



CITY OF COEUR D'ALENE

PARKS & RECREATION DEPARTMENT

CITY HALL, 710 E MULLAN AVENUE
COEUR D'ALENE, IDAHO 83814
208-769-2252 FAX: 208-769-2383

Mission Statement

To actively strive to provide a quality park system that offers a diverse range of experiences, preserves local resources, and provides a safe, pleasant, and enjoyable environment.

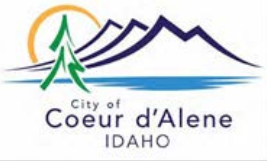
Parks & Recreation Commission Meeting Community Room - Library

AGENDA

February 27, 2023 – 5:30 pm

- 1) Roll Call
- 2) Pledge of Allegiance
- 3) “Conflict of Interest” Declaration
- 4) Approval of January 23, 2023 Minutes – *Action Item*
- 5) Staff Comments
- 6) Commissioner Comments
- 7) Public Comments (Comments limited to **3** minutes)
- 8) Fire Boat Garage Dock Ordinance Amendment– *Information Item*
- 9) Brooke’s Seaplane Agreement Renewal– *Action Item*
- 10) Davis Enterprises Agreement Renewal – *Action Item*
- 11) Next Meeting / Adjournment:
 - Monday, March 20, 2023-5:30 pm-Library Community Room

The City of Coeur d’Alene will make reasonable accommodations for anyone attending this meeting who requires special assistance for hearing, physical or other impairments. Please contact the Parks Department at (208)769-2252 at least 72 hours in advance of the meeting date and time.



CITY OF COEUR D'ALENE

PARKS & RECREATION DEPARTMENT

CITY HALL, 710 E. MULLAN AVENUE
COEUR D'ALENE, IDAHO 83816-3964
208-769-2252 – FAX 208-769-2383

PARKS & RECREATION COMMISSION MINUTES

January 23, 2023 – 5:30 p.m.
COMMUNITY ROOM - LIBRARY

MEMBERS PRESENT:

Scott Cranston, Chair
Warren Bakes
Jim Lien
Ginny Tate
Christie Wood, Council Liaison

STAFF PRESENT:

Bill Greenwood, Parks & Recreation Director
Melissa Brandt, Transcriptionist
Nick Goodwin, Urban Forester

ABSENT:

Mike McDowell
Bridget Hill

CALL TO ORDER: Commissioner Cranston called the meeting to order at 5:30 p.m.

1. ROLL CALL

Five members present, resulting in a quorum.

2. PLEDGE OF ALLEGIANCE

Commissioner Tate led the Pledge of Allegiance.

3. CONFLICT OF INTEREST

Commissioner Lien: As a musician and someone who has played at the Summer Concert series in City Park, will abstain from voting on items 10 and 11.

4. APPROVAL OF MINUTES – Action Item

Commissioner Tate made a motion to approve the minutes of November 14, 2022. Commissioner Bakes seconded the motion, there being no discussion and all being in favor, motion passed unanimously.

5. STAFF COMMENTS

Director Greenwood: Recreation side basketball program continues to grow grades 3-12 we had 600 participants and have 300 signed up for K-2 grade. Swim classes continue to be popular and we offer special needs swim classes as well. Adam Rouse has done an excellent job scheduling the Jewett House, funds collected from last year will help with extensive plumbing work. There are 14 events scheduled and 6 pending for this year. We will not have to use general funds for repairs. Docks at harbor center should be ready for use in May. Fireboat garage has been installed at 3rd street. Mooring dock grant to be submitted this week to do some repairs at the docks at the same area as the garage. We have \$150,000 earmarked and will receive \$350,000 match to get the work done. Nick Goodwin and Monte McCully are working on fuel

mitigation at Tubbs Hill. We have funds set aside for this Tubbs Hill project. We are matching \$20,000 and Tubbs Hill Foundation will contribute \$12,000. We have two new positions to fill and will be doing interviews this week, these are entry level ground maintenance worker positions. Continue to have struggles with the Riverstone shade structure. Drilling will take place with a well driller, posts have to go down 14 feet. Commercial dock repairs have been taking place with reclaimed wood from another project, replacing a good portion, repairs completed before the season. New standup desk here for meetings with modifications by Larry Walter. Ice rink has done very well this year. The agreement usually ends the second week he extended to January 29. Great feature, very successful, positive comments.

Commissioner Cranston: Increased numbers with recreation programs. How are we doing with staff and facilities? Greenwood: We are doing okay, difficult to find people to do supervision in gyms, scorekeepers, and officiating. We are experiencing some issues with how the parents behave, that is a deterrent for some younger officiants.

Commissioner Cranston: You mentioned replacement of mooring docks. Is that coming from the waterfront budget? Greenwood: Yes.

Commissioner Wood: Waterfront improvement grant is administered from the State. Is that competitive? Greenwood: Monies are allocated in Boise from the Federal Government. Boise keeps some of those funds, up in this area we try to work with other agencies to make sure we're not competing. The County was going to go after this grant but the project is a year out, they will apply next year.

6. COMMISSIONER COMMENTS

Commissioner Wood: Introduced Kaitlyn Miller, she is job shadowing and is doing her senior project on public officials.

7. PUBLIC COMMENTS

None.

8. VETERAN'S CENTENNIAL PARK COUNTY MOU – Action Item

Commissioner Cranston read the staff report for the record.

Nick Goodwin: Natural area gifted to the City of Coeur d'Alene in 1999. We've had a goal to reduce fuels at this site for some time. Funding will come from the current project. The first step is to remove timber selected due to high risk and disease. The MOU is to allow for funds to go to the County to help for further activities. The property for fuel reduction is 2.5-3 acres. Very simple project. This is the agreement approves getting the grant. There will be public meetings regarding this project. Our master plan includes a goal to clean this area, improve safety for the residents abutting this area and it will also improve trail access.

