

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

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**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**

Hannahlee Allers, Brandon Blankenagel, Eldon Brown, Dan Buller, Chris Cafaro, Angela Cline, Mike Coster, Marcia Davis, Leroy Eadie, Anna Everano, Marlene Feist, Jacob Fraley, Luis Garcia, Raylene Gennett, Joel Graff, Lars Hendron, Gary Kaesemeyer, Dan Kegley, Ed Lukas, Brian McClatchey, Adam McDaniel, Louis Meuler, Katherine Miller, Inga Note, Skyler Oberst, Gerald Okihara, Cadie Olsen, David Paine, Kevin Picanco, Micaela Martinez, Rick Romero, Andy Schenk, Elizabeth Schoedel, Scott Simmons, Kyle Twohig

**Guests Present**

Toby Hatley  
Albert Tripp  
Kevin Anderson

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 February 26, 2018 meeting.

- Action Taken
- Council Member Mumm moved to approve the minutes of the February 26, 2018 meeting as presented; the motion was seconded by Council Member Fagan. The minutes were approved unanimously.

**Consent Items (Briefing Papers only)**

1. Contract Renewal for Public Works Safety Program
2. Contract Renewal for Asphalt Mixes
3. Value Blanket for Hot-Pour Rubberized Crack Sealant
4. Value Blanket for Nuvo Gap Crack Sealant
5. Contract to Purchase Aluminum Sulfate
6. Vacation of the Alley between Sprague and First from Lee to Stone
7. Sole Source Contract for Satellite Water Leak Detection Surveys

### Consent Items Discussed

8. CSO 33-1 Liberty Park Control Facility Administrative Reserve Increase  
Council President requested this item be pulled for discussion due to a letter the council office received that day. The letter was given to the legal department. Kyle gave a brief update that there was a structural evaluation in February and they are working with the legal office on a response to the letter.

### Discussion Items

#### A. Council Requests

1. Rules of the River Ordinance

Council Member Beggs discussed the proposed ordinance to align the Spokane Municipal code with State law for the use of life jackets while on personal floatation devices while on the Spokane River. Discussion was had on the stakeholder meetings that were held and discussed the signage that will be placed in City Park areas. The ordinance will be submitted for the council agenda the following week.

#### B. Staff Requests

1. Consultant Agreement for Bike Share Program Planning and Design

Kevin Picanco discussed the scope of work included in the consultant agreement. The study will focus on the feasibility analysis and provide recommendations for implementation framework. Discussion was had on the various companies that are eager to begin serving the City. Brandon Blankenagel discussed the work to coordinate and create a framework for successful implementation and to guide any legislature needed to support a bike share program. Brandon will be helping to moderate a biking summit April 29<sup>th</sup> and May 1<sup>st</sup> at the Spokane Community Colleges.

### 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

- Glover Field Park Boat Slide Funding Agreement

Brandon Blankenagel discussed the timeline for the boat slide project and it will be at the next council meeting for adoption to accept the funding from the Spokane River Forum.

#### C. Priority Strategy 3. Smart Use of Water Resources for Economic Growth

- Resolution for Intertie Agreements

Council Member Beggs began the discussion on the proposed ordinance that will be coming soon. These are meant to be framework for intertie agreements and set standard language for terms, as well as including the agreement for the wholesaler to have conservation measures. Discussion was had on the requirement for annual reporting and conservation measures. Scott Simmons said interties are only 4% of the annual pumping and water use. He discussed stewardship measures and investment in programs for water conservation that

will be focusing more on outdoor irrigation since it is the majority of the water use.

Council Member Mumm discussed Airway Heights' water use by commercial users. Dan Kegley said that the commercial use is 8-10% of outdoor use so the focus has been on residential. Albert Tripp agreed that residential represented the largest use of outdoor irrigation. Council Member Mumm suggested that the most stringent water conservation should be outlined in the agreement rather than having each jurisdiction choose their own. Council President Stuckart said that the language focused on the education based conservation measures and the requirement to have measurable progress, not to decide what the goal is. Council Member Kinnear spoke about the work to have the community invest in planting trees and to make sure the message does not damage those investments.

- **Airway Heights Emergency Water Supply Agreement**

Council Member Beggs began the discussion on the amendment to the agreement. Scott Simmons reviewed the recent impact on Airway Heights drinking water system from contaminants used in firefighting. Last May a secondary intertie was set up and potable water stations. The City's water department worked with Airway Heights to take down the above ground emergency intertie connection for the winter. The pumping last year was done with Airway Heights' water conservation measures in structure already in place for monitoring and measuring their progress. They were able to determine what their peak needs would be. A more suitable secondary location was identified and would be in place for up to two years while Airway Heights works through their long term water needs. The agreement would include limit on flow that would allow the City more predictability for planning. This amendment to the agreement will be at council for adoption this coming Monday.

**D. Priority Strategy 4. Putting Our Renewable Energy Resources to Work in the Community**

- No report this meeting.

**Executive Session**

None.

**Adjournment**

The meeting adjourned at 1:55 p.m.

**Prepared by:**

Barbara Patrick, Administrative Specialist

**Approved by:**



**Chair**

# **Public Infrastructure, Environment and Sustainability Committee**

## **Meeting Agenda for**

**March 26, 2018**

**1:15 p.m. – COUNCIL BRIEFING CENTER**

The Spokane City Council's Public Infrastructure, Environment and Sustainability Committee meeting will be held at **1:15 p.m. on March 26, 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 4<sup>th</sup> 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. Call to Order**

### **II. Approval of minutes from February 26, 2018 meeting**

### **III. Consent Items**

1. Contract Renewal for Public Works Safety Program – Matt Lowmaster
2. Contract Renewal for Asphalt Mixes – Ron Howerton
3. Value Blanket for Hot-Pour Rubberized Crack Sealant – Ron Howerton
4. Value Blanket for Nuvo Gap Crack Sealant – Ron Howerton
5. Contract to Purchase Aluminum Sulfate – Michael Coster
6. Vacation of the Alley between Sprague and First from Lee to Stone – Eldon Brown
7. Sole Source Contract for Satellite Water Leak Detection Surveys – Loren Searl
8. CSO 33-1 Liberty Park Control Facility Administrative Reserve Increase – Kyle Twohig/Joel Graff

### **IV. Discussion Items**

#### **A. Council Requests**

1. Rules of the River Ordinance – Council Member Beggs (15 minutes)

#### **B. Staff Requests**

1. Consultant Agreement for Bike Share Program Planning and Design – Kevin Picanco (10 Minutes)

### **V. Strategic Plan Session**

#### **A. Priority Strategy 1: Rapidly Accelerating Street Paving Maintenance Projects**

- No report this meeting.

#### **B. Priority Strategy 2: Repurposing Public Property to Stimulate Private Investment**

- Glover Field Park Boat Slide Funding Agreement – Brandon Blankenagel (10 Minutes)

#### **C. Priority Strategy 3: Smart Use of Water Resources for Economic Growth**

- Resolution for Intertie Agreements – Scott Simmons (15 Minutes)
- Airway Heights Emergency Water Supply Agreement – Scott Simmons (10 Minutes)

D. Priority Strategy 4: Putting our Renewable Energy Resources to Work in the Community

- No report this meeting.

VI. **Executive Session**

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**

April 23, 2018 in 1:15 p.m. in the Council Briefing Center

**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 [msteinolfson@spokanecity.org](mailto:msteinolfson@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.

# **Briefing Papers**

## Briefing Paper

### Public Infrastructure, Environment, and Sustainability Committee

<b>Division &amp; Department:</b>	Public Works, 4310 Wastewater Maintenance
<b>Subject:</b>	Public Works Safety Program Renewal
<b>Date:</b>	3/26/2018
<b>Author (email &amp; phone):</b>	Matt Lowmaster <a href="mailto:mllowmaster@spokanecity.org">mllowmaster@spokanecity.org</a> 625-6221
<b>City Council Sponsor:</b>	---
<b>Executive Sponsor:</b>	---
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Funding for this contract has been allocated in the following department budgets: Solid Waste, Waste to Energy, Wastewater Maintenance, Wastewater Treatment, and Water & Hydroelectric Services.
<b>Strategic Initiative:</b>	Safe & Healthy
<b>Deadline:</b>	The current contract for this program expires April 13, 2018.
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Contract for ongoing implementation and development of a Public Works Safety Program to include (but not be limited to) on-site classroom safety sessions, a safety exam and supplemental materials, safety videos, and a recognition program.
<b>Background/History:</b>  <i>On April 10, 2017 City Council approved a one (1) year contract with Delta Business Training for a public works safety program not to exceed \$50,000.00 at the award recommendation from RFP #4344-17. That program currently covers safety when working in public right of ways, operating vehicles and heavy equipment, and executing job duties. It has been used by employees from the following Public Works departments: Solid Waste, Streets, Waste to Energy, Wastewater Maintenance, Wastewater Treatment, and Water &amp; Hydroelectric Services. An additional year is requested for this program to support further implementation and development.</i>	
<b>Executive Summary:</b>  <i>This represents the first of four (4) optional one-year renewals of the existing contract for a Public Works Safety Program with Delta Business Training at no change in cost.</i>  <i>Total Contract Value: \$50,000.00 including tax</i>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If new, specify funding source: Water & Hydroelectric Services Contractual Services Budget Other budget impacts: ---	
<b>Operations Impact:</b> Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Specify changes required: None Known challenges/barriers: None	

## Briefing Paper (PIES)

<b>Division &amp; Department:</b>	Street
<b>Subject:</b>	Asphalt Mixes
<b>Date:</b>	3/26/2018
<b>Contact (email &amp; phone):</b>	<a href="mailto:rhowerton@spokanecity.org">rhowerton@spokanecity.org</a> / 625-7741
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Strategic Plan
<b>Strategic Initiative:</b>	Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	
<b>Background/History:</b> <i>This material is used by the Street Department, Parks Department, Sewer Maintenance and Water Department. The City of Spokane Purchasing Department requested bids in 2014 (Bid # 2014-14) from the major asphalt producers in the region. This is the third (3<sup>rd</sup>) of (4) optional one-year renewals. The estimated annual cost for all departments is \$1,925,000.</i>	
<b>Executive Summary:</b> <i>Impact</i> <ul style="list-style-type: none"> <li>The Street Department plans to grind and overlay approximately 8 lane miles of arterial streets, along with patching sewer and water cuts for the City Utilities.</li> </ul> <i>Action</i> <ul style="list-style-type: none"> <li>Approve the use of Annual Blanket Orders for Asphalt Mixes from both Inland and Shamrock Paving.</li> </ul> <i>Funding</i> <ul style="list-style-type: none"> <li>This has been programmed in to the Department's 2018 budget.</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	



## Briefing Paper (PIES)

<b>Division &amp; Department:</b>	Street
<b>Subject:</b>	SA Premier hot-pour rubberized sealant from Specialty Asphalt
<b>Date:</b>	3/26/2018
<b>Contact (email &amp; phone):</b>	<a href="mailto:rhowerton@spokanecity.org">rhowerton@spokanecity.org</a> / 625-7741
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Strategic Plan
<b>Strategic Initiative:</b>	Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	
<b>Background/History:</b> SA Premier hot-pour rubberized crack sealant is used to crack seal streets on an approximate five year cycle. We plan to use about 144,000 lbs. on both the arterial and residential streets this year. The SA Premier Rubberized Crack Sealant cost is \$0.80 per pound and is on State Contract #01211, not to exceed \$115,000.	
<b>Executive Summary:</b>  <i>Impact</i> <ul style="list-style-type: none"> <li>The Street Department started a maintenance crack seal program in 2003 on arterial streets. The residential crack seal program started in 2012 as part of the Transportation Benefit District (TBD) funding. Crack sealing the life of pavement by reducing the amount of moisture that infiltrates the subgrade, which reduces the impacts of the freeze/thaw cycles during winter months. We plan to crack seal approximately 500,000 liner feet in 2018.</li> </ul> <i>Action</i> <ul style="list-style-type: none"> <li>Approval of a one year blanket order for SA Premier using State Contract #01211, on an “as needed” basis.</li> </ul> <i>Funding</i> <ul style="list-style-type: none"> <li>Funding for this is included in the 2018 Street Operation and Maintenance Budget.</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

