

**STANDING COMMITTEE MINUTES**  
**City of Spokane**  
**Public Infrastructure, Environment, and Sustainability**  
**February 22, 2021**

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**Committee members present in person, phone or video**

Council President Breean Beggs, Committee Chair  
Council Member Michael Cathcart, Vice Committee Chair  
Council Member Kate Burke  
Council Member Lori Kinnear  
Council Member Candace Mumm  
Council Member Betsy Wilkerson

**Committee members absent**

Council Member Karen Stratton

Council President Beggs called the meeting to order at 1:17 p.m.

Recording of the meeting may be viewed here: <https://vimeo.com/515504748>

**Review and approval of minutes**

Council President Beggs asked for a motion to approve the [minutes of January 25, 2021 meeting](#).

- Action taken
- Council Member Mumm moved to approve the minutes of the January 25, 2021 meeting as presented; the motion was seconded by Council Member Wilkerson.

**Discussion items**

**A. Council Requests**

1. Consent items for discussion
2. Legislative update (if needed)

**B. Staff Requests**

1. Land lease RFP consideration for solar at Northside Landfill

Chris Averyt provided background on the Northside Landfill Superfund site recently removed from the EPA's priority list of Superfund cleanup sites. The city is reviewing opportunities to repurpose the site that could potentially increase its value and create revenue. The landfill was shut down in the 1980s when it was found harmful solvents and chemicals were leaching into the soil through the unlined landfill. Potential uses of the site are limited due to the nature of the capped landfill, according to analysis by the city and EPA. Staff reported the site is best suited for solar development due to solar resource, topography and

proximity to electrical interconnection. About 24 to 27 acres could be used for solar cell development estimated to produce enough energy to power 432 homes. Chris explained the first step is issuing a request for proposal as part of the selection process to hire a company to build and operate the project. The city would lease the land to the selected solar energy company. In addition to developing the site for energy production, there are opportunities for transportation and recreation use. Council Member Mumm explained some residents would like to see some recreational opportunities on the property. She also said a road connecting Indian Trail and Nine Mile roads could provide emergency access in this canyon area that can be susceptible to wildfires.

2. Solid Waste system overview and impacts from proposed carbon tax

Marlene Feist/Chris Averyt/Cadie Olsen offered a presentation on the Regional Solid Waste System and the key role the Waste to Energy (WTE) facility plays in managing solid waste in the Spokane area. The WTE plant was built in 1990 in response to the closure of landfills in the area and to find a more sustainable way to manage solid waste. The state provided \$60 million toward the total \$110 million it cost to build the facility. Waste from curbside service, the SMaRT Center, self-haul and two county transfer stations are directed to the WTE. Waste is sorted for recycling, combustion or disposal. Waste not suitable for combustion is routed to the Roosevelt Landfill or the Northside Landfill. The post-combustion, inert ash is transported to the Roosevelt Landfill. The WTE reduces solid waste 90% by volume and 70% by weight, and produces enough energy to power about 13,000 homes.

3. Power purchase agreements for City's energy generating assets

Cadie reviewed how the energy initiative segues into the city's Recycling Partnerships Strategic Initiative. She explained focus will shift to economic development in the circular economy, an economic system aimed at eliminating waste and the continual use of resources. The group discussed possible impacts of the state's Climate Commitment Act, a proposed bill to create a statewide climate program.

4. [US 195 Corridor Study](#)

Inga Note presented an overview of the US 195 Corridor Study which began late in 2019. Council approved \$50,000 to help fund the study which Spokane Regional Transportation Council is managing. The study includes an evaluation of existing conditions, initial community outreach and forecasting development. The consultant developed a list of improvement ideas, and combined them into project packages for evaluation and review. Inga presented the key projects, including J-

turns at Meadowlane and Hatch roads, and frontage roads on both sides of US 195. These project packages are scheduled to come before the SRTC Board March 11 and will then be presented to the general public for feedback.

5. [Avista electrical vehicle DC charging installation master site agreement](#)

Mike Piccolo presented an overview of a 10-year agreement that will allow the city, Parks Division and the Public Library to grant easements to Avista to install electrical vehicle DC charging stations on city-owned property. The first station is expected to be installed at The Hive, a new library and meeting space in East Central, followed by installations at Liberty Park Branch and Shadle Park Branch. Avista will be responsible for the installation and related costs, as well as the cost of electricity for the DC fast-charging stations. The master site agreement is expected to be voted on by the City Council and Park Board in the near future.

6. [Volunteers Of America Covid-19 Award for Young Adult Shelter](#)

Tim Sigler presented an overview of the Volunteers Of America Covid-19 Award for Young Adult Shelter. The CARES Act is designed to help support the response to the coronavirus outbreak and made available an additional \$4 billion in ESG-CV funds to supplement the 2020 ESG funding. CHHS was awarded funds from the U.S. Department of Housing and Urban Development, and the state Department of Commerce. The city received two awards from Commerce totaling \$3,463,494. These special ESGCV funds are to be used to prevent, prepare for, and respond to the pandemic among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of Covid-19.

7. [Transitions Covid-19 Award for Drop-In Day Center](#)

Tim Sigler presented an overview of the Transitions Covid-19 Award for Drop-In Day Center made possible through funding from the CARES Act. This would fund the low barrier drop-in day center which provides showers, hygiene products, internet, phone access, community referrals and various case management opportunities.

8. [Truth Ministries Covid-19 Award for Low Barrier Men's Shelter](#)

Tim Sigler provided an overview of the Truth Ministries Covid-19 Award for Low Barrier Men's Shelter. Congress provided \$5 billion in the CARES Act for the CDBG program to states, metropolitan cities, urban counties and insular areas. CHHS was awarded \$3,488,214 in CDBG coronavirus funds. Eligible activities include: public service activities, housing-related activities, public improvements

and facilities, activities to acquire real property, economic development activities, and general administrative and planning activities.

9. SBO to move Administrative Specialist position from Division to Department budget  
Council President Beggs announced the SBO will not be discussed during this meeting.

#### Strategic Plan Session

- A. Priority Strategy 1. Rapidly accelerating street pavement maintenance projects
  - No report for this meeting.
- B. Priority Strategy 2. Repurposing public property to stimulate private investment
  - No report for this meeting.
- C. Priority Strategy 3. Sustainable city
  - No report for this meeting.

#### Consent items

1. Nalco Chemical Company sole source resolution for proprietary HVAC and digester heating chemicals (Public Works)
2. Kemira Water Solutions 1st renewal of BID #4442-18 for a value blanket renewal (Public Works)
3. Polydyne Inc. 1st renewal of BID#4438-18 for a value blanket renewal (Public Works)
4. Two Rivers Terminal, LLC, for the award of RFQ 5378-21 to supply citric acid 50% for the NLT process (Public Works)
5. EverGem franchise contract (Legal)
6. Core & Main annual value blanket renewal for coiled pit setter meter boxes (Public Works)
7. BrandSafway contract renewal for scaffolding services (Public Works)
8. Divco contract renewal for annual HVAC services (Public Works)
9. Dresser Rand sole source resolution and value blanket for turbine generator overhaul parts (Public Works)
10. OAC Services contract amendment #2 for Next Level of Treatment at RPWRF (Public Works)
11. CH2M Hill (Jacobs) Engineering contract amendments 21-25 for professional services for Next Level of Treatment at RPWRF (Public Works)
12. Assistance to Firefighters Grant (Fire)
13. CH2M Hill contract extension for groundwater monitoring and reporting at the Northside and Southside landfills (Public Works)



Executive session  
None.

Adjournment  
The meeting adjourned at 2:29 p.m.

Prepared by:  
Pamela Clarke

Approved by:

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Chair

**STANDING COMMITTEE MINUTES**  
**City of Spokane**  
**Public Infrastructure, Environment, and Sustainability**  
**January 25, 2021**

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**Committee members present in person, phone or video**

Council President Breean Beggs, Committee Chair  
Council Member Michael Cathcart, Vice Committee Chair  
Council Member Kate Burke  
Council Member Lori Kinnear  
Council Member Candace Mumm  
Council Member Karen Stratton  
Council Member Betsy Wilkerson

Council President Beggs called the meeting to order at 1:18 p.m.

Recording of the meeting may be viewed here: <https://vimeo.com/504588829>

**Review and approval of minutes**

Council President Beggs asked for a motion to approve the minutes of December 14, 2020 meeting.

➤ **Action taken**

Council Member Mumm moved to approve the minutes of the December 14, 2020 meeting as presented; the motion was seconded by Council Member Burke.

**Discussion items**

**A. Council Requests**

1. Consent items for discussion
2. Legislative update (if needed)

3. Ray-Freya alternatives analysis

Inga Note presented an overview of the Ray-Freya alternative analysis, a study which started a little over a year ago designed to identify alternative capacity improvements in the area on Ray and Freya streets along 37<sup>th</sup> Avenue. In addition to an analysis of existing conditions, the hired consulting firm of David Evans and Associates analyzed two other options. One alternative involves placing signals at Ray and 37<sup>th</sup> and at Freya and 37<sup>th</sup>. The second alternative involves a roundabout at Ray and 37<sup>th</sup>, and either a roundabout or signal at Freya and 37<sup>th</sup>. The consultant provided analysis of the three alternatives with 2040 traffic volumes. In the coming weeks, staff plans to release the alternatives for public comment through the use of an online storymap and survey. Virtual outreach to neighborhood groups will also begin next month. Staff will finalize

recommendations and report the public outreach findings at the May PIES meeting.

**B. Staff Requests**

**1. Private utility repair or replacement pilot program**

Marcia Davis presented an overview of this low-interest loan program for single-family residence property owners. The program is designed to create financial assistance to cover the cost of repair/replacement associated with private utilities. Qualified property owners must have an area median income of 80% or less. Loan funds would cover the cost for replacing and repairing aging infrastructure, such as septic disposal systems, and private sewer pipes and systems. Loan payments would be made through monthly utility bills. The program may be administered by SNAP as an addition to the city's Single Family Repair Program and is expected to be available early summer of 2021.

**2. Water system plan update**

Katherine Miller and Steve Burns reported on the city's water system plan which is required to be updated periodically. The Department of Health requires the next update to be approved January 2023. The update will include a description of the water system, water conservation, system analysis, source water protection, and operations and maintenance. Staff will update council regularly throughout the plan update process.

**3. High system reservoir siting outreach**

Kyle Twohig presented an overview of the site selection process to determine the location for a high system reservoir proposed on the South Hill. Staff has identified the top three proposed sites, in terms of cost, proximity to homes, roadway impacts and the estimated construction time. These locations, in order, include: Hamblen Park, 37<sup>th</sup> and Stone, and 31<sup>st</sup> and Napa. Staff will conduct an online, public survey to ratepayers giving them the opportunity to provide ranked-choice voting on the three locations. Survey findings will be presented to the council. If the Hamblen Park site is selected, a recommendation would be made to the Park Board for their consideration and would require Park Board approval since the water would be sited on Parks property. A fourth site consideration may be brought forth to council in a few weeks.

**4. Spokane Club easement for South Gorge Trail/Great Gorge Trail**

Kyle Twohig reported the Spokane Club board of directors recently approved an easement for the South Gorge Trail/Great Gorge Trail under Monroe Street Bridge. This easement will be forwarded to council for approval. There is no monetary

compensation for the easement, but the city would replace a masonry wall, provide an access gate and install some screening. Spokane Club has also granted a construction easement requiring only restoration. Kyle explained the trail would go under the bridge at a small arch near the hillside. The group discussed the impact this project will have on a proposed zipline which is expected to run under the large arch at the center of the bridge. Council Member Kinnear asked if there could be congested in this area since the zipline launch platform would be near this section of trail at the CSO tank plaza. Kyle said it is his understanding the zipline platform would be closer to the river at the east end of the tank. The 10-foot-wide trail is expected to be wheels-friendly but there may be sections which are “walk your bike” areas.

5. NHS Asset Management Program grant opportunity

Kevin Picanco presented an overview of the National Highway System Asset Management Program grant opportunity. The program, funded by the Washington Federal Lands Access Program, targets street maintenance funding of principal arterial streets to preserve street pavement through grind and overlays, and chip seals or crack seals. Two applications will be submitted next month which will include multiple street projects in all three council districts. Grant awards will be announced this summer.

6. WSDOT Local Bridge Program grant opportunity

Kevin Picanco presented an overview of the WSDOT Local Bridge Program grant opportunity. The program focuses on preserving and improving the condition of city- and county-owned bridges that are physically deteriorated or structurally deficient through bridge replacement, rehabilitation or systematic preventative maintenance. The city is preparing applications for two projects on the Maple Street Bridge, including deck rehabilitation and steel structure painting. An application will also be submitted for deck and joint repair on the three Washington/Stevens bridges over the Spokane River. Grant award announcements are expected in September.

7. Bicycle Advisory Board annual report

Colin Quinn-Hurst and Jessica Engelmann presented the Bicycle Advisory Board annual report and work plan. Top priorities for 2021 include priority bike network, neighborhood greenway standards, construction detour improvement and code updates. BAB will continue their on-going duties this year, including: 1) provide feedback on design of bikeways during street resurfacing; 2) provide feedback on proposed street vacations; and 3) provide input on plans and studies that involve bikeway recommendations.

8. NPDES permit update

Jeff Donovan reported the Department of Ecology has requested the city submit a renewed application for permit relating to discharge into the Spokane River from the Riverside Park Water Reclamation Facility and Combined Sewer Overflow system. Changes to the PCBs standard over the past six years have created some disruption in the standard permit update schedules. Given a reversion back to the old PCB standard of 170 pg/L which was issued last year by EPA, Ecology believes they can move forward with issuing updated NPDES permits for wastewater dischargers on the river. Variances still remain an option, should the standard for PCBs change again.

9. Interlocal Agreement with UDPDA for Sprague Phase 2

Katherine Miller presented an overview of the ILA between the city and the University District Public Development Authority regarding funding for the Sprague Phase 2 road project. In May 2018, the UDPDA Board of Directors approved up to \$4 million to provide partial funding to construct Sprague Phase 2 which runs from Scott Street to Division. The ILA solidifies the UDPDA will fund up to \$4 million to help pay for design and construction expenses, and establishes a 50/50 split with the city. The agreement is intended to be approved just prior to and in conjunction with the construction contract approval of the apparent low bidder for Sprague Phase 2B. Both the ILA and the construction contract need to be in place in order to go to construction.

10. East Sprague SIP loan

Tonya Wallace presented an overview of the funding for the \$8 million Sprague Phase 2 road project. The University District Public Development Authority (UDPDA) Board of Directors have committed \$4 million with \$1,925,713 from sales tax earned by the PDA and a \$2,074,287 SIP loan with a five-year term. Annual debt service payments will be consistent with projected U District revenue, including property tax, sales tax, and other revenue projections.

11. Engineering Field Office construction bid

Kyle Twohig presented an update on the construction management office relocation project. The city is working with Spokane Public Schools to complete the relocation project as quickly as possible in efforts to not interfere with the construction on the middle school has already started. Design for the field office was completed in early January and bids are being solicited for various packages. The guaranteed maximum price is approximately \$2 million. Funding for the

project comes from some carryover funds from last year and a \$1.5 million SIP loan.

12. Water Department parking lot/office plans

In the interest of time, this item was deferred to the next available meeting.

13. Safe Routes to School and WSDOT pedestrian/bike grants

In the interest of time, this item was deferred to the next available meeting.

14. Highway Safety Improvement Program grants

In the interest of time, this item was deferred to the next available meeting.

15. Recycling cart tagging study results

Kris Major presented an overview on the findings from a recent recycling cart tagging study. Recycling contamination has been a growing concern in Spokane County since single-stream recycling was implemented in 2012. In early 2020, the city averaged 13% contamination in its recycling, with a goal to reduce contamination to 5% by 2021. The County received funding to conduct a cart tagging study which was conducted last summer. Project goals were to reduce contamination in curbside recycling, compare the effectiveness of two different tagging methods, and provide consistent anti-contamination messaging to all households that receive curbside recycling service in the County. Cart tagging was just one piece of a larger outreach campaign to reduce contamination. Data from the study included: 1) 12.9% reduction in contamination after four weeks of tagging; 2) set-out rates stayed relatively constant (50-60%), while tag rates tended to decrease over the four weeks of tagging; 3) plastic bags and bagged recyclables were the most common contaminants; and 4) some neighborhoods showed less improvement than others. Next steps include ongoing contamination reduction efforts, such as small-scale cart tagging, community outreach, stricter enforcement and continued work with local solid waste and recycling partners.

Strategic Plan Session

A. Priority Strategy 1. Rapidly accelerating street pavement maintenance projects

- No report for this meeting.

B. Priority Strategy 2. Repurposing public property to stimulate private investment

- No report for this meeting.

C. Priority Strategy 3. Sustainable city

- No report for this meeting.

Consent items

1. Passport Labs contract extension/amendment – (Parking Services)
2. Sulzer pumps contract award for the on- and off-site repair of boiler pumps at WTE (Solid Waste Disposal)
3. Department of Ecology Curriculum Award for the STEAM in the Garden Program (Solid Waste Disposal)
4. K&L Gates special counsel contract amendment (Legal)
5. Craig Trueblood special counsel contract amendment (Legal)
6. Traffic signal value blanket order (Street)
7. Link-Utilities strategy for Spokane's water system (Integrated Capital)
8. HOME affordable housing contract (CHHS)

Executive session

None.

Adjournment

The meeting adjourned at 3:08 p.m.

Prepared by:

Pamela Clarke

Approved by:

\_\_\_\_\_  
Chair



## Briefing Paper

### Public Infrastructure Environment and Sustainability

<b>Division &amp; Department:</b>	Public Works Division / Integrated Capital Management
<b>Subject:</b>	US 195 Corridor Study
<b>Date:</b>	2/22/2021
<b>Author (email &amp; phone):</b>	<a href="mailto:inote@spokanecity.org">inote@spokanecity.org</a>
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	Urban Experience
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b>	Comprehensive Plan Policies: TR 1 – Transportation Network for All Users
<b>Strategic Initiative:</b>	
<b>Deadline:</b>	none
<b>Outcome:</b>	information
<b>Background/History:</b> On February 4 <sup>th</sup> , 2019 Council approved \$50,000 to help pay for the Hwy 195 Study that Spokane Regional Transportation Council is managing. The study began in late 2019 with evaluation of existing conditions, initial community outreach and forecasting of development. The consultant developed a long list of improvement ideas and combined them into project packages for evaluation and review. Staff will present the key projects to the committee. <a href="https://us195transportationstudy.com/">https://us195transportationstudy.com/</a>	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>• <i>Two improvement packages with similar projects are under consideration.</i></li> <li>• <i>Key projects include J-turns at Meadowlane and Hatch Roads, frontage roads on both sides of US 195. These are consistent with conditions imposed on recent developments.</i></li> <li>• <i>We'd like city elected officials to see the project packages before they go to the SRTC Board on March 11<sup>th</sup> and then out to the general public for feedback.</i></li> </ul>	
<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: 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 Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Specify changes required: Known challenges/barriers:	

## Briefing Paper

### Public Infrastructure, Environment and Sustainability Committee

<b>Division &amp; Department:</b>	City Council
<b>Subject:</b>	Master Site Agreement for Avista Electrical Vehicle DC Charging Installation
<b>Date:</b>	February 22, 2021
<b>Contact (email &amp; phone):</b>	Mike Piccolo (mpiccolo@spokanecity.org/625-6237)
<b>City Council Sponsor:</b>	Council Member Kate Burke
<b>Executive Sponsor:</b>	Scott Simmons
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment and Sustainability Committee
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
<b>Alignment:</b>	
<b>Strategic Initiative:</b>	
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	
<u>Background/History:</u>	
<u>Executive Summary:</u> Avista and the Spokane Public Library have been working on the installation of electric vehicle DC charging installations on the various Library sites as the Library progresses with its bond construction projects. The project will include installation of charging stations during the new construction of The Hive and the Liberty Park Branch, renovation of the Downtown Library, and renovation and expansion of the Shadle Branch and renovation of the South Hill Branch and Indian Trails Branch. The various sites include a variety of land ownership by the City, the Library and Parks. To provide the greatest coordination with Avista, the parties agreed to develop a master agreement for all of the parties to sign. The agreement will enable Avista to install the required equipment for the installation of electrical vehicle DC fast charging stations. Avista will be responsible for the installation and related costs as well as the cost of electricity for the fast charging stations.	
<u>Budget Impact:</u>	
TOTAL COST:	
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.)	
<u>Operations Impact:</u>	
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:	

## MASTER SITE AGREEMENT

### Avista Electric Vehicle DC Fast Charging Installations

Avista Contract No. R-\_\_\_\_\_

THIS SITE AGREEMENT (“Agreement”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021 (“Effective Date”) between **Avista Corporation**, a Washington Corporation, whose address is 1411 E. Mission Avenue, Spokane, WA 99220 (“Avista”), and the City of Spokane, a Washington State Municipal Corporation, whose address is 808 W. Spokane Falls Blvd, Spokane, WA 99201 (“City”), the Spokane Public Library, a public library operating under Chapter 27.12 RCW, whose address is 906 W. Main Avenue, Spokane, WA 99201 (“Library”) and the City of Spokane Parks Board, by and through the City of Spokane Parks and Recreation Division, whose address is 808 W. Spokane Falls Blvd, Spokane, WA 99201 (“Parks”), jointly referred to as “Host.”