Commissioner Tate made a motion to recommend that City Council approve this agreement as it is both beneficial to the City of Coeur d'Alene as the property owner and the public in helping to achieve the parks department's goals regarding Veteran's Centennial Park. Commissioner Wood seconded the motion. There being no further discussion, motion passed unanimously.

9. TUBBS HILL GRANT UPDATE – Information Item

Director Greenwood: Tubbs Hill fuel mitigation mentioned during staff comments. Grant has been submitted, in competitive bid process with other agencies. We have a match of \$32,000. This grant will be about a quarter million dollars.

10. RIVERSTONE CONCERT SERIES AGREEMENT RENEWAL – Action Item

Commissioner Cranston read the staff report for the record.

Director Greenwood: The deposit amount is new for the contract. Once we set these agreements, we can't go back and change them. Sometimes the events have overages in staff time. The deposit gives us the opportunity to withhold additional fees for those overages. Acts for this smaller area will also be reviewed to make sure they don't overwhelm. Originally there were ten dates, in order to cut costs, Arts & Culture Alliance decided to only produce nine this year.

Commissioner Wood made a motion to recommend that City Council approve this three-year agreement with the Coeur d'Alene Arts & Culture Alliance for the Riverstone Park Summer Concert Series. Commissioner Bakes seconded the motion. There being no further discussion, vote was taken; aye votes: Wood, Tate, Bakes, abstention-Lien. Motion passed.

11. SUMMER CONCERT SERIES AGREEMENT – Action Item

Commissioner Cranston read the staff report for the record.

Director Greenwood: Michael Koep is here today to answer any questions and we are grateful he came forward with interest in producing the series. For more than 20 years, Chris Guggemos produced these concerts enjoyed by many. We are working with the Rotary club to replace some trees lost in city park from wind damage. Nick Goodwin is looking for a particular tree to plant in Chris' memory it will be planted near the bandshell.

Michael Koep: Playing music in Coeur d'Alene since the 80's. Exciting to have it fall into his lap. A nice place for local musicians to play in the city. He will work at making things more streamlined. Also helped guide the Riverstone Concert Series. He will work to honor Chris' history and legacy.

Commissioner Tate made a motion to recommend City Council approve the three-year agreement with Koep Concerts for the summer concert series in City Park. Commissioner Wood seconded the motion. There being no further discussion vote was taken; aye votes: Wood, Tate, Bakes, abstention-Lien. Motion passed.

12. NEXT MEETING / ADJOURNMENT

Commissioner Cranston

Next meeting date:

- Monday, February 27, 2023: 5:30 p.m., Meeting; Library Community Room

Commissioner Bakes made a motion to adjourn the meeting Commissioner Lien seconded the motion. There being no further discussion, motion passed unanimously. Meeting adjourned at 6:08 pm.

ORDINANCE NO. _____
COUNCIL BILL NO. 23-

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF COEUR D'ALENE MUNICIPAL CODE § 4.20.060 PROHIBITING MOORAGE AT THE FIRE BOAT GARAGE DOCK; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF.

WHEREAS, it is deemed by the Mayor and City Council to be in the best interests of the City of Coeur d'Alene that said amendment be adopted;

NOW, THEREFORE,

BE IT ORDAINED, by the Mayor and City Council of the City of Coeur d'Alene:

SECTION 1. *That section 4.20.060 of the Coeur d'Alene Municipal Code be amended as follows:*

4.20.060: VESSEL MOORING; TIME; OTHER RESTRICTIONS AT CITY DOCKS:

A. Commercial Dock: No person other than a lessee of space shall operate or moor any vessel at bays one through four and six through eight of the city commercial dock located at Independence Point.

B. Mill River Park Dock: No person shall moor a vessel at the dock located at the Mill River Park at any time between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. or for more than six (6) hours during any twelve (12) hour period.

C. First Street Dock: No person shall moor a vessel at the dock located at the south end of First Street at any time between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. or for more than six (6) hours during any twelve (12) hour period.

D. Third Street Docks: Boats moored at the docks located at the south end of Third Street are subject to the following regulations:

1. No person shall moor a vessel for more than twenty (20) minutes along any launch docks.

2. Unless otherwise restricted by this section, vessels may be moored, in designated slips, at the south end of Third Street, other than those designated as twenty (20) minute zones or for use by official city vessels only, without a moorage fee.

3. Unless otherwise restricted by this section, vessels may be moored at the docks for up to forty eight (48) hours or two (2) consecutive nights and must pay the hourly fee for moorage.

4. No vessel may be moored at any time for more than forty eight (48) hours or two (2) consecutive nights.
5. No vessel may be moored at any bay of any dock if the vessel's length exceeds the length of the bay.
6. No barbecuing, open flames, smoking, or open containers of alcoholic beverages shall be allowed at any time upon any of the docks.

E. Fire Boat Garage Dock: No person shall moor a vessel at the Fire Boat Garage Dock located at Third Street Docks at any time.

SECTION 2. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3. The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein.

SECTION 4. After its passage and adoption, a summary of this Ordinance, pursuant to the provisions of the Idaho Code, shall be published once in the official newspaper of the City of Coeur d'Alene, and upon such publication this Ordinance shall be in full force and effect.

Passed under suspension of rules upon which a roll call vote was duly taken and duly enacted an Ordinance of the City of Coeur d'Alene at a regular session of the City Council on _____, 2023.

APPROVED, ADOPTED and SIGNED this _____ day of _____, 2023.

James Hammond, Mayor

ATTEST:

Renata McLeod, City Clerk

SUMMARY OF COEUR D'ALENE ORDINANCE NO. _____
Amending § 4.20.060 of the Coeur d'Alene Municipal Code,

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF COEUR D'ALENE MUNICIPAL CODE § 4.20.060 PROHIBITING MOORAGE AT THE FIRE BOAT GARAGE DOCK; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF. THE FULL TEXT OF THE SUMMARIZED ORDINANCE NO. _____ IS AVAILABLE AT COEUR D'ALENE CITY HALL, 710 E. MULLAN AVENUE, COEUR D'ALENE, IDAHO 83814 IN THE OFFICE OF THE CITY CLERK.

