OF AGREEMENT:** The initial term of this Agreement shall commence on the date first written above and unless sooner terminated as permitted herein, shall conclude at 11:59 p.m. on the eve of the fifteenth (15th) anniversary of the commencement date (the "Initial Term.") The PPC shall have an option to renew the Initial Term for an additional fourteen (14) years and three hundred and sixty-four (364) days (the "Additional Term"), subject to the agreement of both parties. The PPC shall provide the City with at least 6 (six) month's written notice prior to the end of the Initial Term regarding its desire to exercise the option. In the event of PPC's desire to exercise of the option and agreement by both parties to the Additional Term, all terms and conditions applicable to the Initial Term shall remain the same absent a written amendment of this Agreement stating otherwise.

1.4 **NON-DELEGATION OF DUTIES:** By entering into this Agreement, the City is intending neither to delegate its duties nor abdicate its constitutional responsibilities for municipal improvements.

ARTICLE II: PERMISSIBLE CENTER USES

2.1 SCHEDULE OF OPERATIONS/OPEN TO THE PUBLIC/THIRD PARTY USE:

A. The PPC will provide a schedule of its operations of the Center, including the hours that it will be open to the general public and hours available for private events to the City for approval prior to commencing operations at the FEC Facility. Hours for all Center activities shall be consistent with hours of Frick Park. The PPC will follow the City's policy for all City parks in determining whether and when outdoor camping will be permitted in the Frick Woods Nature Reserve.

B. Except for Special Events permitted by the City and for private events as described below in Paragraph 2.1(E), the PPC shall not establish any charge for admission to the Center, although it may set market rate fees for environmental programming for schools and other students and guests as further detailed in Paragraph 3.11(f) herein.

C. The PPC shall not place any physical barriers or other restrictions at the Center, other than already in place, excepting (a) security measures consistent with Paragraph 3.9 herein, (b) reasonable limits on hours of operation and access to interior spaces in the Center, consistent with limits placed on other City buildings, and (c) those that will be necessary during the restoration period and those that will be reasonable necessary from time to time to repair, maintenance, alterations, additions, or improvements, or to protect the public from unsafe conditions.

D. PPC is permitted to occupy and use the Center for any use reasonably related to providing environmental education and information, internal Center management and operations functions (including maintenance, repairs, and improvements) and guest services including but not limited to the provision of trail maps, park tours, and restroom facilities. PPC shall use the Center at all times in a manner consistent with the purposes set forth in the pertinent documents conveying Frick Park to the City. Any questions concerning whether a use is inconsistent with such documents shall be referred to the City Solicitor for an opinion.

E. The PPC may use the Center for its own private functions/events or permit/sub-license the Center to third parties for private events, subject to the following conditions:

1). For private PPC functions and events, there will be no separate user fee due to the City unless the PPC requests assistance from the City for such events (e.g. traffic control from the Bureau of Police, saw horses/barriers from DPW, etc. in which case applicable City hourly rates will apply).

2). The PPC may retain any fees assessed to third parties for private events at the Center in order to offset a portion of the costs of operating the Center. Monies received must be dedicated to Center maintenance and operations. Requests for City services connected with a private third party event shall be directed to the City and fees assessed for such services shall be paid directly to the City.

3). Any sublicense or permit agreement entered into between the PPC and a third party for a private event must: (1) not substantially interfere with normal operations of the FEC Facility or Center, (2) contain an insurance requirement listing the City as an additional insured, (2) and provide indemnification to the City for personal injuries or property damage relating to the use of the FEC Facility.

4). All rates for Center rentals to third parties for private events shall be reasonable and consistent with rates for other similar City-owned venues, adjusted proportionally for capacity and amenities. No exclusive requirements for catering of private events shall be permitted at the Center unless there is an exception available to accommodate dietary restrictions. All rates for such activities must be submitted to and approved by the City and posted in advance on written literature and the City's and PPC's websites. No deviation from the approved rates shall be permitted.

5). All events are subject to zoning and occupancy requirements, including onsite parking limitations. Any parking demands in excess of available Center facilities must be done in accordance with a parking plan approved in advance by the City's Departments of City Planning, DPW, and the Bureau of Police.

6). Revenues received by the PPC for educational programming, private events, or from donors/sponsors as permitted by Paragraph 2.5 herein shall be dedicated to Center maintenance and operations and shall be kept in an account reserved for such purposes.

F. The City may also use the Center for City events, programs, and internal or public meetings at no charge, provided that the City will pay for the direct costs of such events such as set-up, security, clean-up, and repair costs.

G. Individuals or groups wishing to hold public events in Frick Park, including events at the Center, should be referred to the City's Special Events Committee so that the individual or group can apply for a special events permit.

H. The coordination of all events held at the Center shall be handled as further detailed in Paragraph 10.7 herein.

2.2 **ABANDONMENT**: PPC represents that it intends to operate the Licensed Premises at all times during the Term of this Agreement and, except as provided in Paragraph 11.2 herein, shall not abandon said Licensed Premises without prior written approval of the City.

2.3 **NONDISCRIMINATION**: The PPC shall conform with all applicable discrimination provisions of the Pittsburgh Code, specifically those appearing in Title VI, "Conduct", Article V, "Discrimination", and any amendments thereto, and shall incorporate in any subcontracts which may be permitted under the terms of this Agreement a requirement that said subcontractors shall also comply with said provisions. Specifically, the PPC shall not directly or indirectly discriminate in its employment or in the use of the Center by the general public upon the basis of age, race, sex, color, religion, ancestry, national origin, place of birth, disability, non-job related handicap or sexual orientation.

2.4 FIRST AMENDMENT RIGHTS: Because the use of publicly-held property may give rise to First Amendment entitlements, any policy of the PPC regarding the rights of individuals or groups to hold public assemblies, demonstrations, or meetings in or around Center shall be subject to prior review and approval of the City Solicitor. It is the intent of the City and the PPC that the interior spaces at the Center be used primarily for pre-planned educational programming as described in Paragraph 3.11 herein.

2.5 RIGHT TO USE NAME; NAMING RIGHTS:

A. The City consents to the use by the PPC of the name "Frick Environmental Center" in connection with the operation of or any advertisement of the Center or any fund-raising events pertaining to the Center. The PPC shall have no right to change the name of the Center (including the Frick Woods Nature Reserve)

B. Additionally, the PPC shall have no right to designate or re-name any portion of the Center without the prior written consent of the City. All interior and exterior signage (including plaques, interpretive panels, bricks, etc.) relating to naming rights, sponsorship and/or donor recognition shall be presented as a sign package to the Department of City Planning, DPW, Citiparks, and the Art Commission prior to any installation. The sign package shall be in compliance with Zoning, the City's Market Based Revenue Opportunity Program ("MBRO") design guidelines/regulations as applicable to designated assets, and Regional Parks sign guidelines. The purpose of any naming rights conferred by the PPC shall be to generate revenue to enable the PPC to enhance and maintain the Licensed Premises. Accordingly, the City shall treat the acreage of the Center, including the FEC Facility as exempt from its MBRO Program, as expressly provided in the MBRO Resolution approved by City Council on January 22, 2013 (Resolution 2012-0621, Exhibit A, Article II, Sub-paragraph L).

C. Any revenue generated by the granting of Naming Rights and/or Sponsorship Opportunities permitted under this Paragraph shall be split evenly with the City. All proposed Naming Rights/Sponsorship Opportunity proposals for the Center shall be reviewed and approved by the City prior to agreement by the PPC with the prospective donor, including the proposed value of the donation, length of time, and any other negotiated terms. The PPC shall submit the City's share of any funds generated by check made to "Treasurer, City of Pittsburgh" within thirty (30) days of payment to the PPC. All funds received by the City shall be deposited into the City's internal Frick Park Trust Fund for future Frick Park maintenance and shall be deposited to the following account: JDE Account 5000771200.40000.00. Any funds generated from Naming Rights or Sponsorship Opportunities at the Center shall be dedicated to the enhancement or maintenance of the Center (in the case of funds flowing to the PPC) or to the enhancement and maintenance of Frick Park (in the case of funds flowing to the City). This sub-paragraph 2.5(C) shall not apply to funds provided by donors for designated construction or capital improvements at the Center not involving Naming Rights or Sponsorship Opportunities, nor to sponsorship funds dedicated to specific programming activities, which funds may be retained in full by the PPC for use in such construction, capital improvements, or programming. For avoidance of doubt, funds provided for "designated construction or capital improvements at the Center" means funds to be used

for the initial construction of particular facilities, amenities, or improvements at the Center, where the donation does not give the donor a right to any particular public recognition. As further described in Exhibit J, PPC may acknowledge the donation of such funds on a plaque or other appropriate signage, subject to City approval as provided in Section 2.5(B). "Naming Rights and Sponsorship Opportunities" convey an ongoing right for the donor of funds to have its name associated with particular facilities, physical amenities, or improvements, for a given timeframe.

ARTICLE III: SCOPE OF PROJECT AND MAINTENANCE WORK; LICENSE

3.1 SCOPE OF PROJECT CAPITAL IMPROVEMENTS AND MAINTENANCE/ PROJECT APPROVAL BY CITY:

A. Subject to all terms and conditions set forth below and in the attached exhibits, the PPC agrees to undertake project management for the design, construction, landscape restoration and other capital improvements (the "Project") for the Center. The Scope of the Project is more fully described in Exhibit B, which is attached hereto and incorporated herein. Included as part of Exhibit B is the proposed Schedule of Values ("SOV") and Construction Schedule for the Project.

B. All improvements to the Center, including the FEC Facility and surrounding Frick Woods Nature Reserve shall be consistent with restrictions set forth in the pertinent documents conveying Frick Park to the City of Pittsburgh and, where applicable, subject to the prior approval of the administrator of the external Frick Park Trust Fund.

C. The Project shall be accomplished in accordance with applicable laws (including applicable public bidding laws) and all design plans/construction documents shall be subject to the prior approval of the City. The City's approval shall include a review and approval of plans and specifications by the City's Department of Public Works ("DPW"), and the Art Commission, as applicable. DPW shall approve or object to Project plans within sixty (60) days of receipt of complete plans and specifications. Any objections shall be provided in writing and provide detail sufficient for the PPC to respond to its concerns. PPC shall provide a copy of all As-Builts to City upon completion of the Project work, or parts thereof, as applicable. Additionally, during the completion of the Project, the City will be a participant in all construction-related job meetings and will receive a copy of all minutes from construction-related job meetings.

