

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, APRIL 22, 2013

MISSION STATEMENT

TO DELIVER EFFICIENT AND EFFECTIVE SERVICES
THAT FACILITATE ECONOMIC OPPORTUNITY
AND ENHANCE QUALITY OF LIFE.

MAYOR DAVID A. CONDON

COUNCIL PRESIDENT BEN STUCKART

COUNCIL MEMBER MICHAEL A. ALLEN

COUNCIL MEMBER MIKE FAGAN

COUNCIL MEMBER NANCY McLAUGHLIN

COUNCIL MEMBER STEVE SALVATORI

COUNCIL MEMBER JON SNYDER

COUNCIL MEMBER AMBER WALDREF

COUNCIL CHAMBERS
CITY HALL

808 W. SPOKANE FALLS BLVD.
SPOKANE, WA 99201

CITY COUNCIL BRIEFING SESSION

Council will adopt the Administrative Session Consent Agenda after they have had appropriate discussion. Items may be moved to the 6:00 p.m. Legislative Session for formal consideration by the Council at the request of any Council Member.

SPOKANE CITY COUNCIL BRIEFING SESSIONS (BEGINNING AT 3:30 P.M. EACH MONDAY) AND LEGISLATIVE SESSIONS (BEGINNING AT 6:00 P.M. EACH MONDAY) ARE BROADCAST LIVE ON CITY CABLE CHANNEL FIVE AND STREAMED LIVE ON THE CHANNEL FIVE WEBSITE. THE SESSIONS ARE REPLAYED ON CHANNEL FIVE ON WEDNESDAYS AT 6:00 P.M. AND FRIDAYS AT 10:00 A.M.

The Briefing Session is open to the public, but will be a workshop meeting. Discussion will be limited to Council Members and appropriate Staff and Counsel. There will be an opportunity for the expression of public views on any issue not relating to the Current or Advance Agendas during the Open Forum at the beginning and the conclusion of the Legislative Agenda.

ADDRESSING THE COUNCIL

- No one may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet as a condition of recognition.
- Each person speaking at the public microphone shall print his or her name and address on the sheet provided at the podium and verbally identify him/herself by name, address and, if appropriate, representative capacity.
- If you are submitting letters or documents to the Council Members, please provide a minimum of ten copies via the City Clerk. The City Clerk is responsible for officially filing and distributing your submittal.
- In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, modes of expression such as demonstration, banners, applause and the like will not be permitted.
- A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.

SPEAKING TIME LIMITS: Unless deemed otherwise by the Chair, each person addressing the Council shall be limited to a three-minute speaking time.

CITY COUNCIL AGENDA: The City Council Advance and Current Agendas may be obtained prior to Council Meetings from the Office of the City Clerk during regular business hours (8 a.m. - 5 p.m.). The Agenda may also be accessed on the City website at www.spokanecity.org. Agenda items are available for public review in the Office of the City Clerk during regular business hours.

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 also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) 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 Gita George-Hatcher at (509) 625-7083, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or ggeorge-hatcher@spokanecity.org. Persons who are deaf or hard of hearing may contact Ms. George-Hatcher at (509) 625-7083 through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

If you have questions, please call the Agenda Hotline at 625-6350.

BRIEFING SESSION

(3:30 p.m.)

(Council Chambers Lower Level of City Hall)

(No Public Testimony Taken)

Council Reports

Staff Reports

Committee Reports

Advance Agenda Review

Current Agenda Review

ADMINISTRATIVE SESSION

Roll Call of Council

CONSENT AGENDA

REPORTS, CONTRACTS AND CLAIMS

RECOMMENDATION

- | | | |
|---|---------|------------------------------|
| 1. Contract extension with American Medical Response Ambulance Service, Inc. (Spokane, WA) to provide ambulance transport when requested by the Fire Department through October 31, 2014—\$327,000.
<i>Brian Schaeffer</i> | Approve | OPR 2003-0688 |
| 2. Contract with Infor Public Sector, Inc. (Alpharetta, GA) to license, use and provide annual CAD/RMS maintenance for the proprietary EnRoute Emergency Systems software from May 1, 2013 through April 30, 2014—estimated expense \$61,538.70.
<i>Brian Schaeffer</i> | Approve | OPR 2013-0294 |
| 3. Master Contract with Occupational Medicine Associates (Spokane, WA) to provide professional medical services for the City of Spokane from May 1, 2013 through April 30, 2014, with option to extend for 4 additional 1-year periods—estimated annual expense \$120,000 (including tax).
<i>Heather Lowe</i> | Approve | OPR 2013-0295
RFP 3912-13 |

- | | | |
|---|--|--|
| <p>4. Contract with Deeco, Inc. (Raleigh, NC) for annual air emissions compliance testing for the Waste-to-Energy Facility from April 15, 2013 through December 31, 2013—\$103,312. An administrative reserve of \$9,392, which is 10% of the contract price, will be set aside.
 <i>Ken Gimpel</i></p> | <p>Approve</p> | <p>OPR 2013-0296
RFP 3914-13</p> |
| <p>5. Consultant Agreement with OAC Services, Inc. (Spokane, WA) to provide consulting services for the Nelson Service Center Design-Build—not to exceed \$231,080.
 <i>Stacy Shewell</i></p> | <p>Approve</p> | <p>OPR 2013-0297
RFP 3920-13</p> |
| <p>6. Contract with New Dawn Technologies, Inc. (Logan, UT) for annual support and upgrades of JustWare Case Management Software and annual subscription of Business Intelligence from January 1, 2013 through March 9, 2014—\$86,062.35 (including tax).
 <i>Michael Sloon</i></p> | <p>Approve</p> | <p>OPR 2013-0298</p> |
| <p>7. Spokane Area Workforce Development Council (SAWDC) to enter into agreements with Washington State Employment Security Department for Workforce Investment Act Funds for Program Year 2013 (July 1, 2013 through June 30, 2014), and to subcontract with various agencies as approved by the SAWDC Executive Committee—\$3,500,000.
 <i>Mark Mattke</i></p> | <p>Approve &
Authorize
Contracts</p> | <p>OPR 2013-0299</p> |
| <p>8. Report of the Mayor of pending:</p> | <p>Approve &
Authorize
Payments</p> | <p>CPR 2013-0002</p> |
| <p>a. Claims and payments of previously approved obligations, including those of Parks and Library, through _____, total \$ _____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$ _____.</p> | | <p>CPR 2013-0003</p> |
| <p>b. Payroll claims of previously approved obligations through _____: \$ _____.</p> | | |

EXECUTIVE SESSION

(Closed Session of Council)

(Executive Session may be held or reconvened during the 6:00 p.m. Legislative Session)

CITY COUNCIL SESSION

**(May be held or reconvened following the 3:30 p.m. Administrative Session)
(Council Briefing Center)**

This session may be held for the purpose of City Council meeting with Mayoral nominees to Boards and/or Commissions. The session is open to the public.

LEGISLATIVE SESSION

(6:00 P.M.)

(Council Reconvenes in Council Chamber)

WORDS OF INSPIRATION

PLEDGE OF ALLEGIANCE

ROLL CALL OF COUNCIL

ANNOUNCEMENTS

(Announcements regarding Changes to the City Council Agenda)

BOARDS AND COMMISSIONS APPOINTMENTS

(Includes Announcements of Boards and Commissions Vacancies)

CITY ADMINISTRATION REPORT

COUNCIL COMMITTEE REPORTS

(Committee Reports for Finance, Neighborhoods, Public Safety, Public Works, and Planning/Community and Economic Development Committees and other Boards and Commissions)

OPEN FORUM

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

LEGISLATIVE AGENDA

EMERGENCY BUDGET ORDINANCE

(Requires Five Affirmative, Recorded Roll Call Votes)

Ordinance No. C34977 amending Ordinance No. C34947 passed the City Council December 10, 2012, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2013, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2013, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Parks and Recreation Fund

FROM: Custodian I, \$6,000;

TO: Irrigation Specialist, same amount.

(This action changes an Irrigation Specialist position from part-time to full-time.)

Leroy Eadie

NO EMERGENCY ORDINANCES

RESOLUTIONS

(Require Four Affirmative, Recorded Roll Call Votes)

RES 2013-0028 Approving the 2013 Action Plan Component of the Consolidated Community Development and Housing Plan (13 Community Development Neighborhoods).

Allen Schmelzer

RES 2013-0029 Regarding the continued operation of the Felts Field Contract Tower.

Sponsors: Council Members Amber Waldref and Nancy McLaughlin

NO FINAL READING ORDINANCES

FIRST READING ORDINANCES

(No Public Testimony Will Be Taken)

ORD C34978 (To be considered under Hearings Item H1.b.)

ORD C34979 (To be considered under Hearings Item H2.b.)

FURTHER ACTION DEFERRED

NO SPECIAL CONSIDERATIONS

HEARINGS

(If there are items listed you wish to speak on, please sign your name on the sign-up sheets in the Chase Gallery.)

RECOMMENDATION

- | | | | |
|-----|--|-------------------------------|----------------------------|
| H1. | <p>a. Proposed Initiative 2012-4 petitions filed by Spokane Moves to Amend (SMAC) pertaining to a Spokane Municipal Code amendment to add a Voter Bill of Rights for clean and fair elections and government ordinance that prohibits corporate lobbying, corporate involvement in initiatives, and corporate donations to candidates for elected office. (Pending City Council approval on April 15, 2013, Agenda)</p> | Council
Decision | LGL 2012-0049
IP 2012-4 |
| | <p>b. First Reading Ordinance C34978 amending the Spokane Municipal Code to prohibit corporate lobbying, corporate involvement in initiatives, and corporate donations to candidates for elected office. (Adds Voter Bill of Rights for clean and fair elections.)
Terri Pfister</p> | Further
Action
Deferred | ORD C34978 |
| H2. | <p>a. Proposed Initiative 2012-3 petitions filed by Envision Spokane pertaining to an amendment to the City Charter to add a Community Bill of Rights, which secures the right of neighborhood residents to approve re-zonings proposed for major new development, recognizes the right of neighborhood residents to reject development which violates the City Charter or the City's Comprehensive Plan, expands protections for the Spokane River and Spokane Valley-Rathdrum Prairie Aquifer, provides constitutional protections in the workplace, and elevates Charter rights above rights claimed by corporations. (Pending City Council approval on April 15, 2013, Agenda)</p> | Council
Decision | LGL 2012-0045
IP 2012-3 |
| | <p>b. First Reading Ordinance C34979 amending the City Charter to establish a Community Bill of Rights.
Terri Pfister</p> | Further
Action
Deferred | ORD C34979 |

Motion to Approve Advance Agenda for April 22, 2013
(per Council Rule 2.1.2)

OPEN FORUM (CONTINUED)

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

ADJOURNMENT

The April 22, 2013, Regular Legislative Session of the City Council is adjourned to Monday, April 29, 2013.

NOTES



Agenda Sheet for City Council Meeting of:

04/22/2013

Date Rec'd	4/10/2013
Clerk's File #	OPR 2003-0688
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	FIRE
Contact Name/Phone	BRIAN SCHAEFFER 625-7002
Contact E-Mail	BSCHAEFFER
Agenda Item Type	Contract Item
Agenda Item Name	0440-AMR AMBULANCE TRANSPORT SERVICE

Agenda Wording

Contract extension with AMERICAN MEDICAL RESPONSE AMBULANCE SERVICE, INC. (AMR)Spokane WA, to provide ambulance transport when requested by the Fire Department. The contract as amended by the extension shall run through October 31, 2014.

Summary (Background)

This is an extension of an existing agreement (OPR 2003-0688) based on the results of Bid # 3145-03. Ambulance transport service is an essential element of the Emergency Medical Services (EMS) system in the City. At the request of the Public Safety Committee on 3/18/2013, AMR's existing contract will be extended to provide transport services with response time criteria, performance standards and training requirements.

Fiscal Impact

Revenue	\$ 327000
Select	\$
Select	\$
Select	\$

Budget Account

#	1970-35310-99999-34251
#	
#	
#	

Approvals

Dept Head	SCHAEFFER, BRIAN
Division Director	SCHAEFFER, BRIAN
Finance	LESESNE, MICHELE
Legal	BURNS, BARBARA
For the Mayor	SANDERS, THERESA

Council Notifications

Study Session	PSC 3/18/2013
Other	
Distribution List	
	achirowamangu
	lbryant
Additional Approvals	agolden
Purchasing	mlesesne
	BSchaeffer

CONTRACT EXTENSION

THIS CONTRACT EXTENSION is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City," and AMERICAN MEDICAL RESPONSE AMBULANCE SERVICE, INC., whose address is 915 West Sharp Avenue, Spokane, Washington 99201, as "AMR".

WHEREAS, the parties entered into a contract wherein AMR agreed to provide ambulance services at the request of the Fire Department; and

WHEREAS, the contract is scheduled to terminate October 31, 2013; and

WHEREAS, the City Council requested staff to extend the existing ambulance service contract; and

WHEREAS, the City is embarking on a Fire/EMS Delivery Task Force to examine future service model possibilities; and

WHEREAS, the parties would like to extend the contract for an additional year so the Task Force's results can be taken into consideration with the new request for bids; -- Now, Therefore,

The parties agree as follows:

- 1. CONTRACT DOCUMENTS. The contract dated August 19, 2003 as amended by the extension contract dated August 21, 2008, and the contract addendum dated March 13, 2012 (expired December 31, 2012) are the contract document and are incorporated by reference into this document as though written in full. The contract as amended by the extension contract shall remain in full force and effect except as provided herein**
- 2. EXTENSION. The contract documents are hereby extended and shall run through October 31, 2014.**

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

City Clerk

Dated: _____

Approved as to form:



Assistant City Attorney

**AMERICAN MEDICAL RESPONSE
AMBULANCE SERVICE, INC.**

E-Mail address, if available:
Thomas.Wagner@amr.net

By: 

Title: Chief Executive Officer
West Region



Agenda Sheet for City Council Meeting of:

04/22/2013

Date Rec'd	4/10/2013
Clerk's File #	OPR 2013-0294
Renews #	OPR 2012-0294
Cross Ref #	
Project #	
Bid #	
Requisition #	CR 13391

Submitting Dept	FIRE
Contact Name/Phone	BRIAN SCHAEFFER 625-7002
Contact E-Mail	BSCHAEFFER@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0440-INFOR PUBLIC SECTOR - ANNUAL CAD/RMS SOFTWARE MAINTENANCE

Agenda Wording

Contract with INFOR PUBLIC SECTOR INC. (Alpharetta, GA) to license, use and provide annual CAD/RMS maintenance for the proprietary EnRoute Emergency Systems software from May 1, 2013 through April 30, 2014. Estimated contract cost is \$ 61,538.70.

Summary (Background)

This is a contract renewal of ongoing annual software maintenance to the Fire Department's CAD/RMS systems. An upgrade to the CAD/RMS system in 2010 required interfacing with the EnRoute software. Maintenance of the system is necessary for compliance with the Fire Department's contracts to provide Fire/EMS dispatch services for 14 Fire Agencies in Spokane County. EnRoute Emergency Systems Inc. merged with Info Public Sector Inc. in December 2012.

Fiscal Impact

Expense	\$ 61,538.70
Select	\$
Select	\$
Select	\$

Budget Account

1630-35210-22551-54820
#
#
#

Approvals

Dept Head	SCHAEFFER, BRIAN
Division Director	SCHAEFFER, BRIAN
Finance	LESESNE, MICHELE
Legal	BURNS, BARBARA
For the Mayor	SANDERS, THERESA

Council Notifications

Study Session	PSC 3/18/2013
Other	
Distribution List	
	achirowamangu
	lbryant
Additional Approvals	aschmidt
Purchasing	bschaeffer
	agolden
	Contract Accounting - mlesesne



AMENDMENT DOCUMENT 103-S030301
ATTACHMENT A-12

The Agreement for Systems and Services Number 103-S030304, signed May 6, 2003 between Infor Public Sector, Inc. as successor to EnRoute Emergency Systems LLC (Infor") and **Spokane Fire Department** ("Customer") shall be amended as follows:

1. The second sentence of Section 2(b) shall be deleted in its entirety and replaced with the following:

"This Agreement shall be for a term of one (1) year only, commencing May 1, 2013 and terminating April 30, 2014. Thereafter the annual term shall be from May 1 to April 30. It shall be the responsibility of the Spokane Fire Department to renew this agreement on an annual basis. A newly executed Amendment Document with annual payment must be executed and delivered to Infor by May 1 of each year in order to prevent the interruption of standard and emergency services as provided within this Agreement."

2. The Agreement shall be amended in accordance with the terms set out herein. All other terms and conditions of said Agreement shall remain the same. To the extent of any conflict, inconsistency or incongruity between the provisions of this Addendum Number A-121 and the provisions of the Agreement, the provisions of this Addendum shall govern and control.

