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## AMENDMENT NO. 1 TO PROJECT AND LICENSE AGREEMENT

THIS AMENDMENT is made as of Dec. 6, 2016, by and between THE CITY OF PITTSBURGH (the "City"), acting through its Director of the Department of Public Works, and THE PITTSBURGH PARKS CONSERVANCY, a Pennsylvania nonprofit corporation with its principal offices at 45 South 23<sup>rd</sup> Street, Suite 101, Pittsburgh, PA 15203-2120 ("PPC").

### WITNESSETH:

WHEREAS, the City and PPC entered into a Project and License Agreement dated August 6, 2014 (the "License") for the usage of certain classroom and office space at 1 English Lane during the construction period for the City's Frick Environmental Center ("FEC");

WHEREAS, the Agreement was set to expire at the end of the construction period for the FEC; and

WHEREAS, the City has agreed to allow PPC to continue to use certain office and storage space at 1 English Lane at no cost to PPC for so long as PPC may determine such space to be useful for PPC's park maintenance and improvement work in the City's parks.

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth herein and intending to be legally bound hereby, the parties hereto hereby agree as follows:

1. Section 1 of the License is hereby amended and restated in its entirety to read as follows:

1. The City hereby grants to PPC a license at no cost to PPC to use the office and storage space at 1 English Lane, as described in more detail in Exhibit A attached hereto and incorporated by reference herein (the "Project Sites"). The Project Sites shall be used by PPC primarily for the park maintenance and improvement work conducted by PPC's Landscape & Facilities Maintenance personnel, under the direction of PPC's Director of Landscape & Facilities Maintenance (Phil Gruszka), and may also be used by PPC for educational programming and such other purposes related to the services PPC provides to the City as PPC may determine from time to time.

2. Section 2 of the License is hereby amended and restated in its entirety to read as follows:

2. The term of this Project and License Agreement (this "License") shall be effective as of July 2013 and shall continue for so long as the License and Cooperation Agreement for the Construction, Maintenance and Operation of the Frick Environmental Center between the City and PPC dated December 18, 2013 remains in effect. Either the City or PPC shall have the right to terminate this License at any time and for any reason upon not less than thirty (30) days' prior

written notice, to be provided to PPC's Director of Landscape & Facilities Maintenance and to the City's Director of the Department of Public Works.

3. Section 3 of the License is hereby amended to add the following new third sentence:

PPC shall be permitted to store such other equipment and materials at the Project Sites as PPC may determine from time to time.

4. All other provisions of the License shall remain in full force and effect.

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

WITNESS:

CITY OF PITTSBURGH

Marshall Newman

By: Michael Gable 12/6/16

Director, Department of Public Works

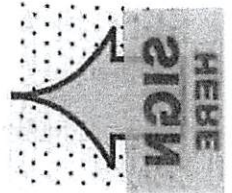
WITNESS:

THE PITTSBURGH PARKS CONSERVANCY

Paul Rollins

By: Cao  
CAO

~~President & CEO~~



## **EXHIBIT A: PROJECT SITES**

### **OFFICE & STORAGE SPACE AT 1 ENGLISH LANE**

**(For Use by PPC Landscape & Facilities Maintenance Personnel)**

The office space is located on the second floor of the Department of Public Works ("DPW") offices for Frick Park located at 1 English Lane. The office space has undergone basic improvements for usage by PPC educational programming staff since July 2013, and is accepted by PPC in its current condition.

There is also one office and storage space located on the lower level of 1 English Lane.

PPC shall be responsible for cleaning of the space. DPW will be responsible for all other maintenance and expenses including utilities for the space.





## PROJECT AND LICENSE AGREEMENT

MADE and entered into the 6th day of August, 2014, by and between the **CITY OF PITTSBURGH**, a municipal corporation existing under the laws of the Commonwealth of Pennsylvania (referred to herein as the "City")

AND

**THE PITTSBURGH PARKS CONSERVANCY**, a 501(c) (3) non-profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania (referred to herein as the "PPC") and having its principal address at 2000 Technology Drive, Suite 200, Pittsburgh, PA 15219.

