

# THE CITY OF SPOKANE



## ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, NOVEMBER 10, 2014

### **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 CANDACE MUMM**

**COUNCIL MEMBER KAREN STRATTON**

**COUNCIL MEMBER MIKE FAGAN**

**COUNCIL MEMBER JON SNYDER**

**COUNCIL MEMBER AMBER WALDREF**

**CITY 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](http://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 Christine Cavanaugh at (509) 625-6383, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or [ccavanaugh@spokanecity.org](mailto:ccavanaugh@spokanecity.org). Persons who are deaf or hard of hearing may contact Ms. Cavanaugh 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. | Additional purchases by Fleet Services Department from Freedom Truck Center (Spokane, WA) for:<br><b>Gene Jakubczak</b>  | Approve<br>All |                              |
| a. | One 2015 Freightliner M2-106V Truck Cab & Chassis to replace a Water Department truck destroyed in a fire—\$81,487.15 (incl. tax).   |                | OPR 2010-0585<br>BID 3709-10 |
| b. | Two 2015 Freightliner M2-112 Truck Cab & Chassis for Wastewater Department—\$265,097.99 (incl. tax).   |                | OPR 2010-0591<br>BID 3708-10 |
| 2. | Purchase of two Vac-Con catch basin sewer cleaners from Solid Waste Systems (Spokane, WA) using the NJPA Co-Op (Contract #02214-AMI)—\$515,502.91 (incl. tax). <b>Gene Jakubczak</b>   | Approve        | OPR 2014-0752                |
| 3. | One-year extension to Value Blanket Order with Cascade Engineering, Inc. (Grand Rapids, MI) for the purchase of 64-gallon and 96-gallon semi & fully automated recycling containers—annual estimated expenditure \$100,000 (incl. tax). <b>Scott Windsor</b> | Approve        | OPR 2011-0906<br>BID 3816-11 |

- |    |   |                |                              |
|----|---|----------------|------------------------------|
| 4. | Value Blanket Orders for operations of the Waste to Energy Facility with: <b>Ken Gimpel</b>   | Approve<br>All | OPR 2014-0753<br>BID 4072-14 |
| a. | Knight Construction & Supply, Inc (Deer Park, WA) for rebuilding Hydraulic and Pneumatic Cylinders with OEM Parts only as needed—not to exceed \$53,000 (incl. tax).  |                | OPR 2014-0754<br>BID 4066-14 |
| b. | Atlas Copco (Arlington, WA) for miscellaneous compressor rental during scheduled outages and emergency outages on an as needed basis—\$63,915.60 (incl. tax).   |                | OPR 2014-0755                |
| c. | Helfrich Brothers (Lawrence, MA) for miscellaneous Boiler Tubes to be purchased on an as needed basis—\$100,000 (incl. tax).  |                |                              |
| 5. | Assignment of Contract between Dick Irvin, Inc. (Shelby, MT) and Wheelabrator Spokane Inc. for coordination, transportation, and off-loading of quicklime for the Waste to Energy Facility through December 31, 2014—\$36,550. <b>Ken Gimpel</b>  | Approve        | OPR 2014-0756                |
| 6. | Assignment and Extension of Contract between American Recycling Corporation (Spokane) and Wheelabrator Spokane Inc. for sale of metals recovered from the Waste to Energy Facility from November 17, 2014 to December 31, 2015—\$78,000 estimated revenue. <b>Ken Gimpel</b>  | Approve        | OPR 2014-0757                |
| 7. | Accept grant funding from the Department of Justice for the COPS 2014 Hiring Program Award (for five officer positions)—\$625,000 revenue over a period of three years. <b>Jennifer Stapleton</b>   | Approve        | OPR 2014-0758                |
| 8. | Acceptance of grant for the work of the Spokane Regional Drug Task Force to support salaries and benefits for collaborating with local jurisdictions in the eradication of narcotics in the region from July 1, 2014 to December 31, 2014—\$84,832 revenue.<br><b>Jennifer Stapleton</b>  | Approve        | OPR 2014-0762                |
| 9. | Contract Renewal with Peterson Enterprises d/b/a Valley Empire Collection for collection services, originally effective April 1, 2010, to December 31, 2013, and currently operating under an extension. This renewal begins July 1, 2014, and continues through December 31, 2017, with no cost to the court or the City of Spokane. <b>Howard Delaney</b> | Approve        | OPR 2014-0759                |



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|---|-----------------------------|---------------|
| 10. Contract Amendment No. 5 with Milton Rowland and the law firm of Foster Pepper PLLC for special counsel services in regard to the World Wide Video matter which has been resolved—required increase of \$10,000 to pay final invoice. <b>Pat Dalton</b>                                 | Approve                     | OPR 2007-0372 |
| 11. Consultant Agreement with Stantec Consulting Services, Inc. (Spokane, WA) for Brownfields grant writing services and project implementation in the YARD—\$386,000. <b>Teri Stripes</b>  | Approve                     | OPR 2014-0760 |
| 12. Three-year Property Lease with the University of Washington for the former Spokane Visitors Center located at 201 West Main Avenue—\$5,206.25 revenue/month for first year. <b>Dave Steele</b>  | Approve                     | OPR 2014-0761 |
| 13. Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2014, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | Approve & Authorize Payment | CPR 2014-0002 |

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## EXECUTIVE SESSION

(Closed Session of Council)

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

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## 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.

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## 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)

**APPOINTMENT**

**RECOMMENDATION**

Park Board: One Appointment

Confirm CPR 1981-0402

**CITY ADMINISTRATION REPORT**

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**COUNCIL COMMITTEE REPORTS**

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

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**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.

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**LEGISLATIVE AGENDA**

**NO EMERGENCY BUDGET ORDINANCES**

**NO EMERGENCY ORDINANCES**

**RESOLUTIONS & FINAL READING ORDINANCES**

(Require Four Affirmative, Recorded Roll Call Votes)

RES 2014-0107      Declaring Asea Brown Boveri Limited (ABB) who owns the patented software known as ABB ServiceGrid which is used to enhance the overall operational effectiveness and reduce maintenance costs at the City's Waste To Energy Facility as sole source and thus authorizing its

purchase from Asea Brown Boveri Limited (ABB), of Zurich, Switzerland, at an estimated cost for the first year of \$62,040 (excl. taxes if applicable). **Ken Gimpel**

ORD C35174 Relating to financial audit findings; adopting a new Chapter 7.18 to Title 7 of the Spokane Municipal Code. **Council President Stuckart**

ORD C35178 Updating the annual City of Spokane property tax levy for 2015. **Tim Dunivant**

## FIRST READING ORDINANCES

(No Public Testimony Will Be Taken)

ORD C35176 Relating to Court Commissioners hiring, salaries, performance; amending SMC 5A.05.020 B. (Amends the salary structure for Municipal Court Commissioners from a fixed salary of \$105,000 per year to an existing six-step City salary range, effective January 1, 2015.) **Howard Delaney**

ORD C35177 Of the City of Spokane, Washington, adopting a six-year Citywide Capital Improvement Program for the years 2015 through 2020, and amending Section 5.5 Capital Facilities Program of the City of Spokane Comprehensive Plan. **Katherine Miller**

ORD C35179 Relating to state and federal lobbying and the City's legislative agenda; amending SMC Section 2.03.010 and 2.03.020; amending Chapter 2.03; and adopting a new Section 2.03.030 to Chapter 2.03 of the Spokane Municipal Code. **Jon Snyder**

FURTHER ACTION DEFERRED

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## NO SPECIAL CONSIDERATIONS

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## 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.	Continuation of Hearing on 2015 Proposed Budget. (Continued from November 3, 2014) <b>Tim Dunivant</b>	Hold Hrg. & Cont. to 11/17/2014	FIN 2014-0001
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**Motion to Approve Advance Agenda for November 10, 2014  
(per Council Rule 2.1.2)**

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**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 November 10, 2014, Regular Legislative Session of the City Council is adjourned to November 17, 2014.

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**NOTES**

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

11/10/2014

**Date Rec'd**

10/29/2014

**Clerk's File #**

OPR 2010-0585

**Renews #****Submitting Dept**

FLEET SERVICES

**Cross Ref #****Contact Name/Phone**

GENE JAKUBCZAK 625-7865

**Project #****Contact E-Mail**

GJAKUBCZAK@SPOKANECITY.ORG

**Bid #**

BID #3709-10

**Agenda Item Type**

Purchase w/o Contract

**Requisition #**

RE #17105

**Agenda Item Name**

5100 - FLEET PURCHASE OF TRUCK CHASSIS

**Agenda Wording**

Additional purchase of one (1) 2015 Freightliner M2-106V Truck Cab & Chassis from FREEDOM TRUCK CENTER (Spokane, WA) for the City of Spokane Fleet Services Department - \$81,487.15 including sales tax

**Summary (Background)**

On 7/26/10 City Council awarded Bid #3709-10 for the purchase of three (3) or more single axle truck cab & chassis to Freedom Truck Center. Subsequently Fleet Services has identified and additional need for one (1) more truck cab & chassis. This truck cab & chassis will be used to replace a Water Department truck destroyed in a fire.

**Fiscal Impact****Budget Account**

Expense \$ 81,487.15

# 4100-42490-94000-56404

Select \$

#

Select \$

#

Select \$

#

**Approvals****Council Notifications****Dept Head**

JAKUBCZAK, GENE

**Study Session****Division Director**

ROMERO, RICK

**Other**

10/27/14

**Finance**

LESESNE, MICHELE

**Distribution List****Legal**

DALTON, PAT

tprince

**For the Mayor**

SANDERS, THERESA

gjakubczak

**Additional Approvals**

fleetservices

**Purchasing**

PRINCE, THEA

taxes &amp; licenses

**BRIEFING PAPER**  
**Public Works Committee**  
**Fleet Services**  
**October 28, 2013**

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**Subject**

Purchase of one truck cab and chassis for the Water Department.

**Background**

Purchase one Freightliner cab and chassis utilizing the terms of bid #3709-10 for \$93,027.17, including tax.

**Impact**

This unit will replace a unit that has reached the end of its economic service life.

**Action**

Recommend approval

**Funding**

Funds are available in the Water Department's 2013 budget.

**FLEET SERVICES  
MEMORANDUM**

October 30, 2014

**TO: PURCHASING DEPARTMENT**

**FROM: GENE JAKUBCZAK  
FLEET SERVICES DIRECTOR**

**SUBJ: ADDITIONAL PURCHASES UTILIZING BID # 3709-10**

This is an order for one truck chassis utilizing the terms of bid # 3709-10. The vendor has agreed to hold the price originally quoted for this purchase. This chassis will be used to replace a Water department truck destroyed in a fire.