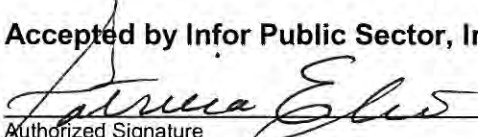
Accepted by Customer:

Authorized Signature

Print Name/Title

Date

Accepted by Infor Public Sector, Inc.:



Authorized Signature

Patricia Elias, Associate General Counsel

Print Name/Title

March 4, 2013

Date



Billing Office	Invoice	Invoice Date	Due Date
US02F	P - 1754	01/30/2013	04/30/2013

Invoice

Bill to: Spokane Fire Department
 44 West Riverside
 Spokane, WA 99201
 USA
 Attn: Kristy Pettit

Deliver To: Spokane Fire Department
 44 West Riverside
 Spokane, WA 99201
 USA
 Attn: License Site

Customer No.	Tax Reg. No.	Customer PO No.	Currency	
103			USD	Maintenance Renewal

Description	Quantity	Users	Amount
FireHouse 05/01/2013 - 04/30/2014	1	1	757.05
EnRoute CAD (COF # 103-1108180737) 05/01/2014 - 04/30/2015	1	1	6,300.00
EnRoute CAD Seats 05/01/2014 - 04/30/2015	1	8	5,040.00
Fire Mobile Overlay 05/01/2013 - 04/30/2014	1	1	2,784.05
EnRoute Fire Mobile Data 05/01/2013 - 04/30/2014	1	40	6,012.81
911-Parameter Driven 05/01/2013 - 04/30/2014	1	1	2,505.43
A/N Paging 05/01/2013 - 04/30/2014	1	1	2,922.29
Zetron Encoder 05/01/2013 - 04/30/2014	1	1	2,950.15
ProQA Interface 05/01/2013 - 04/30/2014	1	1	3,507.39
CAD Download to RMS 05/01/2013 - 04/30/2014	1	1	1,447.75
DF/AD to AMR Spokane 05/01/2013 - 04/30/2014	1	1	2,226.81
Message Switch Package 05/01/2013 - 04/30/2014	1	1	8,461.45
Location Interface 05/01/2013 - 04/30/2014	1	1	1,103.13
AVL w/Unit Recommendation 05/01/2013 - 04/30/2014	1	1	8,684.34
wIntegrate SN10056240 05/01/2013 - 04/30/2014	1	5	198.25

Carry Forward 54,900.90



Billing Office	Invoice	Invoice Date	Due Date
US02F	P - 1754	01/30/2013	04/30/2013

Invoice

Carry Forward 54,900.90

Description	Quantity	Users	Amount
UniData-Server-Primary for Message Switch 05/01/2013 - 04/30/2014	1	4	424.36
UniData-Server-Backup for Message Switch 05/01/2013 - 04/30/2014	1	4	107.16
NFA-Server-Primary for Message Switch 05/01/2013 - 04/30/2014	1	1	590.46
NFA-Server-Backup for Message Switch 05/01/2013 - 04/30/2014	1	1	590.46
TAX(Type RE - WA)			4,320.63
TAX(Type RP - WA)			604.73

For renewal questions, please contact Tonia Booth, Maintenance Business Manager
 Phone: +1 813 207 6973
 Email: tonia.booth@infor.com

Remit to:

Enroute
 4213 Solutions Center
 Lockbox 774213
 Chicago, IL 60677-4002
 USA
 Cash.Applications@Infor.com
 EFT; Wells Fargo Bank
 ABA#: 121000248
 Account#: 4121484505

Please pay invoice by due date to avoid interruptions in support.

Net	Tax	Total:
56,613.34	4,925.36	61,538.70
This is a computer generated document, no signature required.		

Payment Terms:

See Due Date.

Special Instructions:

For questions, please contact at 678-319-8000 or email Infor.Collections@infor.com

Invoice Total: USD 61,538.70

13560 Morris Rd. Suite 4100 Alpharetta, GA 30004 USA
 678-319-8000 Federal Tax ID. # 20-4533132

**Briefing Paper
City of Spokane
Spokane Fire Department/Public Safety Committee
March 18, 2013**

Subject

Contract with Infor Public Sector - formerly known as EnRoute Emergency Systems LLC to provide annual CAD/RMS maintenance.

Estimated expenses are \$61,550.00 (including tax) a year. The maintenance contract will commence on May 1, 2013 and end on April 30, 2014.

Background

This contract is a renewal for ongoing software maintenance and licenses for the Fire Department's CAD/RMS systems. Maintenance of the system is necessary for compliance with the Fire Department's contracts to provide Fire/EMS dispatch services for 14 Fire Agencies in Spokane County.

In May 2013 a complete system upgrade will be deployed. This is separate to ongoing maintenance for the system services.

Action

Approval of the Fire Department CAD/RMS 2013 maintenance contract.

Funding

CCC (Combined Communications Center) Fund.



Agenda Sheet for City Council Meeting of:

04/22/2013

Date Rec'd	4/10/2013
Clerk's File #	OPR 2013-0295
Renews #	OPR 2009-0428
Cross Ref #	
Project #	
Bid #	RFP 3912-13
Requisition #	MASTER

Submitting Dept	HUMAN RESOURCES
Contact Name/Phone	HEATHER LOWE X6233
Contact E-Mail	HLOWE@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0620 MASTER CONTRACT WITH OCCUPATIONAL MEDICINE ASSOCIATES

Agenda Wording

Approve a Master Contract with Occupational Medicine Associates (OMA) to provide professional medical services for the City of Spokane. Estimated annual expenditure is \$120,000 including tax.

Summary (Background)

On Monday, March 4, 2013 sealed proposals were received to provide the City of Spokane with professional medical services including (but not limited to) pre-employment physicals, on-going physicals, fit-for-duty exams and drug and alcohol testing. RFP packages were sent to several prospective service providers. Two responses were received and of those two, the proposal from OMA was determined to best meet the needs of the City. OMA is also the current provider for these services. The initial contract term would be for an approximate one-year term beginning May 1, 2013 through April 31, 2014 with options to renew for four additional one-year periods.

Fiscal Impact

Expense	\$ 120,000/year
Select	\$
Select	\$
Select	\$

Budget Account

#	Various
#	
#	
#	

Approvals

Dept Head	LOWE, HEATHER
Division Director	
Finance	LESESNE, MICHELE
Legal	BURNS, BARBARA
For the Mayor	SANDERS, THERESA

Council Notifications

Study Session	
Other	
Distribution List	
	dhendricks@spokanecity.org
	hlowe@spokanecity.org
	mlesesne@spokanecity.org
	cwahl@spokanecity.org
	lbryant@spokanecity.org
	agolden@spokanecity.org
	anm@omaspokane.org

Additional Approvals

Purchasing	WAHL, CONNIE

AGREEMENT

THIS AGREEMENT is between CITY OF SPOKANE, a Washington State municipal corporation, as "City," and OCCUPATIONAL MEDICINE ASSOCIATES, P.S., whose address is 323 East Second Avenue, Spokane, Washington 99202, as "OMA."

The parties agree as follows:

1. SERVICES. OMA shall provide and perform professional medical services in accordance with the Request for Proposals and the attached Attachment A.
2. CONTRACT DOCUMENTS. This agreement, OMA's proposal and the City's Request for Proposals are the contract documents and are complementary. In the event of conflict, the documents control in the order listed.
3. COMPENSATION. The City will pay OMA the fees set forth in the attached Attachment A as full consideration for everything done and furnished under this agreement.
4. PAYMENT AND INVOICING. OMA shall submit an invoice to City each month, or other period as agreed upon. All invoices shall contain such itemization of charges as detailed in each Attachment(s). Payment will be made within thirty (30) days of receipt of the invoice except as provided by state law.
5. INDEPENDENT CONTRACTOR STATUS. OMA acknowledges that all of OMA's personnel providing services to City are representatives, employees, associates, servants or agents of OMA. OMA shall be considered to be an independent contractor under this agreement and not an agent or employee of City. OMA has sole authority to control and direct the performance of the details of the services. OMA shall have no authority to incur any obligations, contractual or otherwise, in the name of or on the behalf of City.
6. PERSONNEL. All OMA personnel assigned to provide the services will be qualified to perform their assigned duties.
7. PROFESSIONAL STANDARDS.
 - A. OMA warrants its services shall be performed in accordance with professional standards. OMA warrants that it will not act in breach of Code of Ethical Conduct of the American College of Occupational and Environmental Medicine.
 - B. OMA warrants that in performing the services, it will comply with all applicable, federal, state or local laws, regulations or ordinances.

8. CONFIDENTIALITY. OMA shall not, either during or after the term of the agreement, disclose to any third party, or use for its own benefit, any confidential information relative to the services of the business of City and/or affiliated agencies, or release confidential data provided by the City unless required by law without the written consent of the City. OMA shall comply with the attached Attachment B entitled "Health Insurance Portability and Accountability Act - Business Associate Addendum".

9. CONFLICT OF INTEREST. OMA shall exercise reasonable care and diligence to prevent any actions or conditions, which could result in a conflict with City's best interests.

10. INSURANCE. During the term of the agreement, OMA shall maintain in force at its own expense, the following insurance:

- A. Workers' 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 or Stop Gap 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 agreement. It shall provide that the City, its officers, employees and agents are additional insureds but only with respect to OMA's services to be provided under the agreement;
- 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 or non-owned vehicles; and
- D. Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this agreement. The coverage must remain in effect for at least two (2) years after the agreement is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from OMA or its insurer(s) to the City. As evidence of the insurance coverages required by this agreement, OMA shall furnish acceptable insurance certificates to the City at the time OMA returns the signed agreement. The certificate shall specify all of the parties who are additional insured, and will include applicable policy endorsements and the deduction or retention level. Insuring companies or entities are subject to City acceptance. OMA shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

11. INDEMNIFICATION. Each party shall be responsible and liable for the consequences of any act or failure to act on the part of itself, its employees and its agents. Each party agrees to defend, indemnify and hold harmless the other party and its officers, employees

and agents, from and against all loss or expense, including attorney's fees and costs for all claims, demands, and litigation for damages arising out of, or in consequence of, their respective obligations under this agreement. This obligation shall survive the term of this agreement.

12. RESPONSIBILITY FOR CITY POLICY. OMA does not make decisions for City, such as hiring applicants, termination, discipline or retention of any employee, and that City has sole responsibility for such decisions. OMA shall not be responsible for any damages resulting from acts or omissions of the City in such decisions.

13. APPLICABLE LAW. This agreement shall be governed and construed according to the laws of the State of Washington.

14. SEVERABILITY. If any provision of this agreement is held to be illegal, invalid or unenforceable by a court of competent jurisdiction, the parties shall agree on a substitute provision, which is as similar in effect to the deleted provision as possible. The remaining portion of the agreement not declared illegal invalid or unenforceable shall remain valid and effective for the term remaining unless the provision found illegal, invalid or unenforceable goes to the essence of this agreement.

15. TERM. This agreement shall begin May 1, 2013 and run through April 30, 2014, unless terminated earlier. The agreement may be extended, at the sole discretion of the City, for four (4) additional one-year periods. The agreement may be terminated by either party at any time without cause upon ninety (90) day's written notice to the other party.

16. NOTICES. Notices as required hereunder shall be sent to the following addresses:

City of Spokane
Director of Human Resources
4th floor, City Hall
808 West Spokane Falls Blvd.
Spokane, WA 99201-3327
Phone (509) 625-6363
Fax (509) 625-6379

Occupational Medicine Associates, P.S.
323 East Second Avenue, Suite 102
Spokane, WA 99202
Phone (509) 455-5555
Fax: (509) 4455-4114

17. 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 agreement shall have or acquire any interest in the agreement, 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 agreement.

18. 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, 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.

19. 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. OMA shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If OMA 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.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

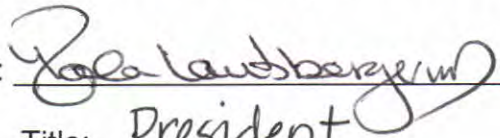


Assistant City Attorney

Dated: 3.28.13

OCCUPATIONAL MEDICINE
ASSOCIATES, P.S.

E-mail address if available:
annm@omaspokane.org

By: 

Title: President

Attachments that are a part of
this agreement:

- Attachment A – Cost Pricing
- Attachment B - HIPAA Business Associate Addendum

ATTACHMENT A

COST PROPOSAL PRICING PAGE

1. PRE-EMPLOYMENT PHYSICALS

(Approximately 180 per year (includes drug test), 15 per month; approximately 175 drug tests of temporary seasonal employees per year, 15 per month)

NON-UNIFORMED EMPLOYEES		UNIT PRICE
00521	DS Lab/Collection Fee	<u>\$36.00</u>
00526C	Dot Exam w/hearing for City	<u>\$70.00</u>
72100	X-ray Spine LS/AP + Lat	<u>\$67.00</u>
00504	Extended Exam/Audio	<u>\$65.00</u>
00579	Drug Test (Temporary Seasonal Park Department employees only).	<u>\$20.00</u>
00516	Pulmonary Function Test (as needed depending on job classification)	<u>\$28.00</u>

UNIFORMED POLICE OFFICERS (to include Reservists)

00504	Ext. Exam/Audio	<u>\$65.00</u>
81000	Urinalysis-Dip Stick	<u>\$11.50</u>
72100	X-Ray Spine LS/AP + Lat	<u>\$67.00</u>
71010	X-Ray Chest, Pa View	<u>\$53.00</u>
93000	Electrocardiogram, Complete	<u>\$70.00</u>
36415	Venous Blood Draw/Office	<u>\$17.50</u>
4102Q	Lab Panel	<u>\$42.00</u>
86592	RPR	<u>\$26.00</u>

UNIFORMED FIREFIGHTERS

00504	Pre-emp exam, hearing and full vision	<u>\$65.00</u>
00615	Respirator clearance, questionnaire review	<u>\$30.00</u>
00516	Pulmonary Function Test	<u>\$28.00</u>
71010	Chest X-ray (PA only)	<u>\$53.00</u>
72020	L-spine (if indicated)	<u>\$45.00</u>
4102Q	Lab Panel	<u>\$42.00</u>
36415	Blood Draw	<u>\$17.50</u>
93015	Stress EKG Treadmill (Drs. Discretion)	<u>\$190.00</u>
00521	Drug Screen (Pre-employment only)	<u>\$36.00</u>
72100	X-Ray Spine LS/AP + Lat	<u>\$67.00</u>
71010	X-Ray Chest, Pa View	<u>\$53.00</u>

2. ONGOING PHYSICALS

FIREFIIGHTERS

00504	Annual Exam >40	\$65.00
00504	Bi-annual Exam (age 30 to 39)	\$65.00
00504	Exam every 3 years (age 29 & under)	\$65.00
00516	Pulmonary Function Test	\$28.00
81000	Urinalysis-Chem Stick	\$11.50
36415	Blood Draw	\$17.50
4102Q	Lab Panel	\$42.00
84153	PSA (>50 years old)	\$42.50
71010	Check X-ray PA (if indicated)	\$53.00
93015	Stress EKG Treadmill (Haz Mat Only)	\$190.00

As part of a Firefighters ongoing physical, additional services that would need to be provided are:
(Fire Department would be financially responsible for these charges.)

86804	Hep C	\$42.75
86585	TB Test	\$12.50
90746	Hep B Series	\$60.00
90632	Hep A Series	\$65.00
86735	Mumps Titre	\$42.50
86762	Rubella Titre	\$29.00
86765	Rebeola Titre	\$54.50
90703	Diphtheria, Tetanus Vaccine	\$16.00

POLICE OFFICERS

00504	Ext. Exam/Audio	\$65.00
81000	Urinalysis-Dip Stick	\$11.50
72100	X-Ray Spine LS/AP + Lat	\$67.00
71010	X-Ray Chest, PA View	\$53.00
93000	Electrocardiogram, Complete	\$70.00
36415	Venous Blood Draw/Office	\$17.50
4102Q	Lab Panel	\$42.00
86592	RPR	\$26.00
81001	U/A Microscopic Analysis (Bomb Squad) <i>For those officers exposed to meth labs while on duty:</i>	\$22.00
00615	RESP Clearance Quest	\$30.00
00516	Pulmonary Function Test	\$28.00
83655	Lead W/Zinc/OSHA	\$75.25
4102M	Chem Panel Heavy Metal Screen	\$165.00
84153	ASSAY PSA Total	\$42.50

3. DOT CERTIFICATION/RECERTIFICATION

(approximately 245 per year, 30 per month)

00506	DOT Exam	\$65.00
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4. FIT-FOR-DUTY EXAMS

(Approximately 13 per year)

00510	Basic Fit For Duty Exam	<u>\$120.00</u>
00511	Ext Fit For Duty Exam	<u>\$180.00</u>

5. POST ACCIDENT TESTING

(Approximately 15 per year)

00536	Breath Alcohol Test	<u>\$30.00</u>
00521	DS Lab/Collection Fee	<u>\$36.00</u>

6. RANDOM DRUG/ALCOHOL TESTING (CDL)

(Random Drug Tests = 22 per month. Random Alcohol Tests = 5 per month.)

