Public Infrastructure, Environment and Sustainability Committee Meeting Agenda for December 17, 2018 10:00 a.m. – COUNCIL BRIEFING CENTER

The Spokane City Council's Public Infrastructure, Environment and Sustainability Committee meeting will be held at **10:00 a.m. on December 17, 2018** in Council Briefing Center, Lower Level, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington.

The meeting will be conducted in a standing committee format. Because a quorum of the City Council may be present, the standing committee meeting will be conducted as a committee of the whole council. The Public Infrastructure, Environment and Sustainability Committee meeting is regularly held every 4th Monday of each month at 1:15 p.m. unless otherwise posted.

The meeting will be open to the public, with the possibility of moving or reconvening into executive session only with the members of the City Council and the appropriate staff. No legislative action will be taken. No public testimony will be taken and discussion will be limited to appropriate officials and staff.

AGENDA

I. <u>Call to Order</u>

II. Approval of minutes from November 26, 2018

III. <u>Discussion Items</u>

- A. Council Requests
 - 1. Consent Items for Discussion
 - i.
- B. Staff Requests
 - 1. Apprentice Program Annual Update Jason Sandobal (10 minutes)
 - 2. Upsize agreement for Amazon Project Eldon Brown (5 minutes)

IV. <u>Strategic Plan Session – Council Member Beggs and Scott Simmons</u>

- Priority Strategy 1: Rapidly Accelerating Street Pavement Maintenance Projects
 - Initiative Updates
- Priority Strategy 2: Repurposing Public Property to Stimulate Private Investment
 - Initiative Updates
- Priority Strategy 3: Sustainable City
 - Initiative Updates

V. <u>Consent Items</u>

- 1. SMC 04.32.140 OPO Procedure for Complaint Intake
- 2. Parcel Segregation 25th Avenue LID
- 3. Amendment to 2018 Action Plan House of Charity Emergency Services
- 4. Secure Incineration Agreement with Iron Mountain Secure Shredding, Inc.

VI. <u>Executive Session</u>

Executive Session may be held or reconvened during any Public Infrastructure, Environment, and Sustainability Committee meeting.

VII. Adjournment

Next Public Infrastructure, Environment, and Sustainability Committee Meeting

January 28, 2019 1:15 p.m. in the Council Briefing Center

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AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Council Briefing Center in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Human Resources at 509.625.6363, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or msteinholfson@spokanecity.org. Persons who are deaf or hard of hearing may contact Human Resources through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

STANDING COMMITTEE MINUTES City of Spokane Public Infrastructure, Environment, and Sustainability November 26, 2018

Committee Members Present

Council Member Breean Beggs, Committee Chair Council Member Mike Fagan, Vice Committee Chair Council Member Kate Burke Council Member Lori Kinnear Council Member Candace Mumm Council President Ben Stuckart

Council Members Absent

Council Member Karen Stratton

Staff Present

Dustin Bender, Chris Cafaro, Christine Cavanaugh, Mike Coster, Leroy Eadie, Anna Everano, Marlene Feist, Eric Finch, Jacob Fraley, Raylene Gennett, Clint Harris, Shauna Harshman, Garret Jones, Gary Kaesemeyer, Dan Kegley, Dawn Kinder, Police Major Kevin King, Ed Lukas, Kris Major, Adam McDaniel, Katherine Miller, Mary Muramatsu, Gerald Okihara, Cadie Olsen, Mark Papich, Elizabeth Schoedel, Scott Simmons, Police Captain David Singley, Meghann Steinolfson, Teri Stripes, Carl Strong, Tim Szambelan, Kyle Twohig, Andrew Worlock

Guests Present

Council Member Beggs called the meeting to order at 1:15 p.m.

Review and Approval of Minutes

Council Member Beggs asked for a motion to approve the minutes of the October 22, 2018 meeting.

- Action Taken
- Council Member Fagan moved to approve the minutes of the October 22, 2018 meeting as presented; the motion was seconded by Council President Stuckart.

Discussion Items

- A. Council Requests
 - 1. Consent Items for Discussion
 - 2. Bicycle Infrastructure Capital Planning - Council Member Beggs / Katherine Miller
 - i. University Pedestrian Bridge and Surrounding Bicycle Facilities; existing and planned

- 3. Proposed Repeal of "Sit and Lie" and Anti-Camping Ordinances Council Member Burke
- Special Budget Ordinance for Transportation Benefit District Council President Stuckart
- B. Staff Requests
 - 1. Special Budget Ordinance for Fleet Services Scott Simmons/Steve Riggs
 - 2. Special Budget Ordinance for Residential Grind and Overlay Projects Scott Simmons/Gary Kaesemeyer

Strategic Plan Session

- A. Priority Strategy 1. Rapidly Accelerating Street Pavement Maintenance Projects
 - No report this meeting.
- B. Priority Strategy 2. Repurposing Public Property to Stimulate Private Investment
 - Discussion on Northeast Public Development Authority Expansion Council President Stuckart/Scott Simmons
- C. Priority Strategy 3. Sustainable City
 - Memorandum of Understanding with Spokane County for Regional Waste Reduction/Recycling Outreach and Education – Kris Major
 - Putting our Renewable Energy Resources to Work in the Community Scott Simmons

Consent Items

- 1. Franchise Agreement for ExteNet Systems, Inc.
- 2. eSuite (JustWare replacement) Implementation and Power Business Intelligence Standardization Business Analysis Professional Services
- 3. Ecology CWSRF Loans for CSO Basin 26 and 33-1 Control Facilities
- 4. Upriver Dam Independent Consultant Safety Inspection
- 5. Detailed Maintenance and Repair of Upriver Dam Powerhouse #1, Turbine #1
- 6. Purchase Trailer Mounted Six-Inch Wastewater Pump
- 7. Annual Deicer
- 8. Value Blanket Order Renewal for Traffic Signal Standards and Luminaire Standards
- 9. Parcel Segregation Haven Street LID
- 10. Indian Trail Grind and Overlay
- 11. Spokane Street Preservation North
- 12. Rossmoor Ridge Force Main Replacement
- 13. Contract for Construction of Emergency Bypass for Clark Avenue Lift Station Sewer Force Main

Waste to Energy:

- 14. Contract Amendment for Refractory Work
- 15. Contract Amendment for Ultrasonic Thickness Testing
- 16. Contract Amendment for Scaffolding Services
- 17. Contract Amendment for Crane Inspections, Repairs and Maintenance

Executive Session

None.

<u>Adjournment</u> The meeting adjourned at 2:40 p.m.