Unit 428407 RE 17105

<b>QTY</b>	<b>ITEM</b>	<b>UNIT PRICE</b>	<b>TOTAL</b>
1	2015 Freightliner M2-106V w/options	\$74,827.50	\$74,827.50
Chassis Sales Tax	8.9% tax		\$6,659.65
<b>GRAND TOTAL</b>			<b>\$81,487.15</b>

cc: Dan Kegley  
Lynn Shupe



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

11/10/2014

<b><u>Date Rec'd</u></b>	10/29/2014
<b><u>Clerk's File #</u></b>	OPR 2010-0591
<b><u>Renews #</u></b>	

<b><u>Submitting Dept</u></b>	FLEET SERVICES	<b><u>Cross Ref #</u></b>	
<b><u>Contact Name/Phone</u></b>	GENE JAKUBCZAK 625-7865	<b><u>Project #</u></b>	
<b><u>Contact E-Mail</u></b>	GJAKUBCZAK@SPOKANECITY.ORG	<b><u>Bid #</u></b>	BID #3708-10
<b><u>Agenda Item Type</u></b>	Purchase w/o Contract	<b><u>Requisition #</u></b>	RE #17091
<b><u>Agenda Item Name</u></b>	5100-FLEET SERVICES ADDITIONAL PURCHASE OF TWO TRUCK CHASSIS		

**Agenda Wording**

Additional Purchase of two (2) 2015 Freightliner M2-112 Truck Cab & Chassis from FREEDOM TRUCK CENTER (Spokane, WA) for the City of Spokane Fleet Services Department - \$265,097.99 including sales tax

**Summary (Background)**

On 8/2/10 City Council awarded Bid #3708-10 for the purchase of three(3) or more 64,000 GVW Tandem Axle Truck Cab & Chassis to Freedom Truck Center. Subsequently Fleet Services has identified an additional need for two (2) more truck cab & chassis. These will be used to build tandem axle sewer catch basin cleaning trucks for the Sewer Department. The vendor has agreed to hold pricing originally quoted for this purchase.

<b><u>Fiscal Impact</u></b>		<b><u>Budget Account</u></b>	
Expense	\$ 265,097.99	#	4310-43100-94000-56401
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b><u>Approvals</u></b>		<b><u>Council Notifications</u></b>	
<b><u>Dept Head</u></b>	JAKUBCZAK, GENE	<b><u>Study Session</u></b>	
<b><u>Division Director</u></b>	ROMERO, RICK	<b><u>Other</u></b>	PWC 10/13/14
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	tprince	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	gjakubczak	
<b><u>Additional Approvals</u></b>		fleetservices	
<b><u>Purchasing</u></b>	PRINCE, THEA	Taxes & Licenses	
		lbutz	

**FLEET SERVICES  
MEMORANDUM**

**October 30, 2014**

**TO: PURCHASING DEPARTMENT**

**FROM: GENE JAKUBCZAK  
FLEET SERVICES DIRECTOR**

**SUBJ: ADDITIONAL PURCHASES UTILIZING BID # 3708-10**

This is an order for two truck chassis utilizing the terms of bid # 3708-10. The vendor has agreed to hold the price originally quoted for this purchase.

These chassis will be used to build tandem axle sewer catch basin cleaning trucks for the Sewer Department.

Units 428398, 428399

RE 17091

<b>QTY</b>	<b>ITEM</b>	<b>UNIT PRICE</b>	<b>TOTAL</b>
2	2015 Freightliner M2-112 cab & chassis	104,085.00	\$208,170.00
2	Price escalator for orders after 2/28/2012 - \$2000.00 + 5%	\$5,204.25	\$10,408.50
<b>OPTIONS</b>			
2	Flat dash in-lieu of curved	-\$450.00	-\$900.00
2	Engine - 435 HP	\$2,035.00	\$4,070.00
2	Rt. Side lower window	\$250.00	\$500.00
2	Air ride cab mounts	\$135.00	\$270.00
2	Insulated cab package, under hood	\$75.00	\$150.00
2	Noise control cab insulation w/side panel insulation	\$83.00	\$166.00
2	Battery cut-off switch adj. to driver's seat	\$210.00	\$420.00
2	Wheelbase - 264"	\$654.00	\$1,308.00
2	Front PTO adapter	\$295.00	\$590.00
2	Front frame extension	\$5,435.00	\$10,870.00
2	Air cleaner w/pre-cleaner	\$275.00	\$550.00
2	20,000 front axle	\$405.00	\$810.00
2	Double rail frame w/ 1/4" full C-channel inner frame reinforcement; S.M. 26.8, 120,000 P.S.I., RBM 3,217,000	\$1,930.00	\$3,860.00
2	Grille screen	\$35.00	\$70.00
2	12 V. aux. dash power supply	\$30.00	\$60.00
2	Back-up alarm	\$115.00	\$230.00
2	PTO dash switch	\$195.00	\$390.00
2	Overhead aux. radio power & ground supply	\$140.00	\$280.00
2	4 addl. dash switches	\$250.00	\$500.00
2	Alternate battery box location	\$250.00	\$500.00
2	Aux. battery posts	\$80.00	\$160.00
2	Engine compression brake	\$0.00	\$0.00
	Sub-total	\$121,716.25	\$243,432.50
Tax	8.9% sales tax		\$21,665.49
<b>TOTAL</b>			<b>\$265,097.99</b>

c: Gary Kaesemeyer

**BRIEFING PAPER**  
**Public Works Committee**  
**Fleet Services**  
**October 13, 2014**

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**Subject**

Purchase of two truck chassis and two sewer catch basin cleaner bodies with options for \$780,600.90, including tax, as replacement units the Wastewater Management.

**Background**

The truck chassis are being purchased utilizing the terms of bid #3708-10 for truck chassis for \$265,097.99.

The sewer catch basin cleaning bodies are being purchased utilizing the NJPA Purchasing Co-op contract 022014-AMI for \$515,502.91.

**Impact**

These vehicles will replace units in the Wastewater Management's fleet that have reached the end of their economic service life.

**Action**

Recommend approval.

**Funding**

Funding is available in the Wastewater Management's 2014 replacement fund budget.

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

11/10/2014

**Date Rec'd**

10/29/2014

**Clerk's File #**

OPR 2014-0752

**Renews #****Submitting Dept**

FLEET SERVICES

**Cross Ref #****Contact Name/Phone**

GENE JAKUBCZAK 625-7865

**Project #****Contact E-Mail**

GJAKUBCZAK@SPOKANECITY.ORG

**Bid #**

NJPA CONTRACT

**Agenda Item Type**

Purchase w/o Contract

**Requisition #**

RE #17102

**Agenda Item Name**

5100 - FLEET SERVICES PURCHASE OF VAC-CON CATCH BASIN SEWER CLEANERS

**Agenda Wording**

Purchase of two (2) Vac-Con catch basin sewer cleaners from Solid Waste Systems (Spokane, WA) using the NJPA Co-Op (Contract #02214-AMI) - \$515,502.91 including sales tax

**Summary (Background)**

Using an Interlocal Agreement with NJPA. Although all bids are competed for national purchase, this purchase is made through a local vendor. These units will replace units in the Sewer Department.

**Fiscal Impact****Budget Account**

Expense \$ 515,502.91

# 4310-43100-94000-56401

Select \$

#

Select \$

#

Select \$

#

**Approvals****Council Notifications****Dept Head**

JAKUBCZAK, GENE

**Study Session****Division Director**

ROMERO, RICK

**Other**

10/13/14

**Finance**

LESESNE, MICHELE

**Distribution List****Legal**

DALTON, PAT

tprince

**For the Mayor**

SANDERS, THERESA

gjakubczak

**Additional Approvals**

fleetservices

**Purchasing**

PRINCE, THEA

Taxes &amp; Licenses

lbutz

**FLEET SERVICES  
MEMORANDUM**

October 30, 2014

**TO: PURCHASING DEPARTMENT**

**FROM: GENE JAKUBCZAK  
FLEET SERVICES DIRECTOR**

**SUBJ: PURCHASE OF SEWER CATCH BASIN CLEANER THROUGH NJPA CO-OP**

This is an order for two (2) Vac-Con catch basin sewer cleaners as replacement units for the Sewer Department. This purchase is through the NJPA co-op (contract #02214-AMI). Solid Waste Systems of Spokane will be the vendor for this purchase.

Units 428398, 428399 RE 17102

<b>QTY</b>	<b>ITEM</b>	<b>TOTAL</b>	
2	Combination jet/vacuum sewer cleaner model V311E/850 with options, installed on chassis and delivered to Spokane, WA	\$236,686.37	\$473,372.74
<b>Sales tax</b>	Sales tax @ 8.9%		\$42,130.17
<b>GRAND TOTAL</b>			<b>\$515,502.91</b>

cc: Gary Kaesemeyer

**BRIEFING PAPER**  
**Public Works Committee**  
**Fleet Services**  
**October 13, 2014**

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**Subject**

Purchase of two truck chassis and two sewer catch basin cleaner bodies with options for \$780,600.90, including tax, as replacement units the Wastewater Management.

**Background**

The truck chassis are being purchased utilizing the terms of bid #3708-10 for truck chassis for \$265,097.99.

The sewer catch basin cleaning bodies are being purchased utilizing the NJPA Purchasing Co-op contract 022014-AMI for \$515,502.91.

**Impact**

These vehicles will replace units in the Wastewater Management's fleet that have reached the end of their economic service life.

**Action**

Recommend approval.

**Funding**

Funding is available in the Wastewater Management's 2014 replacement fund budget.



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	OPR 2011-0906
<b>Renews #</b>	

<b>Submitting Dept</b>	SOLID WASTE MANAGEMENT	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	SCOTT 625-7806	<b>Project #</b>	
<b>Contact E-Mail</b>	SWINDSOR@SPOKANECITY.ORG	<b>Bid #</b>	3816-11
<b>Agenda Item Type</b>	Purchase w/o Contract	<b>Requisition #</b>	VALUE BLANKET
<b>Agenda Item Name</b>	4500 VALUE BLANKET FOR SUPPLYING SEMI & FULLY AUTOMATED RECYCLING		

**Agenda Wording**

One-year extension to Value Blanket Order with Cascade Engineering, Inc. (Grand Rapids, MI) for the purchase of 64-gallon and 96-gallon semi & fully automated recycling containers--annual estimated expenditure \$100,000 (including tax).