Renata McLeod, City Clerk

STATEMENT OF LEGAL ADVISOR

I, Randall R. Adams, am City Attorney for the City of Coeur d'Alene, Idaho. I have examined the attached summary of Coeur d'Alene Ordinance No. _____, Amending section 4.20.060 of the Coeur d'Alene Municipal Code, and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the context thereof.

DATED this ____ day of _____, 2023.

Randall R. Adams, City Attorney

**PARKS & RECREATION COMMISSION
STAFF REPORT**

Date: February 27, 2023
From: Bill Greenwood, Parks & Recreation Director
SUBJECT: **Brooke's Seaplane Lease Agreement** (*General Services Action Required*)

DECISION POINT:

Should the Parks & Recreation Commission recommend approval of this lease with Scenic Adventure Flights LLC d/b/a Brooke's Seaplane Service (Shane Rogers)?

HISTORY:

Brooke's Seaplane has been leasing Bay 5 on the commercial dock and providing plane rides over our region for over 30 years and is a favorite attraction with our community and visitors alike.

FINANCIAL ANALYSIS:

The Lessee agrees to pay as rental for the right of such moorage space and the use of said portion of said dock for the first year of the lease, the sum of Seven Thousand Ninety-Nine and 08/100 Dollars (\$7,099.08) payable on April 1, 2023 as follows: Six Thousand Nine Hundred Fifty-Nine and 88/100 Dollars (\$6,959.88), based on a monthly rental of Five Hundred Seventy-Nine and 99/100 Dollars (\$579.99), and One Hundred Thirty-Nine and 20/100 Dollars (\$139.20) which is the 2% fee assessed by the Department of Lands as identified in Section 4, for the period of April 1, 2023, through March 31, 2024. Annual fee increases will be calculated based on the previous years' fee plus the Consumer Price Index (CPI) Western for all urban consumers for the year prior to the lease year. The rent will be payable on or before the first day of April in each succeeding year of the lease.

PERFORMANCE ANALYSIS:

Brooke's Seaplane has an existing lease in place through 2022. This new lease with Scenic adventure flights is a five (5) year lease commencing April 1, 2023, and ending March 31, 2028. The lessee may request in writing a five (5) year extension of this agreement for the period from April 1, 2028, to March 31, 2033, by submitting to Lessor a written request for extension after April 1, 2027, and prior to September 1, 2027.

DECISION POINT / RECOMMENDATION:

The Parks & Recreation Commission recommends approval of this lease with Scenic Adventure Flights LLC d/b/a Brooke's Seaplane Service.

LEASE AGREEMENT

THIS LEASE is entered into this _____ day of _____, 2023, by and between the **CITY OF COEUR D'ALENE**, a municipal corporation organized and existing under the laws of the state of Idaho, whose address is 710 E. Mullan Avenue, Coeur d'Alene, Idaho 83814, hereinafter referred to as the "Lessor," and **SCENIC ADVENTURE FLIGHTS, LLC, dba BROOKE'S SEAPLANE SERVICE**, with its mailing address as 10390 North Sensor Avenue, Hayden, Idaho 83835, hereinafter referred to as the "Lessee."

W I T N E S S E T H:

That the Lessor, for and in consideration of the rents and covenants hereinafter mentioned to be paid and performed by the Lessee, does hereby lease and let unto the Lessee the following described moorage on the South side of the City Dock, to wit:

THAT SPACE DESCRIBED AS BAY 5 ON THE SOUTH SIDE OF
THE CITY DOCK.

Said bay is depicted on the attached drawings identified as Exhibit "A," and by this reference incorporated herein.

Section 1. Term: The term of this lease shall be five (5) years commencing April 1, 2023, and ending March 31, 2028. Any property left beyond March 31, 2028, will be impounded and returned to the Lessee only upon payment of reasonable impounding costs, fees, and storage. All rent is to be paid in advance as described below.

Section 2. Rental: The Lessee agrees to pay as rental for the right of such moorage space and the use of said portion of said dock for the first year of the lease, the sum of Seven Thousand Ninety-Nine and 99/100th Dollars (\$7,099.08) payable as follows: Six Thousand Nine Hundred Fifty-Nine and 88/100 Dollars (\$6,959.88), based on a monthly rental of Five Hundred Seventy-Nine and 99/100 Dollars (\$579.99), payable on April 1, 2023, for the period of April 1, 2023, through March 31, 2024, and One Hundred Thirty-Nine and 20/100 Dollars (\$139.20) which is the 2% fee assessed by the Department of Lands as identified in Section 4. Annual fee increases will be figured based on the previous years' fee plus Consumer Price Index (CPI) Western for all urban consumers for the year prior to the lease year. The rental will be payable on or before the first day of each succeeding year of the lease.

Section 3. Renegotiation: Lessee may request in writing a five (5) year extension of this agreement for the period from April 1, 2028, to March 31, 2033, by submitting to Lessor a written request for extension after April 1, 2027, and prior to September 1, 2027. Upon receipt of such request, the Lessor will consider whether it will grant an additional five (5) year extension and if so, the parties may mutually renegotiate terms applicable to said extension.

If the parties are unable to negotiate terms mutually agreeable to both parties within sixty (60) days of the date of receipt of the request from Lessee for an extension of the original agreement or extension of the extended agreement, then no extension shall occur and the lease shall expire according to previously agreed upon terms.

Section 4. Additional Rental: The State of Idaho Land Board has initiated a fee or other charge against the Lessor, during the term of this lease, for maintenance, operation, placement, and

use of the City Dock, the Lessee shall pay to the Lessor its proportionate share of such rental or fee which for the first year of this lease is \$131.69, or 2% of the annual fee. This fee is included in Section 2 and, should the State of Idaho charge any other or additional fee, Lessee shall be responsible for a proportionate share.