## Briefing Paper (PIES)

<b>Division &amp; Department:</b>	Street
<b>Subject:</b>	Nuvo Gap B Product from Specialty Asphalt
<b>Date:</b>	3/26/2018
<b>Contact (email &amp; phone):</b>	<a href="mailto:rhowerton@spokanecity.org">rhowerton@spokanecity.org</a> / 625-7741
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Strategic Plan
<b>Strategic Initiative:</b>	Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	
<b>Background/History:</b> <i>Nuvo Gap is the crack sealing material that is used on the wider and deeper cracks found on the residential streets. It cost \$0.78 per pound and we plan to use about 90,000 pounds of this material not to exceed \$80,000.</i>	
<b>Executive Summary:</b>  <i>Impact</i> <ul style="list-style-type: none"> <li>We started a residential crack sealing program in 2012 to preserve residential streets and extend their life cycle as part of the Transportation Benefit District (TBD) program. In 2013 we started using Nuvo Gap in deep wide cracks (1 inch and wider) to aid in the drivability and smoothness of streets and preservation and extension of the life cycle of these streets. We will be able to fill approximately 200,000 lineal feet of crack using this product.</li> </ul> <i>Action</i> <ul style="list-style-type: none"> <li>Approve this value blanket for NUVO GAP using state contract #01211, on “as needed” bases.</li> </ul> <i>Funding</i> <ul style="list-style-type: none"> <li>Funding for this is included in the 2018 street operation and maintenance budget.</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

## Briefing Paper

### Public Infrastructure, Environment, and Sustainability

<b>Division &amp; Department:</b>	Public Works and Utilities
<b>Subject:</b>	Award of BID #4442-18 to Kemira Water Solutions (Lawrence, KS) who is the lowest responsive bidder who met our requirements to supply approximately 5,000 dry tons of Liquid Aluminum Sulfate at \$252.00 per dry ton for a total annual contract cost of \$1,260,000.00 plus sales tax for the period March 1, 2018 to February 29, 2021. Total cost including 8.8% Sales tax \$1,370,880.00 per year.
<b>Date:</b>	3/26/18
<b>Contact (email &amp; phone):</b>	Michael F. Coster, Plant Manager 625-4640 <a href="mailto:mcoster@spokanecity.org">mcoster@spokanecity.org</a>
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Strategic Plan
<b>Strategic Initiative:</b>	Innovative Infrastructure – Affordable Utility Rates
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval to award contract with Kemira Water Solutions (Lawrence, KS) to supply liquid Aluminum Sulfate to Riverside Park Water Reclamation Facility.
<p><b>Background/History:</b> Aluminum Sulfate is used to remove Phosphorus from water from the Riverside Park Water Reclamation Facility (RPWRF) discharged to the Spokane River. RPWRF is required, by its discharge permit, to chemically remove Phosphorus from its effluent flow during the algae growing season in Lake Spokane.</p> <p>This is a three-year contract tentatively scheduled to begin on March 1, 2018 and to end on February 29, 2021. The contract may be extended for two (2) additional one-year contract periods with the total contract period not to exceed five (5) years.</p>	
<p><b>Executive Summary:</b></p> <ul style="list-style-type: none"> <li><b>Impact</b> In order to remove Phosphorus from water discharged from RPWRF, it is necessary to add Liquid Aluminum Sulfate.</li> <li><b>Action</b> Wastewater Management is seeking Council approval to award the contract with Kemira Water Solutions (Lawrence, KS) to supply Liquid Aluminum Sulfate to the Water Reclamation Facility.</li> <li><b>Funding</b> Funding for this purchase is provided in the Wastewater Management budget, and revenue is derived from sewer rates. .</li> </ul>	
<p><b>Budget Impact:</b></p> <p>Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Annual/Reoccurring expenditure? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>If new, specify funding source: Department</p>	

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:

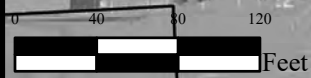
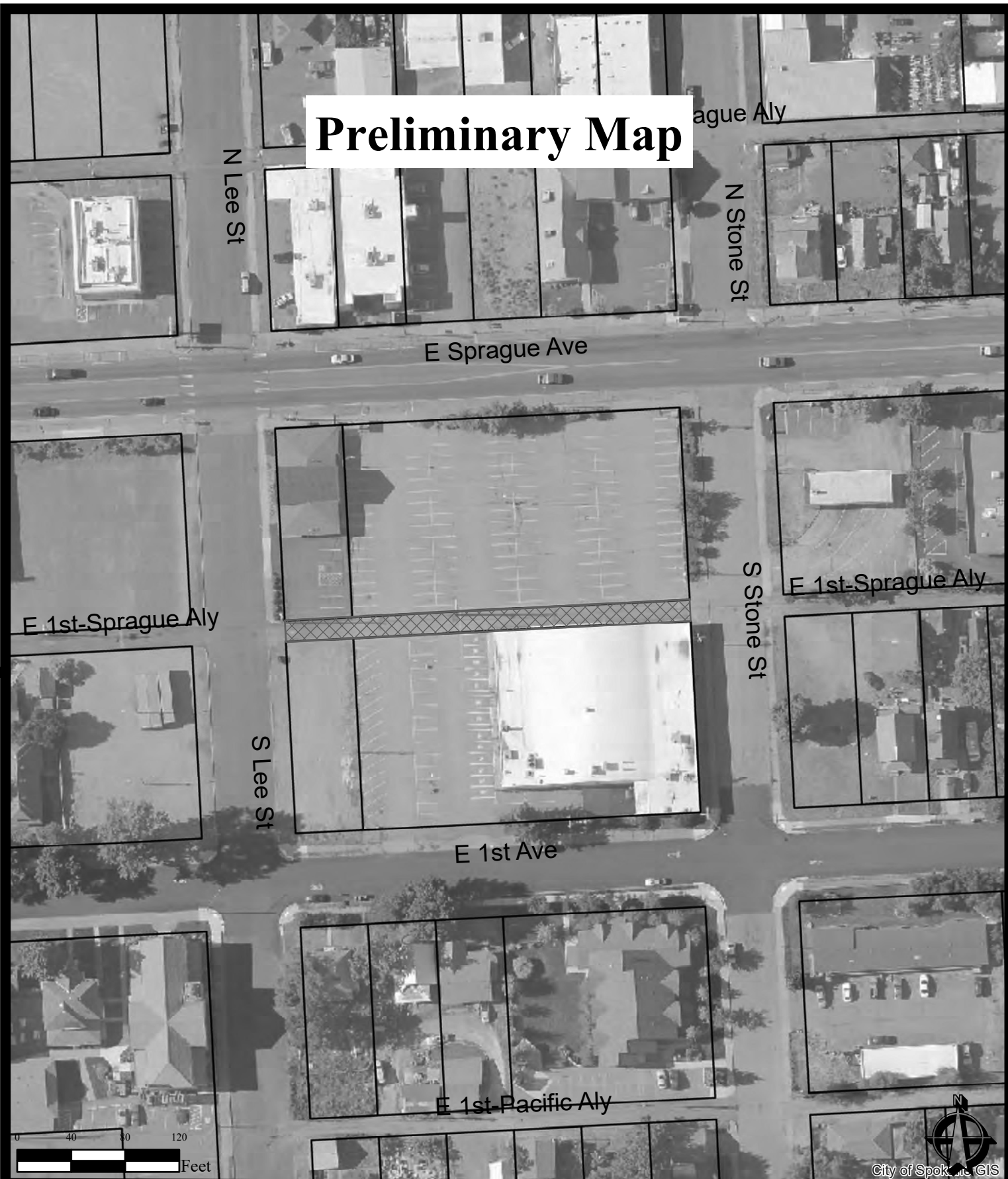
Known challenges/barriers:

## Briefing Paper

### (Public Infrastructure, Environment and Sustainability Committee)

<b>Division &amp; Department:</b>	Planning & Development
<b>Subject:</b>	Vacation of the alley between Sprague & 1 <sup>st</sup> , from Lee to Stone.
<b>Date:</b>	March 26, 2018
<b>Contact (email &amp; phone):</b>	Eldon Brown ( <a href="mailto:ebrown@spokanecity.org">ebrown@spokanecity.org</a> ) 625-6305
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Dawn Kinder
<b>Committee(s) Impacted:</b>	Public Infrastructure & Environmental Sustainability
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Section 17G.080.020 of the Spokane Municipal Code and Chapter 35.79 of RCW regarding street vacations.
<b>Strategic Initiative:</b>	
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Precedes taking this application to a public hearing before City Council
<b>Background/History:</b> The Vanessa Behan Crisis Nursery has recently purchased the majority of this block and plans to build a new facility for the Nursery. The Nursery serves a very vulnerable population of at-risk children and their parents. At times, family situations can cause safety concerns for the Nursery. The applicant has worked to create a level of safety and a buffer from potential threats including the design of the new location to protect the play yard on three sides with the building. Having the alley accessible increases the risk and increases the likelihood of staff becoming desensitized to traffic and missing a potential threat. The applicant would like to vacate this alley in order to control access to this new proposed facility.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>Selling this right-of-way to the applicant by vacation petition, if approved, would generate \$19,000.00</li> <li>Utility easements are to be reserved over the right-of-way.</li> <li>Map of the proposal area attached</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.) Revenue Generating	
<b>Operations Impact:</b> Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

# Preliminary Map



## Right of Way Description:

**Vacation of the alley between Sprague  
and 1st, from Lee to Stone**

## Legend

 Vacation Area

THIS IS NOT A LEGAL DOCUMENT:  
The information shown on this map is compiled  
from various sources and is subject to constant  
revision. Information shown on this map should  
not be used to determine the location of facilities  
in relationship to property lines, section lines,  
streets, etc.



## Briefing Paper

### Public Infrastructure, Environment, and Sustainability Committee

<b>Division &amp; Department:</b>	Public Works, 4100 Water & Hydroelectric Services
<b>Subject:</b>	Satellite Water Leak Detection Services
<b>Date:</b>	3/26/2018
<b>Author (email &amp; phone):</b>	Loren Searl, <a href="mailto:lsearl@spokanecity.org">lsearl@spokanecity.org</a> ext. 7851
<b>City Council Sponsor:</b>	---
<b>Executive Sponsor:</b>	---
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan)	Funding for these purchases has been allocated in the Water & Hydroelectric Services department budget.
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	This service is subject to satellite availability.
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	This contract will support two (2) satellite surveys to cover the City of Spokane’s total 1,080 miles of water service pipe. These surveys will allow for an efficient maintenance and repair plan for the City’s water service system, maximizing the investment of taxpayer funds to achieve reductions in losses of leaked drinkable water.
<b>Background/History:</b>  <i>Utilis Inc. has developed a unique and patented algorithm for leak detection in urban fresh-water distribution networks. Using spectral aerial imaging taken from a satellite mounted sensor, Utilis uses L band microwaves to spot leakage in subterranean drinking water networks. Drinking water is identified according to its particular spectral signature.</i>	
<b>Executive Summary:</b>  <i>A sole source contract is proposed to utilize this patented technology in gathering current data on locations of leaked drinkable water within the existing water service system. Using this technology would avoid wasting time and materials to manually test and examine the existing system, as well as eliminate the potential inconvenience of service disruption to the citizens of Spokane.</i>  <i>Total Contract Value: \$81,000.00 including tax</i>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If new, specify funding source: Water & Hydroelectric Services Contractual Services Budget Other budget impacts: ---	
<b>Operations Impact:</b> Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Specify changes required: None Known challenges/barriers: None	