00536	Breath Alcohol Test	<u>\$30.00</u>
00521	DS Lab/Collection Fee	<u>\$36.00</u>
00525	MRO Report	<u>\$15.00</u>
00568	2 nd Lab Conf	<u>\$175.00</u>

7. EXIT AUDIOGRAMS

00531	Exit Audiogram	<u>\$20.00</u>
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8. MISCELLANEOUS

90471	Injection Administration Fee	<u>\$11.25</u>
00521	After Hours Drug Screen w/Lab	<u>\$86.00</u>
00536	After Hours Breath Alcohol (BAT)	<u>\$50.00</u>

ADDITIONAL CHARGES

Any other fees/charges that might be billed to the City, as part of this contract must be identified here or they will not be allowed.

<u>Description of fee/charge</u>	<u>Unit</u>	<u>Unit Cost</u>
Telephone consultation for special cases		No Fee
Random Program Administration Fee	Annual	\$400.00
<u>Classes Offered:</u>		
Reasonable Suspicion Training for DOT Supervisors (2 hours)		\$20.00 per person
Designated Employer Representative Compliance Workshop (6 hours)		\$50.00 per person

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is between the CITY OF SPOKANE ("Covered Entity"), and OCCUPATIONAL MEDICINE ASSOCIATES, ("Business Associate"), and is effective as of MAY 1, 2013 or such earlier date as this Agreement is fully signed by the parties ("Effective Date").

WHEREAS, the parties contemplate an arrangement whereby Business Associate provides services to Covered Entity, and Business Associate receives, has access to or creates Protected Health Information (PHI) in order to provide those services; and

WHEREAS, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the American Recovery and Reinvestment Act of 2009 (ARRA), and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information codified at 45 Code of Federal Regulations Parts 160 and 164 ("Privacy Regulations"); and

WHEREAS, the Privacy Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place; -- Now, Therefore,

The parties agree as follows:

1. DEFINITIONS

- 1.1. "Designated Record Set" shall mean a group of records maintained by or for the Covered Entity that is (i) the medical records and billing records about individuals maintained by or for the Covered Entity, (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. As used herein the term "Record" means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for the Covered Entity.
- 1.2. "Protected Health Information" or "PHI" means information, including demographic information, that (i) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (ii) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (iii) is received by Business Associate

from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity.

- 1.3. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those in 45 CFR 160.103 and 164.501.

2. OBLIGATIONS OF BUSINESS ASSOCIATE

- 2.1. Permitted Uses and Disclosures of PHI. Except as otherwise limited in this Agreement, Business Associate may use and Disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity for the following purposes, if such use or disclosure of PHI would not violate the Privacy regulations if done by the Covered Entity:
 - 2.1.1. To provide data aggregation services as permitted by 42 CFR § 164.504(e)(2)(i)(B); and
 - 2.1.2. To report violations of law to appropriate federal and state authorities, where consistent with 45 CFR § 164.502(j)(1);
 - 2.1.3. Business Associate agrees not to use or further disclose PHI other than as permitted or required by this Agreement, or as required by law.
- 2.2. Adequate Safeguards for PHI. Business Associate shall implement and use appropriate administrative, physical and technical safeguards to:
 - 2.2.1. Prevent use of disclosure of PHI other than as permitted or required by this Agreement;
 - 2.2.2. Reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that Business Associate creates, receives, maintains, or transmits on behalf of the Covered Entity; and
 - 2.2.3. As of the Compliance Date of 42 U.S.C.A. § 17931, comply with the Security Rule requirements set forth in 45 CFR §§164.308, 164.310, 164.312, and 164.316.
- 2.3. Reporting Non-Permitted Use or Disclosure. Business Associate shall immediately in writing notify Covered Entity of each use or disclosure, of which it becomes aware, that is made by Business Associate, its employees, representatives, agents or subcontractors that is not specifically permitted by this Agreement pursuant to 45 CFR 504 and 45 CFR 164.

- 2.4. Use and/or Disclosure of Unsecured PHI. With respect to any use of disclosure of unsecured PHI not permitted by the Privacy Rule that is caused solely by the Business Associate's failure to comply with one (1) or more of its obligations under this Agreement, Covered Entity hereby delegates to Business Associate the responsibility for determining when any such incident is a Breach and for providing all legally required notifications to Individuals, HHS and/or the media, on behalf of Covered Entity. Business Associate shall provide these notification in accordance with the data breach notification requirements set forth in 42 U.S.C.A. § 17932 and 45 CFR Parts 160 & 164 subparts A, D & E as of their respective Compliance Dates, and shall pay for the reasonable and actual costs associated with such notifications. In the event of a Breach, without reasonable delay, and in any event no later than sixty (60) calendar days after Discovery, Business Associate shall provide Covered Entity with written notification that includes a description of the Breach, a list of individuals (unless Covered Entity is a plan sponsor ineligible to receive PHI) and a copy of the template notification letter to be sent to Individuals.
- 2.5. Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.
- 2.6. Access to and Amendment of PHI. Within ten (10) days of receiving a request from the Covered Entity for access to PHI about an individual contained in a Designated Record Set, Business Associate shall: (a) make the PHI specified by Covered Entity available to the individual(s) identified by Covered Entity as being entitled to access and copy that PHI, and (b) make PHI available to Covered Entity for the purpose of amendment and incorporating such amendments into the PHI. Business Associate shall provide such access and incorporate such amendments within the time and in the manner specified by Covered Entity.
- 2.7. Accounting of Disclosures. Business Associate agrees to document disclosures of PHI and information related to such disclosures, and further, to provide such documentation to Covered Entity in a time and manner designated by Covered Entity, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528. Within ten (10) days of receiving a request from the Covered Entity that it has received a request for an accounting of disclosures of PHI as set forth above, Business Associate shall provide to Covered Entity such information in Business

Associate's possession and required for Covered Entity to make the accounting required by 45 CFR Section 164.528. Any accounting provided by Business Associate under this Section 2.7 shall include: (a) the date of the disclosure; (b) the name, and address if known, of the entity or person who received the PHI; (c) a brief description of the PHI disclosed; and (d) a brief statement of the purpose of the disclosure. For each disclosure that could require an accounting under this Section 2.7, Business Associate shall document the information specified in (a) through (d), above, and shall securely retain this documentation for six (6) years from the date of the disclosure.

- 2.8. Business Associate shall request, use and/or disclose only the minimum amount of PHI necessary to accomplish the purpose of the request, use of disclosure; provided that Business Associate shall comply with 42 U.S.C.A. § 17935(b) as of its Compliance Date.
- 2.9. Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI as prohibited by 42 U.S.C.A. § 17935(d) as of its Compliance Date.
- 2.10. Business Associate shall not make or cause to be made any communication about a product or service that is prohibited by 42 U.S.C.A. § 17936(a) as its Compliance Date.
- 2.11. Business Associate shall not make or cause to be made any written fundraising communications that is prohibited by 42 U.S.C.A. § 17936(b) as of its Compliance Date.
- 2.12. Business Associate shall accommodate reasonable requests by Individuals for confidential communications in accordance with 45 CFR § 164.522(b).
- 2.13. Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive PHI from Business Associate to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.
- 2.14. Agreement to Mitigate. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement, and to promptly communicate to Covered Entity any actions taken pursuant to this paragraph

3. OBLIGATIONS OF COVERED ENTITY

- 3.1. Covered Entity shall, upon request, provide Business Associate with its current notice of privacy practices adopted in accordance with the Privacy Regulations.
- 3.2. Covered Entity shall inform Business Associate of any revocations, amendments or restrictions in the use or disclosure of PHI if such changes affect Business Associate's permitted or required uses and disclosure of PHI hereunder.

4. ADDITIONAL PERMITTED USES

- 4.1. Except as otherwise limited in this Agreement or the services agreement, Business Associate may use Protected Health Information for the following additional purposes:
 - 4.1.1. Use of Information for Management, Administration and Legal Responsibilities. Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate as required by law.
 - 4.1.2. Disclosure of Information for Management, Administration and Legal Responsibilities. Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, as required by law, provided that the disclosures are handled in accordance with Section 2.1 above.

5. TERM AND TERMINATION

- 5.1. Term and Termination. The term of this Agreement shall commence as of the Effective Date and shall terminate, except as otherwise provided herein, when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity in accordance with this Agreement. This Agreement may be terminated by Covered Entity immediately and without penalty upon written notice by Covered Entity to Business Associate if Covered Entity determines, in its sole discretion, that Business Associate has violated any material term of this Agreement, as amended. In addition, the term of this Agreement shall coincide with the term of the service arrangement between Covered Entity and Business Associate and shall terminate automatically upon termination of such service arrangement. Business Associate's obligations under Sections 2.3, 2.5, 2.6, 2.7 and 5.2 of this Agreement shall survive the termination or expiration of the Agreement.

- 5.2. Disposition of PHI upon Termination or Expiration. Upon termination or expiration of this Agreement, Business Associate shall either return or destroy, in Covered Entity's sole discretion and in accordance with any instructions by Covered Entity, all PHI in the possession or control of Business Associate or its agents and subcontractors. However, if Covered Entity determines that neither return nor destruction of PHI is feasible, Business Associate may retain PHI provided that Business Associate (a) continues to comply with the provisions of this Agreement for as long as it retains PHI, and (b) limits further uses and disclosures of PHI to those purposes that make the return or destruction of PHI infeasible.

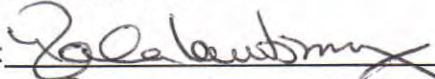
6. GENERAL TERMS

- 6.1. No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement.
- 6.2. Indemnification. Business Associate will indemnify, hold harmless and defend Covered Entity from and against any and all claims, losses, liabilities, costs, and other expenses, including attorneys' fees, incurred as a result or arising directly or indirectly out of or in connection with (a) any misrepresentation, breach or non-fulfillment of any undertaking on the part of Business Associate under this Section; and (b) any claims, demands, awards, judgments, actions and proceedings made by any person or organization, arising out of or in any way connected with Business Associate's obligations under this Section.
- 6.3. No Property Interest. Business Associate agrees that it acquires no title or rights to the PHI, including any de-identified information, as a result of providing services to Covered Entity.
- 6.4. Legal Compliance; Amendment. The parties hereto shall comply with applicable laws and regulations governing their relationship, including, without limitation, the Privacy Regulations, and any other federal or state laws or regulations governing the privacy, confidentiality or security of patient health information, including without limitation, the Washington Uniform Healthcare Information Act, RCW ch. 70.02. If a provision of this Agreement is held invalid under any applicable law, such invalidity will not affect any other provision of this Agreement that can be given effect without the invalid provision. Further, all terms and conditions of this Agreement will be deemed enforceable to the fullest extent permissible under applicable law, and when necessary, the court is requested to reform any and all terms or conditions to give them such effect. Upon request by Covered Entity, Business Associate agrees to promptly enter into negotiations with Covered Entity concerning the terms of an amendment to this Agreement embodying written assurances consistent

with the standards and requirements of the Privacy Regulations or other applicable laws. Covered Entity may terminate this Agreement upon 30 days written notice to Business Associate in the event (i) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to this Section or (ii) Business Associate does not enter into an amendment of this Agreement providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of the Privacy Regulations.

Date: 3.28.13

BUSINESS ASSOCIATE:

Signature: 

Printed Name: Paula A. Lantsberger, M.D.

Title: President

Date: _____

COVERED ENTITY: CITY OF SPOKANE


By: _____

Title: _____

Attest:

Approved as to form:

City Clerk


Assistant City Attorney

**Agenda Sheet for City Council Meeting of:**

04/22/2013

<u>Date Rec'd</u>	4/10/2013
<u>Clerk's File #</u>	OPR 2013-0296
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	RFP 3914-13
<u>Requisition #</u>	CR 13382

<u>Submitting Dept</u>	SPOKANE REGIONAL SOLID WASTE SYSTEM
<u>Contact Name/Phone</u>	KEN GIMPEL 625-6532
<u>Contact E-Mail</u>	KGIMPEL@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Contract Item
<u>Agenda Item Name</u>	4490 CONTRACT WITH DEECO, INC.

Agenda Wording

Contract with DEECO, INC, (Raleigh, NC) for annual air emissions compliance testing for the Waste to Energy Facility. The amount of the contract is \$93,920 plus a 10% administrative reserve of \$9,392, for a total amount of \$103,312. No tax involved.

Summary (Background)

Annual stack testing is required by the operating permits for the Waste to Energy Facility. A request for proposals was issued on February 26, 2013, and 3 proposals were received. Based on a cost that was substantially less than the other proposals, and the history of excellent work that DEECO has performed in the past, they were selected. The contract term is through December 31, 2013, and provides for four one-year extensions.

Fiscal Impact

Expense \$ 103,312.00

Select \$

Select \$

Select \$

Budget Account

4490-44100-37148-54201

#

#

#

Approvals**Dept Head** GIMPEL, KEN**Division Director** ROMERO, RICK**Finance** LESESNE, MICHELE**Legal** BURNS, BARBARA**For the Mayor** SANDERS, THERESA**Additional Approvals****Purchasing** WAHL, CONNIE**Council Notifications****Study Session** Public Wks. Cmte 4/8/13**Other****Distribution List**

ttauscher@spokanecity.org

cmarchand@spokanecity.org

rmenke@spokanecity.org

CONTRACT

THIS CONTRACT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City," and DEECO, INC., whose address is 3404 Lake Woodard Road, Raleigh, North Carolina 27604, as "Contractor."

The parties agree as follows:

1. PERFORMANCE. The Contractor shall provide the City with an AIR EMISSION COMPLIANCE TEST PROGRAM AT THE SPOKANE REGIONAL WASTE TO ENERGY FACILITY, in accordance with the City's request for proposal and the Contractor's proposal dated March 12, 2013 to include

- ✓ Task 1 - Compliance Test Protocol Development
- ✓ Task 2 - Compliance Test Program
- ✓ Task 3 - Additional Sampling and Analyses Clarifications
- ✓ Task 4 - CEM Relative Accuracy Test Audit
- ✓ Task 5 - Audit Samples
- ✓ Task 6 - Final Compliance and RATA Test Reports

2. CONTRACT TERM. The contract shall begin on or about April 15, 2013 and continue through December 31, 2013, unless terminated earlier. The contract may be extended for four (4) additional one-year contract periods, subject to mutual agreement.

3. COMPENSATION. For the year 2013, the City shall pay the Contractor in accordance with the fee schedule outlined in the Contractor's response to the proposal, not to exceed NINETY THREE THOUSAND NINE HUNDRED TWENTY AND NO/100 DOLLARS (\$93,920.00), plus a ten percent (10%) administrative reserve. Any revised fee schedule shall be approved through a *written* contract amendment.

4. PAYMENT. The Contractor shall send its application for payment to the Spokane Regional Solid Waste System, 221 North Wall Street, Spokane, Washington 99201. Payment will be made within thirty (30) days after receipt of the Contractor's application.

5. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations.

6. ASSIGNMENTS. This contract is binding on the parties and their heirs, successors, and assigns. Neither party may assign, transfer or subcontract its interest, in whole or in part, without the other party's prior written consent.

7. DISPUTES. This contract shall be performed under the laws of the State of Washington. Any litigation to enforce this contract or any of its provisions shall be brought in Spokane County, Washington.

8. AMENDMENTS. This contract may be amended at any time by mutual written agreement.

9. 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 this contract.

10. TERMINATION. Either party may terminate this contract by ten (10) days' written notice to the other party. In the event of such termination, the City shall pay the Contractor for all work previously authorized and performed prior to the termination date.

11. INDEMNIFICATION.

A. The Contractor is an independent contractor and not the agent or employee of the City. No liability shall attach to the City for entering into this Contract or because of any act or omission of the Contractor except as expressly provided.

B. The Contractor agrees to defend, indemnify and hold the City harmless from any and all claims, demands, losses and liabilities to or by third parties arising from, resulting from or connected with services performed or to be performed under this contract by Contractor, its agents or employees to the fullest extent permitted by law. Contractor's duty to indemnify the City shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees. Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) Contractor or agents or employees, shall apply only to the extent of negligence of Contractor or its agents or employees. Contractor's duty to defend, indemnify and hold the City harmless shall include, as to all claims, demands, losses and liability to which it applies, the City's personnel-related costs, reasonable attorneys' fees, court costs and all other claim-related expenses.