Prepared by: Barbara Patrick, Administrative Specialist

Approved by:

Chair

Briefing Paper

Public Infrastructure, Environment and Sustainability

Division & Department:	City Council	
Subject:	Ordinance amending SMC 04.32.140(B)	
Date:	12/17/2018	
Contact (email & phone):	Breean Beggs, <u>bbeggs@spokanecity.org</u>	
City Council Sponsor:	Breean Beggs	
Executive Sponsor:		
Committee(s) Impacted:	Public Safety	
Type of Agenda item:	Consent 🔲 Discussion 🔲 Strategic Initiative	
Alignment:		
Strategic Initiative:		
Deadline:	Will file for a vote after committee	
Outcome: (deliverables, delivery duties, milestones to meet)	The intended of this ordinance is to bring SMC into line with the OPO's current practices	
Background/History: In a letter to City Council Members on 11/13/118, the OPO requested the change in SMC to note that employees of the OPO may, rather than shall, notify complainants that making false or misleading statements may subject them the criminal sanctions via SMC 10.07.020. Executive Summary: This ordinance serves to execute the OPO's request outlined above.		
Budget Impact: TOTAL COST: Approved in current year budget? Annual/Reoccurring expenditure? If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)		
	Consistent with current operations/policy? A requires change in current operations/policy? Pecify changes required: Yes No N/A No N/A Yes No N/A	



OFFICE OF POLICE OMBUDSMAN COMMISSION 808 W. Spokane Falls Blvd. Spokane, Washington 99201 509.625.6755 (Voicemail Only) FAX 509.625.6748

November 13, 2018

City of Spokane City Council Spokane City Hall 808 W. Spokane Falls Blvd. Spokane, Washington 99201

RE: Changing Spokane Municipal Code §04.32.140(B)

Dear City Council Members,

We, the Office of the Police Ombudsman Commission (OPOC), request you consider changing the Office of the Police Ombudsman's (OPO) governing ordinance so that OPO may, rather than shall, notify complainants that they can be charged with a misdemeanor when filing a citizen complaint. This would update the ordinance to be consistent with the OPO's current complaint intake process. The OPO has changed their process to make it easier for citizens to bring complaints forward by no longer providing advisements that citizens may be charged with a crime for making false statements in their complaints.

On September 18, 2018, the OPO sent policy recommendation 18-5 to Chief Meidl (see attached). In it the OPO recommended the Spokane Police Department (SPD) remove the requirement that citizens must sign complaints after acknowledging that making false or misleading statements to a public servant is guilty of a gross misdemeanor. Citizens are provided the same warning again verbally at the beginning of a citizen interview. This practice has led to arrests of complainants in the past. To minimize this type of intimidation, the Ombudsman has requested to be involved with interviews of complainants, if possible. On October 30, 2018, Chief Meidl responded to the OPO's recommendation (see attached). Chief Meidl made the point, among other things, that not only will they not remove the warning, but emphasized that the OPO must also reinstitute providing the warning based on the section of the ordinance mentioned above.

Historically, it has been the practice of both SPD and the OPO to provide the advisements to citizens on the complaint form. Spokane Municipal Code §04.32.140(B) provides, "The employees of the OPO are considered public servants for the purposes of SMC 10.07.020 [Making a False or Misleading Statement to a Public Servant (Revised Code of Washington 9A.76.175)]. Any person who knowingly makes a false or misleading material statement to the OPO is subject to criminal sanctions in SMC 10.07.020. The OPO shall notify complainants that they be charged with a criminal gross misdemeanor for making a false or misleading material statement pursuant to SMC 10.07.020" (emphasis added). It is important to note that this section makes providing false statements to a public servant a crime, but does not require that a complainant must be provided such advisement.

WWW.SPDOPOC.ORG

EMAIL: SPDOMBUDSMAN@SPOKANECITY.ORG WWW.FACEBOOK.COM/SPDOMBUDSMAN • WWW.TWITTER.COM/SPD_OMBUDSMAN However, after attending training on how to reduce police liability and how to manage difficult complainants, both course instructors believed progressive policing and best practices do not support warning citizens they may be charged with a crime for false statements. It creates a chilling effect on complainants coming forward, when we as a city should strive to cast the widest net to hear the concerns in the community. The OPO researched best practices and found that DOJ's reports on Ferguson and Chicago, the DOI's COPS program, and the International Association of Chiefs of Police (IACP) all support the view that citizens do not need to be advised of this, nor does the advisement need to be given beforehand under the RCW. Ultimately, the police have the authority to arrest a person, regardless of whether a warning was given. As such, the OPO has stopped the practice of requiring citizens to sign their written complaints in order to acknowledge the SMC advisement. The OPO has removed the advisement completely from their complaint form.

We believe the ordinance should be consistent with the OPO's practice of not providing the advisements. This is in keeping with best practices, DOJ recommendations, and the IACP. Therefore, we recommend City Council change SMC 04.32.140(B) to make the advisements optional rather than prescriptive.

Sincerely,

Ladd Smith, Chair

James Wilburn, Jr., Commissioner

cc: Bart Logue, Police Ombudsman

ABSENT

Jenny Rose, Commissioner

Elizabeth Kelley, Commissione

ORDINANCE NO. C - _____

An ordinance relating to the Office of Police Ombudsman's procedures for complaint intake.

WHEREAS, the Office of Police Ombudsman (OPO) is currently required to tell complainants that making false or misleading statements may be subject to criminal sanctions in SMC 10.07.020, a practice that may lead to intimidation of some potential credible complainants and violates current national best practices; and

WHEREAS, both the OPO and the Spokane Police Department have historically provided information regarding SMC 10.07.020 to complainants on the complaint form; and

WHEREAS, trainings attended by the OPO regarding reducing police liability and managing difficult complainants have shown that best practices do not support warning complainants regarding SMC 10.07.020; and

WHEREAS, the OPO ended their practice of requiring complainants to sign written complaints in acknowledgment of SMC 10.07.020; and

WHEREAS, the OPO requested the below change to SMC to be consistent with their operating procedures in a letter to City Council Members dated November 13, 2018.

NOW, THEREFORE, the City of Spokane does ordain:

Section 1: That SMC Section 04.32.140 is amended to read as follows:

Section 04.32.140 False Reporting

- A. The OPO shall have the discretion to decline further action on a complaint filed with the OPO if it is found that there is a reasonable belief that the alleged acts of misconduct in the complaint are false and that the person(s) filing the complaint knew them to be false at the time the complaint was filed.
- B. The employees of the OPO are considered public servants for the purposes of SMC 10.07.020, and may notify complainants that SMC 10.07.020 makes it a gross misdemeanor to knowingly make a false or misleading material statement to a public servant. ((Any person who knowingly makes a false or misleading material statement to the OPO is subject to criminal sanctions in SMC 10.07.020. The OPO shall notify complainants that they can be charged with a criminal gross misdemeanor for making a false or misleading material statement pursuant to SMC 10.07.020.))

