

RESOLUTION NO. 2018-05

A RESOLUTION OF THE BOARD OF THE SPOKANE AQUIFER JOINT BOARD, SPOKANE COUNTY, WASHINGTON, AUTHORIZING THE EXECUTION OF AN OUTDOOR ADVERTISING AGREEMENT WITH EMERALD OUTDOOR ADVERTISING L.L.C. TO PROVIDE SERVICES ASSOCIATED WITH THE EDUCATION AND AWARENESS COMMITTEE; AND OTHER MATTERS PROPERLY RELATING THERETO

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SPOKANE AQUIFER JOINT BOARD, OF SPOKANE COUNTY, WASHINGTON, as follows:

WHEREAS, the Spokane Aquifer Joint Board ("SAJB") has been created for the Spokane County Region by action of the respective Boards of Directors and/or authorized representatives of the municipal corporations involved pursuant to RCW 39.34, known as the Washington Interlocal Cooperation Act; and

WHEREAS, the members of the SAJB executed an agreement forming the Joint Board ("the Agreement"), which provides rules for the process the Board follows in conducting its business, including the entering into and execution of agreements; and

WHEREAS, the Board of SAJB revised Resolution No. 95-01 on October 25, 2001, which provides that a simple majority of the eligible voting Board Members must vote on major decisions, including the execution of Personal Services Agreements; and

WHEREAS, the Board wishes to utilize the services of Emerald Outdoor Advertising, L.L.C. to assist the Education and Awareness Committee in raising awareness about conserving water and protecting the aquifer by entering into this agreement;

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board of the Spokane Aquifer Joint Board as follows:

Section 1: The Board hereby approves the execution of this Outdoor Advertising Agreement with Emerald Outdoor Advertising L.L.C., generally in the form of Exhibit "A", attached hereto and incorporated herein by this reference, and authorizes and directs the appropriate officials of the Board to execute said agreement.

Section 2: This Resolution shall become effective upon its adoption and execution by the appropriate officers of SAJB.

ADOPTED BY THE BOARD OF THE SPOKANE AQUIFER JOINT BOARD, SPOKANE COUNTY, WASHINGTON, AT A REGULAR OPEN PUBLIC MEETING THEREOF this 1st Day of March 2018.

SPOKANE AQUIFER JOINT BOARD

By _____
President

ATTEST:

Secretary

CERTIFICATION

I the undersigned, Secretary of the Board of Spokane Aquifer Joint Board, of Spokane County, Washington, hereby certify that a simple majority of the eligible voting Board Members of the SAJB voted in favor of this Resolution.

Secretary

CERTIFICATION

I, the undersigned, Secretary of the Board of Spokane Aquifer Joint Board, of Spokane County, Washington, hereby certify that the foregoing Resolution is a full,

true and correct copy of a Resolution duly adopted at a regular meeting of the Board of Directors of said Board, duly and regularly held at the regular meeting place thereof held on March 1, 2018, of which meeting all members of said Board had due notice and at which a majority thereof were present; and that at said meeting said Resolution was adopted by the following vote:

AYES, and in favor thereof, Directors:

NAYS, Directors:

ABSENT, Directors:

ABSTAIN, Directors:

I further certify that I have carefully compared the same with the original Resolution on file and of record in my office; that said Resolution is a full, true and correct copy of the original Resolution adopted at said meeting; and that said Resolution has not been amended, modified or rescinded since the date of its adoption, and is now in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of the Board on March 1, 2018.

Secretary

Exhibit "A"

**Emerald Outdoor Advertising
PO Box 14686
Spokane, WA 99214**

Advertiser:
**Jeremy Jenkins
1521 N Argonne Rd
Suite C**

SALES AGREEMENT

This SALES AGREEMENT (“Agreement”) is entered into as of the 1st day of March, 2018, by and between **Emerald Outdoor Advertising, L.L.C.**, a Washington limited liability company, and Spokane Aquifer Joint Board (Advertiser).

