

**Public Safety & Community Health Committee
Agenda for 1:15 p.m. Monday, October 2, 2023**

The Spokane City Council's Public Safety & Community Health Committee meeting will be held at **1:15 p.m. on October 2, 2023**, in City Council Chambers, located on the lower level of City Hall at 808 W. Spokane Falls Blvd. The meeting can also be accessed live at my.spokanecity.org/citycable5/live/ and www.facebook.com/spokanecitycouncil or by calling 1-408-418-9388 and entering the access code #2494 434 6630; meeting password 0320.

The meeting will be conducted in a standing committee format. Because a quorum of the City Council may be present, the standing committee meeting will be conducted as a committee of the whole council. The Public Safety & Community Health Committee meeting is regularly held every 1st Monday of each month at 1:15 p.m. unless otherwise posted.

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

AGENDA ATTACHED

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Risk Management at 509.625.6221, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or mlovmaster@spokanecity.org. Persons who are deaf or hard of hearing may contact Risk Management through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

City Council Standing Committee - Public Safety & Community Health

Team City Council Standing Committees
City of Spokane

Agenda - 2 October 2023

1 **Call to Order**

2 **Approval of Minutes**

3 **Monthly Reports / Updates**

3.1 **Sit and Lie Monthly Update - July through September 2023**

Napolitano, Angie

3.2 **Office of Police Ombudsman Monthly Report**

Logue, Bart

3.3 **Integrus Architecture Progress Report for September, 2023**

Schaeffer, Brian

3.4 **Police & Fire uniform overtime report**

Schmitt, Kevin

3.5 **Photo Red Monthly Update**

Napolitano, Angie

3.6 **Strategic Initiatives Monthly Update**

Napolitano, Angie

4 **Discussion Items**

4.1 **SCRAPS Advisory Board Appointment Interviews**

10 min
Kinnear, Lori

4.2 SFD Update

10 min
Williams, Tom M.

4.3 Overview of SPD Volunteer Services

10 min
MacConnell, Jacqui

4.4 Human Resources Discussion

10 min
Moss, David

4.5 Photo Enforcement Contract

5 min
Napolitano, Angie, Olsen, Eric

4.6 BJA Digital Evidence Management Grant Acceptance

Ernst, Shawna

4.7 Cryptocurrency Scam Report

20 min
Schwering, Tim

5 Consent Items

5.1 5100 - Fleet Services Pomp Tire Service Contract Amendment

Prince, Thea, Russell, Adam T.

5.2 5100 - Solid Waste Systems Service Contract Amendment

Prince, Thea, Russell, Adam T.

5.3 SBO – New Retirement FTE, Clerk III

5 min
Shisler, Christine

5.4 0370 - High-Speed Large Format Printing and Binding Contract Amendment (Engineering Services)

Buller, Dan

5.5 5100 - Fleet Services Toby's Body & Fender Service

Prince, Thea, Russell, Adam T.

5.6 Disposal Contract for Bypass/Non Process-able Waste

Averyt, Chris, Dorgan, Michelle

5.7 SBO-Add two, grant funded, Community Justice Specialist Positions

Thompson, Sarah

6 Executive Session

7 Adjournment

8 Next Meeting

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1

1 - Call to Order

2 - Approval of Minutes

Approval of August 28, 2023 meeting minutes.

| For Decision

Attachments

[2023.08.28 PSCHC Minutes Draft.docx](#)

STANDING COMMITTEE MINUTES
City of Spokane
Public Safety and Community Health
August 28, 2023

Call to Order: 10:32 a.m.

Recording of the meeting may be viewed here: <https://vimeo.com/833465700>

Attendance

Committee Members Present: CM Cathcart (Chair), CM Stratton, CM Wilkerson, CM Bingle (virtual), CM Zappone (arrived late)

CP Kinnear was absent.

Staff/Others Present: Chief Meidl, Giacobbe Byrd, Chris Wright, Sarah Thompson, Dan Waters, Chief Schaeffer, Shawna Ernst, Steve Wohl, Rob McCann, Michael McNab, Eric Olsen

Approval of Minutes

- Action taken
CM Wilkerson moved to approve the minutes; the motion was seconded by CM Stratton. The minutes were approved unanimously.

Agenda Items

Discussion items

1. Fire Department Update
 - Action taken
Presentation and discussion only, no action was taken.
2. Police Department Update
 - Action taken
Presentation and discussion only, no action was taken.
3. Byrne Discretionary Community Project Grant Award Discussion
 - Action taken
Presentation and discussion only, no action was taken.
4. Inspector General Resolution
 - Action taken
Presentation and discussion only, no action was taken.
5. Massage Parlor/Reflexology Ordinance
 - Action taken

- Presentation and discussion only, no action was taken.
6. Discussion on SCRAPS Oversight and Concerns
 - Action taken
Presentation and discussion only, no action was taken.
 7. Daytime Safety in Spokane Parks
 - Action taken
Presentation and discussion only, no action was taken.
 8. Independent Investigation Resolution
 - Action taken
Presentation and discussion only, no action was taken.
 9. Hillyard Library – Clean Air Issues
 - Action taken
Presentation and Introduction only, no action was taken.
 10. SBO for Congressional Designated Spending Funds for DV Intervention
 - Action taken
Presentation and discussion only, no action was taken.

Consent items

None.

Executive session

None.

Adjournment

The meeting adjourned at 11:44 a.m.

Prepared by:

Shae Blackwell

Approved by:

Council Member Michael Cathcart
PSCHC Committee Chair

3 - Monthly Reports / Updates

3.1

3.1 - Sit and Lie Monthly Update - July through September 2023

Napolitano, Angie

| For Information

Attachments

[Sit and Lie - July-August-Sept 2023 Redacted.pdf](#)

Ticket Number	TicketDatetime	TicketAddress	NameDOB
	7/16/2023 8:38	Wall/Riverside	Booked-refused to leave.
	7/20/2023 9:07	Browne/Second	
	7/26/2023 21:44	State/Second	
	8/3/2023 13:35	State/Second	
	8/8/2023 15:48	Jefferson/Railroad Alley	
	8/9/2023 8:46	State/Second	
	8/11/2023 11:17	Wall/Railroad	
	8/18/2023 13:59	Browne/Pacific	
	8/18/2023 14:00	Browne/Pacific	
	8/29/2023 8:11	Wall/Third	
	9/7/2023 10:44	Pacific/Browne	
	9/9/2023 19:13	168 S Division	
	9/10/2023 18:58	Pacific/Browne	
	9/14/2023 22:55	Pacific/State	
	9/15/2023 19:05	Division/Short	
	9/18/2023 8:21	Pacific/Browne	
	9/18/2023 8:24	Pacific/Browne	

3.2

3.2 - Office of Police Ombudsman Monthly Report

Logue, Bart

August report from the Office of Police Ombudsman.

| For Information

Attachments

[08-2023.pdf](#)

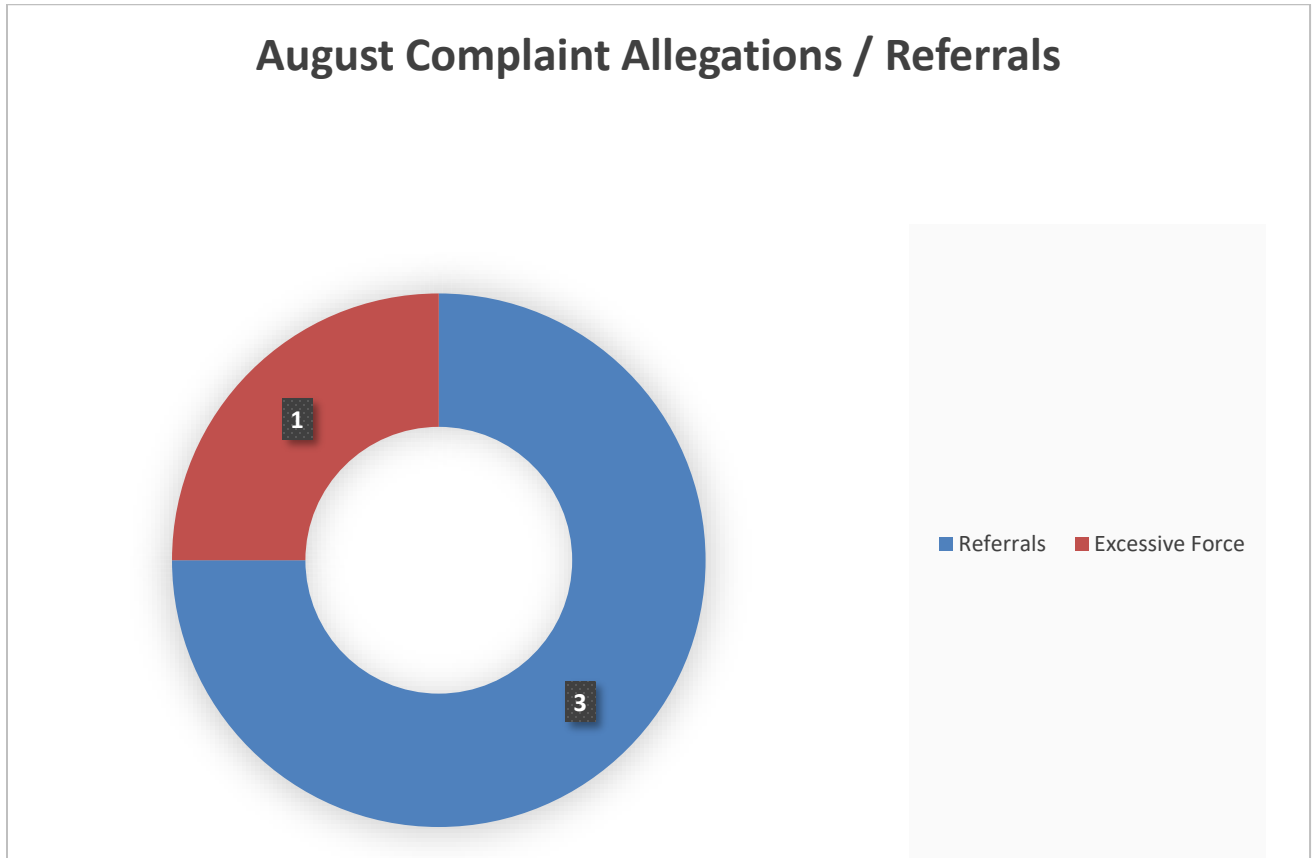


Office of the Police Ombudsman

Public Safety & Community Health Committee Report

Reporting Period: August 1 - 31, 2023

Complaints / Referrals / Contacts



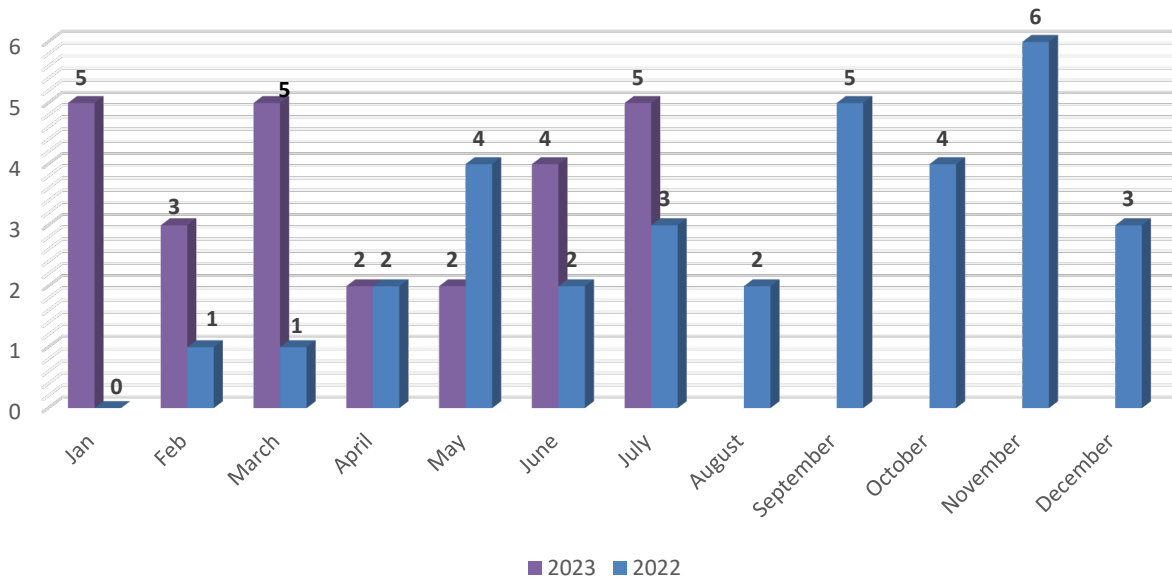
Highlights:

In August, the Office of the Police Ombudsman (OPO) submitted 1 complaint to Internal Affairs and 3 referrals to various agencies.

Highlights include:

- OPO 23-35: A community member was concerned about the force that was used on a person who was being arrested.
- ER 23-38: A community member was frustrated that because they inadvertently forgot a detail in a DV situation, they ended up being charged with 4th degree assault; SCSO
- IR 23-39: A community member was frustrated that they witness SPD officers not enforcing the 20mph speed limit in their neighborhood; IA/SPD

Complaints 2022 vs. 2023



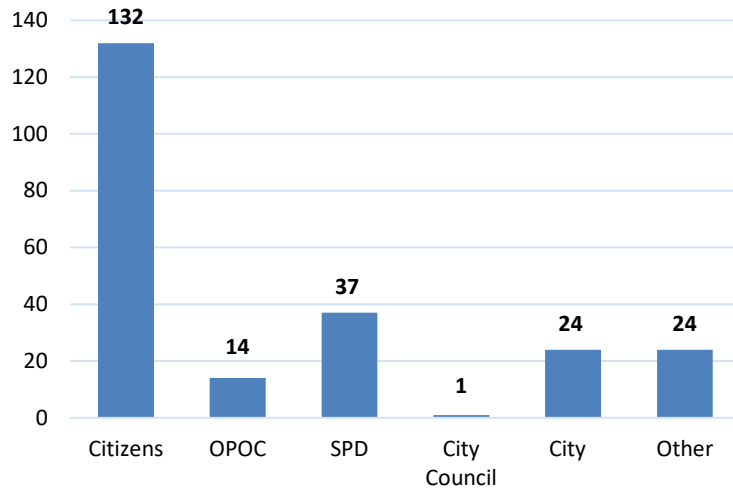
- The OPO has also submitted 8 commendations to SPD in 2023

Contacts / Oversight:

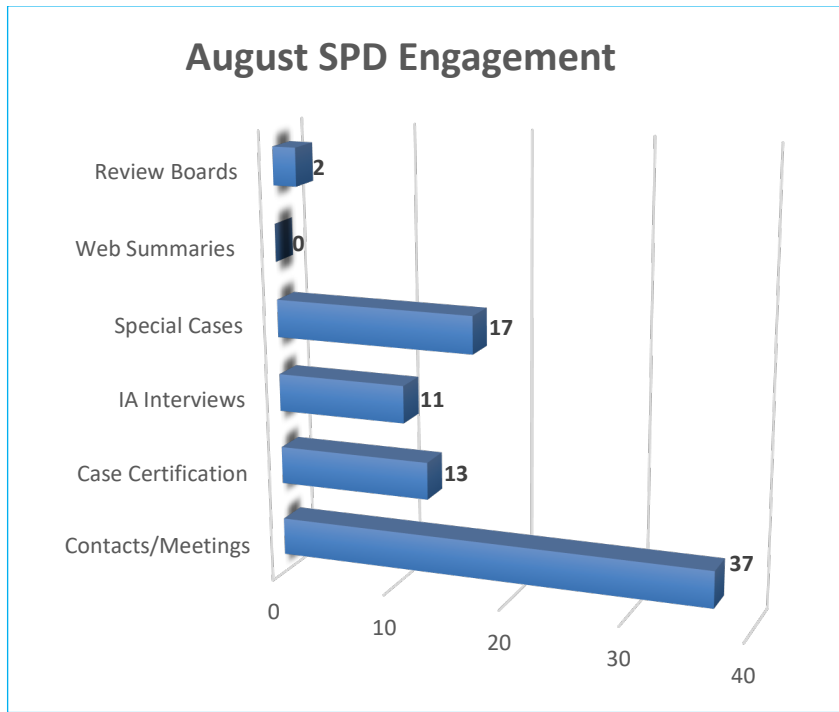
Contacts / Oversight

- 232 total contacts
- 7 OPO interviews were conducted
- 22 IA contacts
- 37 total SPD contacts