12. SEVERABILITY. In the event any provision of this contract should become invalid, the rest of the contract shall remain in full force and effect.

13. STANDARD OF PERFORMANCE. The silence or omission in the contract regarding any detail required for the proper performance of the work, means that the Contractor shall perform the best general practice.

14. 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, 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.

15. **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 Contractor shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Contractor 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.

16. **INSURANCE.** During the term of the contract, the Contractor shall maintain in force at its own expense, the following insurance:

- A. Workers' Compensation Insurance to the statutory limits and Employer's Liability Insurance in the amount of \$1,000,000;
- B. Commercial General Liability Insurance including Business Automobile Insurance coverage in the amount of \$1,000,000 combined single limit, on the occurrence form, and naming the City of Spokane as an Additional Insured. The policy shall be primary to any policy which the City may otherwise carry ("Primary Coverage") and treat the employees of the City in the same manner as members of the general public ("Cross-liability Coverage);
- 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 or non-owned vehicles; and
- D. Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this contract. The coverage must remain in effect for at least two (2) years after the contract is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to the City.

As evidence of the insurance coverages required by this contract, the Contractor shall furnish acceptable insurance certificates to the City at the time the Contractor returns the signed contract. The certificate shall specify all of the parties who are additional insured, and will include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. Insuring companies or entities are subject to City acceptance. If requested, complete copies of insurance policies shall be provided to the City. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest: _____

City Clerk

Dated: _____

DEECO, INC.

Email Address: _____

By: _____

Title: _____

Approved as to form:



Assistant City Attorney

13-086



Agenda Sheet for City Council Meeting of:

04/22/2013

Date Rec'd	4/10/2013
Clerk's File #	OPR 2013-0297
Renews #	
Cross Ref #	
Project #	
Bid #	RFP 3920-13
Requisition #	CR13385

Submitting Dept	PUBLIC WORKS & UTILITIES
Contact Name/Phone	STACY SHEWELL 625-6296
Contact E-Mail	SSHEWELL@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	4500-NELSON SERVICE CENTER DESIGN-BUILD CONSULTING SERVICES CONTRACT

Agenda Wording

Consultant Agreement with OAC Services, Inc. to provide consulting services for the Nelson Service Center Design-Build not to exceed \$231,080.

Summary (Background)

With this professional services contract, OAC Services, Inc. will provide specialized assistance including but not limited to project approval with the Project Review Committee, Design-build procurement, project execution and closeout in order to construct a new building to consolidate Solid Waste and Fleet Services operations into one location.

Fiscal Impact

Expense	\$ 231,080.00
Select	\$
Select	\$
Select	\$

Budget Account

#	4500-45700-94000-56520-99999
#	
#	
#	

Approvals

Dept Head	ROMERO, RICK
Division Director	
Finance	LESESNE, MICHELE
Legal	BURNS, BARBARA
For the Mayor	SANDERS, THERESA

Council Notifications

Study Session	PWC 4/8/13
Other	

Distribution List

sshewell@spokanecity.org
bpatrick@spokanecity.org
mlesesne@spokanecity.org

Additional Approvals

Purchasing	

<p align="center">CONSULTANT AGREEMENT</p>	<p>Consultant/Address/Telephone OAC SERVICES, INC.</p>
<p>Agreement Number:</p>	<p>701 DEXTER AVENUE N, SUITE 301 SEATTLE, WA 98109 (509) 464-2206 (206) 674-6103</p>
<p>City Project Number: N/A</p>	<p>Fax: (509) 4642208</p>
<p>Agreement Type (Choose one)</p> <p><input type="checkbox"/> Lump Sum Lump Sum Amount \$ _____</p> <p><input type="checkbox"/> Cost Plus Fixed Fee Overhead Progress Payment Rate _____ % Overhead Cost Method</p> <p><input type="checkbox"/> Actual Cost</p> <p><input type="checkbox"/> Actual Cost Not to Exceed _____ %</p> <p><input type="checkbox"/> Fixed Rate _____ % Fixed Fee \$ _____</p>	<p>Project Title and Work Description:</p> <p>NELSON SERVICE CENTER DESIGN-BUILD CONSULTING SERVICES</p>
<p><input checked="" type="checkbox"/> Specific Rates of Pay</p> <p><input type="checkbox"/> Negotiated Hourly Rate</p> <p><input type="checkbox"/> Provisional Hourly Rate</p> <p><input type="checkbox"/> Cost Per Unit of Work</p>	<p>Completion Date TO BE DETERMINED</p> <p>Total Amount Authorized \$ 231,080.00 Management Reserve Fund \$ 0.00 Maximum Amount Payable \$ 231,080.00</p>

THIS AGREEMENT is between the Local Agency of CITY OF SPOKANE, WASHINGTON, hereinafter called the "Agency," and the above organization, hereinafter called the "Consultant."

WITNESSETH:

WHEREAS, the Agency desires to accomplish the above referenced project; and

WHEREAS, the Agency does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a Consultant to provide the necessary services for the Project; and

WHEREAS, the Consultant represents that he/she is in compliance with the Washington State statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the Agency; -- Now, Therefore,

The Parties agree as follows:

I. GENERAL DESCRIPTION OF WORK

The work under this Agreement shall consist of the above described work and services as herein defined and necessary to accomplish the completed work for this Project. The Consultant shall furnish all services, labor and related equipment necessary to conduct and complete the work as designated elsewhere in this Agreement.

II. SCOPE OF WORK

This Scope of Work and project level of effort for this Project is detailed in the attached Exhibit A.

III. GENERAL REQUIREMENTS

All aspects of coordination of the work of this Agreement, with outside agencies, groups or individuals shall receive advance approval by the Agency. Necessary contacts and meetings with agencies, groups or individuals shall be coordinated through the Agency.

The Consultant shall attend coordination, progress and presentation meetings with the Agency or such federal, community, state, city or county officials, groups or individuals as may be requested by the Agency. The Agency will provide the Consultant sufficient notice prior to meetings requiring Consultant participation. The minimum number of hours or days notice required shall be agreed to between the Agency and the Consultant and shown in Exhibit A. The Consultant shall prepare a monthly progress report, in a form approved by the Agency, that will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

All reports, PS&E materials, and other data, furnished to the Consultant by the Agency shall be returned. All designs, drawings, specifications, documents, and other work products prepared by the Consultant prior to completion or termination of this Agreement are instruments of service for this Project and are the property of the Agency. Reuse by the Agency or by others acting through or on behalf of the Agency of any such instruments of service not occurring as a part of this Project, shall be without liability or legal exposure to the Consultant.

IV. TIME FOR BEGINNING AND COMPLETION

The Consultant shall not begin any work under the terms of this Agreement until authorized in writing by the Agency. All work under this Agreement shall be completed by the date shown in the heading of this Agreement under completion date.

The established completion time shall not be extended because of any delays attributable to the Consultant, but may be extended by the Agency in the event of a delay attributable to the Agency or because of unavoidable delays caused by an act of God or governmental actions or other conditions beyond the control of the Consultant. A prior supplemental agreement issued by the Agency is required to extend the established completion time.

V. PAYMENT

The Consultant shall be paid by the Agency for completed work and services rendered under this Agreement as provided in the attached Exhibit B. The payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work."

VI. SUBCONTRACTING.

The Agency permits subcontracts for portions of the work of this Agreement subject to prior approval of the Agency, which shall not be unreasonably withheld.

The work of the subconsultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the Agency.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the subconsultant shall be substantiated in the same manner as outlined in Section V. All subcontracts exceeding ten thousand dollars (\$10,000.00) in cost shall contain all applicable provisions of this Agreement.

The Consultant shall not subcontract for the performance of any work under this Agreement without prior written permission of the Agency. No permission for subcontracting shall create, between the Agency and subcontractor, any contract or any other relationship.

VII. EMPLOYMENT

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warrant, the Agency shall have the right to annul this Agreement without liability, or in its discretion to deduct from the Agreement price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

Any and all employees of the Consultant, or other persons, while engaged in the performance of any work or services required of the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the Agency and any and all claims that may or might arise under the Workman's Compensation Act on behalf of the employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the Consultant's employees, or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the Consultant.

The Consultant shall not engage, on a full or part-time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been at any time during the period of the contract, in the employ of the Agency, except regularly retired employees, without written consent of the Agency.

VIII. NON-DISCRIMINATION

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 agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, 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.

IX. TERMINATION OF THE AGREEMENT

The right is reserved by the Agency to terminate this Agreement in whole or in part at any time upon ten (10) days' written notice to the Consultant.

In the event, this Agreement is terminated by the Agency other than for default on the part of the Consultant, a final payment shall be made to the Consultant as shown below.

Negotiated Hourly Rate of Pay Contracts

A final payment shall be made to the Consultant for actual hours charged at the time of termination of this Agreement plus any direct non-salary costs incurred at the time of termination of this Agreement.

No payment shall be made for any work completed after ten (10) days following receipt by the Consultant of the Notice to Terminate. If the accumulated payment made to the Consultant prior to Notice of Termination exceeds the total amount that would be due, then no final payment shall be due and the Consultant shall immediately reimburse the Agency for any excess paid.

If the services of the Consultant are terminated by the Agency for default on the part of the Consultant, the above formula for payment shall not apply. In such an event, the amount to be paid shall be determined by the Agency with consideration given to the actual costs incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the Agency at the time of termination; the cost to the Agency of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the Agency of the work performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount which would have been made using the formula set forth above.

If it is determined for any reason that the Consultant was not in default or that the Consultant's failure to perform is without it or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the Agency in accordance with the provision of this Agreement.

Payment for any part of the work by the Agency shall not constitute a waiver by the Agency of any remedies of any type it may have against the Consultant for any breach of this Agreement by the Consultant, or for failure of the Consultant to perform work required of it by the Agency. Forbearance of any rights under the Agreement will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the Consultant.

X. CHANGES IN WORK

The Consultant shall make such changes and revisions in the complete work of this Agreement as necessary to correct errors appearing therein, when required to do so by the Agency, without additional compensation thereof. Should the Agency find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the Consultant shall make such revisions as directed by the Agency. This work shall be considered as Extra Work and will be paid for as herein provided under Section XIV.

XI. DISPUTES

Any dispute concerning questions of facts in connection with the work not disposed of by Agreement between the Consultant and the Agency shall be referred for determination to the City Administrator, whose decision in the matter shall be final and conclusive on the Parties, provided, however, that if an action is brought challenging his/her decision, that decision shall be subject to de novo judicial review.

XII. VENUE AND PERSONAL JURISDICTION

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties hereto agree that any such action shall be initiated in the Superior Court of Spokane County, State of Washington. The Parties to the action shall have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington.

XIII. LEGAL RELATIONS AND INSURANCE

The Consultant shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement. This Agreement shall be interpreted and construed in accord with the laws of Washington.

The Consultant shall indemnify and hold the Agency and the State their officers and employees harmless from all damages and costs arising out of claims made by third parties to the extent caused by or arising out of the Consultant's negligence or breach of any of its obligations under this Agreement; provided that nothing herein shall require a Consultant to indemnify the Agency against and hold harmless the Agency from claims, demands or suits based solely upon the conduct of the Agency, its agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Consultant's agents or employees and (b) the Agency, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the Agency of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the Consultant, its agents or employees.

The Consultant's relation to the Agency shall be at all times as an independent contractor.

As between the Agency and the Consultant, the Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the Agency and, solely for the purpose of this indemnification, the Consultant specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Consultant recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation.

During the period of the Agreement, the Consultant shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48:

- 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 agreement. It shall provide that the Agency, its officers and employees are additional insureds but only with respect to the Consultant's services to be provided under this Agreement; and
- 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.
- D. Professional Liability Insurance with a combined single limit of not less than \$2,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Agreement. The coverage must remain in effect for at least two (3) years after the Agreement is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverages required by this Agreement, the Consultant shall furnish acceptable insurance certificates to the City at the time it returns the signed Agreement. The certificate shall specify all of the parties who are additional insureds, and include applicable policy endorsements and the deduction or retention level. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

XIV. EXTRA WORK

The Agency may at any time, by written order, make changes within the general scope of the Agreement in the services to be performed.

If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this Agreement, whether or not changed by the order, or otherwise affects any other terms and conditions of the Agreement, the Agency shall make an equitable adjustment in the maximum amount payable; delivery or completion schedule, or both; and other affected terms and shall modify the Agreement accordingly.

The Consultant must submit its "request for equitable adjustment" (hereafter referred to as claim) under this clause within thirty (30) days from the date of receipt of the written order. However, if the Agency decides that the facts justify it, the Agency may receive and act upon a claim submitted before final payment of the Agreement.

Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Consultant from proceeding with the Agreement as changed.

Notwithstanding the terms and conditions of this section, the maximum amount payable for this Agreement, shall not be increased or considered to be increased except by specific written supplement to this Agreement.

XV. COMPLETE AGREEMENT

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the Parties. No agent, or representative of either party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise, or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the Parties as an amendment to this Agreement.

XVI. EXECUTION AND ACCEPTANCE

This Agreement may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The Consultant ratifies and adopts all statements, representations, warranties, covenants, and agreements contained in its proposal, and the supporting materials submitted by it. The Consultant accepts the Agreement and agrees to all of its terms and conditions.

XVII. ADDITIONAL TERMS AND CONDITIONS

- A. 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 Consultant shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Consultant 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.
- B. ANTI-KICKBACK. No officer or employee of the Agency, having the power or duty to perform an official act or action related to this contract shall have or acquire any interest in the Agreement, 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 Agreement.

4-5-13

- C. STANDARD OF CARE. The standard of care applicable to Consultant's services will be the degree of skill and diligence normally employed by professional consultants performing the same or similar services at the time said services are performed. The Consultant will re-perform any services not meeting this standard without additional compensation.

- D. LITIGATION ASSISTANCE. The Scope of Services does not include costs of the Consultant for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the Agency. All such services required or requested of the Consultant by the Agency, except for suits or claims between the parties to this Agreement, will be reimbursed as Extra Work.

Dated: _____

CITY OF SPOKANE

By: _____
Mayor

Attest:

Approved as to form:


City Clerk

Assistant City Attorney

Dated: _____

OAC SERVICES, INC.

Email Address, if applicable:
dchandler@oacsncs.com

By: 
Title: PRINCIPAL

4-5-13

EXHIBIT A

SCOPE OF WORK

NELSON SERVICE CENTER DESIGN-BUILD CONSULTING SERVICES

Project Management Scope of Services

The Consultant will provide the City with Project and Construction Management consulting services including but not limited to assistance with project approval with the Project Review Committee, Design-Build procurement, project execution and closeout. The City will directly manage the project with the support of OAC staff.

OAC Services will include but not be limited to:

- **Leadership, Communication and Project Oversight**
With the City team, OAC will initiate a kickoff team meeting to review the project staffing, roles / responsibilities, project reporting requirements, QC process and overall oversight plan requirements for the project. The outcome will be a clear direction on the team goals and team roles / responsibilities to execute the project.
- **Schedule Confirmation**
Review the overall schedule, priorities, assumptions / requirements of the City and any internal or outside stakeholders in the project. Pull all the requirements together to finalize the project schedule. This schedule will be monitored, reviewed, expanded and updated regularly throughout the project by the team.
- **Budget Management**
Work with the City to develop the initial development budget targets, outline funding / revenue requirements; identify cash flow restrictions or other financial needs. Setup the budget management and reporting process with the City financial team that will carry through on the project.
- **Project Review Committee (PRC) Application, Review & Approval**
Work with City to develop application / presentation materials for PRC approvals. Work with City on presentation and attend meeting to present for approvals. During the application process we will focus on the expected PRC questions and concerns to insure we have a thorough application / presentation.
- **Project Programming / Basis of Design**
With the City and their programming consultant the OAC team will lead the City team in a detailed review of the programming already completed. OAC will facilitate with the City to gather information and requirements by staging meetings with the various City / facilities stakeholders in the project. The outcome of these meetings will be the validation of the existing Program requirements (spaces) and be a significant part of the Basis of Design for the Nelson Service Facility that will be a major component of the Design Build Request for Proposal (RFP). This Basis of Design will also entail the code, design, structural, MEP, CNG, controls, security, sustainability, operations and signage requirements for the project and any other City of Spokane specific determined to be crucial to their operations.
- **Design / Build Team Procurement**
With the City procurement group develop the advertisement requirements for both the RFQ and RFP solicitations. Start the RFQ advertisement process early during the program development in order to dovetail with the program / BOD completion. Upon receipt of RFQ responses, review and shortlist to 3 qualified teams. Distribute RFP to qualified shortlist of teams. Hold proprietary meetings with firms, City selection team reviews, interviews and award meetings. Work with City and selected design build team to finalize GMP and contract.