EOA, LLC has constructed, installed and maintains, at its own cost, standard billboard displays (hereinafter referred to as the “Display”). Advertiser desires the right and license to use the Display for purposes of publicizing its advertising (“Advertising”) on the terms and conditions set forth herein. NOW, THEREFORE, for good and valuable consideration, the parties hereto agree as follows:

1. Right and License for Display. Emerald shall provide to Advertiser the right and license to use the Display for purposes of the Advertising during the Term hereof (the “License”), in accordance with the following:

DISPLAY CITY	LOCATION OF DISPLAY/FACING	SIZE OF DISPLAY	ILLUMINATED
Spokane	Rotary	10’ x 30’	Yes
Spokane	Rotary	10’ x 30’	Yes

2. Options. Graphic design and creative services are excluded from the pricing set forth in Section 3 hereof, and may be added to the Advertising at additional cost to the Advertiser of \$150.00 per hour. *Vinyl production costs will be **two-thousand-nine-hundred-thirty-seven** Dollars and **sixty** Cents, (**\$2937.60**) including tax. Extension costs will be **seventeen** Dollars (**\$17**) plus tax, per square foot, if necessary.

3. Payment. In consideration of the License, Advertiser shall pay the sum of **one- thousand- two-hundred** Dollars (**\$1200.00**) per month. Advertiser further agrees to pay in advance the sum of **zero** Dollars (**\$0**) for optional services described in Section 2 above. Payments shall be applied against the actual charges incurred on a monthly basis, and the next payment to become due hereunder shall be adjusted for any differences between actual and estimated charges. Interest charges of one and one-half percent (1.5%) per month shall accrue on any past due amount. Failure of Advertiser to make any payment as herein provided, at Emerald’s option, shall be deemed a material breach of this Agreement by Advertiser, and upon any such breach the full amount of the remaining installments of the Base Rate or the Term hereof shall immediately become due and payable. In the event of failure to make payment thereof on demand, Emerald is authorized, but not obligated to take possession of the Display or any portion thereof, and to remove all Advertising from any or all of the Display and/or to relicense the Display, or any portion thereof for the whole or any part of the unexpired Term of the License to such person or persons and upon such terms and conditions as Emerald may determine, and collect and receive the income or rent from such relicensing and apply such income or rent on account of any amounts which may then be due to Emerald from Advertiser under this Agreement. Such

repossession by Emerald and such relicensing shall not work a forfeiture of the Base Rate to be paid and the covenants to be performed by Advertiser for the full Term of the License.

4. Term and Termination. The term of the License (“Term”) shall be for the period commencing on the installation of the Advertising on the Display, and shall continue for 9 consecutive months.

Additional Provisions:

- Space utilization comprised of two 10’x 30’ faces, on a rotary campaign for 9 months, April through December.
- * Production of six 10' x 30' vinyls will be created, to alternate throughout the campaign.
- All installation, set up and display rotation is included in pricing.
- At the completion of display period, vinyl will be stored in inventory for future use, at no additional charge.
- **Billboard space total for 9-month campaign = \$10,800.00**, will be billed as directed, net 15.

The estimated date that Advertising will be installed on the Display is 4/2/18 (“Target Date”) and the parties shall exercise their commercially reasonable efforts to meet such Target Date.

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

Emerald Outdoor Advertising, L.L.C.

By: Rhonda-T Warren

Its: Sales Manager

Advertiser: **Spokane Aquifer Joint Board: Jeremy Jenkins**

By: _____

Its: _____

Approved by Emerald Outdoor Advertising: _____

Title: _____

Date: _____

ADDITIONAL TERMS AND CONDITIONS

5. **Taxes.** The prices set forth in Sections 2 and 3 do not include sales, excise, use or other taxes, duties or fees now in effect or hereafter levied which Emerald may be required to pay or collect in connection with the License to Advertiser; all such taxes, duties and fees shall be for the account of Advertiser who shall promptly pay Emerald upon demand.
6. **Advertising Copy.** Advertiser agrees to finalize Advertising copy no later than sixty (60) hours before the commencement of Advertising on the Target Date, and any changes shall be provided to Emerald at least sixty (60) hours before the commencement of such change. All Advertising shall be in good taste in form, subject matter, size, wording, and illustration and shall not be in bad taste, offensive, or obscene. Advertising that fails to comply with the foregoing, or which is detrimental to the public, Emerald, or another advertiser, may be refused by Emerald, and such shall not be a breach of this Agreement by Emerald. Advertising copy must be submitted in disk form as specified by Emerald. Advertiser shall approve all advertising copy prior to exhibition. Advertiser has approval over contiguous spots and advertising spots are to be spread evenly throughout the twenty (20) hours of the daily Advertising.
7. **Intellectual Property Infringement.** The Advertiser represents and warrants that it has the right to use and display any and all copy, trade names, trademarks, logos, artwork, visual images and other intellectual property provided by it to Emerald, and that such display will not infringe the intellectual property rights of others.
8. **Indemnification.** Advertiser releases Emerald and shall defend, indemnify and hold harmless Emerald, its successors, assigns, directors, officers, employees and agents, to the fullest extent permitted by applicable law, from all claims, losses, harm, liabilities, damages, costs and expenses (including, but not limited to attorneys' fees) (collectively, "Damages") arising out of or relating to the display material provided by the Advertiser of the Advertising, including but not limited to any copyright, trademark, trade name or other intellectual property infringement claims, except only such Damages which arise solely out of breach by Emerald of the warranty set forth herein.
9. **Force Majeure.** Emerald shall not be liable for delays in the display of Advertising or failure to perform due to (i) causes beyond Emerald reasonable control affecting the Display, or (ii) acts of God, acts or restrictions of any governmental authority, wars, governmental priorities, riots, revolutions, strikes or other labor disputes, shortage of labor or materials, accidents, fires, floods, sabotage, vandalism, nuclear incidents, earthquakes, storms, epidemics, future laws, ordinances, rules, orders or regulations. The foregoing shall apply even though any of such causes exists at the time of this Agreement or occurs thereafter or after Emerald's performance of its obligations is delayed for other causes.