D. During the pendency of the Project, the PPC will provide DPW with a monthly Project Status Report, including a SOV for construction and a pending construction schedule. The PPC shall also include a section in each Project Status Report regarding any cost overrun exceeding five percent (5%).

E. Upon completion of each Project Phase (as further detailed on Exhibit B) by the PPC, the PPC will notify the City in writing of the completed work prior to

accepting the contractor's work. Upon receipt of such notification, the City will inspect the contractor's completed Project work to ensure it was installed properly.

F. Upon completing its inspection and absent any objection thereto or after any outstanding punch list items have been corrected in compliance with City requirements, the City will forward to PPC written approval of the Director of DPW to accept said work.

G. In the event of an objection, the City will provide PPC with a written statement of the objection(s). Within ten (10) days of receiving such statement, PPC will prepare a written plan as to how such objections will be cured.

H. PPC shall obtain warranties for Project Work (including equipment, fixtures, and materials) if available.

I. The Project will also include natural areas restoration for the Center outside the FEC Facility. Specifically,

- 1). In consultation with the City and the Trustee of the Frick Park Trust, the PPC will provide expertise for planning and implementing a high quality natural areas restoration and ongoing management and maintenance plan;
- 2). At the discretion at the Director of the Department of Public Works ("DPW"), upon written request by the PPC and subject to available staffing at the time of the request, DPW may provide assistance including the use of heavy equipment and equipment operators for restoration and management activities and/or significant projects within the Licensed Premises that have been approved by the City, and
- 3). The PPC will provide or facilitate additional training and education for Department of Public Works staff as needed.

J. The PPC is aware that the City of Pittsburgh Richard S. Caliguirri Great Race historically begins its 10K run along Beechwood Boulevard near the Center/Project site. The Great Race is run annually and is always the last Sunday in September. During the Project Work, PPC must ensure that its contractors are aware of and accommodate this event by moving equipment/materials and placing barriers up in advance as necessary so as to allow the following to safely occur:

- 1). Citiparks will have access to prep the lawn area in front of the Center/off of Beechwood Boulevard starting the Friday before the race;
- 2). Citiparks will have access to tear down race materials and equipment from Monday through Wednesday of the week following the Great Race;
- 3). Citiparks will need a close water supply and should have access to the FEC Facility (if possible) on the day of the race;

- 4). Citiparks will need to have an area to store port-a-johns prior to Sunday morning and to access to place them in the driveway prior to the race.
- 5). Citiparks will be setting up a stage on Beechwood Boulevard and will coordinate with the PPC on location prior to the race.
- 6). The PPC shall not be responsible for direct costs related to the Great Race, such as set-up, security, clean-up, and repair costs.

3.2 ZONING AND OTHER APPROVALS: PPC shall be responsible for complying with all applicable zoning guidelines and laws relative to the Project, including but not limited to the Historic Review Commission and Art Commission rules and regulations. With the prior approval of the City, PPC shall file for approval of any zoning variances that may be required.

3.3 GRANT OF TEMPORARY CONSTRUCTION LICENSE FOR PROJECT WORK AND FUTURE CAPITAL IMPROVEMENTS:

In addition to the general use license granted in Paragraph 1.1 herein, the City further grants to PPC and its agents, contractors, and subcontractors a temporary construction license to perform the aforementioned work on the Project (the "Project Work") or future City-approved Capital Improvements (as further defined in Paragraph 4.2) on the Licensed Premises. The PPC is authorized to temporarily move and/or store its equipment, materials, and trailers on the Licensed Premises and to use it as a lay down and staging area to facilitate the Project. It is contemplated that during certain periods of Project Work or subsequent Capital Improvements, portions of the Center will be closed to the public. For purposes of the Project Work, this temporary construction license shall include access to the following areas, which are also depicted on the Center Map attached hereto and incorporated herein as Exhibit A. Temporary construction license(s) shall last for the duration of the Project or Capital Improvement at issue.

3.4 CITY MAINTENANCE: After completion of the Project, the City will perform the maintenance and refuse collection activities outlined in Exhibit C ("City Work.") The PPC acknowledges that continuation of this City Work throughout the term of this Agreement is subject to budgetary and personnel constraints and may be modified accordingly subject to the discretion of the Director of the Department of Public Works. City maintenance responsibilities will also include cleaning up after Citiparks/City special events.

3.5 PPC MAINTENANCE OF CENTER.

A. After completion of the Project, the PPC will perform the additional maintenance activities at the Center as set forth on Exhibit D, which is attached hereto and incorporated herein (the "Maintenance Work.") Performance of this Maintenance Work is subject to applicable law/union contracts and shall be furnished at the cost and

expense of the PPC. Maintenance Work may also include additional activities subsequently agreed to by the parties in writing.

B. In order to allow the PPC to schedule its annual Maintenance Work, the City and the PPC will meet each January during the term of this Agreement to discuss and prepare a list of the maintenance projects planned by PPC for the upcoming year (the "Annual Planned Maintenance List" or "APML"). The City will then refer to the APML to ensure that its programming and permits for third party special events will not conflict with PPC's planned maintenance dates or events. In the event of a conflict between the PPC's requested dates and prior planned programming of the City, the City shall have first choice of dates prior to the APML being finalized. The APML shall be deemed finalized if the City has not identified a conflict by February 15th. Thereafter until the next APML is finalized or (if sooner) this Agreement expires or is otherwise terminated, the PPC will update the City each time the PPC requests a change to the APML. The PPC may modify the APML at any time provided that the dates/times requested do not conflict with then-existing special event permit dates and/or previously scheduled City events or programming.

C. To the extent that the PPC fails to perform the Maintenance Work obligations in a timely manner, the City reserves the right (but is not under any continuing obligation) to come upon the Licensed Premises and cure any deficiencies, or the City may invoke the breach provisions set forth in Paragraph 11.1 hereof.

3.6 GRANTING OF LICENSE FOR MAINTENANCE WORK: In addition to the general use license granted in Paragraph 1.1 herein, and subject to and after final completion of the Project, the City hereby also grants to the PPC and its agents, contractors, subcontractors, and volunteers a license for the remainder of the term of this Agreement to go upon the Licensed Premises to perform the Maintenance Work for the Center.

3.7 RESPONSIBILITY FOR WATER AND SEWER LINE REPAIRS: With regard to the installation of new water and sewer lines required for the Project and/or subsequent maintenance at the Licensed Premises, the City agrees to use its best efforts to cause the Pittsburgh Water and Sewer Authority ("PWSA") to maintain such lines in the event that repair or replacement is required during the term of this Agreement. However, pending any such agreement by PWSA or in the event that PWSA will not agree to such maintenance responsibility, the PPC shall be responsible for effecting such maintenance, repair or replacement. The City shall have no duty of maintenance, repair, and replacement of new water and/or sewer lines. The PPC shall have no responsibility for maintenance of water and sewer lines existing prior to the Project.

3.8. REPLACEMENT OF EQUIPMENT. The PPC shall maintain any original or new equipment located at the Center in good operating condition, ordinary wear and tear excepted, and shall replace, at its own cost and expense, and equipment that becomes unusable during the Term of this Agreement to the extent that such equipment is necessary for the continued operation of the Center.

3.9. SECURITY. The PPC shall furnish an alarm system for the FEC Facility and take reasonable steps to secure the FEC Facility in a manner sufficient to safeguard it and its contents.

3.10 UTILITIES AND PROPERTY TAXES: If the City is charged for water at the Licensed Premises by PWSA, the responsibility for payment of such costs will be decided by the parties at such time. Payment for all other utilities servicing the Premises (e.g. gas, electric, telecommunications) shall be the responsibility of the PPC. Where possible, utilities will be put in the PPC's name. If not, the City will coordinate with the PPC for a quarterly (or another frequency as otherwise agreed to by both parties) invoice to be sent by City to PPC. PPC shall be responsible to pay any property taxes levied on the FEC facility due to its occupation thereof. Responsibility for additional taxes is further set forth in Paragraph 9.6.

3.11 EDUCATIONAL PROGRAMMING/OPERATION OF THE CENTER: The City and the PPC agree to collaborate to develop and implement educational programming at the Center. Specifically:

A. The City and the PPC will jointly develop a mutually agreed upon staffing plan for the Center, which will include both PPC employees and the City's current Park Naturalists, if any, working as education providers at the Center ("Park Naturalists"). The City agrees that PPC, at its discretion, may offer to the City's current Park Naturalists, if any, employment with PPC as an education provider at any time, and such employment shall be on terms and conditions set by PPC. For avoidance of doubt, PPC shall have no obligation to utilize the services of any Park Naturalist hired by the City subsequent to the date of this Agreement.

B. The City will approve of the appointment of a PPC employee as the Director (the "Center Director") of the Center for purposes of this Agreement. The Center Director and other City or PPC employees or contractors providing educational programming, program support, or maintenance services at the Center shall be permitted to utilize dedicated workspace at the FEC Facility on an ongoing basis while providing such services. The City shall retain discretion over the placement of all City employees at the Center.

C. The City and the PPC agree that the Center Director shall generally supervise and direct employees and PPC contractors working at the Center in the day-to-day operation and maintenance of the Center, including any Park Naturalists assigned to the Center. The Center Director shall contact the Director of Public Works and/or his/her designee regarding requests for DPW Work to be performed at the Center as discussed in this Agreement. Notwithstanding the foregoing sentence, it is agreed that City employees, absent resignation, shall at all times continue to be subject to the personnel policies and other terms and conditions of employment administered by the City with respect to its employees. Furthermore, City employees shall ultimately remain subject to City supervision as follows:

- 1). City employees' work at the Center shall remain subject to the City's union contract terms (as applicable and to the extent said contract is effective); and
- 2). The City shall identify an appropriate supervisor at the City to whom the PPC shall report each City employee's progress in accomplishing the assigned maintenance tasks and to timely identify any problems or concerns; and
- 3). City employees working at the Center shall be subject to the employment policies of the City and, where applicable, the PPC acknowledges said policies and will attempt to adhere to the application of said policies; and
- 4). The City shall remain responsible for disciplining City employees working at the Center; and
- 5). In the event that a City employee files a grievance regarding any aspect of employment, the PPC and the City will work jointly to investigate and resolve the grievance. Likewise, in the event that a City employee initiates a complaint against either PPC or the City arising from any aspect of his or her employment at the Center, the PPC and the City agree to cooperate, wherever possible, in the defense of the complaint, including but not limited to investigation, production of documents and witnesses, etc. In the event a formal lawsuit is filed by a City employee against either the City or the PPC, the parties agree to cooperate in the defense of the suit. However, both the PPC and the City reserve the right to independently evaluate and defend any claim filed against it; and
- 6). The parties agree that the foregoing is not intended to nor does form a joint or single employer relationship.