## Briefing Paper

### PIES Committee

<b>Division &amp; Department:</b>	Engineering Services
<b>Subject:</b>	CSO 33-1 Liberty Park Control Facility Administrative Reserve Increase
<b>Date:</b>	3/26/18
<b>Contact (email &amp; phone):</b>	Joel Graff <a href="mailto:jgraff@spokanecity.org">jgraff@spokanecity.org</a> 625-7757
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	This project is in the 6 year plan and part of the Cleaner River Faster CSO program
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	For council consideration. Request will be forwarded to the council agenda for approval.
<p><b>Background/History:</b> <i>Engineering Project #2013213</i> – CSO 33-1 Liberty Park Control Facility, is an ongoing CSO tank project in the East Central neighborhood. During the design of the project, the design engineer worked out an agreement with the WSDOT to use the adjacent property under the Hamilton off ramp as the stockpile site for the material that was excavated from the tank site. In addition the WSDOT requested that a permanent large level turn around be provided on the site for their use as part of the project. Just prior to the start of the project the WSDOT backed out of the agreement which resulted in several unexpected changes to the contract. An new stockpile site was found and prepared to receive material, the excavated material had to be hauled to the new stockpile site and back, and the excess material could not be left on-site to build the turnaround which resulted in a costly screening and disposal operation. The total cost of these changes is approximately \$390,000. The changes along with a large overrun in solid rock removal have used a large portion of the Administrative Reserve. Engineering Services is requesting an additional \$390,000 to complete the project</p>	
<p><b>Executive Summary:</b></p> <ul style="list-style-type: none"> <li><i>Preparation of a new stockpile site, hauling the material to the stockpile site, and returning the material to the tank site for backfill will result in an estimated cost of \$110,000.</i></li> <li><i>Screening approximately 10,000 CY of material to separate the rock from the fines and hauling and disposal of the fines to a licensed landfill resulted in an estimated cost of \$280,000.</i></li> <li><i>Payments have been issue to date for \$7,866,200.26. The authorized budget with administrative reserve is \$10,556,801.75 (Original Admin Reserve is \$959,709.25)</i></li> <li><i>An additional \$390,000 is being requested to complete the project.</i></li> <li><i>To date, we have authorized \$879,556.52 of the administrative reserve</i></li> </ul>	
<p><b>Budget Impact:</b></p> <p>Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>If new, specify funding source:</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	



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:

# Briefing Paper

## Public Infrastructure, Environment and Sustainability

<b>Division &amp; Department:</b>	City Council
<b>Subject:</b>	Rules of the River Ordinance
<b>Date:</b>	3/26/18
<b>Contact (email &amp; phone):</b>	Breean Beggs, <a href="mailto:bbeggs@spokanecity.org">bbeggs@spokanecity.org</a>
<b>City Council Sponsor:</b>	Breean Beggs
<b>Executive Sponsor:</b>	
<b>Committee(s) Impacted:</b>	Public Safety and Community Health
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b>	This ordinance simplifies, consolidates and clarifies section of SMC to create a new SMC Chapter 16A.60 Rules of the River
<b>Strategic Initiative:</b>	River Connection, Marketing Spokane, Public Amenities
<b>Deadline:</b>	Will be placed on Council agenda for a vote after committee discussion
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	River Connection, Marketing Spokane, Beautification, Public Amenities

### Background/History:

Stories published in the Spokesman Review in early 2017 brought to light confusion over rules regarding the use of PFDs (life jackets) for Spokane River users within City limits. Through trying to find answers as to whether PFDs are required for river users and which organization has jurisdiction over the enforcement of such laws, it was discovered that Spokane Municipal Code sections ruling the use of the river were not consolidated and easily accessible.

In tracking down and consolidating river-related SMC, it was also discovered that some code was out of compliance with various state and county laws or was not applicable within City limits. These instances have been updated to reflect the current laws and requirements.

This ordinance has been sent to a variety of river use stakeholders (see next page) on multiple occasions and a stakeholder meeting was held on March 9, 2018, to elicit further feedback. SPD, SFD and Spokane County Sheriff were all involved in that meeting.

### Executive Summary:

- Repeals Chapter 10.14 of the Spokane Municipal Code and adopts a new Chapter 16A.60.
- New language clarifies that the use of motorized vessels is prohibited on bodies of water within City limits, with exceptions for emergency vessels and Avista Utility work.
- SMC sections regarding scuba diving, water skiing and docks and booms were not included in the new SMC.
- Adds language about enforcement, clarifying that the Spokane County Sheriff may enforce, as well as infraction information, making violations a Class 4 Civil Infraction and enabling Sheriff Deputies and SPD to issue tickets when necessary. Class 4 infractions have a penalty of \$31.
- Signage will be needed at major river put-in points. See below for draft list of signage areas.

### Budget Impact:

TOTAL COST:

Approved in current year budget? ☐ Yes ☐ No ☒ N/A

Annual/Reoccurring expenditure? ☐ Yes ☐ No ☒ N/A

If new, specify funding source:

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: Law enforcement education may be needed to let officers know of the changes and signage at major river put-in locations will need to be produced and installed

Known challenges/barriers:

## **Rules of the River Stakeholder Group**

Avista

EWU Epic Adventures

EWU Outdoors

Flow Adventures

Flow Adventures

Fun Unlimited

Gonzaga Outdoors

NW Whitewater Association

Peak 7 Adventures

Play Boaters

Police

Riverside State Park

ROW

Sheriff Marine Division

Silver Bow Flyshop

Spokane Canoe and Kayak Club

Spokane County Sheriff, Marine Enforcement

Spokane Fire Department

Spokane Parks and Recreation

Spokane Police Department

Spokane River Forum

Spokane Riverkeeper

SUP Spokane

Whitworth Outdoors

Wiley E Waters Whitewater Rafting

### Rules of the River Signage Locations

#### MAP

<u>Location</u>	<u>Property Owner</u>
Glover Field (once boat launch is complete)	Parks
<u>West end of Water Ave.</u>	Parks
Sandifur Bridge/People's Park	Parks
<u>TJ Meenach/Downriver Park</u>	Parks
<u>Aubrey White Pkwy (west of Watewater Plant)</u>	City
<u>Plese Flats</u>	State Parks

**ORDINANCE NO. C - \_\_\_\_\_**

An ordinance relating to boating safety; repealing Chapter 10.14; enacting a new chapter 16A.60 to the Spokane Municipal Code.

**NOW, THEREFORE**, the City of Spokane does ordain:

Section 1. That Chapter 10.14 of the Spokane Municipal Code is hereby repealed

Section 2. That there is adopted a new chapter 16A.60 of the Spokane Municipal Code to read as follows:

**Chapter 16A.60 Rules of the River**  
**Section 16A.60.010 Definitions**

Terms in this chapter shall mean as follows:

- A. "Boat livery" means a business which holds any vessel for renting or leasing.
- B. "Boating accident" means a collision, sinking, fire, explosion, injury or loss of life that involves a vessel, its equipment or its appendages.
- C. "Buoy" means a floating device or marker anchored in the water. All buoys, except for recreational buoys, shall comply with the Uniform State Waterway Marking System (USWMS).
- D. "Buoy line" means a straight line that would exist if drawn between the closest safety buoys.
- E. "Dock" means any manmade platform extending from the shoreline into the water.
- F. "Flotation device" means any device used or capable of being used as a means of transportation on the water and shall include, but not be limited to, inflatable beach toys, rubber inner tubes, rafts and air mattresses.
- G. "Mooring buoy" means a buoy placed for the mooring of vessels. Such buoys will be white with a blue stripe on top.
- H. "Motorboat" means any vessel propelled in whole or part by machinery, including those temporarily equipped with detachable motors.
- I. "Moving water" means a waterway which has a flow of water which can be measured in cubic feet per second.

**Comment [MA1]:** SMC 10.14.010 Definitions

Changes include:

- Updated "buoy" definition
- Non-motorized vessel definition
- Updated "personal flotation device" definition including Types descriptions.
- "Port" definition
- "Starboard" definition
- "Transom" definition
- "Underway" definition
- Added 'Paddleboard' to the definition of vessel
- Removed the following definitions: "dB," "Receiving property," "Sound level," and "Transom"

- J. "Navigation lights" means a red port light and a green starboard light and a white stern light visible at a distance of one hundred yards.
- K. "Non-motorized vessel" means sailboats or vessels that are paddled, poled, or rowed.
- L. "Operator" means a person who is in actual physical control or in charge of a vessel when it is in use.
- M. "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles them to such possession.
- N. "Personal flotation device (PFD)" means life preservers, life vests, flotation rings, or buoyant cushions approved by the United States Coast Guard (USCG) and designed to float a person in the water.
1. Type I personal flotation devices are designed for rough or remote waters where rescue may take a while. These devices are designed to turn an unconscious person face up in the water.
  2. Type II personal flotation devices are designed for calm waters when a quick rescue is likely. These devices may not turn some unconscious persons face up in the water.
  3. Type III personal flotation devices are designed for calm waters when a quick rescue is likely. These devices are not designed for rough waters as they will not turn most unconscious persons face up in the water.
  4. Type IV personal flotation devices are designed to be thrown to a person in the water. They are not designed to be worn.
  5. Type V personal flotation devices are designed to be for special activities such as kayaking and water-skiing.
- O. "Personal watercraft" means a Class "A" inboard vessel, as defined by the U.S. Coast Guard, which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion and is designed to be operated by a person or persons sitting, standing or kneeling or being towed behind the product, rather than in the conventional manner of boat operation.
- P. "Port" is the left side of a vessel while facing forward.
- Q. "Safety buoy" means a buoy placed to regulate or control vessel speed or operations as required for the safety of the public.
- R. "Sailboat" means any vessel propelled primarily by the wind.
- S. "Shoreline" means any existing waterline.

- T. "Ski or swimming dock" means a manmade platform anchored to the bottom of a body of water.
- U. "Starboard" means the right side of a vessel while facing forward.
- V. "Underway" means that a vessel is not at anchor, or made fast to the shore, or a ground.
- W. "Use" means to operate, navigate or employ.
- X. "Vessel" means any watercraft used or capable of being used as a means of transportation on the water. This definition shall include, but not be limited to, the following:
1. Rowboats,
  2. Sailboats,
  3. Motorboats,
  4. Canoes,
  5. Kayaks,
  6. Paddleboards,
  7. Personal watercraft; and
  8. Hover craft.
- Y. "Wake speed" means a slow speed producing a wake not to exceed six inches in height at its apex when reaching any shoreline, dock or manmade structure on the shoreline and further not to exceed five miles per hour in any event.
- Z. "Waterway" is any waters, waterway, lake, river, tributary canal, lagoon or connecting waters within the incorporated boundaries of the City of Spokane.

#### **Section 16A.60.020 Motorized vessels prohibited**

- A. No person shall operate a motorboat or personal watercraft on any body of water, including the Spokane River, within the City of Spokane except for the area of the Spokane River to the east of Upriver Dam. Operators of motorboats or personal watercraft must follow all Federal, State and Local laws governing their use.
- B. This section does not apply to Spokane Police Department, Spokane Fire Department, Spokane County Sheriff's Department, Avista Utilities or emergency vessels in enforcement, training or rescue.

#### **Section 16A.60.030 Personal Flotation Devices (PFD)**

**Comment [AH2]:** New section – Adds Avista as an exemption as they use motorboats to access equipment

**Comment [MA3]:** SMC 10.14.060 Personal Flotation Devices (PFD)

Clarified and condensed language.

Added and defined Type V PFDs.



- A. All vessels shall have at least one United States Coast Guard (USCG) approved Type I, Type II, Type III or Type V personal flotation devices for each person on board.
- B. All vessels sixteen feet or greater in length shall have one Type IV personal flotation device that can be thrown in addition to the requirements in SMC 16A.60.030(A). Canoes and kayaks are exempt from this requirement.
- C. No person may operate a vessel underway, unless each person twelve years of age or younger thereon is wearing a United States Coast Guard (USCG) approved Type I, Type II, Type III, or Type V personal flotation device.
- D. All personal flotation devices shall be United States Coast Guard (USCG) approved and clearly marked with a USCG approval number. All personal flotation devices shall be in serviceable condition, the appropriate size for the person wearing it, and readily accessible in case of an emergency.
- E. All persons regardless of age shall wear a United States Coast Guard (USCG) approved personal flotation device while on moving water.
- F. All persons being towed behind a vessel shall wear a United States Coast Guard (USCG) approved Type I, Type II, Type III or Type V personal flotation device.