August Contacts



Oversight Activities



Case Work

13 – Cases certified

Special Cases

17 Cases Reviewed

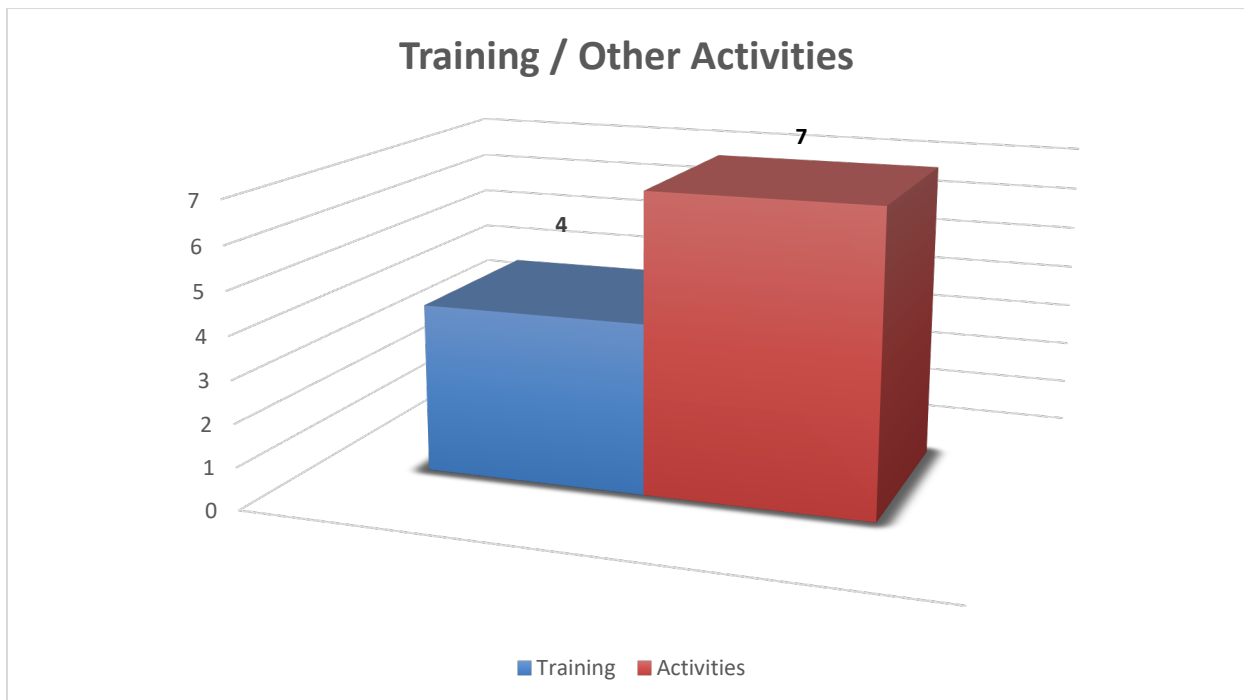
- UOF – 9
- K9 – 2
- Collision – 4
- Pursuit – 2

Review Boards

1 – Use of Force

1 – Collision / Pursuit

Training / Other Activities



Highlights:

- Community Meetings / Events – National Night Out – OPO attended 5 different events, Unity in the Community, OPOC Meeting, Ombudsman presented at the Journey Continues Graduation
- Oversight / Outreach – Mayors Quarterly Meeting, NACOLE Board Meeting, 4 Peer Review meetings for NOLA, SPD Review Board Meetings – Use of Force and Collision and Pursuit
- Training – Labor Law and Arbitration Conference, SPD Mock Scenes – 3 Days

Upcoming:

- WSCJTC Committee Meeting
- IACP Annual Conference
- NACOLE Annual Conference
- OPO selected for presentation at NACOLE Annual Conference

Office of the Police Ombudsman Commission Meeting:

Held virtually, the 3rd Tuesday of every month at 5:30pm

Agendas and meeting recordings can be found at:

<https://my.spokanecity.org/bcc/commissions/ombudsman-commission/>

3.3

3.3 - Integrus Architecture Progress Report for September, 2023

Schaeffer, Brian

| For Information

Attachments

[Integrus Architecture Progress Report September 2023.pdf](#)

Progress

- Draft report has been sent to SFD.

Under Development

- Draft report under review by SFD, Integrus and TCA

Next Steps

- Stake holder meeting to review draft report is scheduled for 10/3.
- Final report is scheduled for delivery at the end of October.

3.4

3.4 - Police & Fire uniform overtime report

Schmitt, Kevin

| For Information

Attachments

[FY23 PSCHC OT Report October.pdf](#)

Uniform OT thru period ended September 2nd

Fund	2023 Current Budget	Budget YTD	Actuals YTD	\$ Variance YTD (Unfavorable)/Favorable
Police (General Fund)	7,244,515	5,015,433	4,413,343	602,090
Public Safety & Judicial Grants	469,398	324,968	80,422	244,546
Public Safety Personnel Fund	14,000	9,692	98,263	(88,571)
Police TOTAL	7,727,913	5,350,094	4,592,028	758,065
Fire/EMS	5,635,042	3,901,183	4,803,068	(901,885)
Public Safety Personnel Fund	123,600	85,569	111,278	(25,709)
Fire TOTAL	5,758,642	3,986,752	4,914,346	(927,594)

3.5

3.5 - Photo Red Monthly Update

Napolitano, Angie

| For Information

Attachments

[Photo Red Sept 2023.pdf](#)

Committee Agenda Sheet [COMMITTEE]

Submitting Department	Police Department / Traffic Unit
Contact Name & Phone	Jim Christensen 509-835-4565
Contact Email	jchristensen@spokanepolice.org
Council Sponsor(s)	
Select Agenda Item Type	<input type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested: _____
Agenda Item Name	Photo Red / Speed
Summary (Background)	<p><u>Background/History:</u> Report for Public Safety meeting Oct 2nd, 2023.</p> <p>Statistic for Photo Red for the time frame of August 1st, 2023, thru August 31st, 2023.</p> <p style="padding-left: 40px;">There were 2352 violations on the photo red system from Aug 1st, 2023 thru Aug 31st, 2023. During the same time frame in 2021 there were 2026 violations, which is an increase of 326 violations. The increase was due to cameras SK07, SK09 and SK13 were down last year for the Thor/Ray construction.</p> <p>Statistic for Photo Speed for the time frame of August 1st, 2023, thru August 31st, 2023.</p> <p style="padding-left: 40px;">There were 0 violations on the photo speed system for August 1st, 2023 thru August 31st, 2023. During the same time frame in 2021 there were 0 violations.</p> <p><u>Executive Summary: Photo RED</u></p> <p style="text-align: center;">August 1st, 2023 thru August 31st, 2023</p> <ul style="list-style-type: none"> • Second and Thor was the highest with 400 violations. • Freya and Third was second highest with 297 violations. • Division and Francis was third highest with 287 violations. • Browne and Third was the fourth highest with 247 violations. <p><u>Executive Summary: Photo SPEED</u></p> <p style="text-align: center;">August 1st, 2023 thru August 31st, 2023</p>

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Proposed Council Action & Date:

Fiscal Impact:

Total Cost:
Approved in current year budget? Yes No N/A

Funding Source One-time Recurring
Specify funding source:

Expense Occurrence One-time Recurring

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

Operations Impacts

What impacts would the proposal have on historically excluded communities?

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

3.6

3.6 - Strategic Initiatives Monthly Update

Napolitano, Angie

Volunteer Services Edition 2023

| For Information

Attachments

[Strategic Initiatives October Report - Volunteer Services Edition 2023.pdf](#)



SPOKANE POLICE DEPARTMENT
CHIEF OF POLICE
CRAIG N. MEIDL

Strategic Initiatives
October 2023 Report
The Volunteer Services Unit Edition



Volunteer Services

Spokane Police Department's Volunteer Services Unit serves the department *and* the community

26,330 Volunteer Hours in 2022	74 Volunteers	3 SPD Employees
\$777,524 Value	Unpaid Volunteer Reserve Officers, Citizen Volunteers, Explorers, and Cadets	32 Community Events

There are four programs: Reserve Officers, Citizen Volunteers, Explorers, and Cadets. The Volunteer Services Unit contains a sergeant, clerk, and recruiter/background investigator.

SPD Volunteers help at Community Events that make Spokane great!

<p>Martin Luther King Jr. March Walk for Life St. Patrick's Day Parade Famous Footwear Shop with a Cop – Embrace WA Eastern Washington University Capstone Bloomsday Junior Lilac Parade Lilac Parade Pride Parade Hoopfest Hillyard Parade Eucharistic Exposition Dick's Sporting Goods Shop with a Cop Special Olympics Car Show Special Olympics Cop on Top National Drug Take Back Day</p>	<p>Salvation Army Shop with a Cop Police Activities League Tacos Y Tequila SpoKenya 7K Run Special Olympics Sport Exhibitions Cops, Cars, and Cruisers Unity in the Community Spokane County Fair Boulevard Run K9 Community Day Special Olympics Pacers team events National Night Out Against Crime Veteran's Arena event security for concerts Spokane Marathon Trunk or Treat events Holiday Parade</p>
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The Volunteer Response Team helps free up officers by providing aid in critical situations. The team has helped find a missing child, locate a gun from a crime scene, and provided scene security at a critical incident. The team also recently helped with Spokane County wildfire response.



Volunteers add value by augmenting current staff and by providing a pipeline of trained, qualified applicants for full-time employment.

70 of the current SPD Officers started out with the SPD Volunteer Services program

SPD Volunteers receive valuable training in police procedures, physical fitness, defensive tactics, legal issues, technology, firearms, crowd management, and communication. Hands-on experience combined with classroom training provides volunteers opportunities to try various roles in policing.



SkillBridge Program – a New Volunteer Services Program

SPD is participating in the Department of Defense’s SkillBridge program. SkillBridge provides SPD with direct access to a highly skilled applicant pool – volunteer/intern applicants who are transitioning from military service to civilian life. These applicants are paid full-time with entitlements from their military branch, while they are given an opportunity to train/job shadow, apply, and process with SPD for up to six months. SkillBridge provides volunteers who are potential applicants for commissioned and non-commissioned positions. SPD began work on SkillBridge at the beginning of 2023. SPD already has one SkillBridge individual in the current Academy.

<https://skillbridge.osd.mil/>

To learn more: <https://my.spokanecity.org/police/volunteers/>



Reserve Officers

The Reserve program is comprised of men and women who either aspire to be police officers or want to serve on the front line. Reserves are comprised of community members who volunteer their time to fulfill many of the roles handled by full-time, sworn police officers. A Reserve Officer is fully commissioned while on duty.

Requirements



Reserve Officer candidates are required to complete a five-month 370-hour Reserve Academy. These hardworking individuals attend the Academy on evenings and weekends. The program culminates with a certification examination administered by the Washington State Criminal Justice Training Commission prior to graduation.

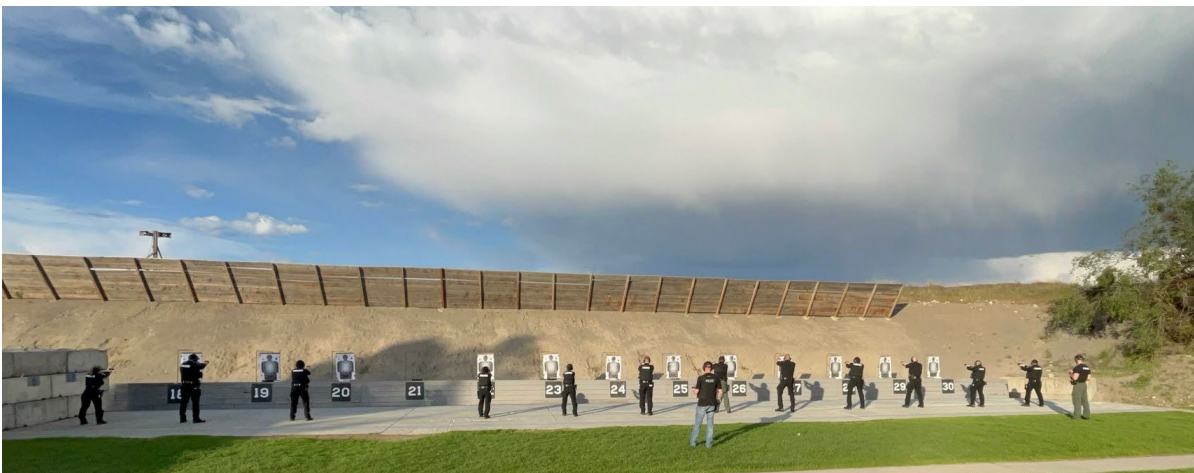
After graduation from the Reserve Officer Academy, Reserve Officers continue monthly training and volunteering to maintain their status.

Reserve Officers can continue their training with a mentoring program allowing them to progress to a Level II Reserve Officer, able to respond to calls as a solo officer.

Prior to attending the Reserve Academy, applicants must pass a background check, physical ability test, a polygraph, oral board, psychological testing, medical screening, and a review by the Chief of Police.

Incredible Training Opportunities

Defensive tactics, firearms, de-escalation, and Crisis Intervention are just a few of the regular training topics for Reserve Officers.





What do Reserve Officers do?

- Assist with Patrol calls for service
- Help with community events
- Represent SPD in community outreach programs

Below, Reserve Officers at the Special Olympics Car Show, Shop with a Cop, Community Safety Presentation, and Spokane County Fair, and Bloomsday



For more information, <https://my.spokanecity.org/police/volunteers/reserve-officers/>



Citizen Volunteers – Age 18+



Citizen Volunteers assist the commissioned and non-commissioned members of the SPD in the performance of their duties. This program includes anyone from age 18 years to Senior Citizens.

Requirements

People who enjoy working with the public, have people skills, are problem-solvers, and have basic clerical skills or computer knowledge can volunteer in Police Administration, the Police Academy, Records Division, or the Investigative Unit.

What do Citizen Volunteers do?

There are various opportunities, depending on interest and experience, including:

- Serving the public at information booths at the Public Safety Building and Courthouse Annex
- Working with officers at the front desk at the Public Safety Building and Investigations building
- Assisting patrol at the precinct buildings
- Vacation home checks
- Following up with Investigations
- Delivering and picking up mail between City sites
- Collecting found property (bikes, cameras, etc.)
- Assisting with reality-based training scenarios at the SPD Academy



Citizen Volunteers assist in community events such as Bloomsday, Hoopfest, and the Lilac Parade. They are involved in many community outreach programs like the Police Activities League (PAL).

Keith Campbell has volunteered as a coach with the Police Activities League for the last nine years.



<https://my.spokanecity.org/police/volunteers/citizen/>

Explorers – Youth Volunteers

Requirements

High school youth aged 14-18 years old are eligible to become an Explorer. Explorers commit to volunteering 20 hours per month. There are two Explorer Academies per year; it is mandatory to attend one Academy. Explorers must maintain a 2.5 GPA while serving.



What do Explorers do?

- Explorers help at community events such as Hoopfest, Bloomsday, and Lilac Parade. They attend the Spokane County Fair with officers.
- Community Outreach programs. In 2023, nine Explorers helped with the Police Activities League (PAL), SPD's flagship youth outreach program.
- Explorers routinely help with Shop with a Cop and back-to-school events.
- When Explorers reach a certain level of proficiency, they are allowed to ride with an officer on patrol.
- Explorers can assist the department with training, such as reality-based training scenarios.



Training Opportunities

At the Explorer Academies, youth receive training and are tested on Academics, Physical Agility, and Firearms.

At the Summer 2023 Explorer Academy, several SPD volunteers were recognized. Derek Schweigert was in the Intermediate level, participating in his 2nd Explorer Academy. He earned the following awards: 1st Place Male Physical Agility, 3rd Place Academics, 1st Place Overall.

Emma LaRue was an Academy Assistant, participating in her 4th Explorer Academy. She earned the award for: Best Academy Assistant.





<https://my.spokanecity.org/police/volunteers/explorers-cadets/>

Cadets

Requirements

Cadets are high school/equivalency graduates ages 18-24. Cadets must maintain a 2.5 GPA while enrolled in school and commit to volunteering 20 hours per month. They also attend the Explorer Academy.



What do Cadets do?

- Cadets are allowed to ride with an officer on patrol, once they reach a certain level of proficiency.
- Cadets can advance to a Level 2 Cadet which allows them to assist patrol officers with cold report calls (Burglaries, Hit and Run Collisions, Pick Up Found Property etc.).
- Level 2 Cadets receive advanced training on non-emergency vehicle operation and are qualified to take a vehicle out on patrol to respond to non-emergency calls.
- Cadets also participate in internships and supplemental roles in patrol, records, etc.
- Cadets help at community events such as Hoopfest, Bloomsday, Lilac Parade, and Spokane County Fair.
- Assist with safety presentations for various populations (e.g., youth centers).



SPD Volunteers give back to the community while acquiring valuable training, mentoring, and experience.

Training Opportunities

The Cadet program offers training about police procedures. Cadets learn about all the specialty units in the department, such as K9, Hostage Negotiation Team, and Drone Unit. They train to improve their communication skills.

Cadets also attend the Explorer Academy. At the Summer 2023 Explorer Academy, Cadet Koleton Vaughn was in the Advanced level, participating in his 3rd Explorer Academy. He earned the following awards: 1st Place Male Physical Agility, 3rd Place Firearms, 2nd Place Overall.

At right, a cadet practices reality-based training scenarios with Reserve Officers.



To learn more: <https://my.spokanecity.org/police/volunteers/>

4 - Discussion Items

4.1

10 min

4.1 - SCRAPS Advisory Board Appointment Interviews

Kinnear, Lori

Placeholder for interviews with two SCRAPS Advisory Board appointees.

| For Discussion

4.2

10 min

4.2 - SFD Update

Williams, Tom M.