**Summary (Background)**

In 1990, the Solid Waste Management Department, in compliance with Washington State law and the Spokane Comprehensive Solid Waste Management Plan, started a curbside residential recycling program. Commercial recycling was implemented shortly after in 1992. In 2011, the City of Spokane entered into a contract with Waste Management for the processing of single-stream collected recyclables. That same year, a bid request was issued to supply the carts to be used by Spokane City residential and

<b><u>Fiscal Impact</u></b>		<b><u>Budget Account</u></b>	
Expense	\$ \$100,000 (including tax)	#	4500-44200-94000-56401
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b><u>Approvals</u></b>		<b><u>Council Notifications</u></b>	
<b><u>Dept Head</u></b>	WINDSOR, SCOTT	<b><u>Study Session</u></b>	PWC 10-27-14
<b><u>Division Director</u></b>	ROMERO, RICK	<b><u>Other</u></b>	
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	swindsor@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	jtieken@spokanecity.org	
<b><u>Additional Approvals</u></b>		rschoonover@spokanecity.org	
<b><u>Purchasing</u></b>	WAHL, CONNIE	lbutz@spokanecity.org	
		cwahl@spokanecity.org	
		shawley@spokanecity.org	
		carol.hindley@cascadeng.com	





**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

**Summary (Background)**

commercial customers. Five responses were received; Cascade Engineering, Inc. was the lowest responsive bid. The original Value Blanket Order Contract was for a two-year period, with the option to renew for three additional one-year periods. This is the second extension provided for in the contract.

**Fiscal Impact**

Select      \$

**Budget Account**

#

Select      \$

#

**Distribution List**

Taxes & Licenses	
mlesesne@spokanecity.org	
jan.bognoski@cascadeng.com	
leon.leidy@cascadeng.com	

**BRIEFING PAPER**  
**Public Works Committee**  
**Solid Waste Collection Department**  
**October 27, 2014**

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**Subject**

Contract Extension Purchase of 64-gallon semi and fully automated recycling containers with the option of 96-gallon containers.

**Background**

In 2011, the City of Spokane entered a contract with Waste Management for processing of single-stream collected recyclables and a bid request (#3816-11) was issued for supplying the carts for single-stream collection. Responses were received from five companies. The lowest responsive bid was received from Cascade Engineering, Inc.

The City entered into a Value Blanket Order Contract with an initial term of two years and the provision to extend for three additional one-year periods. This request is for the second contract extension.

**Impact**

Recycling has a beneficial impact to the City of Spokane by diverting these commodities from disposal which aids waste reduction and the conservation of resources.

**Action**

Recommend approval.

**Funding**

Funds were approved in the 2014 Solid Waste Management budget.  
The amount requested has been reduced to \$100,000 for this contract extension.

CONTRACT EXTENSION

THIS CONTRACT EXTENSION is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and CASCADE ENGINEERING, INC., whose address is 4950 37<sup>th</sup> Street Southeast, Grand Rapids, Michigan 49512 (*Remittance address: P.O. Box 888405, Grand Rapids, Michigan 49588-8405*), as "Company",

WHEREAS, the parties entered into a Contract wherein the Company agreed to provide SEMI AND FULLY AUTOMATED RECYCLING CONTAINERS; and

WHEREAS, the original Contract allows the term to be extended three (3) additional one (1) year periods upon mutual agreement; and

WHEREAS, the parties would like to extend the Contract for the second allowable one (1) year period; -- Now, Therefore,

The parties agree as follows:

1. CONTRACT DOCUMENTS. The Contract dated November 30, 2011 and December 12, 2011, any previous amendments, addendums and / or extensions or renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein
2. EXTENSION. The contract documents are hereby extended and shall run through November 30, 2015.
3. COMPENSATION. The City shall pay the Company a maximum of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) for everything furnished and done under this Contract Extension.

Dated: \_\_\_\_\_

CITY OF SPOKANE

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

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

Attest:

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

Approved as to form:

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

Dated: \_\_\_\_\_

CASCADE ENGINEERING, INC.

E-Mail address, if available:

\_\_\_\_\_

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

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

14-236



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	OPR 2014-0753
<b>Renews #</b>	

<b>Submitting Dept</b>	SPOKANE REGIONAL SOLID WASTE	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	KEN GIMPEL 625-6532	<b>Project #</b>	
<b>Contact E-Mail</b>	KGIMPEL@SPOKANECITY.ORG	<b>Bid #</b>	BID #4072-14
<b>Agenda Item Type</b>	Purchase w/o Contract	<b>Requisition #</b>	VALUE BLANKET
<b>Agenda Item Name</b>	4490 - WASTE TO ENERGY VALUE BLANKET ORDER FOR CYLINDER REBUILDING		

**Agenda Wording**

Value Blanket Order with Knight Construction & Supply, Inc (Deer Park, WA). for rebuilding Hydraulic and Pneumatic Cylinders with OEM Parts only "as needed" per request for bids #4072-14. Cost not to exceed \$53,000.00 including sales tax

**Summary (Background)**

Sealed Bids were opened on Monday, November 27, 2014 with one (1) reponse being received from Knight Construction & Supply, Inc. On November 17, 2014, the City will take over operations of the waste to energy facility. New contracts for the supplies needed for operations must be obtained prior to that date. Rebuilding of Hydraulic and Pneumatic Cylinders is required for the operation of the waste to energy facility.

<b>Fiscal Impact</b>		<b>Budget Account</b>	
Expense	\$ 53,000.00	#	VARIOUS
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b>Approvals</b>		<b>Council Notifications</b>	
<b><u>Dept Head</u></b>	GIMPEL, KEN	<b><u>Study Session</u></b>	
<b><u>Division Director</u></b>	ROMERO, RICK	<b><u>Other</u></b>	
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	ttauscher@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	tprince@spokanecity.org	
<b><u>Additional Approvals</u></b>		taxes & licenses	
<b><u>Purchasing</u></b>	PRINCE, THEA	lbutz@spokanecity.org	

# **BRIEFING PAPER**

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## **Subject**

Value Blanket Order with Knight Construction & Supply, Inc. for rebuilding Hydraulic and Pneumatic Cylinders with OEM Parts only "as needed" per request for bids #4072-14. Cost not to exceed \$53,000.00 including sales tax

## **Background**

Sealed Bids were opened on Monday, November 27, 2014 with one (1) response being received from Knight Construction & Supply, Inc.

On November 17, 2014, the City will take over operations of the waste to energy facility. New contracts for the supplies needed for operations must be obtained prior to that date. Rebuilding of Hydraulic and Pneumatic Cylinders is required for the operation of the waste to energy facility.

## **Impact**

Waste to energy facility will maintain effective operations.

## **Action**

Recommend approval.

## **Funding**

\$53,000 will be funded from the 2015 waste to energy operations budget



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	OPR 2014-0754
<b>Renews #</b>	

<b>Submitting Dept</b>	SPOKANE REGIONAL SOLID WASTE	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	KEN GIMPEL 625-6532	<b>Project #</b>	
<b>Contact E-Mail</b>	KGIMPEL@SPOKANECITY.ORG	<b>Bid #</b>	BID #4066-14
<b>Agenda Item Type</b>	Purchase w/o Contract	<b>Requisition #</b>	VALUE BLANKET
<b>Agenda Item Name</b>	4490 - WASTE TO ENERGY VALUE BLANKET ORDER FOR COMPRESSOR RENTAL		

**Agenda Wording**

Value Blanket Order with Atlas Copco (Arlington, WA) for miscellaneous compressor rental during scheduled outages and emergency outages on an "as needed" basis - \$63,915.60 including tax

**Summary (Background)**

On October 27, 2014 sealed bids were opened to provide the City of Spokane Waste to Energy facility with miscellaneous compressor rentals on an "as needed" basis. One response was received from Atlas Copco. On November 17, 2014, the City will take over operations of the waste to energy facility. New contracts for the supplies needed for operations must be obtained prior to that date. Compressor rental is required for the operation of the waste to energy facility.

<b>Fiscal Impact</b>		<b>Budget Account</b>	
Expense	\$ 63,915.60	#	various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b>Approvals</b>		<b>Council Notifications</b>	
<b><u>Dept Head</u></b>	GIMPEL, KEN	<b><u>Study Session</u></b>	
<b><u>Division Director</u></b>	ROMERO, RICK	<b><u>Other</u></b>	
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	ttauscher@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	tprince	
<b><u>Additional Approvals</u></b>		Taxes & Licenses	
<b><u>Purchasing</u></b>	PRINCE, THEA	lbutz@spokanecity.org	



# **BRIEFING PAPER**

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## **Subject**

Value Blanket Order with Atlas Copco, Inc. for Compressor rental on an “as needed” basis per request for bids #4066-14. Cost not to exceed \$63,915.60 including sales tax

## **Background**

Sealed Bids were opened on Monday, November 27, 2014 with one (1) response being received from Atlas Copco.

On November 17, 2014, the City will take over operations of the waste to energy facility. New contracts for the supplies needed for operations must be obtained prior to that date. Rebuilding of Hydraulic and Pneumatic Cylinders is required for the operation of the waste to energy facility.

## **Impact**

Waste to energy facility will maintain effective operations.

## **Action**

Recommend approval.

## **Funding**

\$63,915.60 will be funded from the 2015 waste to energy operations budget

**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	OPR 2014-0755
<b>Renews #</b>	

<b>Submitting Dept</b>	SPOKANE REGIONAL SOLID WASTE	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	KEN GIMPEL 625-6532	<b>Project #</b>	
<b>Contact E-Mail</b>	KGIMPEL@SPOKANECITY.ORG	<b>Bid #</b>	BID #4074-14
<b>Agenda Item Type</b>	Purchase w/o Contract	<b>Requisition #</b>	VALUE BLANKET
<b>Agenda Item Name</b>	4490 - WASTE TO ENERGY FACILITY VALUE BLANKET ORDER FOR MISC. BOILER		

**Agenda Wording**

Value Blanket Order with Helfrich Brothers (Lawrence, MA) for miscellaneous Boiler Tubes to be purchased on an "as needed" basis. \$100,000.00 including tax

**Summary (Background)**

Sealed Bids were opened on Monday, November 27, 2014 with two (2) responses being received with Helfrich Brothers being the lowest responsive bidder. On November 17, 2014, the City will take over operations of the waste to energy facility. New contracts for the supplies needed for operations must be obtained prior to that date. Boiler Tubes are required for the operation of the waste to energy facility.