WHEREAS, Avista and Host agree to establish sites located on Host’s property for the purpose of installing and providing access to Electric Vehicle Supply Equipment (EVSE), including DC fast charging EVSE, for Host’s patrons and the general public, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, conditions and agreements set forth herein, Avista and Host agree as follows:

#### **SECTION 1. DEFINITIONS**

“Electric Vehicle” or “EV” means a vehicle that uses at least one method of propulsion that is capable of being reenergized by an external source of electricity, is designed to have the capability to drive at a speed of more than 35 miles per hour, and is licensed to drive on state and federal highways.

“Electric Vehicle Supply Equipment” or “EVSE” means the installed device used to deliver electricity to an Electric Vehicle, meeting industry standards for charger connections, and listed under applicable UL Standards and requirements or equivalent listing by a nationally recognized testing laboratory.

#### **SECTION 2. EVSE INSTALLATION AND SIGNAGE**

- a. Avista, through Avista’s network of authorized third-party independent contractors and at Avista’s expense, shall provide, install, maintain, repair or replace (collectively the “Work”) the EVSEs on property owned by Host (“Sites”), per the Site Listing included with this agreement whereby parties may identify additional Sites by addenda to this Agreement as needed, including exhibits of respective property easements. The charging installations will include the EVSE and associated electric supply panels, meters, electrical conduit, wire, lines, cables and other equipment from the transformer to the EVSEs. Sites are designed to accommodate initial EVSE installation, and future low-cost additional EVSE installation, according to a site plan proposed by Avista and agreed to by Host prior to entering this site agreement.
  - a. Initial EVSE installation will commence at a date and time to be specified by Avista and agreed to by Host.
  - b. Future additional EVSE installation will commence upon thirty (30) days written notice to Host from Avista.

- b. Avista and Host shall jointly designate the Sites on the Host's property and Host shall grant to Avista the access required to the EVSEs and all associated equipment from the transformer to the EVSEs pursuant to the form of Easement set forth in respective easements as indicated by the Site Listing.
- c. Avista shall clearly indicate on the Site the manner and means whereby a customer utilizing the EVSEs may contact Avista with any and all questions, comments or concerns they may have regarding the installation and operation of the EVSE.
- d. Avista, at its sole expense, shall post signage approved by Host indicating the EVSE parking stalls are available to the public. All other parking stalls not part of this Agreement and located in the vicinity of the EVSE Site shall remain for the exclusive use of Host's customers. Notwithstanding the foregoing, the Parties agree that Avista shall not be liable or found to be in breach of this Agreement if third parties park on Host's property and outside the EVSE parking stalls without the permission or authorization of Host.

### **SECTION 3. HOST'S EVSE OBLIGATIONS**

- a. Host shall comply with all applicable rules and regulations of federal, state and city regulatory agencies relating to the Site where the EVSE is located, including environmental requirements associated therewith.
- b. Host shall maintain the EVSE parking stalls, Host's parking lot, and the area surrounding the EVSE in accordance with its standard property management practices and will promptly notify Avista of any problems related to the EVSE. Host's maintenance responsibilities will include, but not limited to, snow and ice removal from the EVSE parking stalls, and regular garbage removal.

### **SECTION 4. TERM**

This Agreement will be effective on the Effective Date. The term of this Agreement (the "Term") shall commence on the Effective Dates and shall continue until the earlier of (1) the tenth (10<sup>th</sup>) anniversary of the date the local electrical inspector deems the installation of the EVSE satisfactory and in accordance with all codes; or (2) such time that the EVSE is removed by Avista from the Site; or (3) termination as provided under Section 5 of this Agreement.

### **SECTION 5. TERMINATION**

- a. This Agreement may be terminated by Host only for cause and not for convenience.
- b. Termination of the Agreement by Host for cause shall be made only after one hundred eighty (180) days' notice to Avista of breach of this Agreement and opportunity to cure. If Avista fails to cure the breach within one hundred eighty (180) days of receipt of notice of breach, this Agreement shall terminate.
- c. Avista may terminate for cause which shall be made only after one hundred eighty (180) days' notice to Host of breach of this Agreement and opportunity to cure. If Host fails to cure the breach within one hundred eighty (180) days of receipt of notice of breach, this Agreement shall terminate.
- d. Upon termination, Avista or Avista's authorized third-party independent contractor shall remove and take possession of the EVSE, not including removal of underground conduit and wire back to the source and shall return the site to its original condition.

## **SECTION 6. TITLE TO EQUIPMENT AND DATA**

Avista shall own and maintain title to the EVSE and associated equipment from the transformer to the EVSE at all times. Electricity will be separately metered and billed to Avista, not to the Host. The Hosts shall not make any alterations, changes or modifications to the EVSE. All rights, title and interest in the EVSE data and related information collected from the EVSE shall also immediately vest in Avista.

## **SECTION 7. INSURANCE COVERAGE**

- a. As of the Effective Date of this Agreement, each Party will procure and maintain in good standing for the Term of this Agreement, insurance limits as set forth below for claims against either Party involving bodily injury or property damage which may arise from or in connection with the exercise of the rights and privileges granted under this Agreement. These insurance limits may include a combination of self and commercial insurance, written on an occurrence basis.
- b. Host and Avista shall provide and maintain in full force and effect at no additional cost to either Party for the duration of the Agreement the following coverages: i) Commercial general liability insurance or comprehensive general liability insurance with a minimum limit of \$2,000,000 per occurrence for bodily injury and damage to property including contractual liability, premises/operations, products/completed operations, independent contractors, broad form property damage, and personal injury coverage and a minimum aggregate amount of \$4,000,000 or commercial/comprehensive general liability insurance plus additional excess umbrella liability insurance to meet these limits; and ii) Workers' compensation insurance as specified by state law.
- c. Limits set forth herein may be met with a combination of self-insured deductible or retention, and underlying primary or excess insurance that is maintained by a party to this agreement.

## **SECTION 8. DISCLAIMER OF WARRANTY**

AVISTA EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESSED OR IMPLIED. FOR AVOIDANCE OF DOUBT, REPAIR OR REPLACEMENT OF NON-CONFORMITIES SHALL CONSTITUTE AVISTA'S SOLE LIABILITY AND HOST'S EXCLUSIVE REMEDY FOR FAILURE OF AVISTA TO MEET AVISTA'S WARRANTY OBLIGATIONS, WHETHER ANY CLAIMS OF HOST ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE.

## **SECTION 9. MISCELLANEOUS PROVISIONS**

- a. Compliance with Laws. Performance under this Agreement is subject to all valid laws and regulations of courts or regulatory bodies having jurisdiction, including compliance with the Americans with Disabilities Act, as amended if Host is offering the EVSE to the general public.
- b. Assignment. This Agreement shall not be assigned except with the prior written consent of all parties hereto. The terms and conditions of this Agreement shall bind any permitted successors and assigns of the parties.
- c. Status of Parties. This Agreement shall not be construed as creating a partnership, joint venture, agency relationship, franchise or association, nor shall this Agreement render Avista and Host liable as partners, co-venturers or principals. It is agreed that nothing shall operate to change or alter such relationship, except a further agreement in writing between them.

- d. Severability. If any term or provision of this Agreement is held illegal or unenforceable by a court with jurisdiction over the Agreement, all other terms in this Agreement will remain in full force and the illegal or unenforceable provision shall be deemed struck. In the event that the stricken provision materially affects the rights, obligations or duties of either party, Avista and Host shall substitute a provision by mutual agreement that preserves the original intent of the parties as closely as possible under applicable law.
- e. Governing Law. This Agreement shall be governed by the laws of the State of Washington. Avista and Host expressly waive their rights to a trial by jury in any action brought hereunder.
- f. Dispute Resolution. If any dispute arises between the Parties regarding issues of interpretation of the Agreement or the Services performed pursuant to the Agreement, Host may call the Avista Representative listed in this Agreement during business hours Monday-Friday 8 a.m. to 5 p.m. If further follow-up is required, Host shall provide Avista with written notice explaining the dispute and associated documentation. Avista will consider all disputes and respond within fifteen (15) days of receiving notice of a dispute. In the event Host is dissatisfied with the resolution of the dispute, Host has the right to file an informal or formal complaint with the Washington Utilities and Transportation Commission by contacting the Consumer Affairs section of the Washington Utilities and Transportation Commission at 1-888-333-9882 or complete an online complaint form at [www.utc.wa.gov](http://www.utc.wa.gov). Avista will take no other action to enforce this Agreement until any complaint filed with the Commission is resolved.
- g. Public Communication. Host agrees to cooperate with Avista in maintaining good community relations. Avista will issue all public statements, press releases, and similar publicity concerning the EVSE and the Work (including its progress, completion and characteristics). Host shall not make or assist anyone to make any such statements, releases, photographs, or publicity without prior written approval of Avista.
- h. Non-waiver. Avista's failure to insist on performance of any of the terms and conditions herein or to exercise any right or privilege or Avista's waiver of any breach hereunder shall not thereafter waive any of Avista rights or privileges under this Agreement or at law. Any waiver of any specific breach shall be effective only if given expressly by Avista in writing.
- i. Merger. This Agreement, together with the relevant easements, embodies the entire agreement between Avista and Host. The parties shall not be bound by or liable for any statement, writing, representation, promise, inducement or understanding not set forth above. No changes, modifications or amendments of any terms and conditions of this Agreement are valid or binding unless agreed to by the parties in writing and signed by their authorized agents.
- j. Consent. Host further acknowledges and agrees that Host is knowingly consenting to and authorizing Avista to release and share Host's information, including name, address and telephone number, charging data, and any technical configuration or electrical usage patterns concerning the Work with Avista's authorized third-party independent contractors, in order for the authorized third-party independent contractors to install and maintain the EVSE.

## **SECTION 10. NOTICES**

Any written notices required or permitted to be given by one Party to the other under this Agreement or by law shall be sufficiently given if delivered in person or sent by certified mail to the following address:

Avista Corporation  
Attn: Rendall Farley  
1411 East Mission Avenue,  
MSC-15  
Spokane, Washington 99220  
[Rendall.farley@avistacorp.com](mailto:Rendall.farley@avistacorp.com)  
509-495-2823

Spokane Public Library  
Attn: Andrew Chance  
906 W Main Avenue  
Spokane, WA 99201  
[achanse@spokanelibrary.org](mailto:achanse@spokanelibrary.org)  
509-444-5305

City of Spokane

Attn: Scott Simmons  
  
W. 808 Spokane Falls Blvd  
Spokane, WA 99201  
[smsimmons@spokanecity.org](mailto:smsimmons@spokanecity.org)  
509-625-6584

Parks and Recreation Division  
Garrett Jones  
W 808 Spokane Falls Blvd  
Spokane, WA 99201  
[gjones@spokanecity.org](mailto:gjones@spokanecity.org)  
509-363-5462

Either Party may change the above contact information by providing written notice of such change.



IN WITNESS WHEREOF, the parties execute this Agreement by their signature or the signature of their authorized agents as of the date first above written.

**Host**

**CITY OF SPOKANE**

BY: \_\_\_\_\_

NAME: Scott Simmons

TITLE: Acting City Administrator

DATE: \_\_\_\_\_

**Avista**

**AVISTA CORPORATION**

BY: \_\_\_\_\_

NAME: Kevin Christie

TITLE: Executive Vice President

DATE: \_\_\_\_\_

**Host**

**SPOKANE PUBLIC LIBRARY**

BY: \_\_\_\_\_

NAME: Andrew Chance

TITLE: Executive Director

DATE: \_\_\_\_\_

**Avista**

**CITY OF SPOKANE PARKS AND  
RECREATION DIVISION**

BY: \_\_\_\_\_

NAME: Garrett Jones

TITLE: Director

DATE: \_\_\_\_\_

Attest:

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

Approved as to form:

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

**Site Listing**

for Avista Electric Vehicle DC Fast Charging Installations, Master Site Agreement

<Site Host>

Avista Contract No. R-\_\_\_\_\_

Respective Property Easement documents and exhibits with duly authorized and signed grantors for the Sites listed below will reference the above Master Site Agreement Contract Number and respective Site numbers as listed below.

Site #	Description	Avista Easement Document No.	Address	Parcel #
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Return Address:

Avista Corporation-LuAnn Weingart  
Real Estate Department MSC-25  
P.O. Box 3727  
Spokane, Washington 99220-3727

**EASEMENT FOR ELECTRIC VEHICLE  
CHARGING STATION**

For Mutual Benefits and Good Consideration, the receipt of which is hereby acknowledged, **City of Spokane, a Municipality**, 808 W Spokane Falls Blvd, Spokane, WA ("Grantor") hereby grants, conveys and warrants to **AVISTA CORPORATION**, a Washington corporation, ("Grantee"), a perpetual exclusive easement on, over, under, along and across real property identified as Assessor Parcel # **35222.0809** located in the Northwest Quarter of Section 22, T. 25N, R. 43E W.M., in the City of Spokane, Spokane County, State of Washington, legally described as:

*Lots 1 through 12, Block 2 Bisbee's Addition to Spokane Falls, according to plat recorded in Volume "B" of plats, page 1, in the City of Spokane, Spokane County, Washington.*

1. **EASEMENT AREA.** The portion of the Property to which this easement applies is more specifically described as: an area approximately 18' x 96' lying along the south parcel line of Lot 6 of Block 2 Bisbee's Addition, as depicted in **EXHIBIT "A"** and attached hereto (the "Easement Area"), which is incorporated by reference into this easement.
2. **PURPOSE.** Grantee shall have the right to construct, reconstruct, operate, maintain, upgrade, repair, remove, relocate and replace one or more electric vehicle charging stations together with all related appurtenances, including, without limitation, all charging stations, electric lines, transformers, and related equipment that may be necessary or beneficial in the use thereof ("Facilities") on, over, under, along and across the Easement Area.
3. **ACCESS AND DAMAGE.** Grantor grants to Grantee a right of ingress, egress and access to the Easement Area over and across the Property for the purposes stated above. The Grantee agrees to repair any damage, restore the affected area to its original or natural state, or compensate the Grantor for any damage to the Property as a result of such access.
4. **GRANTOR'S OBLIGATIONS.** Grantor agrees to keep the Easement Area clear of snow and/or debris, and to otherwise preserve and maintain the public's ability to access the Easement Area via the Property. In addition, Grantor agrees to assist Grantee with reasonable requests for minor operational adjustments to the electric vehicle charging stations, including, without limitation, manually resetting on-site charging stations upon request of the Grantee; provided, however that Grantor shall not be required to engage in any operational adjustment activity that requires specialized skill or technical experience.
3. **CLEARING AND MAINTENANCE.** Grantee shall have the right to cut, trim and remove any brush, branches, landscaping and trees, including danger trees, within the Easement Area, that in the opinion of the Grantee could interfere with the safe and reliable operation of Grantee's facilities or equipment or that could interfere with the exercise of Grantee's rights as granted herein.

4. **USE OF THE PROPERTY AND EASEMENT AREA.** Grantor reserves the right to use and enjoy the Property, to the extent that such use does not conflict or interfere with the Grantee's rights herein. Grantor shall not construct, place or maintain any building, structure, fence or landscaping within the Easement Area without Grantee's written consent.

5. **PUBLIC PARKING.** Grantor currently maintains parking spaces within the Easement Area, which are available to the public free of charge. Grantor shall continue to maintain said parking spaces, without charge to the public.

6. **INDEMNITY.** Grantee agrees to indemnify and hold harmless Grantor, its employees, agents, guests and invitees from damage to property and personal injury to the extent caused by Grantee's negligence or willful misconduct in the exercise of its rights herein, provided that Grantee shall not be liable for property damage or personal injury that is caused by the acts or omissions of Grantor, its employees, agents, guests and invitees or any other person.

7. **GRANTOR'S WARRANTY.** Grantor warrants and represents that Grantor has the unrestricted right to grant this easement and the rights described here.

8. **SUCCESSORS AND ASSIGNS.** The rights granted in this easement run with the Property and shall be binding upon and benefit the parties and their respective successors, heirs and assigns.

**DATED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

**GRANTOR(S): CITY OF SPOKANE**

\_\_\_\_\_  
**Scott Simmons-Director of Public Works, City of Spokane**

\_\_\_\_\_  
**Andrew Chanse-Director of Spokane Public Libraries**

STATE OF WASHINGTON       )  
  ) ss.  
COUNTY OF                       )

I certify that I know or have satisfactory evidence that **SCOTT SIMMONS** is the person who appeared before me, and said person acknowledged he signed this instrument, on oath and stated he is authorized to execute the instrument on behalf of **City of Spokane as the Director of Public Works**, and to be the free and voluntary act and deed of such party for the uses and purposes stated in the instrument.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Notary Public for the State of \_\_\_\_\_

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

**STATE OF WASHINGTON**           )  
   ) ss.  
**COUNTY OF**                         )

I certify that I know or have satisfactory evidence that **ANDREW CHANSE** is the person who appeared before me, and said person acknowledged he signed this instrument, on oath and stated he is authorized to execute the instrument on behalf of **City of Spokane as the Director of Spokane Public Libraries**, and to be the free and voluntary act and deed of such party for the uses and purposes stated in the instrument.