#### **Section 16A.60.040 Navigation Lights**

- A. All non-motorized vessel less than sixty-five feet long but more than twenty three feet long shall be equipped with the following lights:
  - 1. A bright white light aft to show all around the horizon (thirty-two points of the compass) and be visible for two miles.
  - 2. A combination light in the forepart of the vessel that is three feet lower than the white light aft. The combination light, which shows green to starboard and a red to port, is fixed to throw the light from dead ahead to two points abaft the beam on respective sides and shall be visible for a distance of two miles or one mile if less than thirty-nine feet long.
- B. All non-motorized vessels less than twenty-three feet long that are underway after sunset and before sunrise shall have a lantern or flashlight capable of emitting a white light which shall be temporarily displayed as needed in sufficient time to prevent a collision.

#### **Section 16A.60.050 Hazards to Navigation**

No person may place or cause to be placed any ski, swim dock, buoy, or floating course

**Comment [MA4]:** SMC 10.14.070 Lighting

Clarified to reflect state law.

**Comment [MA5]:** Spokane County Code 6.03.080 – Hazards to navigation

waterways that creates a hazard to navigation.

#### **Section 16A.60.060 Unlawful and Dangerous Vessel Operations**

- A. No person shall operate a vessel upon any waterway in willful or wanton disregard for the safety, rights, or property of another person.
- B. No person shall operate a vessel in disregard of careful and prudent operation or in any manner that unduly or unreasonably endangers the life, limb, property, or rights of any person.
- C. If a law enforcement officer observes a vessel being used without sufficient lifesaving or fire-fighting devices or in an overloaded or other unsafe condition, and in the officer's judgment such use creates an especially dangerous condition, the officer may direct the operator to take whatever immediate and reasonable action may be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and remaining there until the situation creating the especially hazardous condition is corrected or ended.
- D. If the vessel is a for-hire vessel from a boat livery, it shall be the obligation of the lessee to insure proper vessel loading, operations, and that all safety equipment required by this chapter is present.

**Comment [MA6]:** Combines:  
SMC 10.14.240 Reckless Operation  
SMC 10.14.230 Negligent Operation  
SMC 10.14.040 Especially Hazardous Conditions

#### **Section 16A.60.070 Operating a Vessel While Under the Influence – Prohibited**

- A. No person shall operate any vessel while under the influence of any intoxicating liquor, narcotic drug, barbiturate, marijuana, usable marijuana, a marijuana-infused product or any other substance as defined under chapter 69.50 RCW.
- B. Determination of intoxication shall be by the same criteria as provided in RCW 46.61.506, or otherwise in the same manner as when an individual is alleged to be under the influence of an intoxicating liquor or drug while operating a motor vehicle.

**Comment [MA7]:** SMC 10.14.220

#### **Section 16A.60.080 Sound-Producing Devices**

- A. All vessels, including personal watercraft, less than sixty-five feet in length shall carry on board a mouth, hand, or power-operated whistle or horn.
- B. All vessels more than sixty-five feet in length shall carry on board a mouth, hand, or power operated whistle or horn and a bell.

**Comment [MA8]:** SMC 10.14.130 Sound Devices  
Language reflects state law.

No vessels may use a siren except vessels operated by law enforcement.

#### **Section 16A.60.170 Vessel Accident Reporting**

**Comment [MA9]:** SMC 10.14.050 Accident Reporting

- A. In the case of a boating accident, it shall be the duty of the operator, if he or she can do so without serious danger to the operator's own vessel, to themselves or other persons on board, to render all practical and necessary assistance that may be necessary to other persons affected by such boating accident.
  - 1. Under no circumstances may the rendering of assistance or other compliance with this section be evidence of the liability of such operator for the accident.
- B. Any person who complies with subsection (A) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel accident, without objection of any person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment or other assistance where the assisting person acts as any reasonably prudent person would have acted under the same or similar circumstances.
- C. Every accident involving a vessel on any waterway in which there is personal injury that requires medical attention beyond first aid or death or damage to property in excess of two thousand dollars shall be reported to the Spokane County Sheriff's Office within forty-eight hours by the vessel operator unless deceased, in which instance a passenger in the vessel, if any, shall have such duty.
  - 1. The Spokane County Sheriff's Office shall provide forms upon which the report shall be rendered.
- D. When as a result of an occurrence that involves a vessel or its equipment a person dies or disappears from a vessel, the operator, unless deceased, in which instance a passenger, if any, shall without delay notify the Spokane County Sheriff's Office of the:
  - 1. date, time and exact location of the occurrence;
  - 2. name of each person who dies or disappears;
  - 3. number and/or name of the vessels involved;
  - 4. names and addresses of the owner and operator of each vessel or vessels involved.

#### **Section 16A.60.090 Authority to Board**

**Comment [MA10]:** SMC 10.14.020 Authority to Board

Any law enforcement officer is hereby given the authority to board any vessel found underway in the waters of the City of Spokane for the purpose of inspection and enforcement of this chapter only.

#### **Section 16A.60.100 Buoys**

**Comment [MA11]:** SMC 10.14.200 Safety Buoys

- A. The Spokane County Sheriff's Office may designate location and install in the water appropriately marked safety buoys that are required for the safety of the public.
- B. It shall be unlawful for any person to relocate, damage or alter any safety buoy.
- C. Any vessel operating within the area between the safety buoy line and the shorelines shall do so at wake speed unless such vessel is departing or towing a water skier in compliance with SMC 16A.60.050(D).
- D. It shall be unlawful for any vessel to use a safety buoy for the purpose of mooring or otherwise anchoring such vessel.
- E. Mooring buoys shall be placed inside the safety buoy line except that mooring buoys may be placed outside the safety buoy line if such buoys are appropriately marked and illuminated with a bright flashing white light between the hours of sunset and sunrise. It is the responsibility of the owner of the mooring buoy to maintain the light.
- F. Recreational buoys shall be placed one hundred feet from the established high water mark and if left unattended from sunset to sunrise shall be available for public use.
- G. The Spokane County Sheriff's Office shall attach a bright colored notice giving the owner seven days to remove or replace any buoy in violation of the Uniform State Waterway Marking System. After the seventh day, the buoy may be removed by the Spokane County Sheriff's Office. Provided, however, the Spokane County Sheriff's Office may remove any buoy, at any time, without notification to its owner, when the officer deems the buoy to be a hazard to navigation.

#### **Section 16A.60.120 Garbage and Sewage**

**Comment [MA12]:** SMC 10.14.050 Accident Reporting

- A. No person shall discharge sewage into any waterway directly or indirectly from any vessel.
- B. It shall be unlawful for any person, while on any waterway, public or private shoreline, or river access point, to throw or discard into the water any waste,

debris, refuse, oil, plastics, aluminum, garbage or other fluid or solid material which may pollute the water or shoreline, or which may create or aggravate any conditions deleterious to the public health.

**Section 16A.60.130 Penalties – Civil Infraction**

- A. Any person violating any of the above sections shall have committed a class 4 civil infraction and shall be liable for monetary penalties as set forth in SMC 1.05.210.
- B. The court may waive, reduce or suspend the civil penalty and clear the civil infraction as a warning for a person who has not been cited under this chapter within one year.
- C. A guardian may be cited for a separate violation of this chapter for each child under sixteen years of age on a vessel without an approved personal floatation device.
- D. Each event under subsection (A) of this section shall be a separate violation.

**Comment [AH13]:** New section added based on language concerning helmet laws in SMC 10.17.080 – should potentially have different class infraction for different sections

**Section 16A.60.140 Enforcement**

This chapter having been ordained for the purpose of allowing officers of the Spokane County Sheriff's Office to enforce one body of boating safety laws on a continuous body of water without regard to municipal boundary lines, shall by mutual agreement between the City of Spokane and the County of Spokane be enforced by the Spokane County Sheriff's Office. Nothing in this section prohibits the Spokane Police Department from enforcement.

**Comment [MA14]:** SMC 10.14.900 Enforcement

PASSED by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

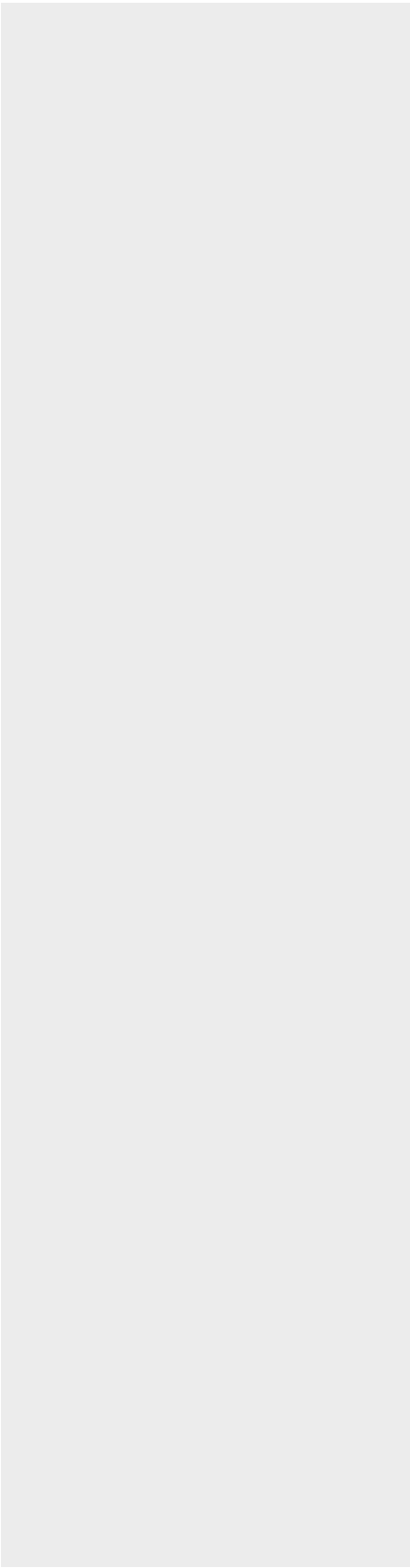
\_\_\_\_\_  
Assistant City Attorney

Mayor

Date

Effective Date

DRAFT



## Briefing Paper

### Public Infrastructure, Environment & Sustainability Committee

<b>Division &amp; Department:</b>	Public Works Division, Integrated Capital Management
<b>Subject:</b>	Consultant Agreement for Bike Share Program Planning and Design.
<b>Date:</b>	3/26/2018
<b>Contact (email &amp; phone):</b>	Kevin Picanco, <a href="mailto:kpicanco@spokanecity.org">kpicanco@spokanecity.org</a> , 625-6088
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment & Sustainability
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
<b>Strategic Initiative:</b>	
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Bike Share program feasibility, framework, draft legislation, internal staff needs.
<b>Background/History:</b> Federal grant received in 2015 for use in 2018 to do preliminary design of bike share for Spokane. An RFQ was issued in December, 2017 to contract with a transportation planning consultant. Six submissions were reviewed, and Toole Design Group was selected. 2017 was a ground-breaking year for bike share in America, and this contract will bring the latest innovations to the ground for Spokane.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>Bike share design to be done by a transportation planning consultant</li> <li>RFQ had 6 submissions, and Toole Design Group was selected</li> <li>Consultant will conduct public outreach, physical assessment, and gather stakeholder input</li> <li>Deliverable will be framework layout for bike share programming to include             <ul style="list-style-type: none"> <li>Recommendations for system initiation</li> <li>Permitting/legislation process drafts</li> <li>Internal staffing recommendations</li> </ul> </li> <li>Consultant contract amount: ~\$50,000</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A If new, specify funding source: WSDOT/FHWA - STP Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> Consistent with current operations/policy? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A Requires change in current operations/policy? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

## SCOPE OF SERVICES

TDG will perform the following scope of work as part of the City of Spokane's Bike Share Design services contract.

### **Task 1: Project Coordination**

- Conduct a kickoff meeting by phone with the City's Project Manager to understand any work conducted to date, request any additional data required for the project, and to finalize the scope and schedule.
- Prepare and submit kickoff meeting notes to the City's Project Manager.
- Conduct regular check-in phone calls with the City Project Manager to provide updates on work progress and to track completion of deliverables, upcoming work, and the budget status of the project.
- Prepare written progress reports to be provided with monthly invoicing.