- **Non Design-Build Scope**

Work with City to define the areas of the project scope that will not be included within the design build teams work. This could be work could be specialty consultants / contractors such as survey, geotechnical, traffic engineering, special inspection, demolition, offsite utilities. Develop with the City team the scope, procurement / award process so that this work dovetails with the design build work. Quite often we've found there is early site or offsite work that could be done during the design build procurement phase that will expedite the project delivery and overall schedule.

- **Project Permitting Requirements**

Early meetings with City permitting agencies to review overall schedule, anticipated permitting packages, scopes, timelines and overall expectations for both the City direct work and design / build scope. This information would be included in the overall scopes, schedules that will be included in the design build RFP's.

Deliverables

OAC anticipates project deliverables may be completed by City or OAC staff depending on expertise and availability. The following is a preliminary list of deliverables by project phase.

Project Phase	Deliverables
Project Initiation	<ul style="list-style-type: none"> • Roles and Responsibilities Matrix—who does what? • Communications Plan • Project Management Plan • Master Schedule • Project Budget and Reporting Tools
Project Review Committee Approval	<ul style="list-style-type: none"> • Project Approval Application—with City input • PRC questions and answers prior to presentation • PRC presentation Power Point
Design-Build Procurement	<ul style="list-style-type: none"> • Procurement strategy • Design Build Request for Proposal • Project Program and Basis of Design—with programming architect • Design Build Request for Proposal • Design-Build contracts—prepared by attorney • Selection matrices and record of decisions
Design & Permitting (post-award)	<ul style="list-style-type: none"> • Trending log for owner & design build team reviews • Design Review Comment Logs • Monthly Progress Reports (if requested)
Construction , Commissioning and Occupancy	<ul style="list-style-type: none"> • Contractor payment review report (monthly) • Site Observation Reports (monthly) • Monthly Progress Reports • Contract Change Orders (if needed) • Project Integration and Move-in Schedule

Project Team Structure

Staffing

Jeff Jurgensen | Program Manager (Point-of-Contact)

Jeff will lead the OAC team and be the primary project point of contact for the City of Spokane. Jeff will leverage the expertise of both Steve and Dan during the key early stages of the project. Jeff's strong attention to detail, project cost and delivery expertise will be invaluable to the long term success of the project.

Steve Johnson | Senior Program Manager

Steve will support the project with early leadership during programming and procurement phases of the project. Steve's has strong expertise in working with owners / teams in setting up projects in the critical early stages for successful delivery. Steve will assist Jeff in the day to day management of the project as needed during the duration.

Dan Chandler | Principal-in-Charge

Dan will support the overall program with team oversight and project design build and PRC expertise. Dan's extensive experience with alternate delivery and design build projects will provide support to OAC and City team.

Work Plan Roles and Responsibilities

	City	OAC	Program AE
Project Award			
(P=Primary Responsibility, X = Contributor / Involved in activity)			
• Award CM work	x		
• Develop City / OAC team roles & responsibilities matrix	x	P	
• Finalize CM scope & contract	x	P	
Project Planning			
• Define / develop development budget	x	P	
• Define / develop preliminary schedule	x	P	
• Outline project reporting requirements	x	P	
Project Review Committee (PRC) application, review and approval			
• With City finalize procurement strategy	x	P	
• Develop draft PRC approval documents and finalize with City	x	P	
• Coordinate, attend and present as required to PRC with City	x	P	
Project Programming / Basis of Design			
• Q and A, Programming sessions with City departments	x	x	P
• Review sessions with City and stakeholders	x	x	P
• Finalize program and supporting BOD / bridging documents	x	x	P
Design-Build Team Procurement			
• Review with City procurement team public advertisement requirements	P	x	
• Finalize RFQ / RFP schedules, scope documents, review timing, scoring, selection committee management, compensation models and other similar tasks.	x	P	x
• Request for Qualifications review and editing, addendum drafting	x	P	x
• Contractor-submitted SOQ review, selection committee meeting facilitation, short-listing three DB teams	x	P	x
• RFP preparation including drafting overall documents, assembly of City -supplied reference documents, reviewing and incorporating edits	x	P	x
• Participation and facilitation of Proprietary Meetings with short-listed DB teams if needed.	x	P	
• Facilitation of DB team presentation and final selection including documentations of scoring and selection	x	P	
• Review and comment of attorney-prepared contract form and general conditions form (DBIA Documents 530 and 535)	P	x	
• Review and comment on City -supplied Contract Documents (standards, master plan, survey, geotechnical report, Building Program, Insurance Requirements and more)	P	x	
Project Kick-off, Design, Engineering and Permitting			
• Attend and coordinate initial project kickoff meetings to assist City in setting expectations, project goals and communication expectations	x	P	
• Provide organizational recommendations to improve City - DB team workflows, communications and cooperation	x	P	
• Review team meeting minutes on a regular basis to keep up with progress	P	x	
• Providing design phase recommendations to assist with drawing reviews, comment collection, comment resolution	P	x	
• Recommendations on subcontractor and supplier procurement to maximize value to City	P	x	

EXHIBIT B

PAYMENT (NEGOTIATED HOURLY RATE)

The Consultant shall be paid by the Agency for completed work and service rendered under this Agreement as provided hereinafter. The payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work.

- A. HOURLY RATES. The Consultant shall be paid by the Agency for work done, based upon the negotiated hourly rates shown in the attached Exhibit C, The rates listed shall be applicable for the first twelve (12)-month period and shall be subject to negotiation for the following twelve (12)-month period upon request of the Consultant or the Agency. If negotiations are not conducted for the second or subsequent twelve (12)-month periods within ninety (90) days after completion of the previous period, the rates listed in this Agreement or subsequent written authorization(s) from the Agency shall be utilized for the period of the Agreement. The rates are inclusive of direct salaries, payroll additives, overhead and fee. The Consultant shall maintain support data to verify the hours billed on the Agreement.
- B. DIRECT NONSALARY COSTS. Direct non-salary costs will be reimbursed at the actual cost to the Consultant. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and subconsultant costs.
1. Subconsultant costs may include a Sub-Consultant Oversight markup of four percent (4%).
 2. Air or train travel will only be reimbursed to economy class levels unless otherwise approved by the Agency. Automobile mileage for travel will be reimbursed at the current rate approved for Agency employees and shall be supported by the date and time of each trip with origin and destination of such trips. Subsistence and lodging expenses will be reimbursed at the same rate as for Agency employees.
 3. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the Project.
 4. The Consultant shall maintain the original supporting documents in its office.
 5. All of the above charges must be necessary for the services provided under this Agreement.
- C. MANAGEMENT RESERVE FUND. The Agency may desire to establish a Management Reserve Fund to provide the Agreement Administrator the flexibility

of authorizing additional funds to the Agreement for allowable unforeseen costs, or reimbursing the Consultant for additional work beyond that already defined in this Agreement. The amount included for the Management Reserve Fund is shown in the heading of this Agreement. This fund may be replenished in a subsequent supplemental agreement. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, Extra Work.

- D. MAXIMUM TOTAL AMOUNT PAYABLE. The maximum total amount payable by the Agency to the Consultant under this Agreement shall not exceed the amount shown in the heading of this Agreement. The Maximum Total Amount Payable is comprised of the Total Amount Authorized and the Management Reserve Fund. The Maximum Total Amount Payable does not include payments for extra work as stipulated in Section XIV, Extra Work. No minimum amount payable is guaranteed under this Agreement.

- E. MONTHLY PROGRESS PAYMENTS. The Consultant may submit billings to the Agency for reimbursement of all costs authorized in (A) and (B) above on a monthly basis during the progress of the work. The billings shall be in a format approved by the Agency and accompanied by the monthly progress reports required under Section III "General Requirements" of this Agreement. The billings will be supported by detailed statements for hours expended at the rates established in Exhibit C, including names and classifications for all employees, and billings for all direct non-salary expenses. To provide a means of verifying the invoiced salary costs for Consultant employees, the Agency may conduct employee interviews. These interviews may consist of recording the names, titles, and present duties of those employees performing work on the Project at the time of the interview.

- F. FINAL PAYMENT. Final payment of any balance due the Consultant of the gross amount earned will be made promptly upon its verification by the Agency after the completion of the work under this Agreement, contingent upon receipt of all PS&E, plans, maps, notes, reports, and other related documents which are required to be furnished under this Agreement. Acceptance of the final payment by the Consultant shall constitute a release of all claims of any nature which the Consultant may have against the Agency unless the claims are specifically reserved in writing and transmitted to the Agency by the Consultant prior to its acceptance. The final payment shall not, however, be a bar to any claims that the Agency may have against the Consultant or to any remedies the Agency may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and that at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the Consultant, the Consultant will refund such overpayment to the Agency within ninety (90) days of notice of the overpayment. The refund shall not constitute a waiver by the Consultant for any claims relating to the validity of a

4-5-13

finding by the Agency of overpayment. The Agency has twenty (20) days after receipt of the final Post Audit to begin the appeal process to the Agency for audit findings.

- G. INSPECTION OF COST RECORDS. The Consultant and the subconsultants shall keep available for inspection by representatives of the Agency for a period of three (3) years after final payment, the cost records and accounts pertaining to this Agreement and all items related to or bearing upon these records with the following exception: if any litigation, claim, or audit arising out of, in connection with, or related to the Agreement is initiated before the expiration of the three (3)-year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

EXHIBIT C

Nelson Service Center				
Design Build Consultant Cost Proposal Template				
Task	Responsible Party/Parties	Hourly Rate	Estimated Time to Complete (hrs)	Cost
Task A (PRC, RFQ/RFP, D/B Team Selection & Contract Negotiation)	Dan Chandler	\$195	144	\$28,080
	Steve Johnson	\$185	100	\$18,500
	Jeff Jurgensen	\$140	184	\$25,760
	Project Engineer	\$100	0	\$0
	Support	\$85	46	\$3,910
Task A Total:				\$76,250
Task B (Design & Permitting)	Dan Chandler	\$195	90	\$17,550
	Steve Johnson	\$185	0	\$0
	Jeff Jurgensen	\$140	200	\$28,000
	Project Engineer	\$100	0	\$0
	Support	\$85	60	\$5,100
Task B Total:				\$50,650
Task C (Construction, Occupation and Closeout)	Dan Chandler	\$195	60	\$11,700
	Steve Johnson	\$185	0	\$0
	Jeff Jurgensen	\$140	488	\$68,320
	Project Engineer	\$100	0	\$0
	Support	\$85	136	\$11,560
Task C Total:				\$91,580
Estimated Total Project Labor Cost Not to Exceed:			\$218,480	
Estimated Reimbursables:			\$12,600	
Estimated Total NTE Project Cost:			\$231,080	



Agenda Sheet for City Council Meeting of:
04/22/2013

Date Rec'd	4/10/2013
Clerk's File #	OPR 2013-0298
Renews #	

Submitting Dept	MANAGEMENT INFORMATION	Cross Ref #	
Contact Name/Phone	MICHAEL 625-6468	Project #	
Contact E-Mail	MSLOON@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR13387000
Agenda Item Name	5300 NEW DAWN TECH (2013)		

Agenda Wording

Contract with New Dawn Technologies, Inc. (Logan, UT) for Annual Support and Upgrades of JustWare Case Management Software and Annual Subscription of Business Intelligence. January 1, 2013 through March 9, 2014--\$86,062.35 (inc tax).

Summary (Background)

Support and Annual Subscription are associated with the following City Departments: Municipal Court, Public Defenders Office, Prosecutors Office, and Probation Department. **See attachment for additional background wording.

Fiscal Impact	Budget Account
Expense \$ 86,062.35 including tax	# 5300-73300-18850-54820
Select \$	#
Select \$	#
Select \$	#

Approvals		Council Notifications	
Dept Head	SLOON, MICHAEL	Study Session	
Division Director	DOLAN, PAM	Other	
Finance	LESESNE, MICHELE	Distribution List	
Legal	BURNS, BARBARA	Accounting - pdolan@spokanecity.org	
For the Mayor	SANDERS, THERESA	Contract Accounting - mlesesne@spokanecity.org	
Additional Approvals		Legal - bburns@spokanecity.org	
Purchasing		Taxes & Licenses	
		Purchasing - cwahl@spokanecity.org	
		MIS – jhamilton@spokancity.org	
		bstocks@newdawn.com & cheap@newdawn.com	



CONTRACT TO Spokane City

Pricing Provided Expires: June 30, 2013

Table of Contents

Table of Contents 2

Terms and Conditions

THESE TERMS AND CONDITIONS (this “**Agreement**”) are entered into as of _____, 20__ (the “**Effective Date**”) by and between New Dawn Technologies, Inc. (“**New Dawn**”) and (“**Customer**”). (Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the License Agreement.)

WHEREAS, Customer desires to purchase from New Dawn, and New Dawn desires to sell and license to Customer, certain software products and services (the “**Product**” or “**Products**”) as defined in the Statement of Work of even date herewith and attached hereto (as the same may be updated and amended by the parties from time to time in writing) and incorporated herein by reference (“**Statement of Work**”), on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants contained herein and other good and valuable consideration, the parties agree as follows:

1. Product Sale, License and Delivery

1.1 Sale and License. Pursuant to the Computer Software License Agreement (the “**License Agreement**”) and/or the Subscription Agreement (the “**Subscription Agreement**”) incorporated herein by reference, to be executed contemporaneously with this Agreement, New Dawn shall sell and license to Customer, and Customer agrees to purchase and license and/or subscribe from New Dawn, the Product, including the New Dawn Software Modules identified in the New Dawn Quotation, as both capitalized terms are defined in the Statement of Work. The license and/or subscription shall commence upon execution by both parties of the License Agreement and/or Subscription Agreement.

1.2 Delivery. Products, including software or access to software, documentation required for installation thereof and license keys, shall be delivered by New Dawn to Customer upon the execution of this Agreement; *provided, however*, Project Start Meeting will commence once the Contract Signing Payments are received by New Dawn from Customer.

2. Prices & Payment

2.1 Prices. Customer agrees to purchase the Products at the prices set forth in the Pricing Proposal. All prices exclude taxes, customs and duties. These prices will remain valid during the Term of this Agreement (as defined below). New Dawn may adjust prices thereafter.

2.2 Payment. New Dawn shall invoice Customer for the aggregate purchase price of Products ordered by Customer at the time of shipment of such Products. Each such invoice shall be due and payable within thirty (30) calendar days of the invoice date. All Product sales are final, and payments are non-refundable.

2.3 Manner and Place of Payment. All payments hereunder shall be payable in U.S. dollars. All payments owed under this Agreement shall be made by wire transfer in immediately available funds to a bank and account designated in writing by New Dawn, unless otherwise approved by New Dawn.

2.4 Taxes and Fees. All taxes and/or fees levied on account of the payments accruing to New Dawn under this Agreement shall be paid by Customer for its own account. It will be the Customer's sole responsibility to ensure that taxes are paid to the proper taxing authority. It will be the Customer's sole responsibility to ensure that fees are paid to the proper authority. Taxes and fees may be deducted from payments made to New Dawn only if Customer tax and fee obligation is identified in "Exhibit A: Pricing Proposal" of this agreement.

2.5 Late Payments. In the event that any payment due under this Agreement is not made when due, the payment shall accrue interest from the date due at the rate of one and a half percent (1.5%) per month; *provided, however*, that in no event shall such rate exceed the maximum legal annual interest rate. The payment of such interest shall not limit New Dawn from exercising any other rights it may have as a consequence of the lateness of any payment.

3. Limited Warranty and Limited Remedies

New Dawn warrants that, upon completion of delivery and installation, the Products sold under this Agreement will conform in all material respects with the Product Documentation and will be conforming and free from defects in material and workmanship until fifteen (15) months after the date of manufacture (which date of manufacture shall be clearly marked in materials provided to Customer); *provided, however*, that this limited warranty does not apply to Custom Software or the services covered by First Year Support. Notwithstanding anything contained in this Agreement to the contrary, the warranty of New Dawn as provided herein shall be void if any alterations, modifications or work have been performed on such Product, or to the extent that any alleged defect is the result of abuse, misuse, improper maintenance or storage, accident, action or inaction on the part of any party other than New Dawn. Nor shall New Dawn be responsible (a) for the quality or condition of any materials supplied by or through Customer, or (b) for any defect to the extent due to uses that do not conform to the applicable instructions. Subject to the foregoing, if a Product is not as warranted and Customer notifies New Dawn in writing within the fifteen-month warranty period noted above and returns that Product to New Dawn within thirty (30) calendar days of Customer's discovery, New Dawn will, at its option, promptly repair or replace the defective Product. Any such repaired or replaced Product shall be shipped back to Customer at New Dawn's sole expense. This remedy will not be deemed

to have failed of its essential purpose so long as New Dawn is willing and able to repair or replace a defective Product in the prescribed manner. THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR USE.