### WITNESSETH:

**WHEREAS**, the PPC is currently working with the City to plan, *inter alia*, the rebuilding and maintenance of the City's Frick Environmental Center ("FEC"); and

**WHEREAS**, in order to further the design development of the FEC, the CITY and PPC desire to upgrade certain classroom and office space to facilitate the continuation of environmental education programs during the construction period for the FEC; and

**NOW THEREFORE**, in consideration of the mutual promises and covenants set forth herein and intending to be legally bound hereby, the parties hereto agree as follows:

1. CITY hereby grants to PPC a temporary license to allow for the improvement of two spaces in Frick Park. The improvements (the "Project Work") are intended to upgrade two facilities (the "Project Sites") within Frick Park: (a) Office space at 1 English Lane; and (b) Temporary shelter classroom space using trailers placed on the multi-use court between the Blue Slide Playground and the Stan Lederman Ballfield. The Project Work and the Project Sites are described in greater detail in Exhibit A, attached hereto and incorporated herein by reference. The City further grants the PPC a license to use these Project Sites in conjunction with its provision of educational programming in Frick Park during the restoration of the FEC ("EP Assistance"). A description of this EP Work is further described in Exhibit A-1, attached hereto and incorporated herein by reference.

2. The term of this Project and License Agreement (this "License") shall be effective as of July 2013 and run through the end of the construction period for the ECFP (approximately December 2015). The City shall have the right to revoke this License at any time. It is understood that if the Scope of the Project changes or if additional time is needed for Project

Work or EP Assistance after the completion of the FEC, a formal request must be submitted to the Director of Public Works in writing and an amendment to this License shall be required.

3. PPC and/or its agent(s) and contractor(s) shall have the right of ingress, egress and regress to and from the Project Sites for the purpose set forth in Paragraph 1 herein. PPC and/or its agent(s) and contractor(s) shall be permitted to store only non-hazardous equipment on or in City property.

4. This License is not intended to vest in PPC any easement or interests in the land whatsoever, other than those set forth herein. Accordingly, PPC shall not record this License at any time in the office of Recorder of Deeds in and for the County of Allegheny, Commonwealth of Pennsylvania. PPC shall obtain prior approval from the Director of Public Works before commencing the Project Work, and shall provide regular updates to the Director about progress on the Project Work. All Project construction plans must be approved by City and any alteration of previously-approved City plans must be submitted in writing to the City's Department of Public Works prior to such planned amendments. Any objections by the Director of Public Works shall be timely provided in writing and provide detail sufficient for the PPC to respond to its concerns.

5. PPC agrees to indemnify, save and hold harmless and defend City, its officers, agents and employees from and against any and all liens, charges, claims, demands, losses, court costs, attorney's fees, judgments, damages, and/or liabilities, including but not limited to those in connection with loss of life, personal injury, or damage to property occasioned wholly or in part by PPC's access to or use of City property under this License, or in any manner related to any act, error or omission of PPC or of any agent, employee, licensee, contractor or subcontractor of PPC. (This indemnification shall include (but is not limited to) claims relating to the release of hazardous and/or toxic pollutants into the environment due to Project activities. Furthermore, PPC agrees to indemnify, save and hold harmless and defend City, its officers, agents and employees from and against and all losses, claims, damages, liens, liabilities, suits, and judgments arising out of or in any manner related to any breach by PPC of any of the terms, conditions, or provisions of this License. This provision shall survive termination of this License.

6. PPC shall fully obey and comply with all federal, state, and local laws, statutes, ordinances, resolutions and administrative regulations, which are applicable to the Project. In all of its activities relating to this License, PPC shall conform to all applicable discrimination provisions of the Pittsburgh Code, specifically those appearing in Title Six "Conduct", Article V, "Discrimination", and any amendments thereto.

7. This License is non-assignable.

8. This License contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter herein shall be deemed to exist or to bind any of the parties hereto. This License may not be changed, modified, discharged, or extended except by written amendment duly executed by the parties.



9. PPC agrees to ensure that any contractor(s) performing the Project Work has accepted the provisions of the Pennsylvania Workers' Compensation and Occupational Disease Acts, as amended and supplemented, insofar as any work performed on the Project shall occur during the access on City property, and that it has insured its liability thereunder in accordance with the terms of said Acts, as evidenced by the certificate of insurance it has caused to be attached hereto as part of EXHIBIT B.