Passed by the City Council on _____

	Council President
Attest:	Approved as to form:
City Clerk	Assistant City Attorney
Mayor	Date

Briefing Paper

PIES

Division & Department:	Engineering Services; Public Works	
Subject:	Parcel Segregation – Affects 25 th Ave. LID	
Date:	December 17, 2018	
Contact (email & phone):	Dan Buller (<u>dbuller@spokanecity.org</u> , 625-6391)	
City Council Sponsor:		
Executive Sponsor:	Scott Simmons	
Committee(s) Impacted:	PIES	
Type of Agenda item:	☑ Consent ☐ Discussion ☐ Strategic Initiative	
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan)		
Strategic Initiative:	Innovative Infrastructure	
Deadline:		
Outcome: (deliverables, delivery duties, milestones to meet)	Approval of revised LID assessment	
 <u>Background/History:</u> 25th Ave. LID paved 25th Ave. between Freya St. and just west of Myrtle St. in 2013. 		
 Executive Summary: There is a proposed reconfiguration of parcels 35274.2007 & 35274.2008. Both parcels, owned by the same person, currently front on 25th Ave. and therefore have identical LID assessments. The proposed reconfiguration joins the two parcels into a single parcel then splits them so that one parcel fronts on 24th Ave. and the other parcel fronts on 25th Ave. Both reconfigured parcels would be owned by the same owner. Because the parcel that will, following the reconfiguration, front on 24th Ave. receives no benefit from the 25th Ave. paving, the existing LID assessment for both existing parcels 35274.2007 & 35274.2008 will be assigned to the single reconfigured parcel that fronts on 25th Ave. Refer to attached two page exhibit Budget Impact: Approved in current year budget? □Yes □No ⊠N/A 		
Annual/Reoccurring expenditu	-	
If new, specify funding source:		
Other budget impacts: (revenue generating, match requirements, etc.)		
Operations Impact:		
Consistent with current operat		
Requires change in current ope Specify changes required:	erations/policy? Yes No N/A	
Known challenges/barriers:		



City of Spokane Map





City of Spokane Map



Briefing Paper

Public Infrastructure, Environment and Sustainability Committee

Division & Department:	Neighborhood and Business Services Division – Community, Housing, and Human Services (CHHS) Department	
Subject:	Amendment to 2018 Action Plan – HOC Emergency Services	
Date:	December 6, 2018	
Author (email & phone):	Kelly Keenan (<u>kkeenan@spokanecity.org</u> / 625-6056	
City Council Sponsor:		
Executive Sponsor:	Kelly Keenan	
Committee(s) Impacted:	Public Safety and Community Health	
Type of Agenda item:	Consent Discussion Strategic Initiative	
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	2015-2020 Strategic Plan to End Homelessness; 2015-2020 Consolidated Plan for Community Development	
Strategic Initiative:	Reduce Homelessness / Safe and Healthy	
Deadline:	Winter 2018	
Outcome: (deliverables, delivery duties, milestones to meet)	Approve an amendment to the 2018 Action Plan to include funding for House of Charity.	
Deckground / Listony		

Background/History:

Effective 9/1/18, the City and Catholic Charities jointly agreed to reduce the capacity at the House of Charity facility back to a level that provides for the safety of shelter clients and staff. That includes nightly shelter capacity for 109 men on the second floor of building, plus overflow sleeping capacity for women on the first floor of the facility, in addition to the availability of many ancillary shelter services available on-site to shelter clients. While shelter capacity and hours at House of Charity are reduced from 24/7 levels offered during the last 18 months, the project continues to provide essential sheltering for extremely vulnerable men and women on a nightly basis.

Executive Summary:

To accomplish the final funding amendment supporting shelter services at House of Charity for 2018, CHHS is proposing to allocate \$100,000 in CDBG public services funds to the project. This allocation would bring the total 2018 City support for House of Charity shelter services to \$768,151. The final total would include \$668,151 in local funds, and \$100,000 in federal CDBG funds.

This CDBG allocation ensures House of Charity can continue to provide overflow sleeping capacity for women on the first floor of the facility.

The Annual Action Plan is HUD's required document that outlines projects funded with federal CDBG, HOME, and ESG dollars. Each year, City Council approves a resolution accepting the Action Plan, after which the Action Plan is submitted to HUD. Adding projects to the Annual Action Plan requires an Amendment process conducted in accordance with our Citizen Participation Plan, and another resolution accepting the amendment.

A public hearing on this proposed amendment was advertised and held at the CHHS Board meeting on 11/7/18 and a public comment period on the Action Plan amendment was opened on 11/7/18 and closed on 12/7/18, with no comments received as of the date of this briefing paper. The CHHS Board

approved this Amendment to the Action Plan on 12/5/18, contingent on CHHS responding to any public comment on the amendment received between 12/5/18 and 12/7/18.		
CHHS Staff has verified that the addition of this \$100,000 public services project to the Program Year 2018 Action Plan does not exceed the regulatory cap on annual CDBG public service commitments.		
Budget Impact:		
Approved in current year budget? 🔲 Yes 🔚 No		
Annual/Reoccurring expenditure? Tes No		
If new, specify funding source: This amendment is fully funded by CDBG grant funds and has no		
general fund impact.		
Other budget impacts: None.		
Operations Impact:		
Consistent with current operations/policy?		
Requires change in current operations/policy? 🔲 Yes 📕 No		
Specify changes required: None.		
Known challenges/barriers: None.		

RESOLUTION 2018-

A Resolution Making Substantial Amendments to the City's Annual Action Plan for CDBG, HOME and ESG.

WHEREAS, the Congress of the United States of America has found that the Nation's cities and urban communities face social, economic and environmental problems resulting from the growth and concentration of population in metropolitan areas; and

WHEREAS, in order to assist local governments in meeting these problems, the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act, as amended, provide for a program of community development and housing assistance; and

WHEREAS, the City has received substantial sums of money over the years from the federal government for the Community Development Block Grant Program (CDBG), the Home Investment Partnership Program (HOME) and the Emergency Solutions Grant Program (ESG); and

WHEREAS, the City has adopted Annual Action Plans for expenditures of these funds annually, but not all funds have been expended as anticipated by the Annual Action Plan for 2018; and

WHEREAS, the City desires to amend its approved plan by making a change in the City's allocation priorities AND by using funds from a program covered by the City's consolidated plan not previously described in the adopted Action Plan; and

WHEREAS, 24 CFR § 91.505 describes the process for making substantial amendments to our Plan, which process has been followed and will be completed prior to the substantial amendments being finalized;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Spokane that the City's Action Plan shall be substantially amended by using a total of \$100,000 of Program Year 2018 CDBG funds to support the House of Charity Shelter.

Adopted by the City Council _____

City Clerk

Approved as to form:

Assistant City Attorney

Briefing Paper

Sustainable Resources

Sustamable Resources		
Division & Department:	Public Works Division; Solid Waste Disposal	
Subject:	Secure Incineration Agreement with Iron Mountain Secure Shredding, Inc.	
Date:	December 17, 2018	
Contact (email & phone):	David Paine, <u>dpaine@spokanecity.org</u> , 625-6878	
City Council Sponsor:	Ben Stuckart	
Executive Sponsor:		
Committee(s) Impacted:	Sustainable Resources/Public Infrastructure, Environment and Sustainability Committee	
Type of Agenda item:	Consent Discussion Strategic Initiative	
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan)		
Strategic Initiative:		
Deadline:		
Outcome: (deliverables, delivery duties, milestones to meet)	Council approval for the WTE to provide secured destruction services for Iron Mountain Secure Shredding, Inc.	
 <u>Background/History:</u> Waste to Energy has provided secured destruction services to many industries in the past for special/non-typical wastes. Iron Mountain Shredding, Inc. is requesting these services for secured destruction of the various materials they collect from their customers. It was agreed that Waste to Energy personnel will unload the Iron Mountain trucks using a forklift and then the facility's cranes will be used to lift and drop the pallets directly into the furnace feed hoppers. They will then provide a Certificate of Destruction noting the date, time and serial number of the trailer from which the material was incinerated. Disposal services for this will be charged at \$200.00 per ton with a \$100.00 minimum and the forklift and operator will be charged at \$100.00 per hour with a \$50.00 minimum. These rates will be adjusted annually on January 1st of each year based on Consumers Price Index (CPI) increases. Iron Mountain expects to bring approximately 390 tons each year for an approximate revenue to the City of Spokane Solid Waste Disposal Department of approximately \$78,000.00. 		
 WTE Personnel will promaterials brought in to Disposal services will b Forklift and operator u 	cured destruction services to Iron Mountain Secure Shredding, Inc. ovide unloading, incineration and a Certificate of Destruction for all the Facility by Iron Mountain. e billed at \$200.00/ton with a \$100.00 minimum. sage will be billed at \$100.00/hour with a \$50.00 minimum charge. Solid Waste disposal of \$78,000.00 annually.	