### **Task 2: Conditions Analysis**

- This task will include one multi-day trip to Spokane to conduct stakeholder outreach and field research.
- Conduct a GIS-based analysis to identify the locations in the community where the potential for bike share is highest. The analysis will use available data to layer the typical demand factors, including population and employment densities, local and visitor attractions, key destinations, transit hubs, ridership, and bikeway infrastructure. The result of this task will be a bike share demand heat map.
- Review any existing equity analysis that identifies low-income or traditionally-underserved communities to determine where these areas may overlap with areas of high bike share demand.
- Work with the City Project Manager and key stakeholders to narrow the focus area for the bike share system.
- Travel to Spokane to conduct a field review of areas with the most bike share potential and identify specific opportunities and constraints.
- Work with the City Project Manager to identify interested stakeholders and potential program partners. This could include various City departments, the Spokane Transit Authority, Spokane Regional Transportation Council, Downtown Spokane Partnership, Visit Spokane, Gonzaga University, Inland Northwest Economic Alliance, Providence Sacred Heart Medical Center, other private partners, and transportation, economic development, health, and advocacy partners.
- While in Spokane, conduct up to two (2) stakeholder meetings and up to three (3) small-group interviews with key City staff and other stakeholders. Prepare and submit stakeholder meeting summaries to the City Project Manager.
- Assist the City to identify which partners require future follow-up interviews to explore opportunities for corporate partnerships.
- Conduct a market analysis to assess potential demand considering the eight "typical" bike share market segments.
- Prepare a summary of the opportunities and challenges for bike share in Spokane and assess community readiness.
- Work with City staff to identify up to five (5) peer communities that best represent the scale, physical form, climate, built environment, industry, university presence, transit infrastructure, and other characteristics of Spokane
- Develop case studies and compare system characteristics for the identified peer cities including a review of:
  - Technology type: including traditional smart dock, smart bike, and dockless systems
  - Coverage area and size of system
  - Ridership and membership statistics
  - Ownership and governance model
  - Capital and operating costs
  - Revenue model, funding, and financial performance (including operating cost characteristics, farebox recovery, etc.).



- Summarize the lessons learnt and best practices identified in the peer cities that can be applied to Spokane.
- Review the physical environment to identify opportunities or challenges that need to be addressed or considered in the planning of the system. These could include areas with significant topography or major physical, transportation, or other barriers; the extent of the bikeway network (both planned and existing) and how that could be used or prioritized to enhance the success of the program; and how winter and climactic conditions might impact the system and how they should be addressed.
- Prepare a Draft Conditions Analysis memo

### **Task 3: Public Outreach**

- TDG will build a webpage for the project. Once launched the website will be active for one year and will be maintained by TDG for the duration of the project. Once the project is complete, the website's ownership will be transitioned to the City.
- Develop an online survey on a third-party platform that can be linked to the project webpage. The survey will be used to collect information on the appetite for a bike share system and preferences about different components or operating strategies. It will also collect demographic data to compare the results to the demographics of the broader population.
- Develop a city-wide online map using the WikiMap software (that can be linked to the project webpage) that allows users to suggest potential bike share stations or like/dislike other users' suggestions.
- Assist the City in developing a distribution and advertising strategy for the online engagement tools.
- While in Spokane, TDG will staff a table at a planned community event to gather public input and promote the project's online engagement tools (i.e., the website, wikimap, and survey).
- Provide the City Project Manager with weekly updates of the survey and wikimap response rate.
- Summarize online engagement in a Draft Public Outreach Summary memo including maps of suggested station locations and breakdowns of survey responses.

### **Task 4: Implementation Framework**

- Analyze the advantages and disadvantages of different technology options including smart dock, smart bike, and dockless technologies.
- Develop service-area and phasing scenarios (including the size of each phase and the number of stations, docks, and bikes in each) for three different funding scenarios:
  - User revenues
  - Sponsorship
  - Data mining
- Assess potential governance structures for these scenarios and make preliminary recommendations on who would own, manage, and operate the system under these scenarios and the role of the City and other partners.
- Present these scenarios to the City Project Manager and key stakeholders (by phone conference) for comment.
- Revise the analysis and draft recommendations on the type of system and its governance based on a set of consolidated comments provided by the City Project Manager. Staff will be responsible for checking in and presenting recommendations to decision-makers to obtain their feedback and further direction for the project.
- Prepare an Operations Plan that will define the system needs around:
  - Back-end technology and management of memberships, finance, revenues, etc.
  - User interface types and needs
  - Rate structure
  - Transit integration
  - Staffing needs (both from an agency and operator perspective)
  - Service levels and system management requirements
  - Seasonal storage and operations recommendations
  - Insurance recommendations

- Specialty bike and e-assist bike options
- Prepare a Draft Systems Operation and Maintenance memo.
- Prepare an Implementation Flow Chart that outlines the necessary steps to implementation and the expected timeline for each step.

#### **Task 5: Bike Share Legislation**

- Assist the City to identify what legislation needs to be updated or created to accommodate the bike share program.
- For dockless programs – or programs where the City opens its right-of-way for vendors to provide services, this task may include identifying potential permit systems that allows the vendor to operate in the public right-of-way and identifying example ordinances and permit procedures.
- For a program with more public-agency involvement or oversight, this task may include identifying needs for creating inter-jurisdictional partnerships, MOUs with universities (such as Gonzaga) or private property owners, changes to ordinances, understanding and ensuring compliance with federal, state, and local funding regulations, etc.
- Provide policy guidance and recommendations to help determine the best solution for Washington's helmet law, supporting youth to use and participate in the bike share program (including age restrictions and parental approval), and addressing any policy barriers that could affect e-assist bikes.
- Summarize policy needs and where applicable, provide example policy language from peer cities.

#### **Task 6: Bike Share Design Final Report**

- Combine the draft deliverables from the previous tasks into a Consolidated Bike Share Design Report that will be presented to the City's Project Manager.
- Respond to one set of consolidated comments to prepare a Final Bike Share Design Report.

#### **Summary of Contract Deliverables**

<b>Task</b>	<b>Deliverables</b>
1. Project Coordination	<ul style="list-style-type: none"> <li>• Kickoff meeting notes</li> <li>• Monthly progress reports</li> </ul>
2. Conditions Analysis	<ul style="list-style-type: none"> <li>• Stakeholder meeting summaries</li> <li>• Draft Conditions Analysis memo</li> </ul>
3. Public Outreach	<ul style="list-style-type: none"> <li>• Content and graphics for project website</li> <li>• Online survey</li> <li>• Online WikiMap</li> <li>• Draft Public Outreach Summary memo</li> </ul>
4. Implementation Framework	<ul style="list-style-type: none"> <li>• Draft Operations and Maintenance memo</li> <li>• Implementation Flow Chart and Timeline</li> </ul>
5. Bike Share Legislation	<ul style="list-style-type: none"> <li>• Policy Needs Review</li> <li>• Example policy language (as needed)</li> </ul>
6. Bike Share Design Final Report	<ul style="list-style-type: none"> <li>• Draft Bike Share Design Report</li> <li>• Final Bike Share Design Report</li> </ul>

### BUDGET

TDG will perform the described scope of services for the amount shown below.

<b>Task</b>	<b>Budget</b>
1. Project Coordination	\$3,973
2. Conditions Analysis	\$13,470
3. Public Outreach	\$9,952
4. Implementation Framework	\$13,988
5. Bike Share Legislation	\$2,574
6. Bike Share Design Final Report	\$3,017
7. Expenses	\$3,000
<b>CONTRACT TOTAL</b>	<b>\$49,974</b>

## Briefing Paper

### Public Infrastructure, Environment and Sustainability Committee

<b>Division &amp; Department:</b>	Public Works, Integrated Capital Management
<b>Subject:</b>	Project No. 2017186 - Glover Field Park Boat Slide Funding Agreement
<b>Date:</b>	March 26, 2018
<b>Contact (email &amp; phone):</b>	Brandon Blankenagel ( <a href="mailto:bblankenagel@spokanecity.org">bblankenagel@spokanecity.org</a> ; 625-6419)
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	The project is consistent with the Joint Administration – Council 6-year Strategic Plan’s Urban Experience.
<b>Strategic Initiative:</b>	Urban Experience - River connection and trail access
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Complete project design work and construct boat slide in 2018
<p><b>Background/History:</b></p> <p><i>Funding agreement between City of Spokane and the Spokane River Forum to provide project funding for the Glover Field Boat Slide. Proposed boat slide to allow non-motorized small drift-type boats access to Spokane River from Glover Field Park.</i></p> <p><i>These funds represent the residual grant funding provided for the proposed 2007 Spokane River White Water Park that was terminated in 2009. Total remaining funds is \$235,000. In 2018 the WA State Legislation approved redirection of these funds toward the Glover Field Boat Slide to complete project design and construction.</i></p> <p><i>Under separate grant funding, project design was initiated by the Spokane Conservation District in 2017 with AHBL as design consultant to 90% completion. AHBL has entered into contract with the City of Spokane to complete the remaining design work that includes interface with Glover Field Park parking lot improvements as part of the CSO 25 project that is to begin spring 2018.</i></p>	

Executive Summary:

- *Spokane River Forum (SRF) to provide project funding up to \$235,000*
- *Requested funding agreement to complete remaining project design, permit acquisition, and construct boat slide in 2018.*
- *Project will interface with proposed Glover Field Park parking lot improvements being constructed as part of CSO 25 project.*

Budget Impact:

Approved in current year budget? ☒ Yes ☐ No ☐ N/A

Annual/Reoccurring expenditure? ☐ Yes ☒ No ☐ N/A

If new, specify funding source: WA Commerce Dept, c/o Spokane River Forum

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: none known

Known challenges/barriers: none known

# Briefing Paper

## Public Infrastructure, Environment and Sustainability

<b>Division &amp; Department:</b>	Public Works Division, Water Department
<b>Subject:</b>	Airway Heights Emergency Water Supply Agreement Amendment for Emergency Water Service
<b>Date:</b>	3/26/2018
<b>Contact (email &amp; phone):</b>	Dan Kegley; <a href="mailto:dkegley@spokanecity.org">dkegley@spokanecity.org</a> ; (509) 625-7821
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	PIES
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Strategic Initiative
<b>Alignment:</b> (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Amendment is consistent with the City's Water System Plan and Comprehensive Plan and plays a role in the Strategic Initiative that focuses on Smart Use of Water Resources.
<b>Strategic Initiative:</b>	Smart Use of Water Resources
<b>Deadline:</b>	Mid-April 2018
<b>Outcome:</b> (deliverables, delivery duties, milestones to)	Approval of the Amendment to allow for an additional connection point before peak water use times.
<b>Background/History:</b> The City of Airway Heights has been a wholesale water customer of the City of Spokane since 1984. During 2017, Airway Heights discovered its drinking water supply was contaminated from flame retardants (PFOS/PFOA). While a permanent solution to the contamination problem is being developed, Airway Heights needs additional water to supply water to its residents and businesses.	
<b>Executive Summary:</b> <i>Amended agreement allows for:</i> <ul style="list-style-type: none"> <li>Emergency water supply to Airway Heights for two years at a rate of up to 1,400 GPM.</li> <li>Up to 3 one-year extensions of emergency water supply, if Airway Heights has not yet finalized a long-term solution to the contamination problem. Airway Heights will provide status updates on their progress towards a solution.</li> <li>Emergency water to be provided at a new connection point at Craig &amp; MacFarlane Road, because of system limitations at the main connection point at Hwy 2 and Hayford Road.</li> <li>Airway Heights to pay for construction, needed permits, and a General Facilities Charge for the new connection.</li> <li>Spokane to charge the Airway Heights the wholesale purveyor rate for water used.</li> <li>Stewardship of water resources, with conservation plans and data evaluated at least annually.</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
<b>Operations Impact:</b> Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A Specify changes required: Known challenges/barriers:	

**AMENDED  
WATER SUPPLY AGREEMENT  
BETWEEN  
AIRWAY HEIGHTS and the CITY OF SPOKANE  
AND EMERGENCY WATER SERVICE**

THIS AMENDMENT and EMERGENCY WATER SUPPLY AGREEMENT (“**Amendment**”) is entered into by THE CITY OF SPOKANE (“**Spokane**”), a municipal corporation of the State of Washington and First Class Charter City, with a principal place of business located at 808 West Spokane Falls Boulevard, Spokane, Washington, 99201, and the CITY OF AIRWAY HEIGHTS (“**Airway Heights**”), a municipal corporation of the State of Washington, operating as a Code City, with a principal place of business located at 1208 South Lundstrom, Airway Heights, Washington, 99001 each a “**Party**” and collectively the “**Parties.**”