D. The PPC will assume the responsibility for developing the annual educational programming budget (the "Educational Programming Budget") and annual educational work plans and for the PPC and City employees providing educational programming at the Center. The Educational Programming Budget and work plans will be provided to Citiparks prior to the start of each calendar year. Provision of this Educational Programming Budget is a separate and distinct requirement from the submission of the Center Annual Budget required in Paragraph 1.2 of this Agreement.

E. The City shall be solely responsible for all employment-related obligations and costs with respect to each City employee stationed at and/or performing work at the Center.

F. The City agrees that the PPC will retain all user fees charged for educational programming so long as they are used to fund the operation, maintenance, or

management of the Center. User fees must be reasonable and consistent with similar market rate charges for educational programming in the City of Pittsburgh.

G. For purposes of this Agreement, "Operations Work" shall include all educational programming, management responsibilities, and other administrative work at the Center.

ARTICLE IV: OWNERSHIP OF IMPROVEMENTS, FUTURE ALTERATIONS AND REPORTS

4.1 OWNERSHIP OF IMPROVEMENTS: Ownership of all alterations, additions or capital improvements constructed and paid for by the City and/ or PPC at the Licensed Premises shall vest in the City upon installation, without compensation being paid therefore. Personalty may be retained by the PPC.

4.2 FUTURE ALTERATIONS:

A. Any future Capital Improvements on the Licensed Premises subsequent to completion of the Project Work are subject to separate prior written approval of the City and shall be accomplished in accordance with applicable laws. For purposes of this Agreement, "Capital Improvements" are those that substantially alter the structure or functionality of the Licensed Premises and do not include routine repairs, routine upgrades to the existing FEC Facility, or routine maintenance. All outdoor projects involving the placement of new structures or other natural area restoration in the Frick Woods Nature Reserve portion of the Center shall be deemed to be Capital Improvements for purposes of this Agreement. The City's approval shall include the review and approval of plans and specifications by the City's Department of Public Works. The City shall approve or object to capital improvement plans within 45 days of receipt of complete plans and specifications; failure to respond within that timeframe shall be treated as an approval. Any objections shall be provided in writing and provide detail sufficient for the PPC to respond to the City's concerns.

B. All alterations, additions, or improvements must be made in compliance with all applicable federal, state, and local laws, ordinances, resolutions, regulations, and approval processes, including those pertaining to public bidding to the extent applicable.

C. Approval of future Capital Improvements will also be contingent on adequate funding for both construction and future maintenance for such improvements.

4.3 REPORTS: All services provided under this Agreement shall be subject to monitoring and evaluation by the City or its authorized representatives. The PPC shall supply the City with a written report on the Project and its subsequent Capital Improvements and Operations and Maintenance Work at the Licensed Premises (the "Annual Report") during each year that this Agreement is in place and additionally as the City may, from time to time, reasonably require. The Annual Report shall include financial statements, fund-raising efforts, estimated attendance records, and staffing for the prior year. Such report shall be provided to the City within one hundred twenty (120)

days after the end of PPC's fiscal year. Authorized representatives of the City shall have access to the books and records maintained by the PPC with respect to any services or materials provided to the City pursuant to this Agreement at all reasonable times and for all reasonable purposes. All books and records pertaining to the Project shall be preserved by the PPC for a period of three (3) years after the expiration or other termination of this Agreement.

ARTICLE V: FUNDING OF IMPROVEMENTS AND MAINTENANCE WORK

5.1 FUNDING OF IMPROVEMENTS:

A. A Project Construction Budget and Funding Plan is attached here to in Exhibit E.

1.) City Project Funding:

The City will contribute Five Million Two Hundred Thousand Dollars (\$5,200,000.00) for the Project and/or operation of the Center (the "City Project Funds") consistent with external Frick Trust Fund requirements. The City Project Funds will be paid to the PPC as follows:

a). Two Million Six Hundred Thousand (\$2,600,000.00) will be paid to the PPC upon full execution of this Agreement by both parties; and

b). Two Million Six Hundred Thousand (\$2,600,000.00) will be paid to the PPC at the Commencement of the Project. For purposes of this Agreement, "Commencement" shall mean readiness to begin the Project's construction work by virtue of satisfaction of all of the following: 1) the completion of and approval by City of all construction documents; 2) receipt by PPC of all necessary permits and commission approvals; 3) approval by PPC of its construction manager for construction Project work; and 4) site mobilization.

c). The City's Project Funds shall be paid from the following account:
JDE 5000771200.50000.00., *Herm/195.*
57201 *ym*

2.) PPC Project Funding:

The PPC has represented to the City that the funding of the improvements and maintenance for the Project over and above the City Project Funding is expected to include the contributions described in Exhibit E. In addition:

a). The PPC has provided or will provide when available a written commitment or confirmation from each donor identified on Exhibit E, and from each subsequent provider of funds who pledges or contributes more than \$50,000.

b). The PPC agrees to identify and solicit additional Project funding from private and public sources for the remainder of the construction and

improvements. The City agrees to cooperate with the PPC's fundraising efforts by writing letters of support, providing information for grant applications or acting as a grant applicant where appropriate.

c.) The PPC shall have no obligation to construct the new FEC Facility until such time as the entire funding necessary for construction is in place and a suitable maintenance fund has been created. However, the PPC must commence the Project as soon as is reasonably practical after the execution of this Agreement. PPC may, in its sole discretion, begin construction of a particular phase of the Project if and when construction and maintenance funds sufficient to support that phase of the Project are in place. To the extent that this Agreement is terminated as permitted herein and the PPC has not expended and/or contractually committed all City Project Funds, such amounts must expeditiously be returned to the City via a check made out to "Treasurer, City of Pittsburgh" so that they may be replaced into the City's internal Frick Park Trust Fund.

d.) The PPC shall actively seek additional contributions during the full term of this Agreement for the programming, operation, and maintenance of the Center.

e.) It is agreed that the City shall have no duty whatsoever to finance or make alterations, additions or improvements or provide maintenance to the Center except as described herein during the term of this Agreement.

f.) The availability of funds necessary to complete the Project Work or any future Capital Improvement work and related maintenance is a condition of the City's approval of the Project or Capital Improvement (or any phase thereof).

5.2 REPAIR BY THE PPC:

A. In the event of casualty to the Project improvements, regardless of the cause or the amount of any such damage or destruction, the PPC shall have the right at its sole cost and expense to restore, repair, or rebuild such improvements as nearly as possible to their functional equivalent immediately prior to such damage or destruction. The City agrees that in light of the PPC's duties set forth herein and substantial investments in the Licensed Premises, and given the rights granted to the PPC by this Section 4.2, the PPC has an insurable interest in the Licensed Premises and must maintain, at its own expense, property and casualty insurance to allow it to restore and repair structures on the Licensed Premises after a casualty.

B. Any restoration, repair, or rebuilding of the Project shall be accomplished in accordance with applicable laws and shall be subject to the prior approval of the City. The PPC shall submit its proposal for such restoration, repair, or rebuilding to the City, which shall endeavor to timely respond to the PPC with an explanation of the approval process and the anticipated time line for review. The City shall approve or object to such plans within 45 days of receipt of complete plans and specifications; a failure to respond

within that timeframe shall be deemed an approval. Any objections by the City shall be provided in writing and provide detail sufficient for the PPC to respond to the City's concerns.

5.3 TERMINATION FOR FAILURE TO MAKE TIMELY REPAIRS IN CASE OF FUTURE CASUALTY: In the event that the PPC cannot or does not, for whatever reason, (other than the City's disapproval of plans proposed by the PPC as described in Section 5.2), within one (1) year after any future casualty, commence the restoration, repair, replacement or rebuilding of the Project, or its functional equivalent immediately prior the event of casualty to the Licensed Premises, either party shall have the right to terminate this Agreement. This Section 5.3 shall only apply if the cost of repairing the damage caused by the casualty exceeds Fifty Thousand Dollars (\$50,000.00).

5.4 NON-OBLIGATION OF CITY TO REPAIR: In the event of a casualty to the Project, a Capital Improvement, or Maintenance Work or other subsequent improvements to the Licensed Premises, regardless of the amount of damage or destruction, the City shall be under no obligation to repair and/or replace the Project, Capital Improvement, Maintenance Work or subsequent improvements.

5.5 NON-OBLIGATION OF CITY TO REPAY ANY PRIVATE MONIES OR GRANTS: In the event that this Agreement is terminated by either party as permitted under this Agreement or the Cooperation Agreement, or in the event of bankruptcy of the PPC, the City shall not be obligated to repay any private monies obtained by the PPC for improvements to the Licensed Premises.

ARTICLE VI: INSURANCE

6.1 INSURANCE:

A. The PPC shall, at its cost, obtain and maintain insurance in connection with the Project Work and Maintenance Work and Operations Work at the Licensed Premises in the amounts specified in this Section and shall cause the City to be named as an additional insured on all policies for general liability insurance throughout the term (Initial Term plus any Additional Term) of this Agreement. Attached hereto as Exhibit F and incorporated herein are the forms of insurance policies which, prior to execution and delivery hereof, will be purchased by the PPC evidencing the following minimum coverage specifically identifying the PPC as the insured. Insurance shall be issued on an occurrence basis, non-cancelable, except upon thirty (30) days' prior written notice to the City:

AGGREGATE
General Liability

INDIVIDUAL
OCCURANCE

Bodily injury (including death) \$1,000,000	\$1,000,000
Real and Personal Property \$1,000,000	\$1,000,000
Worker's Compensation	Statutory limits
Umbrella Liability \$1,000,000	

All insurance provided for in this Section shall be effected under valid and enforceable policies issued by insurers with a rating reasonably acceptable to the City and who are licensed to do business in Pennsylvania. In the event that the term of said insurance shall expire prior to the expiration of the term of this Agreement or completion of all services required hereunder, whichever shall occur later, the PPC shall renew said insurance in a timely manner and shall promptly cause a certificate of insurance evidencing such renewal, and identifying the City as an additional insured as required, to be forwarded to the City. The City agrees that the PPC may be designated as the beneficiary of certain insurance proceeds from the foregoing policies, and that insurance proceeds may be paid directly to the PPC, in order to permit the PPC to fulfill its obligations to repair or restore the Licensed Premises or its improvements following a casualty.