Approved in current year budget? Yes No N/A Annual/Reoccurring expenditure? Yes No N/A If new, specify funding source: Yes Yes N/A
Other budget impacts: (revenue generating, match requirements, etc.)
Operations Impact:
Consistent with current operations/policy? 🛛 🛛 Yes 🗌 No 🗌 N/A
Requires change in current operations/policy? 🛛 🗌 Yes 🖾 No 🗌 N/A
Specify changes required:
Known challenges/barriers:



SECURE INCINERATION SUBCONTRACTOR AGREEMENT



Iron Mountain Corporate Name and Address: Iron Mountain Secure Shredding, Inc. One Federal Street Boston, MA 02110

Iron Mountain Contact Person & Contact Details: Name: Linell Shepheard Telephone: +1 (248) 912-7685 Fax: N/A E-mail: Linell.Shepheard@ironmountain.com

Date of Order: 11/29/2018 Purchase Order No. or Other N/A Identifying No.: N/A CAPEX Project No. (if any): N/A Vendor's Name and Address: City of Spokane Solid Waste Disposal 2900 S Geiger Blvd Spokane, WA 99224

Vendor Contact Person & Contact Details: Name: David Paine Telephone: 509 625 6878 Fax: 509 625 6537 E-mail: dpaine@spokanecity.org

Vendor: City of Spokane Solid Waste Disposal

Iron Mountain hereby agrees to purchase from Vendor the following-described secure Incineration services ("Services") upon Iron Mountain's General Terms and Conditions, a copy of which is attached hereto. The following additional terms checked below are also applicable to this Agreement:

[X] Schedule 1: Stateme	nt of Work
[X] Addendum 1:	Data Privacy Addendum
[X] Addendum 2:	HIPAA Business Associate Agreement

If you require additional copies of Iron Mountain's General Terms and Conditions, please contact the Iron Mountain Contact Person whose name appears above.

IRON MOUNTAIN SECURE SHREDDING, INC.

By: _____ Name: Title: Date: By: ____

Name: Title: Date:

Approved as to Form and Legal Content: Iron Mountain Legal Department

Brian R. Riley, Contracts Specialist Date: December 4, 2018 Vendor: City of Spokane Solid Waste Disposal



GENERAL TERMS AND CONDITIONS

- 1. **Definitions**. The following terms shall have the respective meanings assigned below when used as capitalized terms in this Agreement.
- a. Affiliate means any domestic corporation, the stock ownership of which is fifty-one percent (51%) or more owned by Iron Mountain Information Management, LLC or one of its subsidiaries.
- b. Agreement means this Agreement between Vendor and Iron Mountain pursuant to which Vendor provides secure Incineration and destruction services (*Services*) to Iron Mountain or to Customers of Iron Mountain identified in <u>Schedule 1</u>, and includes these General Terms and Conditions and any additional Addenda and/or Amendments and Statements of Work or Purchase Orders which together collectively represent the Agreement between the parties.
- c. **Customer** means Iron Mountain's customers and the affiliates of any such customers.
- d. **Services** mean those secure Incineration and destruction services being rendered by Vendor under this Agreement and as further described in <u>Schedule 1</u>.
- 2. Acceptance. The agreement by Vendor to furnish Incineration Services ("Services") hereby ordered, or its furnishing such services, in whole or in part, shall constitute acceptance by Vendor of these terms and conditions. Iron Mountain shall not be bound to any prices or delivery to which it has not specifically agreed in writing. Any terms or conditions proposed by Vendor inconsistent with or in addition to the terms and conditions set forth herein shall be void and of no effect unless specifically agreed to by Iron Mountain in writing. Modifications, or additions, hereto in order to be effective must be made in writing and be signed by each party. These terms and conditions accepted in writing by Iron Mountain and data relating to price and delivery constitute the entire agreement between the parties (sometimes collectively referred to as the "Agreement").
- 3. **General.** Vendor shall provide the Services in accordance with specifications, delivery dates and prices set forth in this Agreement. Iron Mountain shall pay Vendor the fees and charges specified in accordance with the terms stated in this Agreement.
- 4. **Taxes and Other Charges.** All applicable sales taxes and other charges such as duties, customs, tariffs, imposts and government-imposed surcharges shall be stated separately on Vendor's invoice, and Iron Mountain agrees to reimburse Vendor for all such applicable taxes or other charges occasioned by the delivery of Services by Vendor.
- 5. **Term.** This Agreement, together with its Schedules, Addenda and any Amendments, shall be for an indefinite term, but may be terminated by either Party upon sixty (60) days written notice to the other Party.
- 6. Restriction on Relationship with Customers. Intentionally Omitted.

7. Warranty.

- a. Services. Vendor warrants that it has reviewed the specifications and requirements of the Services and it has the expertise and resources necessary to undertake and complete the Services in accordance therewith in the applicable timeframe, if any, specified in a Schedule. Vendor warrants that (a) the Services will be performed in a diligent and workmanlike manner, in accordance with Vendor's customary business practices, which will at all times be equal to or better than standard industry practices, by individuals of suitable training and skill; and (b) in providing the Services, Vendor and Vendor Personnel will comply with all Laws and obtain all permits and licenses that pertain to the provision of the Services.
- b. Service Levels. Vendor warrants that its performance under this Agreement will meet or exceed the Service Levels as set forth in an applicable Schedule to this Agreement. Vendor shall re-perform the Services at no cost to Iron Mountain in the event it fails to provide the Services as warranted.
- c. Vendor has all licenses and permits (and its drivers have appropriate licenses) required under applicable laws to perform the Services under this Agreement; and
- d. Vendor has adequate equipment, facilities and experience to perform the Services under the Agreement.

- 8. **Invoicing; Payment**. Vendor's invoices shall be in duplicate and shall be submitted to the address specified by Iron Mountain in the Purchase Order. Unless otherwise specified in a Purchase Order, the Statement of Work or the Agreement, Iron Mountain agrees to pay invoices within thirty (30) days of the date of receipt of an invoice from Vendor (but in no event prior to acceptance), provided that such invoice contains an adequate description of the Services and provided further that any taxes or other charges are set forth on a separate line item in a manner that provides reasonable detail to Iron Mountain.
- 9. Intentionally Omitted.
- 10. **Changes.** Iron Mountain, from time to time, may authorize changes in the Services; provided, however, that Vendor shall not proceed with any change involving an increase or decrease in cost without prior written authorization from Iron Mountain. Iron Mountain shall confirm all changes in the Services by giving Vendor a written confirmation of the change. Vendor shall, within five (5) business days of any requested change, furnish to Iron Mountain a statement setting forth in detail Vendor's estimate of the adjustments to the price attributable to the changes, together with Vendor's estimate of adjustments in the schedule, if any, for the Services resulting from such changes.
- 11. **Indemnification.** Vendor hereby agrees to indemnify and hold Iron Mountain, its affiliates, officers, agents, employees harmless against any and all claims, actions and damages, liabilities or expenses including reasonable attorneys' fees, court and other legal costs for injury to or death to any person (including claims by any employee or subcontractor of Vendor or by a third person), and for loss of or damage to any and all property (each a "Claim") arising out of (i) any breach by Vendor of this Agreement, or (ii) the negligent or willful acts or omissions of the Vendor in performing under the Contract Documents Agreement.
- 12. Insurance. Vendor is self-insured and carries an excess policy in accordance with Washington law.