Monthly update from Spokane Fire Department leadership.

| For Discussion

4.3

10 min

4.3 - Overview of SPD Volunteer Services

MacConnell, Jacqui

| For Discussion

4.4

10 min

4.4 - Human Resources Discussion

Moss, David

Discussion on City processes relating to human resources.

| For Discussion

4.5

5 min

4.5 - Photo Enforcement Contract

*Napolitano, Angie,
Olsen, Eric*

Council Sponsor: CP Lori Kinnear

Approve new contract - American Traffic Solutions is now Verra Mobility - current contract expires in November 2023.

| For Discussion

Attachments

[Briefing Paper Verra contract 2023.pdf](#)

Committee Agenda Sheet

Public Safety & Community Health Committee

Submitting Department	Police Department
Contact Name	Maj. Eric Olsen
Contact Email & Phone	eolsen@spokanepolice.org 509-835-4505
Council Sponsor(s)	CP Kinnear
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:
Agenda Item Name	Photo Enforcement Contract
Summary (Background) *use the Fiscal Impact box below for relevant financial information	<p>In 2006, members of the Public Safety Committee asked the Police Department to look into photo enforcement for the City. In March of 2008, a contract was signed with American Traffic Solutions, now Verra Mobility, to bring this traffic safety program to Spokane.</p> <p>Since then, two five-year extensions were granted, the last of which expires November 2023.</p> <p>This briefing paper is to submit the new contract for approval.</p>
Proposed Council Action	Approval of new contract
<p>Fiscal Impact</p> <p>Total Cost: <u>Click or tap here to enter text.</u></p> <p>Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring</p> <p>Specify funding source: Traffic Calming</p> <p>Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p> <p>This is a revenue generating program with funds going to the Traffic Calming Fund. It should be noted, Verra Mobility is reducing our monthly camera fee at a savings of approximately \$121,000 over the life of the contract.</p>	
Operations Impacts (If N/A, please give a brief description as to why)	
<p>What impacts would the proposal have on historically excluded communities?</p> <p>Careful consideration and research, based on crash statistics among other factors, is given to placement of each camera system with the goal of reducing crashes and the severity of those crashes through enforcement of red lights and speed zones.</p>	
<p>How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?</p> <p>The citations get issued to the registration of the car, not to a specific driver, so we have no way to collect this data.</p>	

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Data for the program and its outcomes is collected and reported to Council every year. It is also available to the public on our website. The Council also receives monthly reports from the Police Department on basic statistical information.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This program aligns with policies etc., due the fact it's already been active within the City for 15 years.

4.6

4.6 - BJA Digital Evidence Management Grant Acceptance

Ernst, Shawna

Spokane Police Department in partnership with the City of Spokane Prosecutor's Office was awarded a \$1,000,000 Bureau of Justice Assistance Grant. This is a competitive grant with only two agencies in the nation receiving the award.

| For Information

Attachments

[Briefing Paper - Spokane Police Digital Evidence Grant.docx](#)

[SBO - FY23 Body-Worn Camera grant.docx](#)

Committee Agenda Sheet

Public Safety and Community Health

Submitting Department	Spokane Police Department
Contact Name & Phone	Shawna Ernst – 509-625-4106
Contact Email	sernst@spokanepolice.org
Council Sponsor(s)	CM Cathcart, CM Kinnear
Select Agenda Item Type	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion Time Requested: 5 minutes
Agenda Item Name	BJA Digital Evidence Management Grant Acceptance & SBO
Summary (Background)	<p>Spokane Police Department in partnership with the City of Spokane Prosecutor’s Office was awarded a \$1,000,000 Bureau of Justice Assistance Grant. This is a competitive grant with only two agencies in the nation receiving the award.</p> <p>Project Description (from the grant application):</p> <p>The Spokane Police Department (SPD) implemented a BWC program in 2015 and integrated the program with digital evidence management in 2021 using a centralized, cloud-based system. The current system works well but requires significant staff time to ensure digital evidence is shared with the City of Spokane Prosecutor’s Office in an effective manner. SPD has taken an approach of sharing all misdemeanor-related BWC video based on an integration with Computer-Aided Dispatch (CAD) calls for service. This approach has many advantages including providing evidence quickly, but significant disadvantages in that it shares digital media the Prosecutor’s Office may not need and relies on CAD data which does not directly relate to charge levels (misdemeanor vs felony) or the call for service outcome (arrest, citation, warning, etc.). This proposal seeks to improve video categorization and develop robust software integrations to automate the transfer of evidence from the digital evidence management system to the Prosecutor’s Office/Court software suite.</p> <p>The proposal requests funding through Category 3: Digital Evidence Management and Integration Demonstration Projects of the BWC Policy and Implementation Program solicitation (O-BJA-2023-171562).The project has five goals:</p> <p>Goal 1: Improve BWC categorization to better identify misdemeanor video (for routing to City Prosecutor’s Office) versus felony video (for routing to County Prosecutor’s Office).</p> <p>Goal 2: Improve BWC video routing by conflating video with call for service outcomes (arrest, citation, infraction, etc.). Reduce the number of videos sent to the Prosecutor’s Office that are not tied to criminal action.</p> <p>Goal 3: Reduce storage of digital evidence that has met its court and Washington State Public Records Act required retention. This will reduce cloud hosted storage space and reduce public records liability and the time needed to redact BWC video.</p>

Goal 4: Reduce manual file sharing processes through automation.

Goal 5: Reduce manual review of digital evidence and risk of missing evidence during investigations/case discovery process. SPD will provide performance measures including a comparison of data shared since 2021 and data shared after completion of the project phases. SPD will also provide a SharePoint site with documentation on project progress, milestones, technical documentation, end-user training, and other items. SPD is currently working to migrate from its current police report/records management system to a cloud based system fully integrated with the digital evidence management system. That companion project will allow for sharing of project documentation and lessons learned covering both projects.

This grant funding will improve digital evidence sharing for all cases in Spokane and will benefit both the City of Spokane Prosecutor’s Office (40 personnel) and the Spokane County Prosecutor’s Office (139 personnel). There will be additional benefits for the Spokane County Sheriff’s Office, Spokane Valley Police Department, and Liberty Lake Police Department as those partner agencies, along with Spokane Police, are members of a regional public safety software consortium and share a single computer aided dispatch/law enforcement records management system, and utilize the same digital evidence vendor. This ongoing partnership will make knowledge-sharing very effective. In total, this project could easily benefit 1,000 staff members in the greater Spokane area as well as improving case outcomes for victims by ensuring that digital evidence is quickly and seamlessly shared via the discovery process.

Funds provided under the grant would be used to streamline and automate digital evidence sharing from the police Evidence.com system to the Prosecutor’s eSeries system. Funding would provide professional services from the respective vendors, offset staff costs related to grant activities, and fund a project employee dedicated to this work.

Special budget ordinance is requested to provide necessary grant expenditure budget along with grant reimbursement revenue. Net zero effect on the overall budget.

Proposed Council Action & Date: Grant acceptance and SBO approval on October 16th, 2023

Fiscal Impact:
 This is a non-match grant. There is no fiscal impact to the City.

Approved in current year budget? Yes No N/A

Funding Source One-time Recurring

Specify funding source: Dept of Justice through the Bureau of Justice Assistance

Expense Occurrence One-time Recurring

All expenses occur during the three-year funding timeframe (2023 – 2026)

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

Operations Impacts

What impacts would the proposal have on historically excluded communities?

This proposal will streamline digital evidence for all cases and will benefit the entire community by reducing workload on existing staff, freeing up staff to perform other important services.

How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?

Under the grant requirements, we will collect a wealth of data about the efficacy of this program. We are not planning to collect data by existing disparities since this program impacts every case in the system and the benefits will be seen across the spectrum.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Data will be collected following the requirements of the grant.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This proposal aligns with the Strategic Plan goal “Safe and Healthy” as it makes significant improvements to effective criminal justice processes.

ORDINANCE NO _____

An ordinance amending Ordinance No. C36345, passed by the City Council December 12, 2022, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2023, making appropriations in the various funds of the City of Spokane government for the year ending December 31, 2023, and providing it shall take effect immediately upon passage," and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2023 budget Ordinance No. C36345, as above entitled, and which passed the City Council December 12, 2022, it is necessary to make changes in the appropriations of the Public Safety & Judicial Grants Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the Public Safety & Judicial Grants Fund, and the budget annexed thereto with reference to the Fund, the following changes be made:

- 1) Increase revenue by \$337,139.
 - A) Of the increased revenue, \$337,139 is provided by the Department of Justice through their FY23 BJA Body-Worn Camera grant.

- 2) Increase appropriation by \$337,139.
 - A) Of the increased appropriation, \$241,710 is provided solely for base wages.
 - B) Of the increased appropriation, \$10,429 is provided solely for computers.
 - C) Of the increased appropriation, \$85,000 is provided solely for professional services.

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to accept body-worn camera grant funding from the Department of Justice, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date

4.7

20 min

4.7 - Cryptocurrency Scam Report

Schwering, Tim

Presentation by SPD Detective Tim Schwering on cryptocurrency scams. Cryptocurrency is a digital currency, which is an alternative form of payment created using encryption algorithms.

| For Discussion

5 - Consent Items

5.1

5.1 - 5100 - Fleet Services Pomp Tire Service Contract Amendment

*Prince, Thea, Russell,
Adam T.*

Council Sponsor: CP Kinnear

Fleet Services would like to add \$150k to the annual contract amount for the remainder of the year 2023.

Pomp's was recently promoted to primary tire vendor for the City's Fleet requiring an increase to the contract amount.

| For Information

Attachments

[Pomp Tire Contract Amendment Briefing Paper 9.18.23.docx](#)

Committee Agenda Sheet

Public Safety & Community Health Committee

Submitting Department	Fleet Services
Contact Name	Adam Russell
Contact Email & Phone	Atrussell@spokanecity.org 232-8843
Council Sponsor(s)	CP Kinnear
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:
Agenda Item Name	5100 - Pomp Tire Services Service Contract Amendment
Summary (Background) *use the Fiscal Impact box below for relevant financial information	Fleet Services would like to add \$150k to the annual contract amount for the remainder of the year 2023. Pomp's was recently promoted to primary tire vendor for the City's Fleet requiring an increase to the contract amount.
Proposed Council Action	Approve Amendment
Fiscal Impact	
Total Cost: <u>\$150,000</u>	
Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring	
Specify funding source: Fleet Services Budget	
Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring	
Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impacts (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities? None Identified	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? Data will not be collected.	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? Ongoing cost and service analysis is being conducted to ensure best value.	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? Aligns with Centralized Fleet Policy.	

5.2

5.2 - 5100 - Solid Waste Systems Service Contract Amendment

*Prince, Thea, Russell,
Adam T.*

Council Sponsor: CP Kinnear

Fleet Services would like to add \$200k to the total annual compensation for this contract for each of the remaining years.

Higher than anticipated usage and inflation have resulted in yearly expenditures exceeding the original contract amount.

| For Information

Attachments

[Solid Waste System Contract Amendment Briefing Paper 9.18.23.docx](#)

Committee Agenda Sheet

Public Safety & Community Health Committee

Submitting Department	Fleet Services
Contact Name	Adam Russell
Contact Email & Phone	Atrussell@spokanecity.org 232-8843
Council Sponsor(s)	CP Kinnear
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:
Agenda Item Name	5100 - Solid Waste Systems Service Contract Amendment
Summary (Background) *use the Fiscal Impact box below for relevant financial information	Fleet Services would like to add \$200k to the total annual compensation for this contract for each of the remaining years. Higher than anticipated usage and inflation have resulted in yearly expenditures exceeding the original contract amount.
Proposed Council Action	Approve Amendment
Fiscal Impact Total Cost: <u>\$200,000</u> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Specify funding source: Fleet Services Budget Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impacts (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities? None Identified	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? Data will not be collected.	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? Cost data is collected for use during contract bidding process.	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? Aligns with Centralized Fleet Policy	

5.3

5 min

5.3 - SBO – New Retirement FTE, Clerk III

Shisler, Christine

Approval of this SBO to allow the Clerk III position to be created so the hiring process can begin.

| For Discussion

Attachments

[Briefing Paper - New Retirement FTE Clerk III.docx](#)

Committee Agenda Sheet

Public Safety & Community Health Committee

Submitting Department	Retirement
Contact Name	Christine Shisler
Contact Email & Phone	cshisler@spokanecity.org 509-625-6833
Council Sponsor(s)	Jonathan Bingle, Karen Stratton
Select Agenda Item Type	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion Time Requested: 5:00 minutes
Agenda Item Name	SBO – New Retirement FTE, Clerk III
Summary (Background) *use the Fiscal Impact box below for relevant financial information	<p>The former Director of Retirement, Phillip Tencick, vacated the position in January 2023. Following Phillip’s departure, the Assistant Director of Retirement, Christine Shisler, was selected as the Interim Director of Retirement.</p> <p>In 2023 the Law Enforcement Officers’ and Fire Fighters’ (LEOFF) I retiree medical was moved to the Retirement department as Kris Redmond was promoted from Benefits Specialist to Human Resources Analyst 1. Administration of LEOFF I retiree medical took approximately one-third of Kris’ time, sometimes more. The Retirement department’s current staff of two requires the assistance of a third person in the department.</p> <p>The Retirement board approved the addition of the new Clerk III position prior to the submission of this SBO. If the new position is approved by City Council the department hopes to hire a Clerk III via transfer or promotion to expedite the process. Ideally, the new hire will begin in early November, 2023.</p> <p>This SBO does not include an increase to the Retirement Fund’s appropriation for 2023 because salary savings for the Director of Retirement position provides sufficient budget capacity to pay for the new position for the remainder of 2023.</p>
Proposed Council Action	Approval of this SBO to allow the Clerk III position to be created so the hiring process can begin.
<p>Fiscal Impact</p> <p>Total Annual Cost: \$74,000 - \$103,000 (Step 1 – Step 6)</p> <p>Total Cost Remaining This Year: \$12,000 - \$17,000 (Step 1 – Step 6, 2 months)</p> <p>Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Funding Source <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Recurring</p> <p>Specify funding source: Salary savings from the vacant (since Jan. 2023) Director of Retirement position.</p> <p>Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	

Operations Impacts (If N/A, please give a brief description as to why)
<p>What impacts would the proposal have on historically excluded communities?</p> <p>N/A – this new position would not directly help any community specifically. It will indirectly help retirees by increasing the capacity of the Retirement department.</p>
<p>How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?</p> <p>N/A – the new position does not introduce any new program/policy so there won't be any data to collect/analyze/report.</p>
<p>How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?</p> <p>Data won't be collected, but the Department may choose to reassess the need for the additional FTE or Clerk III specifically after they have filled the vacant Director of Retirement position.</p>
<p>Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?</p> <p>The new position will help the Retirement department effectively administer the City's retirement plans for current and future retirees which is a legal obligation more than it is a comprehensive plan item.</p>

5.4

5.4 - 0370 - High-Speed Large Format Printing and Binding Contract Amendment (Engineering Services)

Buller, Dan

Council Sponsor: CP Kinnear. Contract amendment for engineering drawings and standard specification documents for Public Works projects.

| For Information

Attachments

[Abadan.pdf](#)

Committee Agenda Sheet

Public Safety & Community Health Committee

Submitting Department	Public Works, Engineering
Contact Name	Dan Buller
Contact Email & Phone	dbuller@spokanecity.org 625-6391
Council Sponsor(s)	Lori Kinnear
Committee Date	October 2, 2023
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:
Agenda Item Name	High-Speed Large Format Printing and Binding Contract Amendment
Summary (Background) *use the Fiscal Impact box below for relevant financial information	<p>The engineering drawings and standard specification books to be constructed for Public Works projects are printed and bound by a high-speed, large-format printing and binding vendor.</p> <ul style="list-style-type: none"> • Abadan Reprographics was selected from responses to a Request for Proposals in 2021. The duration of the existing contract is June 7, 2021, through May 31, 2023, with an executed 1-year extension through May 31, 2024. • This proposed amendment will add \$100,000 to the term of the contract. • Funds expended under this master contract are billed to various public works projects.
Proposed Council Action	Approval of amendment with cost to contract
<p>Fiscal Impact \$100,000 Total Cost: Click or tap here to enter text. Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Specify funding source: Click or tap here to enter text.</p> <p>Expense Occurrence <input type="checkbox"/> One-time <input type="checkbox"/> Recurring</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
Operations Impacts (If N/A, please give a brief description as to why)	
<p>What impacts would the proposal have on historically excluded communities?</p> <p>Public Works services and projects are designed to serve all citizens and businesses. We strive to offer a consistent level of service to all, to distribute public investment throughout the community, and to respond to gaps in services identified in various City plans. We recognize the need to maintain affordability and predictability for utility customers. And we are committed to delivering work that is both financially and environmentally responsible. This item supports the operations of Public Works.</p>	
<p>How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?</p> <p>N/A – This contract supports multiple public works projects and should not impact racial, gender identity, national origin, income level, disability, sexual orientation or other existing disparity factors.</p>	

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

Public Works follows the City's established procurement and public works bidding regulations and policies to bring items forward, and then uses contract management best practices to ensure desired outcomes and regulatory compliance.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

The project is consistent with our adopted six year programs as well as the annual budget and strategic initiative to advance street improvement activities.

Expenditure Control Form



- 1. All requests being made, including those against master agreements, must be accompanied by this form.
- 2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
- 3. Route **ALL** requests to the Division Director first and then the CFO for signature.
- 4. The CFO will route for signature to the City Administrator.

Today's Date: 9/15/23

Type of expenditure:

Goods Services

Department: 0370 - Engineering Services

Approving Supervisor: Dan Buller, Director of Engineering Services

Amount of Proposed Expenditure: \$100,000

Is this against a master agreement? If yes, please provide the number: OPR 2021-0391

Funding Source Capital Projects - billed to individual projects

Please verify correct funding sources. Indicate breakdown if more than one funding source.