Signature

---

Print Name

Notary Public for the State of \_\_\_\_\_

Residing at \_\_\_\_\_

My Commission Expires\_\_\_\_\_

NW1/4 SEC. 22,T25N,R43E

SPRAGUE

# BISBEE'S ADDITION

LOT 12

2

LOT 1

LOT 11

LOT 2

LOT 10

SUBJECT PARCEL  
35222.0809

LOT 3

REGAL

LOT 9

LOT 4

HAVEN

LOT 8

LOT 5

LOT 7

LOT 6

<--96'-->

18'

Easement Area

1ST

NOT TO SCALE



## Briefing Paper

### Public Infrastructure, Environment, & Sustainability Committee

<b>Division &amp; Department:</b>	Neighborhood, Housing, and Human Services Division – Community, Housing, and Human Services Department
<b>Subject:</b>	VOA Covid-19 Award for Young Adult Shelter
<b>Date:</b>	February 22, 2021
<b>Author (email &amp; phone):</b>	Margaret Hinson ( <a href="mailto:mhinson@spokanecity.org">mhinson@spokanecity.org</a> 509-867-8539)
<b>City Council Sponsor:</b>	N/A
<b>Executive Sponsor:</b>	Cupid Alexander
<b>Committee(s) Impacted:</b>	Public Safety & Community Health Committee
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input checked="" 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)	2020-2025 Strategic Plan to End Homelessness; Greater Spokane Comprehensive Emergency Management Plan
<b>Strategic Initiative:</b>	Safe & Healthy / Reduce Homelessness
<b>Deadline:</b>	The start date for the contract is March 1, 2021
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	CHHS is requesting permission to enter into agreement with Volunteers of America to fund young adult shelter beds.
<b>Background/History:</b> The CARES Act was signed on March 27, 2020 to help support the response to the novel coronavirus outbreak. The CARES Act made available an additional \$4 billion in ESG-CV funds to supplement the Fiscal Year (FY) 2020 ESG funding. CHHS was awarded ESG-CV funds from the U.S. Department of Housing and Urban Development (“HUD”) and the Washington State Department of Commerce (“Commerce”). The City received two awards from Commerce totaling \$3,463,494. These special ESG-CV funds are to be used to prevent, prepare for, and respond to the Coronavirus pandemic among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>The intention of this agreement is to add young adult beds to the City shelter system. VOA would coordinate overnight shelter in existing shelters for 12-15 young adults until a permanent shelter is fully operational.</li> <li>The total amount of agreement will be based off of the budgeted monthly invoicing (\$13,355)</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If new, specify funding source: Emergency Solutions Grant – Coronavirus (HUD funds passed through Commerce) Other budget impacts: None	
<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

### Public Infrastructure, Environment, & Sustainability Committee

<b>Division &amp; Department:</b>	Neighborhood, Housing, and Human Services Division – Community, Housing, and Human Services Department
<b>Subject:</b>	Transitions Covid-19 Award for Drop-In Day Center
<b>Date:</b>	February 22, 2021
<b>Author (email &amp; phone):</b>	Margaret Hinson ( <a href="mailto:mhinson@spokanecity.org">mhinson@spokanecity.org</a> 509-867-8539)
<b>City Council Sponsor:</b>	N/A
<b>Executive Sponsor:</b>	Cupid Alexander
<b>Committee(s) Impacted:</b>	Public Safety & Community Health Committee
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input checked="" 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)	2020-2025 Strategic Plan to End Homelessness; Greater Spokane Comprehensive Emergency Management Plan
<b>Strategic Initiative:</b>	Safe & Healthy / Reduce Homelessness
<b>Deadline:</b>	The start date for the contract is March 1, 2021
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	CHHS is requesting permission to enter into agreement with Transitions to maintain weekend operations at their low barrier day center for women.
<b>Background/History:</b> The CARES Act was signed on March 27, 2020 to help support the response to the novel coronavirus outbreak. The CARES Act made available an additional \$4 billion in ESG-CV funds to supplement the Fiscal Year (FY) 2020 ESG funding. CHHS was awarded ESG-CV funds from the U.S. Department of Housing and Urban Development (“HUD”) and the Washington State Department of Commerce (“Commerce”). The City received two awards from Commerce totaling \$3,463,494. These special ESG-CV funds are to be used to prevent, prepare for, and respond to the Coronavirus pandemic among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>The intention of this agreement is to maintain weekend operations at Transitions’ day center, a low barrier drop-in center, which includes warming space, showers, hygiene products, internet and phone access, and community referrals.</li> <li>The total amount of agreement will be based off of the budgeted monthly invoicing (\$11,713)</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If new, specify funding source: Emergency Solutions Grant- Coronavirus (HUD funds passed through Commerce) Other budget impacts: None	
<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

### Public Infrastructure, Environment, & Sustainability Committee

<b>Division &amp; Department:</b>	Neighborhood, Housing, and Human Services Division – Community, Housing, and Human Services Department
<b>Subject:</b>	Truth Ministries Covid-19 Award for Low Barrier Men's Shelter
<b>Date:</b>	February 22, 2021
<b>Author (email &amp; phone):</b>	Margaret Hinson ( <a href="mailto:mhinson@spokanecity.org">mhinson@spokanecity.org</a> 509-867-8539)
<b>City Council Sponsor:</b>	Beggs
<b>Executive Sponsor:</b>	Cupid Alexander
<b>Committee(s) Impacted:</b>	Public Safety & Community Health Committee
<b>Type of Agenda item:</b>	<input type="checkbox"/> Consent <input checked="" 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)	2020-2025 Strategic Plan to End Homelessness; Greater Spokane Comprehensive Emergency Management Plan
<b>Strategic Initiative:</b>	Safe & Healthy / Reduce Homelessness
<b>Deadline:</b>	The start date for the contract is March 1, 2021
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	CHHS is requesting permission to enter into agreement with Truth Ministries Shelter. Truth Ministries Shelter provides nightly shelter capacity for 35 men and nightly overflow sleeping capacity for 40 men, in addition to ancillary shelter services available on-site to shelter clients. This agreement would allow the 40 overflow beds to convert to low-barrier.
<b>Background/History:</b> Congress provided \$5 billion in the CARES Act for the Community Development Block Grant (CDBG) program to states, metropolitan cities, urban counties, and insular areas. <u>CHHS was awarded \$3,488,214 in CDBG-coronavirus funds.</u> Eligible activities include: <ul style="list-style-type: none"> <li>Public service activities</li> <li>Housing-related activities</li> <li>Public improvements and facilities</li> <li>Activities to acquire real property</li> <li>Economic development activities</li> <li>General administrative and planning activities</li> </ul> Activities must benefit residents within the jurisdiction of the grantee or as permitted by the CARES Act by supporting activities that mitigate the impacts of COVID-19	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>The intention of this agreement is to add 40 low barrier men's beds to the City shelter system.</li> <li>The total amount of agreement will be based off of the monthly invoicing (\$35/776)</li> </ul>	
<b>Budget Impact:</b> Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If new, specify funding source: Community Development Block Grant – Coronavirus funds Other budget impacts: None.	
<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

### Public Infrastructure, Environment, and Sustainability

<b>Division &amp; Department:</b>	Public Works and Utilities
<b>Subject:</b>	Sole source resolution to purchase proprietary chemicals, supplies and parts from Nalco Chemical Company for Riverside Park Water Reclamation Facility.
<b>Date:</b>	2/22/2021
<b>Contact (email &amp; phone):</b>	Mike Cannon, Assistant Plant Manager 625-4642 <a href="mailto:mcannon@spokanecity.org">mcannon@spokanecity.org</a>
<b>City Council Sponsor:</b>	Breean Beggs
<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>	
<b>Strategic Initiative:</b>	Innovative Infrastructure – Affordable Utility Rates
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval for sole source resolution for a cost over 5 years of \$332,000.00, plus applicable taxes.
<b>Background/History:</b> The Riverside Park Water Reclamation Facility has used chemicals, chemical storage, telemetric monitoring and dosing services and equipment provided by Nalco since 1990, utilizing their trained personnel to safely transfer hazardous and incompatible chemicals to specially designed containment. The Nalco chemical feed and monitoring software is an integral part of the facility's HVAC and digester heating control system, and Nalco provides unlimited support from their local technical representative.  The resolution is tentatively scheduled to begin on April 1 <sup>st</sup> , 2021 and to end on March 31 <sup>st</sup> , 2026.	
<b>Executive Summary:</b> Funding for this purchase is provided in the Wastewater Management, RPWRF's budget, and revenue is derived from sewer rates. To change vendors, there would be a significant cost to replace all of the equipment and parts to be compatible with another system. Another vendor would have to create a completely functional stand-alone chemical support system; of which, none of the existing and integrated Nalco equipment could be utilized with another vendor's chemicals or software. Both systems would have to operate in parallel for a considerable period of time before a transition could occur, exposing RPWRF to substantial operational and regulatory risk as well as expense.	
<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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Department 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:	

## SOLE SOURCE RESOLUTION

A RESOLUTION declaring Nalco Chemical Company a sole source provider of conditioning chemicals (and associated equipment) for use in the high pressure boilers and steam system at the Riverside Park Water Reclamation Facility (RPWRF) and authorizing the purchase of conditioning chemicals (and associated equipment) from Nalco Chemical Company for \$332,800.00 plus tax and shipping without public bidding for a five (5) year term.

WHEREAS, RPWRF has used high pressure boilers and affiliated steam system from Nalco conditioning chemicals (and associated equipment) since 1990 and was selected at that time because of their status as "low bidder"; and

WHEREAS, these aforementioned conditioning chemicals are proprietary, extremely dangerous at full concentration, and absolutely essential to preserve RPWRF's very costly high pressure boiler and affiliated steam system's mechanical integrity; and

WHEREAS, the successful, safe, and regulatory compliant operation of RPWRF's heating and process systems depend upon reliable and efficient high pressure steam produced by its boilers. The continued mechanical integrity of such systems requires the continual use of several conditioning chemicals provided by Nalco Chemical Company; and

WHEREAS, as RPWRF's use of high pressure steam has expanded, the use of such conditioning chemicals has incrementally increased as well; and

WHEREAS, Nalco Chemical Company also delivers these extremely reactive and dangerous chemicals to RPWRF, where their trained personnel transfer the chemicals into specially designed tanks provided by Nalco, so City staff are not subjected to a potential exposure; and

WHEREAS, Nalco also provides chemical feed metering systems, monitoring software, confirmatory boiler water testing, and unlimited technical support, additionally, the Nalco chemical control feed system is completely integrated into the facility's boiler and high pressure steam systems; and

WHEREAS, another vendor would have to create a completely functional stand-alone chemical support system; of which, none of the existing and integrated Nalco equipment could be utilized with another vendor's chemicals or software. Both systems would have to operate in parallel for a considerable period of time before a transition could occur, exposing RPWRF to substantial operational risk as well as represent a marked increase in expense.

WHEREAS, the cost of purchase with Nalco Chemical Company conditioning chemicals (and associated equipment) exceeds the 2021 public bid limit of \$50,000.00 for the purchase of goods; -- Now, Therefore,

BE IT RESOLVED by the City Council for the City of Spokane that it hereby declares Nalco Chemical Company provider of conditioning chemicals (and associated equipment) a sole source purchase; and

BE IT FURTHER RESOLVED that the City Council authorizes the purchase of conditioning chemicals (and associated equipment) for use in the high pressure boilers and steam system at the Riverside Park Water Reclamation Facility (RPWRF) from Nalco Chemical Company for \$332,800.00 plus tax and shipping without public bidding for a five (5) year term.

ADOPTED BY THE CITY COUNCIL ON \_\_\_\_\_

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

Approved as to form:

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

## Briefing Paper

### Public Infrastructure, Environment, and Sustainability

<b>Division &amp; Department:</b>	Public Works and Utilities
<b>Subject:</b>	Renewal of contract to supply liquid Aluminum Sulfate to Riverside Park Water Reclamation Facility.
<b>Date:</b>	2/22/2021
<b>Contact (email &amp; phone):</b>	Mike Cannon, Assistant Plant Manager 625-4642 <a href="mailto:mcannon@spokanecity.org">mcannon@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>	
<b>Strategic Initiative:</b>	Innovative Infrastructure – Affordable Utility Rates
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval to renew the 1 <sup>st</sup> of 2 renewals with Kemira Water Solutions, Inc. to supply liquid Aluminum Sulfate to Riverside Park Water Reclamation Facility, for a cost of \$2,188,600.00, plus applicable taxes.
<p><u>Background/History:</u> Aluminum Sulfate is used to remove Phosphorus from water from the Riverside Park Water Reclamation Facility that is discharged to the Spokane River. In order to remove Phosphorus from water discharged from RPWRF, it is necessary to add Liquid Aluminum Sulfate.</p> <p>RPWRF is required, by its discharge permit, to chemically remove Phosphorus from its effluent flow. Additionally, the plant will be required to use more Alum as part of the next level of treatment to reach phosphorus levels at extremely low levels in accordance with the NPDES permit and DO TMDL. We are anticipating an increased usage of approximately 1,200 more dry tons, for a total of 6,200 dry tons.</p> <p>This 1<sup>st</sup> renewal is tentatively scheduled to begin on April 1<sup>st</sup>, 2021 and to end on March 31<sup>st</sup>, 2022. The contract may be extended for one (1) additional one-year contract period with the total contract period not to exceed five (5) years.</p>	
<p><u>Executive Summary:</u></p> <p>Renewal of BID #4442-18 to Kemira Water Solutions, Inc. to supply approximately 6,200 dry tons of Aluminum Sulfate to Wastewater Management's Riverside Park Water Reclamation Facility.</p> <p>Funding for this purchase is provided in the Wastewater Management, RPWRF's budget, and revenue is derived from sewer rates.</p>	
<p><u>Budget Impact:</u></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> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<p><u>Operations Impact:</u></p> <p>Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Specify changes required:</p> <p>Known challenges/barriers:</p>	

## Briefing Paper

### Public Infrastructure, Environment, and Sustainability

<b>Division &amp; Department:</b>	Public Works and Utilities
<b>Subject:</b>	Renewal of contract to supply polymer to Riverside Park Water Reclamation Facility.
<b>Date:</b>	2/22/21
<b>Contact (email &amp; phone):</b>	Mike Cannon, Assistant Plant Manager 625-4642 <a href="mailto:mcannon@spokanecity.org">mcannon@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>	
<b>Strategic Initiative:</b>	Innovative Infrastructure – Affordable Utility Rates
<b>Deadline:</b>	
<b>Outcome:</b>	Council approval to renew the 1 <sup>st</sup> of 2 renewals with Polydyne, Inc. to supply polymer to Riverside Park Water Reclamation Facility for an annual cost of \$449,000.00.
<u>Background/History:</u> Polymer is used in three processes - the Belt Filter Press for land application, the Gravity Belt Thickener processes for blending and the Primary Clarifiers for enhanced nutrient removal.	
<u>Executive Summary:</u> In order to function as a wastewater treatment and water recycling facility, it is necessary to add polymer.  This is the 1 <sup>st</sup> of 2 renewals from the awarded BID #4438-18 to Polydyne, Inc. (Riceboro, GA) who was the lowest responsive bidder that met our 7-day delivery requirements to supply polymer. The total annual contract cost is \$449,000.00. This is for the renewal period for March 1, 2021 to February 29, 2022.	
<u>Budget Impact:</u> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Department Other budget impacts: (revenue generating, match requirements, etc.)	
<u>Operations Impact:</u> 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 RFQ #5378-21 contract to supply Citric Acid 50% to Riverside Park Water Reclamation Facility.
<b>Date:</b>	2/22/2021
<b>Contact (email &amp; phone):</b>	Mike Cannon, Assistant Plant Manager 625-4642 <a href="mailto:mcannon@spokanecity.org">mcannon@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>	
<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 RFQ #5378-21 to Two Rivers Terminal, LLC. To supply Citric Acid 50% to Riverside Park Water Reclamation Facility, for a cost of \$330,000.00, plus applicable taxes for the period of March 1, 2021 to February 28, 2024.
<p><u>Background/History:</u> Citric Acid 50% will be used with the new membrane facility, which is responsible for removing Phosphorus from water from the Riverside Park Water Reclamation Facility that is discharged to the Spokane River. RPWRF is required, by its discharge permit, to chemically remove Phosphorus from its effluent flow. This new chemical will be used to maintain the membranes, so we can achieve the extremely low phosphorus levels in accordance with the NPDES permit and DO TMDL.</p> <p>We are anticipating usage of approximately 188,000 pounds per year at \$0.585 per pound for a total of \$110,000.00 per year. A total cost over three years of \$330,000.00.</p> <p>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><u>Executive Summary:</u></p> <p>Award of RFQ #5378-21 to Two Rivers Terminal, LLC. to supply approximately pounds of Citric Acid 50% to Wastewater Management's Riverside Park Water Reclamation Facility.</p> <p>Funding for this purchase is provided in the Wastewater Management, RPWRF's budget, and revenue is derived from sewer rates.</p>	
<p><u>Budget Impact:</u></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> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<p><u>Operations Impact:</u></p> <p>Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Specify changes required:</p> <p>Known challenges/barriers:</p>	

## Briefing Paper

### Public Infrastructure, Environment & Sustainability (PIES) Committee

<b>Division &amp; Department:</b>	Legal
<b>Subject:</b>	EverGem Franchise Agreement
<b>Date:</b>	February 22, 2021
<b>Author (email &amp; phone):</b>	Tim Szambelan, <a href="mailto:tszambelan@spoknecity.org">tszambelan@spoknecity.org</a> , 625-6218.
<b>City Council Sponsor:</b>	Council President Breean Beggs, Council Member Michael Cathcart
<b>Executive Sponsor:</b>	Michael Ormsby
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment & Sustainability (PIES) Committee
<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)	Franchise Agreement – Broadband/ Internet Services.  Use of Public Right of Way.   Utilizing Budget Account #
<b>Strategic Initiative:</b>	Effective use of the public right of way.
<b>Deadline:</b>	Commencement upon council approval and mayor's signature.
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Effective use of the public right of way to provide broadband/Internet services
<b><u>Background/History:</u></b>  EverGem's mission is to build fiber networks, with actual open access to all service providers, which will bring broadband choice and competition to underserved rural communities by being fair and innovative. .EverGem provides solutions for government agencies to bring telecom continuity of operation planning systems. EverGem's expertise in route planning and building infrastructure of dark fiber provides secure dedicated bandwidth linking numerous government agencies together. EverGem's low latency solution is crucial for agencies who depend on fast communication between different point to point communications portals or between large data centers that need to communicate with each other quickly and seamlessly.	
<b><u>Executive Summary:</u></b> <ul style="list-style-type: none"> <li>• Ordinance granting EverGem a non-exclusive telecommunications franchise to use the public right of way</li> <li>• EverGem will build a fiber system for broadband services to a various agencies and businesses.</li> <li>• Term of the franchise agreement is 10 year period with a one-time five year renewal period.</li> </ul>	

Budget Impact:

Approved in current year budget? ☐ Yes ☒ No

Annual/Reoccurring expenditure? ☐ Yes ☒ No

If new, specify funding source:

Other budget impacts: (revenue generating, match requirements, etc.)

Operations Impact:

Consistent with current operations/policy? ☒ Yes ☐ No

Requires change in current operations/policy? ☐ Yes ☒ No

Specify changes required:

Known challenges/barriers:

EverGem LLC.  
TELECOMMUNICATIONS (NONCABLE) FRANCHISE

Ordinance No. C-\_\_\_\_\_

An ordinance granting a non-exclusive franchise to use the public right-of-way to provide noncable telecommunications service to the public to EverGem LLC., subject to certain conditions and duties as further provided.

THE CITY OF SPOKANE DOES ORDAIN:

- Section 1. Definitions
- Section 2. Parties, grant
- Section 3. Limits on permission
- Section 4. Effective Date, Term
- Section 5. General provisions
- Section 6. Plans; Locate, Relocate
- Section 7. Grantee to restore affected areas
- Section 8. Information, good engineering, inspections
- Section 9. Limited access, no obstruction, accommodation
- Section 10. Undergrounding
- Section 11. Facilities for City Use
- Section 12. Liability; No duty
- Section 13. Insurance
- Section 14. Taxes, fees
- Section 15. Franchise administration
- Section 16. Additional

Section 1. Definitions

"City" means the City of Spokane and its legal successors.