**RECITALS**

- A. Spokane owns and operates a Chapter 70.119A Group A Public Water System (“**Spokane Water System**”) that supplies and distributes potable water to its own customers.
- B. Spokane owns and operates a series of wells pursuant to a series of water rights and is authorized to provide wholesale water within a regional wholesale service area, as approved in its Water System Plan (“**Spokane Water System Plan**”), promulgated in accordance with Chapter 43.20 RCW and entitled “City of Spokane, Comprehensive Water System Plan,” Volumes 1 and 2, January 12, 2017 adopted and approved by the City of Spokane City Council and approved by the State Department of Health (“**State DOH**”), as said document may be amended, revised, or updated from time to time.
- C. Airway Heights owns and operates its own Chapter 70.119A Group A Public Water System (“**Airway Heights Water System**”) which draws from a separate water source than Spokane and serves customers as designated by its Water System Plan as approved by State DOH. Airway Heights wishes to continue to supplement and stabilize its existing water supply portfolio through the connection with Spokane.
- D. Spokane currently supplies Airway Heights with water through an intertie connection located at Highway 2 and Hayford Road, Spokane City Clerk's File

- No. OPR 1984-0475 ("**Water Intertie Agreement**"). Airway Heights takes wholesale water at a rate of 1,500 gallons per minute ("gpm").
- E. In May 2017, Airway Heights was notified by representatives of Fairchild Air Force Base that its primary water wells were contaminated with perfluorinated chemicals (PFAs). This contamination has in essence reduced and interrupted Airway Heights' ability to supply water to its customers from its primary water source.
  - F. Airway Heights is working to secure and construct a new water system or treatment options in order to serve its residents and businesses ("**Water Solution**"). It is anticipated that a Water Solution will be finalized within two (2) or three (3) years.
  - G. Until a Water Solution is reached, Airway Heights has need of short term supplemental emergency water from Spokane in the amount of approximately 1,400 gpm.
  - H. The Parties agree it would be mutually beneficial to add a second point of connection between the two water systems at Craig and McFarlane Roads ("**Emergency Supplemental Connection**"). This would also allow for optimal operational management of both Spokane and Airway Heights' water systems and would provide emergency water service.
  - I. The Parties acknowledge that numerous state and local regulatory approvals may be required before Spokane provides and Airway Heights accepts water delivery under this Agreement.
  - J. The Parties recognize and desire to form a mutually beneficial stewardship relationship to manage the water resources. The Parties agree to cooperate with each other to the greatest extent feasible to secure state and local regulatory approvals, revise their respective comprehensive water plans, secure Spokane County approval of any necessary revision to the Coordinated Water System Plan, and implement the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, incorporated herein, and the mutual promises and benefits exchanged by the parties herein, the Parties do hereby agree as follows:

**1. Purpose.**

- 1.1. To amend the Water Intertie Agreement between the Parties and provide for clarification as to quantity of water provided by Spokane to Airway Heights, at the connection located at HWY 2 and Hayford Road at a rate of 1,500 gpm.



- 1.2. To authorize emergency water service and supply for supplemental short term emergency water to Airway Heights in an amount not to exceed 1,400 gpm through construction of a new connection point between the Parties water systems at Craig and McFarlane Roads to accommodate the Water Solution for approximately two (2) years.

2. **Regulatory Approvals.** The Parties acknowledge and agree that the following regulatory approvals and property rights may be necessary before water deliveries may begin. The Parties recognize that this Amendment and Emergency Water Service to Airway Heights may increase the water system planning requirements applicable to the Parties. However, Airway Heights is currently a designated place of use for Spokane's water rights under Spokane's Coordinated Water System Plan, as approved by Washington State Department of Health.

- 2.1. Spokane will bear all initial costs of obtaining any applicable state and local regulatory approval. Spokane will keep Airway Heights informed of status, will advise Airway Heights when these approvals have been obtained, and will provide copies of these approvals to Airway Heights promptly after they have been obtained.
- 2.2. Airway Heights will bear all initial costs of obtaining any applicable state and local regulatory approvals. Airway Heights will keep Spokane informed of status, will advise Spokane when these approvals have been obtained, and will provide copies of these approvals to Spokane promptly after they have been obtained.
- 2.3. The Parties shall collaborate on obtaining any approvals necessary from Spokane County and Washington State Department of Health and shall bear their own initial costs of obtaining any such approval.
- 2.4. If unanticipated permits, regulatory approvals, or property or access rights (collectively, with the approvals described in Section 2, "**Regulatory Approvals**") are necessary, the Parties will meet and confer in good faith to allocate costs and responsibility for the same. If the parties are unable to resolve the allocation of costs and responsibilities, they will follow the dispute resolution provisions in herein.

3. **Construction, Funding, and Responsibility for Improvements.**

- 3.1. Pursuant to the Water Intertie Agreement Airway Heights has one established historical point of connection with Spokane located at HWY 2 and Hayford Road for supplemental water service, for which all capital connection fees have been paid. Due to the capacity of the pipe, pumps and other facilities, the available volume at this connection is presently 1,500 gallons per minute (GPM).
- 3.2. The Parties agree to one additional point of connection at Craig Road and McFarlane Roads for a limited time as provided by this Amendment in order to

provide for short term emergency water service purposes. This is a new designated point of connection limited to emergency purposes only.

- 3.3. For the new point of connection at Craig and McFarlane Roads, Airway Heights shall apply and pay for all Spokane Application(s) for Connection required to deliver wholesale water pursuant to this Agreement in accordance with Title 13, Chapter 13.04, Section 13.04.0502, and Applications for Connection Spokane Municipal Code. Airway Heights shall also pay a Water General Facilities Charge as outlined in Title 13 Chapter 13.04, Section 13.04.2042 E-1, for any additional connections.

3.3.1. Airway Heights shall purchase a backflow prevention device or assembly, consistent with state and local regulations to include Chapter 246.290 WAC, from and approved by Spokane, designed and tested to counteract back pressure and back siphonage ("**Airway Heights Backflow Prevention Device**"). Airway Heights shall have the Airway Heights Backflow Prevention Device tested by a Backflow Assembly Tester for compliance with Legal Requirements. A copy of each year's test along with a certification that the backflow assembly complies with Legal Requirements and is in good working condition shall be provided to Spokane each year.

3.3.2. Airway Heights shall purchase from Spokane a tap ("**Tap**") and initial master meter ("**Initial Master Meter**") in accordance with Spokane Municipal Code Title 13, Chapter 13.04, Section 13.04.0602 A, including, any initial testing and/or inspection fees required by Spokane.

3.3.3. Airway Heights shall purchase/construct a vault of adequate dimension to accommodate the initial master meter, the backflow assembly and the flow regulating valve.

3.3.3.1. Airway Heights shall provide plans and specifications to Spokane to include notice of construction activities so that Spokane can monitor and inspect the Airway Heights construction activities performed under this Amendment.

3.3.4. Spokane will design a Flow Control Valve. Said design shall be at the sole discretion of Spokane. Spokane shall bear all costs associated with the design of the Flow Control Valve.

3.3.5. Spokane shall install the Airway Heights Backflow Prevention Device, the Initial Master Meter, the Flow Regulating Valve, and the Tap.

- 3.4. The Parties nevertheless shall maintain, operate, and monitor their respective Water Systems as is necessary to effectuate the terms of this Agreement in a manner that is consistent with the provisions of all applicable local, state, and

federal law, permits, regulatory approvals, manufacturers' specifications and in a good and workman-like manner.

- 3.5. If any further additional construction, improvements, or quantities are required in the future, the Parties shall reduce the terms of such construction and improvements within a mutually agreeable written amendment to this Agreement (including, without limit, allocation of legal and financial responsibility for design and construction, tapping, plan review, flow control valve design and installation, and future ownership, operation, monitoring/maintenance, and liability/insurance requirements).

**4. Points of Delivery.**

- 4.1 The "**Points of Delivery**" are those specifically identified points between transmission mains of the Parties where water will be transferred through the meter from Spokane to Airway Heights. The Points of Delivery are identified and described in Exhibit A.

- 4.2 The Parties agree that: (1) Airway Heights will assume full and complete ownership, operation, maintenance (including testing and monitoring), and insurance responsibilities, including the costs thereof, for the improvements and associated facilities consistent with water system standards and applicable laws, regulations, rules, provisions, interpretations, orders, injunctions, decrees, rulings, awards, and decisions of governmental entities, orders of governmental entities ("**Legal Requirements**") on its respective side of the Points of Delivery; and (2) Spokane continues to assume full and complete ownership, operation, maintenance (including testing and monitoring), and insurance responsibilities, including the costs thereof, for the improvements and associated facilities owned by Spokane consistent with water system standards Legal Requirements. The aforementioned sentence notwithstanding, the Parties further agree as follows:

4.2.1 Spokane shall operate and maintain the Initial Master Meter, including, without limit, any additional replacement meters.

4.2.2 Spokane shall own, operate, and maintain the Spokane WQ Monitoring Equipment. Spokane shall, in its sole discretion and at its sole expense, routinely monitor water quality using the Spokane WQ Monitoring Equipment in accordance with the Spokane Water Quality Monitoring Protocol.

4.2.3 Spokane shall own, operate, and maintain the Flow Control Valve.

- 5. Water Delivery and Quantity.** Following completion of the improvements (set forth in Section 3), receipt of all regulatory approvals, construction of the new point of delivery and other pre-conditions to water delivery provided in this Amendment, Spokane will supply wholesale water to Airway Heights, as follows.

- 5.1. **Water Intertie Agreement.** The present intertie connection between the Parties is located HWY 2 and Hayford Road.

5.1.1. The Parties agree the Water Intertie Agreement between the Parties is amended to clarify the quantity of water provided at HWY 2 and Hayford Road is limited to a rate not to exceed 1,500 GPM.

5.1.2. All other terms and conditions contained in the Water Intertie Agreement remain in full force and effect.

- 5.2. **Emergency Supplemental Connection** The Emergency Supplemental Connection will be located at Craig and McFarlane Roads.

5.2.1. **Term.** For a period of two (2) years commencing upon Spokane delivering water to Airway Heights ("**Initial Term**") at the Point of Delivery, Spokane shall supply water in the amount not to exceed 1,400 GPM through the Emergency Supplemental Connection. Airway Heights may request in writing and the Parties may agree to extend the emergency supplemental water service for three (3) additional one year intervals by written agreement ("**Extension Periods**"). The maximum term of the Emergency Supplemental Connection shall not exceed five (5) years.

5.2.2. This Emergency Supplemental Connection shall terminate and be disconnected on or before, but no later than October 15, 2023.

5.2.3. **Status Updates.** During the Initial Term and any Extension Periods, Airway Heights shall provide to Spokane written status updates at least every six (6) months as to its progress in securing a water system independent from Spokane. Failure by Airway Heights to provide such status updates at six (6) month intervals shall be cause for Spokane to decrease or terminate the short term emergency water service, in its reasonable discretion.

5.2.4. Notwithstanding the above, any future delivery of water through the Emergency Supplemental Connection beyond the five (5) years provided for herein will require a separate written agreement, executed by both parties.

5.2.5. It is further agreed this location is for short term emergency purposes only and will terminate, unless a subsequent written agreement is reached between the Parties.

- 5.3. All water supplied by Spokane for use or sale by Airway Heights shall be upon the express condition that after water passes the Points of Delivery, it becomes the property and exclusive responsibility of Airway Heights. Spokane shall not be liable for any degradation of water quality, for acts of sabotage or vandalism, or for other events and resulting damages that may occur beyond the Points of

Delivery and within the Airway Heights Improvements and Airway Heights Water System.

