

Risk Review

By: BS
Date: 4-25-16

CONTRACT NO. 6509

Approved as to
form only:
D. White
Date: 4/26/2016

MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF CHEYENNE
AND CHEYENNE FRONTIER DAYS, INC.

THIS MEMORANDUM OF UNDERSTANDING, made and executed this ____ day of _____, 2016, by and between the City of Cheyenne, a municipality duly organized and existing under the laws of the State of Wyoming (“City”), whose address is 2101 O’Neil Avenue, Cheyenne, Wyoming 82001, and Cheyenne Frontier Days, Inc., a Wyoming corporation (“CFD”), whose address is P.O. Box 2477, Cheyenne, Wyoming 82003, in which the parties agree as follows:

RECITALS

1. The City owns land and buildings near Frontier Park, which have been used for parking, camping and activity purposes by CFD. Specifically, the City owns:
 - a. Land around Lake Absarraca, which is described as that area bordered by Kennedy Road on the south, Interstate 25 on the west, the Governor’s Mansion property on the northwest corner, and the Airport Golf Course on the north, northeast and east.
 - b. The “E” lot parking area described as north of Lions Park Drive, south of the Municipal Swimming Pool and east of Carey Avenue.
 - c. The City of Cheyenne Kiwanis Community House lot located in Lions Park, between the Putt Hutt miniature golf course and Sloan’s Lake.
 - d. Paved parking lots located adjacent to the Boy Scouts’ meeting house, between Sloan’s Lake and the Western Walkway, which for the purposes of this agreement are named “Tow” lots.
2. The City and CFD have, in the past, entered into MOU’s regarding the use of the City-owned parcels and structures. This MOU is substantially similar to earlier agreements.
3. During the 2016 Cheyenne Frontier Days celebration, CFD proposes to:
 - a. Provide overnight camping at Lake Absarraca, from the Sunday preceding the Cheyenne Frontier Days celebration through the Monday after the celebration ends.
 - b. Provide public parking at the “E” lot. There will be no overnight parking in the “E” lot. This additional parking for automobiles in the confines of Lions Park is to facilitate access to the Cheyenne Frontier Days Old West Museum and relieve parking pressure in “the Avenues”.

- c. Provide for storage of towed vehicles at the "Tow" lot.
- d. Provide for and host activities associated with Cheyenne Frontier Days in the City of Cheyenne Kiwanis Community House as arranged for and scheduled through the City of Cheyenne Parks and Recreation Department. Times and dates not reserved by June 1, 2016, will be made available to the public. CFD will manage and provide security for the parking lots located next to the City of Cheyenne Kiwanis Community House during their events. The cost of the security is the responsibility of CFD.

WHEREFORE, in consideration of the mutual promises by the City and CFD made each to the other, the parties agree as follows:

- 1. The CFD will:
 - a. Maintain control in the areas covered by the MOU.
 - b. Provide portable toilet facilities for the areas covered by this MOU. Clean and maintain the existing restroom facility located at Lake Absarraca.
 - c. Mark and designate camping and parking slots to maximize use of the space.
 - d. Provide car parking and revenue collectors.
 - e. Allow for public access to Lions Park along Lions Park Drive during the celebration.
 - f. Police and patrol the campground on a 24-hour basis.
 - g. Encourage RV units to utilize the CFD provided sanitation vendors.
 - h. Provide an adequate area and access for day fishermen at Lake Absarraca.
 - i. Provide proof of Insurance as follows:

INSURANCE REQUIREMENTS

CFD agrees to file with the City, Certificates of Insurance verifying each type and amount of insurance coverage listed below. Certificates will be submitted to the City prior to commencement of performance under this MOU.

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Commercial Automobile Liability	\$1,000,000 combined single limit \$5,000,000 excess or umbrella

Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Excess Liability Coverage	\$5,000,000 per occurrence \$5,000,000 aggregate
Workers' Compensation	Statutory
Employer's Liability "Stop Gap" (if afforded by voluntary Workers' Compensation)	\$500,000 each accident \$500,000 each disease-policy limit \$500,000 disease/each employee

It is understood and agreed that these policies are primary and not contributory. It shall be an affirmative obligation upon CFD to immediately notify in writing the city risk manager, city clerk, and city attorney of any fact, circumstances, or occurrence that has resulted in or may result in the cancellation or substantive change of any insurance coverage required by this MOU, and failure to do so shall be construed to be a breach of this MOU.