Why is this expenditure necessary now?

Photocopying expenditures to Abadan are an essential part of bidding and construction of the City's public works infrastructure projects and are ultimately paid for by those infrastructure projects.



What are the impacts if expenses are deferred?

Without the photocopying services provided by Abadan, the City's public works infrastructure projects cannot be constructed.

What alternative resources have been considered?

Converting to all electronic plans and specs was considered but is not feasible since construction personnel typically do not have computers in the field.

Description of the goods or service and any additional information?

Abadan Reprographics provides printing services for the specifications and plan sheet sets for each capital project. The specifications book and the engineering plan sheets are the technical documents used by contractors, surveyors and other professional staff for projects to be constructed.

Person Submitting Form/Contact:

Division Director:

Marlene Faust

CFO Signature:

Tonya Wallace

City Administrator Signature:

Additional Comments:

The current contract runs through May of 2024 and then a new request for qualifications will be issued.

5.5

5.5 - 5100 - Fleet Services Toby's Body & Fender Service *Prince, Thea, Russell, Adam T.*

Council Sponsor: CP Kinnear

Fleet Services would like to add \$150k to the total annual compensation for this contract.

Higher than anticipated usage and inflation have led to expenditures above the original contract dollar amount.

| For Information

Attachments

[Toby's Body _ Fender Contract Amendment Briefing Paper 9.18.23.pdf](#)

Committee Agenda Sheet

Public Safety & Community Health Committee

Submitting Department	Fleet Services
Contact Name	Adam Russell
Contact Email & Phone	Atrussell@spokanecity.org 232-8843
Council Sponsor(s)	CP Kinnear
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:
Agenda Item Name	5100 - Toby's Body & Fender Service Contract Amendment
Summary (Background) *use the Fiscal Impact box below for relevant financial information	Fleet Services would like to add \$150k to the total annual compensation for this contract. Higher than anticipated usage and inflation have led to expenditures above the original contract dollar amount.
Proposed Council Action	Approve Amendment
Fiscal Impact	
Total Cost: <u>\$200,000</u>	
Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring	
Specify funding source: Fleet Services Budget	
Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring	
Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impacts (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities? None Identified.	
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities? Data will not be collected.	
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution? Costs are collected to be compared during future contract bids.	
Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others? Aligns with Centralized Fleet Policy	

5.6

5.6 - Disposal Contract for Bypass/Non Process-able Waste - *Averyt, Chris, Dorgan, Michelle*

Council Sponsor: CP Kinnear.

Solid Waste - Contract award to Waste Management for the transportation and disposal of all bypass and non process-able waste from the Waste to Energy Facility and County Transfer Stations.

| For Information

Attachments

[Briefing Paper-Ash Bypass.docx](#)

[Expenditure Control Form 2023-Bypass Hauling - signed.pdf](#)

[City of Spokane Bypass - WM Comments 09-20-2023 cos edits.pdf](#)

Committee Agenda Sheet

Public Safety & Community Health Committee

Submitting Department	Solid Waste Disposal
Contact Name	Chris Averyt
Contact Email & Phone	caveryt@spokanecity.org, 625-6540
Council Sponsor(s)	CP Kinnear
Committee Date	October 2, 2023
Select Agenda Item Type	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion Time Requested:
Agenda Item Name	Contract award for the transportation and disposal of bypass and non-processible waste from the Waste to Energy Facility.
Summary (Background) *use the Fiscal Impact box below for relevant financial information	<p>On March 20, 2023 bidding closed on RFP 5817-23 for transportation and disposal of bypass and non-processible waste from the Waste to Energy Facility and County Transfer Stations. Responses were received from Waste Connections (Vancouver, WA), Waste Management of Washington, Inc. (Kirkland, WA) and Regional Disposal Company (Redmond, WA), of which Waste Management was the preferred bidder.</p> <p>The initial contract award will be for five (5) years with the option of one (1) additional five (5) year period, commencing on Nov. 17, 2023. Pricing is \$58.95/ton for the first year with future increases based on the CPI index.</p>
Proposed Council Action	Approval of contract award
Fiscal Impact Total Cost: <u>\$4,500,000.00 annually</u> Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Specify funding source: 4490-SWD Budget Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impacts (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities?	The work is required to maintain the Facility's ability to generate low-cost power supplied to the grid. Low-cost power is imperative to curbing the rise in cost of electricity.
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?	The contractor is governed by WA L&I.

How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?

The COS Procurement Policies regulate and safeguard this process.

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

This work supports the continued safe operation the Facility. The expenditure is supportive of the Sustainable Action Plan and the Capital Improvement Program.

Expenditure Control Form



- 1. All requests being made, including those against master agreements, must be accompanied by this form.
- 2. All requests requiring City Council approval exceeding \$100,000 must be accompanied by this form.
- 3. Route **ALL** requests to the Division Director first and then the CFO for signature.
- 4. The CFO will route for signature to the City Administrator.

Today's Date: 9/14/23

Type of expenditure: Ops Services

Goods Services

Department: Solid Waste Disposal

Approving Supervisor: Chris Averyt

Amount of Proposed Expenditure: \$4,500,000.00 annually

Is this against a master agreement? If yes, please provide the number:

Funding Source SWD Budget 4490-44100-37148-54201

Please verify correct funding sources. Indicate breakdown if more than one funding source.

Why is this expenditure necessary now?

It is a violation of the facility's operating permit to allow trash to accumulate on site. There also is no

What are the impacts if expenses are deferred?

Operating permits would be violated, resulting in fines. The WTE Facility would be forced to cease o

What alternative resources have been considered?

There are no other alternatives other than hauling the material off-site and the local landfill capacity i

Description of the goods or service and any additional information?

This is a five year contract for the transportation and disposal of non-processible and bypass waste g

Person Submitting Form/Contact: Michelle Dorgan X6555

Division Director:

Marlene Feist

CFO Signature:

Tonya Wallace

City Administrator Signature:

[Signature]
Garrett Miller (Sep 18, 2022 10:41 PDT)

Additional Comments:












Expenditure Control Form 2023-Bypass Hauling

Final Audit Report

2023-09-18

Created:	2023-09-14
By:	Michelle Dorgan (mdorgan@spokanecity.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAhMTA8EEyKUzOzIBNdh0b4xNUJAwY3eXa

"Expenditure Control Form 2023-Bypass Hauling" History

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SERVICE CONTRACT FOR TRANSPORT AND DISPOSAL OF BYPASS
AND NON-PROCESSIBLE WASTE

Between

CITY OF SPOKANE, WASHINGTON

And

WASTE MANAGEMENT OF WASHINGTON, INC.

Dated

_____, 2023

SERVICE CONTRACT FOR TRANSPORT AND DISPOSAL SERVICES

THIS SERVICE CONTRACT FOR BYPASS WASTE AND NON-PROCESSIBLE WASTE TRANSPORT AND DISPOSAL SERVICES (this “Contract”) is made and entered into between **City of Spokane**, Washington, a municipal corporation of the State of Washington (the “City”) and **Waste Management of Washington, Inc.**, a Delaware corporation authorized to do business in the State of Washington (the Company”). The City and the Company are each a “Party” and collectively the “Parties” to this Contract.

RECITALS

(A) The City has determined that it is in the City's best interests to contract with a private entity to provide Bypass Waste and Non-Processible Waste transport and disposal services (as more particularly described herein, the “Contract Services”).

(B) On January 6, 2023, the City issued a Request for Proposals (“RFP”) to provide the Contract Services.

(D) Responsive proposals submitted in response to the RFP were received on March 20, 2023 from three (3) firms.

(E) The proposals were reviewed by the City’s evaluation committee and evaluated based on the evaluation criteria set forth in the RFP.

(F) Based on the evaluation of the proposals, the evaluation committee determined that the proposal submitted by the Company was the most advantageous proposal received in response to the RFP and recommended to the City Council that it would be advantageous to the City to initiate contract negotiations with the Company.

THEREFORE, in consideration of the mutual covenants contained herein, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I DEFINITIONS, INTERPRETATION AND GENERAL TERMS

SECTION 1.1. DEFINITIONS. As used in this Contract, the following terms have the meanings set forth below:

“Applicable Law” means: (1) any federal, state or local law, code or regulation; (2) any formally adopted and generally applicable rule, requirement, determination, standard, policy, implementation schedule or other order of any Governmental Body having appropriate jurisdiction; (3) any established interpretation of law or regulation utilized by an appropriate Governmental Body if such interpretation is documented by such Governmental Body and both generally applicable and publicly available; and (4) any Governmental Approval; in each case applicable from time to time to the Facilities, the Contract Services or any other transaction or matter contemplated hereby (including any of the foregoing which pertain to waste

management, waste transportation, waste disposal, health, safety, fire, environmental protection, labor relations, building codes, the payment of prevailing or minimum wages and non-discrimination).

“Bypass Waste” means municipal solid waste, as defined in the Washington Administrative Code 173-350-100, which is suitable for combustion but is not burned at the WTE Facility because it is in excess of the WTE Facility’s capacity, either because of seasonal peaks in generation of waste or because the WTE Facility is either shut down or operating at a reduced throughput due to maintenance other reasons. Bypass waste will originate from the Transfer Stations and for purposes of this Contract specifically excludes Recyclable Materials, and Unacceptable Waste.

“C&D Waste” means non-recyclable dry wastes resulting from construction, renovation, remodeling, repair or demolition operations of buildings, structures, road building or from land clearing activities.

“C&D Disposal Site” means a Disposal Site permitted to accept C&D Waste.

“Change in Law” means any of the following acts, events or circumstances to the extent that compliance therewith materially increases the cost of performing or materially increases the scope of a Party’s obligations hereunder:

- (1) except as provided below with respect to the exclusions from the definition of “Change in Law,” the adoption, amendment, promulgation, issuance, modification, repeal or other written change in any Applicable Law, or the administrative or judicial interpretation thereof on or after the Contract Date, unless such Applicable Law was on or prior to the Contract Date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any Governmental Body; or
- (2) except as provided below with respect to the exclusions from the definition of “Change in Law,” the order or judgment of any Governmental Body issued on or after the Contract Date (unless such order or judgment is issued to enforce compliance with Applicable Law which was effective as of the Contract Date) to the extent such order or judgment is not the result of willful or negligent action, breach of this Contract, violation of law, illegal act, error or omission or lack of reasonable diligence of the Company or of the City, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment will not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or
- (3) except as provided below with respect to the exclusions from the definition of “Change in Law,” the denial of an application for, a delay in the review, issuance or renewal of, or the suspension, termination, or interruption of any Governmental Approval, or the imposition of new or increased permitting fees, or the imposition of a term, condition or requirement which is more stringent or burdensome than the

Contract Standards in connection with the issuance, renewal or failure of issuance or renewal of any Governmental Approval, to the extent that such occurrence is not the result of willful or negligent action, breach of this Contract, violation of law, illegal act, error or omission or lack of reasonable diligence of the Company or of the City, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such occurrence will not be construed as such a willful or negligent action or lack of reasonable diligence.

It is specifically understood, however, that none of the following will constitute a “Change in Law”:

- (1) a change in the nature or severity of the actions typically taken by a Governmental Body to enforce compliance with Applicable Law which was effective as of the Contract Date;
- (2) any increase in any fines or penalties provided for under Applicable Law in effect as of the Contract Date; or
- (3) any act, event or circumstance that would otherwise constitute a Change in Law but that does not change the requirements imposed on the Company by the Contract Standards in effect as of the Contract Date.

“City” means City of Spokane, Washington, a municipal corporation.

“Company” means Waste Management of Washington, Inc., a Delaware corporation authorized to do business in the State of Washington, and its permitted successors and assigns.

“Containers” means intermodal containers as described in Appendix 3.

“Contract” means this Service Contract for Bypass Waste and Non-Processible Waste, Transport and Disposal Services between the Company and the City, including the Appendices, as may be amended or modified from time to time in accordance herewith.

“Contract Services” means the services to be performed by the Company or its Subcontractors pursuant to this Contract.

“Contract Waste” means Bypass Waste and Non-Processible Waste, collectively.

“Disposal Site” means a permitted disposal facilities pursuant to this Contract for the disposal of Bypass Waste or Non-Processible Waste.

“Ecology” means the Washington State Department of Ecology or any successor agency.

“EPA” means the United States Environmental Protection Agency and any successor agency.

“Equipment” means equipment used by the Company to fulfill its obligations under the

Contract, including but not limited to, trailers, tractors, Containers, or chassis.

“Event of Default” means those items specified in Section 8.2.

“Good Industry Practice” means those methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good transport, disposal and management practices in the waste industry, as observed in the Pacific Northwest region of the United States.

“Governmental Approval” means all orders of approval, permits, licenses, authorizations, consents, certifications, exemptions, rulings, entitlements and approvals issued by a governmental authority of whatever kind and however described which are required under Applicable Law to be obtained or maintained by the Company with respect to the Contract Services.

“Hazardous Waste” mean any hazardous, toxic, or radioactive substances, as such terms are defined by Applicable Law, including without limitation “dangerous waste” as defined by Washington State Department of Ecology.

“Legal Proceeding” means every action, suit, litigation, arbitration, administrative proceeding, and other legal or equitable proceeding having a bearing upon this Contract, and all appeals therefrom.

“Non-Processible Waste” means C&D Waste which is not suitable for combustion at the WTE Facility in compliance with Applicable Law. Non-Processible Waste shall specifically exclude Unacceptable Waste.

“Parties” means, collectively, the City and the Company, and “Party” means either or both the City and the Company, as the context requires.

“Performance Bond” means the surety bond described in Section 4.4, which secures the Contract Services.

“Performance Guarantees” means the Throughput Guarantee and the Waste Transport and Disposal Guarantee.

“Recyclable Materials” means those materials that are separated for recycling or reuse, such as glass bottles and jars, aluminum cans and foil, tin cans, newspaper and other paper, magazines, cardboard, plastic containers, ferrous metal, non-ferrous metal, tires, recyclable construction and demolition waste, and White Goods, as well as any other materials designated for recycling or reuse that are prohibited from being disposed in a landfill facility pursuant to Applicable Law.

“Reporting Year” means the City’s fiscal year commencing on January 1 in any year and ending on December 31 of such year; provided, however, that the first Reporting Year will commence on the Commencement Date and will end on the following December 31, and the last Reporting Year will commence on January 1 prior to the date this Contract expires or is terminated,

whichever is appropriate, and will end on the last day of the Term or the effective date of any termination, whichever is appropriate. Any computation made on the basis of a Reporting Year will be adjusted on a pro rata basis to take into account any Reporting Year of less than 365 or 366 days, whichever is applicable.

“RCW” means the Revised Code of Washington.

“Receiving Facility” means that certain property located at 4520 N Barker Rd, Spokane Valley, Washington 99027 operated by the Company’s Subcontractor, or any other property as agreed by the Parties.

“Required Insurance” means the insurance specified in Appendix 2.

“Service Fee” has the meaning specified in Article 7.

“Solid Waste” means all solid wastes, as defined by Chapter 70A.205 RCW. For the avoidance of doubt, for purposes of this Contract, the term “Solid Waste” shall include HHW, Recyclable Materials, C&D Waste and Organics, but shall not include any Unacceptable Waste

“Special Waste” includes polychlorinated biphenyl (“PCB”) wastes, industrial process wastes, asbestos containing material, petroleum contaminated soils, treated/de-characterized wastes, incinerator ash, medical wastes, demolition debris and other materials requiring special handling in accordance with any applicable federal, state, provincial or local laws or regulations.

“State” means the State of Washington.

“Subcontract” means an agreement or purchase order by the Company, or a Subcontractor to the Company, as applicable, entered into in connection with the performance of the Contract Services.

“Subcontractor” means every person (other than employees of the Company) engaged by the Company or any person under subcontract with the Company or any other Subcontractor (including all subcontractors and every sub-subcontractor of whatever tier) for any portion of the Contract Services, whether for the furnishing of labor, materials, equipment, supplies, services or otherwise.

“Term” means the Initial Term and any Renewal Term.

“Termination Date” means the last day of the Term or the effective date of termination of this Contract pursuant to Article 3.

“Tonnage” means tons of the Contract Waste to which the term is referring.

“Transfer Stations” means, collectively, the Spokane County-owned transfer stations located at 22123 N Elk-Chattaroy Rd, Colbert WA 99005 and 3941 N Sullivan Rd, Spokane Valley WA 99216, and each individually, a “Transfer Station”.

“Unacceptable Waste” means waste that is (a) prohibited from being received, managed or disposed of at the Disposal Site used hereunder by federal, state or local laws, regulation, ordinance, permit or other legal requirement or by the Disposal Site’s policies; (b) is nonhazardous solid waste that contains regulated Special Waste or Hazardous Waste; (c) is or contains any Hazardous Waste, infectious waste, radioactive, volatile, corrosive, flammable, explosive, biomedical, biohazardous material, regulated medical waste or toxic substances, as defined pursuant to or listed or regulated under applicable federal, state or local law; (d) ash generated at the Waste to Energy Facility; (e) contains information protected by federal, state or local privacy or data security laws, including but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPPA”); (f) household hazardous waste; or (g) any other waste that the City and Company have agreed in writing will be Unacceptable Waste.

Commented [LA1]: Revised language for clarity.