13. Compliance with Laws; Gratuities; Federal Acquisition Regulations.

- a. Vendor warrants that the Services shall be provided in compliance with all relevant Federal, state and local laws and regulations. The Services will be provided in an environment which complies with the Occupational Safety and Health Act of 1970, as amended from time to time ("OSHA"). Vendor shall comply with all federal, state and local laws, regulations and orders (including federal Executive Order 11246, dated September 24, 1965) relating to the employment of labor and non-discrimination against persons based upon race, color, religion, sex, age, disabilities or national origin, as well as other protected groups, as provided under federal and Washington law.
- 14. Confidential Information. Vendor agrees to the extent allowed under Washington State law and Chapter 42.56 RCW to treat all Confidential Information as confidential information of Iron Mountain, both during and after the term of this Agreement. "Confidential Information" means all information and material to which Vendor has access in connection with Services provided hereunder including, but not limited to: (a) all software, documentation, financial, marketing and customer data and other business information, (b) all information held by Iron Mountain for its customers and (c) any other material or information that is either marked as confidential or is disclosed under circumstances that one would reasonably expect it to be confidential. Vendor agrees to use the Confidential Information received under this Agreement solely for the purposes of providing Services under this Agreement. Vendor will not duplicate any Confidential Information unless and to the extent that such duplication is necessary to provide the Service under this Agreement. To the extent allowed under Washington State law and Chapter 42.56 RCW, Vendor will not disclose or make Confidential Information available to any third party, except as specifically authorized by Iron Mountain in writing. All Confidential Information furnished to Vendor shall remain solely the property of Iron Mountain. Vendor further agrees that all Confidential Information and any other information received from Iron Mountain, including all copies in any form, shall be returned to Iron Mountain upon completion or termination of the applicable order or Statement of Work or of this Agreement.

15. Termination.

a. If Vendor shall: (i) fail or refuse to render the Services, or any part thereof, as agreed, (ii) perform Services which are not as warranted, (iii) file for bankruptcy protection or be adjudicated a bankrupt,

(iv) hold any meeting with or make or propose to enter into any arrangement or composition with its creditors, (v) have a supervisor, receiver, administrator, administrative receiver or other encumbrancer take possession of or appointed over the whole or any substantial part of its assets, (vi) cease or threaten to cease to carry on its business or become unable to pay its debts, or (vii) have presented to it a petition for its winding up or dissolution, then, in any of such events, Iron Mountain may terminate this Agreement if such failure or condition is not cured within ten (10) days after written notice by Iron Mountain to Vendor. Upon such termination, Vendor shall be liable to Iron Mountain for the difference in price between Services as to which Vendor was in default, and the price of equivalent substitute services.

- b. If Iron Mountain shall fail to make payment in accordance with the terms hereof, Vendor may suspend performance hereunder.
- c. Unless otherwise agreed to in a writing signed by both the Vendor and Iron Mountain, Vendor's obligation to perform hereunder shall cease, at Vendor's election, if Vendor is not permitted to complete performance within twelve (12) months from the date an order is placed hereunder.
- d. Either party may terminate this Agreement without cause by providing sixty (60) days advance notice to the other party.

16. Audit Rights and Requirements

- Vendor Internal Audits. Vendor is a governmental entity and subject to Washington State Auditor a. office's rules and regulations. To the extent there is no conflict, Vendor shall conduct its own independent internal or external reviews and audits consistent with the audit practices of governmental entities and in accordance with best industry practices. The scope of these reviews and audits shall include, but not be limited to, a review of Vendor's: (a) risk management and internal control environment as it relates to the Services, as well as Vendor's information security program and physical security program, disaster recovery, and business continuity plans; and (b) system controls, including SSAE 16, SOC 1, SOC 2, and SOC 3 (subparagraphs (a) and (b) collectively the "Vendor Internal Audits"). The Vendor Internal Audits shall be conducted at least annually. Upon Iron Mountain's written request, Vendor shall provide Iron Mountain a written summary of the Vendor Internal Audits (the "Vendor Internal Audit Reports") and promptly remediate any weaknesses or deficiencies reflected in the Vendor Internal Audit Reports. Vendor's written summary of the Vendor Internal Audit Reports shall contain, at a minimum, the audit name, the audit objective, the audit observations, the remediation plan to audit observations, and the timing of the remediation plan.
- b. Iron Mountain Audits. Iron Mountain and its representatives, designees, agents, auditors, and any federal, state, or other governmental bodies or agencies having statutory, regulatory, or administrative authority (each a "Governmental Authority") over Iron Mountain or its customers may enter Vendor's premises to perform audits, inspections, and examinations of Vendor's data, books, records, and other documentation and information in any media relating to the Services for the purposes of: (a) verifying (i) the accuracy of charges, fees, credits and other amounts due and payable by either party hereunder, (ii) the achievement of Service Levels, and (iii) Vendor's compliance with its obligations in performing the Vendor Internal Audits; and (b) conducting security and financial audits substantially similar to the Vendor Internal Audits (subparagraphs (a) and (b) collectively the "Iron Mountain Audits"). Any information collected by Iron Mountain in connection with the Iron Mountain Audits shall be deemed the Confidential Information of Vendor, to the extent allowed by law.
- c. Government Required Audits. Vendor agrees that in the event any Governmental Authority requires any customer of Iron Mountain to conduct audits on Vendor, including but not limited to audits similar to the Vendor Internal Audits or the Iron Mountain Audits, then Vendor agrees to permit any such customer to perform such audits, provided however that the customer shall be required first to sign a confidentiality agreement acceptable to Vendor.
- d. All audits under this Section 19 shall be conducted during Vendor's business hours and upon ten (10) business days' notice to Vendor with no more than reasonable disruption to Vendor's business activities, subject to the requirements of agencies of any Governmental Authority. Vendor shall assist and fully cooperate with Iron Mountain and any other party with audit rights hereunder as reasonably required to carry out the audits described in this Section 19.
- e. Vendor shall promptly remediate any weakness or deficiencies found in the course of any audit under this Section 19. If, as a result of an audit pertaining to Vendor's charges, it is determined that Vendor has overcharged Iron Mountain, Iron Mountain shall notify Vendor of the overcharged amount and: (a) Vendor shall promptly pay to Iron Mountain such overcharged

amount, plus interest at the prime rate as set out in the Wall Street Journal calculated from the date of Vendor's receipt of the overcharged amount until the date of payment to Iron Mountain; and (b) if any such overcharged amount is five percent (5%) or more of the Charges for the period audited, Vendor shall, at Iron Mountain's request and in addition to (a) above, promptly reimburse Iron Mountain for the reasonable out-of-pocket expenses of such audit.