<b>Fiscal Impact</b>		<b>Budget Account</b>	
Expense	\$ 100,000.00	#	various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b>Approvals</b>		<b>Council Notifications</b>	
<b><u>Dept Head</u></b>	GIMPEL, KEN	<b><u>Study Session</u></b>	
<b><u>Division Director</u></b>	ROMERO, RICK	<b><u>Other</u></b>	
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	ttauscher@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	tprince@spokanecity.org	
<b><u>Additional Approvals</u></b>		Taxes & Licenses	
<b><u>Purchasing</u></b>	PRINCE, THEA	lbutz@spokanecity.org	

# **BRIEFING PAPER**

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## **Subject**

Value Blanket Order with Helfrich Brothers for Miscellaneous Boiler Tubes to be purchased on an “as needed” basis per request for bids #4074-14. Cost not to exceed \$100,000.00 including sales tax

## **Background**

Sealed Bids were opened on Monday, November 27, 2014 with two (2) responses being received and Helfrich Brothers being the lowest responsive bidder.

On November 17, 2014, the City will take over operations of the waste to energy facility. New contracts for the supplies needed for operations must be obtained prior to that date. Boiler Tubes are required for the operation of the waste to energy facility.

## **Impact**

Waste to energy facility will maintain effective operations.

## **Action**

Recommend approval.

## **Funding**

\$100,000.00 will be funded from the 2015 waste to energy operations budget



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	OPR 2014-0756
<b>Renews #</b>	

<b>Submitting Dept</b>	SPOKANE REGIONAL SOLID WASTE	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	KEN GIMPEL 625-6532	<b>Project #</b>	
<b>Contact E-Mail</b>	KGIMPEL@SPOKANECITY.ORG	<b>Bid #</b>	
<b>Agenda Item Type</b>	Contract Item	<b>Requisition #</b>	CR 148870
<b>Agenda Item Name</b>	4490 CONTRACT ASSIGNMENT WITH DICK IRVIN, INC.		

**Agenda Wording**

Assignment of contract between Dick Irvin, Inc. (Shelby, MT) and Wheelabrator Spokane Inc. for coordination, transportation and off-loading of quicklime for the Waste to Energy Facility (WTEF). \$36,550.00

**Summary (Background)**

High calcium quicklime is required for the operation of the WTEF. The contractor who supplies the quicklime, does not provide transportation. Dick Irvin, Inc., is the contractor currently providing coordination, transportation, and delivery services to Wheelabrator. The Assignment of this contract through December 31, 2014, will allow for the uninterrupted delivery of quicklime for continued operation of the WTEF.

<b>Fiscal Impact</b>		<b>Budget Account</b>
Expense	\$ 36,550.00	# 4490-44100-37148-54201
Select	\$	#
Select	\$	#
Select	\$	#
<b>Approvals</b>		<b>Council Notifications</b>
<b><u>Dept Head</u></b>	GIMPEL, KEN	<b><u>Study Session</u></b>
<b><u>Division Director</u></b>	ROMERO, RICK	<b><u>Other</u></b>
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>
<b><u>Legal</u></b>	DALTON, PAT	ttauscher@spokanecity.org
<b><u>For the Mayor</u></b>	SANDERS, THERESA	cmarchand@spokanecity.org
<b><u>Additional Approvals</u></b>		lbutz@spokanecity.org
<b><u>Purchasing</u></b>	PRINCE, THEA	tprince@spokanecity.org
		mlesesne@spokanecity.org

## WHEELABRATOR SERVICE AGREEMENT

This Agreement dated as of **January 1, 2014** between **Dick Irvin, Inc.** ("Contractor") with its principal place of business at **475 Wilson Avenue, Shelby, MT 59474** and Wheelabrator Spokane Inc. ("Company") with its principal place of business at **2900 South Geiger Blvd, Spokane, WA 99224-5400**.

WHEREAS, Contractor is engaged in supplying certain services, more particularly described herein; and

WHEREAS, Company wishes to obtain those services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Services. Contractor shall perform faithfully and diligently for Company the services described in **Attachment A** hereto (the "Services"). In the event of any inconsistency between the terms and conditions of this Agreement and those set forth in any Order, the terms and conditions of this Agreement shall prevail. Contractor shall provide all equipment, labor and material necessary to perform the Services. Contractor will coordinate its activities with and report to **Ludwig Saenz** of Company, or his designee. Contractor shall devote such working time as is necessary to the proper performance of the Services as promptly as possible but no later than any date(s) required hereunder.

2. Compensation.

(a) The compensation to be paid by Company to Contractor for the Services is set forth on **Attachment B** hereto. Company will pay Contractor for Services properly performed within Payment terms Net 45 days of the date on which each invoice, properly prepared and submitted, is received by Company. All payments to Contractor for satisfactory performance of the Services shall not exceed the amounts listed on **Attachment B** without advance written approval by the Facility issuing the Order.

(b) Contractor shall include with each request or invoice for payment, and it shall be a condition precedent to Company's obligation to pay Contractor, that Contractor include duly executed releases of liens, or in the case of work partially completed, partial releases of liens, in form and substance satisfactory to Company, of Contractor and all subcontractors (including, without limitation, sub-subcontractors and below) and materialmen whose work and/or materials are to be paid pursuant to such request or invoice.

(c) Contractor has been informed and agrees Services to be performed under this Agreement within the State of Washington is subject to Washington's law governing Prevailing Wages on Public Works, RCW 39.12. Accordingly, for such Services, Contractor agrees to comply with RCW 39.12 and to require any subcontractors under Contractor to comply with RCW 39.12.

(d) With respect to Services provided within the State of Washington, no progress or any other payments will be made until the conditions set forth in RCW 39.12.040 are met. A copy of the Statement of Intent to Pay Prevailing Wages approved by the Industrial Statistician must be forwarded to Wheelabrator Spokane Inc.

(e) For Services provided within the State of Washington, a retainage of 5% of the total project cost will be withheld until such time as the conditions set forth in RCW 39.12.040 and RCW 60.28.010 are met. A copy of the Affidavit of Prevailing Wages Paid approved by the Industrial Statistician must be forwarded to Wheelabrator Spokane Inc.

**Links to Washington State's Department of Labor and Industries.**

<http://www.lni.wa.gov/Trades-Consolidated/PrevWage/2014/2014-2015/>

<http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>

<http://www.lni.wa.gov/TradesLicensing/PrevWage/Basics/default.asp>

<http://www.lni.wa.gov/PrevailingWage/pwages/20062/cor1.asp>

3. **Term.** Unless earlier terminated pursuant hereto, the term of this Agreement shall commence on the date hereof and expire on **December 31, 2014.**

4. **Independent Contractor.** Contractor shall act as an independent contractor pursuant to this Agreement and nothing herein shall create an agency relationship between Company and Contractor. Furthermore, Contractor understands that it has no authority to make or imply any commitments that are binding upon Company. None of Contractor's employees or agents shall be considered or in any way represent themselves as being employees of Company or be entitled to any of the benefits supplied by Company to their own employees. Contractor shall at all times have a designated supervisor for its employees and its subcontractors at Company's facility throughout the performance of the Services. Company shall have the right, in its sole discretion, to determine that any personnel of Contractor are unfit to be working at Company's facility and, in such event, Contractor shall promptly replace any such personnel.

5. **Compliance with Laws and Company Safety and Environmental Requirements.**

(a) Contractor shall, and shall require all of its employees, subcontractors, consultants and agents to, comply with all (i) federal, state, and local laws, regulations, rules, ordinances and orders of any kind which are applicable to Contractor's performance of the Services and (ii) safety, health, environmental or other administrative requirements, rules, regulations or procedures adopted by Company, including, without limitation, those Company safety and environmental requirements set forth in **Attachment C** hereto, to the extent applicable to the Services being performed by Contractor.

(b) Contractor shall cause the Declaration in the form attached hereto as **Attachment C-1** to be executed by its authorized representative and shall complete **Attachment C-2** prior to the

performance of any Services hereunder. During the term hereof, Contractor shall comply with all of its obligations in the Declaration and will maintain in effect and comply with all of the policies, procedures, programs and systems described therein. All representatives and employees of Contractor completing Services on site at Company's location shall participate in the on-site or on-line Environmental Health and Safety orientation, RCRA Awareness Training if deemed by Company to be necessary based on the Services to be performed hereunder, site-specific Environmental Health and Safety Briefing, and any other on-site or on-line trainings deemed necessary by Company for the safe completion of Services hereunder, and shall verify attendance by signing an attendance sheet attached to the On-Site Declaration (OSD). Notwithstanding the foregoing, no trainings or briefings offered by Company shall limit the responsibility of Contractor to ensure compliance with the obligations of Contractor set forth in this Section 5.

(c) Contractor represents, warrants, and certifies that all workers placed at Company's facility are and will be authorized to work in the United States throughout the term of this Agreement, and that Contractor has and will review all necessary documentation to this effect as required by the Immigration Reform and Control Act of 1986, including, without limitation, work visas and I-9 forms. Contractor understands and acknowledges that it is solely responsible for reviewing all such documentation, and that Company shall have the right to request copies of all such documentation to conduct an audit of Contractor's compliance with this section upon at least 24 hours' notice to Contractor. Upon the Company's request, Contractor will participate in any state or federal employment eligibility verification programs adopted or enrolled in by the Company.

(d) Contractor shall comply with, and shall cause its employees, affiliates, agents and subcontractors to comply with, the "Supplier Code of Conduct" set forth on **Attachment D**, as may be amended by Company from time to time. Any breach of this Section may result in immediate termination of this Agreement and any outstanding Orders by Company upon prior written notice.

6. Indemnification. Contractor shall indemnify, hold harmless and defend Company, its affiliates and parent companies, from and against any and all claims, actions, suits, damages, liabilities, costs and/or expenses (including, without limitation, reasonable attorneys' fees and expenses of investigation), regardless of whether they arise out of, or result from, third party claims, resulting from (a) personal injury (including, without limitation, death) to any party (including, without limitation, Contractor, Company and their respective employees), or damage to the property thereof, which are caused by or arise in connection with Contractor's performance under this Agreement, irrespective of the cause of such injuries or damage, except to the extent caused Company's sole negligence or willful misconduct or (b) any breach by Contractor of this Agreement. The indemnity obligations in this Section 6 shall survive in all respects the expiration or termination of this Agreement.


7. Insurance. Contractor shall carry the insurance, and comply with all of the terms and conditions, set forth in **Attachment E** hereto.