"Administering officer" is the designee of the Mayor who administers this Franchise.

"Cable television service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

"Facilities" means the equipment, fixtures and appurtenances necessary for Grantee to furnish and deliver telecommunications services as provided in the Franchise. It includes poles, antennas, transmitters, receivers, equipment boxes, backup power supplies, power transfer switches, electric meters, coaxial cables, fiber optic cables, wires and conduits and related materials and

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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equipment, but not above ground pedestals or other special installations in the Public right-of-way absent written permission of the Administering officer.

"Municipal infrastructure" means the road bed and road area, street and sidewalk paving, curbing, utility easements (unless there are relevant use, structure or other restrictions), associated drainage facilities, combined sewer tanks, bike paths and other construction or improvements pertaining to public travel. It further includes municipal water and sewer lines or other municipal utility facilities, as well as municipal traffic signal, street lighting and communications facilities in the right-of-way or other areas or easements open for municipal use. It further includes skywalks, street trees, plants, shrubs, lawn and other ornamental or beautification installations owned by the City in the right-of-way or other ways open for public travel or municipal use, and accepted for municipal management or control as such. The definition is intended to encompass any municipal physical plant, fixtures, appurtenances or other facilities located in or near the right-of-way or areas or easements opened and accepted for municipal use.

"Public right-of-way" or "right-of-way" means land acquired by or dedicated to the City for public roads and streets, but does not include state highways; land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public; structures, including poles and conduits, located within the right-of-way; federally granted trust lands or forest board trust lands; lands owned or managed by the state parks and recreation commission; or federally granted railroad rights-of-way acquired under 43 U.S.C. 912 and related provisions of federal law that are not open for motor vehicle use.

"Telecommunications service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For purposes of this definition, "telecommunications service" excludes the over-the-air transmission of broadcast television or broadcast radio signals and "cable service" as defined in 42 USC 522 (5) or other distribution of multichannel video programming.

Section 2. Parties, grant

EverGem LLC.

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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A. This is a Franchise agreement between the City of Spokane as Grantor, hereafter also "City", and EverGem LLC., as Grantee, hereafter also "Grantee". Grantee is a Washington Limited Liability Company whose home office is 109 South 1<sup>st</sup> Street, Roslyn, WA. 98941. Any notice sent hereunder to Grantee shall be sent, via certified mail, return receipt requested, or express carrier with notice deemed given upon receipt or first refusal, to:

EverGem LLC.

Attn: CFO

Re: City of Spokane WA Telecommunications (noncable) Franchise  
109 South 1<sup>st</sup> Street  
Roslyn, WA. 98941

With a copy to:

EverGem LLC.

Attn: General Counsel

Re: City of Spokane WA Telecommunications (noncable) Franchise  
109 South First Street  
PO Box 688  
Roslyn, WA. 98941

Any contact necessary for effectuating this Franchise or any logistics hereunder shall be made to: the above address.

Any notice sent hereunder to the City shall be sent, via certified mail, return receipt requested, or express carrier with notice deemed given upon receipt or first refusal, to:

City of Spokane  
808 West Spokane Falls Boulevard  
Spokane, WA 99201  
Attention: City Clerk's Office

With a copy to:

City of Spokane  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

EverGem LLC.

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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Attention: City Attorney's Office

B. In return for promises made and subject to the stipulations and conditions stated, the City grants to Grantee general permission to enter, use, and occupy (including, but not limited to, permission to relocate, install, operate, maintain, replace, relocate, excavate, repair, reinstall, restore and upgrade fiber optic cable, small cell devices) the Public right-of-way, to locate Facilities to provide telecommunications service to the public in the City of Spokane and/or to transport telecommunications services through the City and for no other purpose. This grant expressly does not include permission to use the Public right-of-way for cable service or cable television service. The grant is by way of general permission to occupy the right-of-way, and not in place of specific location permits. In accepting this Franchise, Grantee stipulates and agrees to the City's authority to issue and require the Franchise and stipulates and agrees to the other terms and conditions hereof.

Section 3. Limits on Permission

A. Should the City determine Grantee is using the Franchise beyond its purpose set forth in Section 2B above, or functioning as a cable operator or performing other business functions beyond the scope of permission extended in the Public right-of-way, the City reserves the right to cancel this Franchise and require Grantee to follow any applicable requirements to obtain a cable franchise or other franchise from the City.

B. Permission granted is in the nature of a quitclaim of any interest or authority the City has to make the grant, without warranty of authority by the City to the Grantee. It does not extend beyond the right-of-way, to areas such as buildings or private areas not reserved for general utility access. Grantee is solely responsible to make its own arrangements for any access needed to such places. Permission granted is nonexclusive. Grantee stipulates that the City may grant similar permission to others, provided that any such use by others does not unreasonably interfere with Grantee's use and placement of its Facilities in any right-of-way. The City additionally reserves the right to engage in any lawful municipal function, whether or not including any line of business engaged in by Grantee.

C. The grant of permission from the City does not extend to municipal buildings or other municipally owned or leased structures or premises held in a

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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proprietary or ownership capacity. For such locations, Grantee should make specific written lease arrangements directly with the municipal department controlling such building or other structure or area, all arrangements to be approved in accord with applicable requirements.

Section 4. Effective Date, Term

This Franchise is effective as of the effective date of the Ordinance ("Effective Date"); PROVIDED, that it shall not be effective unless and until the written acceptance of this ordinance by the Grantee, signed by its proper officers, shall be filed with the City Clerk within thirty (30) days of enactment. It expires at midnight ten (10) years thereafter (the "Initial Term"). Following the expiration of the Initial Term, this Franchise shall be automatically renewed for one (1) additional five (5) year period. (each a "Renewal Term"), unless Grantee provides to the City written notice of intention not to renew at least ninety (90) days prior to the expiration of the Initial Term or any Renewal Term, as applicable. This does not affect the City's right to revoke the Franchise for cause, abandonment, or because of breach of any material promise, condition or stipulation stated herein.

Section 5. General Provisions

A. Grantee is and will remain in good standing as a limited liability company registered to do business in the State of Washington, and pay all taxes or fees applicable thereto. Grantee will maintain a public telephone number 24 hours a day, seven days a week for the City's access, personally staffed at least during normal business hours. The Grantee will notify the City within five business days if Grantee's contact information changes.

B. Grantee will coordinate its activities with other utilities and users of permitted areas to avoid unnecessary cutting, damage or disturbance to the Public right-of-way and other permitted areas, and to conduct its planning, design, installation, construction and repair operations to maximize the life and usefulness of the paving and Municipal infrastructure. Grantee agrees that its uses in Franchised areas are fully subordinate to Municipal infrastructure needs and uses, the general public travel and access uses and the public convenience, except as may be otherwise required by law. Grantee promises to minimize or avoid any hazard, danger or inconvenience to Municipal infrastructure needs and uses, public travel, and the public convenience.



TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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C. If required by applicable laws, Grantee will maintain membership with the Inland Empire Utility Coordinating Council (IEUCC) or other similar or successor organization designated to coordinate underground fixture locations and installations. Grantee is familiar with Ch. 19.122 RCW, Washington State's "Underground Utilities" statute. Grantee will familiarize itself with local procedures, custom and practice relating to the one-call locator service program, and will see to it that its contractors or others working in the right-of-way on Grantee's behalf are similarly well informed.

Section 6. Plans; Locate, Relocate

A. Grantee's plans for construction or installation shall be submitted to the Administering officer as requested under such advance notification as the Administering officer may reasonably require, with a copy of such plans to the City's ITSD Director, Developer Service Director, City Engineer, and any other information requested by the City. Grantee promises that all its installations shall be placed in the standard location for buried telecommunications fiber cable not to be less than (30) thirty inches below the paved surface and as determined by local regulation, custom and practice in effect on the date that permits or authorizations are issued for the applicable Facilities, or as designated by the Administering officer. In the event that cable is needed to be installed above ground, all above ground pedestals or other above ground structures besides telephone poles and related guy wire supports are subject to separate review and approval by the Administering officer, in addition to other Franchise requirements; provided, however, that such approval shall not be unreasonably withheld, conditioned, or delayed. If the location of the Grantee's facility is already occupied by City utilities, the Grantee is required to submit new plans showing the location that the Grantee will now be occupying. Grantee will not be considered to have breached the Franchise or acted in such a way as to terminate the Franchise if it reduces the amount of right-of-way occupied.

B. The City reserves the right to change, regrade, relocate, or vacate the Public right-of-way and/or skywalk over the right-of-way. If Grantee is required to relocate its cable, relocation costs incurred by Grantee will be reimbursed by the City and/or any other entity requiring the relocation or funding the project that is requiring the relocation, subject to the conditions set forth in Section 6. The City agrees to give Grantee preliminary notice of any such request ("initial notice date"). Grantee must submit design plans within sixty (60) days of an initial notice date, with relocation to be accomplished within one hundred and eighty (180) days of

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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the initial notice date or thirty days of the City's final approval of Grantee's design plan, whichever is later. In addition, the City agrees to work with Grantee to give additional advance notice as may be reasonable under the circumstances or to extend additional time, considering the nature and size of the project and other factors. Upon expiration of the time limits specified, Grantee will relocate, remove, or reroute its Facilities, as ordered by the Administering officer. This provision prevails over others in the event of conflict or ambiguity. In case of emergency, the City will provide notice as soon as reasonably practicable, giving reasonable consideration also for Grantee's needs.

C. Under the provisions of RCW 35.99.060, the Administering officer may require Grantee to relocate its Facilities within the right-of-way, when reasonably necessary for construction, alteration, repair, or improvement of the right-of-way for purposes of public welfare, health, or safety. The same terms and timelines as exists in Section 6(B) shall apply for the relocation contemplated in this Section 6(C).

D. Grantee shall complete the relocation by the date specified by the Administering officer, unless extended by said official after a showing by Grantee that the relocation cannot be completed by the date specified using best efforts and meeting safety and service requirements. As provided in RCW 35.99.60, Grantee may not seek reimbursement for its relocation expenses from the City except for City requested relocations:

1. Where Grantee has paid for the relocation cost of the same Facilities in the right-of-way at the request of the City within the past five (5) years, Grantee's share of the cost of relocation will be paid by the City when the City is requesting the relocation;

2. Where aerial to underground relocation of authorized Facilities in the right-of-way is required by the City, where Grantee has any ownership share of the aerial supporting structures, the additional incremental cost of underground compared to aerial relocation, or as provided for in the approved tariff if less, will be paid by the City requiring relocation; and

3. Where the City requests relocation in the right-of-way solely for aesthetic purposes, unless otherwise agreed to by the parties.

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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4. The parties agree that "relocation" refers to a permanent movement of Facilities required of Grantee by the City, and not a temporary or incidental movement of Facilities, such as a raising of lines to accommodate house moving and the like, or other revisions Grantee would accomplish without regard to Municipal request.

E. As provided by RCW 35.99.060, where a project is primarily for private benefit, the private party or parties shall reimburse the cost of relocation in the same proportion to their contribution to the costs of the project. Grantee understands however that the City has no obligation to collect such reimbursement and enforcement of any such rights shall be solely by Grantee. Upon stipulation of all parties, the Administering officer may arbitrate any dispute referenced in this subsection E or refer the matter to the Hearings Examiner, provided, costs of the same as may be assessed by the City shall be borne by the participants. Grantee is not otherwise precluded from recovering costs associated with relocation, consistent with applicable state or federal law, where it does not directly or indirectly create additional liability or expense to the City.

F. The Administering officer may require the relocation, adjustment or securing of Facilities at Grantee's expense at any location in the event of an unforeseen emergency that creates an immediate threat to the public safety, health, or welfare. Where the City determines to abandon or vacate any right-of-way or other permitted area, it is the Grantee's responsibility to resolve any question of Grantee's continued occupancy or use of such areas directly with the owner of such areas.

G. Grantee may be subject to SMC 17C.355A Wireless Communication Facilities. The Grantee is subject to all applicable zoning laws and requirements in effect on the date that the permits or authorizations are issued for the applicable Facilities, as permitted by law when installing Facilities in the Public right of way.

H. Grantee may be required to obtain a master lease agreement for attachment of telecommunications equipment or other facilities in the Public right of way.

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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I. The City has the right to charge the Grantee site specific charges for placement of new facilities in the right of way on structures owned by the City pursuant to RCW 35.21.860.

J. The Grantee will work with the City to provide access to conduit or other equipment the Grantee is placing in the public right of way when feasible.

Section 7. Grantee to Restore Affected Areas

Subject to Section 6 as it may apply, whenever Grantee damages or disturbs any location in or near the right-of-way or other permitted area, Grantee will promptly restore the same to original or better condition at its expense, as reasonably required by the Administering officer. Grantee will restore and patch all surfaces cut in accord with the City's generally applicable Pavement Cut Policy, on file with the Administering officer to maintain and preserve the useful life thereof. Any damage or disturbance to facilities, fixtures or equipment of the City or others shall be promptly repaired. Pavement restorations shall be maintained in good condition and repair by Grantee until such time as the area is resurfaced or reconstructed. If Grantee fails or delays for more than thirty (30) days after receipt of written notice from the City or the Administering officer in performing any obligation here or elsewhere in the Franchise following receipt of written notice of such failure or delay, the City may proceed to correct the problem and bill Grantee for the expense, upon such reasonable notice as determined by the Administering officer under the circumstances. Grantee will reimburse City within thirty (30) days following receipt of an invoice together with reasonably supporting documentation evidencing such expense.

Section 8. Information, Good engineering, Inspections

A. Not more than once annually, Grantee will supply information reasonably requested by the Administering officer such as installation inventory, location of existing or planned Facilities, maps, plans, operational data, and as-built drawings of Grantee's installations or other information reasonably related to Grantee's Facilities, unless the information is confidential and/or proprietary. The information shall be in format compatible with City operations. Grantee is responsible for defending any public record requests as it may desire.

B. Grantee property and Facilities shall be constructed, operated and

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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maintained according to good engineering practice. In connection with the civil works of Grantee's system, such as trenching, paving, compaction and locations, Grantee promises to comply with the American Public Works Association Standard Specifications, the edition being that in current use by the City, together with the City Standard Plans and City's Supplemental Specifications thereto, all as now or hereafter amended, excluding existing non-conforming uses and other changes to the Specifications which do not apply to previously-constructed improvements and/or wireless communications facilities. Grantee promises its system shall comply with the applicable federal, state and local laws, and the National Electric Safety Code and Washington Electrical Construction Code, where applicable. Grantee will familiarize itself with the City of Spokane's Specifications and other right-of-way installation and location requirements, on file with the Administering officer and make reasonable effort to be familiar with updates or changes thereto.

Section 9. Limited Access, No Obstruction, Accommodation

A. The City reserves the right to limit or exclude Grantee's access to a specific route, Public right-of-way or other location when, in the reasonable judgment of the Administering officer, there is inadequate space, a pavement cutting moratorium, subject to the requirements of applicable law, unnecessary damage to public property, public expense, inconvenience, interference with City utilities, or for any other reasonable cause determined by the Administering officer, provided, it shall do so consistent with the Federal Telecommunications Act of 1996 and RCW 35.99.050 as applicable. The City shall provide written explanations of the denial of access and allow Grantee to make corrections to accommodate the concerns where possible.

B. Grantee must raise any concerns under the aforementioned laws or other applicable laws which it believes limit the City's authority or Grantee's obligations to the City pertaining to this Franchise at the time such issue is first known or should have been reasonably known by Grantee.

C. Grantee will not interfere with Municipal infrastructure uses of the right-of-way or other permitted areas. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water facilities and ten (10) feet from above-ground City water facilities including sewer and storm water facilities unless modified in writing; PROVIDED, that for development in new areas, the City, together with Grantee and other utility purveyors or authorized users of the right-of-way, will develop and follow the Administering officer's reasonable determination

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise. Subject to Section 6, the City may require Grantee to make reasonable accommodation for public or third party needs in the construction of Grantee Facilities in the right-of-way as, in the reasonable judgment of the Administering officer, are necessary to preserve the condition of, or reduce the interference with, such right-of-way, and a reasonable apportionment of any expenses of any such accommodation; PROVIDED, that this Franchise creates no third party beneficial interests. Notwithstanding the foregoing, it remains the responsibility of the Grantee to anticipate and avoid conflicts with other right-of-way occupants or users, other utilities, franchisees, or permittees existing within the right-of-way as of the date of this Ordinance. The City assumes no responsibility for such conflicts.

Section 10. Undergrounding

The City reserves the right to develop a general policy on undergrounding and to require Grantee's participation therein, in coordination the City's underground program for other utility service providers, as a condition of Grantee's new installation or major maintenance or restoration construction activities of overhead facilities under this Franchise; provided, however, the City's right to require undergrounding of Grantee's Facilities shall exclude antennas, equipment cabinets, cabling and other equipment that must be above-ground to operate. The purpose of this section is to recognize and preserve the City's control over uses of the Public right-of-way, consistent with the Municipal policy favoring undergrounding of overhead lines for aesthetic reasons.

Section 11. Facilities for City Use

A. Except as covered by mutual agreement, whenever Grantee constructs, relocates or places ducts or conduits in the Public right-of-way as part of the Facilities, Grantee will provide the City where technically feasible, judged by objective engineering standards, with additional duct or conduit and related structures necessary to access the conduit at its actual incremental out-of-pocket costs plus 10% to cover all internal costs. The parties agree to execute any documents needed to satisfy RCW 35.99.070 as it may apply. The City may review supporting third party billings to support incremental cost claims. Unless otherwise agreed, the City further agrees not to resell, lease, sublease, or grant an IRU or other right to use in any Grantee Facilities provided under this paragraph, or use such Facilities to provide

EverGem LLC.

## TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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communications services for hire, sale or resale, to the public or any third party which is not a governmental entity. All Facilities supplied shall be maintained to technical specifications.

B. The City is permitted to attach to aerial poles for aerial fiber cabling and required mounting hardware in situations where the existing pole agreements between Grantee and the other party would not be violated by the City's attachment use of the aerial pole.

C. Grantee agrees to notify the City ITSD Director, Developer Service Director, and City Engineer at least sixty (60) days prior to opening a trench or placing overhead lines at any location to allow the parties to implement paragraph B herein as those provisions may apply. As to all matters encompassed in this Section, the parties further agree to do anything required by law to maintain the effectiveness of such arrangements and to negotiate in good faith any matters not otherwise fully resolved. Each party acknowledges receipt of good and adequate consideration for all matters encompassed in this Section.

### Section 12. Liability; No duty

A. Grantee waives all claims, direct or indirect, for loss or liability, whether for property damage, bodily injury or otherwise, against the City arising out of Grantee's enjoyment of Franchise or permit privileges. This waiver does not apply to negligent or intentional acts of the City outside a governmental or regulatory capacity, such as granting this franchise or permits. Except to the extent caused by the negligent or intentional acts of the City, Grantee will indemnify and hold the City, its boards, officers, agents and employees ("City") harmless from any and all claims, accidents, losses, or liabilities arising from or by reason of any intentional or negligent act, occurrence or omission of the Grantee, whether singularly or jointly with others, its representatives, permittees, employees or contractors, in the construction, operation, use, or maintenance of any of the Grantee's property or Facilities, and/or enjoyment of any privileges granted by this Franchise, or because of Grantee's performance or failure to perform any Franchise obligations.

B. Grantee accepts that access to any franchised area is furnished "as is". The City has made no assessment or guarantee as to its suitability for Grantee

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needs or compatibility of Grantee uses with other needs. Grantee waives immunity under Title 51 RCW in any cases involving the City of Spokane relating solely to indemnity claims made by the City directly against Grantee for claims made against the City by Grantee's employees and affirms that the City and Grantee have specifically negotiated this provision, as required by RCW 4.24.115, to the extent it may apply. This waiver has been mutually negotiated.