The City of Cheyenne shall be named as an additional insured on CFD's insurance policies, except Workers' Compensation, and the CFD shall provide upon request a copy of an endorsement providing this coverage.

In addition, CFD shall provide the City with copies of insurance policies and/or policy endorsements listing the City of Cheyenne as an additional insured. The City's failure to request or review such policies, endorsements, or certificates shall not affect the City's right or CFD's obligation hereunder.

The City has the right to reject a certificate of insurance if CFD's insurance company is widely regarded in the insurance industry as financially unstable. Any insurance company providing coverage under this MOU shall have a minimum A.M. Best rating of A- (Excellent).

- j. Provide daily clean up and final clean up of all areas covered by this MOU.
- k. Not allow permit ("sticker") parking; all parking will be fully paid.
- l. Restore the ground surface in "E" lot to its condition prior to the 2016 Cheyenne Frontier Days celebration.
- m. Provide an accounting of revenue and expenses for all revenue producing areas following the end of the 2016 Cheyenne Frontier Days celebration. Such accounting shall be submitted to the City Clerk no later than November 1, 2016.

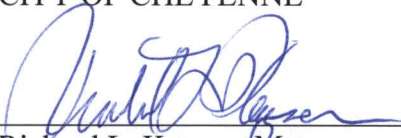
- n. Provide for responsible use of the City of Cheyenne Kiwanis Community House within the established rules and regulations for facility use, and for purposes authorized by City ordinance and resolution.
2. The City will:
 - a. Provide adequate dumpsters for the areas covered by this MOU and empty daily.
 - b. Provide daily maintenance of associated restroom facilities including all supplies.
 - c. Assist with T-post installation for fencing of the areas, as decided by the parties prior to the Monday preceding Cheyenne Frontier Days.
 - d. Provide for use of the City of Cheyenne Kiwanis Community House to include services for opening/closing, general building supervision and custodial services per standards defined within the established rules and regulations for facility use.
 3. The parties agree that the first Eleven Thousand Dollars (\$11,000.00) to be generated from the parking lot and camping rentals will be paid over to the CFD. One-half of the fees (\$5,500.00) will be the City's contribution to CFD's annual 4th of July fireworks celebration, and the other one-half (\$5,500.00) will be CFD's contribution to the 4th of July fireworks celebration.
 4. It is further agreed that the remainder of the parking lot and camping net revenue, after the contribution to the 4th of July fireworks celebration and payment of expenses associated with collection of parking and camping revenue, shall be divided equally between the parties and CFD shall deliver to the City, the City's revenue portion with the accounting of revenue and expenses pursuant to Section 1(m) of this MOU.
 5. The City agrees to rent the Tow Lot, E-Lot, Lake Absarraca Campground and use of the City of Cheyenne Kiwanis Community House to CFD for One Dollar (\$1.00).
 6. This MOU shall commence June 1, 2016, and terminate August 31, 2016, unless sooner terminated by either party upon thirty (30) days written notice.
 7. This MOU covers parking and camping on the City-owned parcels from the Sunday preceding the 2016 Cheyenne Frontier Days celebration through the Monday after the celebration ends, and provisions for reservation of the City of Cheyenne Kiwanis Community House use during the ten (10) days of the annual celebration.
 8. CFD agrees to comply with all applicable federal, state and local laws, rules and regulations.