8. Standard of Performance.

(a) Contractor warrants that the Services shall be performed by qualified individuals in a



good, professional and workmanlike manner, consistent with that level of care and skill ordinarily exercised by other reputable contractors under similar circumstances at the time the Services are performed, and in conformance with the specifications (if any) set forth on **Attachment A**. Contractor further warrants that Contractor will have good title, free and clear of any liens, to any and all materials and supplies provided by Contractor hereunder and such materials and supplies shall be new, merchantable, fit for their intended purpose, free from any defects and conform to the specifications and descriptions set forth herein, if any. The foregoing warranties shall survive any inspection or acceptance of the materials, supplies and Services and payment therefor by Company and shall run to Company and its successors, assigns and customers and shall not be exclusive.

 (b) Contractor shall, at its expense, re-perform all Services and replace all materials and supplies that fail to conform to the foregoing warranties. If Contractor fails to perform the Services or supply materials and supplies in accordance with the terms hereof or fails to promptly correct any defective Services or replace any defective materials or supplies after notification to Contractor and reasonable opportunity to correct, Company may arrange for another entity to provide the Services or materials and supplies and any increased cost incurred by Company in connection therewith shall be paid promptly by Contractor or deducted by Company from the amounts otherwise due to Contractor hereunder. These remedies shall be in addition to any other remedies provided for by law or equity.

9. Confidential Information.

(a) In its performance of the Services, Contractor may come into contact with or become aware of information, data or communications of a proprietary nature to Company ("Confidential Information"). Contractor shall hold secret and protect the Confidential Information, not make copies of the written versions thereof and not discuss with, or disclose to, any third party the Confidential Information, without the prior written consent of the applicable Facility. Contractor shall make its employees aware of Contractor's obligations hereunder and secure their agreement to the terms hereof. Upon termination of this Agreement, Contractor shall return to Company all Confidential Information within Contractor's possession. These obligations of confidentiality shall survive the termination of this Agreement.

(b) Notwithstanding the foregoing, the obligations in this Section 9 shall not apply to information that is:

- (i) already in the public domain;
- (ii) disclosed to Contractor by a third party with the right to disclose it in good faith; or
- (iii) specifically exempted in writing from the applicability of this Agreement.

10. Ownership of Intellectual Property. Company shall be the owner of all intellectual property rights in and to any work product first developed by Contractor during the course of this Agreement

and arising from the Services ("New Developments"). Contractor hereby assigns, and agrees to assign, to the Company all of its respective right, title and interest in and to such New Developments. Each copyrightable element of the New Developments shall be a "work made for hire" for the purposes of U.S. copyright laws. Upon Company's request, Contractor agrees to provide reasonable assistance to the Company (at the Company's expense) to obtain patent or copyright protection for such New Developments, including but not limited to the execution of such documents or assignments as may be reasonably requested by Company.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state in which Company's facility is located without regard to its conflict-of-law rules.

12. Termination. This Agreement may be terminated by Company, effective on the tenth day after written notice is personally served or deposited in the United States mail, postage prepaid by Company (the "Termination Date") addressed to Contractor at its address set forth herein. In the event of such termination, Company shall pay Contractor for work properly performed up to the Termination Date.

13. Assignment. Contractor will not assign this Agreement in whole or in part (including, but not limited to, any transfer by merger, sale of assets, or operation by law), or delegate any of its obligations hereunder, to any third party without the express written approval of Company. Any attempted or purported assignment contrary to this provision shall be deemed null and void.

14. Permits, Licenses, Taxes. Contractor has and will maintain during the term of this Agreement all licenses and permits required for the performance of the Services. Contractor shall be responsible for the payment of any taxes arising out of its performance under this Agreement that may be assessed against Contractor.

15. Audit and Inspection. Contractor shall maintain records of all contracts, papers, correspondence, proof of payment affidavits, employee time sheets or ledgers, books, accounts and other information relating to payments made, and Contractor's performance, hereunder. Upon reasonable notice to Contractor, Company shall have the right to audit and inspect, at Contractor's place(s) of business and during normal business hours, during the term hereof and within one year after the termination hereof, books and records pertinent to Contractor's performance of its obligations under this Agreement.

16. Entire Agreement. This Agreement supersedes all earlier letters, conversations, purchase orders, proposals, memorandums and other written and oral communications as of the date hereof concerning the subject matter hereof, including without limitation, any terms and conditions of Contractor, and it contains all the terms agreed on by the parties, and no changes in, additions to, or subtractions from, this Agreement will be binding on the parties unless in writing and signed by Contractor and Company.

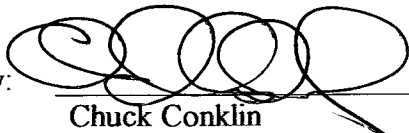
17. Set Off. Company shall be entitled at all times to set off any amount owing at any time from Contractor to Company against any amount payable at any time by Company to Contractor in connection with this Agreement.

18. Severability. If any term or provision of this Agreement or the application thereof to any circumstance shall be invalid or unenforceable the remainder of this Agreement or the application thereof to any circumstance other than that to which it is invalid or unenforceable shall not be affected thereby.

19. Counterparts. This agreement may be executed in one or more counterparts, all of which shall be considered one and the same instrument.

WITNESS the execution hereof as of the date first above written.

**Wheelabrator Spokane Inc.**

By:   
Chuck Conklin

Title: **Plant Manager**

**Dick Irvin, Inc.**

By:   
(Signature) ★ Except as noted  
below

MIKE IRVIN  
(Printed Name)

Title: SEC - TREAS

★ PART 2, ITEM (C) AND PART 8, ITEM (B) DOES NOT PERTAIN TO DII AS WE ARE A MONTANA CARBON TRANSPORTING LEASE TO THE WHEELABRATOR PLANT. WE ARE USING OUR OWN EQUIPMENT TO DELIVER AND UNLOAD THE BULK LEASE FROM THE GRAYMONT PLANT TOWNSEND, MT. DII WILL FOLLOW THE GUIDELINES THAT PERTAIN TO US AS STATED ABOVE

## **ATTACHMENT A**

### **SCOPE OF SERVICES**

Transportation of Lime from Graymont Indian Creek Plant, Townsend, MT on pneumatic equipment to Wheelabrator Spokane Inc. to include but not limited to:

- Coordinate daily with Wheelabrator Control Room regarding deliveries
- Off loading of lime via vendor provided blower into Wheelabrator silo
- Provide a prepositioned, an on-site, lime-loaded, “pup” trailer and off load for emergency situations or as directed
- 24 hours on call

## **ATTACHMENT B**

## **COMPENSATION**

Compensation will be paid to the Contractor based on proper performance of each scope of work as set forth on purchase orders issued by Facility on either a firm lump sum price basis or fixed unit prices for time and/or material. Contractor's invoice shall not exceed the amount of the Final Purchase Order without the prior written approval of the facility.

A time-and-materials arrangement may be used only when it is not possible, at the time of the purchase order, to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. Any time-and-materials arrangement shall be subject to the below maximum agreement rates and terms, and will be guaranteed not to exceed a stated ceiling price.

### **Reference Dick Irvin Rates noted below:**

Rate needs to be provided and remain current through the term of the agreement. In order for this agreement to be valid from January 1, 2013 through December 31, 2014. Vendor must not include an automatic rate or price increase; should there be an increase in prevailing wage, if applicable, this would be an acceptable increase.

\$ 47<sup>95</sup> / Ton Effective January 1, 2014 through December 31, 2014.  
Plus Current FSC

\$ 370 /Month for Prepositioned, On-site, "Pup" Trailer

## **ATTACHMENT C WHEELABRATOR SAFETY and ENVIRONMENTAL REQUIREMENTS**

**2014**

## **1.0 General Workplace Safety**

### **1.1 Zero Tolerance for Unsafe Acts, Behaviors and Conditions**

- Contractors working at Wheelabrator facilities must understand that safety is paramount to the success of all work and that poor safety work practices will not be tolerated. Safety performance is a factor used when selecting Contractors for future work. Wheelabrator requires its Contractors to properly supervise its employees, agents and sub-contractors to ensure strict compliance with applicable federal, state and local regulations and Wheelabrator Safety Rules at all times. Violators may be removed from a facility.

### **1.2 Contractor Safety and Environmental Evaluations**

- Contractors must ensure that Wheelabrator's safety and environmental requirements are clearly communicated to all Contractors' employees for the duration of the work. Contractors are responsible for designating one person per shift to provide safety and environmental supervision for their own employees, agents and sub-contractors, and that designated person or their designee must remain on-site while the Contractor is working.
- If Wheelabrator observes safety hazards or environmental incidents caused by a Contractor which pose an imminent danger to people or the environment, Wheelabrator will stop the work and require the Contractor's supervisor to take immediate corrective action to eliminate the hazard(s).
- Contractor's employees who demonstrate an attitude of indifference towards safety or the environment may result in Wheelabrator staff removing them from the site or terminating the contract.
- If Wheelabrator observes safety hazards or environmental incidents caused by a Contractor that do not pose an imminent danger, the hazards will be reported to the Contractor's supervisor and to the Wheelabrator Facility Management.
- Contractors or Contractor's employees who fail to perform work in compliance with the contract requirements may be permanently removed from the site.

### **1.3 Arriving at the Facility – Security**

- At the beginning of each working shift, the Contractor shall supply to Wheelabrator a list of all Contractors' employees who are on-site during that shift. The list shall be updated whenever the Contractor's employees leave the Wheelabrator site or if additional Contractor employees arrive on site.

- Wheelabrator reserves the right to require each Contractor's employee to register any daily entry and exit from the facility property upon manual or electronic systems provided by Wheelabrator.
- Wheelabrator reserves the right to require each Contractor's employee to wear an identification badge provided by the facility.
- All Contractors must be covered by a valid contract including:
  - Attachment A – Scope of Services
  - Attachment B – Compensation
  - Attachment C – Wheelabrator Safety and Environmental Requirements
    - Attachment C-1 – Contractor's Corporate Declaration
    - Attachment C-2 – Contractor's Safety Information
  - Attachment D – Supplier Code of Conduct
  - Attachment E – Insurance
- Contractors must have valid licenses and certificates applicable for the work being performed.
- On an annual basis, all representatives or employees of the contractor completing services on site shall participate in:
  - 1) An (on-site or on-line) general EHS orientation and RCRA Awareness Training session.
  - 2) An on-site task-specific EHS pre-job briefing (On-Site Declaration) conducted by Wheelabrator. Hardhat stickers will be given to all attendees to verify participation.

Verification of attendance will be made by signing an attendance form for all on-site sessions or by registering on-line for the general orientation.