17. **Notices.** All notices in respect of this agreement must be in writing. Notices shall be deemed duly given upon delivery if delivered by hand, by overnight courier, by electronic messaging with evidence of the date and time of transmission, or four (4) days after posting in the national mail system. Notices shall be addressed: (a) in the case of notices given by Iron Mountain, to Vendor's address and to the attention of the authorized agent, identified by Vendor (if any); and (b) in the case of notices given by Vendor, to Iron Mountain's mailing address, and to the attention of the authorized agent issuing this agreement.

18. Miscellaneous.

- a. <u>Time is of the Essence</u>. Time of performance of Services is of the essence in this Agreement.
- b. <u>Survival</u>. The terms, provisions, representations and warranties herein shall survive the delivery Services and payment of the fees and charges.
- c. <u>Amendment.</u> No amendment of this Agreement shall be effective unless it is in writing and signed by a duly authorized representative of the party against whom enforcement is sought.
- d. <u>Entirety</u>. All prior agreements, representations and undertakings with respect to the subject matter of the Agreement are superseded.
- e. <u>Waiver</u>. No term or provision hereof shall be waived except in writing, and specific waiver in any one instance shall not constitute a waiver of any other instance.
- f. <u>Force Majeure.</u> Neither party shall be liable for a delay in its performance of its obligations under this Agreement due to causes beyond its control, such as war, riots, strikes, acts of terrorism, strikes, lockouts, fire, flood or other natural disasters, provided that (i) the affected party has taken reasonable measures to notify the other of the delay, (ii) the affected party continues performance to the extent possible during the disabling event and (iii) the affected party diligently carries out performance as promptly as practicable after the disabling event has passed or ceased. Failure of subcontractors and inability to obtain materials shall not be considered as delays excused by this subsection g.
- g. <u>Assignment</u>. Neither Party shall assign or subcontract this Agreement or any order placed pursuant to the terms of this Agreement to any third party without the prior written consent of the other Party except Iron Mountain may (i) assign any right or subcontract any obligation to any of its affiliates and (ii) subcontract any obligation to any third party.
- h. <u>Governing Law.</u> The terms of this Agreement shall be governed by the laws of the state of Washington.
- i. <u>Advertising</u>. Vendor shall acquire no right to use, and shall not use, the names, characters, artwork, designs, trade names, copyrighted materials, trademarks or service marks of Iron Mountain.

SCHEDULE 1 – STATEMENT OF WORK

Effective:

Consideration:

(a) If applicable, Iron Mountain shall pay Vendor, for each of the Services referenced below at the fee set opposite the description of each such Service:

All services are to be performed within the scope as outlined in the workflow outlined below.

Standard Service Rates	
Incineration Rates	Charge
2018 Disposal **	\$200.00 per ton \$100.00 Minimum
2018 Forklift & Operator **	\$100.00 per hour \$50.00 Minimum

** On January 1st of each year following 2018, the City will adjust the disposal rates outlined above, to reflect increases in the United States Department of Labor, Bureau of Labor Statistics. The price increase will reflect 100% of the previous October Consumers Price Index (CPI) for all Urban Consumers, US City Average, all Items as published by the US Department of Labor. The adjustment factor for computing annual rate adjustments shall be computed by dividing the Index number for October of the just-completed year by the Index number for October of the previous year. In the event the Index number stays the same or decreases, no rate adjustment will be made, and the next rate adjustment shall not occur until the Index number increases to a number exceeding the highest previous Index number, and shall be computed using the previous highest Index Number.

Other Requirements: These requirements are in addition to the requirements concerning the handling of Materials that contain Personal Data set out in Addendum 1 and 2 to the Agreement.

- 1. Iron Mountain will coordinate appointments with Spokane's Waste to Energy administration weekly.
- Iron Mountain will arrange Security Witness and IM Labor to arrive at appointment time. Security Witness
 will confirm security transport and witness entire destruction process. IM Labor shuttle container from
 trailer to hopper area.
- 3. Vendor shall unload all vehicles, using a fork lift, the facility's cranes will be used to lift and drop the pallets into the refuse furnace feed hoppers. Iron Mountain will be responsible for moving pallets / material to the rear of the delivery vehicle for removal and unloading by Vendor with a forklift.
- 4. Vendor shall maintain video monitoring of its facility, including truck offloading and hopper areas in accordance with its policies and procedures.
- 5. Vendor shall provide a signed Certificate of Destruction within forty-eight (48) hours of receipt of Material. The Certificate of Destruction should note the date and time and serial number of the trailer from which the Material was incinerated.
- 6. Prior to scheduling delivery of a new type of waste, Iron Mountain will complete and obtain approval by Vendor of Vendor's Waste Acceptance Form as attached hereto. Prior to delivering any load, the load must be scheduled in advance, using the Vendor's Waste Delivery Form.

Vendor Signature	Date	
Luce Mountain Signature	Data	
Iron Mountain Signature	Date	
Iron Mountain Signature	Date	

This rate schedule supersedes all previous pricing schedules for services performed after the effective date noted above.

Addendum 1 – Data Privacy Addendum

The following additional terms and conditions of this Data Privacy Addendum ("Addendum") are expressly incorporated into the Base Agreement (as hereinafter defined) or into the terms and conditions of any procurement agreement entered into between Iron Mountain and the Vendor whose name appears at the signature line,

- 1. **DEFINITIONS.** The following terms shall have the respective meanings assigned below when used as capitalized terms in this Addendum.
 - (a) *Base Agreement* means the Secure Incineration Subcontract Agreement between Vendor and Iron Mountain pursuant to which Vendor renders Vendor Services to Iron Mountain.
 - (b) *Customer* means Iron Mountain's customers and the affiliates of any such customers.
 - (c) **Data Subject** means a natural person who can be identified by or is the subject of Personal Data, including, without limitation, Iron Mountain's employees, contractors, or other associates of Iron Mountain, or of a Customer.
 - (d) *Personal Data* shall mean any data related to or associated with an identified or identifiable natural person, including, but not limited to, any Iron Mountain employee information, or Iron Mountain customer information. A natural person is identifiable if, with reasonable effort, the individual could be identified from the data or a grouping of data.
 - (e) *Process(ing)* means any operation or set of operations performed upon Personal Data, whether or not by automatic means, such as, but not limited to, collection, recording, organization, storage, adaptation, alteration, access, retrieval, use, disclosure, dissemination or otherwise making available, blocking, erasure or destruction.
 - (f) *Vendor's Consultant(s)* shall mean any and all Vendor personnel performing Vendor Services pursuant to the Base Agreement, including but not limited to, Vendor's employees, temporary workers, contractors, subcontractors, representatives, agents and assigns.
 - (g) *Vendor Services* shall be those services being rendered by Vendor under the Base Agreement.
- 2. VENDOR RESPONSIBILITIES. Recognizing that Vendor is providing incineration and final destruction services only and all services are under supervision of Iron Mountain; Vendor and Vendor's Consultant(s) shall comply with the following responsibilities regarding Personal Data, solely to the extent applicable in light of the Services, regardless of where or in what form the Personal Data resides:
 - (a) not retain, access, use, or otherwise Process any Personal Data for any purpose other than the provision of the Vendor Services, and only to the extent necessary to provide Vendor Services;
 - (b) not disclose or transfer any Personal Data to any third party except (i) pursuant to law or (ii) with the express prior written consent of Iron Mountain, and in the case of any such permitted transfer, Vendor shall remain responsible for any breach of the obligations set forth herein and shall ensure that the third party enters into a written agreement acceptable to Iron Mountain obligating that third party to comply, at a minimum, with the standards and requirements set forth in this Addendum;
 - (c) upon reasonable request and without material disruption of Vendor's business, permit Iron Mountain or its authorized representatives, upon providing not less than twenty-four hours' advance notice, to examine any Personal Data in Vendor's or Vendor's Consultant's/(s') possession or custody regarding services performed for Iron Mountain. If a Data Subject wishes to examine any Personal Data in Vendor's or Vendor's Consultant's/(s') possession, Vendor shall