4. Default

4.1 Event of Default. The occurrence of any one or more of the following shall constitute an “*Event of Default*” under this Agreement:

- a) Customer fails to pay to New Dawn any charge, costs, or other payment accruing hereunder within sixty (60) calendar days of the invoice date if such delinquency has not been corrected within ten (10) calendar days after New Dawn has given Customer written notice of such delinquency;
- b) Customer fails to perform any obligation set forth in this Agreement, repudiates any obligation set forth in this Agreement, or wrongfully rejects conforming and non-defective Products by Customer if such failure has not been corrected within sixty (60) calendar days after New Dawn has given Customer written notice of such failure;
- c) New Dawn’s failure to perform any obligation set forth in this Agreement if such failure has not been corrected within sixty (60) calendar days after Customer has given New Dawn written notice of such failure; or
- d) Customer’s failure to start Project Start Meeting on a date mutually agreed-upon by Customer and New Dawn.

4.2 Effect of Default. Upon the occurrence of any Event of Default, the party adversely affected may halt all pending and/or planned activities on Project Start Meeting; and/or terminate this Agreement effective immediately. If Customer is the defaulting party, New Dawn may accelerate and declare all outstanding payments owed by Customer under this Agreement immediately due and payable as a liquidated sum. New Dawn may proceed against Customer in any lawful manner for satisfaction of amounts owed by Customer, including interest owed thereon calculated at one and a half percent (1.5%) per month; *provided, however*, that such interest amount does not exceed the maximum legal annual interest rate. New Dawn may proceed against Customer in any lawful manner to repossess Products remaining in Customer’s possession to satisfy, in whole or in part, Customer’s obligations under this Agreement.

Customer shall pay all costs of collection, including reasonable attorney's fees, whether or not a lawsuit is instituted.

5. Indemnification

5.1 Indemnification by New Dawn. New Dawn hereby agrees to save, defend and hold Customer and its directors, officers, employees and agents (each, a "**Customer Indemnatee**") harmless from and against any and all claims, suits, actions, demands, liabilities, expenses and/or loss, including reasonable legal expense and attorneys' fees (collectively, "**Losses**") to which any Customer Indemnatee may become subject as a result of (a) any claim, demand, action or other proceeding by any entity other than New Dawn or Customer ("**Third Party**") to the extent such Losses arise directly or indirectly out of the breach by New Dawn of any warranty, representation, covenant or agreement made by New Dawn in this Agreement; and/or (b) any claim alleging that any Product directly infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a Third Party; except to the extent such Losses result from the gross negligence or willful misconduct of any Customer Indemnatee or the material breach by Customer of any warranty, representation, covenant or agreement made by Customer in this Agreement.

5.2 Indemnification by Customer. Customer hereby agrees to save, defend and hold New Dawn and its respective directors, officers, employees and agents (each, a "**New Dawn Indemnatee**") harmless from and against any and all Losses to which any New Dawn Indemnatee may become subject as a result of any claim, demand, action or other proceeding by any Third Party to the extent such Losses arise directly or indirectly out of: (a) the use, handling, storage, sale or other disposition of Product by Customer, including the combination of Product with any of Customer's products, hosting service, hardware, or business processes; (b) a claim alleging that use of the Customer Data infringes the rights of, or has caused harm to, a Third Party; or (c) the breach by Customer of any warranty, representation, covenant or agreement made by Customer in this Agreement; except, in each case, to the extent such Losses result from the gross negligence or willful misconduct of any New Dawn Indemnatee or the material breach by New Dawn of any warranty, representation, covenant or agreement made by New Dawn in this Agreement.

5.3 Control of Defense. Any entity entitled to indemnification under this Section 5 shall give written notice to the indemnifying party of any Losses that may be subject to indemnification promptly after learning of such Losses, tender control over the defense and settlement of such Losses to the indemnifying party (provided that indemnifying party may not enter into a settlement affecting indemnified party's interests without indemnified party's consent), and provide reasonable cooperation in

the defense of the Losses at indemnifying party's expense. Indemnified party may participate in the defense with counsel of its choice at its own expense.

6. Limitation of Liability

IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR RELIANCE DAMAGES OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. In addition, New Dawn shall not be liable to Customer for any damages arising from or relating to this Agreement exceeding the total of payments made by Customer to New Dawn under this Agreement, up to five hundred thousand dollars (\$500,000), even if New Dawn knew or should have known of the possibility of such damages.

7. Confidentiality

7.1 Confidentiality. Customer acknowledges and agrees that the terms of this Agreement, including any and all pricing terms, are confidential in nature and shall not be disclosed to any Third Party, including by publication on any Customer website or social media profile. Both during and after the Term (as defined below), Customer shall maintain in confidence the terms of this Agreement. Customer shall promptly notify New Dawn upon discovery of any unauthorized disclosure of the terms of this Agreement.

7.2 Authorized Disclosure. Either party may disclose the terms of this Agreement to the extent such disclosure is reasonably necessary in complying with applicable court orders or governmental regulations, including responding to any public records request; provided that if Customer is required to make (or anticipates making) any such disclosure of the terms of this Agreement, it will to the extent practicable give reasonable advance notice to New Dawn of such disclosure requirement.

8. Term & Termination

8.1 Term. The term of this Agreement (the "**Term**") will commence as of the Effective Date and, unless sooner terminated as provided hereunder, will terminate upon the completion and delivery of the Products.

8.2 Termination. Either party shall have the right to terminate this Agreement for any reason or for no reason upon thirty (30) calendar days' written notice to the other party.

8.3 Effect of Termination. Expiration or termination of this Agreement shall not relieve either party of any obligation accruing prior to such expiration or termination, including Customer's obligation to make payment of all outstanding amounts due and payable within the prescribed period for making such payment pursuant to Section 2 of this Agreement. The obligations and the rights of the parties under Sections 2, 3, 4, 5, 6 and 7 shall survive expiration or termination of this Agreement.

9. Dispute Resolution

9.1 Initial Resolution by Meeting. PARTIES SHALL ATTEMPT TO RESOLVE AMICABLY ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY ALLEGED BREACH OR FRAUD IN THE INDUCEMENT HEREOF, BY MEETING WITH EACH OTHER WITHIN THIRTY (30) CALENDAR DAYS AFTER WRITTEN NOTICE OF A DISPUTE IS DELIVERED FROM ONE PARTY TO THE OTHER PARTY. SUBSEQUENT MEETINGS MAY BE HELD UPON MUTUAL AGREEMENT OF THE PARTIES.

9.2 Mediation of the Dispute. IF THE DISPUTE IS NOT RESOLVED WITHIN SIXTY (60) CALENDAR DAYS OF COMMENCEMENT OF SUCH MEETINGS, THE PARTIES SHALL SUBMIT THEIR DISPUTE, IN GOOD FAITH, TO MEDIATION BY AN ORGANIZATION OR COMPANY SPECIALIZING IN PROVIDING NEUTRAL, THIRD-PARTY MEDIATORS. THE MEDIATION SHALL BE CONDUCTED IN ENGLISH AND SHALL BE HELD IN LOGAN, UTAH, OR SUCH OTHER LOCATION AS MUTUALLY AGREED BY THE PARTIES WITHIN SIXTY (60) CALENDAR DAYS OF THE DATE THE DISPUTE IS SUBMITTED TO MEDIATION, UNLESS THE PARTIES MUTUALLY AGREE ON A LATER DATE.

9.3 Binding Arbitration. ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT THAT IS NOT OTHERWISE AMICABLY SETTLED BETWEEN THE PARTIES BY MEETING OR MEDIATION SHALL BE EXCLUSIVELY RESOLVED BY ARBITRATION BETWEEN THE PARTIES IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, WITH THE ARBITRATION TO BE CONDUCTED WITH ONE ARBITRATOR IN THE ENGLISH LANGUAGE TAKING PLACE IN LOGAN, UTAH, OR SUCH OTHER LOCATION AS MUTUALLY AGREED BY THE PARTIES. THE RESULTS OF SUCH ARBITRATION PROCEEDINGS SHALL BE BINDING UPON THE PARTIES HERETO, AND JUDGMENT MAY BE ENTERED UPON THE ARBITRATION AWARD IN ANY COURT HAVING JURISDICTION THEREOF. NOTWITHSTANDING THE FOREGOING, EITHER PARTY MAY SEEK INTERIM INJUNCTIVE RELIEF FROM ANY COURT OF COMPETENT JURISDICTION.

9.4 Jury Trial Waiver. CUSTOMER HEREBY WAIVES ITS RIGHTS TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, COUNTERCLAIM OR CROSS-COMPLAINT IN ANY ACTION, PROCEEDING AND/OR HEARING BROUGHT BY EITHER CUSTOMER AGAINST NEW DAWN OR NEW DAWN AGAINST CUSTOMER ON ANY MATTER WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THE LICENSE AGREEMENT, THE PRODUCTS, THIS AGREEMENT OR ANY

CLAIM OR THE ENFORCEMENT OF ANY CLAIM OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY LAW NOW OR HEREAFTER IN EFFECT. THE PROVISIONS OF THIS SECTION 9 SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

10. Miscellaneous

10.1 Assignment. Neither this Agreement nor any rights or obligations hereunder may be assigned or otherwise transferred by either party without the prior written consent of the other party (which consent shall not be unreasonably withheld); *provided, however*, that New Dawn may assign this Agreement and its rights and obligations hereunder without Customer’s consent in connection with the transfer or sale of all or substantially all of New Dawn’s business to which this Agreement relates to a Third Party, whether by merger, sale of stock, sale of assets or otherwise. The rights and obligations of the parties under this Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties. Any assignment not in accordance with this Agreement shall be void.

10.2 Force Majeure. Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any term of this Agreement (other than with respect to the payment of money owed) when such failure or delay is caused by or results from causes beyond the reasonable control of the affected party, including, without limitation, fire, floods, earthquakes, natural disasters, embargoes, war, acts of war (whether war be declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, acts of God or acts, omissions or delays in acting by any governmental authority or the other party.

10.3 Injunctive Relief. The parties hereby acknowledge and agree that in the event of any breach of this Agreement by either party, the other party will suffer an irreparable injury, such that no remedy at law will afford it adequate protection against or appropriate compensation for, such injury. Accordingly, the parties hereby agree that the non-breaching party shall be entitled to specific performance of the other party’s obligations under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction.

10.4 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Utah, without regard to its choice of law provisions.

10.5 Waiver. Except as specifically provided for herein, the waiver from time to time by either party of any right or failure to exercise any remedy shall not operate or

be construed as a continuing waiver of the same right or remedy or of any other of such party's rights or remedies provided under this Agreement.

10.6 Severability. In case any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

10.7 Independent Contractors. It is expressly agreed that Customer and New Dawn shall be independent contractors and that the relationship between the two parties shall not constitute a partnership, joint venture or agency of any kind. Neither party shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other party, without the prior written consent of the other party.

10.8 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by one party to the other shall be in writing, addressed to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor, and shall be effective: (a) if sent by registered or certified mail return receipt requested, upon receipt; (b) if sent by internationally recognized express air courier (such as DHL or Federal Express), two (2) business days after mailing; (c) if sent by facsimile transmission, with a copy mailed on the same day in the manner provided in clauses (a) or (b) of this Section 7.7, when transmitted and receipt is confirmed by telephone; and (d) if otherwise actually personally delivered, when delivered:

If to New Dawn: New Dawn Technologies, Inc.
843 South 100 West
Logan, Utah 84321
United States of America

Attention: Frank Felice
Facsimile: 801-760-3407

If to Customer: _____

10.9 Amendment. Except as expressly set forth in this Agreement, no subsequent amendment, modification or addition to this Agreement shall be binding upon the parties hereto unless reduced to writing and signed by the respective authorized officers of the parties.

10.10 Construction. This Agreement shall be construed without regard to any presumption or other rule requiring construction hereof against the party causing this Agreement to be drafted.

10.11 No Third Party Beneficiaries. The representations, warranties, covenants, and undertakings contained in this Agreement are for the sole benefit of the parties and the parties' permitted successors and assigns and shall not be construed as creating any Third Party beneficiaries of this Agreement or as conferring any rights whatsoever on any Third Party.

Contract Signing

CITY OF SPOKANE

Date: _____

Title: _____

Approved as to form:



Assistant City Attorney

New Dawn Authorized Signature, Title and Date

Exhibit A: Pricing Proposal

Spokane Municipal Prosecutors, Probation and Public Defender 1100 W. Mallon Spokane WA, 99260	Proposal Number: QT-3957/1 Proposal Creation Date: March 19, 2013 Proposal Expiration Date: 6/30/2013
--	--

Support & Subscription Fees		Quoted Price	Total
33 named user license	JustWare Support and Upgrades Muni Court	\$23,198.44	\$23,198.44
68 named user license	JustWare Support and Upgrades Pros/Def	\$30,861.34	\$30,861.34
1 annual fee	Taxes and Other Fees Pros/Def	\$3,716.60	\$3,716.60
1 annual fee	Taxes and Other Fees Muni Court	\$3,171.56	\$3,171.56
25 hours	Business Intelligence Annual Subscription Pros/Def	\$2,723.15	\$2,723.15
1 named user license	JusticeWebView support and upgrades Muni Court	\$6,628.13	\$6,628.13
1 named user license	JustWare API annual support & upgrades Muni Court	\$5,302.50	\$5,302.50
2 named user license	JustWare API annual support & upgrades Pros/Def	\$9,135.00	\$9,135.00
2 named user license	Annual JustWare Training Conference Registration Muni Court	\$1,325.63	\$1,325.63

Total Support & Subscription Fees: \$86,062.35

Travel & Per Diem

There is no travel included with this contract. All services will be performed remotely.

Total Proposal Cost: \$86,062.35

Exhibit B: Payment Milestones

	Total Payments \$86,062.35
--	-----------------------------------

Exhibit C: Contract Signing Invoice**Remit Payment To:**

New Dawn Technologies
 843 South 100 West
 Logan, Utah 84321
 1.877.587.8927



Bill To: Spokane Municipal Prosecutors, Probation and Public Defender 1100 W. Mallon Public Safety Building, 2nd Floor Spokane, WA 99260	Invoice Number: QT-3957/1- INV1 Invoice Date: March 19, 2013 Terms: Due on Receipt Account Executive: Ben Stocks
--	---

Municipal Court Item	Total
Municipal Court JustWare Support 01/2013-03/2014	\$23,198.44
Municipal Court JusticeWebView Support 01/2013-03/2014	\$6,628.13
Municipal Court API Support 01/2013-03/2014	\$5,302.50
Municipal Court Annual User Conference 01/2013-03/2014	\$1,325.63
Municipal Court Tax 8.70 01/2013-03/2014%	\$3,171.56
Municipal Court Amount	\$39,626.26
Prosecutor/Defender/Probation Item	Total
Prosecutor/Defender/Probation JustWare Support 01/2013-03/2014	\$30,861.34
Prosecutor/Defender/Probation API Support 01/2013-03/2014	\$9,135.00
Prosecutor/Defender/Probation BI Hours 01/2013-03/2014	\$2,723.15
Prosecutor/Defender/Probation Tax 8.70 01/2013-03/2014%	\$3,716.60
Municipal Prosecutor, Defender, Probation Amount	46,436.09
Total Amount	\$86,062.35



Agenda Sheet for City Council Meeting of:

04/22/2013

<u>Date Rec'd</u>	4/11/2013
<u>Clerk's File #</u>	OPR 2013-0299
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

<u>Submitting Dept</u>	WORKFORCE DEVELOPMENT COUNCIL
<u>Contact Name/Phone</u>	MARK MATTKE 533-8470
<u>Contact E-Mail</u>	MMATTKE@WDCSPOKANE.COM
<u>Agenda Item Type</u>	Contract Item
<u>Agenda Item Name</u>	WORKFORCE DEVELOPMENT COUNCIL – WIA

Agenda Wording
 Authorization to enter into agreements with WA State Employment Security Dept. for Workforce Investment Act Funds for Program Year 2013 (July 1, 2013-June 30, 2014), and to subcontract with various agencies as approved by SAWDC Executive Committee.

Summary (Background)
 The Spokane Area Workforce Development Council Executive Committee has authorized these Program Year 2013 WIA funds.