#### **1.4 Communications**

- Communication to the Control Room must be available at all times as prescribed by the facility.



- The Contractor's designated person must be able to converse with their employees in the language they can understand and must be able to communicate with Wheelabrator plant personnel.

#### **1.5 First Aid and Medical Attention**

- Each Contractor must have a first-aid kit available. Bloodborne pathogen training and related equipment is the responsibility of the Contractor.
- Contractors are required to report all work-related injuries or illnesses that require an evaluation or treatment by a medical provider or hospital and serious near misses immediately to the Control Room.
- Where emergency services are required, the call will be made through the Control Room. Contact the Control Room for all emergencies. In general, Contractors should not dial 911 from a cellular phone.
- Contractors shall familiarize themselves with the facility and know where the closest emergency eyewash and shower stations are located and how to operate them before starting a job assignment.

#### **1.6 Incident Investigation and Reporting**

- Contractors must complete an Incident Investigation Report, within 24 hours of occurrence of an incident. An incident is defined as a work-related injury or illness requiring an evaluation or treatment by a medical provider or hospital or any near miss that could have resulted in similar medical treatment or evaluation. The investigation shall contain, at a minimum, the information required on the Federal or State OSHA's Recordkeeping Form (Federal OSHA Form 301) and the following: causal factor(s), root cause(s), corrective actions, and alternative solutions for preventing a re-occurrence of the event. The completed report shall be provided to the Control Room.

#### **1.7 Drug and Alcohol Program**

- All Contractors or subcontractors working at Wheelabrator facilities must have a fully implemented drug and alcohol program. Elements of the program shall include, but not be limited to, the following:
  - A Contractor's employee shall not show up for work at the facility while under the influence of drugs or alcohol;
  - A random drug and alcohol testing program and drug and alcohol testing when there is reasonable suspicion. The program must also provide that anyone who tests positive will be prohibited from working at a Wheelabrator facility;

- A method for communicating to the contactor when the Contractor's employee is taking prescription medications that could influence work performance; and
- Prohibits possession of illegal drugs and/or alcohol on Company property (and that possession is grounds for immediate and permanent removal from the site).
- Wheelabrator is not responsible for the administration of the program.

#### **1.8 Unsafe Acts, Horseplay, Intoxicants, Firearms**

- No unsafe acts, horseplay, intoxicants, or firearms are allowed on-site.
- Follow instructions in all posted areas—observe all warning signs!

#### **1.9 Pre-Job Briefings**

- Contractors shall provide pre-job safety briefings to their employees before the start of each new job. At a minimum, topics covered should include:
  - Hazards associated with the job
  - Work procedures involved
  - Special precautions
  - Energy source controls
  - Personal protective equipment (PPE) requirements
  - Location of eyewash/shower, fire extinguishers, plant phone, and or public address system
  - Closest point of egress from the work area
  - How to evacuate the facility based on where they are working in the facility and the designated muster point following the evacuation

#### **1.10 Personal Hygiene**

- The power plant ash contains varying concentrations of heavy metals (e.g., lead, cadmium, inorganic arsenic) and silica. Contractor's employees are required to thoroughly wash their hands and face before eating or drinking and before leaving the facility.
- Contractor's clothing and boots containing ash shall be removed or cleaned with a vacuum fitted with a high-efficiency particulate air (HEPA) filter before leaving the facility.

- Contractors may not enter lunchrooms or administrative areas with dirty or dusty protective work clothing or equipment.

#### **1.11 Parking**

- Park only in areas designated by Wheelabrator.
- Never block building exits, emergency routes, fire lanes, or emergency or fire equipment.

#### **1.12 Speed Limit**

- All vehicles operated on Wheelabrator property shall obey posted speed limits and always provide pedestrians with the right-of-way.
- Adjust speed in response to reduced visibility or slippery conditions.

#### **1.13 Barrier Tape**

- Yellow Tape in the plant – Contractors can enter the area with caution.
- Red Tape in the plant – Do Not Enter.

#### **1.14 Smoking, Eating and Drinking**

- Smoking or chewing tobacco is only permitted in designated areas.
- Eating or drinking is not permitted at any time within the facility except in designated areas.

### **2.0 Personal Protective Equipment (PPE)**

- Contractors must provide all required PPE to their employees, agents and sub-contractors and must provide full instruction and training on the proper use of PPE before the start of the work.
- Contractors are required to properly supervise all employees, agents and sub-contractors to ensure compliance in the use of protective equipment and clothing.
- All PPE shall be worn in accordance with manufacturer instructions (e.g., hard hats facing forward).
- Welding helmets are required to be fitted with hard hats.
- Unless otherwise designated, hard hats are required in all areas of the facility. Wheelabrator reserves the right to require Contractors to wear hard hats of a specified color.

- Safety glasses with permanently-affixed side shields are required at all times on site except in designated areas. Mirrored safety glass lenses or shades of any color greater than 10% are not permitted while working indoors.
- Work boots with hardened (steel, fiberglass) toes are required. Sneakers are not permitted.
- Work gloves shall be worn, when needed, to protect hands from chemical, physical (i.e., abrasions, heat, etc.) or other hazards.
- Hearing protection is required in all areas inside of the facility. Double hearing protection is required when working in areas where signs are posted.
- Face shields are required for all grinding and chemical transfer operations.
- Goggles are required when working, or around others working, in areas containing airborne ash/flyash, dry chemical or dust hazards (e.g., windy conditions, positioned below ash-laden parts or equipment; ash or dry chemical handling such as ash lime). Splash goggles and a full face shield are required when conducting tasks where actual or potential liquid chemical splash hazards exist and in areas where dust, particulate and/or chemicals are present.
- Shaded eye protection is required while cutting, burning and welding.
- Hot Work activities require “leathers” or other appropriate protection. If using TYVEK-type suits, only those that are flame resistant or flame retardant shall be worn during Hot Work activities.
- Protective equipment is required for work involving chemical exposures.
- Use properly tested and rated electrical gloves for “live” work.
- Contractors are required to follow the instructions on all posted signs.

## **2.1 Respiratory Protection**

- Wheelabrator employees are required to wear respiratory protection while performing specific tasks or while working in specific environmental conditions. Respiratory protection selection is based on air sampling data collected during these tasks and in various conditions.
- Contractors shall wear respiratory protection in all posted areas.

- Contractors must select the appropriate respiratory protection for their employee's exposures. Contractors are welcome to review Wheelabrator industrial hygiene air sampling data to assist in selecting the appropriate respiratory protection. However, Wheelabrator's air sampling data may not be relevant to the tasks the Contractor will be performing. Contractors are required under OSHA Standards to assess their employees' exposure(s) to air contaminants. Contractors wanting to conduct air sampling on Wheelabrator sites must coordinate these activities with the facility before they begin. A contractor air sampling plan will be required and approved by a Wheelabrator Hampton OHS Manager before any air sampling is performed. An example of an approved air sampling plan and associated field observation sheets can be provided upon request.
- Contractors using respiratory protection are required by Federal or State OSHA to have a respiratory protection program.
- In accordance with State or Federal OSHA Standards, Contractors wearing tight fitting respirators must not have any facial hair, including a one day's growth, between the face-to-respirator seal or at a length to impact the exhalation valve operation.

## **2.2 Apparel**

- Loose clothing shall not be worn around exposed rotating equipment or energized electrical parts.
- Do not wear loose-fitting clothing or jewelry around rotating tools and machinery.
- Do not wear conductive articles like jewelry, chains, watches, earrings, and key rings around exposed energized lines and equipment.
- Keep hair secured out of the way if it could become entangled in tools and machinery or obscure your vision.
- Full-length pants extending below the ankle are required.
- Long-sleeve shirts must be worn in those areas of the facility where Contractor's employees are potentially exposed to: thermal or chemical burns and cuts, scrape, and abrasion hazards. Tank tops are not permitted at any time.
- All clothing, including outer- (e.g., pants, shirts) and under-garments must meet State or Federal OSHA standards when working on or near exposed energized parts (i.e., 100% cotton or flame retardant materials only, no synthetics).

## **2.3 Fall Protection**

- Workers shall be protected from fall hazards, including, unprotected sides and edges which are 4 feet or more above a lower level, floor holes (a gap or void 2 inches or more in its least dimension) and wall openings (a gap or void 30 inches or more high and 18 inches or more wide) by the use of either:
  - Guardrail systems
  - Covers
  - Safety net systems
  - A personal fall arrest or restraint system consisting of a full body harness and lanyard with locking snap hooks attached to a secure and approved anchor point, or
  - Warning line systems, as determined by a qualified person
- Contractors must pre-plan to provide for prompt rescue of workers in the event of a fall.
- Chains/safety gates on all work platforms must be closed when the platform is occupied.
- Excavation fall hazards must be eliminated by use of the fall protection methods described above, or a fence or barricade which restricts access to the excavation area.

## **3.0 Work Area Protection**

### **3.1 Walking/Working Surfaces**

- Keep all walking/working surfaces free of debris, trip hazards (cords, hoses and lines), slippery or spilled materials.
- Keep emergency/fire equipment, eyewash stations/safety showers clear at all times.
- Keep exits, stairways and corridors clear of obstructions at all times.

### **3.2 Materials Handling**

- Do not store materials in a manner that restricts access, blocks emergency/fire equipment or obstructs views of roadways or walkways.
- Do not stack materials too high. Acceptable height is based on the stability of the materials being stacked.

- Materials must be able to be self supported or by using vertical, horizontal and diagonal braces.
- All materials stored in elevated areas must be securely fastened to prevent falling.
- High-pressure bottles (e.g., O<sub>2</sub> and acetylene) shall be in carts or properly secured.

### **3.3 Ladders**

- Portable metal ladders and other portable conductive ladders may not be used near exposed energized lines or equipment.
- Portable ladders shall have nonconductive side rails if they are used where the employee or the ladder could contact exposed energized parts.
- Portable extension ladders must be extended 3 feet above the point of support and shall be tied off or held securely by another employee.
- Do not separate extension ladders for individual use.
- Portable “A” frame ladders must be fully opened before use.
- Do not climb stepladders that are leaned against walls, tanks or other vertical surfaces.
- No damaged or modified ladders are permitted on-site.
- Do not use “job-built” ladders or make-shift ladders (like pallets).
- Face the ladder at all times and maintain three points of contact.