Emerald shall notify Advertiser of any delay or failure excused by this Section and shall specify the revised schedule of performance as soon as practicable. In the event of such delay, there shall

be no termination, and time of performance shall be extended for a period equal to the time lost by Emerald by reason of the delay up to one hundred twenty (120) days. If the delay extends for more than one hundred twenty (120) days, then either party, upon thirty (30) days written notice, may terminate the Term without obligation.

10. Limited Warranty; Limitation of Emerald's Liability; Indemnification. Upon termination of the Agreement, or for Emerald's failure for any reason other than Advertiser's default, Emerald will reimburse Advertiser for any unused advertising time for the remainder of the Agreement.

10.1 Standards of Emerald's Services. Emerald warrants that it shall exercise commercially best efforts to ensure that all Advertising is in accordance with designs, wording, and other instructions of the Advertiser, and is displayed in accordance with the standards of the industry. In the case of Emerald's errors that materially affect the value of the Advertising, Emerald shall be responsible only to the extent of that portion of the Advertising in which the error occurred. Claims for errors must be made within forty-eight (48) hours of the initial display thereof. Emerald is not responsible for errors that occur when copy is received by telephone, or based on copy approved or created by the Advertiser or the Advertiser's agents or contractors.

10.2 Limitations. EXCEPT AS EXPRESSLY STATED HEREIN, EMERALD MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, USAGE OF TRADE, OR SAMPLES PREVIOUSLY SUPPLIED AND ADVERTISER HEREBY WAIVES SUCH WARRANTIES. Emerald's obligation and liability under this warranty is limited solely, at Emerald's option, to: (a) providing additional Advertising in an amount equal to any Advertising which is defective due to Emerald's breach of warranty; or (b) repayment of or reduction in a reasonable portion of the amount paid by Advertiser for the defective or stopped Advertising.

11. Assignment. No assignment of rights or delegation of duties under this Agreement shall be binding upon either party without its written consent.

12. Applicable Law; Venue. This Agreement and acceptance hereof shall be governed by the laws of the State of Washington without regard to the choice of law provisions thereof. The parties hereto irrevocably submit to the exclusive jurisdiction of the state and federal courts sitting in the State of Washington.

13. Attorney's Fees. In the event that either party is required to incur legal expense, collection fees or other expenses due to a breach of this Agreement, the non-breaching party shall be entitled to compensation from the breaching party for any and all such expenses reasonably incurred. Such rights shall be in addition to any damages the non-breaching party may otherwise be entitled to.

14. Modification. No modification of this Agreement (including any additional or different terms in Advertiser's acceptance) shall be binding on Emerald unless agreed to in writing by Emerald.

- 15. Severability.** The invalidity, in whole or in part, of any section hereof shall not affect the validity of the remainder of such section or of any agreement resulting herefrom.
- 16. No Waiver.** The failure or delay by any party hereto in exercising its respective rights, powers, remedies or privileges under this Agreement or as provided by law, in equity or otherwise, shall not impair, prejudice or constitute a waiver of any breach hereof or default hereunder.
- 17. Entire Contract.** This Agreement shall constitute the entire agreement between the Advertiser and Emerald and no other agreement or understanding exists. Neither Advertiser nor Emerald shall have authority to amend or supplement this Agreement except in writing signed by the party to be charged.
- 18. Sales Agent Cannot Alter this Agreement.** Emerald's sales agent is not authorized to make any changes in the terms and conditions of this Agreement