9. The City expressly reserves the right to invoke governmental immunity for any claim arising out of this MOU pursuant to the Wyoming Governmental Claims Act, Wyo. Stat. § 1-39-101, *et seq.*
10. CFD agrees to indemnify, hold harmless and defend the City from and against any and all liabilities, claims, penalties, forfeitures and suits, and the cost and expenses incident thereto including reasonable attorney's fees, which may hereafter arise as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations or orders to the extent caused by (1) CFD's breach of any term or provision of this MOU, or (2) any negligent or wrongful act, error or omission by CFD, or its employees or subcontractors in the performance of this MOU. CFD acknowledges that it may incur a financial obligation to the City pursuant to the terms of this paragraph.
11. This MOU contains the entire understanding of the parties. There are no other terms or conditions. written or oral, concerning or controlling this matter.
12. The parties agree that this MOU shall not become effective and enforceable until it has been approved by the parties' respective governing bodies.

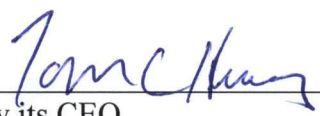
IN WITNESS WHEREOF, the parties hereto have cause these presents to be signed in their names by and through their respective authorized representatives.

May 24, 2016
 Date
 (SEAL)

Attest:
Carol Intlekofer
 Carol Intlekofer, City Clerk

CITY OF CHEYENNE

 Richard L. Kaysen, Mayor

5/24/16
 Date

CHEYENNE FRONTIER DAYS, INC.

 By its CEO

Approved
523-16

OFFICE OF THE CITY CLERK

ACTION AND PROCESSING RECORD

FOR THE GOVERNING BODY OF THE CITY OF CHEYENNE

DATE PRESENTED: MAY 9, 2016

AGENDA ITEM #: 32(i)

ENTITLED: "MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CHEYENNE AND CHEYENNE FRONTIER DAYS, INC., FOR THE USE OF CITY-OWNED LAND AND BUILDINGS FOR PARKING, CAMPING AND OTHER ACTIVITIES DURING THE 2016 CHEYENNE FRONTIER DAYS CELEBRATION."

SPONSOR:

COMMITTEE: FINANCE COMMITTEE

Agenda Item #32(i)/May 9, 2016
This item referred to Finance Committee.

CA Agenda Item #31e)/May 23, 2016
Motion (per consent agenda) carried. Voting "yes" - all members of the governing body.

CITY OF CHEYENNE - CITY COUNCIL AGENDA ITEM SHEET

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DATE OF PROPOSED COUNCIL ACTION: _____ May 9, 2016 _____

TYPE OF DOCUMENT: (_____ Ordinance) (_____ Resolution) (_____) Prelim. Plat/Prelim. PUD Zone Change) (Lease/Contract/Professional Services Agreement) (_____ Change Order/Contract Mod.) (_____ Consider Bids) (_____ Applications/Licenses/Permits) (_____ Appointments) (_____ Announcements/Reports/Motions) (_____ Other)

SPONSOR (Ordinance or Resolution): _____

LEGAL TITLE: _____ Contract No. _____

EXACT WORDING FOR AGENDA: **“MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CHEYENNE AND CHEYENNE FRONTIER DAYS, INC., FOR THE USE OF CITY-OWNED LAND AND BUILDINGS FOR PARKING, CAMPING, AND OTHER ACTIVITIES DURING THE 2016 CHEYENNE FRONTIER DAYS CELEBRATION.”**

CONTACT PERSON: Dan White PHONE: 6379 KEY DEPT. Attorney

FUNDING (1% Sales Tax/Other Funding/Grant): _____

FINANCIAL IMPACT OR PROPOSED CONDITIONS WHICH AFFECT CITY: _____

CONTRACT PARTIES' TITLE: Cheyenne Frontier Days, Inc.

CONTRACT TERM: June 1-August 31, 2016 STARTING DATE: June 1, 2016

	YES	NO	N/A
Is funding budgeted?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Were bids called for?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Affected parties notified of Council procedure & dates?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has insurance, bond or other security been arranged?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have legal descriptions been received and checked?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Agenda item approved/reviewed by:
Risk Manager () City Attorney () Department Head (_____)

General Comments: _____

Submitted by: City Attorney's Office Title: _____ Date: May 4, 2016

UPON PASSAGE OF THIS AGENDA ITEM, COPIES SHOULD BE SENT TO:
City Attorney's Office Cheyenne Frontier Days
Sanitation Division Police Department
Parks & Recreation