- 5.4. The quality of wholesale water made available to Airway Heights pursuant to this Agreement shall be of the same standard and quality as normally delivered to Spokane's other customers and shall be in compliance with all applicable state and federal drinking water laws, regulations and standards at the Points of Delivery. Airway Heights shall be responsible for maintaining compliance with all applicable state and federal drinking water laws, regulations and standards past the Point of Delivery and within the Airway Heights Improvements and Airway Heights Water System.
- 5.5. Spokane shall record the amounts of monthly wholesale water deliveries made to Airway Heights at the Initial Master Meter (or any replacement meter thereof).
  - 5.5.1. Spokane will read the meter and keep records of the monthly and annual total water accepted by Airway Heights.
  - 5.5.2. The Initial Master Meter (or any replacement meter thereof) shall at all times be accessible to Spokane personnel. If it becomes necessary for Airway Heights to place the meter under lock and key, Airway Heights shall furnish Spokane with a copy of the key.
- 5.6. Should Spokane determine that Airway Heights is receiving deliveries of wholesale water at the Points of Delivery in excess of the amounts set forth in section 5 herein, Spokane shall notify Airway Heights of the excess deliveries, and Airway Heights shall promptly take the steps necessary to reduce its deliveries accordingly. If Airway Heights has not taken action within twenty-four (24) hours of receiving notice from Spokane pursuant to Section 13.2, Spokane may take any action it deems necessary to reduce the deliveries to a level equal to Airway Heights's scheduled amounts, and charge Airway Heights for any excess deliveries made after the expiration of the twenty-four (24) hour notice period.
- 5.7. Spokane's delivery of wholesale water and Airway Heights's acceptance of such delivery shall be governed by the terms of this Agreement. No future wholesale service connections shall be permissible without a subsequent and separate written agreement between the Parties. Neither Party shall be obligated to agree to or execute any agreement or permit with the other Party to construct additional wholesale service connection(s).

## **6. Rates, Future Capital Projects, Invoicing, and Payment.**

- 6.1. Airway Heights shall pay to Spokane a service fee as follows:
  - 6.1.1. The amount of wholesale water delivered in such a month, as measured at the Initial Master Meter, times Outside City Rate to Other Purveyors, plus any

- other fees, taxes, or charges billed to other Spokane wholesale customers pursuant to the Spokane Municipal Code.
- 6.2. The term "Outside City Rate to Other Purveyors" is as set forth in Title 13, Chapter 13.04, Section 13.04.2014 of the Spokane Municipal Code, or its succeeding provision(s) as such may be revised or amended through time. This rate may be periodically adjusted and shall be applicable as set forth in the rate schedule adopted by the Public Works and Utility Division and the Spokane City Council.
- 6.3. Future Connection/Increased Capacity. Any additional capacity or terms beyond those contained in this Agreement, will be negotiated between the Parties and may include assessed capital fees to meet the increase in capacity prior to expansion.
- 6.4. Spokane shall during the Term prepare and forward to Airway Heights an invoice for the payment of any and all amounts due Spokane pursuant to this Agreement for the preceding month in accordance with Spokane's normal business practices. Each such invoice shall set forth the payment due from Airway Heights to Spokane. Airway Heights may request from Spokane, and Spokane shall promptly provide to Airway Heights, any documentation or other information that Airway Heights may reasonably require to understand the nature of the costs contained in any invoice issued pursuant to this Section.
- 6.5. Payment of any and all invoices forwarded to Airway Heights by Spokane pursuant to this Section shall be due and payable by Airway Heights on or before the Due Date, with payment to be made by wire transfer or such other means as may be agreed to in writing by the parties.
- 6.5.1. The term "**Due Date**" shall mean the date by which payment of any invoice issued pursuant to this Section of the Agreement is due to Spokane, which date shall be the close of business on the thirtieth (30<sup>th</sup>) day after an invoice is issued, provided, however, that if such thirtieth day falls on a Saturday, Sunday, or legal holiday observed by Spokane, the Due Date shall be extended until the close of business of the next regular business day of Spokane.
- 6.6. If Airway Heights disputes all or any portion of an invoice issued by Spokane pursuant to this Section, Airway Heights shall pay such invoice in full, and shall indicate in writing to Spokane the portions of the invoice that Airway Heights disputes and the reasons therefore. The Parties shall make a good faith effort to resolve such dispute. If such efforts are unsuccessful, either Spokane or Airway Heights may seek resolution of the dispute pursuant to this Amendment.
- 6.7. Airway Heights hereby covenants and agrees that it shall establish, maintain, and collect rates or charges for water and other services, facilities, and commodities sold, furnished or supplied by it to its members which shall be adequate to

provide revenues sufficient to enable Airway Heights to make the payments required to be made pursuant to the terms of this Agreement, and to pay all other charges and obligations payable from or constituting a charge or lien upon such revenues.

## **7. Conservation and Efficiency.**

- 7.1. The Parties agree and acknowledge that wise stewardship of water resources through conservation and maintenance of each system's operational efficiency is critically important and an important ongoing tool in managing the water resources of the region. Accordingly, the Parties shall adopt conservation plans, to be updated on an annual basis or as otherwise required by Legal Requirements, and shall coordinate regional supply scheduling and other operational programs that promote efficient use of water supplies, facilities, and staff resources.
- 7.2. To accomplish these goals, the Parties agree:
  - 7.2.1. To prepare and exchange conservation plans on an annual basis, at a minimum;
  - 7.2.2. To track and collect data for each Party's operational components and to exchange the same on at least an annual basis;
  - 7.2.3. To collectively analyze the data collected pursuant to this Section and to identify potential efficiency measures that may be implemented by Airway Heights under the state-mandated Water Use Efficiency requirements, as required by WAC 256-290-810, or as may be subsequently revised or modified in the future.

## **8. Delivery Interruptions, Default and Rights of Termination.**

- 8.1. The Spokane Water System shall be operated and maintained in a manner consistent with water system standards and Legal Requirements in order to provide reliability of service to Airway Heights. However, Airway Heights understands and agrees that Spokane can make no warranty or guarantee as to pressure, quantity, or non-interrupted service.
- 8.2. Spokane shall engage commercially reasonable standards for delivery of wholesale water pursuant to this Agreement. Airway Heights agrees that it has only a contractual right to wholesale water and it has no claim or right to a supply of water from Spokane or to its water rights upon the expiration or termination of this Agreement on any basis whatsoever.
- 8.3. Notwithstanding any other provisions of this Agreement, neither the Spokane nor Airway Heights shall be liable to the other for indirect, incidental, special, exemplary, punitive, or consequential damages, including but not limited to

damages for lost profits, revenues or benefits, loss of property use, the cost of capital, or the cost of purchased or replacement water, even if such party has been advised of the possibility or existence of such damages.

- 8.4. The Parties agree and acknowledge that Spokane shall not be liable for any losses, damages, or claims due to, caused by, relating to, or arising from events enumerated in this Section 8.4.

8.4.1. Emergency

8.4.1.1. In the event that Spokane determines, in its reasonable discretion, that there is an emergency directly affecting the ability of Spokane to deliver water to Airway Heights that: (a) creates an immediate threat of bodily harm to persons; (b) causes damage to the Spokane Water System such that Spokane cannot supply the Airway Water System; or (c) is the result of a Regulatory Requirement, Spokane shall provide oral notice of the same to Airway Heights. Spokane may thereafter temporarily interrupt or reduce deliveries of water to Airway Heights if Spokane determines, in its reasonable discretion, that such interruptions and reductions are necessary or during such an emergency. Airway Heights shall assist and support Spokane to meet such an emergency condition, including, without limit, implementing emergency conservation measures as needed. Upon the occurrence of the emergency, Spokane shall take all reasonable and necessary actions to restore the delivery of water to Airway Heights. Emergencies may include, but are not limited to, failure of or accidents involving Spokane's Water System infrastructure or equipment, uncontrollable forces, unforeseen or unavoidable events, prior to the points of delivery.

8.4.1.2. In the event that Spokane determines, in its reasonable discretion, to institute a water rationing or water use restriction program as a result of water shortage due to causes beyond the reasonable control of Spokane, that necessitates water rationing or use restrictions, the Parties shall meet and confer in order to reach a reasonable accommodation. Any rationing or use restrictions shall be based on the specifics of the problem and the water distribution system and availability of the water resource. Spokane will follow its water shortage policies and protocols and its emergency planning as identified in Spokane's Comprehensive Water System Plan. Should the Parties not be able to resolve a water rationing or use restriction through the meet and confer process, then either Party may seek resolution through the Dispute Resolution Process in Section 12 herein.

8.4.2. Non-Emergency



8.4.2.1. Except in cases of emergency under Section 7.4.1, and in order that Airway Heights's operations will not be unreasonably interfered with, Spokane shall give Airway Heights thirty (30) calendar days' notice of any other interruptions or reduction in service, the reason therefore, and the probable duration thereof, including any interruptions or reduction in services that will be caused by the installation of equipment, repairs, replacements, investigations, inspections or other maintenance performed by the Spokane on its water system or those parts of the system supplying Airway Heights pursuant to this Agreement.

#### 8.4.3. Regulatory

8.4.3.1. Airway Heights understands and agrees that the operation of this Agreement, and the water available from Spokane's water rights are subject to Legal Requirements and the proceedings, litigation, orders, rulings of courts of competent jurisdiction ("**Judicial Requirements**") regarding the Agreement and Spokane's water rights. Airway Heights understands and agrees that Spokane must comply with all such Legal Requirements and Judicial Requirements and that such Legal Requirements and Judicial Requirements may affect, limit, diminish or remove the ability of Spokane to fulfill its wholesale water deliveries under this Agreement.

8.4.3.2. The Parties expressly acknowledge and agree that the inability or preclusion of the City of Spokane to perform, in whole or material part, this Agreement caused by an order or directive of governmental authority or a court with jurisdiction shall constitute a force majeure or change in law event hereunder.

8.4.3.3. If Spokane remains materially limited or prohibited from performance of this Agreement through Judicial or Regulatory Requirements, the water delivered to Airway Heights shall be reduced as set forth in Section 8.4.1.2.

#### 8.5. Payment and Performance Events of Default.

8.5.1. If Airway Heights fails to make any payment in full when due under this Agreement after notice for a period of thirty (30) days or more after the Due Date ("**Payment Default**"), Spokane shall make written demand upon Airway Heights to make payment within ten (10) days of the date of such written demand. If the Payment Default is not cured or the Parties fail to reach mutual agreement for payment terms within the ten (10) day time period, Airway Heights shall be deemed to be in default of this Agreement and Spokane may suspend the continued delivery of water to the Airway Heights Water System. Upon payment of amounts due by Airway Heights, Spokane shall promptly restore the delivery of water to the Airway Heights Water System.

#### 8.5.2. Events of Default; Remedies.

8.5.2.1. Performance Default. Upon the occurrence of any one or more of the following Events of Default which shall continue and not be cured in accordance with the notice and opportunity to cure provisions set forth in this section, a Party may, at its option, declare through written notice a **“Performance Default”** under this Agreement when:

- (a) a Party fails to comply with any term or fails to perform any of its obligations under this Agreement and such failure has a material adverse effect on the operation of Spokane Water System, Airway Heights Water System or creates a material risk of injury to persons or damage to property; or
- (b) a Party fails to comply with any term or fails to perform any of its obligations under this Agreement, where such failure is not within the terms of Section 8.5.1(a) above, and such failure continues for a period of fifteen (15) days after written notice ("**Cure Period**").

The written notice delivered by the non-defaulting party shall identify the alleged breach, the requested remedy and any other relevant information.

8.5.3. Cure. Following receipt of written notice, if a Performance Default is not reasonably susceptible of cure within the cure period provided above, but the defaulting party commences to cure such default within the applicable cure period and thereafter diligently prosecutes the cure, and completes such cure within fifteen (15) days of commencement such default shall not become an Event of Default. If the Default is not capable of cure, but the defaulting party is diligently pursuing a cure, a reasonable period shall be afforded to complete the cure not to exceed twenty (20) days.