<u>Fiscal Impact</u>	<u>Budget Account</u>
Revenue \$ 3,500,000	#
Select \$	#
Select \$	#
Select \$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	PFISTER, TERRI	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	BURNS, BARBARA	lmeakin@wdcspokane.com	
<u>For the Mayor</u>	SANDERS, THERESA	jfacer@wdspokane.com	
<u>Additional Approvals</u>		mhughes@spokanecity.org	
<u>Purchasing</u>		mlesesne@spokanecity.org	



Agenda Sheet for City Council Meeting of:

04/22/2013

Date Rec'd	4/10/2013
Clerk's File #	ORD C34977
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	PARKS & RECREATION
Contact Name/Phone	LEROY EADIE 625-6204
Contact E-Mail	LEADIE@SPOKANECITY.ORG
Agenda Item Type	Emergency Budget Ordinance
Agenda Item Name	1400 - PARKS EBO: IRRIGATION SPEC PT - FT

Agenda Wording

Amending Ordinance No. C-34947 and appropriating funds in the Parks and Rec Fund, FROM: Custodian I, \$6,000; TO: Irrigation Specialist, same amount. (This action changes an Irrigation Specialist position from part-time to full-time.)

Summary (Background)

This action changes an Irrigation Specialist position from 71% FTE to 100% FTE. During 2012 budget process this position was decreased from full-time status. Upon further review, it was determined it was in Parks best interest to restore to full-time.

Fiscal Impact

Neutral	\$ 6,000
Select	\$
Select	\$
Select	\$

Budget Account

Various Accounts - See Ordinance
#
#
#

Approvals

Dept Head	EADIE, LEROY
Division Director	
Finance	LESESNE, MICHELE
Legal	BURNS, BARBARA
For the Mayor	SANDERS, THERESA

Council Notifications

Study Session	
Other	
Distribution List	
	rmadany@spokanecity.org
	leadie@spokanecity.org

Additional Approvals

Purchasing	

ORDINANCE NO C34977

An ordinance amending Ordinance No. C-34947, passed the City Council December 10, 2012, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2013, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2013, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2013 budget Ordinance No. C-34947, as above entitled, and which passed the City Council December 10, 2012, it is necessary to make changes in the appropriations of the Parks and Recreation 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 Parks and Recreation Fund, and the budget annexed thereto with reference to the Parks and Recreation Fund, the following changes be made:

FROM:	1400-54300 76914-04140	Parks and Recreation Fund Custodian I (no change in # of positions)	<u>\$ 6,000</u>
TO:	1400-54300 76830-06100	Parks and Recreation Fund Irrigation Specialist (No change in # of positions) (Increase in FTE from 5.71 to 6.00)	<u>\$ 6,000</u>

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 change an Irrigation Specialist position in Parks & Rec from part-time to full-time, 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



Agenda Sheet for City Council Meeting of:
04/22/2013

Date Rec'd	4/10/2013
Clerk's File #	RES 2013-0028
Renews #	

Submitting Dept	COMMUNITY DEVELOPMENT	Cross Ref #	
Contact Name/Phone	ALLEN X6322	Project #	
Contact E-Mail	ASCHMELZER@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Resolutions	Requisition #	
Agenda Item Name	1680 COMMUNITY, HOUSING AND HUMAN SERVICES 2013 ACTION PLAN		

Agenda Wording

Resolution approving the 2013 Action Plan Component of the Consolidated Community Development and Housing Plan (13 Community Development Neighborhoods).

Summary (Background)

The Community, Housing and Human Services Board has completed the process of preparing the draft 2013 Action Plan Component of the Consolidated Community Development and Housing Plan. The Board requests City Council adopt the attached resolution approving the 2013 Action Plan. Revenue: \$2,702,513 grant to the City in Community Development Block Grant Funds, \$916,780 grant in HOME funds, \$282,150 in Emergency Solutions Grant funds, \$96,231 of prior years re-programmed CDBG funds and \$1,150,000

Fiscal Impact	Budget Account
Revenue \$ 5,147,674	# Various Community Development funds
Expense \$ 5,147,674	# Various Community Development funds
Select \$	#
Select \$	#

Approvals		Council Notifications	
Dept Head	ALLARD, JERRIE	Study Session	
Division Director	MALLAHAN, JONATHAN	Other	PCED 4/15/2013
Finance	LESESNE, MICHELE	Distribution List	
Legal	BURNS, BARBARA	jallard@spokanecity.org	
For the Mayor	SANDERS, THERESA	jchaffins@spokanecity.org	
Additional Approvals		kmoat@spokanecity.org	
Purchasing		cfriesen@spokanecity.org	

RESOLUTION

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

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

WHEREAS, under the Housing and Community Development Act and the National Affordable Housing Act, the City of Spokane is "entitled" upon proper application to receive funds of approximately \$2,798,773 - Community Development Block Grant (CDBG), \$916,780 - HOME and \$282,150 - Emergency Solutions Grant (ESG) for the program year 2013; and

WHEREAS, the Community, Housing and Human Services Board of the City of Spokane has prepared a report describing the nature of the application and the process and procedures followed in its preparation; and

WHEREAS, during the course of the application process, a plan for citizen participation was developed and implemented which permitted citizens to participate in the preparation of the program and to articulate their needs, preferences, and priorities; and

WHEREAS, citizens were given full information concerning funds available for proposed community development and housing assistance, the range of activities that may be undertaken, the estimated amount of CDBG, HOME and ESG funds proposed to be used for activities that will benefit persons of low and moderate income, and other important program requirements; and

WHEREAS, citizen participation was extensive throughout the many public meetings and hearings which were held to obtain the view of Spokane citizens on community development and housing needs; and

WHEREAS, as a result of citizen's effort and City staff assistance, the Community, Housing and Human Services Board has prepared an application for funds under the Housing and Community Development Act of 1974, as amended, the National Affordable Housing Act, as amended, and recommended to the City Council its adoption and approval;

Now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL:

1. The City Council finds:
 - a) that in preparing the 2013 Action Plan Component of the Consolidated

Community Development and Housing Plan (Action Plan) and for Title 1 CDBG funds, HOME funds and ESG funds, all rules and regulations as promulgated under the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act, as amended, have been complied with;

- b) the Community, Housing and Humans Services Program and the program participation with citizen/government participation are in the public interest and beneficial to the physical environment of our community and quality of life therein;
 - c) the certifications have been reviewed and the commitments of this City are understood.
2. That the report of the Community, Housing and Human Services Board, dated April 3, 2013, submitting the Board's recommendations and a summary of the procedure followed in preparing the application, is hereby approved and adopted.
4. That the 2013 Action Plan and for CDBG, HOME and ESG funds is hereby approved. The Mayor is authorized to sign and directed to file the same on or before May 3, 2013, to execute such additional documents as required, to request and secure the release of Community Development Title I funds, to provide such other information as may be required to obtain the funds and execute the projects, and to proceed with project execution upon HUD approval of the Action Plan with the Community, Housing and Human Services Board acting for the City Council as the policy body guiding project execution including executing contracts for the projects identified in the Community, Housing and Human Services Board report.

Adopted by the City Council _____

City Clerk

Approved as to form:



Assistant City Attorney

BRIEFING PAPER
City of Spokane
PCED Committee
Community, Housing and Human Services Department
2013 Action Plan Component of the Consolidated Plan
April 15, 2013

Subject

The Community, Housing and Human Services (CHHS) Board is forwarding the 2013 Action Plan Component of the City's Consolidated Community Development and Housing Plan to City Council for action on April 22, 2013. The Action Plan, along with the Citizen Participation Plan (CPP) and Consolidated Annual Performance and Evaluation Report (CAPER), are annual planning and performance review components in support of the broader five-year Consolidated Plan.

Background

The City is required to submit an Action Plan that provides a detailed list and descriptions of the activities which will be funded with the City's Community Development Block Grant (CDBG), HOME and Emergency Solutions Grant (ESG) allocations in the upcoming Grant Year. The city receives these federal grants through an annual entitlement administered by the U.S. Department of Housing and Urban Development (HUD). The funds are intended to carry out community development activities, such as improving affordable housing options, community facilities and services that benefit low-to-moderate income residents, while meeting national objectives and operating within regulations set nationally by HUD.

The Action Plan was developed in accordance with the approved 2013 Citizen Participation Plan. The CPP detailed extensive public outreach and participation opportunities for Community Development Neighborhood Steering Committees, community organizations and agencies and citizens at large, including two legal notices (October 22, 2012 and February 23, 2013), two public hearings (November 1, 2012 and March 14, 2013), and 30-day comment periods for public comment on the CPP and Action Plan prior to adoption. With general direction gathered at the first hearing, the CHHS Board reviewed neighborhood-specific activities recommend by CDBG-eligible neighborhoods and RFP's seeking recommendations from the broader community. After consideration by an ad-hoc committee and review by the full Board, the recommendations were tentatively adopted for presentation at the second hearing. Despite the impacts of federal sequestration, public comment on the 2013 Action Plan has been overwhelmingly positive.

Impact

The budget contained in the Action Plan provides specific activities and project funding for the 2013 program year, which begins July 1, 2013 and ends June 30, 2014.

Action

City Council is expected to take action and adopt the 2013 Action Plan on April 22, 2013. The Action Plan, along with legal certifications signed by Mayor Condon, will be submitted to HUD by May 15, 2013, which begins a HUD 45 day review period. Funding approval and grant agreements are expected to be received from HUD in July or August.

Funding

Community Development Block Grant	\$ 2,798,744 (including \$96,261 in prior year funds)
HOME Investment Partnerships Program	\$ 916,780
Emergency Solutions Grant Program	\$ 282,150
Program Income (CDBG & HOME)	\$ 1,150,000

The complete 2013 Action Plan will be available on Monday, April 15, 2013 under Planning Documents on the CHHS Website: <http://www.spokanechhs.org/>

For further information contact Kristine Williams kwilliams@spokanecity.org 625-6325



Agenda Sheet for City Council Meeting of:
04/22/2013

Date Rec'd	4/10/2013
Clerk's File #	RES 2013-0029
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	AMBER WALDREF/NANCY MCLAUGHLIN
Contact E-Mail	AWALDREF@SPOKANECITY.ORG
Agenda Item Type	Resolutions
Agenda Item Name	0320 FELTS FIELD TOWER

Agenda Wording

A resolution regarding the continued operation of the Felts Field Contract Tower.

Summary (Background)

The Federal Aviation Administration (FAA) has affirmed a decision to close air traffic control operations at Felts Field and other small airports around the country due to budget cuts in Congress that involve a "sequestration" of spending across most government agencies. The Spokane International Airport Board has initiated litigation against the FAA to block its shutdown of air-traffic control operations at Felts Field as a result of agency budget cuts.

Fiscal Impact		Budget Account	
Select	\$		#
Select	\$		#
Select	\$		#
Select	\$		#
Approvals		Council Notifications	
<u>Dept Head</u>	WESTFALL, JENNIFER	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	Distribution List	
<u>Legal</u>	BURNS, BARBARA		
<u>For the Mayor</u>	SANDERS, THERESA		
Additional Approvals			
<u>Purchasing</u>			

Resolution No. 2013-0029

A resolution regarding the continued operation of the Felts Field Contract Tower.

WHEREAS, the Contract Tower at Spokane's Felts Field has been identified as one of the 149 Contract Towers to be closed as a result of sequestration on June 15, 2013; and

WHEREAS, the Contract Tower at Felts Field plays an integral and significant role in maintaining our national defense capabilities, the region's life safety, and the region's local economic vitality. Keeping the Felts Field Tower open recognizes the success of the private-public partnership model that has delivered air traffic control services in a cost-efficient manner since 1999, as independently verified by the USDOT Inspector General and Congress; and

WHEREAS, the airspace above Spokane is complex and requires an intricate coordination of arriving and departing "heavy" aircraft, KC-135s from Fairchild AFB, commercial and corporate traffic from Spokane International Airport, and emergency medical aircraft and student pilots operating both fixed and rotary wing aircraft from Felts Field; and

WHEREAS, the four primary runways between Felts Field, Spokane International and Fairchild AFB are not parallel which means that there are intersecting approaches which cause additional need for vigilance over aircraft approach and departure procedures; and

WHEREAS, the controllers in the Felts Tower provide traffic advisories, control instructions and flight procedures to protect the unique two Class "C" (restricted) airspaces over Fairchild and Spokane International Airport for pilots ascending or descending through 4,000' on approach or departure from Felts Field; and

WHEREAS, approximately, over 250,000 people live in the cities of Spokane and Spokane Valley, which occupies the land mass below this airspace. Over 120,000 take offs and landings are performed annually at Felts Field and Spokane International Airports. The Felts Tower plays an intricate role in protecting the safety of the pilots in the air and citizens on the ground by providing another set of eyes and oversight. These 'quick looks' at descending high-performance military and civilian aircraft remain critical to flight safety to the extent that the FAA was compelled to memorialize the role of the Felts Field Tower in a Letter of Agreement; and

WHEREAS, Moody Aviation and Spokane Turbine Center flight schools provide flight instruction to missionary student pilots. During the summer months it is not uncommon to have as many as 15 aircraft at a time flying in the airport traffic pattern and local area. The potential for a deviation by student pilots that could conflict with commercial or military airspace dramatically increases without the oversight provided by the Felts Field Contract Tower. Moody was recruited to Spokane from Tennessee in part because of the Felts Field Air Traffic Control Tower; and

WHEREAS, Northwest Medstar, which has a substantial helicopter and fixed-wing aircraft operation based at Felts Field and serves as the region's primary critical care air ambulance provider for eastern Washington, northern Idaho, western Montana, and northeastern Oregon. In 2012, MedStar performed more than 1,200 aviation take-offs and landings from Felts Field. A change in Tower procedures could cause departure and arrival delays that could be critical to their operation;

WHEREAS, the Federal Aviation Administration has affirmed a decision to close air traffic control operations at Felts Field and other small airports around the country due to budget cuts in Congress that involve a "sequestration" of spending across most government agencies; and

WHEREAS, the continued safe operation of Felts Field is vital to the economic vitality and stability of the Spokane region; and

WHEREAS, the Spokane International Airport Board has initiated litigation against the Federal Aviation Administration to block its shutdown of air-traffic control operations at Felts Field as a result of agency budget cuts; - - Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPOKANE that the City Council supports the continued operation of the Felts Field Contract Tower as a critical and integral part of the operations of Felts Field and supports the legal action initiated by the Spokane International Airport to oppose the shutdown of air-traffic control operations at Felts Field by the Federal Aviation Administration.

ADOPTED by the City Council _____, 2013.

City Clerk

Approved as to form:

Assistant City Attorney



Agenda Sheet for City Council Meeting of:
04/15/2013

Date Rec'd	4/10/2013
Clerk's File #	LGL 2012-0049
Renews #	
Cross Ref #	INITIATIVE 2012-4
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY CLERK
Contact Name/Phone	TERRI PFISTER 625-6354
Contact E-Mail	TPFISTER@SPOKANECITY.ORG
Agenda Item Type	Report Item
Agenda Item Name	0260 INITIATIVE 2012-4 - VOTER BILL OF RIGHTS

Agenda Wording

Set Hearing before City Council for Monday, April 22, 2013, on proposed Initiative 2012-4 petitions filed by Spokane Moves to Amend (SMAC) pertaining to a Spokane Municipal Code amendment to add a Voter Bill of Rights for clean and fair elections and

Summary (Background)

On April 8, 2013, SMAC filed with the City Clerk's Office petitions bearing 4,520 signatures. This constitutes 7.218 percent of the votes cast at the last general municipal election (held November 8, 2011). Five percent, or 3,131 validated signatures are required for placement on the next general municipal election ballot (November 5, 2013). The signatures have not been validated. Pursuant to SMC 2.02.080, at the Hearing on the matter, City Council may decide:

Fiscal Impact

Select	\$
Select	\$
Select	\$
Select	\$

Budget Account

#
#
#
#

Approvals

<u>Dept Head</u>	PFISTER, TERRI
<u>Division Director</u>	
<u>Finance</u>	LESESNE, MICHELE
<u>Legal</u>	BURNS, BARBARA
<u>For the Mayor</u>	SANDERS, THERESA

Council Notifications

<u>Study Session</u>	
<u>Other</u>	
<u>Distribution List</u>	mpiccolo

Additional Approvals

<u>Purchasing</u>	

Under Washington State law every person who signs an initiative or referendum petition with any other than his or her true name, knowingly signs more than once, or sign when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes any false statement on such petition, may be guilty of a misdemeanor.

**INITIATIVE PETITION TO THE PEOPLE OF THE CITY OF SPOKANE
INITIATIVE NO. 4**

We, the undersigned citizens and legal voters of the City of Spokane, Washington, respectfully direct that this proposed City ordinance known as Initiative No. 4, a full, true and correct copy of which is printed on the reverse side hereof, be submitted to the electors of the City of Spokane for the approval or rejection at the next available special or general municipal election. The proposed City municipal code amendment shall appear as the following proposition:

BALLOT TITLE

SHALL THE SPOKANE MUNICIPAL CODE BE AMENDED TO ADD A VOTER BILL OF RIGHTS FOR CLEAN AND FAIR ELECTIONS AND GOVERNMENT ORDINANCE THAT PROHIBITS CORPORATE LOBBYING, CORPORATE INVOLVEMENT IN INITIATIVES, AND CORPORATE DONATIONS TO CANDIDATES FOR ELECTED OFFICE?