B. The PPC shall provide evidence of Builder's Risk at time of Notice to Proceed to cover all real and personal property during the construction phase (prior to delivery of materials) and until Final Acceptance at a minimum limit of \$15,000,000.

C. During the completion of the Project Work and until Final Acceptance by City, PPC is required to ensure that the following insurance is procured by its general contractor/construction manager, subject to all other conditions set forth in this Section, and ensure that the general contractor/construction manager shall name the City as an additional insured on all policies for general liability insurance:

<u>AGGREGATE</u>	<u>INDIVIDUAL OCCURRENCE</u>
General Liability, Bodily Injury \$1,000,000 (including death)	\$ 500,000
Automobile Liability \$1,000,000	\$ 500,000
Workers' Compensation	Statutory limits
Umbrella Liability \$1,000,000	

D. PPC shall also provide City with evidence of errors and omissions insurance coverage with respect to any architect(s) of record for the Project.

E. During any post Project Capital Improvements or Maintenance at the Center, any contractors performing work at the Center for the PPC shall also be required to carry the following liability insurance in the amount stated (otherwise subject to the same conditions as stated in (a) of this Paragraph regarding occurrence based and adding the City as an additional insured):

<u>AGGREGATE</u>	<u>INDIVIDUAL OCCURANCE</u>
General Liability	
Bodily injury (including death)	\$ 500,000
\$1,000,000	
Automobile Liability	\$ 500,000
\$1,000,000	
Worker's Compensation	Statutory limits

6.2 **FIRE INSURANCE:** After completion of the Project and prior to occupation, PPC shall procure fire insurance coverage for the FEC Facility furnishings, equipment, and property to cover its and the City's interests and listing the City as an additional insured. PPC shall maintain this insurance coverage in effect at its cost and expense through the Term of

6.3 **WORKERS' COMPENSATION INSURANCE:** The PPC hereby certifies that it has accepted the provisions of the Pennsylvania Worker's Compensation and Occupational Disease Acts, as amended and supplemented, in connection with any work performed at, on or in the Licensed Premises, and either that it has insured its liability thereunder in accordance with the terms of said Acts, or that it has duly filed a proper certificate of exemption from insurance with the Pennsylvania Department of Labor and Industry.

6.4 **WAIVER OF RIGHT OF SUBROGATION:** The PPC hereby waives to the fullest extent permitted by law any right of subrogation that its insurance carriers may have from time to time against the City's officers, employees and agents. For the purposes of this Section, the PPC will cause to be delivered to the City certificates issued by the PPC's insurance carriers acknowledging the foregoing waiver of such right of subrogation.

ARTICLE VII: PROHIBITION AGAINST LIENS AND ENCUMBRANCES

7.1 **PROHIBITION AGAINST ENCUMBRANCES:** The PPC will not create or permit to be created or to remain, and will discharge, any lien, encumbrance or charge upon the Licensed Premises or any part thereof having any priority or preference over or ranking on a parity with the estate, rights and interest of the City in the Licensed Premises or any part thereof.

7.2 WAIVER OF MECHANIC'S LIENS: The PPC shall not cause or permit any work to be done upon or any materials or services furnished to any portion of the Licensed Premises in connection with the improvement, alteration, or repair thereof, except under a contract or contracts which effectively waive to the fullest extent permitted by law any right to file a mechanic's lien or claim against the Licensed Premises of any part thereof.

ARTICLE VIII: ENTRY ON LICENSED PREMISES BY CITY

8.1 RIGHT TO INSPECT; RIGHT TO TAKE EMERGENCY ACTION: The City shall have the right to enter the Licensed Premises at all times for the purposes of inspecting the same or determining whether the PPC and/or its subcontractors are complying with the terms and conditions hereof. The City shall have the right (but not the duty) to enter the Licensed Premises without the consent of PPC at any time to correct any situation which, in the reasonable discretion of the City, is deemed to be of an emergency nature.

ARTICLE IX: INDEMNIFICATION/NOTICE OF UNUSUAL CONDITIONS

9.1 INDEMNIFICATION BY PPC:

A. The PPC shall indemnify, protect and save harmless the City, its officers, employees and agents from all liabilities, obligations, damages, penalties, claims, costs and expenses of every nature, including reasonable attorney's fees, which may be imposed on or incurred by or asserted against them or any of them in connection with its construction, restoration, use, and maintenance of the Licensed Premises arising by reason of:

- 1). Any failure by the PPC to perform or comply with any of the covenants, agreements, terms or conditions contained in this Agreement on its part to be performed or complied with;
- 2). Any work or thing done by or on behalf of the PPC in, or about the Licensed Premises or any part thereof;
- 3). Any use, non-use, possession, occupation, condition, operation, maintenance or management of the Licensed Premises to the extent that PPC is responsible as required herein; or
- 4). Any negligence on the part of the PPC or any of its officers, agents, employees, permittees or invitees.

B. It is the intent of the parties to absolve and protect the City from any and all losses relating to PPC's use, operation, subleasing, alteration or maintenance of the Licensed Premises.

C. This indemnification is also intended to include any and all workers compensation claims brought by the agents, contractors, servants, or employees of the PPC for any alleged condition of the Licensed Premises.

D. In the event any action or proceeding is brought against the City by reason of any such claim, the PPC, upon written notice from the City, shall at the PPC's sole cost and expense resist and defend such action or proceeding and shall fully indemnify and hold harmless the City for any and all costs, damages, demands or judgments relating in any way to the Licensed Premises or the PPC's obligations set forth herein. Notwithstanding the above, the PPC shall not be required to indemnify the City for constitutionally-based claims to the extent that the activity is addressed in this Agreement and the PPC obtained an opinion from the City Solicitor and acted in accordance with it. The City agrees to respond timely and adequately to requests for an opinion and will not act in contravention of the terms of this Agreement. The City agrees that the PPC's obligations under this Section shall not exceed the amount of insurance proceeds required hereunder. The City agrees that Officers and Directors of the PPC will not have personal liability under this Section.

9.2 LIMITATION ON CITY'S LIABILITY: Notwithstanding any other provision herein to the contrary, the City shall not be liable for any claims or damages arising out of the conduct, operation or work performed on the Licensed Premises by the PPC or by its officers, agents, employees, volunteers, invitees, or permittees. The City represents that any City employees performing maintenance work on or around the Premises shall be covered by the City's Workers' Compensation Program. In no event shall any agent or employee of the City be deemed to be an agent or employee of the PPC nor shall any agent or employee of the PPC be deemed to be an agent or employee of the City. All experts or consultants or employees of the PPC who are employed by the PPC to perform work required under this Agreement are neither employees of the City nor under contract to the City, and the PPC alone is responsible for their work, direction, compensation and conduct in the course of their engagement. Entering into this Agreement and performing requirements thereunder shall not create an agency relationship between the parties or establish a joint venture or legal partnership.

9.3 ACCIDENTS/UNUSUAL CONDITIONS: The PPC shall promptly notify the City's Director of Public Works and provide the Director with reports of any accident occurring at the Licensed Premises that the PPC, its employees, agents, servants or contractors observe or are made aware of through oral or written communication. The PPC shall promptly send notice, in writing, of any claim for injury, death, property damage or theft that shall be asserted for or against the PPC with respect to the Licensed Premises to the following address:

City of Pittsburgh
Department of Law
313 City-County Building
414 Grant Street
Pittsburgh, PA 15219

The PPC shall also designate a person to handle all such claims, including all insured claims for loss or damage pertaining to the operation of the Licensed Premises and shall notify the City, in writing, as to said person's name and address. The PPC shall likewise promptly notify the City's Director of the Department of Public Works of any unusual conditions that develop in the course of the term of this Agreement that the PPC, its employees, agents, servants or contractors observe or are made aware of through oral or written communications such as, but not limited to, fire, flood, casualty or substantial damage of any nature.

X. VENDING AND PPC PERMITS

10.1 OUTSIDE VENDING: Currently, there is no outdoor food vending permitted at the Center. To the extent that the City decides to permit food and/or other outdoor vending at the Center during the Term of this Agreement by the PPC or third parties, the City will meet with PPC to discuss the issue of the PPC managing the licensing of spaces and selecting operators. At such time, the City shall also consider designating any such rental/licensing fees to assist the PPC with its maintenance and operating obligations at the Center. To the extent any such food vending will be allowed, the parties shall amend this Agreement as appropriate.

10.2 PPC BOOTHS: The PPC shall also have the right to erect temporary festival-type booths on the Licensed Premises during its permitted, sponsored events. Any such booth operations are subject to all applicable laws, including but not limited to the regulations of the Allegheny County Health Department.

10.3 NO AGENCY RELATIONSHIP WITH THIRD PARTY VENDORS: In no event shall this Agreement be deemed to create any relationship or contract of agency between the City and any operator, licensee of the PPC, vendor or concessionaire (each, a "Third Party") operating at the Licensed Premises or between any promoters or other caterers (also "Third Parties") providing services at the Licensed Premises via a permit from or other agreement with the PPC. The PPC shall ensure in writing that each Third Party agrees to this provision.

10.4 THIRD PARTY AGREEMENTS/PERMITS AND ASSIGNMENT TO CITY: The PPC shall further ensure that in the event of a final termination of this Agreement, any and all then-existing Third Party permits, licenses or agreements shall be subject to immediate assignment to the City upon such final termination; provided, however, the City, in its sole discretion may choose not to accept one or more of such assignments. In the event that the City determines not to accept any of the offered assignments, the Third Party thereunder may elect in writing within ninety (90) days of written notice to it of the City's rejection of the assignment to terminate its agreement and vacate the Licensed Premises within said ninety (90) day period. The PPC shall ensure in writing that each Third Party agrees to this provision.

10.5 NON-COMPLIANT VENDORS: In the event that the PPC believes that permanent vendors or other individuals are not in compliance with the City Code or other applicable law, the PPC shall contact the Chief of the Bureau of Building Inspection immediately. The City will respond to PPC's complaint within two (2) business days.