### **3.4 Scaffolding**

- All scaffolding must comply with applicable State or Federal OSHA standards.
- Do not make changes to scaffolding. All changes must be coordinated through the scaffolding-competent person.
- All scaffolds over 6 feet must have a guardrail system (Top rail: 42 + 3", Mid rail, 4"-high toe board).
- Overhead protection is required beneath on-going work or in areas where debris may fall (e.g., inside boilers).
- Screened sides are required above walkways.
- A competent person must inspect erected scaffolding each shift.

- Contractors shall report all deficiencies with the scaffolding to the Control Room.
- If the competent person determines that it is safe for the scaffolding to be used, he or she must hang an *All Clear tag* at all entrances of scaffolding.
- Contractor's employees, agents and sub-contractors shall not step onto scaffolding unless an *All Clear tag* is visible.

### **3.5 Restricted Areas**

- Tipping Floor, Fuel Yards (e.g., wood, tires, culm, and ash and metal recovery loading/unloading areas) are restricted to authorized persons.
- Contractors are not permitted to enter the Restricted Areas unless authorized by a Wheelabrator employee. Entry onto the Restricted Areas must follow the plant-specific policy.
- Contractors are not permitted in warehouse areas unless accompanied by a Wheelabrator employee.

### **3.6 Nuclear Level Gauges**

- Do not open, move or remove nuclear-level gauge devices. These devices are labeled specifying them as a radioactive hazard.

### **3.7 Conveyor Safety**

- **Never** ride conveyors. Cross over conveyors only at crosswalks or when the conveyor is de-energized and locked out.
- Do not walk on conveyor covers.
- Be aware of the location of emergency pull cords; use the pull cords to stop a conveyor in the case of an emergency.
- Do not use the emergency pull cord for situations other than emergencies (e.g., to work on conveyor).
- Keep hands clear from rollers and keep all guards in place when in service.
- Contractor's employees shall not remove any machine guards without prior Wheelabrator approval.
- Do not clean pulleys or rollers when the belt is moving. Implement the lockout procedure before working on the conveyor.



- When cleaning up around a conveyor, always shovel in the direction the belt is moving.

## **4.0 Safe Work Procedures**

### **4.1 Chemical Unloading and Transfer**

- All chemical unloading shall comply with Wheelabrator site-specific chemical unloading procedures, which specifies PPE for those involved and verification the closest eyewash station to the unloading is operating correctly. Contact the Wheelabrator Control Room before unloading any delivery.
- All deliveries cannot be made unless they are supervised by Wheelabrator personnel.

### **4.2 Hazard Communications**

- Contractors will have MSDS for all chemicals they bring on-site. All MSDS must be available on-site for Wheelabrator review. Contractors will follow the facility chemical storage and disposal requirements; when in doubt, ask a Wheelabrator supervisor for clarification.
- Contractors must coordinate with the facility before storing any hazardous materials. Information such as: the quantity, location to drains and material compatibility will be addressed.
- Containers, lines and tanks are labeled at the facility. If you have a question, ask the Control Room.
- MSDSs for all hazardous materials used on the site by Wheelabrator are available through Wheelabrator's Internal Document Control System –O-Box. If you have a question about a hazardous material used at the site, ask the Control Room.

### **4.3 Lockout/Tagout (LOTO) Permit Authorization**

- Proper lockout permit/authorization is required for all jobs with hazardous energy sources.
- Obtain proper authorization or lockout permit from the Control Room.
- At a minimum, a Contractor's supervisor shall use an individual lock on the lock box with a tag to identify it as a Contractor's lock for each work crew. Contractor's employees should have some means of controlling access to the key of that lock following Contractor's LO/TO procedure.
- All guards and safety interlocks shall be replaced when work is completed.

- Notify the Control Room when work is completed.

#### **4.4 Confined Spaces**

- Permit Required Confined Spaces (PRCSs) exist at the facility and have been labeled. Contractors will not work in an area that has been labeled as a PRCS or which Contractors believe is a PRCS without first notifying the Control Room and obtaining proper authorization (i.e., Wheelabrator-issued PRCS permit). PRCSs that have been posted as a reclassified “Non-Permit Required” space do not require authorization to enter.
- A PRCS permit/reclassification is required for all confined space work. A permit/reclassification must be posted at the job location. When the work is completed, Contractors must return the permit to the Control Room where Contractors will be required to complete the “Contractor Debriefing” section.
- Attendant and retrieval devices are the responsibility of Contractors and required for all PRCS entry jobs unless alternative, specific arrangements have been made with the facility.
- Wheelabrator evaluates PRCSs for its employees. Contractors must have their own program in place, including a means for rescue, unless specific arrangements have been made with the facility for a different means of rescue. In all cases, Contractor rescue procedures must be coordinated with Wheelabrator’s procedures.

#### **4.5 Tools and Equipment**

- All tools and equipment must be in good condition with safety devices.
- Do not use defective tools or equipment.
- Contractors are not allowed to use Wheelabrator tools or equipment unless and until the equipment has been specified in the Contractor’s Corporate Declaration Attachment C-1.
- Compressed air cannot be used for cleaning (e.g., clothing, housekeeping).

#### **4.6 Bins/Hoppers/Bunkers/Silos**

- Never open doors or covers without authorization.
- Always assume all ash is hot.

#### **4.7 Jacking**

- Inspect the jack before using it.

- Do not use a jack that is leaking fluid.
- The jack set-up shall be stable before lifting the load.

#### **4.8 Power Washers**

- Electric power washers shall not be used unless GFCI-protected.
- Gasoline-, diesel- or propane-powered engines shall not be used inside building structures because of the exhaust emissions they generate. The emissions can accumulate and cause health issues. Where such engines are required by Contractors, they must first receive Wheelabrator authorization before beginning use.
- Housekeeping is a continuous effort; Contractors are required to keep work areas clean and orderly.

### **5.0 Electrical Safety**

#### **5.1 Electrical**

- The Control Room issues Lockout/Tagout permits for electrical work.
- Do not leave exposed conductors.
- Only “Qualified” persons knowledgeable in the construction and operation of electric power generation and transmission equipment and the associated hazards may work on exposed energized lines or equipment operating at 50 volts or more.
- Keep areas in front of electrical panels clear for at least 36 inches.
- All electrical distribution panels, breakers, disconnects, switches, and junction box doors and covers shall be kept closed unless work requiring the doors or covers to be open is in progress.
- Use only non-conductive (such as plastic-cased) flashlights around electrical lines and equipment.
- Do not alter safety features of any electrical equipment.
- Use only 3-wire industrial extension cords rated for the work environment conditions. All extension cords must be in good condition. Spliced extension cords are not permitted.
- All cord- and plug-connected equipment must be either double insulated or equipped with ground fault circuit interrupters (GFCIs).

- Avoid placing extension cords or welding leads in contact with wet areas; avoid creating trip hazards (e.g., string overhead where appropriate); avoid doorways and travel areas.
- Do not use wire to support welding leads.
- High voltage and live line work must be coordinated with the Control Room and local power utility.

## **6.0 Vehicle and Equipment Operation**

### **6.1 Mobile Equipment**

- Contractors are not permitted to use any Wheelabrator equipment unless and until such equipment has been specified in the Contractor's Corporate Declaration Attachment C-1. If Contractor's employees are authorized to use Wheelabrator equipment, Contractor shall be responsible for training such employees to properly operate such equipment, and ensuring that such employees are familiar with all operating and safety procedures associated with the equipment.
- Only qualified personnel shall operate equipment.
- Reverse alarms shall be operable on all equipment.
- All equipment shall be operated at a safe speed and as designated by the facility.
- No employees shall be exposed to "pinch point" locations.
- No persons are permitted to ride on the outside of vehicles.
- No mobile equipment is permitted on the site without a restraining device (e.g., seatbelt). Seatbelts must be used at all times while operating equipment.

### **6.2 Excavations**

- All excavations shall be covered or barricaded to restrict access.
- Excavated materials must be placed or stored at least 2 feet from the excavation and be safely sloped.
- Shoring is required for trenches over 5 feet deep.

### **6.3 Hoisting and Rigging**

- Good rigging practices are to be used; no unstable loads are permitted.

- Clear communication between the signalperson and the operator must be maintained. If visual contact cannot be maintained, continuous radio communications shall be required. If continuous communications cannot be maintained, stop operations until the communications are re-established. Only designated signal persons who have documented 3<sup>rd</sup> party or employer certified qualifications shall direct movement and give signals.
- Hand signals to crane and derrick operators shall be those prescribed by ANSI for the type of crane in use. An illustration of the signals used by the contractor shall be with them on-site.
- Crane work zones shall be designated. Where power lines are within designated work zones, encroachment prevention measures shall be implemented.
- Walking under loads is prohibited.
- Never put yourself in pinch point positions, such as between moving and stationary objects—particularly when hoisting materials or working around mobile equipment.
- No persons are permitted in the boiler during large/heavy lifts. These include, but are not limited to: water wall and superheater partial and full pendants. Dutchmen are not considered heavy lifts.
- Allowing persons to be inside the furnace during rigging operations working under the bullnose (i.e., ram feeder) are not permitted during heaving lifting operations.
- When two or more hoisting machines are lifting the same load, only one designated signal person will direct the movements. The operator shall acknowledge an emergency stop signal from anyone. The operator shall stop the lift if a signal is not understood.
- "Tag lines" must be used to control large loads.
- Only those slings and chains that have been inspected and are free from defects shall be used at a facility.
- All hoist and rigging, lifting chains and slings must have visible load rating tags.
- Never attach rigging or any lifting device to a stairway or platform railing (such as handrails/guardrails) for purposes of lifting or supporting a load.
- Do not allow the load to exceed the rated capacity of any individual component.

- Do not expose nylon slings to sharp edges or hot materials.
- Chain falls and come-a-longs must have a functional safety latch.
- Contractors are not permitted to use Wheelabrator hoisting or rigging equipment unless and until the equipment has been specified in the Contractor's Corporate Declaration Attachment C-1.

## **7.0 Maintenance Activities: Hot Work**

### **7.1 Hot Work-Fire Safety**

- A Hot Work Permit is required for all jobs involving welding, cutting, heating, grinding, open flames, high temperatures, or other activities that generate sparks except for those jobs occurring in areas that have been designated by the facility as non-permit areas. A Hot Work Permit must be posted on the job.
- Obtain Hot Work Permits from the Control Room. When the work is completed, return the permit to the Control Room.
- Where practical, all combustibles shall be relocated beyond a 35 ft radius from the work area. Where relocation is impractical, combustibles shall be protected with metal or flameproof covers.
- Do not allow solvents or other flammable material in areas where Hot Work is being performed.
- Grate surfaces or openings which could allow cutting and welding sparks or spatter to drop onto lower levels shall be covered with fire-resistant material. Where not feasible, red-tape off the area or use a fire watch.
- Persons performing fire watch duties shall:
  - Know and understand the communication method to be used for reporting a fire
  - Not perform other tasks that will interfere with the primary duty to monitor fires
  - When necessary, warn others of Hot Work activities and prevent unauthorized entry
  - Remain at the Hot Work area for at least 1 hour after work is complete unless specified by the hot work permit
  - Have fire extinguishing equipment capable of extinguishing a Hot Work-generated fire and shall be available within 10 seconds of unobstructed travel time from the Hot Work.
- Cylinders must be used upright and secure at all times. Cylinder sling/cradle is required for hoisting.