Each of us for himself or herself says; have personally signed the petition; I am a legal voter of the City of Spokane, my residence address is correctly stated; and I have knowingly signed this petition only once.

(The full text of the proposed ordinance is printed commencing on the reverse side of this page.)

PETITIONER'S SIGNATURE As on voter registration	PRINTED NAME	RESIDENCE ADDRESS (str. name & number, zip code)	Daytime phone (optional)	Check if registered address is different
<i>[Signature]</i>	Sam Sims	1411 W. Monroe APT A Spokane, WA 99205		<input checked="" type="checkbox"/>
<i>[Signature]</i>	Heather Jerron	1814 W Mansfield		<input checked="" type="checkbox"/>
<i>[Signature]</i>	Amanda Taylor	1504 East Garland		<input checked="" type="checkbox"/>
<i>[Signature]</i>	Secetta Beauchamp	15 E Bridgeway		<input checked="" type="checkbox"/>
<i>[Signature]</i>	Amanda Valdez	3107 W Fairview Spokane, WA 99205		
<i>[Signature]</i>	Lynda Maraby	2615 N. Alameda St		
<i>[Signature]</i>	Catherine Amador	528 W 5th Cheney, Wa 99009	235-6420	
<i>[Signature]</i>	Brian Parr	1319 S Lincoln 99203		
<i>[Signature]</i>	Albertina C. Goulart	12824 EAST AVE		
<i>[Signature]</i>	Gerald G. Goulart	"		
<i>[Signature]</i>	Jenny McInnell	1728 E. 16th 99203		
<i>[Signature]</i>	Shen Luff	1024 E 13th 99202		
<i>[Signature]</i>	CORISSA BORONICK	130 S. S CRESTLINE 99202		
<i>[Signature]</i>	Barbara J. Stots	1805 N. Hancock		
<i>[Signature]</i>	SUZANNE PAREZ	1214 W Sprague		
<i>[Signature]</i>	Barbara A. Carbett	4011 E Hastings Rd	509 468-2315	
<i>[Signature]</i>	Barbara Jo Hope	3404 E Montgomery Ave 99217		
<i>[Signature]</i>	EDWARD L. HOPE	3404 E. Mont. Jernsey Ave 99217		

SUMMARY OF THE MEASURE

The effect of the Measure if Approved:

This ordinance would ban corporations from making contributions or expenditures to influence any election with in the City of Spokane. The measure would ban lobbying by corporations, making it unlawful for corporations to communicate with a City of Spokane elected official urging support or opposition to pending legislation or citizen initiative. The ban on corporate lobbying shall not be construed to prohibit open forum communications between corporate lobbyists and elected officials. Monies expended within the City of Spokane for political purposes shall not be considered constitutionally-protected speech within the City of Spokane. Corporations, in violation of this ordinance, shall not have the rights of "persons" as afforded by the United States and Washington Constitutions.

TITLE: "A VOTER BILL OF RIGHTS: A CLEAN AND FAIR ELECTIONS AND GOVERNMENT ORDINANCE"

ORDINANCE NO.

AN ORDINANCE AMENDING THE SPOKANE MUNICIPAL CODE TO PROHIBIT CORPORATE LOBBYING, CORPORATE INVOLVEMENT IN INITIATIVES, AND CORPORATE DONATIONS TO CANDIDATES FOR ELECTED OFFICE

NOW, THEREFORE, THE PEOPLE OF THE CITY OF SPOKANE HEREBY ORDAIN:

Section 1. That there is adopted a new chapter 2.06 to Title 2 of the Spokane Municipal Code to read as follows:

Chapter 2.06 Fair and Clean Elections and Government Ordinance

2.06.010. Findings and Purpose

The purpose of this chapter is to recognize the right of Spokane residents to fair elections and clean local government by prohibiting corporate involvement in elections and lobbying activities.

2.06.020. Right to Fair Elections

The people of the City of Spokane have the right to fair elections, which shall include the right to an electoral process free from corporate influence, and the elimination of the treatment of money as speech for elections purposes.

2.06.030. Right to Clean Government

The people of the City of Spokane have the right to clean government, which shall include the right to a City legislative process free from corporate influence.

2.06.040 Prohibited Activities

2.06.040(a). Ban on Electioneering. It shall be unlawful for any corporation to make a contribution or expenditure to influence any election within the City of Spokane.

2.06.040(b). Ban on Lobbying. It shall be unlawful for any corporation to communicate with an elected official within the City of Spokane urging support or opposition to pending legislation or citizen initiative.

2.06.040(c). Exceptions to Ban on Lobbying. The ban on corporate lobbying shall not be construed to prohibit open forum communications between corporate lobbyists and elected officials.

2.06.040(d). Money as Speech. Monies expended within the City of Spokane for political purposes shall not be considered constitutionally-protected speech within the City of Spokane.

2.06.050 Corporate Rights

Corporations in violation of the rights and prohibitions established by this ordinance, or seeking to engage in activities prohibited by this ordinance shall not have the rights of "persons" afforded by the United States and Washington Constitutions, nor shall those corporations be afforded rights under the First or Fifth Amendments to the United States Constitution or corresponding sections of the Washington Constitution.

2.06.060 Enforcement

Violation of the provisions of this ordinance shall constitute a criminal offense under 01.02.950(F) of the Spokane Municipal Code, with remedies sought against the corporate entity violating this ordinance, in addition to corporate directors, officers, or other corporate agents participating in the decision to violate the provisions of this ordinance.

2.06.070. Definitions

"Communicate" - The term shall include any written or oral communication, and shall include, but not be limited to, political advertising.

"Contribution or Expenditure" - The phrase shall include any action deemed to be a contribution or expenditure under Washington State Elections law, including, but not limited to, expenditures made independently of candidates, and in-kind contributions of anything of value.

"Corporation" - The term shall include shall include any corporation, limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses State-conferred limited liability attributes for its owners, directors, officers, and/or managers. The term shall include individuals purporting to communicate on behalf of the corporation.

"Open Forum Communications" - The phrase shall include any communications made at a forum open to the public, including, but not limited to, meetings of the Spokane City Council.

Section 2. **Effective Date of Amendment to City Charter.** If approved by the electors, this City ordinance amendment shall take effect and be in full force upon issuance of the certificate of election by the Spokane County Auditor's Office.

Section 3. All ordinances, resolutions, motions, or orders in conflict with this City ordinance amendment are hereby repealed to the extent of such conflict. If any part or provision of these Charter provisions is held invalid, the remainder of these provisions shall not be affected by such a holding and shall continue in full force and effect.



Agenda Sheet for City Council Meeting of:

04/15/2013

<u>Date Rec'd</u>	4/11/2013
<u>Clerk's File #</u>	LGL 2012-0045
<u>Renews #</u>	
<u>Cross Ref #</u>	INITIATIVE 2012-3
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

Submitting Dept	CITY CLERK
Contact Name/Phone	TERRI PFISTER 625-6354
Contact E-Mail	TPFISTER@SPOKANECITY.ORG
Agenda Item Type	Report Item
Agenda Item Name	0260 - SET HEARING ON ENVISION INITIATIVE SIGNATURES

Agenda Wording

Set Hearing before City Council for Monday, April 22, 2013, on proposed Initiative 2012-3 petitions filed by Envision Spokane pertaining to an amendment to the City Charter to add a Community Bill of Rights, which secures the right of neighborhood

Summary (Background)

On April 10, 2013, Envision Spokane filed with the City Clerk's Office petitions bearing 5,156 signatures. This constitutes 8.233 percent of the votes cast at the last general municipal election (held November 8, 2011). Five percent, or 3,131 validated signatures are required for placement on the next general municipal election ballot (November 5, 2013). The signatures have not been validated.

Pursuant to SMC 2.02.080 and Sections 84 and 125 of the City Charter, at the Hearing on the

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$		#
Select	\$		#
Select	\$		#
Select	\$		#
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	PFISTER, TERRI	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	BURNS, BARBARA	mpiccolo	
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

Under Washington State law every person who signs an initiative or referendum petition with any other than his or her true name, knowingly signs more than once, or signs when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes any false statement on such petition, may be guilty of a misdemeanor.

INITIATIVE PETITION TO THE PEOPLE OF THE CITY OF SPOKANE

RECEIVED

APR 10 2013

CITY CLERK'S OFFICE
SPOKANE, WA

INITIATIVE NO. 2012-3

We, the undersigned citizens and legal voters of the City of Spokane, Washington, respectfully direct that this proposed City Charter amendment known as Initiative No. 2012-3, a full, true and correct copy of which is printed on the reverse side hereof, be submitted to the electors of the City of Spokane for their approval or rejection at the next available special or general municipal election. The proposed City Charter amendment shall appear as the following proposition:

BALLOT TITLE

Shall the City Charter be amended to add a Community Bill of Rights, which secures the right of neighborhood residents to approve re-zonings proposed for major new development, recognizes the right of neighborhood residents to reject development which violates the City Charter or the City's Comprehensive Plan, expands protections for the Spokane River and Spokane Valley-Rathdrum Prairie Aquifer, provides constitutional protections in the workplace, and elevates Charter rights above rights claimed by corporations?

Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Spokane; my residence address is correctly stated; and I have knowingly signed this petition only once.

(The full text of the proposed City Charter amendment is printed commencing on the reverse side of this page.)

PETITIONER'S SIGNATURE as on voter registration	PRINTED NAME	RESIDENCE ADDRESS (street number; zip code)	DAYTIME PHONE (optional)	CHECK IF REGISTERED ADDRESS IS DIFFERENT
<i>Katherine Motta</i>	Katherine Motta	3319 W Lincoln Rd	465 4637	
<i>Patricia A. Norton</i>	Patricia A Norton	1417 W. Clarke 99201		
<i>Thomas Linzey</i>	THOMAS A. LINZEY	2816 W. BROADWAY 99201		
<i>Sage W. Bresgal</i>	Sage W Bresgal	24205 Lincoln 99203		
<i>Jan Treecraft</i>	Jan treecraft	1203 W. 16th Ave 99203		
<i>Carol Suzanne Bryan</i>	Carol Bryan	1616 W. Clarke Ave 99201	509 466-1390	
<i>Judith J. Noel</i>	Judith J Noel	2215 W 4th, Spokane	509 979-9933	
<i>Linda McHenry</i>	Linda McHenry	1624 S. La Tourette Spok	991-3715	
<i>Richard J. Miller</i>	Richard J. Miller	6317 N Market 99217	499 2484	
<i>Steve Siegfried</i>	Steve Siegfried	8700 S mullen Hill 99221	498 1922	
<i>John Waite</i>	John Waite	19 W. Main, 99201	475-8383	
<i>Inga Jablonsky</i>	Inga Jablonsky	2707 J. Arthur 99203	624-0717	
<i>Dorene Hagen</i>	Dorene Hagen	3025 W. Monticello 99206	327-3963	
<i>Randolph Prieur</i>	Randolph Prieur	1507 N. Stone St. 99207		
<i>Craig Randleman</i>	Craig Randleman	1808 E Castland Ave 99207	321-9503	
<i>Andrew Lorson</i>	Andrew Lorson	2605 W Boone 99201	509-499-3405	
<i>Debra L. Caudin</i>	Debra L Caudin	1607 E 9th 99202	509.535.5588	
<i>Robert Zeller</i>	Robert Zeller	1706 W. 9th Av 99204	509/624 4712	
<i>Brock Speersaver</i>	Speersaver	Earth		
<i>James B Green</i>	James B Green	802 S. Oak #10	747-8220	

ENVISION SPOKANE POLITICAL COMMITTEE, 1028 E. 13TH AVENUE, SPOKANE, WA 99202

SUMMARY OF THE MEASURE

The Law as it Currently Exists:

No Community Bill of Rights currently exists within the City Charter.

The Effect of the Measure if Approved:

This measure would amend the City Charter with a Community Bill of Rights, which seeks to build a healthy, sustainable, and democratic Spokane through the recognition of the rights of neighborhoods, the natural

environment, and workers. This initiative would recognize the right of neighborhood residents to approve proposals for major new development which require re-zoning, the right of neighborhood residents to reject proposals for major new development which would violate the City Charter or the City's Comprehensive Plan, the right to a healthy Spokane River and aquifer, the right to constitutional protections in the workplace, and the right to enforce Charter rights against competing rights claimed by corporations.



A CITY CHARTER AMENDMENT ESTABLISHING A COMMUNITY BILL OF RIGHTS

Whereas, the people of the City of Spokane wish to build a healthy, sustainable, and democratic community;

Whereas, the people of the City of Spokane wish to build that community by securing the rights, freedoms, and well-being of residents, workers, neighborhoods, and the natural environment;

Whereas, the people of the City of Spokane recognize their responsibility to be well-informed and involved citizens of the City of Spokane, to be stewards of the natural environment, and to assume the responsibility for enforcing their rights and the rights of others;

Whereas, the people of the City of Spokane have adopted a Comprehensive Plan for the City of Spokane, which envisions the building of a healthy, sustainable, and democratic community, but the people recognize that the Comprehensive Plan is not legally enforceable in many important respects;

Whereas, the people of the City of Spokane wish to create a Community Bill of Rights which would, among other goals, establish legally enforceable rights and duties to implement the vision laid out in the Comprehensive Plan; and

Whereas, the people of the City of Spokane wish to create a Community Bill of Rights, which would elevate the rights of the community over those of corporations.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF SPOKANE HEREBY ORDAIN:

Section 1. A new section be added to the beginning of the Charter of the City of Spokane, which shall be known as the "Community Bill of Rights," and which provides as follows:

FIRST. NEIGHBORHOOD RESIDENTS HAVE THE RIGHT TO DETERMINE MAJOR DEVELOPMENT IN THEIR NEIGHBORHOODS.

Neighborhood majorities shall have the right to approve all zoning changes proposed for their neighborhood involving major commercial, industrial, or residential development. Neighborhood majorities shall mean the majority of registered voters residing in an official city neighborhood who voted in the last general election. Proposed commercial or industrial development shall be deemed major if it exceeds ten thousand square feet, and proposed residential development shall be deemed major if it exceeds twenty units and its construction is not financed by governmental funds allocated for low-income housing.

It shall be the responsibility of the proposer of the zoning change to acquire the approval of the neighborhood majority, and the zoning change shall not be effective without it. Neighborhood majorities shall also have a right to reject major commercial, industrial, or residential development which is incompatible with the provisions of the City's Comprehensive Plan or this Charter.

Approval of a zoning change or rejection of proposed development under this section shall become effective upon the submission of a petition to the City containing the valid signatures of neighborhood majorities approving the zoning change or rejecting the proposed development, in a petition generally conforming to the referendum provisions of the Spokane municipal code.

SECOND. THE RIGHT TO A HEALTHY SPOKANE RIVER AND AQUIFER.

The Spokane River, its tributaries, and the Spokane Valley-Rathdrum Prairie Aquifer possess fundamental and inalienable rights to exist and flourish, which shall include the right to sustainable recharge, flows sufficient to protect native fish habitat, and clean water. All residents of Spokane possess fundamental and inalienable rights to sustainably access, use, consume, and preserve water drawn from natural cycles that provide water necessary to sustain life within the City. The City of Spokane, and any resident of the City or group of residents, have standing to enforce and protect these rights.

THIRD. EMPLOYEES HAVE THE RIGHT TO CONSTITUTIONAL PROTECTIONS IN THE WORKPLACE.

Employees shall possess United States and Washington Bill of Rights' constitutional protections in every workplace within the City of Spokane, and workers in unionized workplaces shall possess the right to collective bargaining.

FOURTH. CORPORATE POWERS SHALL BE SUBORDINATE TO PEOPLE'S RIGHTS.

Corporations and other business entities which violate the rights secured by this Charter shall not be deemed to be "persons," nor possess any other legal rights, privileges, powers, or protections which would interfere with the enforcement of rights enumerated by this Charter.

Section 2. Effective Date of Amendment to City Charter. If approved by the electors, this City Charter amendment shall take effect and be in full force upon issuance of the certificate of election by the Spokane County Auditor's Office.

Section 3. All ordinances, resolutions, motions, or orders in conflict with this City Charter amendment are hereby repealed to the extent of such conflict. If any part or provision of these Charter provisions is held invalid, the remainder of these provisions shall not be affected by such a holding and shall continue in full force and effect.