10.6 RETAIL TAXES/SALES: To the extent applicable, the PPC shall be responsible to pay retail-related taxes levied upon the Licensed Premises. Such taxes may include applicable taxes on food sales, facility rentals, and retail sales. Sales at the Center must relate to the Center, PPC, Frick Park and/or be consistent with park use.

10.7. PPC PROGRAMMING/EVENTS: At the time that the parties meet to discuss the APML (per Paragraph 3.5(b) herein), the PPC must also provide a list of proposed/planned special events for the upcoming year. Citiparks and the PPC will come to an agreement on scheduled use of the Center for PPC programming at this time. In the event of a conflict between the PPC's requested dates and planned programming of Citiparks, Citiparks shall have first choice of dates. Once the parties coordinate these events with the APML, the City's Special Events Committee ("SEC") will then place these requests on a preliminary planned event list for the Center. This list will be updated accordingly throughout the year as new events are added to it. Both parties shall have access to the updated list at all times.

XI. TERMINATION AND DEFAULT

11.1 CITY'S TERMINATION RIGHTS IN EVENT OF PPC DEFAULT:

A. The City shall have the right to terminate this Agreement upon the material breach by PPC of any of the terms or conditions for the Agreement, including but not limited to: 1). a failure to perform any obligation required hereunder; 2). a failure to obtain the funding specified in Section 5.1; 3). a failure to procure and maintain necessary insurance; or 4). upon dissolution of PPC.

B. Upon such a breach of the terms or conditions of this Agreement by the PPC, the City shall notify the PPC in writing of the specific provisions of the Agreement under which the PPC is in default. The PPC shall have one hundred and twenty (120) days from the date of the notice of default in which to cure the default and to notify the City in writing of such cure. If the PPC fails to cure the default and notify the City within this period, or fails to promptly commence to cure a default that cannot be cured within one hundred and twenty (120) days, the City shall have the right, upon thirty (30) days' written notice to the PPC, to finally terminate this Agreement and shall have the right to discontinue operations of the PPC at the Licensed Premises or take any other action that the City believes is in its best interests. In the event that the termination does not involve a breach by the PPC of terms hereunder per subsection (4) of this Section 11.1, the City shall only be required to provide one hundred and twenty (120) days' prior written notice to the PPC to finally terminate this Agreement. The exercise of an option under this Paragraph shall not deprive the City of other actions against the PPC for possession of the

Center. The City may use the remedies set forth herein or those prescribed by law or both.

11.2 INABILITY OR FAILURE TO PERFORM PERMITTED USE: If the PPC determines that it is unable, for any reason including its inability to generate sufficient funds to meet budgetary requirements for the Project Work or Maintenance Work or Operations Work contemplated for the Licensed Premises, to use the Licensed Premises for the permitted uses set forth in this Agreement and in compliance with the terms and conditions of this Agreement, the PPC may terminate this Agreement upon ninety (90) days' prior written notice to the City. The PPC shall do all things necessary to protect the Licensed Premises and maintain the Licensed Premises for such ninety (90) day period. In the event that the PPC terminates this Agreement and any Project work, Capital Improvements or other infrastructure projects are incomplete in/on the Licensed Premises, the PPC must present the City with its current planning documents and financial records related to such projects and must assign any remaining undesignated funds to the City to complete the unfinished work.

11.3 SURRENDER OF PREMISES: The PPC shall surrender the Licensed Premises to the City upon either party's termination of this Agreement as set forth herein. PPC waives the right to any additional notice that may otherwise be provided for under Pennsylvania law.

XII. MISCELLANEOUS PROVISIONS

12.1 GOVERNING LAW: This Agreement shall, in all respects, be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

12.2 ASSIGNMENT; SUBCONTRACTING: Except as otherwise provided herein, the PPC may not assign, mortgage, sublicense, subcontract, license or otherwise transfer its interests herein or its obligations hereunder without obtaining the prior written consent of the City.

12.3 SURVIVAL OF PROVISIONS: it is the intent of the parties that the provision set forth in Section 12.13 (Compliance with Laws) and in Article IX (Indemnification Provisions) shall survive the expiration of the term of this Agreement.

12.4 TITLE: The City represents that the title to the Licensed Premises is held by the City free and clear of all liens, encumbrances and claims.

12.5 AUTHORIZATION BY CITY: The City represents that it is duly authorized to enter into this Agreement and that this Agreement is binding on the City in accordance with and subject to the terms and conditions set forth herein.

12.6 AUTHORIZATION BY PPC: The PPC represents that it is duly organized and existing and is duly authorized to enter into this Agreement and that this Agreement is binding on the PPC in accordance with and subject to the terms and conditions set forth

herein. The PPC further represents that it has the necessary corporate authority to enter into this Agreement.

12.7 FORM OF NOTICES: Except where otherwise provided for herein, notice hereunder shall be provided to the following:

For PPC:
Meg Cheever
President & CEO
2000 Technology Drive
Suite 300
Pittsburgh, PA
15219

For City:
Director, Department of
Finance
City-County Building
414 Grant Street
Pittsburgh, PA 15219

With a copy to:

Jeremy Feinstein, Esquire
Reed Smith LLP
224 5th Avenue
Pittsburgh, PA
15222

With a copy to:

Daniel R. Regan, Esquire
City Solicitor
City of Pittsburgh
Department of Law
313 City-County Building
414 Grant Street
Pittsburgh, PA 15219

12.8 NO WAIVER: No failure by either party to this Agreement to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, and no acceptance or payment of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such covenant, agreement, term or condition.

12.9 ENTIRE AGREEMENT: This Agreement, including all Exhibits which are attached hereto and incorporated herein, contains the entire agreement and understanding between the parties hereto and shall be deemed to supersede and cancel all other agreements and understandings, written or oral, entered into prior to the date hereof, relating to the transactions herein contemplated.

12.10 HOME RULE CHARTER: This Agreement is subject to the Home Rule Charter of the City of Pittsburgh. *Please see attached 12.10 A.*

12.11 SEVERABILITY: If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

12.12 DEBARMENT: The PPC warrants that it is not prohibited from entering into this Agreement with the City by reason of disqualification under Subsection (b) of

Paragraph 12.10A

Being subject to the Home Rule Charter, the Liability of the City thereunder is limited to the following:

1. The City Project Funds as defined in Section 5.1 of this Agreement are limited to the sum of Five Million, Two Hundred Thousand Dollars (\$5,200,000), and will be broken down into two payments as further set forth in Section 5.1. Amounts are chargeable to and payable from JDE5000771200.57201.00, Item 1195.
2. Future funding from the external Frick Trust Fund as set forth in Section 1.2 of this Agreement is slated to begin with the 2014 Distribution (available in January 2015) and is limited to the sum of Eighty Five Percent (85%) of the City's annual earnings from the external Frick Park Trust Fund. Amounts are further dependent upon factors as set forth in Section 1.2(A) through 1.2(D). Amounts determined to be due and owing will be chargeable to and payable from JDE5000771200.57201.00, Item 1195.

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Section 161.22 of the Pittsburgh Code. An affidavit certifying compliance with this Section is attached hereto as Exhibit G and incorporated into and made part of this Agreement.

12.13 COMPLIANCE WITH LAWS: The PPC shall fully obey and comply with all federal, state and local laws, ordinances, resolutions and administrative regulations that are or become applicable to any work performed under this Agreement or to the operation and maintenance of the Licensed Premises pursuant to the terms of this Agreement.

12.14 AUTHORIZING RESOLUTION: This Agreement is entered into by City pursuant to the authority conferred by Resolution No. 572 of 2013, effective 8/12/13 2013, a copy of which is attached hereto as Exhibit H and incorporated herein by reference.

12.15 CONSENTS AND APPROVALS: Whenever the City's consent or approval is required, the City shall not unreasonably withhold, delay or condition such consent or approval. However, it is understood that this provision in no way guarantees the City's consent or approval.

12.16 STATEMENT OF AFFILIATIONS: PPC herewith files a Statement of Affiliations with the City, attached hereto as Exhibit I, in compliance with Section 197.08(c) of the Pittsburgh Code.

-REMAINDER OF PAGE INTENTIONALLY BLANK-

IN WITNESS WHEREOF, the parties have duly executed this Agreement the day and year first above written.

Witness:

City of Pittsburgh

Melissa Demme
Witness:

By: [Signature]
Luke Ravenstahl, Mayor

[Signature]
Witness:

By: Scott Kunka
Director, Scott Kunka,
City of Pittsburgh
Department of Finance

[Signature]
Witness: Secretary

By: Louann Horan
Acting Director, Louann Horan
City of Pittsburgh
Department of Parks and

Recreation

Jeanne Byrne
Witness: 12/11/13

By: [Signature] 12/11/13
Director, Robert Kadzorowski
City of Pittsburgh
Department of Public Works

Pittsburgh Parks Conservancy, Inc.