8.5.4. Remedies. Upon the occurrence of any Event of Default, the non-defaulting Party may, upon forty-eight (48) hours written notice, in addition to any other rights granted under of this Agreement, but without waiving such other rights: (a) perform any and all work necessary to complete, secure and/or protect its property; (b) specifically enforce and perform the defaulting Party's unperformed obligations; and/or (c) request dispute resolution as set forth in section 12 herein to include seeking a preliminary injunction through a court with personal and subject matter jurisdiction. Amounts paid and costs and expenses incurred by a non-defaulting Party under any of this Section 8.5.4 by reason of an Event of Default of the other Party shall be reimbursed by the defaulting Party upon demand for its costs and attorney fees and shall bear interest at the rate of twelve percent (12%) per annum from the date of demand until paid.

9. **Force Majeure.** Neither Airway Heights nor Spokane shall be considered to be in default in respect to any obligations hereunder if prevented from fulfilling such obligations due to conditions beyond their reasonable control including acts of God, fire, flood, earthquake, other natural disaster, acts of war, insurrection or riot, or change in the law. If a Party is unable to perform in whole or in part because of such condition, the Party shall diligently and promptly take reasonable steps to allow it to perform.
10. **Indemnification by Spokane.** To the fullest extent permitted by law, Spokane hereby releases and agrees to indemnify, defend and hold harmless each of the Airway Heights Indemnified Parties (defined below) from and against any claim, liability, loss, expense (including but not limited to attorneys' fees and expenses), damage, demand, lawsuit, cause of action, order, strict liability claim, penalty, fine, administrative law action and/or cost of every kind and character (collectively, "Claim/Liability"), arising out of or in any way incident to the design or construction of the Spokane Water System if due to the negligence, gross negligence, or intentional act or omission by Spokane, including in each case (but not limited to) any Claim/Liability on account of defective work, breach of contract, personal injuries, death, damage to property, damage to the environment, or infringement of any patent, trademark, copyright or other property right, regardless of whether such harm is to Spokane, its employees or officers, the Airway Heights Indemnified Parties, or any other person or entity. "Airway Heights Indemnified Parties" means, individually and collectively, Airway Heights, its officers, shareholders, and members of each of the foregoing entities. Notwithstanding any provision in this Agreement to the contrary, the Spokane's duties under this Section shall survive the termination, revocation, or expiration of this Agreement.
11. **Indemnification by Airway Heights.** To the fullest extent permitted by law, Airway Heights hereby releases and agrees to indemnify, defend and hold harmless each of the Spokane Indemnified Parties (defined below) from and against any Claim/Liability arising out of or in any way incident to the use by Airway Heights of the water supplied by Spokane hereunder or arising out of or in any way incident to the design or construction of the Airway Heights Water System if due to the negligence, gross negligence, or intentional act or omission by Airway Heights, including in each case (but not limited to) any Claim/Liability on account of defective work, negligence, breach of contract, personal injuries, death, damage to property, damage to the environment, or infringement of any patent, trademark, copyright or other property right, regardless of whether such harm is to Airway Heights, its members or officers, the Spokane Indemnified Parties, or any other person or entity. "Spokane Indemnified Parties" means, individually and collectively, Spokane, its elected officials, officers, employees, and agents. Notwithstanding anything in this Agreement to the contrary, Airway Heights's duties under this Section shall survive the termination, revocation, or expiration of this Agreement.
12. **Dispute Resolution.** Dispute resolution shall proceed as follows:

- 12.1. The Parties agree to use their best efforts to resolve disputes arising out of or related to this Agreement using good faith negotiations by engaging in the following dispute resolution process should any such disputes arise. The Parties agree that cooperation and communication are essential to resolving issues efficiently.
- 12.2. Any disputes or questions of interpretation of this Agreement or the performance of either Party under this Agreement that may arise between Spokane and Airway Heights will be governed under the dispute resolution process set forth in this Section. Either Party may refer a dispute to the dispute resolution process by providing written notice of such referral to the other Party's Designated Representative.
- 12.3. Before either Party may refer a dispute to mediation or provide a notice of the same to the other Party, the Parties will seek to resolve the dispute at the lowest possible level by completing the following steps.
  - 12.3.1. Spokane's Director of Water and Hydroelectric Department and Airway Heights' Public Works Director, shall meet to discuss and attempt to resolve the dispute in a timely manner. If they cannot resolve the dispute within ten (10) days, then the Parties will refer the dispute to Spokane's Director of Utilities and Airway Heights' City Manager.
  - 12.3.2. Spokane's Director of Utilities and Airway Heights' City Manager will meet and confer and attempt to resolve the dispute. If they cannot resolve the dispute within fourteen (14) days, then either Party may initiate mediation.
- 12.4. Within 15 days of the completion of the steps in the above Section, each Party shall propose to the other party in writing not more than five (5) candidates to act as mediator. Within seven (7) days of exchanging lists of mediator candidates, the parties will meet and confer to choose one name from the list. If the Parties are unable to agree on a mediator 30 days after completion of the steps outlined above, then the Parties will jointly petition the Presiding Judge of the Spokane County Superior Court to appoint a mediator.
- 12.5. The Parties shall use reasonable efforts to resolve the dispute within 30 days with the assistance of the mediator.
- 12.6. Except as otherwise provided by this Agreement, the Parties shall continue to fulfill their respective duties under this Agreement pending resolution of any dispute.
- 12.7. The Parties shall share the costs of the mediator.

- 12.8. If mediation fails to resolve the dispute within 30 days of selection of the mediator, the Parties may thereafter seek redress in court subject to this Amendment.

### **13. Miscellaneous Provisions.**

#### **13.1. Access to Records.**

13.1.1. Airway Heights's Access to Spokane Records. Upon reasonable prior notice to Spokane, Airway Heights, or any consultant of Airway Heights, shall be given access during normal business hours to the books, records, and accounts related to this Agreement in the possession of Spokane at the location where such books, records, and accounts are located. Spokane shall not be obligated to collate, organize, or analyze the information sought by Airway Heights or by Airway Heights's consultant.

13.1.2. Spokane's Access to Airway Heights Records. Upon reasonable prior notice to Airway Heights, Spokane, or any consultant of Spokane, shall be given access during normal business hours to the books, records, and accounts related to this Agreement in the possession of Airway Heights at the location where such books, records, and accounts are located. Airway Heights shall not be obligated to collate, organize, or analyze the information sought by Spokane or by Spokane's consultant.

#### **13.2. Notice.**

13.2.1. All notices, requests, demands, waivers, consents and other communications required under this Agreement shall be in writing except as provided herein, and shall be delivered by the following means: (i) by certified mail, return-receipt requested, (ii) by facsimile or email providing confirmation of completed transmission, or (ii) by such other means as may be approved in writing by the Parties. Service of any such notice, request, demand, waiver, consent, or other communication, shall be deemed to have been duly given and to have become effective upon receipt.

13.2.2. Any and all notices, demands, waivers, consents and other communications shall be forwarded to each of the Parties at the following addresses:

To Spokane:                      Director, City of Spokane Water Department  
    914 N Foothills Dr.  
    Spokane, WA 99207  
    Telephone: (509) 625-7800  
    Facsimile: (509) 625-7816

With a copy to:                  City Attorney

Office of the City Attorney  
City of Spokane – City Hall  
808 West Spokane Falls Boulevard  
Spokane, WA 99201  
Telephone: (509) 625-6225  
Facsimile: (509) 625-6277

To Airway Heights: City Manager  
1208 S. Lundstrom St.  
Airway Heights, WA 99001  
(509) 244-5578  
atripp@cawh.org

Public Works Director  
12400 W. 21<sup>st</sup> Ave.  
Spokane, WA 99201  
(509) 244-5429  
kanderson@cawh.org

or to such other address as may be agreed to in writing by the Parties.

- 13.3. Assignment. Neither this Agreement nor any of the rights, interests or obligations created hereunder may be assigned, sold, or otherwise transferred in whole or in part by either Party without the prior written consent of the other Party.
- 13.4. No Third Party Beneficiaries. Nothing in this Agreement is intended to confer upon any person or entity, other than the Parties hereto, any rights, benefits, or obligations. No such third-party shall have any right to enforce any of the provisions of this Agreement. Unless expressly stated otherwise herein.
- 13.5. Airway Heights Water System – No Spokane Responsibility. It is understood that Spokane does not own or have any responsibilities outside of this Agreement whatsoever to maintain Airway Heights's Water System.
- 13.6. Compliance with Local, State, Federal Rule or Regulation. In the event Spokane is required to comply with any local, state, or federal rule or regulation governing its operation of its water rights and said rule or regulation requires the compliance of wholesale water customers of Spokane, Airway Heights agrees to comply.
- 13.7. Waiver. Except as otherwise provided herein or as agreed by the Parties, no provision of this Agreement may be waived except as documented or confirmed in writing. Any waiver at any time by a Party of its rights with respect to a default under this Agreement or with any other matter arising in connection therewith shall not be deemed a waiver with respect to any subsequent default or matter. Either Party may waive any notice or agree to accept a shorter notice than

specified by this Agreement. Such waiver of notice or acceptance of shorter notice by a Party at any time regarding a notice shall not be considered a waiver with respect to any subsequent notice required by this Agreement.

13.8. Entire Agreement. This Amendment contains all prior negotiations and agreements between the Parties hereto relating to the subject matter hereof and along with OPR 1984-0475 shall constitute the entire agreement between Spokane and Airway Heights concerning the sale of wholesale water to Airway Heights for use as hereinbefore provided. The rights and obligations of the Parties hereunder shall be subject to and shall be governed by this Amendment.

13.9. Representations and Warranties. The Parties hereby represent and warrant to one another the following:

13.9.1. Each party is duly authorized and validly existing under the laws of, and is authorized to exercise its powers, rights, and privileges and is in good standing in, the State of Washington, and has full power and authority to carry on its business as presently conducted and execute this Agreement and perform the transactions on its part contemplated by this Agreement.

13.9.2. The execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby have been duly authorized by the appropriate board or council, and no other act or proceeding on the part of any Party is necessary to authorize this Agreement, or the transactions contemplated hereby.

13.9.3. The execution, delivery, and performance by each of the Parties of this Agreement does not: (a) contravene any law; or (b) conflict with or result in a breach of or default under any material agreement or instrument to which any Party is a party or by which it is bound.

13.9.4. There are no actions, suits, claims, or proceedings pending, or, to the best of each Party's knowledge, threatened against either Party that is likely to impair the consummation or the transactions contemplated hereby.

13.9.5. This Agreement, when executed and delivered, will constitute a valid and binding obligation of each Party, and will be enforceable against each such Party in accordance with its terms.

13.10. Amendments. No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written Amendment to this Agreement signed by the Parties.

13.11. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington (regardless of the laws that might otherwise govern under applicable principles of conflicts of law of

- such state). The Parties (i) agree that any lawsuit, judicial action, or proceeding arising out of or relating to this Agreement must be heard in the Superior Court of the State of Washington in and for the County of Spokane, or in the United States District Court for the Eastern District of Washington, (ii) waive any objection to the venue of any such suit, action, or proceeding, and (iii) irrevocably submit to the jurisdiction of any such court in any such lawsuit or judicial action or proceeding.
- 13.12. Reasonable and Good Faith Efforts. Each Party will make all reasonable and good faith efforts to coordinate with the other Party to complete all reasonable and necessary improvements, to secure the Regulatory Approvals, and accomplish tasks provided for in this Agreement in a timely manner.
- 13.13. Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced, all other terms or provisions of the Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereunder is not affected in any manner or materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereunder are consummated as originally contemplated and to the greatest extent possible.
- 13.14. Rights and Remedies Cumulative. The rights and remedies available under this Agreement or otherwise available shall be cumulative of all other rights and remedies and may be exercised successively.
- 13.15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.



**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement on the last date written below ("**Effective Date**").

DATED: \_\_\_\_\_

**CITY OF SPOKANE**

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk  
City of Spokane

\_\_\_\_\_  
City Attorney  
City of Spokane

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

**CITY OF AIRWAY HEIGHTS**

By: \_\_\_\_\_  
Albert Tripp, City Manager

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk  
City of Airway Heights

\_\_\_\_\_  
City Attorney  
City of Airway Heights

DATED: \_\_\_\_\_

EXHIBIT A  
Depiction of Points of Connection

Draft

EXHIBIT B  
Spokane Water Quality Monitoring Protocol

Draft