retrieve the Personal Data and promptly return it to Iron Mountain so that Iron Mountain may, in turn, meet its obligations with respect to the examination of any such Personal Data;

- (d) upon termination of the Base Agreement, return all Personal Data to Iron Mountain, or at the written direction of Iron Mountain, destroy, delete, de-identify or otherwise modify the Personal Data as set forth in Section 3.3 of the Base Agreement;
- (e) ensure compliance by Vendor's Consultants/(s) with this Addendum;
- (f) promptly following commencement of the execution of the agreement or Statement of Work associated herewith, and at least annually thereafter during the term of this Addendum, conduct appropriate privacy and data protection training for those of its employees who are given access to Personal Data; Iron Mountain shall have the right, from time to time, to request evidence of such training representing compliance with the terms of this provision;
- (g) implement and maintain privacy policies and processes which require adequate technical, physical, and organizational controls, consistent with all applicable federal and state privacy and data security requirements and professional industry standards, as appropriate to meet its obligations under this Addendum and all applicable federal and state privacy and data security requirements;
- (h) periodically review its privacy and security programs and procedures to ensure that they are adequate and appropriate to comply with this Addendum and all other applicable federal and state privacy and data security requirements;
- (i) comply with all applicable federal and state privacy and data security requirements, and to permit Iron Mountain to review the same;
- (j) to document and immediately (within 3 business days) report in writing to Iron Mountain any: (a) loss of Personal Data, (b) unauthorized actual or potential access, acquisition, alteration, corruption, destruction, modification, use or disclosure of Personal Data, or (c) or any other act or omission that compromises the security, confidentiality or integrity of Personal Data and, at Vendor's cost and expense, assist and cooperate with Iron Mountain concerning any disclosures to affected parties and other remedial measures as requested by Iron Mountain or required under any applicable privacy or data protection laws;
- (k) to mitigate, to the extent practicable, any harmful effect that is known to Vendor of a use or disclosure of Personal Data by Vendor in violation of the requirements of this Addendum.
- 3. GENERAL REQUIREMENTS. Vendor understands and agrees that this Addendum does not convey to Vendor any ownership or other interest in and to the Personal Data. Without limiting any other similar requirements that may be applicable, Vendor shall comply with all reasonable policies and requirements (including, without limitation, execution of agreements) reasonably requested by Iron Mountain from time to time to protect Personal Data, including policies and requirements imposed in response to Iron Mountain's Customer requirements and/or applicable laws and regulations, as the same may be amended from time to time, recognizing that Vendor is providing incineration and final destruction services for Iron Mountain. However, if Vendor is not able to comply with any such requirements without material expense or material risk, and Iron Mountain nevertheless insists upon compliance, then Iron Mountain may terminate the Base Agreement and/or SOW pursuant to which Vendor receives the Personal Data along with this Addendum.
- 4. AUDIT OF RECORDS. Solely to the extent Vendor retains Personal Data in the performance of Services, Vendor agrees to make its internal practices, books and records relating to the use and disclosure of Personal Data received by Vendor or Vendor's Consultants on behalf of Iron Mountain or one of its Customers, available to Iron Mountain or its designee. Iron Mountain may inspect and audit Vendor's data processing activities and those of its Consultants and demand Vendor's Consultants to verify compliance with this Addendum.

5. INDEMNIFICATION. To the extent applicable, In addition to and not in lieu of any indemnification obligations set forth in the Base Agreement, Vendor agrees to indemnify, defend and hold harmless Iron Mountain, its Affiliates, shareholders, directors, officers, employees and agents, from any third party claim, investigation, demand, liability, or loss, and associated expenses and costs, including reasonable attorneys' fees, and investigation, computer forensic, and notification costs, due to or arising out of, or in any way connected with Vendor's Processing of the Personal Data, Vendor's breach of this Addendum, or Vendor's failure to adhere to any law applicable to the Processing and security of the Personal Data. The Parties recognize the purpose of this Agreement is for Vendor to provide incineration and final destruction services to Iron Mountain, under watch of Iron Mountain staff.

ACCEPTED AND AGREED TO: Iron Mountain Secure Shredding, Inc. By:

ACCEPTED AND AGREED TO: Vendor

R	v	•
υ	y	•

Buyer Signature

Date

Printed Name

Title

Buyer Address: One Federal Street Boston, MA 02110 Vendor Signature

Date

Printed Name

Title & Organization

Vendor Address:

ADDENDUM 2



Business Associate Agreement

Iron Mountain Secure Shredding, Inc. on behalf of itself and its affiliates:

(Hereinafter referred to as "Iron Mountain")

Vendor (Name and Address) on behalf of itself and its affiliates:

(Hereinafter referred to as "Vendor")

This Business Associate Agreement (this "Agreement") is hereby entered into by and between Iron Mountain and Vendor, as of the date executed by Vendor and recorded on the signature page below (the "Effective Date").

WHEREAS, the parties have entered into the Secure Incineration Services Agreement ("Services Agreement") under which Vendor is providing secure shredding services ("Services") for Iron Mountain and/or its customers which may require the Vendor to be provided with, have access to and/or create Protected Health Information on behalf of Iron Mountain and/or its customers; and

WHEREAS, Iron Mountain and Vendor are entering into this Agreement in order for both parties to meet their respective obligations as they become effective and binding upon the parties under the HIPAA Privacy, Security, Breach Notification and Enforcement Rules, the provisions of the HITECH Act, as incorporated in the American Recovery and Reinvestment Act of 2009, along with any implementing regulations including those implemented as part of the Final Omnibus Rule (collectively referred to as the "HIPAA Rules"), under which Iron Mountain is a "Covered Entity" or "Business Associate" and Vendor is a "Business Associate" of Iron Mountain.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and intending to be legally bound, the parties agree as follows:

1. Definitions.

- (a) <u>Catch-all Definition</u>: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Designated Record Set, Disclosure, Minimum Necessary, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
- (b) <u>Business Associate</u>: "Business Associate" shall generally have the same meaning as the term "Business Associate" at 45 CFR 160.103, and in reference to the parties to this Agreement, shall mean the Vendor entity named above.
- (c) <u>Covered Entity</u>. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this Agreement, shall mean Iron Mountain and/or one or several of Iron Mountain's customers.
- (d) <u>Protected Health Information</u>: "Protected Health Information" or "PHI" shall have the same meaning as the term 'protected health information' in 45 CFR §160.103 and shall include any PHI of Iron Mountain and/or its customers.
- 2. Obligations and Activities of Business Associate. Business Associate agrees to:
- (a) Not Use or Disclose PHI other than as permitted or required by this Agreement and/or the Services Agreement or as Required By Law.
- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement and/or the Services Agreement.