[Signature]

By: Mary M. Cheever
President & CEO, Mary M. Cheever

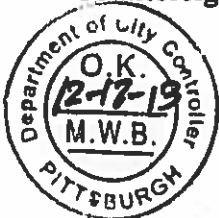
Examined:

[Signature]
Associate City Solicitor

Approved as to form by:

Countersigned by:

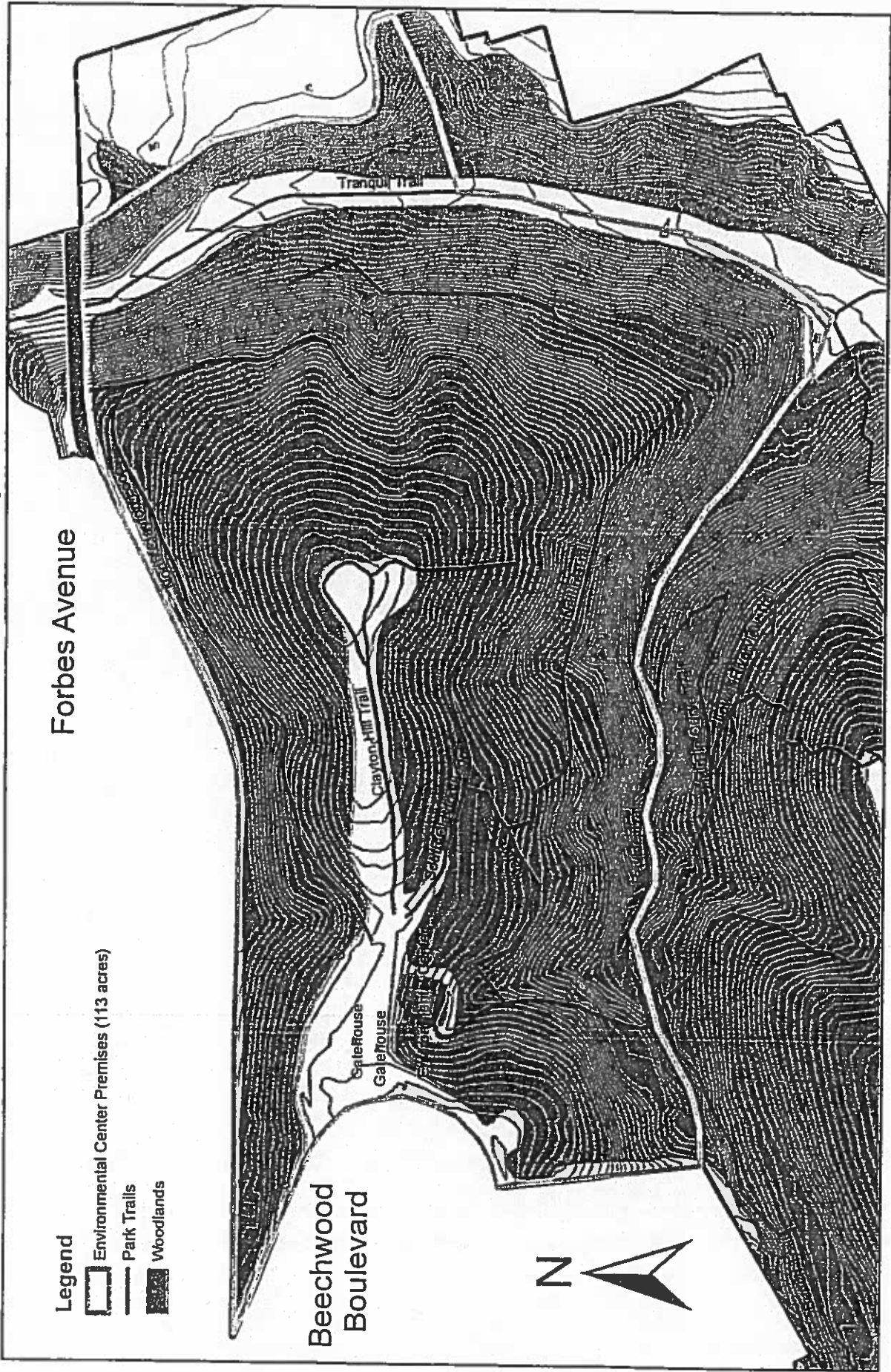
DATE OF CONTRACT	City Solicitor		APPROPRIATION
	CONTRACT NUMBER	ITEM	AMOUNT CHARGED
12-17-13	50463	ad	85,200,000.00
	City Controller <u>[Signature]</u>		



I HEREBY CERTIFY THE ABOVE CONTRACT IS NUMBERED IN THE ORDER OF ITS DATE AND THE AMOUNT THEREIN CHARGED AGAINST THE NUMBERED ITEM OF APPROPRIATION IS COUNTER SIGNED SUBJECT TO THIS CONTRACT.

CERTIFIED AND COUNTERSIGNED, 12-18-13
[Signature]

EXECUTION VERSION



- Legend**
- Environmental Center Premises (113 acres)
 - Park Trails
 - Woodlands



Environmental Center Premises



EXECUTION VERSION

EXHIBIT B

Scope of the Project and Picture of the Frick Environmental Center

Scope of Project

Project Description:

PPC has collaborated with the City concerning its plans, and has provided the City with planning documents, including strategic business and operations plan and opinion of cost for construction. This Project will restore the Frick Environmental Center.

Pittsburgh Parks Conservancy Scope of Work:

Design and construction project management:

- PPC provides management for professional, service, and construction contracts.
- PPC staff, and representatives from the City of Pittsburgh, review proposals and meet with consultants as necessary in order to make informed contracting decisions.
- PPC and city engage community members for feedback at appropriate junctures.
- PPC liaises with City agencies for feedback at appropriate junctures.
- PPC works with the design team to obtain City approvals.
- Deliverables from the design team will include, but not be limited to, concept drawings, schematic designs, design development, construction documents, cost estimates, constructability analysis, market research, marketing materials, assistance with approvals and permitting, and construction oversight.

Architectural improvements/Project Responsibilities:

- Main building (approximately 15,000 square feet) with reception area, two indoor classrooms, community resource room, education storage, public restrooms, caterer's kitchen, janitorial storage, porch, loading/receiving/garbage/recycling
- Restoration of both stone gatehouses
- Construction of 'barn' for tools and public restrooms
- Public exhibits and interpretive signage, subject to City approval
- Furniture and fixtures

- Construct improvements related to sidewalk, curbing, and streetscape to City specifications
- Ensure removal of excavated/salvaged materials generated by Project

Landscape improvements, including:

- Frick Environmental Center learning landscape (both historic and ecological restoration)
- Cleansing wetland
- Renewable energy applications
- Outdoor learning spaces in Frick Park
- Lighting improvements

Frick Environmental Center - Project Timeline

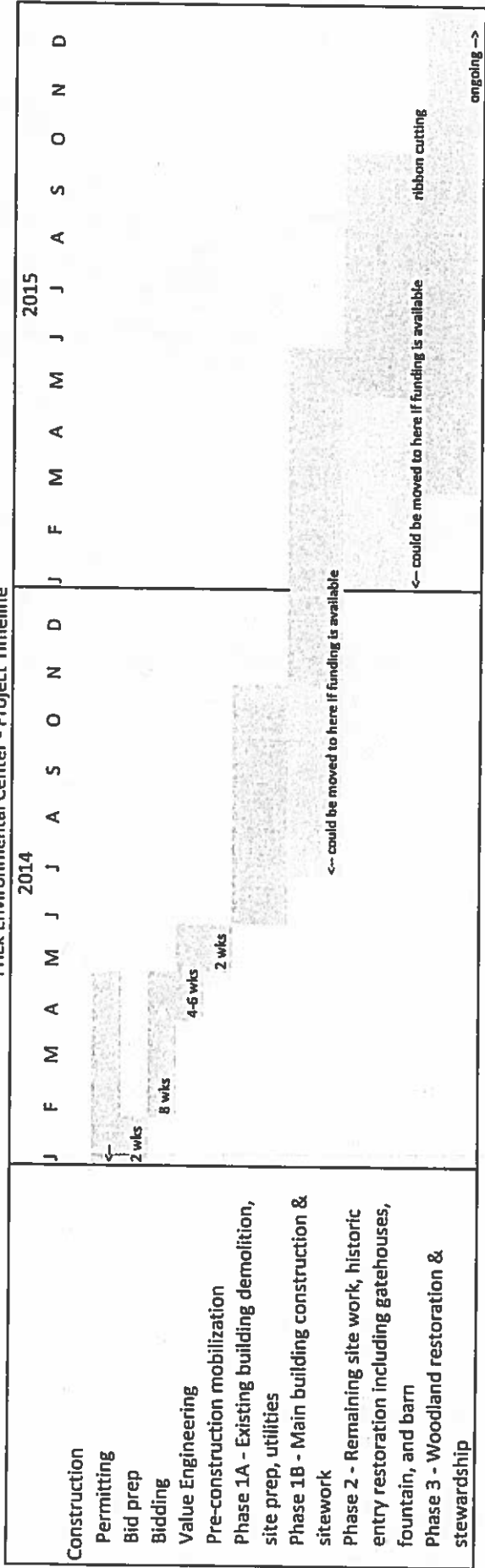


EXHIBIT C

CITY OF PITTSBURGH CAPITAL IMPROVEMENTS DESCRIPTION & MAINTENANCE PLAN

City of Pittsburgh Scope of Work - Capital Improvements and Alterations:

- Provide onsite staging area during Project.

City of Pittsburgh Scope of Work – Maintenance Plan:

- Mow all turf areas as required for low grow/no mow naturalized seed mix (approximately 1x month)
- Collect leaves in the fall and remove from site and/or mulch
- Provide and install mulch and soils as required

City/Department of Public Works or City/DPW Site/Infrastructure

- Maintain all driving and parking surfaces and signage. (Pervious pavement will be maintained by DPW if DPW has and/or PPC provides necessary equipment to use for the Center facilities.)
- Snow plow all hard surfaced drives and spread ice melt
- Maintain all existing trails, and maintain, repair, and replace sidewalks currently maintained by the City, provided, however, that this obligation shall not commence until the City (through the Director of the Department of Public Works) and the PPC have identified and agreed on the precise trails and sidewalks to be maintained by each party, and the parties have memorialized that understanding in writing (which writing shall be treated as Exhibit C-1 to this Agreement once agreed upon).
- Maintain all street and park lighting if City-standard specifications
- Remove graffiti from non-porous surfaces
- Pick litter and empty trash and recycling cans outside the FEC Facility per regular park maintenance schedule

EXHIBIT D

PITTSBURGH PARKS CONSERVANCY MAINTENANCE PLAN

PPC Required FEC Facility Maintenance

In addition to responsibilities specifically set forth in the Agreement, the PPC shall be responsible for the following FEC Facility maintenance:

- (a) Routine maintenance, repair, and replacement of the exterior of the FEC Facility, including the structure, roof and foundation.
- (b) Maintenance relating to daily FEC Facility operations, including general custodial cleaning and refinishing, trash collection from the interior of the building, clearing clogged drains, repairing leaky faucets and door locks, closers and hardware and replacing light bulbs. Restrooms shall be cleaned once per day on all days in which the FEC is in use (whether or not open to the public.)
- (c) The Testing, maintenance, and monitoring of any new systems, equipment, and improvements installed at the FEC Facility during or after completion of the Project, including emergency generators, HVAC, branch circuits, fire sprinklers, backflow preventors, and fire alarms. In doing so, the PPC must comply with any applicable Codes.
- (d) The maintenance, repair, and/or replacement for all parts, components, and systems, located in, on, or around the Premises, and exclusively serving the Premises, including (without limitation) the following:
 - i. Windows, interior walls, floors, and ceilings;
 - ii. Steps serving the FEC Facility;
 - iii. Ramps serving the FEC Facility;
 - iv. Audio-Video cable, data cable, voice and telephone cable; and
 - v. Roof and rain conductors.
- (e) PPC shall be responsible for all costs relating to the installation, maintenance, and removal of any electrical/communications utilities installed at PPC's request and not borne by the utility company.
- (e) PPC shall be responsible for the maintenance, repair, and replacement of all fixtures, including sinks, commodes, urinals, drinking fountains, and cooking appliances located inside the Premises.