Section 5. Utilities: The Lessee agrees to pay all electrical services and other utility costs incurred at said dock.

Section 6. Maintenance: The Lessee agrees at Lessee's sole cost within 5 five days to repair any damage done to the City Dock, including but not limited to decking, railings, pilings, walkways, and float logs, caused by the Lessee, Lessee's employees, agents, customers, or equipment and to promptly notify the City Parks Director of any such damages. Lessee is expected to not conduct any activity, or operate equipment in any manner that could potentially cause damage to the City Dock, including but not limited to decking, railings, pilings, walkways, and float logs.

Section 7. Improvements or Construction: The Lessee shall not construct anything on or about said dock without the written consent of the Director of Parks. The Lessee agrees that City has the right to reconstruct and modify, including expansion of the dock, at any time during the term of the Lease. Lessee further agrees that it shall have no claim against Lessor for any inconvenience or lost income that may result from reconstruction, modification, or expansion of the dock.

Section 8. Signs: Except as set forth in this section and in Section 10, entitled "Souvenir Sales," no signs for advertising purposes or otherwise shall be attached to the dock or affixed in the area adjacent to the dock, except a small sign designating the owner or the name of the boat and its location, which sign must be approved by the Director of Parks and be in conformance with the Municipal Sign Code.

Section 9. Alcoholic Beverages: The Lessee shall not dispense by gift, sale or otherwise, or allow anyone else on the deck or watercraft for which the space is leased, to dispense by gift or sale, or otherwise, any alcoholic beverage, including but not limited to beer and wine, within the City limits of the City of Coeur d'Alene which extends 1,000 feet from the shoreline. The Lessee shall not permit any person to debark from the watercraft to the City dock with any opened, sealed or unsealed container of any alcoholic beverage.

Section 10. Souvenir Sales: The Lessee may sell from the dock non-food items directly related to its business, with the following conditions. The only items that may be sold are hats, t-shirts, sweatshirts, mugs, drinking cups, bumper stickers, and pennants provided such items either bear the Lessee vendor's logo or some other mark indicating a relation to the Lessee vendor's business. Provided, however, that sales and display of the items are to be confined to the interior of their respective booths, which booths and location must be approved in writing by the Parks Director prior to placement and must be removed from the premises at the close of each day. Signs advertising the items for sale must be approved by the Parks Director and be in conformance with the Municipal Sign Code. The City reserves the right to direct Lessee to immediately cease the sale of souvenir items if in the City's sole discretion, the continued sale of souvenir items creates an unsafe condition upon the City's dock. In such event, Lessee shall have no claim for damages against Lessor.

Section 11. Use of Leased Premises: It is understood and agreed that the Lessee will use the leased premises and any dock extension owned by the Lessee only for the moorage of his seaplanes, to offer rides in seaplanes to the public, and to student fliers participating in his seaplane

flying school, to sell gasoline to other seaplanes and, when necessary in emergencies caused by weather conditions or the condition of visiting seaplanes, to allow such seaplanes to be moored or stored on or at the part of the dock being leased by the Lessee. The Lessee shall make no sales from the dock of merchandise of any type including but not limited to watercraft, food, beverages, except the sale of gasoline to other seaplanes and souvenir sales as allowed by Section 10 entitled "Souvenir Sales." It is further understood and agreed that the general public shall at all times be invited to patronize the Lessee and shall have free access to and from the dock and the use thereof without charge by the Lessee. Lessor, or its Parks Director, shall approve the manner of the moorage of the seaplanes or of the dock extension. Due to increased water activity on the 4th of July, access to the dock will be restricted for commercial activity from 6:00 p.m. to the following morning.

Section 12. Liability: The Lessee covenants to defend, indemnify, and hold the Lessor harmless from any and all demands, loss or liability resulting at any time or times from injury to or the death of any person or persons and/or from damage to any and all property occurring from the negligence or other fault or omission of the Lessee, Lessee's agents, employees and/or patrons in and about the leased premises, on or about or during cruises, flights, other activities associated with Lessee's use, or resulting from noncompliance with any law, ordinance, or regulation respecting the condition, use, occupation, sanitation or safety of the leased premises or any part thereof. The phrase in and about the leased premises shall mean the City Dock and all other areas owned, maintained, or regulated by Lessor upon which Lessee's customers and potential customers, invitee's, employees, and agents utilize in the course of his/her cruise, flights, other activities associated with Lessee's use, or inquiry about the same on Lessee's watercraft or in the course of access to or egress from Lessee's watercraft, including specifically, but not limited to, the waters surrounding the dock, the beach, sidewalks, ramp, parking areas, and other amenities and structures whether natural or manmade in the vicinity of the City Dock upon which or by which a customer, potential customer, invitee, employee, and agent of Lessee crosses until that person has left City property. To this end, the Lessee shall at its own expense obtain a policy or contract of insurance or comprehensive liability plan naming the Lessor as an additional insured, which policy, contract or plan shall insure against loss for personal injury or death or property damage in an amount of at least One Million Dollars (\$1,000,000). Insurance coverage shall include coverage for those claims which arise in and about the leased premises as defined above. A copy of such policy shall be filed in the office of the City Clerk together with a certificate of insurance showing such policy to be in effect at all times during the term of this lease. The certificate of insurance in a form acceptable to the City shall provide at least thirty (30) days written notice to the Lessor prior to cancellation of the policy. This policy must run for the entire period of this lease.

Section 13. Assignability: Lessee shall not assign the lease or sublet the bay, or any part thereof, during the term hereof, without first having obtained the written consent of the Lessor to do so.

Section 14. Filing of Charges and Schedules: The Lessee shall at all times during the term hereof keep on file with the City Clerk of Coeur d'Alene a current schedule of its hours of operation and charges to the public.

Section 15. Interference with Use by Other Lessees: The Lessee shall not hamper or interfere with the use of the dock or other moorage spaces leased by the Lessor to other lessees.