Commented [SE2R1]: agree

“Uncontrollable Circumstances” means any act, event or condition that is beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party under this Contract, and that materially interferes with or materially increases the cost of performing its obligations hereunder (other than payment obligations), to the extent that such act, event or condition is not the result of the willful or negligent act, error or omission, failure to exercise reasonable diligence, or breach of this Contract on the part of such Party.

(1) Inclusions. Subject to the foregoing and the exclusions set forth below, Uncontrollable Circumstances may include the following:

- (a) Change in Law;
- (b) naturally occurring events (excluding weather conditions normal for the geographic region of the City) such as underground movement, volcanic eruption, landslides, earthquakes, fires, tornadoes, floods, epidemics, and other acts of God;
- (c) explosion, sabotage or similar occurrence, acts of a declared public enemy, terrorism, extortion, war, blockade or insurrection, riot or civil disturbance;
- (d) strikes, labor disputes, work slowdowns, work stoppages, boycotts or other similar labor disruptions (except as specified in the exclusions below), which affect the performance of the Contract Services;
- (e) the failure of any Subcontractor (other than the Company or any Affiliate), to furnish services, materials, chemicals or equipment on the dates agreed to, but only if such failure is the result of an event which would constitute an Uncontrollable Circumstance if it affected the Company directly, and the Company is not able to timely obtain substitutes;
- (f) with respect to the Company, any City Fault; and
- (g) with respect to the City, and Company Fault.

(2) Exclusions. It is specifically understood that none of the following acts or conditions constitute Uncontrollable Circumstances:

- (a) any act, event or circumstance that would not have occurred if the affected

- Party had complied with its obligations hereunder;
- (b) changes in interest rates, inflation rates, wage rates, insurance costs, commodity prices, currency values, , exchange rates or other economic conditions;
 - (c) changes in the financial condition of the City, the Company, or its Affiliates or Subcontractors affecting the ability to perform their respective obligations;
 - (d) with respect to the Company, the consequences of error, negligence or omissions by the Company, any Subcontractor, any of their Affiliates or any other person in the performance of the Contract Services;
 - (e) any impact of prevailing wage or similar laws, customs or practices on the Company's costs;
 - (f) weather conditions normal for the geographic region of the City;
 - (g) with respect to the Company, any failure of the Company to secure patents which it deems necessary for the performance of the Contract Services; or
 - (h) a Change in Law pertaining to Taxes except to the extent such Change in Law imposes a new federal, State or local Tax on waste transportation and disposal;

“U.S.C.” means the United States Code.

“WAC” means the Washington Administrative Code.

“White Goods” means residential appliances, including water heaters, washers, water tanks, dryers, stoves, and refrigerators.

“WTE Facility” means the City of Spokane owned waste-to-energy facility located at 2900 South Geiger Boulevard, Spokane, Washington.

SECTION 1.2. INTERPRETATION. This Contract will be interpreted according to the following provisions, except to the extent the context or the express provisions of this Contract otherwise require:

- (A) Entire Agreement. This Contract contains the entire agreement between the Parties with respect to the transactions contemplated by this Contract. Without limiting the generality of the foregoing, this Contract completely and fully supersedes all other understandings and agreements among the Parties with respect to such transactions, including those contained in the RFP, the proposal of the Company submitted in response thereto, and any amendments or supplements to the RFP or the proposal.
- (B) Good Industry Practice. Good Industry Practice will in no event lessen the stringency of the Contract Standards. The Company is responsible for keeping itself informed of and applying current Good Industry Practice at all times during the performance of the Contract Services throughout the Term.

- (C) Severability. If any clause, provision, subsection, Section or Article of this Contract is void, invalid or unenforceable under any applicable law, then the remaining provisions of the Contract shall remain in effect; however, the Parties shall promptly negotiate a substitute for such clause, provision, subsection, Section or Article which will, to the greatest extent legally permissible, effect the intent of the Parties in the invalid clause, provision, subsection, Section or Article.
- (D) Drafting Responsibility. The Parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Contract to the effect that ambiguous or conflicting terms or provisions should be construed against the Party who (or whose counsel) prepared the executed agreement or any earlier draft of the same.
- (E) Third Party Rights. This Contract is exclusively for the benefit of the City and the Company and will not provide any third parties with any remedy, claim, liability, reimbursement, cause of action, or other rights.
- (F) Counterparts. This Contract may be executed in any number of original counterparts. All such counterparts will constitute but one and the same Contract.
- (G) Governing Law; Venue. This Contract will be governed by and construed in accordance with the applicable laws of the State of Washington. The venue of any action arising out of this Contract shall be in the Superior Court of the State of Washington, in and for Spokane County. (H) Defined Terms. The definitions set forth in Section 1.1 will control in the event of any conflict with the definitions used in the recitals hereto.

**ARTICLE II
REPRESENTATIONS AND WARRANTIES**

SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE CITY. The City represents and warrants that:

- (A) No Unacceptable Waste. All Contract Waste delivered to the Company under this Contract shall be in accordance with waste descriptions given in this Agreement and shall not be or contain any Unacceptable Waste.
- (B) Existence and Powers. The City is a Municipal corporation of the State, organized and existing under and by virtue of the laws of the State, with full legal right, power and authority to enter into and to perform its obligations under this Contract.
- (C) Due Authorization and Binding Obligation. This Contract will be effective upon approval of City Council and signature by the Mayor and constitutes a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, except to the extent that its enforceability may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights from time to time in effect and by equitable principles of general application.

Commented [SE4R3]: ok

SECTION 2.2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company represents and warrants that:

- (A) Existence and Powers. The Company is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware and has the authority to do business in the State of Washington and in any other state in which it conducts its activities, with the full legal right, power and authority to enter into and perform its obligations under this Contract.
- (B) Due Authorization and Binding Obligation. This Contract has been duly authorized, executed and delivered by all necessary corporate action of the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except to the extent that its enforceability may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights from time to time in effect and by equitable principles of general application.
- (C) No Conflict. To the best of its knowledge after due inquiry, neither the execution nor delivery by the Company of this Contract; the performance by the Company of its obligations in connection with the transactions contemplated hereby; nor the fulfillment by the Company of the terms or conditions hereof (1) conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the Company or (2) conflicts with, violates or results in a breach of any order, judgment or decree, or any organizational document of the Company, or any contract, agreement or instrument to which the Company is a party or by which the Company or any of its properties or assets are bound, or constitutes a default under any of the foregoing.
- (D) No Approvals Required. No approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Body is required for the valid execution and delivery of this Contract by the Company.
- (E) No Litigation. Except as disclosed in writing to the City, there is no action, suit, proceeding, investigation, or litigation, at law or in equity, before or by any court or other Governmental Body pending or, to the best of the Company's knowledge after due inquiry, overtly threatened or publicly announced, against the Company or any Affiliate of the Company, in which an unfavorable decision, ruling or finding could reasonably be expected to have a material and adverse effect on the execution and delivery of this Contract by the Company or the validity, legality or enforceability of this Contract against the Company, or any other agreement or instrument entered into by the Company in connection with the transactions contemplated hereby, or on the ability of the Company to perform its obligations hereunder or under any such other agreement or instrument.
- (F) Applicable Law Compliance. Except as disclosed in writing to the City, to the best of its knowledge after due inquiry, neither the Company nor any Affiliate of the Company is in material violation of any law, order, rule or regulation applicable to any Bypass Waste and Non-Processible Waste disposal site operated, maintained or managed by the Company, any Affiliate of the Company, the violation of which may have a material and adverse effect on the ability of the Company to perform its obligations hereunder, .
- (G) City of Spokane Business License. The Company is required to obtain and maintain a City of Spokane Business License through the Department of Revenue Services in compliance with

Chapter 8.01 Spokane Municipal Code (SMC). The Company shall be responsible for contacting the State of Washington Business License Services at www.dor.wa.gov or 360-705-6741 to obtain a business registration. If the Company does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

- (H) Information Supplied by the Company. The information supplied and representations and warranties made by the Company in all submittals made in response to the RFP and in all post-proposal submittals with respect to the Company are true, correct and complete in all material respects.
- (I) Required Insurance. Concurrently with the execution of this Contract, the Company has provided the City with certificates of insurance and policy endorsements for all Required Insurance specified in Appendix 2. The Required Insurance is in compliance with the requirements of Section 9.1.
- (J) Performance Bond. No later than thirty (30) days after the execution of this Contract, the Company shall provide the City with the required Performance Bond. The Performance Bond is in the form set forth in the Transaction Forms and is in compliance with the requirements of Section 4.4.
- (K) Certification Regarding Debarment. The Certification Regarding Debarment, as attached to this Agreement as Appendix 3 shall be completed and provided to the City. The Company has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

ARTICLE III TERM

SECTION 3.1. EFFECTIVE DATE AND INITIAL TERM. This Contract will become effective November 17, 2023 and upon signature of all Parties and will continue in effect as the initial term (the "Initial Term"), for a term of five (5) years or if renewed as provided in Section 3.2, until the last day of the renewal term (the "Renewal Term"), unless earlier terminated pursuant to this Contract, in which event the Term will be deemed to have ended as of the date of such termination. At the end of the Term, all obligations of the Parties hereunder will terminate, except as otherwise provided herein.

SECTION 3.2. RENEWAL AND EXTENSION OPTION. This Contract may be renewed and extended by mutual agreement by the City and the Company for one (1) additional five (5) year period for a total Term not to exceed 10 years (subject to convenience termination without cost to the City) on the same conditions as are applicable during the Initial Term. The Company shall give the City written notice (with confirmation of receipt from the City), of the approaching expiration of the Initial Term and request a contract extension no later than one hundred and eighty (180) days prior to such expiration. Notice shall be as provided for in section 10.8. The City shall give the Company written notice of its agreement to extend this Contract on or before the ninetieth (90th) day preceding the last day of the Initial Term; provided,

however, that the City shall be deemed to have agreed to extend the Contract if the City does not respond to the Company's written notice and request for contract extension on or before the ninetieth (90th) day preceding the last day of the Initial Term.

ARTICLE IV COMPANY RESPONSIBILITIES

SECTION 4.1. GENERAL. The Company's responsibilities under this Contract are as follows:

(A) Acceptance, transportation, unloading, and disposal of Bypass Waste from the two County-owned transfer stations and acceptance, unloading and disposal of Non-Processible Waste from the WTE Facility by the Company as set forth in Article V;

(B) Procurement and maintenance of performance bonds, in accordance with Section 4.4 of this Contract;

(C) Compliance with all Applicable Laws applicable to the Contract Services; obtaining Governmental Approvals in accordance with Section 4.2 ; and the payment of all applicable taxes and fees in accordance with Section 4.8; and

(D) Procurement and maintenance of insurance in accordance with Section 9.1; and

(E) Maintenance of a closure and post-closure trust fund for the Disposal Sites in accordance with Section 5.1H).

SECTION 4.2. COMPANY PERMITTING RESPONSIBILITIES.

- (A) Any Governmental Approvals. The Company shall be responsible for obtaining and maintaining all filings, applications and reports necessary to obtain, maintain and renew, and shall obtain, maintain and renew, all Governmental Approvals required to be made, obtained or renewed under Applicable Law in order to perform the Contract Services. All permit and filing fees required in order to obtain, maintain and renew Governmental Approvals for the Contract Services shall be paid by the Company.
- (B) Non-Compliance and Enforcement. The Company is responsible for complying with the terms and conditions of all Governmental Approvals. The Company shall report immediately to the City any inspections by any Governmental Bodies and all violations of the terms and conditions of any Governmental Approval or Applicable Law with respect to the performance of the Contract Services. The failure of the Company to comply with any Governmental Approval shall constitute a breach of this Contract.
- (C) Reports to Governmental Bodies. The Company shall prepare any periodic and annual reports, any information submittals and any notices to all Governmental Bodies required by all Governmental Approvals and under Applicable Law with respect to performance of the Contract Services.

SECTION 4.3 EQUIPMENT; REPLACEMENT OR REPAIR.

(A) Equipment; Assignment; Equipment Lease. The Company shall make available, maintain, or operate in a quantity sufficient to perform the Contract Services in a timely manner throughout the term of the Contract, the following:

- (1) the Equipment;
- (2) Disposal Site; and
- (3) Alternate disposal sites, if and when necessary.

(B) The Equipment and Disposal Site provided by the Company shall meet or exceed the requirements in the Proposal Requirements. The Company is responsible for providing, at its sole cost and expense, all Equipment necessary to provide the Contract Services.

(C) Replacement or Repair. The Company, at its sole expense, shall keep all Equipment and Disposal Sites in good working order and repair. The Company shall be liable for all costs reasonably to repair or replace the Containers and Vehicles owned, operated and/or used by the Company, Transportation Subcontractors or Disposal Sites; however, the [City] and County, or it's subcontractors, shall be liable for the repair or replacement of Containers/Trailers and Vehicles to the extent such is necessary because of the negligence of the City, County or County's Transfer Stations contracted operator, including, but not limited to, overloading or improper loading of Equipment.

SECTION 4.4 Contract Performance Bond.

(A) ContractPerformanceBond. The Company shall provide and maintain for the Term of the

Commented [SE5]: City can only be liable for its action - does not warrant county operations.

Commented [LA6R5]: WM does not have any recourse under the Contract against the County or the County's subcontractors if, for example, equipment was overloaded in violation of USDOT requirements. The City is in a better position to seek damages from the County under their contract..

Commented [SE7R5]: Please leave in reference to county - we will have these elements in the ILA amendment as references

Contract: (1) a contract performance bond substantially in the form of Appendix 1; or (2) any other financial guarantee or type of bond that is approved by the City. The amount of the bond or other financial guarantee initially provided under this subsection shall be Five Million and No/100 Dollars (\$5,000,000.00) in 2023 dollars. The Company shall provide a new bond, or evidence satisfactory to the City of the bond's renewability, at least ninety (90) days before the bond then in effect expires.

(B) General Conditions. The Company shall provide to the City the bond described in Section 4.4(A), above, within thirty (30) days of executing this Contract. Any bond under this Section shall automatically terminate on the expiration of the initial five-year period of the Contract. If the City and Company elects to extend the Contract beyond the initial five (5)-year term, the Company shall extend the existing bond and adjust the bond amount if needed. For purposes of this Article, the word, "bond," shall mean any bond, or other financial guarantee referred to in this Article to guarantee the performance of the Company's obligations under this Contract.

All bonds given under this Article that are signed by the Surety's agent must be accompanied by a certified copy of that agent's authority to act for the Surety at the time the bond is signed. The City must approve, in writing, the surety provided and the form and substance of all bonds. The Company may satisfy the bond obligations under this Article by providing bonds from one or more bonding companies meeting the qualifications set forth in this Article. The surety must be on the list of Certified Companies as published in Circular 570 by the U.S. Department of Treasury. Surety shall have a rating no less than AM Best Rating of A-.

SECTION 4.5 Alternate Transportation and Disposal Facilities. In the event the Disposal Sites are inadequate or unavailable to provide service under this Contract, the Company shall utilize alternate disposal facilities.

SECTION 4.6 Compliance with Law; Documentation; Confidential Business Records. The Company, its officers, employees, agents and subcontractors shall comply with all Applicable Laws in performing the Contract Services.

All documents submitted to the City will be subject to public review and copying as a public record pursuant to the Washington State Public Records Act. In the event a Company delivers to the City a document containing confidential and proprietary technical or financial information that would otherwise not be publicly disclosed, and which it believes is exempt from such disclosure or other provisions of Applicable Law, then such information shall be submitted in a separate sealed envelope, entitled, "Confidential Information for City Review Only." Such information shall be treated as confidential by the City to the extent allowed by Applicable Law.

In the event of a written request for disclosure pursuant to Washington State law, including without limitation the Washington State Public Records Act, the City shall review the confidential information and advise the requesting party and the Company, in writing, of the Contract's determination as to disclosure. If the City determines to disclose the information, the City shall allow the Company no fewer than ten (10) business days from receipt of such notice to take such legal action to enjoin disclosure as may be deemed necessary by the Company to protect the confidentiality of the information as provided by Washington State law.

The requirements of this Section shall survive the termination or expiration of the Contract.

SECTION 4.8 Taxes and Fees. Only as between the City and the Company, the Company shall be responsible and liable for payment of all federal, state and local taxes and fees, and surcharges of every form, that apply to any and all Persons, property, income, equipment, materials, supplies, structures, or activities that are involved in the performance of this Contract, including but not limited to, any income taxes, real property, excise, sales and use taxes, business and occupation taxes and fees that arise in connection with the Contract Services; however, the Company shall not be responsible or liable for payment of any tax or fee for which the City is ordinarily responsible without regard to the services provided by the Company under this Contract.

SECTION 4.9 Property. The Company has or will acquire sufficient property rights to the Disposal Site to satisfy its obligations herein.

SECTION 4.10 Records; Monthly Report. The Company shall keep accurate records of all transactions connected with this Contract including, but not limited to, all correspondence and invoices, transaction tickets, or receipts issued at a Disposal Site. The Company shall at all times maintain an accounting system that uses generally accepted accounting principles for all services rendered in connection with this Contract.