- (f) PPC shall be responsible for all interior and exterior painting of the FEC Facility.
- (g) PPC shall be responsible for all interior and exterior lighting (repair and replacement).

PPC Horticulture & Ecological Restoration at the Center

- Design, purchase, install and maintain all annual flowering plants
- Design, purchase, install and maintain all perennial plantings
- Design, purchase, install and maintain all tree and flower containers
- Design, purchase, install and maintain all landscape and woodland trees
- Shape and prune all perennial plants (herbaceous and woody specimens)
- Fertilize and cultivate (provide weed control, pest and soil management) for all perennial plants
- Miscellaneous items such as operating irrigation systems, watering and feeding horticulture, installing temporary fencing to protect plantings
- Provide technical assistance to City parks crews, contractors and agents in maintenance of all turf and other plantings (if City responsibility)
- Provide overall site aesthetic management and work with City crews, contractors and agents to mandate adherence to standards established
- Recruit, supervise and manage horticultural and ecological restoration assistance from park volunteers

PPC Additional Center Maintenance and Operation Duties

- Provide management consistency across Premises
- Manage capital restoration of fountains as funding permits
- Operate and maintain commercial aspects of Premises
- Undertake sanitation operations for the interior of the FEC Facility
- Operate, maintain and provide public programming to the extent funding permits
- Move and maintain any moveable furniture

- **Maintain and operate fountains. This work shall include the historic fountain at the terminus of the main promenade, and the rainwater/stormwater management bioswale behind the FEC Facility, just behind the amphitheater. The fountain maintenance requirements will include annual winterizing, regular cleaning, etc. The runnels leading from the top of the FEC Facility down to the bioswale require regular cleaning of leaves and debris)**

EXHIBIT E
Construction Budget And Funding Plan (As Of Execution Of The Agreement)

EXECUTION VERSION

**Pittsburgh Parks Conservancy
Environmental Center at Frick Park**

Current Cost Estimate:
11/14/2013

	Total	Planning and Design Through 12/2013	Phase 1A Jan-Oct 2014	Phase 1B Oct 2014-Mar 2015	Phase 2 Jan-Mar 2015	Phase 3 Mar-Dec 2015
Planning, Design, Pre-Construction Testing, Permitting	\$2,000,000	\$2,000,000				
Existing building demolition, site prep, utilities	\$5,350,000		\$5,350,000			
Site work and main building construction	\$5,400,000			\$5,400,000		
Historic entry restoration of gatehouses and fountain; Barn	\$2,000,000				\$1,500,000	
Woodland restoration and stewardship	\$1,000,000					\$1,000,000
Total	\$15,750,000	\$2,000,000	\$5,350,000	\$5,400,000	\$1,500,000	\$1,000,000

Revenue Sources

City of Pittsburgh	\$5,950,000
Other Government Sources (including County - GEDF)	\$1,000,000
State - DCED / DEP / DCNR Foundation Sources (including The Built Foundation)	\$6,800,000
Claude Worthington Benedum Foundation	
Colcom Foundation	
Eden Hall Foundation	
The Grable Foundation	
The Heinz Endowments	
Hillman Family Foundations	
McCune Foundation	
The Pittsburgh Foundation	
Richard King Mellon Foundation	
Public Campaign	
Total	\$2,000,000
	\$15,750,000

Additional in-kind support anticipated from the design team, vendors and PWSA (already contributed \$80k of service).

Ongoing Operation Funds - Supported by a Distribution from The Frick Trust
Per the pending agreement with the City of Pittsburgh, The Pittsburgh Parks Conservancy anticipates receiving 85% of the annual distribution from The Frick Trust to support operations and ongoing maintenance.

Approximate current value of The Frick Trust \$14,000,000
Anticipated annual distribution \$595,000

EXHIBIT F
Forms of Insurance Policies to Be Purchased by PPC

EXECUTION VERSION



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/6/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Simpson & McCrady LLC 310-330 Grant Street Suite 1320 Pittsburgh PA 15219	CONTACT NAME: Donna Sebesta PHONE (A/C No. Ext.): (412) 261-2222 FAX (A/C No.): (412) 261-3437 E-MAIL ADDRESS: donna@simpson-mccrady.com													
	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: Selective Way Ins. Co.</td> <td>26301</td> </tr> <tr> <td>INSURER B: Highmark Life & Casualty Group</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Selective Way Ins. Co.	26301	INSURER B: Highmark Life & Casualty Group		INSURER C:		INSURER D:		INSURER E:		INSURER F:
INSURER(S) AFFORDING COVERAGE	NAIC #													
INSURER A: Selective Way Ins. Co.	26301													
INSURER B: Highmark Life & Casualty Group														
INSURER C:														
INSURER D:														
INSURER E:														
INSURER F:														
INSURED Pittsburgh Parks Conservancy 2000 Technology Drive Suite 300 Pittsburgh PA 15219														

COVERAGES **CERTIFICATE NUMBER:** 13/14 Master **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER WORD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY		S2061724	3/1/2013	3/1/2014	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/POP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY		S2061724	3/1/2013	3/1/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS					BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	UMBRELLA L/I/E EXCESS LIAB		EMPA001408	3/1/2013	3/1/2014	EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	EMPA001408	3/1/2013	3/1/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 City of Pittsburgh is named as additional insured.

CERTIFICATE HOLDER City of Pittsburgh	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Donna Sebesta/DONNA



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/16/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Simpson & McCrady LLC 310-330 Grant Street Suite 1320 Pittsburgh PA 15219		CONTACT NAME: Donna Sebesta PHONE (A/C No. Ext.): (412) 261-2222 FAX (A/C No.): (412) 261-3437 E-MAIL ADDRESS: donna@simpson-mccrady.com	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: Selective Way Ins. Co.	26301
		INSURER B: Highmark Life & Casualty Group	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 13/14 Master **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR / WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	GENERAL LIABILITY		S2061724	3/1/2013	3/1/2014	EACH OCCURRENCE	\$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 500,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person)	\$ 15,000	
	GENL AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY	\$ 1,000,000
	<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PRO-JECT				<input type="checkbox"/> LOC	GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	AUTOMOBILE LIABILITY		S2061724	3/1/2013	3/1/2014	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	
	<input checked="" type="checkbox"/> ANY AUTO					BODILY INJURY (Per person)	\$	
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident)	\$	
	<input checked="" type="checkbox"/> HIRED AUTOS	<input checked="" type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident)	\$	
B	<input checked="" type="checkbox"/> UMBRELLA LIAB	<input checked="" type="checkbox"/> OCCUR	BMPA001408	3/1/2013	3/1/2014	EACH OCCURRENCE	\$	
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE	\$	
	<input type="checkbox"/> DED	<input type="checkbox"/> RETENTION S					\$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		BMPA001408	3/1/2013	3/1/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	<input type="checkbox"/> OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N				E.L. EACH ACCIDENT	\$ 500,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE	\$ 500,000	
						E.L. DISEASE - POLICY LIMIT	\$ 500,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER Evidence of Coverage	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Donna Sebesta/DONNA <i>Donna Sebesta</i>



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)

8/27/2013

PRODUCER WHITEHORN FINANCIAL GROUP, INC 14 Main Street, Suite 3 Millburn, NJ 07041 (973) 564-9330		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Bohlin Cywinski Jackson 8 West Market Street, Suite 1200 Wilkes-Barre, PA 18701		INSURERS AFFORDING COVERAGE	NAIC#
		INSURER A: C.N.A.	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE(MM/DD/YYYY)	POLICY EXPIRATION DATE(MM/DD/YYYY)	LIMITS
GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMSMADE <input type="checkbox"/> OCCUR GENTL AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	<div style="font-size: 48px; font-weight: bold; opacity: 0.5;">RECEIVED</div> <div style="font-size: 24px; font-weight: bold; opacity: 0.5;">SEP 03 2013</div>			EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/OP AGG \$
AUTOMOBILE LIABILITY <input type="checkbox"/> ANYAUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		BY: _____		
GARAGE LIABILITY <input type="checkbox"/> ANYAUTO				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMSMADE DEDUCTIBLE \$ RETENTION \$				WC STATUTORY LIMITS OTH-ER EL EACH ACCIDENT \$ EL DISEASE - EA EMPLOYEE \$ EL DISEASE - POLICY LIMIT \$
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below				
OTHER Professional Liability	AEH 28-830-85-92	08/27/13	08/27/14	\$1,000,000 Per Claim and Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Project No.: 11205 Environmental Center at Frick Park

CERTIFICATE HOLDER

Pittsburgh Parks Conservancy
 2000 Technology Drive, Suite 300
 Pittsburgh, PA 15222
 Attn: Marijke Hecht

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHOR _____ REPRESENTATIVE

Marianne Andrews

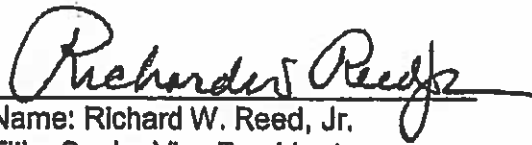
EXHIBIT G
Debarment Affidavit

EXECUTION VERSION

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

DEBARMENT AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared RICHARD W. REED, JR., who, being duly sworn according to law, and under penalty of perjury, deposes and says that neither he/she nor, to the best of his/her actual knowledge, information or belief, THE PITTSBURGH PARKS CONSERVANCY or any affiliated individual is prohibited from entering a bid or participating in a CITY of Pittsburgh contract by reason of disqualification as set forth at Pittsburgh Code §161.22(b).




Name: Richard W. Reed, Jr.
Title: Senior Vice President

SWORN TO and subscribed

before me this 19 day of

November, 2013.