Section 16. Removal in Emergency: Should it appear to the Lessor that because of flooding or other danger, the property of the Lessor is endangered by the mooring of watercraft, the Lessee shall, immediately after receiving notice, remove the watercraft from the leased premises

until the danger has ceased as determined by Lessor.

Section 17. Other Laws: Lessee agrees it shall comply with all local, state, and federal laws, statutes, rules and regulations, including agency rules and regulations, which may apply to Lessee's use of the leased premises.

Section 18. Underground Fuel Tanks(s): Lessee agrees to provide all inspection reports and documents to the Parks & Recreation Director with 5 business days of receipt.

Section 19. Default: In the event that the Lessee fails, neglects, or refuses to perform any covenant or condition required of Lessee herein, Lessor may terminate this lease and reenter and retake possession of the leased space, retaining any and all payments made by the Lessee as liquidated damages, or the Lessor may, at its option, enforce the specific performance of the terms hereof, or take such other recourse as may be open to it in law or in equity. In any of such events, the Lessee agrees to pay all expenses, including a reasonable attorney's fee, in any suit or action brought by the Lessor.

Lessee further agrees, in the event of default, that Lessor may impound property moored at or on the dock and store the same at Lessee's expense at a location chosen by Lessor.

Section 20. Notice: Provided, however, that before declaring such default, the Lessor shall notify the Lessee in writing of the particulars in which it deems the Lessee to be in default, and the Lessee shall have seven (7) days from the time such written notice has been placed in the United States Mail addressed to the Lessee at the last address the Lessee has left with the Lessor, with proper postage affixed, within which to remedy the default. Any notice required herein to be given to City shall be written and deemed received by City when personally delivered to the office of the City Clerk, 710 Mullan Avenue, Coeur d'Alene, Idaho 83814. Any notice required herein to be given to Lessee shall be written and deemed received by Lessee when addressed to 10390 North Sensor Avenue, Hayden, Idaho 83835, and deposited in the United States mail with proper postage affixed thereto. In lieu of service by mail, a notice of default or of termination may be served in the manner provided for the service of process under the Idaho Rules of Civil Procedure, Rule 5(b).

Section 21. Lessor's Option to Terminate Lease: The Lessor may at any time after ten (10) day's written notice terminate this lease, retake possession of the leased space upon payment to the Lessee of the prorated, unearned portion of the lease payment. The notice of the exercise by the Lessor of its option to terminate the lease will identify any infraction in this agreement that causes termination, or the city may terminate the agreement for construction, access, or other needs or uses of said lease site.

Section 22. Time of the Essence: Time is of the essence of this Lease.

Section 23. Parking: The parties recognize that the city is involved in a process of developing a downtown public properties plan that may modify, move or eliminate some parking in the present downtown public parking lots. Lessee acknowledges and agrees that this may occur and may affect the parking areas presently used by Lessee's customers. In the event of said occurrence Lessee hereby releases, holds harmless and waives any claim whatsoever Lessee may have against the Lessor its employees, agents, elected and appointed officials in the event parking is modified.

The terms and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, and assigns of the respective parties.

IN WITNESS WHEREOF, the Lessor has caused this lease to be executed by its Mayor and attested by its City Clerk, and the corporate seal hereunto affixed, and the Lessee has signed the same, the day and year first above written.

LESSOR:
CITY OF COEUR D'ALENE

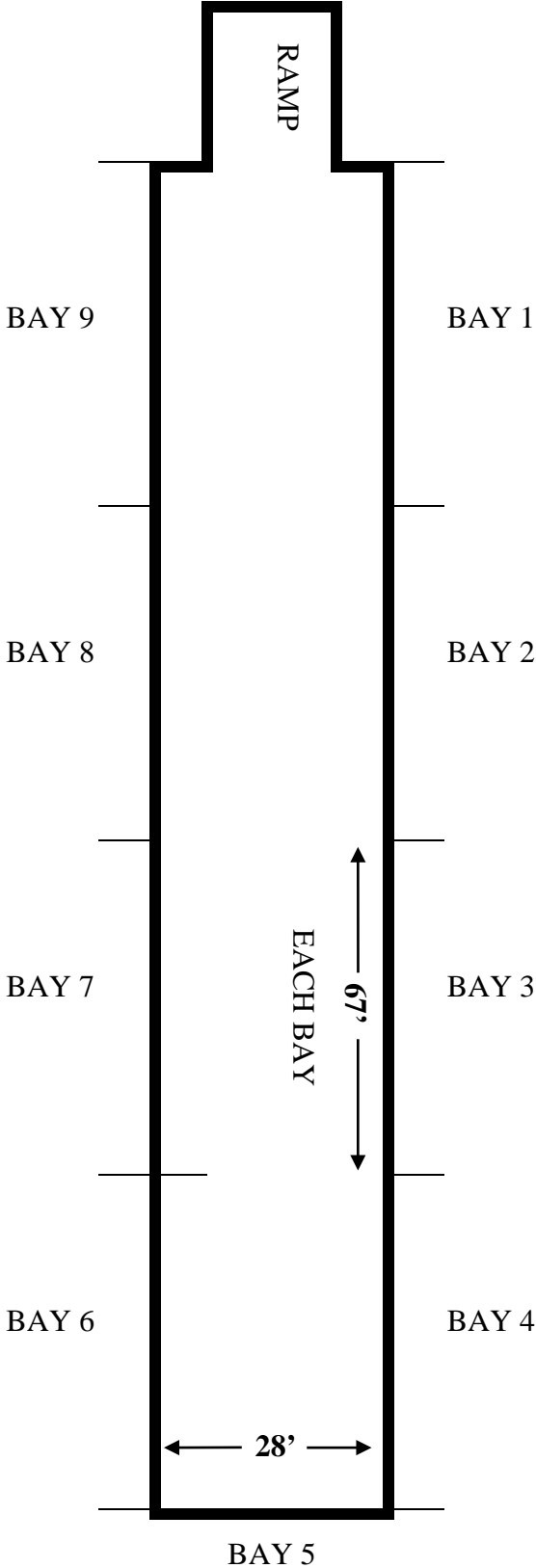
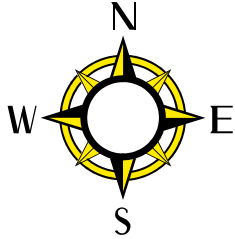
LESSEE:
**Scenic adventure flights, llc d/b/a BROOKS
SEAPLANE SERVICE**