C. It is not the intent of this Ordinance to acknowledge, create, or expand any duty or liability of the City for any purpose. Any City duty nonetheless deemed created shall be a duty to the general public and not to any specific party, group, or entity.

Section 13. Insurance

A. Grantee shall furnish satisfactory evidence of commercial general liability insurance and maintain the same in good standing, with limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) general aggregate, with the City of Spokane included as an additional insured as their interest may appear under this Agreement. Grantor's additional insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Grantee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of Grantor, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of Grantor, its employees, agents or independent contractors; and, (iii) not exceed Grantee's indemnification obligation under this Agreement, if any.

B. Grantee's required insurance shall be primary and non-contributory with any insurance or program of self-insurance that may be maintained by the City. On or before June 1st of each year and at the time of granting this Franchise, as a condition of Franchise validity, Grantee shall file with the City Clerk, with copy to the City Risk Manager, proof of continued insurance coverage, in the amounts required in this Section, through a Certificate of Insurance, including the blanket additional insured endorsement indicating City coverage required herein. Notwithstanding the foregoing, Grantee may self-insure any required coverage.

Section 14. Taxes, fees



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A. No Franchise fee is assessed for telecommunications service providers in accord with the prohibition of state law (RCW 35.21.860). If the prohibition of telecommunications service provider franchise fees is removed or modified to allow a franchise fee, the parties agree to negotiate this provision as a material term on which agreement is required for continuation of this franchise, PROVIDED, the City must give one hundred eighty (180) days' notice to invoke this provision and any franchise fee under it shall be prospective in nature.

B. Nothing in this Franchise shall otherwise limit the City's power to tax or recover any lawful expenses in connection with this Franchise. Grantee agrees to pay all taxes as due and any lawful expenses within ninety (90) days of billing pursuant to this Franchise. Failure to pay within ninety (90) days after demand by the City and exhaustion of any applicable remedies is a material breach of this Franchise.

Section 15. Franchise Administration

Questions of application or interpretation of this Franchise are determined by the Administering officer or a court of competent jurisdiction. Said officer may issue enforcement orders, upon due notice as deemed proper, promulgate rules and procedures as deemed necessary and grant exceptions, which shall be revocable. Nothing in the Franchise limits the City's police or regulatory power in general or over its right-of-way or other franchised areas. For the performance of all franchise obligations, time is of the essence. All City acts under this Franchise are discretionary guided by considerations of the public health, safety, esthetics and convenience.

Section 16. Additional

A. Grantee may assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise, with the prior written consent of the City, which consent will not be unreasonably withheld, conditioned or delayed, provided, however, that Grantee may assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise to (i) any entity that it controls, is under common control with or is controlled by or (ii) any entity that is the survivor of a merger, consolidation or other business combination or that acquires all or substantially all of the assets of Grantee. The City may not assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise,

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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without the prior written consent of Grantee. Any assignment or delegation in violation of this Section is null and void. Use of Grantee's Facilities by third parties or attachment of third party owned Facilities shall not be a sublease under this Agreement. Parties acknowledge that this is the core business model of Grantee.

No capital stock may ever be issued based on any permission to use or occupy the right-of-way or other permitted areas or the value thereof. The City will provide written notice of any condemnation or annexation actions that would affect Grantee's rights. In any condemnation proceeding brought by the City, Grantee shall not be entitled to receive any return thereon, except for its value.

B. This Franchise may be revoked by the City Council by resolution because of any material breach, after giving at least thirty (30) days' written notice to Grantee and opportunity to cure. Similarly, Grantee may elect to terminate this Franchise because of any material breach of the City's obligations, after giving at least thirty (30) days' written notice to the City and opportunity to cure. Except as otherwise provided for in this Franchise, and upon written notice, the defaulting party will have thirty (30) days to cure defaults under the terms of this Franchise. Neither party is in default of this Franchise if the party provided written notice commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default. If any default exists after the applicable cure period, the non-defaulting party may, without prejudice to any other rights or remedies at law or in equity or under this Franchise, terminate this Franchise.

No forbearance by the City of any term or condition of this Franchise shall ever comprise a waiver or estoppel of the City's right to enforce said term or condition. Grantee may surrender its Franchise to the City upon sixty (60) days written notice to the Administering officer, subject to acceptance by the City, by a resolution of the City Council.

C. Upon termination, surrender or expiration of the Franchise, Grantee may be required to remove all its Facilities as ordered by the Administering officer or otherwise abandon the cable in place, first removing all electronics, if any, rendering the same safe. In the event removal is required, Grantee shall remove the Facilities within one hundred twenty (120) days of receipt of written notice from City. Grantee will have no further obligations under this Franchise.

D. Grantee understands that this Franchise applies to itself as well as all

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third party users, assigns, successors or any other entity enjoying de facto Franchise privileges derived from permission extended to Grantee herein and Grantee shall assure that any contracts with such users, assigns, successors or entities so provide. Additionally, Grantee accepts full responsibility with said users, assigns, successors, or entities, jointly and severally, to the City for full performance of all Franchise obligations.

E. This Franchise is governed by the laws of the State of Washington, and venue for any litigation arising out of or in connection with privileges extended herein is stipulated to be in Spokane County.

F. (Force Majeure) Except as otherwise provided in this Franchise, neither party hereto will be in default under this Franchise if and to the extent that any failure or delay in a party's performance of one or more of its obligations hereunder, is caused by any of the following conditions, and such party's performance is excused and extended during the period of any such delay: act of God (such as, flood, back water caused by flood, tornado, earthquake, and unforeseeably severe weather); fire; government codes, ordinances, laws, rules, regulations or restrictions not in effect at the time of execution of this Franchise (collectively, "Regulations"); war or civil disorder; or vandalism, or any other events beyond the reasonable control of the party seeking relief under this Section, provided that the party claiming relief under this Section promptly notifies the other in writing of the existence of the event relied on and the cessation or termination of the event. The party claiming relief under this Section must exercise reasonable efforts to minimize the time for any such delay.

Both parties hereto acknowledge that events under this Section may occur which are incapable of being cured so as to allow the parties to enjoy the full benefit of their rights under the Franchise. If a party is unable to conduct its business due to an event of force majeure as described in this Section, and the force majeure occurs and remains uncured after sixty (60) days, the party not claiming inability to perform under force majeure may, at its option, terminate this Franchise without further obligation.

G. (Authority to Sign) Each party hereto hereby represents and warrants to the other that the person or entity signing this Franchise on behalf of such party is duly authorized to execute and deliver this Franchise and to legally bind the party on whose behalf this Franchise is signed to all of the terms, covenants and conditions contained in this Franchise.

EverGem LLC.

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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PASSED by the City Council on \_\_\_\_\_, 2021

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

Attest:

Approved as to form:

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
EFFECTIVE DATE

ACCEPTANCE OF CITY FRANCHISE

Ordinance No. \_\_\_\_\_, effective \_\_\_\_\_, 2021.

I, \_\_\_\_\_, am the \_\_\_\_\_ of EverGem LLC.  
(as manager of EverGem LLC.) and am an authorized representative to accept the  
above referenced City Franchise ordinance on behalf of EverGem LLC.

EverGem LLC.

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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I certify that this Franchise and all terms and conditions thereof are accepted without qualification or reservation.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_

Witness: \_\_\_\_\_

EverGem LLC.  
TELECOMMUNICATIONS (NONCABLE) FRANCHISE

Ordinance No. C-\_\_\_\_\_

An ordinance granting a non-exclusive franchise to use the public right-of-way to provide noncable telecommunications service to the public to EverGem LLC., subject to certain conditions and duties as further provided.

THE CITY OF SPOKANE DOES ORDAIN:

- Section 1. Definitions
- Section 2. Parties, grant
- Section 3. Limits on permission
- Section 4. Effective Date, Term
- Section 5. General provisions
- Section 6. Plans; Locate, Relocate
- Section 7. Grantee to restore affected areas
- Section 8. Information, good engineering, inspections
- Section 9. Limited access, no obstruction, accommodation
- Section 10. Undergrounding
- Section 11. Facilities for City Use
- Section 12. Liability; No duty
- Section 13. Insurance
- Section 14. Taxes, fees
- Section 15. Franchise administration
- Section 16. Additional

Section 1. Definitions

"City" means the City of Spokane and its legal successors.

"Administering officer" is the designee of the Mayor who administers this Franchise.

"Cable television service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

"Facilities" means the equipment, fixtures and appurtenances necessary for Grantee to furnish and deliver telecommunications services as provided in the Franchise. It includes poles, antennas, transmitters, receivers, equipment boxes, backup power supplies, power transfer switches, electric meters, coaxial cables, fiber optic cables, wires and conduits and related materials and

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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equipment, but not above ground pedestals or other special installations in the Public right-of-way absent written permission of the Administering officer.

"Municipal infrastructure" means the road bed and road area, street and sidewalk paving, curbing, utility easements (unless there are relevant use, structure or other restrictions), associated drainage facilities, combined sewer tanks, bike paths and other construction or improvements pertaining to public travel. It further includes municipal water and sewer lines or other municipal utility facilities, as well as municipal traffic signal, street lighting and communications facilities in the right-of-way or other areas or easements open for municipal use. It further includes skywalks, street trees, plants, shrubs, lawn and other ornamental or beautification installations owned by the City in the right-of-way or other ways open for public travel or municipal use, and accepted for municipal management or control as such. The definition is intended to encompass any municipal physical plant, fixtures, appurtenances or other facilities located in or near the right-of-way or areas or easements opened and accepted for municipal use.

"Public right-of-way" or "right-of-way" means land acquired by or dedicated to the City for public roads and streets, but does not include state highways; land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public; structures, including poles and conduits, located within the right-of-way; federally granted trust lands or forest board trust lands; lands owned or managed by the state parks and recreation commission; or federally granted railroad rights-of-way acquired under 43 U.S.C. 912 and related provisions of federal law that are not open for motor vehicle use.

"Telecommunications service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For purposes of this definition, "telecommunications service" excludes the over-the-air transmission of broadcast television or broadcast radio signals and "cable service" as defined in 42 USC 522 (5) or other distribution of multichannel video programming.

Section 2. Parties, grant

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A. This is a Franchise agreement between the City of Spokane as Grantor, hereafter also "City", and EverGem LLC., as Grantee, hereafter also "Grantee". Grantee is a Washington Limited Liability Company whose home office is 109 South 1<sup>st</sup> Street, Roslyn, WA. 98941. Any notice sent hereunder to Grantee shall be sent, via certified mail, return receipt requested, or express carrier with notice deemed given upon receipt or first refusal, to:

EverGem LLC.

Attn: CFO

Re: City of Spokane WA Telecommunications (noncable) Franchise

109 South 1<sup>st</sup> Street

Roslyn, WA. 98941

With a copy to:

EverGem LLC.

Attn: General Counsel

Re: City of Spokane WA Telecommunications (noncable) Franchise

109 South First Street

Roslyn, WA. 98941

Any contact necessary for effectuating this Franchise or any logistics hereunder shall be made to: the above address.

Any notice sent hereunder to the City shall be sent, via certified mail, return receipt requested, or express carrier with notice deemed given upon receipt or first refusal, to:

City of Spokane

808 West Spokane Falls Boulevard

Spokane, WA 99201

Attention: City Clerk's Office

With a copy to:

City of Spokane

808 West Spokane Falls Boulevard

Spokane, WA 99201

Attention: City Attorney's Office



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B. In return for promises made and subject to the stipulations and conditions stated, the City grants to Grantee general permission to enter, use, and occupy (including, but not limited to, permission to relocate, install, operate, maintain, replace, relocate, excavate, repair, reinstall, restore and upgrade fiber optic cable, small cell devices) the Public right-of-way, to locate Facilities to provide telecommunications service to the public in the City of Spokane and/or to transport telecommunications services through the City and for no other purpose. This grant expressly does not include permission to use the Public right-of-way for cable service or cable television service. The grant is by way of general permission to occupy the right-of-way, and not in place of specific location permits. In accepting this Franchise, Grantee stipulates and agrees to the City's authority to issue and require the Franchise and stipulates and agrees to the other terms and conditions hereof.

Section 3. Limits on Permission

A. Should the City determine Grantee is using the Franchise beyond its purpose set forth in Section 2B above, or functioning as a cable operator or performing other business functions beyond the scope of permission extended in the Public right-of-way, the City reserves the right to cancel this Franchise and require Grantee to follow any applicable requirements to obtain a cable franchise or other franchise from the City.

B. Permission granted is in the nature of a quitclaim of any interest or authority the City has to make the grant, without warranty of authority by the City to the Grantee. It does not extend beyond the right-of-way, to areas such as buildings or private areas not reserved for general utility access. Grantee is solely responsible to make its own arrangements for any access needed to such places. Permission granted is nonexclusive. Grantee stipulates that the City may grant similar permission to others, provided that any such use by others does not unreasonably interfere with Grantee's use and placement of its Facilities in any right-of-way. The City additionally reserves the right to engage in any lawful municipal function, whether or not including any line of business engaged in by Grantee.

C. The grant of permission from the City does not extend to municipal buildings or other municipally owned or leased structures or premises held in a proprietary or ownership capacity. For such locations, Grantee should make

EverGem LLC.

## TELECOMMUNICATIONS (NONCABLE) FRANCHISE

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specific written lease arrangements directly with the municipal department controlling such building or other structure or area, all arrangements to be approved in accord with applicable requirements.

#### Section 4. Effective Date, Term

This Franchise is effective as of the effective date of the Ordinance ("Effective Date"); PROVIDED, that it shall not be effective unless and until the written acceptance of this ordinance by the Grantee, signed by its proper officers, shall be filed with the City Clerk within thirty (30) days of enactment. It expires at midnight ten (10) years thereafter (the "Initial Term"). Following the expiration of the Initial Term, this Franchise shall be automatically renewed for one (1) additional five (5) year period. (each a "Renewal Term"), unless Grantee provides to the City written notice of intention not to renew at least ninety (90) days prior to the expiration of the Initial Term or any Renewal Term, as applicable. This does not affect the City's right to revoke the Franchise for cause, abandonment, or because of breach of any material promise, condition or stipulation stated herein.

#### Section 5. General Provisions

A. Grantee is and will remain in good standing as a limited liability company registered to do business in the State of Washington, and pay all taxes or fees applicable thereto. Grantee will maintain a public telephone number 24 hours a day, seven days a week for the City's access, personally staffed at least during normal business hours. The Grantee will notify the City within five business days if Grantee's contact information changes.

B. Grantee will coordinate its activities with other utilities and users of permitted areas to avoid unnecessary cutting, damage or disturbance to the Public right-of-way and other permitted areas, and to conduct its planning, design, installation, construction and repair operations to maximize the life and usefulness of the paving and Municipal infrastructure. Grantee agrees that its uses in Franchised areas are fully subordinate to Municipal infrastructure needs and uses, the general public travel and access uses and the public convenience, except as may be otherwise required by law. Grantee promises to minimize or avoid any hazard, danger or inconvenience to Municipal infrastructure needs and uses, public travel, and the public convenience.

C. If required by applicable laws, Grantee will maintain membership with

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the Inland Empire Utility Coordinating Council (IEUCC) or other similar or successor organization designated to coordinate underground fixture locations and installations. Grantee is familiar with Ch. 19.122 RCW, Washington State's "Underground Utilities" statute. Grantee will familiarize itself with local procedures, custom and practice relating to the one-call locator service program, and will see to it that its contractors or others working in the right-of-way on Grantee's behalf are similarly well informed.

#### Section 6. Plans; Locate, Relocate

A. Grantee's plans for construction or installation shall be submitted to the Administering officer as requested under such advance notification as the Administering officer may reasonably require, with a copy of such plans to the City's ITSD Director, Developer Service Director, City Engineer, and any other information requested by the City. Grantee promises that all its installations shall be placed in the standard location for buried telecommunications fiber cable not to be less than (30) thirty inches below the paved surface and as determined by local regulation, custom and practice in effect on the date that permits or authorizations are issued for the applicable Facilities, or as designated by the Administering officer. In the event that cable is needed to be installed above ground, all above ground pedestals or other above ground structures besides telephone poles and related guy wire supports are subject to separate review and approval by the Administering officer, in addition to other Franchise requirements; provided, however, that such approval shall not be unreasonably withheld, conditioned, or delayed. If the location of the Grantee's facility is already occupied by City utilities, the Grantee is required to submit new plans showing the location that the Grantee will now be occupying. Grantee will not be considered to have breached the Franchise or acted in such a way as to terminate the Franchise if it reduces the amount of right-of-way occupied.

B. The City reserves the right to change, regrade, relocate, or vacate the Public right-of-way and/or skywalk over the right-of-way. If Grantee is required to relocate its cable, relocation costs incurred by Grantee will be reimbursed by the City and/or any other entity requiring the relocation or funding the project that is requiring the relocation, subject to the conditions set forth in Section 6. The City agrees to give Grantee preliminary notice of any such request ("initial notice date"). Grantee must submit design plans within sixty (60) days of an initial notice date, with relocation to be accomplished within one hundred and eighty (180) days of the initial notice date or thirty days of the City's final approval of Grantee's design

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plan, whichever is later. In addition, the City agrees to work with Grantee to give additional advance notice as may be reasonable under the circumstances or to extend additional time, considering the nature and size of the project and other factors. Upon expiration of the time limits specified, Grantee will relocate, remove, or reroute its Facilities, as ordered by the Administering officer. This provision prevails over others in the event of conflict or ambiguity. In case of emergency, the City will provide notice as soon as reasonably practicable, giving reasonable consideration also for Grantee's needs.

C. Under the provisions of RCW 35.99.060, the Administering officer may require Grantee to relocate its Facilities within the right-of-way, when reasonably necessary for construction, alteration, repair, or improvement of the right-of-way for purposes of public welfare, health, or safety. The same terms and timelines as exists in Section 6(B) shall apply for the relocation contemplated in this Section 6(C).

D. Grantee shall complete the relocation by the date specified by the Administering officer, unless extended by said official after a showing by Grantee that the relocation cannot be completed by the date specified using best efforts and meeting safety and service requirements. As provided in RCW 35.99.60, Grantee may not seek reimbursement for its relocation expenses from the City except for City requested relocations:

1. Where Grantee has paid for the relocation cost of the same Facilities in the right-of-way at the request of the City within the past five (5) years, Grantee's share of the cost of relocation will be paid by the City when the City is requesting the relocation;

2. Where aerial to underground relocation of authorized Facilities in the right-of-way is required by the City, where Grantee has any ownership share of the aerial supporting structures, the additional incremental cost of underground compared to aerial relocation, or as provided for in the approved tariff if less, will be paid by the City requiring relocation; and

3. Where the City requests relocation in the right-of-way solely for aesthetic purposes, unless otherwise agreed to by the parties.

4. The parties agree that "relocation" refers to a permanent movement of Facilities required of Grantee by the City, and not a temporary or incidental

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movement of Facilities, such as a raising of lines to accommodate house moving and the like, or other revisions Grantee would accomplish without regard to Municipal request.

E. As provided by RCW 35.99.060, where a project is primarily for private benefit, the private party or parties shall reimburse the cost of relocation in the same proportion to their contribution to the costs of the project. Grantee understands however that the City has no obligation to collect such reimbursement and enforcement of any such rights shall be solely by Grantee. Upon stipulation of all parties, the Administering officer may arbitrate any dispute referenced in this subsection E or refer the matter to the Hearings Examiner, provided, costs of the same as may be assessed by the City shall be borne by the participants. Grantee is not otherwise precluded from recovering costs associated with relocation, consistent with applicable state or federal law, where it does not directly or indirectly create additional liability or expense to the City.