Notary Public

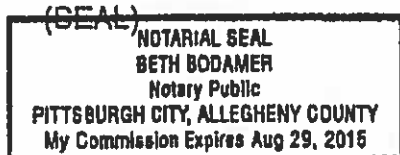


EXHIBIT H
Authorizing Resolution

EXECUTION VERSION

[Sign In](#)[City Home](#)[Live Video Streaming](#)[Legislation](#)[Calendar](#)[Share](#)  [RSS](#)[Details](#)[Reports](#)

File #: 2013-1649 Version:

Type: Resolution Status: Passed Finally

File created: 6/25/2013 In control: Committee on Urban Recreation

On agenda: Final action: 8/5/2013

Enactment date: 8/5/2013 Enactment #: 572

Effective date: 8/12/2013

Title: Resolution authorizing the Mayor and the Directors of the Departments of Finance, Parks and Recreation and Public Works to enter into an Agreement with the Pittsburgh Parks Conservancy ("PPC"), pursuant to which the PPC will make renovations/capital improvements to the Frick Environmental Center (the "Center") and undertake natural area restoration in dedicated areas of the Frick Woods Nature Reserve and will thereafter further assist with operation and maintenance of the Center/Frick Woods Nature Reserve and with the provision of related programs.

Sponsors: Corey O'Connor

Indexes: AGREEMENTS

Attachments: 1. [2013-1649.doc](#), 2. [2013-1649 VERSION 2.doc](#), 3. [2013-1649 VERSION 3.doc](#)

[History \(10\)](#)[Text](#)**Title**

Resolution authorizing the Mayor and the Directors of the Departments of Finance, Parks and Recreation and Public Works to enter into an Agreement with the Pittsburgh Parks Conservancy ("PPC"), pursuant to which the PPC will make renovations/capital improvements to the Frick Environmental Center (the "Center") and undertake natural area restoration in dedicated areas of the Frick Woods Nature Reserve and will thereafter further assist with operation and maintenance of the Center/Frick Woods Nature Reserve and with the provision of related programs.

Body

WHEREAS, pursuant to Resolution No. 285 of 1998, effective May 29, 1998, the City entered into a Cooperation Agreement, dated April 10, 2000, with the Pittsburgh Parks Conservancy ("PPC") to establish an alliance to provide infrastructure improvements, special care, and restoration for the City's four regional parks: Frick, Schenley, Highland and Riverview and, where possible, to also assist in the capital and operational improvements for non-Regional neighborhood park areas; and

WHEREAS, pursuant to Resolution No. 364 of 2011, effective May 26, 2011, the City and the PPC agreed to extend the term of the Cooperation Agreement; and

WHEREAS, among the amenities of Frick Park is the Frick Environmental Center (the "Center"), which offers nature programs and environmental education to users of the park; and

WHEREAS, the Center's main building was destroyed by fire in 2002; and

WHEREAS, the Center is located in the Frick Woods Nature Reserve portion of Frick Park, which is the original 151 acres of Frick Park donated by Henry Clay Frick; and

WHEREAS, consistent with its mission and the Cooperation Agreement, PPC now desires to assist with the rebuilding of the Center and natural area restoration in designated areas of the Frick Woods Nature Reserve (collectively the "Construction Project"); and

WHEREAS, in 2014, the PPC will continue assisting with designated Center operations; and

WHEREAS, after the completion of the Construction Project, the PPC will further assist with the operation of and maintenance for the Center and designated areas of the Frick Woods Nature Reserve as well as with the provision of related programs at the Center for the benefit of the general public; and

WHEREAS, the City has already contributed \$750,000 of Frick Park Trust funds to the design and planning costs for the new Center and will contribute additional funding for the Construction Project; and

WHEREAS, therefore, the PPC and the City now wish to enter into a Agreement to describe the parties' responsibilities for the upcoming Construction Project and to define the scope of the services to be provided by the PPC thereafter for the Center and designated areas of the Frick Woods Nature Reserve.

SEE ATTACHMENT

Attachment

Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1. The Mayor and the Directors of the Departments of Finance, Parks and Recreation and Public Works are hereby authorized to enter into an Agreement with the Pittsburgh Parks Conservancy ("PPC"), pursuant to which the PPC will make renovations/capital improvements to the Frick Environmental Center and designated areas of the Frick Woods Nature Reserve and will further assist with the operation of and maintenance for the Center and designated areas of the Frick Woods Nature Reserve as well as with the provision of related programs at the Center for the benefit of the general public.

Section 2. The Agreement shall include and/or be subject to the following terms and conditions:

1. All improvements to the Center and designated surrounding park areas and all authorized use(s) by the PCC thereafter shall be consistent with the restrictions set forth in the pertinent documents conveying Frick Park to the City of Pittsburgh and, where applicable, to the prior approval of the administrator of the external Frick Park Trust Fund.
2. The City has agreed to contribute Five Million, Two Hundred Thousand Dollars (\$5, 200,000.00), for the

City of Pittsburgh - File #: 2013-1049

Construction Project (reconstruction of the Center and capital improvements to designated surrounded acreage of Frick Park) and/or operation of the Center. This funding has already been transferred to the City's internal Frick Park Trust Fund from the external Frick Park Trust Fund from the current administrator (BNY Mellon). Funds will be paid to the PPC as follows:

1. Two Million, Six Hundred Thousand (\$2,600,000.00) will be paid to the PPC upon full execution of the Agreement;

Two Million, Six Hundred Thousand Dollars (\$2,600,000.00) will be paid to the PPC at the commencement of the Construction Project. Commencement will be further defined in the Agreement. Monies shall be paid to the PPC from the following account: JDE Account 5000771200.50000.00.

C.

Starting with the 2014 distribution, the City will begin to provide the PPC with 85% of its annual earnings from the external Frick Park Trust Fund to use for the operation of and maintenance for the Center for a period consistent with the remaining term of the Agreement. All funding shall be made contingent upon the City's prior review and approval of the PPC's proposed upcoming annual budget for the Center by December 31st of the prior year and submission of the following year's budget. This funding shall be paid to the PPC from the following account: JDE Account 5000771200.50000.00.

D.

The initial term of the Agreement will not exceed fifteen (15) years, with an option to renew the term for up to an additional fourteen years (14) years and three hundred sixty-four (364) days, subject to the written approval of both parties. Amendments to the Agreement for reasons other than the term extension are also permitted, subject to the written approval of both parties.

The Agreement shall be approved by the City Solicitor as to form and substance and shall contain such other terms and conditions as may be in the best interest of the City.

EXHIBIT I: STATEMENT OF AFFILIATIONS

EXECUTION VERSION

Statement of Affiliations

1. Pittsburgh Parks Conservancy

Name of Contractor

2000 Technology Drive, Suite 300, Pittsburgh, PA 15219

(412) 682-7275

Office address and phone number

2. List your qualifications and experience for performance of the contract.

Since the Pittsburgh Parks Conservancy was formed in 1996, the organization has raised more than \$60Million to improve the city parks. During this period the Parks Conservancy has completed 11 major capital projects, engaged approximately 1,000 volunteers in parks improvements annually, and planted more than 2500 trees.

3. Please give a brief description of any contractual or business relationships you have had with the CITY within the past three years. Please include the dollar value of the contract of business relationship.

The Pittsburgh Parks Conservancy has been engaged in a public/private partnership with the City of Pittsburgh for the last 17 years. In addition to completing construction documents for the new Frick Environmental Center, over the last three years the Parks Conservancy has partnered with the City to complete capital improvements in Mellon Park Shadyside and McKinley Park, complete the first of a two phase capital improvement to Mellon Square (the second phase is expected to be completed in 2014), complete a revised Master Plan for the regional parks, and begun a planning process for Arsenal Park in Lawrenceville.

4. Please identify by name and address the contractor's principals including all owners, partners, or shareholders and officers. If the contractor is a public corporation identify by name and address the officers, members of the board of directors, and shareholders holding more than three (3) percent of the corporate stock.

See Attached List

Additional pages may be attached to complete the information herein requested.



2013 Board Members

Alan L. Ackerman
Partner
Ackerman & Robinson PC

Ritchie Battle
Community Leader

Daniel I. Booker, Board Chair
Partner
Reed Smith

Linda Burke
Legal Tax Consultant

Meg Cheever, ex officio
President
Pittsburgh Parks Conservancy

G. Reynolds Clark
Vice Chancellor for Community Initiatives &
Chancellor's Chief of Staff
University of Pittsburgh

Ann Davis
Owner
Typhoon Lighting

Susan S. Dorrance
Community Leader

Curt Ellenberg, Board Treasurer
Treasurer (retired)
Western Pennsylvania School for the Blind

Jeremy Feinstein
Partner
Reed Smith, LLP

Elise Frick
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City of Pittsburgh

Dan Frankel
State Representative
PA House of Representatives

Noor Ismail
Director of City Planning
City of Pittsburgh

Rob Kaczorowski
Director of Public Works
City of Pittsburgh

EXHIBIT J

Donor Recognition Plan For The Center

In order to help solicit the substantial donations necessary support the initial construction and completion of the Center, the PPC plans to offer donor recognition opportunities in connection with donations made for the purpose of creating certain amenities described below. Any signage or plaques or any other proposed donor recognition format associated with such recognition shall be pre-approved by the City as provided in Section 2.5(B), and such donations will treated as designated construction or capital improvement funds for purposes of Section 2.5(C), not as Naming Rights.

Main Building:

- Living Room (included, but not limited to, media wall and window perch)
- Classroom 1
- Classroom 2
- Classroom 3 (outdoor deck)
- Kitchen (upper level)
- Gallery
- Stair Tower
- Entry Lobby (upper level)
- Entry Lobby (lower level)
- Conference Room
- Office Reception
- Think Tanks
- Kitchen (office level)
- Open Office
- Donor Wall

Landscape:

- Standard donor bricks on pathways (Pavers are not permitted.)
- Solar PV Trellis elements
- Amphitheater
- Bridges leading to main building
- Decorative Gates

Art:

Art installations in gallery
Art installation in stair tower
Stormwater Art Installation

Exterior Structures:

Barn and its interior spaces
Gatehouses (large and small)
Fountain
Benches (multiple) (All benches must be standard City-specification benches unless otherwise approved in writing by the City.)
Plaza in front of Barn

Natural Elements:

Specimen Gardens
Presentation Gardens
Formal Meadow/Allee
Produce Gardens
Slavery to Freedom Garden
Trees (No plaques or signs or other donor acknowledgements are permitted to be placed directly on or attached to trees.)