10. The PPC and all contractors of PPC performing the Project Work shall obtain the following insurance:

	Individual Occurrence	Aggregate
General Liability		
Bodily injury, including death	\$ 500,000.00	\$1,000,000.00
Property damage	\$ 50,000.00	\$ 100,000.00
Automobile liability	\$500,000.00	\$1,000,000.00
(If vehicles are being used in performing services hereunder)		
Workers Compensation	Statutory Limits	

*All general and any automobile liability policies must be made on an occurrence and not a claims-made basis, and all costs shall be borne by the contractor(s) as applicable. The City of Pittsburgh must be listed as an additional insured on all general and automobile liability policies. A copy of said policies are attached hereto as part of EXHIBIT C.*

11. The City does not assume responsibility for any damage or loss that may occur to any personal property of PPC, or of any visitors, agents, contractors, or subcontractors that is located or stored on City property. PPC shall ensure that it and/or its contractor(s) takes reasonable measures to secure equipment and other property when not in use.

12. PPC shall take all reasonable measures to secure the Project Sites from pedestrians and other persons as necessary, so as to minimize the hazards to said persons posed by the work being performed.

13. PPC shall ensure that any materials collected are disposed of in an environmentally responsible manner. Any reports submitted to PPC by its contractor(s) shall be provided to City at no charge upon request.

14. All services provided under this License shall be subject to monitoring and evaluation by City or its authorized representatives. PPC shall supply City with written reports on Project activity (including EP Assistance) as City may, from time to time, require. Authorized representatives of City shall have access to the books and records maintained by PPC with respect to any services or materials provided to City pursuant to this License at all reasonable times and for all reasonable purposes. All books and records pertaining to the Project shall be preserved by PPC for a period of three (3) years after the termination of this Agreement.

15. This License is subject to the provisions of the Pittsburgh Home Rule Charter.
16. Ownership of all alterations, additions or capital improvements constructed and paid for by PPC at the Project Sites shall vest in City upon installation, without compensation being paid therefor.
17. PPC will not create or permit to be created or to remain, and will discharge, any lien, encumbrance or charge which might become a lien, encumbrance or charge upon the Site or any part thereof having any priority or preference over or ranking on a parity with the estate, rights and interest of City in the Project Site or any part thereof.
18. PPC shall not cause or permit any work to be done upon or any materials or services furnished to any portion of the Project Site 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 Project Sites or any part thereof.
19. PPC shall be responsible for complying with all applicable zoning guidelines and laws relative to the Project Sites.
20. In the event of casualty to the Project Sites, regardless of the amount of damage or destruction, City shall be under no obligation to repair and/or replace the Project.
21. In the event that this License is terminated by City as permitted hereunder, or in the event of bankruptcy of PPC, City shall not be obligated to repay any private monies obtained by PPC for improvements to the Project Sites.
22. This License is entered into by City pursuant to Resolution No. 28 of 2014, effective February 4, 2014.
23. It is the intent of the parties that the provision set forth in Paragraph 5 (Indemnification) shall survive the expiration of the term of this License.
24. Upon completion of its work, PPC shall ensure that it/its agents, contractors and subcontractors restore, repair, replace, re-seed, or rebuild the Project Sites *and* any surrounding areas disturbed by the Project to its visual and functional equivalent immediately prior to the work. Such restoration, repair, replacement, re-seeding, or rebuilding shall be performed in accordance with prior plans and specifications approved in writing by City prior to the

commencement of the reclamation. Such reclamation shall be completed within sixty (60) days after the completion of the Project.

SIGNATURE PAGE FOLLOWS ON PAGE 5



IN WITNESS, WHEREOF, the parties have duly executed this Right of Entry on the day and year first above written.

ATTEST:

PITTSBURGH PARKS  
CONSERVANCY

Beth Bodarone  
Name of witness

By: Mary M. Chen  
President & CEO, Parks Conservancy

CITY OF PITTSBURGH

WITNESS:

Esther Friedman

By: Michael Sabie  
Director, Department of Public Works

Reviewed by: Yvonne S. Hilton  
Yvonne S. Hilton, Associate City Solicitor

Approved as to form by: [Signature]  
City Solicitor

Countersigned by: Michael E. [Signature]  
City Controller



Attest:

Jamie Drake

By: Paul Leger  
Acting Mayor

Witness: Jenna Wilson

By: [Signature]  
Director, Department of Parks & Recreation

## **EXHIBIT A: PROJECT SITE AND PROJECT WORK**

### **Environmental Center at Frick Park**

#### **Project Work Commencing Summer 2013**

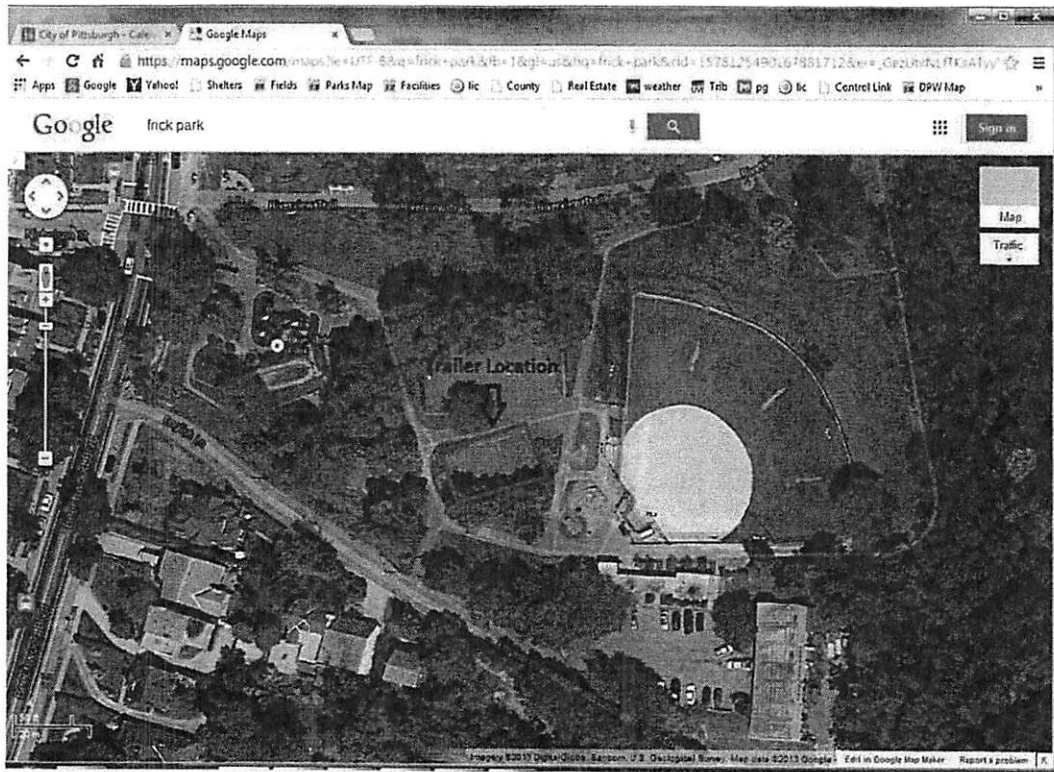
This right of entry is for the improvement of two spaces in Frick Park to accommodate the classroom and office needs to continue to provide environmental education programs during the construction period for the Environmental Center at Frick Park (approximately July 2013-December 2015). The two spaces are:

- Office space at 1 English Lane – This existing office space is on the second floor of the Department of Public Works offices for Frick Park. The space has been without a tenant for approximately 1 year. There will be basic improvements to the office to accommodate education program staff (including both Citiparks and Parks Conservancy staff) for the duration of the construction project.
- Classroom space using trailers placed adjacent to the Blue Slide Playground. This will include installation two modular classrooms, and ensuring handicapped accessibility.

Specific work includes:

- Repairs and Alterations to 1 English Lane , Pittsburgh PA 15217
  - Remove all loose furniture and debris
  - Remove all existing carpet
  - Repaint all walls and ceilings in all spaces
  - Repaint all painted woodwork
  - Clean all stained woodwork and apply one coat of satin varnish
  - Repair plaster damage under office windows
  - Existing hardwood floors to remain as is
  - Install carpet in two offices as shown in plans
  - Supply and install Forbo Marmoleum flooring at kitchen, bathroom, stair landing and upper entry
  - Clean concrete floor at lower entry- no new finish
  - Refinish wood stairs from first to second floor
  - Clean plastic lenses at all lighting fixtures
  - Relamp all lights as necessary
  - Reinstall all missing doors
  - Supply and install 24" base cabinet with top in kitchen area
  - Rekey exterior door at ballfield and interior door at top of stairs, keyed to match
  - Have existing security system inspected to verify that it can be operational.