F. The Administering officer may require the relocation, adjustment or securing of Facilities at Grantee's expense at any location in the event of an unforeseen emergency that creates an immediate threat to the public safety, health, or welfare. Where the City determines to abandon or vacate any right-of-way or other permitted area, it is the Grantee's responsibility to resolve any question of Grantee's continued occupancy or use of such areas directly with the owner of such areas.

G. Grantee may be subject to SMC 17C.355A Wireless Communication Facilities. The Grantee is subject to all applicable zoning laws and requirements in effect on the date that the permits or authorizations are issued for the applicable Facilities, as permitted by law when installing Facilities in the Public right of way.

H. Grantee may be required to obtain a master lease agreement for attachment of telecommunications equipment or other facilities in the Public right of way.

I. The City has the right to charge the Grantee site specific charges for placement of new facilities in the right of way on structures owned by the City pursuant to RCW 35.21.860.

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J. The Grantee will work with the City to provide access to conduit or other equipment the Grantee is placing in the public right of way when feasible.

Section 7. Grantee to Restore Affected Areas

Subject to Section 6 as it may apply, whenever Grantee damages or disturbs any location in or near the right-of-way or other permitted area, Grantee will promptly restore the same to original or better condition at its expense, as reasonably required by the Administering officer. Grantee will restore and patch all surfaces cut in accord with the City's generally applicable Pavement Cut Policy, on file with the Administering officer to maintain and preserve the useful life thereof. Any damage or disturbance to facilities, fixtures or equipment of the City or others shall be promptly repaired. Pavement restorations shall be maintained in good condition and repair by Grantee until such time as the area is resurfaced or reconstructed. If Grantee fails or delays for more than thirty (30) days after receipt of written notice from the City or the Administering officer in performing any obligation here or elsewhere in the Franchise following receipt of written notice of such failure or delay, the City may proceed to correct the problem and bill Grantee for the expense, upon such reasonable notice as determined by the Administering officer under the circumstances. Grantee will reimburse City within thirty (30) days following receipt of an invoice together with reasonably supporting documentation evidencing such expense.

Section 8. Information, Good engineering, Inspections

A. Not more than once annually, Grantee will supply information reasonably requested by the Administering officer such as installation inventory, location of existing or planned Facilities, maps, plans, operational data, and as-built drawings of Grantee's installations or other information reasonably related to Grantee's Facilities, unless the information is confidential and/or proprietary. The information shall be in format compatible with City operations. Grantee is responsible for defending any public record requests as it may desire.

B. Grantee property and Facilities shall be constructed, operated and maintained according to good engineering practice. In connection with the civil works of Grantee's system, such as trenching, paving, compaction and locations, Grantee promises to comply with the American Public Works Association Standard Specifications, the edition being that in current use by the City, together with the

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City Standard Plans and City's Supplemental Specifications thereto, all as now or hereafter amended, excluding existing non-conforming uses and other changes to the Specifications which do not apply to previously-constructed improvements and/or wireless communications facilities. Grantee promises its system shall comply with the applicable federal, state and local laws, and the National Electric Safety Code and Washington Electrical Construction Code, where applicable. Grantee will familiarize itself with the City of Spokane's Specifications and other right-of-way installation and location requirements, on file with the Administering officer and make reasonable effort to be familiar with updates or changes thereto.

Section 9. Limited Access, No Obstruction, Accommodation

A. The City reserves the right to limit or exclude Grantee's access to a specific route, Public right-of-way or other location when, in the reasonable judgment of the Administering officer, there is inadequate space, a pavement cutting moratorium, subject to the requirements of applicable law, unnecessary damage to public property, public expense, inconvenience, interference with City utilities, or for any other reasonable cause determined by the Administering officer, provided, it shall do so consistent with the Federal Telecommunications Act of 1996 and RCW 35.99.050 as applicable. The City shall provide written explanations of the denial of access and allow Grantee to make corrections to accommodate the concerns where possible.

B. Grantee must raise any concerns under the aforementioned laws or other applicable laws which it believes limit the City's authority or Grantee's obligations to the City pertaining to this Franchise at the time such issue is first known or should have been reasonably known by Grantee.

C. Grantee will not interfere with Municipal infrastructure uses of the right-of-way or other permitted areas. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water facilities and ten (10) feet from above-ground City water facilities including sewer and storm water facilities unless modified in writing; PROVIDED, that for development in new areas, the City, together with Grantee and other utility purveyors or authorized users of the right-of-way, will develop and follow the Administering officer's reasonable determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise. Subject to Section 6, the City may require Grantee to make reasonable accommodation for public or third party needs in the construction of Grantee Facilities in the right-of-way as, in the reasonable

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

**Page 11 of 18**

judgment of the Administering officer, are necessary to preserve the condition of, or reduce the interference with, such right-of-way, and a reasonable apportionment of any expenses of any such accommodation; PROVIDED, that this Franchise creates no third party beneficial interests. Notwithstanding the foregoing, it remains the responsibility of the Grantee to anticipate and avoid conflicts with other right-of-way occupants or users, other utilities, franchisees, or permittees existing within the right-of-way as of the date of this Ordinance. The City assumes no responsibility for such conflicts.

Section 10. Undergrounding

The City reserves the right to develop a general policy on undergrounding and to require Grantee's participation therein, in coordination the City's underground program for other utility service providers, as a condition of Grantee's new installation or major maintenance or restoration construction activities of overhead facilities under this Franchise; provided, however, the City's right to require undergrounding of Grantee's Facilities shall exclude antennas, equipment cabinets, cabling and other equipment that must be above-ground to operate. The purpose of this section is to recognize and preserve the City's control over uses of the Public right-of-way, consistent with the Municipal policy favoring undergrounding of overhead lines for aesthetic reasons.

Section 11. Facilities for City Use

A. Except as covered by mutual agreement, whenever Grantee constructs, relocates or places ducts or conduits in the Public right-of-way as part of the Facilities, Grantee will provide the City where technically feasible, judged by objective engineering standards, with additional duct or conduit and related structures necessary to access the conduit at its actual incremental out-of-pocket costs plus 10% to cover all internal costs. The parties agree to execute any documents needed to satisfy RCW 35.99.070 as it may apply. The City may review supporting third party billings to support incremental cost claims. Unless otherwise agreed, the City further agrees not to resell, lease, sublease, or grant an IRU or other right to use in any Grantee Facilities provided under this paragraph, or use such Facilities to provide communications services for hire, sale or resale, to the public or any third party which is not a governmental entity. All Facilities supplied shall be maintained to technical specifications.



TELECOMMUNICATIONS (NONCABLE) FRANCHISE

**Page 12 of 18**

B. The City is permitted to attach to aerial poles for aerial fiber cabling and required mounting hardware in situations where the existing pole agreements between Grantee and the other party would not be violated by the City's attachment use of the aerial pole.

C. Grantee agrees to notify the City ITSD Director, Developer Service Director, and City Engineer at least sixty (60) days prior to opening a trench or placing overhead lines at any location to allow the parties to implement paragraph B herein as those provisions may apply. As to all matters encompassed in this Section, the parties further agree to do anything required by law to maintain the effectiveness of such arrangements and to negotiate in good faith any matters not otherwise fully resolved. Each party acknowledges receipt of good and adequate consideration for all matters encompassed in this Section.

Section 12. Liability; No duty

A. Grantee waives all claims, direct or indirect, for loss or liability, whether for property damage, bodily injury or otherwise, against the City arising out of Grantee's enjoyment of Franchise or permit privileges. This waiver does not apply to negligent or intentional acts of the City outside a governmental or regulatory capacity, such as granting this franchise or permits. Except to the extent caused by the negligent or intentional acts of the City, Grantee will indemnify and hold the City, its boards, officers, agents and employees ("City") harmless from any and all claims, accidents, losses, or liabilities arising from or by reason of any intentional or negligent act, occurrence or omission of the Grantee, whether singularly or jointly with others, its representatives, permittees, employees or contractors, in the construction, operation, use, or maintenance of any of the Grantee's property or Facilities, and/or enjoyment of any privileges granted by this Franchise, or because of Grantee's performance or failure to perform any Franchise obligations.

B. Grantee accepts that access to any franchised area is furnished "as is". The City has made no assessment or guarantee as to its suitability for Grantee needs or compatibility of Grantee uses with other needs. Grantee waives immunity under Title 51 RCW in any cases involving the City of Spokane relating solely to indemnity claims made by the City directly against Grantee for claims made against the City by Grantee's employees and affirms that the City and Grantee

EverGem LLC.

## TELECOMMUNICATIONS (NONCABLE) FRANCHISE

**Page 13 of 18**

have specifically negotiated this provision, as required by RCW 4.24.115, to the extent it may apply. This waiver has been mutually negotiated.

C. It is not the intent of this Ordinance to acknowledge, create, or expand any duty or liability of the City for any purpose. Any City duty nonetheless deemed created shall be a duty to the general public and not to any specific party, group, or entity.

### Section 13. Insurance

A. Grantee shall furnish satisfactory evidence of commercial general liability insurance and maintain the same in good standing, with limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) general aggregate, with the City of Spokane included as an additional insured as their interest may appear under this Agreement. Grantor's additional insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Grantee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of Grantor, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of Grantor, its employees, agents or independent contractors; and, (iii) not exceed Grantee's indemnification obligation under this Agreement, if any.

B. Grantee's required insurance shall be primary and non-contributory with any insurance or program of self-insurance that may be maintained by the City. On or before June 1st of each year and at the time of granting this Franchise, as a condition of Franchise validity, Grantee shall file with the City Clerk, with copy to the City Risk Manager, proof of continued insurance coverage, in the amounts required in this Section, through a Certificate of Insurance, including the blanket additional insured endorsement indicating City coverage required herein. Notwithstanding the foregoing, Grantee may self-insure any required coverage.

### Section 14. Taxes, fees

A. No Franchise fee is assessed for telecommunications service providers in accord with the prohibition of state law (RCW 35.21.860). If the prohibition of telecommunications service provider franchise fees is removed or modified to allow a franchise fee, the parties agree to negotiate this provision as a material term on

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

**Page 14 of 18**

which agreement is required for continuation of this franchise, PROVIDED, the City must give one hundred eighty (180) days' notice to invoke this provision and any franchise fee under it shall be prospective in nature.

B. Nothing in this Franchise shall otherwise limit the City's power to tax or recover any lawful expenses in connection with this Franchise. Grantee agrees to pay all taxes as due and any lawful expenses within ninety (90) days of billing pursuant to this Franchise. Failure to pay within ninety (90) days after demand by the City and exhaustion of any applicable remedies is a material breach of this Franchise.

Section 15. Franchise Administration

Questions of application or interpretation of this Franchise are determined by the Administering officer or a court of competent jurisdiction. Said officer may issue enforcement orders, upon due notice as deemed proper, promulgate rules and procedures as deemed necessary and grant exceptions, which shall be revocable. Nothing in the Franchise limits the City's police or regulatory power in general or over its right-of-way or other franchised areas. For the performance of all franchise obligations, time is of the essence. All City acts under this Franchise are discretionary guided by considerations of the public health, safety, esthetics and convenience.

Section 16. Additional

A. Grantee may assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise, with the prior written consent of the City, which consent will not be unreasonably withheld, conditioned or delayed, provided, however, that Grantee may assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise to (i) any entity that it controls, is under common control with or is controlled by or (ii) any entity that is the survivor of a merger, consolidation or other business combination or that acquires all or substantially all of the assets of Grantee. The City may not assign this Franchise or any of its rights under this Franchise or delegate any of its duties under this Franchise, without the prior written consent of Grantee. Any assignment or delegation in violation of this Section is null and void. Use of Grantee's Facilities by third parties or attachment of third party owned Facilities shall not be a sublease under this Agreement. Parties acknowledge that this is the core business model

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

**Page 15 of 18**

of Grantee.

No capital stock may ever be issued based on any permission to use or occupy the right-of-way or other permitted areas or the value thereof. The City will provide written notice of any condemnation or annexation actions that would affect Grantee's rights. In any condemnation proceeding brought by the City, Grantee shall not be entitled to receive any return thereon, except for its value.

B. This Franchise may be revoked by the City Council by resolution because of any material breach, after giving at least thirty (30) days' written notice to Grantee and opportunity to cure. Similarly, Grantee may elect to terminate this Franchise because of any material breach of the City's obligations, after giving at least thirty (30) days' written notice to the City and opportunity to cure. Except as otherwise provided for in this Franchise, and upon written notice, the defaulting party will have thirty (30) days to cure defaults under the terms of this Franchise. Neither party is in default of this Franchise if the party provided written notice commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default. If any default exists after the applicable cure period, the non-defaulting party may, without prejudice to any other rights or remedies at law or in equity or under this Franchise, terminate this Franchise.

No forbearance by the City of any term or condition of this Franchise shall ever comprise a waiver or estoppel of the City's right to enforce said term or condition. Grantee may surrender its Franchise to the City upon sixty (60) days written notice to the Administering officer, subject to acceptance by the City, by a resolution of the City Council.

C. Upon termination, surrender or expiration of the Franchise, Grantee may be required to remove all its Facilities as ordered by the Administering officer or otherwise abandon the cable in place, first removing all electronics, if any, rendering the same safe. In the event removal is required, Grantee shall remove the Facilities within one hundred twenty (120) days of receipt of written notice from City. Grantee will have no further obligations under this Franchise.

D. Grantee understands that this Franchise applies to itself as well as all third party users, assigns, successors or any other entity enjoying de facto Franchise privileges derived from permission extended to Grantee herein and Grantee shall assure that any contracts with such users, assigns, successors or entities so provide. Additionally, Grantee accepts full responsibility with said

EverGem LLC.

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

**Page 16 of 18**

users, assigns, successors, or entities, jointly and severally, to the City for full performance of all Franchise obligations.

E. This Franchise is governed by the laws of the State of Washington, and venue for any litigation arising out of or in connection with privileges extended herein is stipulated to be in Spokane County.

F. (Force Majeure) Except as otherwise provided in this Franchise, neither party hereto will be in default under this Franchise if and to the extent that any failure or delay in a party's performance of one or more of its obligations hereunder, is caused by any of the following conditions, and such party's performance is excused and extended during the period of any such delay: act of God (such as, flood, back water caused by flood, tornado, earthquake, and unforeseeably severe weather); fire; government codes, ordinances, laws, rules, regulations or restrictions not in effect at the time of execution of this Franchise (collectively, "Regulations"); war or civil disorder; or vandalism, or any other events beyond the reasonable control of the party seeking relief under this Section, provided that the party claiming relief under this Section promptly notifies the other in writing of the existence of the event relied on and the cessation or termination of the event. The party claiming relief under this Section must exercise reasonable efforts to minimize the time for any such delay.

Both parties hereto acknowledge that events under this Section may occur which are incapable of being cured so as to allow the parties to enjoy the full benefit of their rights under the Franchise. If a party is unable to conduct its business due to an event of force majeure as described in this Section, and the force majeure occurs and remains uncured after sixty (60) days, the party not claiming inability to perform under force majeure may, at its option, terminate this Franchise without further obligation.

G. (Authority to Sign) Each party hereto hereby represents and warrants to the other that the person or entity signing this Franchise on behalf of such party is duly authorized to execute and deliver this Franchise and to legally bind the party on whose behalf this Franchise is signed to all of the terms, covenants and conditions contained in this Franchise.

PASSED by the City Council on \_\_\_\_\_, 2021

EverGem LLC.

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

**Page 17 of 18**

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

Attest:

Approved as to form:

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

December 8, 2020  
EFFECTIVE DATE

ACCEPTANCE OF CITY FRANCHISE

Ordinance No. \_\_\_\_\_, effective \_\_\_\_\_, 2021.

I, \_\_\_\_\_, am the \_\_\_\_\_ of EverGem LLC.  
(as manager of EverGem LLC.) and am an authorized representative to accept the  
above referenced City Franchise ordinance on behalf of EverGem LLC.

I certify that this Franchise and all terms and conditions thereof are accepted  
without qualification or reservation.

EverGem LLC.

TELECOMMUNICATIONS (NONCABLE) FRANCHISE

**Page 18 of 18**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_

Witness: \_\_\_\_\_

 (tel:5098522843)

 (<https://www.google.com/maps/place/109+S+1st+St,+Roslyn,+WA+98941/@47.2223716,-120.9945505,17z/data=!4m5!3m4!1s0x549a0e1f90ebaa6f0x77a1be8a52cf0d58!4d-120.9923618?hl=en>)



## OUR MISSION

### MISSION

EverGem's mission is to build fiber networks, with actual open access to all service providers, that will bring broadband choice and competition to underserved rural communities by being fair, innovative, and honest.

### RURAL CONNECTIVITY

To fulfill our mission, we have developed long-haul designs that allow us to bring dark fiber to rural communities cost-effectively and truly open for use by any carrier who wants to bring broadband to these communities. This is an ideal offering for many types of public or private organizations, local governments, and state agencies.





→ **TRIBAL NATIONS**

We can provide large capacity point-to-point connectivity for broadband providers for tribal nations.

→ **TELEMEDICINE**

Telemedicine requires high-capacity and high-availability connectivity with full control of network devices either end.

→ **TELE-EDUCATION**

With online education becoming more ubiquitous, high-throughput for large networks is becoming a necessity.



## RURAL CONNECTIVITY

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Large areas of the Pacific-Northwest are underserved when it comes to high-speed Internet service providers. We feel competition in this market benefits the end-user and we're here to help bring the dark fiber infrastructure to these areas so the service providers can service these areas.

**Learn More**  
(<https://evergem.com/contact/>  
)

 (tel:5098522843)

 (<https://www.google.com/maps/place/109+S+1st+St,+Roslyn,+WA+98941/@47.2223716,-120.9945505,17z/data=!4m5!3m4!1s0x549a0e1f90ebaa6f:0x77a1be8a52cf0d58!4d-120.9923618?hl=en>)



# ABOUT US



# ABOUT US

EverGem's mission is to build fiber networks, with actual open access to all service providers, that will bring broadband choice and competition to underserved rural communities by being fair, innovative, and honest.

EverGem understands the needs of carriers in rural communities. The carriers need to support high bandwidth demands but do not have a transport network capable of handling the growing demand. They are faced with a decision to either build it themselves, pay high-priced leases to large carriers or they simply walk away from opportunities. EverGem will be the rural "carrier's carrier" in the Pacific Northwest.

## MEET OUR TEAM

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### **BRIAN TEW**

#### **CEO**

Brian has over 23 years of experience in the telecommunications industry. He has served in various management positions for access management, sales, business development and product management where he led teams tasked with growing and expanding fiber networks throughout the Western United States. While at Zayo he experienced first-hand the cost and complexity of building and managing long-haul dark networks. Brian believes that honesty and integrity are the foundational keys to any successful relationship or business. Outside of work he's an avid soccer fan and took his passion for the sport and coached premier youth soccer where he tried to pass that passion for the sport along to the kids he coached.

### **JAMES PROP**

#### **PRESIDENT**

James has over 25 years in telecom with experience building and constructing fiber networks in the Pacific Northwest, over 10 years leading a team of sales engineers that specialized in all product (Transport, VOIP, Cloud, Security) to Business Development specializing in dark fiber and higher layer transport options. In his spare time, James enjoys camping with his family & friends and enjoys traveling and seeing the world.


### **NICK GUY**


#### **SVP OF OPERATIONS**


More than 25 years of experience developing and operating broadband service and infrastructure in the Pacific Northwest. Nick has in-depth knowledge and operational experience with the array of technologies required to address the challenges of providing services in more remote areas combined with passionate commitment to broadband becoming more inclusive.