The Company shall provide to the City, by the fifteenth (15th) day of each month, a report for the preceding month summarizing routine and extraordinary activities during the prior month and, to the extent reasonably anticipated by the Company, plans and schedules for future activities. The monthly report shall include, but not be limited to, for the preceding month:

- (a) the tonnage accepted from the WTE Facility and Transfer Stations;
- (b) Equipment maintenance reports, if requested by the City;
- (c) any extraordinary occurrences affecting the Company's performance under the Contract, including but not limited to, occurrences affecting the Disposal Sites, transportation and/or Equipment;
- (d) copies of the transaction tickets, invoices and/or receipts for Contract Waste delivered to the Disposal Sites under the Contract;
- (e) changes, if any, in the status and readiness of alternate Disposal Sites and alternate disposal sites; and
- (f) documentation regarding Unacceptable Waste, if any, delivered under the Contract, including Unacceptable Waste rejected by the Company.

SECTION 4.12 Payment of Subcontractors and Agents. The Company shall be solely responsible for paying all subcontractors engaged for purposes of this Contract in accordance with the contract or agreement between that Person and the Company.

SECTION 4.13 Non-discrimination in Employment. The Company shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, sex, marital status, national origin, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. The Company shall ensure that employment decisions

regarding applicants are made, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, marital status, national origin, or the presence of any sensory, mental, or physical handicap. The Company's action under this Section shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

SECTION 4.14 Procurement Requirements. The Company shall endeavor to use local firms and labor and purchase materials, supplies and equipment from business located within and near the City and County whenever possible, commercially reasonable, practical and in conformance with law.

The Company shall provide for full and fair usage of minority/women business enterprises and shall use its best efforts to ensure that minority/women business enterprises have an equitable opportunity to compete for subcontract work.

SECTION 4.15 Scheduling; Management; Quality of Performance. The Company shall coordinate, schedule in an orderly manner and manage all work done by Company's officers, employees and subcontractors to ensure that every act or service under this Contract is performed in a skillful and competent manner in accordance with all Applicable Laws. The Company shall be responsible to the City for any errors, deficiencies, or failures to perform under this Contract. All workers and subcontractors shall be skilled in their trades. All drivers and Equipment operators shall be licensed or otherwise qualified as required by Applicable Law.

SECTION 4.16 Company Liability. The Company shall indemnify the City in accordance with Article 9.

ARTICLE V

BYPASS WASTE AND NON-PROCESSIBLE WASTE TRANSPORT AND DISPOSAL

SECTION 5.1. BYPASS WASTE AND NON-PROCESSIBLE WASTE TRANSPORTATION AND DISPOSAL SERVICES.

(A) Non-Processible Waste.

- (1) The City shall be responsible for: (i) loading Non-Processible Waste at the WTE Facility into Containers provided by the Company in compliance with all Applicable Laws and all other Contract Standards, including but not limited to U.S. Department of Transportation requirements; (ii) transportation and delivery of loaded Containers of Non-Processible Waste from the WTE Facility to the C&D Disposal Site; and (iii) transportation and delivery of empty Containers and chassis from the C&D Disposal Site back to the WTE Facility. The City shall ensure that only Non-Processible Waste is loaded into Containers delivered to the Disposal Site located at 1820 S. Graham Road, Medical Lake Washington.
- (2) The Company shall be responsible for tipping the Containers of Non-Processible Waste from the WTE Facility at the C&D Disposal Site and staging empty

Containers and chassis for the City to transport to the WTE Facility.

(B) Bypass Waste.

- (1) The County or the County's Representative shall be responsible for: (i) loading Bypass Waste at the Transfer Stations into Containers provided by the Company in compliance with all Applicable Laws and other Contract Standards, including but not limited to U.S. Department of Transportation requirements; (ii) transportation and delivery of loaded Containers of Bypass Waste from the Transfer Stations to the Receiving Facility; and (iii) transportation and delivery of empty Equipment from the Receiving Facility to the Transfer Stations.
- (2) The Company or the Company's Subcontractor shall be responsible for (i) transportation and delivery of accepted loaded Containers of Bypass Waste from the Receiving Facility to the Disposal Site; (ii) tipping the Containers of Bypass Waste at the Disposal Site; and (iii) transportation of empty Containers and chassis from the Disposal Site to the Receiving Facility.
- (3) The City shall have the option for the County or the County's Representative to transport and deliver loaded containers of C&D Waste separated from the Bypass Waste from the Transfer Stations directly to the C&D Disposal Site.

(C) Receiving Services. The Company's Subcontractor shall operate and maintain the Receiving Facility at 4520 N. Barker Road, Spokane Valley, Washington for Bypass Waste throughout the Term unless an alternative Receiving Facility is approved in writing by the City Representative.

(D) Transport Services. The Company or the Company's Subcontractor shall, in accordance with the Contract Standards:

- (1) transport to the Disposal Site in a timely manner all loaded Containers of Bypass Waste accepted by the Company at the Receiving Facility; and
- (2) transport all empty Equipment used to transport Bypass Waste from the Disposal Site to the Receiving Facility as required by this Contract.

(E) Disposal Services. The Company shall comply with each of the following requirements for the disposal of Bypass Waste and Non-Processible Waste at any Disposal Site:

- (1) Throughout the Term, the Company shall dispose of all (i) Bypass Waste originating at the two County Transfer Stations at the Disposal Sites located at 191 Webb Road, East Wenatchee, Washington or 2660 E Syd Sullivan Lane, Washtucna, Washington; and (ii) all Non-Processible Waste at the Disposal Site located at 1820 S. Graham Road, Medical Lake Washington (in each such case, unless an alternative Disposal Site is approved in writing by the City Representative) within seventy-two (72) hours of the Company's acceptance of such Contract Waste at the Disposal Site; provided, however, that the Company shall not be required to dispose of any Unacceptable Waste.

- (2) The Company shall operate and maintain, or cause to be operated and maintained, any and all Disposal Sites utilized for the Contract Services in compliance with all Applicable Laws.
- (3) The Company shall not dispose of Contract Waste at any disposal site that has been nominated or proposed for the National Priorities List (“NPL”) of contaminated sites, or that has been nominated or proposed for inclusion in a list of contaminated sites under another program similar to the NPL. If any Disposal Site becomes so nominated or proposed at any time during the Term, the Company shall, at its sole cost and expense, provide for an Alternate Facility that is in compliance with the requirements of this item (3).
- (4) The Company shall not dispose of any Contract Waste at any disposal site that is not in compliance with Applicable Law or where receipt of Bypass Waste or Non-Processible Waste, as applicable, under this Contract would be unlawful or otherwise prohibited under the jurisdiction where such site is located. If the use of any Disposal Site at any time during the Term would cause a violation of this item (4), the Company shall, at its sole cost and expense, provide for an Alternate Facility that is in compliance with the requirements of this item (4).

(F) Capacity. The Company shall be solely responsible for providing sufficient capacity to receive, transport and dispose of Bypass Waste and receive and dispose Non-Processible Waste in accordance with this Contract. The Company or its Subcontractor may accept, or allow for the acceptance of, materials from other sources at the Disposal Sites; provided that acceptance of such materials does not interfere with providing services in accordance with this Contract. The Company shall keep the City regularly informed of operations associated with the Receiving Facility and shall promptly notify the City of any material change in such operations, including with respect to any change in acceptance of materials from other sources, and shall not make or permit any change that is not in compliance with this subsection. The Company shall be solely responsible for all losses, damages, costs, charges, expenses, judgements or any liabilities whatsoever resulting from the acceptance of materials from other sources at the Disposal Sites.

(G) Equipment. The Company shall supply Containers and chassis or trailers for the transport and disposal of Bypass Waste and Non-Processible Waste in accordance with all applicable Contract Standards and in sufficient quantities to facilitate the successful performance of the Contract Services. The Company shall ensure Containers or trailers are available at the Receiving Site for the transport and disposal of Bypass Waste at all times unless otherwise agreed to by the City Representative.

(H) Closure and Post-Closure. The Company shall, as between the City and the Company, be responsible for all closure and post-closure costs relating to the Disposal Sites. The Company shall establish and maintain (or cause to be established and maintained), at its sole cost and expense, any closure and post-closure financial assurance now or hereafter required under any Applicable Law. The Company shall maintain and use, or cause to be maintained and used, any such financial assurance solely in accordance with the requirements of Applicable Law.

(I) Title. Title to and liability for Unacceptable Waste shall remain with the City at all times. The

Company shall have the right to inspect, analyze or test any waste delivered by the City pursuant to this Contract. If the City or the Transfer Stations deliver Unacceptable Waste to the Company, Company can, at its option, reject Unacceptable Waste and return it to the City or the Transfer Stations or require the City or County to remove and dispose of the Unacceptable Waste at the City's expense. The City or County shall indemnify, hold harmless and pay or reimburse the Company for any and all costs, liabilities, damages and/or fines incurred as a result of or relating to the tender or delivery of Unacceptable Waste to the Company or other failure to comply or conform to this Contract, including costs of inspection, testing and analysis. Title to Contract Waste shall pass to the Company upon acceptance at the Disposal Site.

Commented [LA8]: Since the County is not party to this Agreement, WM has no way to enforce an indemnity from the County.

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SECTION 5.2. BYPASS WASTE AND NON-PROCESSIBLE WASTE TRANSPORT AND DISPOSAL GUARANTEE.

(A) **Guarantee.** The obligations of the Company under and referenced by this Section constitute to the "Bypass Waste and Non-Processible Waste and Disposal Guarantee."

- (1) The Company shall dispose of all accepted loaded Containers of Non-Processible Waste from the WTE Facility at the Disposal Site in accordance with all requirements of this Contract.
- (2) The Company or its Subcontractor shall receive all loaded Containers or Trailers of Bypass Waste at the Receiving Facility. The Company or its Subcontractor shall transport all Bypass Waste from the Receiving Yard to the Disposal Site and the Company shall receive and dispose of all accepted Bypass Waste at the Disposal Site. Each load of Bypass Waste shall be fully covered and secured as required by Applicable Law so as to prevent any blowing, spilling or leakage of the material being transported. Without limiting any other requirement of this Contract, the Company or its Subcontractor shall have a sufficient number of transport vehicles and drivers available in order to ensure that all loaded Containers or Trailers of Bypass Waste can be transported and disposed of in a consistent manner throughout each Working Day accordance with this Agreement and all other applicable Contract Standards.

(B) **Containers and Vehicles.** The Company shall operate and transport vehicles, or ensure such vehicles are operated and transported by its Subcontractor, in accordance with Applicable Law and shall not use transport vehicles while used in the performance of the Contract Services for transporting any other commodities, products or waste without the approval of the City in its discretion.

SECTION 5.3. BYPASS WASTE AND NON-PROCESSIBLE WASTE ACCEPTANCE AND TRANSFER OF OWNERSHIP.

(A) **Bypass Waste and Non-Processible Waste.** Without limiting any Company obligation hereunder with respect to the receipt of loaded Containers of Non-Processible from the WTE Facility and the receipt and transportation of loaded Containers or Trailers of Bypass Waste from the Transfer Stations at the Receiving Facility, ownership of Bypass Waste and Non-processible Waste shall pass to the Company at the time the Company accepts the material at the Disposal Site. After this transfer of ownership occurs and without limiting any other Company responsibility hereunder, the Company

shall be responsible for all duties, costs, and liabilities associated with managing the Bypass Waste or Non-Processible Waste within the Container. Notwithstanding the foregoing, ownership and title of Unacceptable Waste shall remain with the City at all times and shall not pass to the Company.

(B) Hazards. If a Container or Trailer is delivered by or on behalf of the City or County to the Receiving Facility or a Disposal Site with external evidence (such as smoke or extreme heat) that the Container or Trailer might contain Unacceptable Waste, or that the Company or its Subcontractor otherwise reasonably believes might contain Unacceptable Waste, the Company shall take steps it believes is necessary to protect its employees and the public from potential hazard. The City, County, or its subcontractor is responsible for reasonable costs and liabilities associated with managing Unacceptable Waste within the Container.

(C) Identification of Vehicles. The Company shall ensure that each loaded Container or trailer, as applicable, containing Bypass Waste and Non-Processible Waste is individually identifiable for tracking purposes. The City shall ensure that each loaded vehicle containing Bypass Waste is weighed by the City or County on the Transfer Station scales prior to departure, and that each loaded vehicle containing Non-Processible Waste is weighed by the City on the WTE Facility scales prior to its departure. The Company shall maintain its own records for each loaded vehicle containing Bypass Waste and Non-Processible Waste, and the arrival of each loaded vehicle containing Bypass Waste or Non-Processible Waste at the Disposal Site. The Company shall make these records available to the City upon request and shall make current vehicle location information available to the City at any time upon request in order to respond to emergencies or for other City waste management purposes.

Commented [LA10]: The County is not party to the Agreement and therefore WM has no way to enforce against the County.

Commented [SE11R10]: See above comments

SECTION 5.4. ACCIDENTS DURING TRANSPORT. The Company or its Subcontractor shall transport all Bypass Waste and Nonprocessible Waste to appropriate disposal locations in accordance with the Contract Standards. The Company shall give notice to the City and all appropriate Governmental Bodies immediately upon the occurrence of any accident involving vehicles used for transportation of any Bypass Waste and Nonprocessible Waste and shall promptly commence remedial action in accordance with Applicable Law and all other applicable Contract Standards. In the event of any accident involving the Company or its Subcontractors' vehicles or any accident caused by the Company or its Subcontractors, the Company shall pay any resulting fines, assessments, penalties or damages resulting therefrom and indemnify, defend and hold harmless the City Indemnitees from any Loss-and-Expense resulting therefrom in the manner provided in Section 9.3. In the event of any accident involving the City or its Subcontractors or any accident caused by the City or its Subcontractors, the City shall pay any resulting fines, assessments, penalties or damages resulting therefrom and indemnify, defend and hold harmless the Company Indemnitees from any Loss-and-Expense to the extent resulting from the City's actions.

SECTION 5.5. SPILLAGE, LEAKAGE, LITTER, ODOR AND OTHER NUISANCES.
Without limiting anything under subsection the Company shall:

- (1) Be responsible for the cleanup of any spillage or leakage caused by the Company or the Company's employees or Subcontractors in performing the

- Contract Services;
- (2) clean up any materials, including leakage of fluids, spilled by the Company or the Company's employees or Subcontractors while performing the Contract;
 - (3) ensure that all Bypass Waste is contained, covered and enclosed during transport to prevent leaking, spilling, or blowing of materials;
 - (4) initiate all clean-ups within two (2) hours of when the Company or the Company's employees or Subcontractors first learns of the spilling, leaking or blowing of materials caused by the Company or the Company's employees or Subcontractors in performing the Contract Services;
 - (5) pick up all litter caused by the Company or the Company's employees or Subcontractors in performance of the Contract Services;
 - (6) maintain or cause to be maintained the Receiving Facility in a manner that prevents odors, including through routine cleaning of such equipment; and
 - (7) ensure that nuisances are not caused by the Company or the Company's employees or Subcontractors while performing the Contract Services.

ARTICLE VI RECORDS AND REPORTING

SECTION 6.1. PERIODIC REPORTS.

The Company shall provide to the City the following information on a monthly basis:

- (1) documentation regarding deliveries of Bypass Waste and Non-Processible Waste to the Disposal Sites, including date of delivery to the Disposal Sites, date of disposal at the Disposal Site, type and tonnage of Bypass Waste and Non-Processible Waste transported to or received at, as applicable to the Contract Services, and disposed of at the Company Sites, type of Container or Trailer (i.e., closed top or open top and compacted or uncompact) and any other related information reasonably requested by the City Representative;
- (2) a summary of any accidents that occurred during the prior month and that are required to be reported hereunder, including the date and time of each such accident, a description of the accident and a description of the actions taken by the Company in response, including all notices and reports required to be given and made hereunder;
- (3) any other information reasonably requested by the City Representative.

The City acknowledges and agrees that documentation regarding deliveries of Bypass Waste from the Transfer Stations to the Receiving Facility shall be maintained by the County or the County's Representative.

SECTION 6.2. ASSET AND FINANCIAL RECORDS.

- (A) Availability of Records to City. The Company shall make available to the City upon City request all records required to be kept by the Company pursuant to Section 6.1.

SECTION 6.3. COMPLIANCE WITH APPLICABLE LAW.

- (A) Compliance Obligation. The Company shall perform the Contract Services in accordance with Applicable Law (including all applicable federal, State and local environmental laws, regulations, ordinances, rules, requirements, permits and other authorizations that affect the Contract Services), and shall cause all Subcontractors to comply with Applicable Law. The City shall perform its obligations under the Contract in accordance with Applicable Law with respect to the Contract Services.
- (B) Investigations of Non-Compliance. In connection with any actual or alleged event of non-compliance with Applicable Law, the Company shall, in addition to any other duties which Applicable Law may impose with respect to the Contract Services: (1) fully and promptly respond to all inquiries, investigations, inspections, and examinations undertaken by any Governmental Body for which it receives notice; (2) attend all meetings and hearings required by any Governmental Body; (3) provide all corrective action plans, reports, submittals and documentation required by and to any Governmental Body; and (4) immediately upon receipt thereof, provide the City with a true, correct and complete copy of any written notice of violation or non-compliance with Applicable Law, and true and accurate transcripts of any oral notice of non-compliance with Applicable Law, issued or given by any Governmental Body.
- (C) Fines, Penalties and Remediation. Except to the extent excused by Uncontrollable Circumstances in accordance with this Contract, in the event that the Company or any Subcontractor fails at any time to comply with Applicable Law with respect to the Contract Services, the Company shall, without limiting any other remedy available to the City upon such an occurrence and notwithstanding any other provision of this Contract: (1) immediately correct such failure and resume compliance with Applicable Law; (2) indemnify, defend and hold harmless the City Indemnitees from any Loss-and-Expense resulting therefrom in the manner provided in Section 9.3; (3) pay any resulting damages, fines, assessments, levies, impositions, penalties or other charges; (4) make all improvements and changes in operating and management practices which are necessary to assure that the failure of compliance with Applicable Law will not recur; and (5) comply with any corrective action plan filed with or mandated by any Governmental Body in order to remedy the failure to comply with Applicable Law.