By: _____
James Hammond, Mayor

By: _____
Shane Rogers, Manager

By: _____
Renata McLeod, City Clerk

EXHIBIT "A"



Scenic adventure flights, LLC

**PARKS & RECREATION COMMISSION
STAFF REPORT**

Date: February 27, 2023

From: Bill Greenwood, Parks & Recreation Director

SUBJECT: DAVIS ENTERPRISE DBA LIVE AFTER 5 EVENTS AGREEMENT
(General Services Action Required)

DECISION POINT:

Should the Parks & Recreation Commission recommend that Council approve this five-year agreement with Davis Enterprise dba Live After 5 Events for the Live After 5 Concerts at McEuen Park?

HISTORY:

Davis Enterprises dba Live After 5 Events has been operating and producing Live After 5 concerts in McEuen Park since 2017, with great success and the concerts have been well received by the community. The concert performances are on Wednesday evening beginning the first week of June through the first Wednesday in September.

FINANCIAL ANALYSIS:

The City of Coeur d Alene does not have any financial outlay for Live After 5 concerts. Thirty days prior to the first concert, Davis Enterprise dba Live After 5 Events will pay the Parks and Recreation Department \$1,200.00 for each of thirteen (13) concerts for a total of \$15,600.00, together with a \$5,000 security deposit for the years 1-5. The fee will increase each subsequent years of the contract to account for inflation. The funds received for the concerts go into parks capital improvements.

PERFORMANCE ANALYSIS:

Attached is the agreement for Live at 5. The agreement spells out the responsibilities and expectations and responsibilities for Live at 5 and the city. With the success of the concerts, the parks department is comfortable entering into this updated agreement. Davis Enterprise dba Live After 5 Events will comply with all Police and Fire Department requirements.

DECISION POINT:

Parks & Recreation Commission recommendation to City Council to approve this five-year agreement with Davis Enterprise dba Live After 5 Events for the Live After 5 Concerts at McEuen Park?

WEEKLY CONCERT SERIES AGREEMENT

THIS WEEKLY CONCERT SERIES AGREEMENT is made and entered into this ____ day of _____, 2023, between the **CITY OF COEUR D'ALENE**, Kootenai County, Idaho, a municipal corporation duly organized and existing under the laws of the State of Idaho, hereinafter called the "City," and Davis Enterprises dba Live After 5 Events dba Live After 5 Events, an Idaho corporation with its principal place of business at 3576 West Greenchain Loop, #7, Coeur d'Alene, Idaho 83814.

WITNESSETH:

WHEREAS, Davis Enterprises dba Live After 5 Events owns and operates "Live After Five," which has been held at McEuen Park (the "Park") for several years; and

WHEREAS, Davis Enterprises dba Live After 5 Events' Live After Five may include, but will not be limited to, arts and craft vendors, alcohol vendors, food vendors, and entertainers; and

WHEREAS, Davis Enterprises dba Live After 5 Events' Live After Five is a weekly concert series held during the summer on Wednesday evenings at the Park; and

WHEREAS, three of Davis Enterprises dba Live After 5 Events' Live After Five concerts in 2023 may be ticketed events with a maximum occupancy of 6,000 attendees. Entertainers for the large ticketed events must have prior approval by the Parks & Recreation Department. For these ticketed concerts Davis Enterprises dba Live After 5 Events may begin setting up in the Park on Tuesdays at 8:00 a.m. and have until Thursdays at 5:00 p.m. for tear down.

NOW, THEREFORE, IT IS AGREED that, for and in consideration of the covenants and agreements set forth herein, Davis Enterprises dba Live After 5 Events is awarded this Agreement according to the terms set forth herein and under the penalties expressed herein.

Section 1. Recitals Incorporated and Definition: The parties agree the Recitals set forth above are accurate and are hereby incorporated as part of this Agreement. For purposes of this Agreement, the parties agree that the term "employee" shall include board members of Davis Enterprises dba Live After 5 Events, subcontractors, and any volunteers that would assist them during the event.

Section 2. Community Relations: Davis Enterprises dba Live After 5 Events agrees that they, their employees and/or subcontractors will be courteous and informed about the community and will assist with questions from tourists and other Park users.

Section 3. Appropriate Attire: Davis Enterprises dba Live After 5 Events agrees its employees and/or subcontractors shall be appropriately dressed in either an approved T-shirt or polo shirt with identifying logo. Approval of dress must be received from the Parks & Recreation Director. The Parks & Recreation Director's approval will not be unreasonably withheld. This requirement does not apply to entertainers, food vendors, arts and craft vendors, and alcohol vendors.

Section 4. Staffing: Davis Enterprises dba Live After 5 Events agrees the event will be staffed

by at least six employees and/or subcontractors from set up through tear down of equipment. At least four of the staff for the concerts are required to be legitimate, licensed and bonded security personnel, the other two are to be employees or representatives of Davis Enterprises dba Live After 5 Events.

Section 5. Health Permit: Davis Enterprises dba Live After 5 Events agrees that all food vendors are to obtain a health permit as required by law for a food concession that may be part of the event. The permit must be placed in a conspicuous place on the concession. The permit number must correspond to the number on the trailer. The intentional or reckless failure of Davis Enterprises dba Live After 5 Events to require all food vendors to obtain the required health permit may result in the City revoking the permit for one or more events. The purpose of the permit is to protect the public.