Providing fiber-based networks to the underserved tier 2 and 3 markets in the Pacific NW.

## CONTACT INFO

 (tel:5098522843) (509) 852 - 2843  
(tel:5098522843)

 (<https://www.google.com/maps/place/109+S+1st+St,+Roslyn,+WA+98941/@47.2223716,-120.9945505,17z/data=!3m1!4b1!4m5!3m4!1s0x549a0e1f90ebaa6f0x77a1be8a52:4d-120.9923618?hl=en>)

 (<https://evergem.com/contact/>) **Contact Us Via Email**  
(<https://evergem.com/contact/>)

## ADDITIONAL RESOURCES

The Process (<https://evergem.com/the-process/>)

Our Focus (<https://evergem.com/our-focus/>)

Solutions (<https://evergem.com/solutions/>)

Who We Service (<https://evergem.com/who-we-service/>)

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 (tel:5098522843)

 (<https://www.google.com/maps/place/109+S+1st+St,+Roslyn,+WA+98941/@47.2223716,-120.9945505,17z/data=!4m5!3m4!1s0x549a0e1f90ebaa6f:0x77a1be8a52cf0d58!4d-120.9923618?hl=en>)



## WHO WE SERVICE

**AT EVERGEM WE SERVE RURAL COMMUNITIES TO INCLUDE, BUT AREN'T LIMITED TO:**

-  **MUNICIPALITIES**
-  **TRIBAL NATIONS**
-  **HOSPITALS & CLINICS**
-  **SCHOOL DISTRICTS**



## BUILDING FOR THE FUTURE

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Planning for the future is crucial. No matter the size of the government agency, you must take advantage of innovative technologies to build a better infrastructure for the future. Teaming up with EverGem will allow you to prepare for Next-gen connectivity. As the world comes to rely more heavily on internet connectivity for daily tasks and operations, dark fiber represents a great opportunity to plan for the future.





## Briefing Paper

### Public Infrastructure, Environment, & Sustainability Committee

<b>Division &amp; Department:</b>	Public Works, 4100 Water & Hydroelectric Services
<b>Subject:</b>	Coiled Pit Setter Meter Boxes – Annual Value Blanket Renewal
<b>Date:</b>	February 22, 2021
<b>Author (email &amp; phone):</b>	Loren Searl, <a href="mailto:lsearl@spokanecity.org">lsearl@spokanecity.org</a> , 625-7851
<b>City Council Sponsor:</b>	President Breean Beggs
<b>Executive Sponsor:</b>	Scott Simmons, Director – Public Works
<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 is available in the Water & Hydroelectric Services' department budget.
<b>Strategic Initiative:</b>	Innovative Infrastructure
<b>Deadline:</b>	The original value blanket for these products expired 2/11/2021.
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	This value blanket renewal will support the Water department's 2021 construction and maintenance season by facilitating the purchase of this critical component on an as-needed basis.
<b>Background/History:</b> Invitation to Bid #5222-20 was issued on the City's electronic bidding portal on January 10, 2020. Two bids were received by the closing deadline at 1:00pm on January 27, 2020. Business was correspondingly awarded by Council approval to Core & Main (Spokane Valley, WA) for one year as the low responsive, responsible bidder. This represents the first annual renewal of the original value blanket at no change in price. Three optional annual renewals remain, with the total term not to exceed five years.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>Renewal recommended with Core &amp; Main (Spokane Valley, WA) at no change in unit price</li> <li>Annual value not to exceed \$350,000.00 including tax</li> <li>Original ITB #5222-20 Coiled Pit Setter Meter Boxes – Annual Value Blanket</li> <li>Three optional annual renewals remain</li> </ul>	
<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: N/A Other budget impacts: N/A	
<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: N/A Known challenges/barriers: N/A	

## Briefing Paper

### Public Infrastructure, Environment and Sustainability Committee

<b>Division &amp; Department:</b>	Public Works Division; Solid Waste Disposal
<b>Subject:</b>	Scaffolding Services at the Waste to Energy Facility
<b>Date:</b>	February 22, 2021
<b>Contact (email &amp; phone):</b>	Chris Averyt, <a href="mailto:caveryt@spokanecity.org">caveryt@spokanecity.org</a> , 625-6540
<b>City Council Sponsor:</b>	Breean Beggs, City Council President
<b>Executive Sponsor:</b>	Scott Simmons, Public Works Director
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment and Sustainability Committee
<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>	Innovative Infrastructure-Managing our assets
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval of the final extension to the contract for scaffolding services at the WTE.
<b>Background/History:</b>  During scheduled and emergency outages at the WTE, scaffolding must be placed in the boilers to allow safe access for repairs. Bids for scaffolding services for the WTEF were solicited under RFB 4308-16. BrandSafway Services, LLC., of Spokane Valley, was the only bidder and was awarded the contract for one year with the option of four (4) additional one-year extensions. This will be the last of those extensions and will run from April 1, 2021 through March 31, 2022 for an additional cost not to exceed \$450,000.00 including taxes.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>Contract extension to provide scaffolding for two scheduled outages and emergency outages as required at the Waste to Energy Facility.</li> <li>Scaffolding is required for safe access during repairs to the boilers.</li> <li>This is extension #4 of 4, as specified in the RFB, running from April 1, 2021 through March 31, 2022.</li> <li>Annual cost of contract extension is not to exceed \$450,000.00.</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 checked="" 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 Committee

<b>Division &amp; Department:</b>	Public Works Division; Solid Waste Disposal
<b>Subject:</b>	Annual HVAC Services at the Waste to Energy Facility
<b>Date:</b>	February 22, 2021
<b>Contact (email &amp; phone):</b>	Chris Averyt, <a href="mailto:caveryt@spokanecity.org">caveryt@spokanecity.org</a> , 625-6540
<b>City Council Sponsor:</b>	Breean Beggs, City Council President
<b>Executive Sponsor:</b>	Scott Simmons, Public Works Director
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment and Sustainability Committee
<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>	Sustainable Resources: Maintaining our assets
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval of the contract renewal in order to maintain all of the HVAC equipment at the Waste to Energy Facility.
<b><u>Background/History:</u></b>	
<p>The WTE facility utilizes HVAC systems in all areas of the plant as well as the Administration Building. This equipment requires quarterly inspections and as-needed repairs to maintain safe operation of the facility and equipment. On January 8, 2018 four bids were received for RFB #4227-17 for these annual HVAC services. Divco Inc., of Spokane, was the lowest responsible bidder. The initial contract was for \$195,000.00 (\$65,000.00 annually) and spanned from March 1, 2018 to February 28, 2021 with the option of two optional one-year renewals. This will be the first of the two renewals and will span from March 1, 2021 through February 28, 2022 and have a cost not to exceed \$65,000.00 including taxes. An amendment to include the HVAC unit in the hazmat break trailer in the annual PM service schedule for an additional \$392 annually will also be included in this renewal.</p>	
<b><u>Executive Summary:</u></b>	
<ul style="list-style-type: none"> <li>Renewal #1 of 2 for inspections and as-needed repairs to the HVAC systems at the Waste to Energy Facility.</li> <li>Divco Inc., of Spokane, was the lowest bidder of the four bids received for RFB #4227-17.</li> <li>Contract renewal will span from March 1, 2021 to February 28, 2022</li> <li>Annual cost of the contract not to exceed \$65,000.00 including tax.</li> <li>Amendment to include the HVAC unit in the hazmat break trailer in the annual PM service schedule for an additional \$392 annually will also be included in this renewal.</li> </ul>	
<b><u>Budget Impact:</u></b>	
Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input checked="" 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><u>Operations Impact:</u></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 Committee

<b>Division &amp; Department:</b>	Public Works Division; Solid Waste Disposal
<b>Subject:</b>	Sole Source Resolution and Value Blanket for the Purchase of Turbine Generator Overhaul Parts at the WTE.
<b>Date:</b>	February 22, 2021
<b>Contact (email &amp; phone):</b>	Chris Averyt, <a href="mailto:caveryt@spokanecity.org">caveryt@spokanecity.org</a> , 625-6540
<b>City Council Sponsor:</b>	Breean Beggs, City Council President
<b>Executive Sponsor:</b>	Scott Simmons, Director, Public Works
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment and Sustainability Committee
<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>	Innovative Infrastructure – Sustainability; Sustainable Resources-Sustainable Practices
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval for the sole source resolution and value blanket for the parts necessary to perform an overhaul of the turbine generator at the WTE.
<b>Background/History:</b> The turbine generator at the Waste to Energy Facility operates 24/7. In order to keep it in good operating condition, it is necessary to periodically have it overhauled. This is scheduled to be done in 2022 per the 6-year capital plan. The parts for this project have very long lead times so a value blanket to purchase them was planned for and budgeted in 2021 and 2022. In the event of a turbine generator failure, the City would lose revenue from power generation and incur additional costs in the form of purchased power to operate the waste to energy facility. The cost to repair damaged equipment, rather than performing the preventative maintenance would also be much more costly. The parts for this overhaul would be purchased via value blanket, through a Sole Source Resolution with Dresser Rand Company of Seattle, WA, who is the OEM of this proprietary equipment and are the only company that possesses the design, fabrication and manufacturing information for the maintenance, service and product supplies necessary for the condensing steam turbine generator at the WTE facility. The term will be for two years, from March 1, 2021 through February 28, 2023 with a total cost not to exceed \$1,800,000.00.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>Sole Source Resolution and Value Blanket with Dresser Rand Company for parts purchases necessary for the condensing steam turbine generator overhaul at the WTE Facility.</li> <li>Estimated cost not to exceed \$1,800,000.00.</li> <li>The term of this Value Blanket will be from March 1, 2021 through February 28, 2023.</li> <li>Dresser Rand is the original equipment manufacturer of this proprietary equipment and are the only company that possesses the design, fabrication and manufacturing information.</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 checked="" 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 – Wastewater/Riverside Park Water Reclamation Facility
<b>Subject:</b>	Amendment #2 to contract with OAC Services, Inc. of Spokane WA for auditing relating to close-out of the Heavy Civil GC/CM construction contract for the Next Level of Treatment (NLT) project at RPWRF.
<b>Date:</b>	Feb. 22, 2021
<b>Contact (email &amp; phone):</b>	Lars Hendron ( <a href="mailto:lhendron@spokanecity.org">lhendron@spokanecity.org</a> , 509-625-7929)
<b>City Council Sponsor:</b>	Breann Beggs
<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>	Comprehensive Plan / Wastewater Facility Plan
<b>Strategic Initiative:</b>	Cleaner River Faster
<b>Deadline:</b>	N/A
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Conduct audits(s) relating to close-out of the NLT GC/CM construction contract.

**Background/History:** Construction of the Next Level of Treatment (NLT) project at RPWRF has been underway about five years, using the Heavy Civil General Contractor / Construction Manager (GC/CM) construction procedure. RCW 39.10.350 requires the City to conduct at least one independent audit of this GC/CM project. For such a large contract, the City's NLT GC/CM Consultant, OAC Services, Inc., recommended both an early and a final audit. OAC conducted the initial audit in 2017, a year into construction, to confirm proper accrual of costs. This final audit will reconfirm proper accrual at this stage and establish the price of the Close-out Change Order upon project completion this summer.

**Executive Summary:**

- Construction of the Next Level of Treatment is scheduled for completion this summer
- Heavy Civil GC/CM project delivery requires the City to conduct an independent audit
- For this large NLT project, OAC recommended both an initial and a final audit
- OAC performed the initial audit in 2017
- This final audit will reconfirm cost accrual and establish Close-Out Change Order price
- Amendment price is \$253,634; requesting 10% Administrative Reserve (\$25,363)
- Funding for OAC's effort is from Sewer Rates and provided for in the NLT Program budget

**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: 4250-43387-94350-56501-14323/Sewer Rates

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:



**City of Spokane**

**CONTRACT AMENDMENT/EXTENSION**

Title: Amendment #2 of GC/CM Consulting  
Services for NLT Project

THIS CONTRACT AMENDMENT EXTENSION is between the CITY OF SPOKANE, a Washington State municipal corporation, as ("City"), and OAC CONSULTING, whose address is 1717 S. Rustle St., Suite 105, Spokane WA 99224, as ("Consultant"). Individually hereafter referenced as a "party", and together as the "parties".

WHEREAS, the parties entered into a Contract wherein the Consultant agreed to SCOPE OF ORIGINAL CONTRACT; and

WHEREAS, additional work and time to perform has been requested;

-- Now, Therefore, the parties agree as follows:

1. **CONTRACT DOCUMENTS.** The original Contract dated May 18, 2015, any previous amendments and/or extensions/renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. **EFFECTIVE DATE.** This Contract Amendment/Extension shall become effective on December 13<sup>th</sup>, 2021.

3. **ADDITIONAL WORK.** The Scope of Work of the original Contract is amended to add the following:

The scope of work in the Original Contract is revised to include all work identified in the attached scope of services documents referenced in the attached Exhibits

OAC Audit Services Proposal.

4. **EXTENSION.** The contract documents are hereby extended and shall run through December 31, 2021.

5. **COMPENSATION.** The City shall pay Consultant a maximum amount not to exceed TWO HUNDRED FIFTY THREE THOUSAND SIX HUNDRED THIRTY-FOUR DOLLARS AND NO CENTS/100 DOLLARS,/100 DOLLARS, (\$253,634.00) for everything furnished and done under this Contract Amendment/Extension.







**December 31, 2020**

**Lars Hendron**

NLT Program Director  
City of Spokane  
808 W Spokane Falls Blvd  
Spokane, WA 99201

**Subj:** Riverside Park Water Treatment Facility, Next Level Treatment Project—Audit Proposal —

Dear Lars:

As you requested, this letter serves as OAC's proposal for PCC to perform the Audits on the NLT project as required in RCW 39.10 for the use of the Heavy Civil GC/CM project delivery method.

OAC currently has approximately \$20,000 left on current contract of approximately \$180,000. I am anticipating many meetings with the team to discuss the findings and work through the items. Below is the request of costs associated with the additional fees of the audit.

PCC fees -	\$229,834
PCC reimbursables estimate -	\$10,000
OAC additional time -	\$10,000
B&O Tax reimbursement -	\$3,800

**Total additional funds requests would be \$253,634** to be billed as outlined in the original agreement. It will be hourly not to exceed and funds not utilized in the commission of the audits would be returned to the City of Spokane.

Thank you

Jeff Jurgensen  
Sr. Vice President, OAC Services

Mr. Jeff Jurgensen  
Sr. Vice President, Principal  
OAC Services, Inc.  
905 W. Riverside Ave, Suite 510  
Spokane, WA 99201

October 7, 2020

Re: Proposal for Construction Audit Services – Riverside Water Reclamation Facility Project

Dear Mr. Jurgenson:

In accordance with your request, enclosed herewith is our proposal for construction audit services for the City of Spokane Riverside Water Reclamation Facility Project.

Our proposal consists of:

***Section I      Scope of Work***

This section describes the scope of services we are proposing for the Riverside Water Reclamation Facility Project, including an audit kickoff meeting, interim audits, pre-close audits, and final cost reconciliation services.

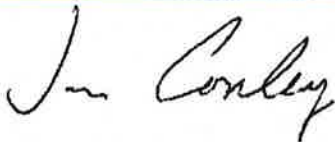
***Section II      Cost Proposal***

In this section we provide hourly billing rates as well as our not-to-exceed fee estimate to perform the scope of services as defined in Section I.

If I can provide further information, please do not hesitate to call me at (425) 641-4400 or email me at [jonc@pacific-consultants.com](mailto:jonc@pacific-consultants.com).

Sincerely yours,

Pacific Construction Consultants  
[www.pacific-consultants.com](http://www.pacific-consultants.com)



Jon Conley  
Principal

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## **SECTION I**

### **SCOPE AND PROCEDURES**

We understand that the City of Spokane has entered into a GCCM agreement estimated to be approximately \$192.4 million with MWHC Constructors (MWHC) for the Riverside Water Reclamation Facility.

Our proposed scope of services includes:

- Audit Kickoff
- 2020 Interim Contract Cost Audits
- 2021 Pre-close Contract Cost Audits with Final Cost Reconciliation services

#### **A. AUDIT KICKOFF:**

The audit kickoff will include a review of the contract for the GCCM general contractor prior to an on-line meeting. PCC will meet on-line with the Project Manager, Cost Managers, and all contractors to be audited to review cost reimbursement terms, audit process and substantiation requirements.

#### **B. INTERIM AND PRE-CLOSE CONTRACT COST AUDITS:**

The audit procedures PCC will follow in executing the interim and pre-close audit scope of work are described below.

Based on our review of the GCCM agreement we will develop procedures to assure that costs have been charged according to the terms of the executed GCCM agreement. We expect our procedures will include testing of Negotiated Support Services and verifying that Specified General Conditions and Fixed Price Subcontracts have been charged according to executed contract terms. We anticipate that testing the cost charged to the Riverside Water Reclamation Facility project will include the following:

##### ***Labor:***

Pacific Consultants will select a sample both craft and staff labor costs charged to the project by the contractor. For field labor, we will confirm labor costs are supported by time sheets; and, if applicable, will match union classification with actual base wages paid; and will confirm whether contractor's billing rates are reflective of actual cost incurred. For administrative and staff labor, if the contract calls for actual cost we will confirm actual salaries for those employees included in our sample. In so far as possible, verify the appropriateness of all hours charged to the project by contractor personnel. Tie sample base wages back to cancelled checks or direct deposit evidence for both craft and staff labor. If staff labor is to be reimbursed at agreed upon rates we will test rates charged against rates per the contract.

##### ***Labor Burden:***

As appropriate, we will request supporting documentation for the labor burden elements used to markup bare labor and will confirm that these costs accurately approximate the contractor's actual incurred cost. These costs include fringe benefits, insurance, and payroll related state and federal taxes. Should the contractor use estimated burden rates, we will confirm that the estimated rate build up closely approximates actual cost and is correctly applied.

#### ***Materials:***

We will audit supplier invoices for materials on a sampled basis and verify charged costs for materials were properly supported by cost supporting documentation and vendors' invoices were for this project. We will verify that all cash and trade discounts have been credited to the Owner, if specified by contract. We will select samples of materials invoices and tie the samples back to cancelled checks. If the contract requires the GMP contractor to fully substantiate their actual costs, Pacific Construction Consultants will review 100% of materials invoices. If full and complete substantiation is not required by contract, we will audit these costs consistent with our audit budget.

#### ***Subcontracts:***

Fixed price subcontracts will be tested to assure that the cost charged do not exceed the value of the executed contracts including any executed change orders. Testing will also be performed to determine if costs related to fixed price subcontracts have been direct charged by the general contractor.

#### ***Other Direct Costs and Markups:***

Direct costs such as contractor owned equipment rentals, cell phones, materials from stock, travel, graphics, reproduction, and any home office costs will be reviewed for appropriateness and conformance with the contract or industry standard job cost practices.

#### ***Indirect Costs and Markups:***

Pacific Consultants will verify General Liability Insurance markup, B&O Tax markup, and any other indirect cost or markup for compliance to the terms of the agreement or to generally accepted industry practice.

### **C. SCHEDULE:**

Audit kickoff services will be performed on the date(s) scheduled by the City of Spokane's representatives. The interim and pre-close audits will each begin upon receipt of a notice-to-proceed from City of Spokane's representatives.