**ARTICLE VII
SERVICE FEE**

SECTION 7.1. SERVICE FEE. Beginning on the Commencement Date, the City shall pay the Company a service fee in accordance with this Section 7.1 (the "Service Fee") as the sole compensation for the Company's performance of the Contract Services under this Contract. The Service Fee shall be calculated and paid to the Company according to this Article. SECTION 7.2. DISPOSAL CHARGE. Except for any costs resulting from or associated with Unacceptable Waste, The Service Fee is an all-inclusive set fee per ton. The Service Fee shall be calculated by multiplying the total number of tons of Contract Waste accepted by the Company in a calendar month by the applicable per-ton price for the Contract Waste. The Service Fee shall be inclusive of all costs associated with transportation (as applicable to the Contract Services provided by the

Company), disposal, equipment, fees, maintenance, and any other costs necessary for the Company to perform the Contract Services and to produce the deliverables under the Contract. The Service Fee shall be based on the weights recorded at the inbound scales at the Disposal Site. The per-ton prices for Bypass Waste and Non-Processible Waste is as set forth below.

Transfer Station Site	Bypass Waste
Colbert	\$58.95 / ton
Valley	\$58.95 / ton

Site	Bypass Waste and Non-Processible Waste
WTE	\$58.95 / ton

SECTION 7.3 ANNUAL ADJUSTMENT. The first full year (2024) of the contract will be the base year for assessment, each subsequent year there will be an opportunity for price adjustment using the method as follows. Price adjustment review will occur in Q4 of a given calendar year and published for both parties to review prior to effectivity date on January 1 of the following year. The first opportunity for adjustment will have an effective date of January 1st, 2025.

The City will adjust the per-ton price to reflect increases in the United States Department of Labor, Bureau of Labor Statistics, West-Size Class B/C, Consumer Price Index, for all Items for All Urban Consumers (CPI-U) (the "Index"). The adjustment factor for computing annual price adjustments shall be computed by dividing the Index number for October of the just completed year by the Index number for the previous year. In the event the Index number remains unchanged, no price adjustment will be made, and the next price adjustment shall not occur until the Index number increases to a number exceeding the highest previous Index number and shall be computed using the previous highest Index number.

Example Calculation of Annual Price Adjustments

	Index	Adjust Factor	Per-Ton Price/service fee
Base Year N	125		\$50
N+1	125.844	1.030752	\$51.54
N+2	133.315	1.034710	\$53.33
N+3*	132.474	No Change	\$53.33
N+4*	133	No Change	\$53.33

N+5	137.748	1.033252	\$55.10
N+6	140.054	1.016741	\$56.02

*No change – Index decreased

**No change – Index did not exceed highest previous Index

SECTION 7.4. BILLING AND PAYMENT.

(A) **Billing.** The Company shall invoice the City on a monthly basis the Service Fee for the preceding month. The Service Fee shall be an amount equal to the aggregate sum of all tons of Contract Waste accepted by the Company at the Disposal Sites during the preceding month in accordance with Section 7.1.

(B) **Payment.** The Company shall deliver to the City a complete and accurate invoice (referencing this Contract) no later than the fifteenth (15th) day of the month following the applicable Billing Period which sets forth all required Service Fee components and computations for such Billing Period as calculated for the then current Reporting Year. The City may request any reasonable documentation or information as the City may reasonably require to determine the accuracy and appropriateness of the invoice. The City shall pay the invoice no later than thirty (30) days after receipt from the Company.

SECTION 7.5. BILLING STATEMENT DISPUTES. If the City disputes any amount billed by the Company, the City may either (1) pay the disputed amount when otherwise due, and provide the Company with a written objection indicating the amount that is being disputed and providing all reasons then known to the City for its objection to or disagreement with such amount, or (2) withhold payment of the disputed amount and provide the Company with written objection as aforesaid within the time when such amount would otherwise have been payable. When any billing dispute is finally resolved, if payment by the City to the Company of amounts withheld or reimbursement to the City by the Company of amounts paid under protest is required, such payment or reimbursement shall be made within thirty (30) days after the date of resolution, with interest thereon at the Overdue Rate calculated from the date of resolution to the date of payment.

SECTION 7.6. TAXES. The Company shall be responsible for all federal, State, City and municipal Taxes and any other Tax imposed in connection with its performance of the Contract Services.

**ARTICLE VIII
DEFAULT, TERMINATION AND DISPUTE RESOLUTION**

SECTION 8.1. REMEDIES FOR BREACH. The Parties agree that, except as otherwise provided in this Article with respect to termination rights, in the event that either Party breaches this Contract, the other Party may exercise any legal rights it has under this Contract or under Applicable Law to recover damages or to secure specific performance, and that such rights to recover damages and to secure specific performance shall ordinarily constitute adequate remedies for any such breach. Neither Party shall have the right to terminate this Contract for cause except upon the occurrence of an Event of Default.

SECTION 8.2. EVENTS OF DEFAULT BY THE COMPANY.

(A) Events of Default Not Requiring Previous Notice or Further Cure Opportunity for Termination.

Each of the following will constitute an Event of Default by the Company upon which the City, by notice to the Company, may terminate this Contract without any requirement of having given notice previously or of providing any further cure opportunity:

- (1) Performance Bond. The failure of the Company to obtain, maintain in full force and effect or renew within thirty (30) days prior to expiration the Performance Bond required by this Contract as security for the performance of this Contract;
- (2) Required Insurance. The failure of the Company to obtain and maintain in full force and effect in accordance with the requirements of this Contract any Required Insurance coverage;
- (3) Fraud or Debarment. The Company is party to fraud against the City;
- (4) Assignment or Transfer without Consent. The assignment or transfer by the Company of this Contract or any right or interest herein without the City's prior written consent required pursuant to Section 10.3(A);
- (5) Insolvency. The insolvency of the Company as determined under applicable law;
- (6) Voluntary Bankruptcy. The filing by the Company of a petition of voluntary bankruptcy under the Bankruptcy Code; and
- (7) Involuntary Bankruptcy/Receivership. The issuance of an order of a court of competent jurisdiction appointing a receiver, liquidator, custodian or trustee of the Company or of a major part of the Company's property, respectively, or the filing against the Company of a petition to reorganize the Company pursuant to the Bankruptcy Code, which order shall not have been discharged or which filing shall not have been dismissed within ninety (90) days after such issuance or filing, respectively.

(B) Events of Default Requiring Previous Notice and Cure Opportunity for Termination. It will be an Event of Default upon which a Party may terminate this Contract, by notice to the other Party, if:

(1) any representation or warranty of the other Party hereunder was false or inaccurate in any material respect when made, and the legality of this Contract or the ability of the Party to carry out its obligations hereunder; or (2) the other Party fails, refuses or otherwise defaults in its duty to perform any material obligation under this Contract (unless such default is excused by an Uncontrollable Circumstance as and to the extent provided herein), except that no such default (other than those set forth in subsection (A) of this Section) will constitute an Event of Default giving the non-defaulting Party the right to terminate this Contract for cause under this subsection unless:

- (1) The non-defaulting Party has given prior written notice to the other Party stating that in its opinion a specified default in its duty to pay or perform exists which gives the the non-defaulting Party a right to terminate this Contract for cause under this Section, and describing the default in

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reasonable detail; and

- (2) The defaulting Party has not initiated within a reasonable time (in any event not more than thirty (30) days from the initial default notice) and continued with due diligence to carry out to completion all actions reasonably necessary to correct the default and prevent its recurrence.
- (3) If the defaulting Party has initiated within such reasonable time and continued with due diligence to carry out to completion all such actions, the default will not constitute an Event of Default during such period of time (in any event not more than sixty (60) days from the initial default notice) as the Company continues with due diligence to carry out to completion all such actions.

(C) Remedies Upon Event of Default. The right of termination provided under this Section upon an Event of Default is not exclusive. If this Contract is terminated for an Event of Default, the non-defaulting Party will have the right to pursue a cause of action for actual damages and to exercise all other remedies which are available to it under this Contract, and under Applicable Law. The Parties acknowledge and agree that actual damages will include the costs, fees, expenses, and damages incurred on account of the Event of Default, including, for the City, re-procurement costs and any costs in excess of the Service that are necessary provide for the Contract Services.

SECTION 8.3. TERMINATION.

- (A) Uncontrollable Circumstances. Either Party may terminate this Contract without recourse by the other where performance is rendered impossible or impactable for reasons beyond such Party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Company's own employees, sabotage, or superior governmental regulation or control. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- (B) For Cause. The City or Company may terminate this Contract if the other party is in material breach of this Contract, and such breach has not been corrected to the other party's reasonable satisfaction in a timely manner. Notice of termination under this Section shall be given by the party terminating this Contract to the other, not fewer than thirty (30) business days prior to the effective date of the termination.
- (C) City's Cessation of Operations. The City may terminate this Contract in the event that operations at the WTE Facility cease.
- (D) Payment of Amounts Owing Through the Termination Date and Termination Costs. In the event of termination of the Contract, the City shall pay the Company all incurred amounts for the Contract Services to be paid as part of the Service Fee but not yet paid as of the Termination Date.

SECTION 8.4. OBLIGATIONS UPON TERMINATION OR EXPIRATION.

(A) Company Obligations. Upon a termination of the Company's right to perform this Contract under this Article, or upon the expiration of this Contract under Section 3.1, the Company shall, as applicable:

- (1) stop the Contract Services on the date and to the extent specified by the City;
- (2) notify the City promptly in writing of any Legal Proceedings against the Company by any Subcontractor or other third parties relating to the termination of this Contract;
- (3) give written notice of termination, effective as of the Termination Date, promptly under each policy of Required Insurance (with a copy of each such notice to the City), but permit the City to continue such policies thereafter at its own expense, if possible;

SECTION 8.5. SURVIVAL OF CERTAIN PROVISIONS UPON TERMINATION.

All representations and warranties of the Parties contained in this Contract, the indemnity obligations in this Contract with respect to events that occurred prior to the Termination Date or during the Company's provision of the transition services under Section 9.2, and the City's indemnity obligations with respect to Unacceptable Waste, and all other provisions of this Contract that so provide shall survive the termination of this Contract, subject to any statute of limitation provisions of Applicable Law. No termination of this Contract shall (1) limit or otherwise affect the respective rights and obligations of the Parties accrued prior to the date of such termination; or (2) preclude either Party from impleading the other Party in any Legal Proceeding originated by a third party as to any matter occurring during the Term to the extent permitted under Applicable Law.

SECTION 8.6. NO WAIVERS. No action of the City or the Company under this Contract (including any investigation or payment), and no failure to act, shall constitute a waiver by either Party of the other Party's compliance with any term or provision of this Contract. No course of dealing or delay by the City or the Company in exercising any right, power or remedy under this Contract shall operate as a waiver thereof or otherwise prejudice such Party's rights, powers and remedies. No single or partial exercise of (or failure to exercise) any right, power or remedy of the City or the Company under this Contract shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

SECTION 8.7. NO CONSEQUENTIAL OR PUNITIVE DAMAGES. In no event shall either Party be liable to the other or obligated in any manner to pay to the other any special, incidental, consequential, punitive or similar damages based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Contract, or the material falseness or inaccuracy of any representation made in this Contract, whether such claims are based upon contract, tort, negligence, warranty or other legal theory; provided, however, that the waiver of the foregoing damages under this Section is intended to apply only to disputes and claims as between the City and the Company. Nothing in this Section shall limit the obligation of a Party to indemnify, defend and hold harmless the other Party for any special, incidental, consequential, punitive or similar damages payable to third parties resulting

from any act or circumstance for which the Party is obligated to indemnify the other Party.

SECTION 8.8. FORUM FOR DISPUTE RESOLUTION. It is the express intention of the Parties that all Legal Proceedings related to this Contract or to the Transfer Stations, any Company Provided Facility or to any rights or any relationship between the Parties arising from this Contract shall be solely and exclusively initiated and maintained in the Washington State Superior Court for Spokane County. The Company and the City each irrevocably consents to the jurisdiction of that court in any such Legal Proceedings, waives any objection it may have to so laying the jurisdiction of any such Legal Proceeding, and the Company and City waives its right to a trial by jury.

SECTION 8.9. NON-BINDING MEDIATION.

- (A) **Rights to Request and Decline.** Either Party may request Non-Binding Mediation of any dispute arising under this Contract. The non-requesting Party may decline the request in its sole discretion. If there is concurrence that any particular matter shall be mediated, the provisions of this Section shall apply. The costs of such Non- Binding Mediation, except for attorneys' fees and expert fees incurred by the Parties, shall be divided and shared equally between the City and the Company.
- (B) **Procedure.** The Mediator shall be selected based on mutual agreement of the Parties. The selected Mediator will have no current or on-going relationship to either Party. The Mediator shall have full discretion as to the conduct of the mediation. Each Party shall participate in the Mediator's program to resolve the dispute until and unless the Parties reach agreement with respect to the disputed matter or one Party determines in its sole discretion that its interests are not being served by the mediation.
- (C) **Non-Binding Effect.** Mediation is intended to assist the Parties in resolving disputes over the correct interpretation or application of this Contract. No Mediator shall be empowered to render a binding decision.
- (D) **Relation to Judicial Legal Proceedings.** Nothing in this Section shall operate to limit, interfere with or delay the right of either Party under this Article to commence judicial Legal Proceedings upon a breach of this Contract by the other Party, whether in lieu of, concurrently with, or at the conclusion of any Non-Binding Mediation.

SECTION 8.10. CONTINUANCE OF PERFORMANCE DURING DISPUTE. Unless otherwise directed in writing by City, at all times during the course of any dispute resolution procedure or Legal Proceeding, the Company shall continue with the performance of all Contract Services in a diligent manner and in accordance with the applicable provisions of this Contract. The City shall continue to satisfy its uncontested payment obligations to the Company during the pendency of any such dispute, subject to the terms and conditions of this Contract. Records of the Contract Services performed during such time shall be kept in accordance with the applicable provisions of this Contract.

**ARTICLE IX
INSURANCE, UNCONTROLLABLE CIRCUMSTANCES AND INDEMNIFICATION**

SECTION 9.1. REQUIRED INSURANCE. During the term of the contract, the Firm shall maintain in force at its own expense, each insurance coverage noted below:

- (A) Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000.
- (B) General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this contract. It shall provide that the City, its officers and employees are additional insureds, but only with respect to the Firm's services to be provided under this contract.
- (C) Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

There shall be no cancellation the insurance coverage(s) without thirty (30) days written notice from the Firm or its insurer(s) to the City.

- (D) As evidence of the insurance coverages required by this contract, the Firm shall furnish acceptable insurance certificates to the City at the time it returns the signed contract. The certificate shall specify all of the parties who are additional insured, and include applicable policy endorsements, as well as policy limits. Insuring companies or entities are subject to City acceptance and must have a rating of A- or higher by Best. Copies of all applicable endorsements shall be provided. The Firm shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

SECTION 9.2. UNCONTROLLABLE CIRCUMSTANCES.

- (A) Relief from Obligations. Except as expressly provided in this Contract, a Party shall not be liable to the other Party for any loss, damage, delay, default or failure to perform any obligation to the extent resulting from an Uncontrollable Circumstance. The Parties agree that the relief for an Uncontrollable Circumstance shall apply to all obligations in this Contract, except to the extent specifically provided otherwise, notwithstanding that such relief is specifically mentioned with respect to certain obligations in this Contract but not other obligations. The occurrence of an Uncontrollable Circumstance shall not excuse or delay the performance of a Party's obligation to pay monies previously accrued and owing under this Contract, or to perform any obligation hereunder not affected by the occurrence of the Uncontrollable Circumstances.
- (B) Notice and Mitigation. The Party that asserts the occurrence of an Uncontrollable Circumstance shall notify the other Party by telephone, facsimile or email (accompanied by a telephone call to the City's Contract Representative), on or promptly after the date the Party experiencing such Uncontrollable Circumstance first knew of the occurrence thereof, followed within fifteen (15) days by a written description of: (1) the Uncontrollable Circumstance and the cause thereof (to the

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extent known); (2) the date the Uncontrollable Circumstance began, its estimated duration, and the estimated time during which the performance of such Party's obligations hereunder shall be delayed, or otherwise affected; (3) the estimated amount, if any, by which the Service Fee may need to be adjusted as a result of such Uncontrollable Circumstance; (4) its estimated impact on the other obligations of such Party under this Contract; and (5) potential mitigating actions which might be taken by the Company or City and any areas where costs might be reduced and the approximate amount of such cost reductions. As soon as practicable after the occurrence of an Uncontrollable Circumstance, the affected Party shall also provide prompt written notice of the cessation of such Uncontrollable Circumstance. Whenever an Uncontrollable Circumstance occurs, the Party claiming to be adversely affected thereby shall, as promptly as reasonably possible, use all reasonable efforts to eliminate the cause thereof, mitigate and limit damage to itself and the other Party, and resume full performance under this Contract. While the Uncontrollable Circumstance continues, the affected Party shall give notice to the other Party, before the first day of each succeeding month, updating the information previously submitted. The Party claiming to be adversely affected by an Uncontrollable Circumstances shall bear the burden of proof and shall furnish promptly any additional documents or other information relating to the Uncontrollable Circumstance reasonably requested by the other Party. The Company shall furnish promptly any additional documents or other information relating to the Uncontrollable Circumstance reasonably requested by the City.

