

**AGREEMENT BETWEEN THE CITY OF YAKIMA AND
THE YAKIMA DOWNTOWN LIONS CLUB FOR DESIGN AND CONSTRUCTION OF THE
RANDALL PARK BRIDGE REPLACEMENT**

THIS AGREEMENT is entered into between the City of Yakima (hereinafter the “City”), whose address is 129 North 2nd Street, Yakima, Washington 98901, and, the Yakima Downtown Lions Club (hereinafter the “Lions Club”), for purposes of the design and construction of the Randall Park Bridge replacement (hereinafter the “Bridge”).

WHEREAS, the City is the owner of the Randall Park (hereinafter “the Park”) located at 1399 South 48th Avenue, Yakima, Washington; and

WHEREAS, the Park is a valuable recreational resource for the community; and

WHEREAS, the City is committed to ensuring that improvements to the Park serve the best interests of the community; and

WHEREAS, the Lions Club is dedicated to enhancing the Park for the benefit of the community; and

WHEREAS, the Lions Club is willing to contribute financial resources to the City for the design and construction of a replacement for the Bridge at the Park; and

WHEREAS, the City is willing to accept the financial resources offered by the Lions Club for the design, construction and maintenance of a replacement for the Bridge at the Park;

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and performed by the parties hereto, it is hereby agreed as follows:

1. **Purpose.** The purpose of this Agreement is to define the responsibilities of the City and the Lions Club in the design, construction and maintenance of a replacement Bridge at Randall Park and to provide for effective cooperation in the implementation of the provisions set forth herein.

2. **Obligations of the Parties.**

The City shall perform the following obligations in regard to the Bridge at the Park:

A. The City shall obtain design specifications for a replacement Bridge at the Park and shall submit the proposed design to the Lions Club for review and comment;

B. The City shall be solely responsible for the design, construction and maintenance of the Park Bridge replacement project;

C. The City shall ensure the Bridge meets all required legal accessibility standards compliant with use by the handicapped;

D. The City shall maintain and repair the replacement Bridge throughout the reasonable life of the structure; and

E. The City shall take reasonable steps, as the City deems necessary and appropriate, to ensure public safety in the use and enjoyment of the Bridge.

The Lions Club shall perform the following obligations in regard to the Bridge:

A. The Lions Club shall contribute to the City a one-time cash donation of Twenty Five Thousand Dollars (\$25,000.00) to be specifically applied by the City to the design, construction and maintenance of a replacement Bridge at the Park;

B. The Lions Club shall have an opportunity to review and comment on the Bridge design when preliminary designs have been prepared by the City;

C. The Lions Club shall have no responsibility for any part of the construction or maintenance of the Bridge constructed with the assistance of the financial contribution provided to the City;

D. The Lions Club shall have the right and opportunity to name the Bridge, subject to compliance with City Resolution No. 2005-51 and the final approval of the City Council in accordance with City ordinance, the manner of presentation of the Bridge name to be cooperatively arranged between the City and the Lions;

3. Term. The term of this Agreement shall commence upon execution hereof and shall remain in effect unless the Agreement is terminated earlier by either party under Section 16 of this Agreement. The Lions Club shall provide the financial contribution to the City prior to the project going out to bid. The City shall initiate the design and construction process with due diligence and shall prosecute the construction of the Bridge in a reasonable time.

4. Administration. This Agreement shall be administered by the City's Parks and Recreation Division.

5. No Third Party Rights. This Agreement is entered into for the sole benefit of the parties. It shall confer no benefits or rights, direct or indirect, on any third parties. No person or entity other than the City and the Lions Club may rely upon or enforce any provision of this Agreement.

6. Indemnification and Hold Harmless.

A. Each party hereto agrees to maintain responsibility and assume liability in the performance of its respective obligations under this Agreement and for its own wrongful and/or negligent acts or omissions, and those of its officers, agents or employees to the fullest extent allowed by law; Upon completion of the Bridge, City shall be solely responsible for maintenance of the Bridge and shall hold Lions Club harmless from any responsibility or liability arising as a result of the wrongful and/or negligent acts or omissions of City or any third party using the Bridge.

B. The provisions of this Section shall survive the termination or expiration of this Agreement.

C. Nothing contained in this Section or this Agreement shall create a liability or a right of indemnification in any third party.

7. Nondiscrimination. During the performance of this Agreement, the Parties shall not discriminate in violation of any applicable federal, state and/or local law or regulation on the basis of age, sex, race, creed, religion, color, national origin, marital status, disability, honorably

discharged veteran or military status, pregnancy, sexual orientation, and any other classification protected under federal, state, or local law. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of services under this Agreement.

8. Compliance With Law. The Parties to this Agreement shall comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this Agreement.

9. Waiver of Breach. A waiver by either party hereto of a breach of the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition or right.

10. Dispute Resolution. The City and the Lions Club shall meet to discuss any outstanding issues related to the design of the Bridge and the implementation of this Agreement in order to resolve any potential disputes through cooperation and negotiation.

11. Integration. This Agreement contains all of the terms and conditions agreed on by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement, are deemed to exist or to bind either of the parties.

12. Modifications. The parties may modify this Agreement but no proposed changes or modifications shall have validity or become binding on either party unless such changes or modifications are in writing and executed by both parties.

13. Severability.

A. If a court of competent jurisdiction holds any part, term or provision of this Agreement illegal or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held invalid.

B. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

14. Termination. The parties may terminate this Agreement, with or without cause, by written notice from either party to the other party thirty (30) days in advance of the termination, up to and including the date of bid advertisement, after which termination shall not be permitted.

15. Survival. Any provision of this Agreement which imposes an obligation after expiration or termination of this Agreement shall survive the expiration or termination and shall bind the parties.

16. Notices. Unless otherwise stated herein, all notices and demands are required in written form and sent to the parties at their addresses as follows:

TO: CITY OF YAKIMA
Tony O'Rourke, City Manager
City of Yakima
129 North Second Street
Yakima, WA 98901

TO: YAKIMA DOWNTOWN LIONS CLUB:
Cheryl Lizotte
Yakima Lions Club
P.O. Box 421
Yakima, Washington 98907

17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

18. Filing. Copies of this Agreement shall be filed with the Yakima County Auditor or posted on the City's web site pursuant to RCW 39.34.040.

CITY OF YAKIMA

YAKIMA DOWNTOWN LIONS CLUB

Tony O'Rourke, City Manager

Cheryl Lizotte, President, Downtown Lions Club

Date Signed

Date Signed

ATTEST:

Sonya Claar - Tee, City Clerk