- (c) Promptly report to Iron Mountain any Use or Disclosure of PHI not provided for by this Agreement and/or the Services Agreement of which it becomes aware, including Breaches of Unsecured Protected Health Information as required at 45 CFR 164.410, and any Security Incident of which it becomes aware.
- (d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate shall ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.
- (e) Make any PHI in a Designated Record Set available to Iron Mountain as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524.
- (f) Make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by Iron Mountain pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526.
- (g) Maintain and make available the information required to provide an accounting of disclosures to Iron Mountain as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528.
- (h) To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).
- (i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

3. Permitted Uses and Disclosures by Business Associate.

- (a) Business Associate may only Use or Disclose PHI as necessary to perform the Services as set forth in the Service Agreement.
- (b) Business Associate may Use or Disclose PHI as Required By Law, provided that Business Associate shall inform Iron Mountain in writing within seventy-two (72) hours of Business Associate's receipt of such a request.
- (c) Business Associate shall Use or Disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the Use or Disclosure.
- (d) Business Associate may not Use or Disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity.

4. Term and Termination.

- (a) <u>Term</u>. The Term of this Agreement shall be effective as of the Effective Date set forth above, and shall terminate on the later to occur of (i) the expiration of the Services Agreement, or (ii) when all Protected Health Information provided by Iron Mountain to Business Associate is destroyed or returned to Iron Mountain, or (iii) if it is infeasible to return or destroy the Protected Health Information, protections are extended to such information, in accordance with the termination provisions in Section 4(c).
- (b) <u>Termination for Cause</u>. Iron Mountain may terminate this Agreement and/or the Services Agreement upon written notice to Business Associate if Iron Mountain determines that Business Associate has violated a material term of this Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Iron Mountain.
- (c) <u>Obligations of Business Associate Upon Termination</u>. Upon termination of this Agreement for any reason, Business Associate shall return to Iron Mountain or, if agreed to in writing by Iron Mountain, destroy all PHI received from Iron Mountain, or created, maintained, or received by Business Associate on behalf of Iron Mountain, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the PHI. If neither return nor destruction of PHI is feasible, Business Associate may retain only such PHI for which such return or destruction is infeasible and provided that Business Associate: a) continues to comply with the provisions of this Agreement for as long as it retains PHI, and (b) limits further uses and disclosures of PHI to those purposes that make the return or destruction infeasible.
- (d) <u>Survival</u>. The obligations of Business Associate under this Section 4 shall survive the termination of this Agreement.

5. Miscellaneous.

- (a) <u>Regulatory References</u>. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- (b) <u>Amendment</u>. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
- (c) <u>Interpretation</u>. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

(d) <u>Precedence</u>. This Agreement supersedes any and all prior HIPAA business associate agreements between the parties and their affiliates.

IRON MOUNTAIN SECURE SHREDDING, INC.	VENDOR/BUSINESS ASSOCIATE:
Individual Signing: [print name]	Individual Signing: [print name]
Signature:	Signature:
Title:	Title:
Signing Date:	Signing Date:

SPECIAL WASTE RULES

- 1. By signing the attached SPECIAL/ NON-TYPICAL WASTE ACCEPTANCE form you acknowledge that you have read the following information and agree to abide by the rules of disposal of Special Waste.
- 2. The charge for Special Waste is \$187.83 per ton, with a minimum charge of \$93.92 for 1000 lbs. or less. If a forklift and operator are required there is an additional charge of \$75 per hour with a minimum charge of \$37.50. A forklift is available during limited hours and by appointment only.
- 3. The City does not provide labor for unloading. It is the responsibility of the driver to unload the material and, if necessary, to bring additional labor. For loads that require forklift assistance it is the responsibility of the driver to move pallets to the end of the truck so the forklift can access the material.
- 4. This is a refuse disposal facility. The site does not have a loading dock. Unless directed otherwise, materials contained in the vehicles will be unloaded onto the floor or into the pit by the truck driver. City staff will not sweep out or clean up transport vehicles.
- 5. If the U. S. Department of Agriculture (USDA) is requiring the destruction of the materials, the shipper must set up an appointment with the USDA. The USDA phone number is (509) 353-2950.
- Exact payment is required at time of service, unless a billing account has been set up in advance (call City of Spokane Utility Billing at 509-625-6000 to set up an account).
 Payment may be made by cash, check, MasterCard or Visa.
- At least <u>24 hours notice</u> is required to set up an appointment for delivery. An appointment may be scheduled by calling (509) 625-6580. Leaving a message on voice mail does not constitute an appointment. We are open for appointments and scheduling Monday Friday only. Trucks that arrive without an appointment, or outside of a scheduled appointment, may be denied service.
- 8. Waste material delivered to the facility for disposal must be representative of the waste authorized for acceptance. The waste materials must not contain asbestos and must not be a federal, state, or local regulated hazardous waste. The City of Spokane reserves the right to refuse any loads, at any time, for any reason. The City is not responsible for any costs incurred by the generator or their agents.
- 9. If the load contains petroleum-contaminated materials, the waste must have been derived from incident spills of less than 1,000 gallons. The load must not cause the City to exceed its monthly permitted limit of 150 tons of petroleum-contaminated material.

Please sign attached form indicating that these rules have been read and the undersigned agrees to follow them. A signed copy may be emailed, mailed, or faxed to our office at 509-625-6537. A signed copy must be received before an appointment can be scheduled.

Profile ID:

Appendix "B"

CITY OF SPOKANE SOLID WASTE DISPOSAL SPECIAL/NON-TYPICAL WASTE ACCEPTANCE FORM

Date Notified by Customer:	Time:		
Organization/Company:			
Contact Person:	Phone Number:		
What is waste's regulatory status?			
Solid Waste Hazardous Waste		Dangerous W	aste
Has the waste been designated non-hazardous by the generator and paperwork received?		Yes	No
Have you provided an MSDS, test results, or other data supporting the non-hazardous designation?		Yes	No
If not, please email, mail, or fax to 509-62	25-6537.		
If an MSDS is available for the material, i	t must be submitted.		
Is the material generated in Spokane County? If no, where is the material generated?		Yes	No
If accepted previously, has the waste material changed in any way?		Yes	No
If empty containers, have they been triple rinsed?		Yes	No
Is the material: Oily rags Absorbent Oil filters Other information:			
Generator Signature (Required) By signing this SPECIAL WASTE ACCEPTAI and accurate and you have read and agree to			form is true
Material reviewed and approved	by Solid Waste Disposal design	ated bazardous was	te nersonnel
Signature:			
Material reviewed and approved personnel	by Solid Waste Disposal operat	ions and environmer	ntal
Signature:	Date:		
Material reviewed and approved Signature:			