(C) Conditions to Cost, Performance and Schedule Relief. If and to the extent that Uncontrollable Circumstances interfere with, delay or increase the cost of the Company's performing the Contract Services in accordance herewith, and the Company has given timely notice as required by subsection (B) of this Section, the Company shall be entitled to an increase in the Service Fee, relief from its performance obligations, or an extension of schedule which properly reflects the increased cost, the interference with performance, or the time lost as a result thereof, in each case only to the minimum extent reasonably forced on the Company by the event, and the Company shall perform all other Contract Services. In the event that the Company believes it is entitled to any Service Fee, performance or schedule relief on account of any Uncontrollable Circumstance, it shall furnish the City written notice of the specific relief requested and detailing the event giving rise to the claim within ten (10) days after the giving of notice delivered pursuant to subsection (B) of this Section. Within thirty (30) days after receipt of such a timely submission from the Company, the City shall issue a written determination as to the extent, if any, it concurs with the Company's claim for Service Fee, performance or schedule relief, and the reasons therefor. The Company acknowledges that its failure to give timely notice pertaining to an Uncontrollable Circumstance as required under this Section may adversely affect the City. To the extent the City asserts that any such adverse effect has occurred and that the adjustment to the Company under this subsection should be reduced to account for such adverse effect, the Company shall have the affirmative burden of refuting the City's assertion. Absent such refutation, the reduction in adjustment to the Company asserted by the City in such circumstances shall be effective. The agreement of the Parties as to the specific relief to the Company on account of an Uncontrollable Circumstance shall be evidenced by a Contract Administration Memorandum or a Contract Amendment, as applicable.

(D) Acceptance of Relief Constitutes Release. The Company's acceptance of any Service Fee, performance or schedule relief under this Section shall be construed as a release of the City by the

Company (and all persons claiming by, through or under the Company) for any and all Loss-and-Expense resulting from, or otherwise attributable to, the event giving rise to the relief claimed.

SECTION 9.3. INDEMNIFICATION

The Company shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Company's negligence or willful misconduct under this Contract, including attorneys' fees and litigation costs; provided that nothing herein shall require a Company to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Company's agents or employees and the City, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the Company, its agents or employees. The Company specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Company's own employees against the City and, solely for the purpose of this indemnification and defense, the Company specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Company recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

The City shall defend, indemnify, and hold the Company and its officers, directors, shareholders, agents, representatives and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the City's negligence or willful misconduct under this Contract, including attorneys' fees and litigation costs; provided that nothing herein shall require the City to indemnify the Company against and hold harmless the Company from claims, demands or suits based solely upon the negligence of the Company, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the City's agents or employees and the Company, its agents, officers and employees, this indemnity provision shall be valid and enforceable to the extent of the negligence of the City, its agents or employees. Additionally, the City specifically assumes liability and agrees to defend, indemnify, and hold the Company harmless for all claims, demands, damages, losses, costs, fines, penalties or suits (including, without limitation, all remediation costs and regulatory fines) related to or arising out of Unacceptable Waste. The indemnity and agreement to defend and hold the Company harmless provided for in this section shall survive any termination or expiration of this agreement.

ARTICLE X MISCELLANEOUS

SECTION 10.1. RELATIONSHIP OF THE PARTIES. The Company is an independent Company of the City and the relationship between the Parties shall be limited to performance of this Contract in accordance with its terms. Neither Party shall have any responsibility with respect to the services to be provided or contractual benefits assumed by the other Party. Nothing in this Contract shall be deemed to constitute either Party a partner, agent or legal representative of the

other party. No liability or benefits, such as workers compensation, pension rights or liabilities, or other provisions or liabilities arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to any Party's agent or employee as a result of this Contract or the performance thereof.

SECTION 10.2. LIMITED RECOURSE TO CITY. No recourse shall be had to the general fund or general credit of the City for the payment of any amount due the Company hereunder, whether on account of the Service Fee or for any payment or claim of any nature arising from the performance or non-performance of the City's obligations hereunder. The sole recourse of the Company for all such amounts shall be to the funds held in the City's Solid Waste Disposal Enterprise Fund, as described in the City's annual audit report. All amounts held in the Solid Waste Disposal Enterprise Fund shall be held for the uses permitted and required thereby, and no such amounts shall constitute property of the Company.

SECTION 10.3. ASSIGNMENT.

- (A) By the Company. The Company shall not assign, transfer, convey, sell, lease, encumber or otherwise dispose of (collectively, "transfer") this Contract, its right to execute the same, or its right, title or interest in all or any part of this Contract or any monies due hereunder whatsoever prior to their payment to the Company, whether legally or equitably, by power of attorney or otherwise, without the prior written consent of the City. For purposes of this Section, transfer includes the acquisition of a controlling interest in the Company by another Party, through any process of merger, acquisition, stock transfer or other transaction. Notwithstanding the foregoing, the Company may transfer this Contract, its right to execute the same, or its right, title or interest in all or any part of this Contract or any monies due hereunder whatsoever prior to their payment to the Company to an affiliate within its same corporate structure without the prior written consent of the City.

Any such approval given in one instance shall not relieve the Company of its obligation to obtain the prior written approval of the City to any further assignment. Any such assignment of this Contract which is approved by the City shall require the assignee of the Company to assume the performance of and observe all obligations, representations and warranties of the Company under this Contract, and no such assignment shall relieve the Guarantor of any of its obligations under the Guaranty Agreement, which shall remain in full force and effect during the Term. The approval of any assignment, transfer or conveyance shall not operate to release the Company in any way from any of its obligations under this Contract unless such approval specifically provides otherwise.

SECTION 10.4. AMENDMENT AND WAIVER.

- (A) Contract Amendments. Notwithstanding the provisions of Section 16.13, no material change, alteration, revision or modification of the terms and conditions of this Contract shall be made except through a written amendment to this Contract duly authorized, approved or ratified by the City and duly authorized by the Company (a "Contract Amendment").
- (B) Waiver. Any of the terms, covenants, and conditions of this Contract may be waived at any time

by the Party entitled to the benefit of such term, covenant or condition if such waiver is in writing and executed by the Party against whom such waiver is asserted.

SECTION 10.5. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Company agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Company.

SECTION 10.6. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Contract. Company will comply with the Copeland “Anti-Kickback” Act (40 USC 3145), as supplemented by Department of Labor Regulations (29 CFR Part 3, “Companies and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”).

SECTION 10.7. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Company shall be responsible for contacting the State of Washington Business License Services at www.dor.wa.gov or 360-705-6741 to obtain a business registration. If the Company does not believe it is required to obtain a business registration, it may contact the City’s Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

SECTION 10.8. NOTICES.

(A) **Procedure.** Except as specifically provided in subsection herein with respect to the initial notice of an Uncontrollable Circumstance, all notices, consents, approvals or written communications given pursuant to the terms of this Contract shall be: (1) in writing and delivered in person; (2) transmitted by certified mail, return, receipt requested, postage prepaid or by overnight courier utilizing the services of a nationally-recognized overnight courier service with signed verification of delivery; or (3) given by email if a signed original is deposited in the United States Mail within two days after transmission. Notices shall be deemed given only when actually received at the address first given below with respect to each Party. Either Party may, by like notice, designate further or different addresses to which subsequent notices shall be sent.

(B) **Company Notice Address.** Notices required to be given to the Company shall be addressed as follows:

Waste Management of Washington, Inc.
720 4th Avenue, Suite 400

Kirkland, Washington 98033
Attn: Area Director, Public Sector Services
Email: mevans4@wm.com

With a copy to:
Waste Management of Washington, Inc.
7227 NE 55th Ave.
Portland, Oregon 97218
Attn: Senior Legal Counsel

(C) City Notice Address. Notices required to be given to the City shall be addressed as follows:

City of Spokane
Waste-to-Energy Facility
2900 South Geiger Boulevard, Spokane, Washington 99224
Attn: Director Solid Waste Management
Caveryt@Spokanecity.org

With a copy to:
City Attorney's Office
808 W. Spokane Falls Blvd, Floor 5
Spokane, WA 99220

SECTION 10.9. NOTICE OF LITIGATION. In the event the Company or City receives notice of or undertakes the defense or the prosecution of any Legal Proceedings, claims, or investigations in connection with the Contract Services, the Party receiving such notice or undertaking such prosecution shall give the other Party timely notice of such proceedings and shall inform the other Party in advance of all hearings regarding such proceedings.

SECTION 10.10. FURTHER ASSURANCES. The City and Company each agree to execute and deliver such further instruments and to perform any acts that may be necessary or reasonably requested in order to give full effect to this Contract. The City and the Company, in order to carry out this Contract, each shall provide such information, execute such further instruments and documents and take such actions as may be reasonably requested by the other and not inconsistent with the provisions of this Contract and not involving the assumption of obligations or liabilities different from or in excess of or in addition to those expressly provided for herein.

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their duly authorized representatives on the day and year first set forth above.

CITY OF SPOKANE

By _____
Signature Date

Type or Print Name

Title

Attest:

Approved as to Form:

City Clerk

Assistant City Attorney

**WASTE MANAGEMENT OF WASHINGTON,
INC.**

By _____
Signature Date

Type or Print Name

Title

STATE OF

ss:

CITY OF

I certify that I know or have satisfactory evidence that the above
_____ is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged as the authorized agent for the Company to be the free and voluntary act of the Company for the uses and purposes mentioned in this instrument.

DATED this ____ day of _____ 202__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the State of Washington,
residing at _____
My appointment expires _____

APPENDIX 3

CONTAINERS

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CONTAINERS AND CHASSIS.

(A) Containers:

(1) Company shall provide containers or trailers that have the following features:

- (a) Closed top designed for intermodal refuse transport, barge, or over the road;
Rigid and durable, designed to transport a minimum payload of 30 tons;
- (b) Corrosion resistant; Smooth interior walls and floors;
- (c) Rear loading doors with heavy duty rubber seals that are safe and may be easily opened and closed manually by City personnel; 100% leak-proof to a height of 24" from the container floor;

No sharp edges or other hazardous conditions; and
- (d) Painted with a unique alpha-numeric identification number.

(2) The Company will inspect the container doorway seals and locking mechanisms and the overall condition of the container to ensure that it conforms to this Contract.

Company shall ensure containers or trailers are available at the Receiving Facilities at all times unless otherwise agreed to by City Representative.

(3) Following delivery to the Disposal Site, all Bypass Waste or Non-Processible Waste, as applicable, shall be removed from each container or trailer. The Company shall clean each container as necessary to comply with the requirements of the jurisdictional health department(s) and to mitigate malodor, unsightliness, or the attraction of vectors.

(B) Maintenance:

(1) Containers shall be properly maintained in a safe working condition at all times.

Containers shall be maintained by the Company in accordance with the manufacturer's

recommended maintenance.

The Company shall replace any container that does not meet the requirements specified in this Contract.

- (2) Containers or trailers shall be maintained in a neat and sanitary manner including, but not limited to, washing and sanitizing the inside and outside of all containers and chassis and trailers with a suitable disinfectant and deodorant as needed.

Containers shall be maintained to avoid leakage or spillage of waste from the container while in transit or storage.

- (3) Containers shall be inspected at least monthly and repaired as necessary for loose fitting doors, damage to doors, seals or locking mechanisms, blocked vents, corrosion, leaks, frayed or ripped tarps on Open Top containers or trailers, or other damage incurred during loading, transport, handling and disposal of solid waste.

If a container or trailer becomes legally inoperable while in transit the Company will uncouple the container and return for a replacement container. The Company shall be responsible for removing and repairing the disabled container, and shall transport and dispose of its solid waste load.

- (4) The Company shall provide containers in sufficient quantities to allow operations to continue without delay in the event of scheduled or unscheduled maintenance.

APPENDIX 1

PERFORMANCE BOND

We, **Waste Management of Washington, Inc.**, as principal, and _____, as Surety, are held and firmly bound to the City of Spokane, Washington, in the sum of _____ (\$ _____) for the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a Contract with the City of Spokane, Washington, to do all the work and furnish all materials for the **SERVICE CONTRACT FOR TRANSPORT AND DISPOSAL OF BYPASS AND NON PROCESSIBLE WASTE**. If the principal shall:

promptly and faithfully perform the Contract, and any contractual guaranty and indemnify and hold harmless the City from all loss, damage or claim which may result from any act or omission of the principal, its agents, employees, or subcontractors.

then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation. Any judgment obtained against the City, which relates to or is covered by the Contract or this bond, shall be conclusive against the principal and the Surety, not only as to the amount of damages, but also as to their liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on _____

WASTE MANAGEMENT OF WASHINGTON, INC.

AS PRINCIPAL

By: _____
Title: _____

_____,
AS SURETY

A valid **POWER OF ATTORNEY** for the Surety's agent must accompany this bond.

By: _____
Its Attorney in Fact

STATE OF WASHINGTON)

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**APPENDIX 2
INSURANCE REQUIREMENTS**

1. Insurance Coverage

During the term of the contract, the Company shall maintain in force at its own expense, each insurance coverage noted below:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000.
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this contract. It shall provide that the City, its officers and employees are additional insureds, but only with respect to the Firm's services to be provided under this contract.
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

As evidence of the insurance coverages required by this contract, the Company shall furnish acceptable insurance certificates to the City at the time it returns the signed contract. The certificate shall include the City as a blanket additional insured, and include applicable policy endorsements, as well as policy limits. Insuring companies or entities are subject to City acceptance and must have a rating of A- or higher by Best. Copies of all applicable endorsements shall be provided. The Company shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

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APPENDIX 3

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:

Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,

Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.

4. I understand that a false statement of this certification may be grounds for termination of

RFP Draft Contract Appendices

the contract.

_____ Name of Subrecipient / Contractor / Consultant (Type or Print)	_____ Program Title (Type or Print)
_____ Name of Certifying Official (Type or Print)	_____ Signature
_____ Title of Certifying Official (Type or Print)	_____ Date (Type or Print)

5.7

5.7 - SBO-Add two, grant funded, Community Justice Specialist Positions

Thompson, Sarah

Sponsors: CP Kinnear, CM Stratton

On August 21, 2023, ORD C36432 was passed wherein \$293,750 was accepted from the Administrative Office of Courts on behalf of Community Court. With those funds, two additional Community Justice Specialists are being requested. These positions will be funded by grant sources, with no additional cost to City General Fund dollars.

| For Information

Attachments

[Briefing Paper CJS Positions.docx](#)

[CJS Grant Positions SBO.docx](#)

Committee Agenda Sheet

Public Safety & Community Health Committee

Submitting Department	Community Justice Services
Contact Name	Sarah Thompson
Contact Email & Phone	509-309-6948 sthompson@spokanecity.org
Council Sponsor(s)	CP Kinnear; CM Stratton
Select Agenda Item Type	<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Discussion Time Requested: 5min
Agenda Item Name	SBO - Add two, grant funded, Community Justice Specialist Positions
Summary (Background)	On August 21, 2023, ORD C36432 was passed wherein \$293,750 was accepted from the Administrative Office of Courts on behalf of Community Court. With those funds, two additional Community Justice Specialists are being requested. These positions will be funded by grant sources, with no additional cost to City General Fund dollars.
Proposed Council Action	Approve SBO on October 2, 2023
Fiscal Impact	<p>Total Annual Cost: \$152,000</p> <p><i>Total cost will vary based on the hiring step and associated benefits. We expect the salary and benefit cost per employee to be less than \$80K and no impact to the City as they are grant supported positions.</i></p> <p>Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No, Positions <input type="checkbox"/> N/A</p> <p>Funding Source <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring</p> <p>Specify funding source: AOC grants</p> <p>Expense Occurrence <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Recurring</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>
Operations Impacts (If N/A, please give a brief description as to why)	
What impacts would the proposal have on historically excluded communities?	N/A
How will data be collected, analyzed, and reported concerning the effect of the program/policy by racial, ethnic, gender identity, national origin, income level, disability, sexual orientation, or other existing disparities?	N/A
How will data be collected regarding the effectiveness of this program, policy or product to ensure it is the right solution?	N/A

Describe how this proposal aligns with current City Policies, including the Comprehensive Plan, Sustainability Action Plan, Capital Improvement Program, Neighborhood Master Plans, Council Resolutions, and others?

N/A

ORDINANCE NO _____

An ordinance amending Ordinance No. C36345, passed by the City Council December 12, 2022, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2023, making appropriations in the various funds of the City of Spokane government for the year ending December 31, 2023, and providing it shall take effect immediately upon passage," and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2023 budget Ordinance No. C36345, as above entitled, and which passed the City Council December 12, 2022, it is necessary to make changes in the appropriations of the General Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the General Fund, and the budget annexed thereto with reference to the Fund, the following changes be made:

- 1) Add two classified Community Justice Specialist positions (from 5 to 7).
- A) There is no change to the overall appropriation level in the General Fund.

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to create grant funded positions, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date

6 - Executive Session

Executive Session may be held or reconvened during any committee meeting.



7 - Adjournment

8 - Next Meeting

The next meeting of the Public Safety & Community Health Committee will be held at 1:15 p.m. on November 06, 2023.