Section 6. Food and Alcohol: Davis Enterprises dba Live After 5 Events may allow the sale of all foods within the scope of any required health permit. Alcohol service must end by 8:30 pm, unless otherwise permitted for larger acts.

Section 7. Non-food Items: Davis Enterprises dba Live After 5 Events agrees to review all requests for items to be sold at the event and not allow items that may be deemed to be dangerous or illegal.

Section 8. Waiver: Davis Enterprises dba Live After 5 Events understands and agrees that, during the term of this agreement, the City or agents of the City may commence projects or may need to undertake unforeseen or emergency repairs involving downtown public properties, including the Park and/or its amenities, that may require the City to cancel one or more concerts, pursuant to the notice provision in Section 20 below entitled "Notice." In such event, the City will make every reasonable effort to determine an alternate venue for the event or concert(s) affected thereby. Davis Enterprises dba Live After 5 Events specifically waives any claim as to lost profits or business interruption, or consequential damages, while such work is being performed, and shall hold the City harmless from any claim by a third party arising out of the cancellation or moving of a concert caused by unforeseen or emergency work.

Section 9. Negligent or Wrongful Acts: Davis Enterprises dba Live After 5 Events agrees to indemnify and hold harmless the City from any and all liability, loss or damage which the City may suffer arising out of, or in connection with the negligent or wrongful acts, errors and omissions of Davis Enterprises dba Live After 5 Events, its agents, employees, or subcontractors. Davis Enterprises dba Live After 5 Events further agrees, at Davis Enterprises dba Live After 5 Events' sole cost, to defend the City against all claims arising out of this Agreement, including any claims resulting from the operation of Davis Enterprises dba Live After 5 Events or in connection with the negligent or wrongful acts, errors and omissions of Davis Enterprises dba Live After 5 Events, its agents or employees.

Section 10. Site Specifications: Davis Enterprises dba Live After 5 Events agrees to the following site specifications, in the area noted on Exhibit A:

- A. Arts and craft booth size is 10 ft. X 10 ft.

- B. Allowed heat source: propane or whisper quiet generator.
- C. At least 4 porta-potties are required to be onsite throughout the concert series.
- D. Allowed cooling source: battery, ice, propane, or whisper quiet generator.
- E. All food concessions must be self-contained. Ice chests, canisters, etc., cannot be stored next to cart.
- F. All food concessions must be maintained according to Panhandle Health sanitation standards throughout the event.
- G. Food concession booth size is 10 ft. X 20 ft.
- H. Davis Enterprises dba Live After 5 Events and all vendors are responsible for cleanup of their area prior to and after the event.

Section 11. Term: The City shall grant an event permit to Davis Enterprises dba Live After 5 Events for every Wednesday, beginning the first Wednesday in June and ending the first Wednesday of September, for events to be held in McEuen Park for the years 2023-2027, (the “Initial Term”). At the conclusion of the Initial Term, Davis Enterprises dba Live After 5 Events may, at its option, renew this Agreement for an additional period of five (5) years, for the years 2028-2032 (the “Renewal Term”). The Initial Term and the Renewal Term are collectively referred to as the “Term.” The use of Davis Enterprises dba Live After 5 Events of McEuen Park, except for the area indicated on Exhibit “A” shall not be exclusive.

Section 12. Consideration: Davis Enterprises dba Live After 5 Events shall, in consideration of the permit to operate and maintain said event at the Park, pay the Parks & Recreation Department an annual refundable deposit of Five Thousand and no/100 Dollars (\$5,000.00) each year prior to the start of the season, and One Thousand Two Hundred and no/100 Dollars (\$1,200.00) per concert (the “Permit Fee”), and, for the three big ticketed shows annually, an additional impact fee of \$5 per ticket sold. Consideration after the initial five (5) years will increase in year six (6) and seven (7) to One Thousand Five Hundred and no/100 Dollars (\$1,500.00) per concert, and to Two Thousand and no/100 Dollars (\$2,000.00) in years eight (8), nine (9), and ten (10), plus the same impact fee for the big ticketed shows. The Permit Fee includes Park use, staff time, and required alcohol permit; alcohol security is to be paid for and obtained by Davis Enterprises dba Live After 5 Events for each concert. The permit fee and refundable deposit must be paid in full within 30 days before the first event each year. The additional impact fee collected per ticket will be held in escrow by the ticketing company and paid to the Parks & Recreation Department upon completion of the event. The deposit is fully refundable if no additional fees or penalties are assessed during the Live After Five concert series, and if there is no damage to City property, normal wear and tear excepted. Davis Enterprises dba Live After 5 Events also agrees to cover porta-potty fees as they relate to use of the Park on Wednesday evenings during the concert series.

Section 13. Other Laws: Davis Enterprises dba Live After 5 Events agrees that, in its exercise of its rights and performance of its duties under this Agreement, it shall comply with all local, state, and

federal laws, statutes, rules and regulations, including agency rules and regulations that may apply to Davis Enterprises dba Live After 5 Events' use of the Park. As a part of this Agreement, the City will disclose all local laws that pertain to Davis Enterprises dba Live After 5 Events' use of the Park under this Agreement, but the City's failure to disclose will not excuse or waive compliance with City Code.

Section 14. Fire Protection: All tents, canopies or membrane structures must be certified flame resistant where food is being prepared and all food vendors must have a fire extinguisher and comply with the Coeur d'Alene Fire Department Permit for Temporary Tents and other Membrane Structures. An annual \$100 Fire Department inspection fee will be charged to Davis Enterprises dba Live After 5 Events for booth inspection, including food and non-food booths.

Section: 15. Glass Containers: Davis Enterprises dba Live After 5 Events agrees not to dispense drinks in glass containers or allow vendors to dispense drinks in glass containers.

Section 16. Non-transferable: Davis Enterprises dba Live After 5 Events also agrees and understands this Agreement cannot be transferred to another host/sponsor without permission of the City.