- Auxiliary classroom space (trailers) on the multi-use court between the Blue Slide Playground and the Stan Lederman Ballfield, Frick Park
  - Modular classrooms (trailers) to be installed in level area





## EXHIBIT A-1: ENVIRONMENTAL PROGRAMMING

## Environmental Center Programs

Programs at the Environmental Center at Frick Park use the *parks as classrooms* to educate people of all ages and backgrounds about the relationship between humans and nature and the values that healthy habitats and ecosystems provide. The Pittsburgh Parks Conservancy and Citiparks staffs work collaboratively to provide hands-on opportunities for scientific inquiry, observation, creativity, exploration, and learning. Our programs encourage citizens to become lifelong stewards of our urban environment through active engagement in ecological restoration. All the programs reflect the philosophy of *education through restoration*, where children and adults learn concepts of ecological restoration through hands-on activities that actually improve the health of the parks.

### *School Programs*

The Environmental Center school programs are designed to provide multiple points of engagement so that students strengthen their understanding of scientific principles and continue to develop core skills throughout their educational careers. We provide K-12 students outdoor learning experiences that blend standards-based science education with hands-on stewardship of the local Pittsburgh environment. The programs have been developed in partnership with classroom teachers and education experts and are mapped to the PA State Standards. In combination, they offer a unified curriculum of experiential environmental education. We offer four school-based programs: *Habitat Explorers* for 1<sup>st</sup> and 2<sup>nd</sup> graders, *Park Stewards* for 4<sup>th</sup> and 5<sup>th</sup> graders, *Mission Ground Truth* for 6<sup>th</sup>-8<sup>th</sup> graders; and *High School Urban EcoStewards* for 9<sup>th</sup>-12<sup>th</sup> graders.

### *Camps*

Summer camps are geared for pre-K through middle school students. They include: *Kinder Nature Camp* a week-long, half-day camp for children three years old through first grade (10 sessions are offered); *Kids Nature Camp* for children who have completed first, second and third grades. Each grade level/session has its own camp program especially designed with the participants' interests in mind. The theme for those who have completed first grade is "Have to Have a Habitat"; for those finishing second grade, camp focuses on "Stewardship of the Earth"; those completing third grade learn about "Native American Life." (3 sessions are offered); *Outdoor Expeditions* for children who have completed fourth or fifth grades (3 sessions are offered); and *Survival Camp* for children who are interested in learning basic wilderness survival skills and have completed sixth or seventh grades (2 sessions are offered).

### *Adult Programs*

Adult programs are typically either one-day workshops or a short series of weekend workshops. Standard programs include the *Adult Survival Series* and *Urban EcoStewards* trainings, such as the *Native Seed Class*. Additional programs are offered per user interest and staff capacity.

### *Family Programs*

Seasonally appropriate family programs include *Night Explorers*, for children ages 10-14 and their parents to learn about life in the woods at night; *Bump in the Night*, which is a Halloween themed program designed for all to enjoy—rather than fear—the night, and the *Earth Day Festival*, where children and families participate in educational walks and stewardship activities in the park.

**EXHIBIT B: INSURANCE CERTIFICATE(S)**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
2/24/2014

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).

<b>PRODUCER</b> Simpson & McCrady LLC 310-330 Grant Street Suite 1320 Pittsburgh PA 15219		<b>CONTACT NAME:</b> Donna Sebesta <b>PHONE (A/C, No. Ext):</b> (412) 261-2222 <b>FAX (A/C, No):</b> (412) 261-3437 <b>E-MAIL ADDRESS:</b> donna@simpson-mccrady.com	
<b>INSURED</b> Pittsburgh Parks Conservancy 2000 Technology Drive Suite 200 Pittsburgh PA 15219		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Selective Way Ins. Co. <b>NAIC #</b> 26301 <b>INSURER B:</b> Highmark Life & Casualty Group <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	

## COVERAGES

CERTIFICATE NUMBER: 14/15 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	3/1/2014	3/1/2015	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				
			PERSONAL & ADV INJURY \$ 1,000,000				
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY			S2061724	3/1/2014	3/1/2015	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) \$				
							Underinsured motorist \$ 1,000,000
A	UMBRELLA LIAB			S2061724	3/1/2014	3/1/2015	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB		AGGREGATE \$ 2,000,000				
	<input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$						
	<input type="checkbox"/> CLAIMS-MADE						
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)		N/A	BMFA001408	3/1/2014	3/1/2015	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)  
City of Pittsburgh is named as additional insured.

## CERTIFICATE HOLDER

## CANCELLATION

City of Pittsburgh

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

ACORD 25 (2010/05)

INS025 (201005) 01

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