### **D. DELIVERABLES:**

Our deliverable will be written reports summarizing the work performed and the results of each audit. If exceptions are found in our review and prior to a written report, Pacific Construction Consultants will meet with the City of Spokane's representatives to review the issues. If needed, we will also meet with MWHC and the City of Spokane's representatives in a second meeting. Our objective is to resolve all issues before a report is written in so far as possible. We meet this objective in roughly 75% of cases.

### **E. FINAL COST RECONCILIATION:**

Our clients find a final cost reconciliation to be especially helpful in verification of final actual cost incurred. This work will be performed upon receipt of the preliminary final billing from MWHC. The objective of this work will be the final reconciliation between the progress billings and the actual costs substantiated per the GMP contract agreement.

Subjects, which we anticipate would be addressed, include:

- Incentive Fees earned if applicable.
- Credits for resolved audit issues.
- Credits for scrap materials.
- Credits for salvage value of tools, equipment and materials.
- Credits for cash and trade discounts if applicable.
- Final Fee including Fee on change orders and change order work not subject to Fee.
- Final application of markups for:
  - General Liability Insurance
  - B&O Taxes

As well as any other subjects that might be applicable based on the specific contract agreement.

**SECTION II**  
**COST PROPOSAL**  
**CITY OF SPOKANE**  
**RIVERSIDE WATER RECLAMATION FACILITY PROJECT**

**RIVERSIDE WATER RECLAMATION FACILITY PROJECT**

**Date:** 10/7/2020

**Project Description:** Riverside Water Reclamation Facility

<b>Contractor Scope</b>	<b>Costs to Audit</b>	<b>Pacific Consultants Scope</b>	<b>PCC Estimate</b>	<b>Total Estimate</b>
<b>Audit Kickoff</b>			\$ 500	\$ 500
<b>Interim Audit 2020 - MWHC Constructors</b>				
Preconstruction	\$ 2,985,898	Audit	\$ 11,228	
GMP 2	\$ 12,202,838	Audit	\$ 14,991	
GMP 3	\$ 17,602,941	Audit	\$ 21,524	
GMP 4	\$ 41,155,161	Audit	\$ 32,109	
GMP 5	\$ 11,030,468	Audit	\$ 14,991	
GMP 6	\$ 24,490,167	Audit	\$ 22,600	
GMP 7	\$ 53,662,649	Audit	\$ 36,115	
<b>Subtotal</b>	<b>\$ 163,130,122</b>		<b>\$ 153,558</b>	<b>\$ 153,558</b>
<b>Final Audit/Final Reconciliation 2021 - MWHC Constructors</b>				
Preconstruction	\$ 3,073,774	Audit/FR	\$ 7,500	
GMP 2	\$ 12,195,782	Audit/FR	\$ 7,500	
GMP 3	\$ 24,814,682	Audit/FR	\$ 15,441	
GMP 4	\$ 42,506,734	Audit/FR	\$ 7,500	
GMP 5	\$ 11,742,180	Audit/FR	\$ 7,500	
GMP 6	\$ 24,951,356	Audit/FR	\$ 7,500	
GMP 7	\$ 73,337,549	Audit/FR	\$ 22,835	
<b>Subtotal</b>	<b>\$ 192,622,057</b>		<b>\$ 75,776</b>	<b>\$ 75,776</b>
			<b>Grand Total</b>	<b>\$ 229,834</b>

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## PACIFIC CONSTRUCTION CONSULTANTS STANDARD BILLING POLICY

The following are standard billing rates that we will use on this project.

### ***Labor:***

The billing rate for direct charge labor:

	<u>2020</u>	<u>2021</u>	<u>2022</u>
Principal.....	\$167 .....	\$171 .....	\$174
Associate .....	\$142 .....	\$145 .....	\$148
Sr. Staff Auditor .....	\$127 .....	\$130 .....	\$132
Staff Auditor.....	\$117 .....	\$120 .....	\$122
Clerical .....	\$51 .....	\$52 .....	\$53

### ***Non-Labor:***

Non-labor expenses incurred in performance of the services shall be reimbursed at actual cost or at unit prices as follows:

- Mileage reimbursed at the current IRS standard mileage rate
- Parking – at actual cost
- Air travel – at actual coach class cost
- Hotel and meals – at actual cost

## Briefing Paper

### Public Infrastructure, Environment and Sustainability

<b>Division &amp; Department:</b>	Public Works – Wastewater/Riverside Park Water Reclamation Facility
<b>Subject:</b>	Amendments 21-25 to contract with CH2M Hill (Jacobs) Engineering, Inc., of Spokane, WA for professional services supporting the Next Level of Treatment (NLT) at RPWRF.
<b>Date:</b>	Feb. 22, 2021
<b>Contact (email &amp; phone):</b>	Lars Hendron ( <a href="mailto:lhendron@spokanecity.org">lhendron@spokanecity.org</a> , 509-625-7929)
<b>City Council Sponsor:</b>	Breann Beggs
<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>	Comprehensive Plan / Wastewater Facility Plan
<b>Strategic Initiative:</b>	Cleaner River Faster
<b>Deadline:</b>	N/A
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Duration of Services During Construction to match NLT Contractor's schedule, and services related to the year-long Monitored Test Period ending in Spring 2022.
<p><b>Background/History:</b> CH2M Hill (Jacobs) provides design and process control services, and Services During Construction for the Next Level of Treatment program. The need for these amendments is two-fold. First, the construction contract was extended 2-3 years ago to accommodate Value Engineering design revisions and unanticipated plant-wide process control upgrades (a.k.a. SCADA). Second, support by PALL Water (membrane supplier) for the year-long Monitored Test Period (MTP) was anticipated from the beginning, but the CH2M Hill services needed to support it were unknown at the time. Refinements to the NLT process identified during the MTP will involve pilot testing, enhanced Operator training using a treatment process model, and on-call engineering support for design and process control, as needed. Amendments 21 through 25 to the CH2M Hill contract extend Services During Construction to match the contractor's schedule to completion, and provide services relating to the MTP through Spring, 2022.</p>	
<p><b>Executive Summary:</b></p> <ul style="list-style-type: none"> <li>Services During Construction (QC) extended to match the Contractor's final completion date</li> <li>Preparing the Pilot Test Unit to support NLT optimization during the Monitored Test Period</li> <li>Customizing and installing the Replica™ process model to enhance NLT operation &amp; training</li> <li>On-call engineering support for process and process control during the MTP, as needed</li> <li>Incorporates \$125,000 credit from CH2M Hill regarding the 2019 IMCO arbitration</li> <li>Amendments (net) total \$571,333, "not to exceed"</li> <li>Requesting 10% Administrative Reserve on Amendments 21, 22, and 23 (\$38,523)</li> <li>Funding is from Sewer Rates and provided for in the NLT budget</li> </ul>	
<p><b>Budget Impact:</b></p> <p>TOTAL COST:</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: 4250-43387-94350-56501-14323/Sewer Rates</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<p><b>Operations Impact:</b></p> <p>Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Specify changes required:</p> <p>Known challenges/barriers:</p>	





**City of Spokane**

**CONTRACT AMENDMENT/EXTENSION**

Title: AMENDMENTS #21 - #25  
Next Level of Treatment (NLT) Program

THIS CONTRACT AMENDMENT EXTENSION is between the CITY OF SPOKANE, a Washington State municipal corporation, as ("City"), and CH2M HILL ENGINEERS, INC., whose address is 999 W. Riverside Avenue, Suite 500, Spokane, Washington 99201, as ("Consultant"). Individually hereafter referenced as a "party", and together as the "parties".

WHEREAS, the parties entered into a Contract wherein the Consultant agreed to DESIGN AND SERVICES DURING CONSTRUCTION FOR THE NEXT LEVEL OF TREATMENT PROGRAM AT THE RIVERSIDE STATE PARK WATER TREATMENT FACILITY;

WHEREAS, THE CITY OF SPOKANE AND CH2M HILL ENGINEERS NEGOTIATED A CREDIT IN THE AMOUNT OF \$125,000 (SEE ATTACHED EXHIBIT \_\_\_>; and

WHEREAS, additional work and time to perform has been requested;

-- Now, Therefore, the parties agree as follows:

1. **CONTRACT DOCUMENTS.** The original Contract dated March 28, 2014, any previous amendments and/or extensions/renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.
2. **EFFECTIVE DATE.** This Contract Amendment/Extension shall become effective on March 9<sup>th</sup>, 2021.
3. **ADDITIONAL WORK.** The Scope of Work of the original Contract is amended to add the following:

The scope of work in the Original Contract is revised to include all work identified in the attached amendments to Exhibit A.

**4. EXTENSION.** The contract documents are hereby extended and shall run through June 30, 2022.

**5. COMPENSATION.** The City shall pay Ch2m Hill Engineers, Inc. a maximum amount not to exceed FIVE HUNDRED SEVENTY ONE THOUSAND THREE HUNDRED THIRTY-THREE AND 00/100 DOLLARS, (\$571,333.00) for everything furnished and done under this Contract Amendment/Extension.

CH2M HILL ENGINEERS, INC.	CITY OF SPOKANE:
By: _____ (signature)	By: _____ (signature)
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
Email: _____	

ATTEST:	APPROVED:
_____	_____
City Clerk	Assistant City Attorney

Attachments that are part of this Contract Extension:

CH2M HILL Proposals for Tasks 21, 22, 23, 24 and 25

**AMENDMENT 21 to EXHIBIT A**  
**CITY OF SPOKANE**  
**RIVERSIDE PARK WATER RECLAMATION FACILITY**  
**NEXT LEVEL OF TREATMENT PROJECT**  
**(CITY CONTRACT OPR #2015-0183)**

**BACKGROUND:**

The City of Spokane (City) Riverside Park Water Reclamation Facility (RPWRF) Next Level of Treatment (NLT) Projects have been awarded to CH2M HILL Engineers Inc. (CH2M). CH2M won this contract through a competitive process as advertised in Request for Qualification #3994-14 RPWRF Membrane Filtration Treatment Facility (MFTF) Design and Construction Management. City and Consultant subsequently entered into the Next Level of Treatment Projects contract (City contract OPR #2015-0183). The scope of this contract includes a series of projects that will be performed and approved in phases over the duration of the contract term. An initial list of 17 projects was established in Exhibit A to the contract.

This document is Amendment #21 to Exhibit A of the aforementioned contract and establishes modifications to the existing project list and may include identification of additional projects to be executed under the amended contract.

The City used a multi-step procurement approach to select a supplier for the membrane filtration system which is the core of the MFTF. This included selecting two potential Membrane System Suppliers from responses to a publicly-advertised request for qualifications (RFQ). The RFQ included a description of how side-by-side pilot testing would be used to develop conceptual designs of the MFTF to be evaluated as part of the selection process. In the 15-month pilot test, both membrane systems operated downstream of tertiary chemical treatment processes designed by CH2M. The pilot testing was performed using design and operating parameters proposed for the full-scale facility. Pilot test results were used as the basis of proposals for supply of equipment and services from each prospective Membrane System Supplier. The proposals included warranted projections of energy and chemical consumption for the MFTF based on the pilot performance.

A multi-criteria analysis performed by the City was used to select Pall Water for supply of equipment and services to support the MFTF. Pall's scope of services for design, construction, and commissioning of the system were novated to the JV for delivery under GMP X. Equipment and membrane module warranties included in the Pall proposal will be novated back to the City from the JV upon acceptance of GMP3. Pall's warranted chemical and energy consumption are to be evaluated through a 12-month Monitored Test Period commencing upon acceptance of GMP3.

**BASIS OF AMENDMENT:**

A permanent pilot system is being provided as part of the MFTF. The pilot system will be housed in a dedicated room on the west side of the main floor of the MFTF. The pilot room will house dual pilot trains set up to permit side-by-side testing of membrane filtration cleaning protocols, different

pretreatment strategies, and new membrane technologies as well as conducting regular process monitoring analysis. The permanent pilot system will be substantially similar to the pilot system used during the membrane procurement phase of the NLT project, with the exception that each of the two pilot treatment trains will support a separate Pall pilot skid provided by Pall Corporation, instead of membrane filtration skids from two different vendors. The pilot room also houses some counter space, sample piping, and analyzers associated with the disinfection system which will be constructed, commissioned, and operated independently of the work described herein.

Installation of the Pall pilot skids is included in the JV scope of work. Installation of pilot feed pumps (to be procured) and piping terminating in the pilot room is to be provided by the JV as part of the facility construction.

## **STATEMENT OF WORK**

The purpose of this scope is to provide the design and construction of the pilot room to assist the City with commissioning during the construction phase for the Spokane NLT Phase 2 Project (PROJECT). The dual-train pilot system may be used to help substantiate energy and chemical consumption projections for the full-scale membrane system as warranted by Pall. It may also be used to substantiate alternative pretreatment and/or membrane system design and operating parameters to optimize chemical or power consumption under current operating conditions. The pilot system may also be used to substantiate a basis of design or operating parameters for future plant loads (i.e., higher flow rates).

## **Task 1: Pilot Room Planning and Design**

### **Task 1.1 – Design**

Jacobs staff will prepare a design of the permanent pilot system for review and approval by the City, including:

- An updated P&ID for the overall pilot system
- General arrangement drawing for the pretreatment systems
- An electrical one-line drawing for the overall pilot system
- Annotated details for any construction elements to be performed by others, for example equipment pads, pipe supports, etc.
- A bill of materials for the pretreatment system and interface with the Pall pilot skids and source water work provided by the JV. The bill of materials will include equipment, piping, valves, instruments, and wiring. Suppliers and price quotations will be included in the Bill of Materials.
- Includes 1 three-day site trip

### **Task 1.2 – Procurement**

Jacobs staff will procure the supplies identified in the approved Bill of Materials.

- Includes 1 three-day site trip

### Task 1.3 – Construction

Jacobs staff will coordinate installation of the pretreatment system, with interfaces to work provided by the JV coordinated as necessary. The Jacobs level of effort associated with this task assumes assistance by general laborers to facilitate basic piping and mechanical work. This may be provided by City staff, city-contracted subcontractors, or JV staff. Any electrical terminations will be provided by a licensed electrician, using City Staff, City-contracted electrical subcontractors, or JV staff. Any work required to interface with the Pall pilot skids will be coordinated with Pall prior to execution. A 1-year parts and labor warranty on the items provided and installed by Jacobs shall be provided.

- Includes 4 three-day site trips

### Task 1.4 – Commissioning

Commissioning of the pilot system will include functional testing of the pretreatment system and membrane skids, and development of basic operating protocols and sampling/analysis plans. Commissioning of the Pall pilot systems will be coordinated with Pall staff, and any support from Pall is understood to be included in their existing equipment supply contract.

- Includes 2 three-day site trips

## SCHEDULE

The duration is expected to commence in January 2021 and run through April 2021, consistent with the current Baseline Schedule and subsequent updates developed by the GCCM and approved by the City.

### COMPENSATION SCHEDULE

Total compensation for this scope is \$127,982.

#### City of Spokane

#### NLT Project Amendment 21 - Pilot Room

#### Level of Effort and Budget

Task	CH2M Labor Hours	CH2M Labor Cost	CH2M Expense Cost	Total Task Amount
Task 1 - Pilot Room Planning and Design	388	\$ 83,192	\$ 37,053	\$ 120,245
Fixed Fee (9.3%)				\$ 7,737
<b>TOTALS</b>	<b>388</b>	<b>\$ 83,192</b>	<b>\$ 37,053</b>	<b>\$ 127,982</b>

This Change Order Work is hereby proposed to be executed under Contract No. OPR 2015-0183 on a Cost plus fixed fee basis.

## Briefing Paper

### Public Infrastructure, Environment and Sustainability Committee

<b>Division &amp; Department:</b>	Fire Department
<b>Subject:</b>	Request for approval to apply for grant
<b>Date:</b>	02/22/2021
<b>Contact (email &amp; phone):</b>	Amanda Winchell, 509-625-7037 Deputy Chief Julie O'Berg, <a href="mailto:joberg@spokanecity.org">joberg@spokanecity.org</a> , 509-435-7003
<b>City Council Sponsor:</b>	
<b>Executive Sponsor:</b>	Brian Schaeffer, Fire Chief
<b>Committee(s) Impacted:</b>	Public Safety and Community Health Committee
<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)	Budget
<b>Strategic Initiative:</b>	
<b>Deadline:</b>	02/12/2021
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Approval of AFG (Assistance to Firefighters Grant) application for regional technical rescue equipment and training.
<b>Background/History:</b> <p>The Fiscal Year (FY) 2020 Assistance to Firefighters Grant (AFG) Program is one of three grant programs that constitute the Department of Homeland Security (DHS), Federal Emergency Management Agency's (FEMA's) focus on enhancing the safety of the public and firefighters with respect to fire and fire-related hazards. The AFG Program provides financial assistance directly to eligible fire departments for critical training and equipment. The AFG Program represents one part of a comprehensive set of measures authorized by Congress and implemented by DHS. Among the five basic homeland security missions noted in the DHS Quadrennial Homeland Security Review, the AFG Program supports the goal to Strengthen National Preparedness and Resilience.</p> <p>The objectives of the AFG Program are to provide critically needed resources that equip and train emergency personnel to recognized standards, enhance operational efficiencies, foster interoperability, and support community resilience</p>	
<b>Executive Summary:</b> <p>The Spokane Fire Department has applied for an AFG grant in the amount of \$201,646.62. If awarded, this grant will provide equipment, PPE and training to bring all SFD technical rescue/USAR (urban search &amp; rescue) members up to compliance with NFPA standards. The SFD technical rescue/USAR team responds both locally and regionally.</p>	
<b>Budget Impact:</b> <p>Approved in current year budget?    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No    <input 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.)</p>	
<b>Operations Impact:</b> <p>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: None.</p>	

## Briefing Paper

### Public Infrastructure, Environment and Sustainability Committee

<b>Division &amp; Department:</b>	Public Works Division; Solid Waste Disposal
<b>Subject:</b>	Extension of Contract for Groundwater Monitoring and Reporting at the Northside and Southside Landfills
<b>Date:</b>	February 22, 2021
<b>Contact (email &amp; phone):</b>	Chris Averyt, <a href="mailto:caveryt@spokanecity.org">caveryt@spokanecity.org</a> , Ext. 6540
<b>City Council Sponsor:</b>	Breean Beggs, City Council President
<b>Executive Sponsor:</b>	Scott Simmons, Public Works Director
<b>Committee(s) Impacted:</b>	Public Infrastructure, Environment and Sustainability Committee
<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>	Sustainable Resources-Sustainable Practices
<b>Deadline:</b>	
<b>Outcome:</b> (deliverables, delivery duties, milestones to meet)	Council approval for groundwater monitoring and reporting to continue in 2020.
<b>Background/History:</b> The City's Northside Landfill Open Municipal Solid Waste (MSW) Cell, the Northside Landfill Closed Cell, and the Southside Landfill Closed Cell each have unique groundwater monitoring plans as required by Chapter 18.220 RCW, WAC 173-351-400(2)(f), WAC 173-304 and the associated solid waste permits. The City issued Request for Qualifications #4304-16 for Groundwater Monitoring Data Analysis and Report Writing Services in 2017. Responses were received from three firms, of which CH2M was deemed the most qualified respondent, and a contract was awarded for these services for \$64,221.00, with four (4) possible one (1) year extensions. This is the last of those extensions in the amount of \$49,000.00.	
<b>Executive Summary:</b> <ul style="list-style-type: none"> <li>Extension #4 of 4 with cost to contract as specified in RFQ #4304-16.</li> <li>Extension term is March 10, 2021 to March 9, 2022.</li> <li>Data management and report writing services to include quarterly and annual reports for 2021.</li> <li>The cost of the contract for this extension is \$49,000.00</li> <li>Reporting is required for compliance with solid waste permits.</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 checked="" 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:	