Section 17. Parking: Davis Enterprises dba Live After 5 Events agrees to park in lawfully designated parking spaces. With the exception of five (5) approved vehicles, neither Davis Enterprises dba Live After 5 Events nor its agent(s) or vendors shall park vehicles adjacent to the concessions, arts and craft booths, or entertainment areas for longer than 90 minutes; PROVIDED, this restriction shall not apply to food trucks or display vehicles operating for purposes of a concert.

Section 18. Event Information: Davis Enterprises dba Live After 5 Events agrees it will meet with the Parks & Recreation Department at least 60 days prior to the first event in each calendar year, and at other times as may be requested by the Parks & Recreation Department, to review access for the vendors, entertainers, site layout, and any potential changes in the event venue. Access generally relates to vehicle access prior to the event for setting up and taking down. Specific access points will be identified and monitored by the Parks & Recreation Department so the event does not cause unnecessary damage or wear and tear to the Park. Davis Enterprises dba Live After 5 Events will meet with the Parks & Recreation Department at least one week before the first event in each calendar year to review final details. Except for the ticketed events, Davis Enterprise may begin setting up for the event as early as 8:00 a.m., each Wednesday and the event shall be open to the public by 5:00 p.m. each Wednesday. Music and amplification of sound must end by 9 pm. Fencing and larger items may be removed from the Park the next morning. Failure to comply to sound/amplification ending by 9 pm, may result in the assessment of a civil penalty of Five Hundred and no/100 Dollar (\$500.00) per occurrence. Amplification for large ticketed events may go until 10 pm. If Davis Enterprises dba Live After 5 Events hosts an act/artist that is known to draw a large audience (and is not considered one of the big ticketed shows) of 2,500 or more spectators, the City may assess a large event impact fee not to exceed One Thousand and no/100 Dollars (\$1,000.00).

Section 19. Forfeiture of Permit: It is understood that time is of the essence and, should Davis Enterprises dba Live After 5 Events fail to perform any of the material covenants herein required of it, the City may declare the permit forfeited. However, before declaring such forfeiture, the City shall

notify Davis Enterprises dba Live After 5 Events in writing of the particulars in which the City deems Davis Enterprises dba Live After 5 Events to be in default and Davis Enterprises dba Live After 5 Events will have seven (7) days to remedy the default.

Section 20. Notice: Any notice, including notice of default resulting from failure to perform, shall be made in writing and delivered via Certified United States Mail addressed to Davis Enterprises dba Live After 5 Events at the address above, with proper postage affixed; notice shall be deemed received upon actual receipt by Davis Enterprises dba Live After 5 Events. Any notice required herein to be given to City shall be written and deemed received by City when personally delivered to the office of the City Clerk, 710 Mullan Avenue, Coeur d'Alene, Idaho 83814. In lieu of service by mail, a notice of default and/or of termination may be served in the manner provided for the service of process under the Idaho Rules of Civil Procedure, Rule 5(b).

Section 21. Confidentiality: The City acknowledges it may have access to Davis Enterprises dba Live After 5 Events' business information, strategies, and concert schedules ("Confidential Information"). The City agrees that its access to Davis Enterprises dba Live After 5 Events' Confidential Information will be used only for permitting and scheduling purposes. All such information will be treated in a strictly confidential manner and will only be disclosed to City employees or contractors on a need-to-know basis. The City further agrees that it shall not disclose Davis Enterprises dba Live After 5 Events' Confidential Information to any third party.

Section 22. Exclusivity. The City agrees that during the Term of this Agreement, Davis Enterprises dba Live After 5 Events shall have the sole and exclusive right to produce and host a weekly concert series in McEuen Park on Wednesday evenings. Nothing herein shall prevent the City from permitting a one-time event, including a concert, to be held in McEuen Park other than on a Wednesday from June through the first week in September. Further, nothing herein shall prevent the City from permitting regular or weekly events in McEuen Park, other than on Wednesday evenings, which are not concerts, which are community events sponsored by the City or a non-profit organization, or which otherwise do not conflict with Davis Enterprises dba Live After 5 Events' use of the Park.

Section 23. Entire Agreement: This document constitutes the entire agreement between the parties with respect to Property and may not be amended or otherwise modified except by the express written agreement of the parties. Any future agreements between the parties related to Davis Enterprises dba Live After 5 Events' use of the Park shall be incorporated as addenda to this Agreement.

Section 24. Attorney Fees: If any party commences an action to enforce any term or condition of this Agreement, the prevailing party to such action shall be entitled to recover a reasonable additional sum as and for its attorney's fees and costs, said sum to be fixed by a court of competent jurisdiction.

Section 25. Insurance: Davis Enterprises dba Live After 5 Events dba Live After 5 Events, shall maintain liability and property damage insurance during the term of this Agreement, and shall provide a Certificate of Insurance, identifying the City as an additional named insured, to the City upon execution of this Agreement. The limits of said insurance shall be at least the minimum required by Idaho Code § 6-924.

Section 26. Governing Law, Jurisdiction, and Venue: This Agreement shall be interpreted under the laws of the State of Idaho. Any action to enforce or interpret any provision of this Agreement shall be commenced and completed in the First Judicial District, District Court in Kootenai County, Idaho. Each party specifically submits themselves to the jurisdiction to said Court and waives any objection to venue.

IN WITNESS WHEREOF, the Mayor and City Clerk of the City of Coeur d'Alene have executed this Agreement on behalf of said City, and Davis Enterprises dba Live After 5 Events have caused the same to be signed, the day and year first above written.

CITY OF COEUR D'ALENE
EVENTS DBA LIVE AFTER 5 EVENTS
KOOTENAI COUNTY, IDAHO

DAVIS ENTERPRISES DBA LIVE AFTER 5

By: _____
James Hammond, Mayor

By: _____
President

ATTEST:

ATTEST:

By: _____
Renata McLeod, City Clerk

By: _____
Secretary

Exhibit A

Live After Five Concert Series will operate within the boundaries of the grassy area marked below in red.