- Spare cylinders of oxygen and acetylene, when not used within a 24-hour period, shall be stored separately at least 20 feet apart or by a non-combustible barrier at least 5 feet high having a fire-resistance rating of at least 1/2 hour.
- All grating and floor openings must be covered to prevent hot slag from falling to the floors below.
- All stored cylinders shall be secured with caps on.
- Smoking is permitted only in designated areas.

## 7.2 Welding

- **Do not weld without a Hot Work Permit.**
- It is the Contractor's responsibility to prevent hot slag or sparks from contacting persons or equipment.
- Unless cylinder carts are equipped with a 5-foot high separating plate specifically engineered to meet a 1/2 hour fire-resistance rating and prevent the spread of fire, remove regulators and cap cylinders and return them to storage if torch sets are to remain idle for periods greater than 24 hours.
- **DO NOT** use torch sets unless combination reverse-flow check valves/flashback arrestors are installed on BOTH fuel gas and oxygen lines at the torch AND regulators.

## 8.0 Emergency Response

### 8.1 Communications

In the event of an emergency, medical or otherwise, the Contractor is to contact the Control Room using the plant phone or paging system. In general, Contractors should not call 911 using a personal cellular phone.

### 8.2 Emergency Evacuations

- The general emergency alarm will be sounded for all emergencies requiring evacuation. When this alarm sounds, leave the facility immediately.
- If an emergency alarm sounds, know your escape route. Do not use the elevator.
- Use stairwells and follow the exit signs.
- The primary assembly point for any evacuation is at the administrative building parking lot, unless otherwise instructed. Each facility has a secondary evacuation assembly



point. When the primary assembly point cannot be used, the facility will instruct the Contractor where to meet.

## **9.0 Environmental**

- Leaks or spills to the ground are not permitted. If you observe a leak or spill of any quantity, immediately notify the Control Room.
- All temporary fuel and chemical storage tanks shall have a means of secondary containment.
- Never release chemicals, oils, fuels, solvents, etc. into plant drains, sinks or sewers.
- No hazardous waste is to be generated unless specified in the Contractor's Service Agreement with Wheelabrator and detailed in Attachment A-Scope of Services.
- Do not dispose of waste generated on-site onto the Tipping Floor unless disposal has been previously approved by facility management.
- For waste materials generated by Contractors, use the drums or containers provided or approved by Wheelabrator. Do not store waste at a Wheelabrator facility without notifying plant management of its type, quantity and location. Do not remove waste materials from the Wheelabrator facility.
- When performing work that uses liquid chemicals or oil within 20 feet of drains, install temporary drain covers before beginning.
- Clean tools and equipment of ash inside the plant structure before leaving property.
- Notify plant management before undertaking any work on equipment that might release ash to the environment (e.g., conveyors, air pollution control equipment). This includes any outdoor work where ash could be released as fugitive dust or released to the ground (including release as a wastewater or wash water component). The Contractor's Scope of Services will specify the controls necessary to prevent ash releases to the environment. For outdoor work, temporary enclosure will be constructed to prevent potential releases.
- Immediately notify Wheelabrator management if in the course of your work outside the building structures, ash is released to the ground or causes visible dust emissions.
- Contractors must not dispose of ash or otherwise remove ash from the plant site.

- Used boiler tubes, used conveyor parts and other used equipment partially coated with ash must be stored indoors or if stored outdoors, must be placed on pallets and covered to prevent ash dispersion and stormwater contact.
- If outdoors, ash containers must be covered and be leak-tight (e.g., roll-off boxes, bins, wash tanks, etc.).
- Hazardous Materials including Hazardous Waste
  - Many waste materials generated during the course of work at Wheelabrator facilities has the potential for being classified, through testing and analysis, as a hazardous waste. Contractor Health and Safety Programs required in the Service Agreement address the handling of these hazardous waste materials.
  - For Companies providing spill response (containment) and clean-up of materials determined to be a hazardous waste must be handled by individuals who have received training in accordance with State and Federal Hazardous Waste Regulations (40 CFR 265.16 and OSHA Standard 1910.120 (q) or (p)(8)).
  - Trained contractors will handle hazardous waste as described in the Scope of Services, Attachment A, at Wheelabrator facilities by placing the material into Wheelabrator approved or provided containers and then moving them to an approved on-site storage location as specified by Plant Management. At no time shall any hazardous waste be placed into storage or removed from a Wheelabrator facility without authorization.
  - Contractors are required to inform Wheelabrator site Management during the EHS orientation if they anticipate that their work will generate hazardous waste onsite. Contractors are required to inform Wheelabrator site Management when they actually generate any hazardous waste (notify during same shift that waste is generated). For multi-day jobs where hazardous waste generation is expected over an extended period (e.g., entire bag house change out) then only an initial notification of hazardous waste generation is required.

**ATTACHMENT C-1**  
**CONTRACTOR'S CORPORATE DECLARATION**

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As the duly authorized and designated corporate representative of **Dick Irvin, Inc.** ANY SUBCONTRACTOR] ("CONTRACTOR"), I hereby certify for myself and for and on behalf of Contractor that:

1. Contractor has reviewed, understands, and will follow the Environmental, Health, and Safety requirements specified in Attachment C.
2. Contractor understands and acknowledges that Company has:
  - site-specific contractor safety requirements and consequences for non-compliance
  - potential physical and chemical hazards that will be communicated to Contractor's on-site representative
  - a hazard communication program
  - site-specific emergency procedures
  - site lockout/tagout, confined spaces and hot work requirements
  - eye, foot, hand, head, hearing, and fall protection requirements
  - minimum personal protective equipment (PPE) requirements
  - inorganic arsenic, cadmium, lead, hexavalent chromium, and respiratory protection standard requirements
  - site-specific industrial hygiene monitoring data available for Contractor review to guide the respiratory protection, protective clothing, personal hygiene, and work practice selection\*
3. Contractor has implemented its employer obligations under Federal OSHA or an equivalent state plan regulation listed below and has written policies, procedures, programs, and systems in place to fulfill all applicable obligations under these standards. Contractors must be able to provide their written policies, procedures, programs, and training records in support of the work they have been contracted to perform within 24 hours upon request.

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\* Be advised that OSHA's policy is to prohibit the use of negative pressure and/or tight-fitting respirators where employee facial hair interferes with the face-to-facepiece seal. The Company endorses and complies with this policy.

- First Aid and Medical Attention (29CFR1910.151 & 29CFR192.23, 8CCR3400 and WAC 296-800-150 & WAC 296-155-120 through 130)
- Personal Protective Equipment (29CFR1910 Subpart I & 29CFR1926.28 & 95, 8CCR3380 and WAC 296-800-160 & WAC 296-155 Part C) including:
  - Occupational Foot Protection (29CFR1910.136 & 29CFR1926.96, 8CCR3385 and WAC 296-800-16060 & WAC 296-155-212)
  - Head Protection (29CFR1910.135 & 29CFR1926.100, 8CCR3381 and WAC 296-800-16055 & WAC 296-155-205)
  - Hearing Protection (29CFR1910.95 & 29 CFR1926.101, 8CCR5095 through 8CCR5100 and WAC 296-27-01113, WAC 296-155-145, WAC 296-155-210 & WAC 296-817)
  - Eye and Face Protection (29CFR1910.133 & 29CFR1926.102, 8CCR3382 and WAC 296-800-16050 & WAC 296-155-215)
  - Fall Protection (29CFR1926.104 & 500-503, 8CCR1669 through 8CCR1672 and WAC 296-155 Part C-1)
  - Scaffolding (29CFR1926.450-453, 8CCR1635.1 though 8CCR1667 and WAC 296-874 and 296-869)
  - Hazard Communication (29CFR1910.1200 & 29CFR1926.59, 8CCR5194 and WAC 296-800-170 & WAC 296-155-180)
  - Respiratory Protection (29CFR 1910.134 & 29CFR1926.103, 8CCR5144 & 8CC1531 and WAC 296-841 and 296-842 & WAC 296-155-220)
  - Electrical Protective Equipment (WAC 296-24-980)
- Asbestos (29CFR 1910.1001, 29CFR 1926 1926.1101, 8CCR 5208, 8CCR1529 and WAC 296-65)
- Lead (29CFR1910.1025 & 29CFR1926.62, 8CCR5198 & 8CCR1523.1 and WAC 296-62-07521 & WAC 296-155-176)
- Cadmium (29CFR1910.1027 & 29CFR1926.1127, 8CCR5207 & 8CCR1523 and WAC 296-62-074 and WAC 296-155-174)

- Inorganic Arsenic (29CFR1910.1018 & 29CFR1926.1118, 8CCR5214 and WAC 296-848)
- Hexavalent Chromium (29CFR1910.1026 & 29CFR1926.1126, 8CCR5206 & 8CCR1532.2 and WAC 296-62, Part I-2)
- Welding and Cutting (29CFR1019 Subpart Q & 29CFR1926.250-255, 8CCR4794 through 8CCR4848 & 8CCR4850 through 8CCR4853 and WAC 296-24-680 through 722 & WAC 296-155 Part H)
- Machinery Machine Guarding (29CFR 1910 Subpart O, 8CCR3999 through 8CCR4051 and WAC 296-806)
- Hand and Power Tools (29CFR1910 Subpart P 29CFR1926, Subpart I, 8CCR3557 & 8CCR1707 and WAC 296-807 & WAC 296-155 Part G)
- Materials Handling, Storage, Use, and Disposal (29CFR1910 Subpart N & 29CFR1926 Subpart H and WAC 296-24 Part D & WAC 296-155 Part F)
- Cranes, Derricks, Hoists, Elevators, and Conveyors (29CFR1910 Subparts F & N, 29CFR1926 Subpart N, 8CCR1581 through 8CCR1589 and WAC 296-24 Part D & WAC 296-155 Part L)
- Electrical (29CFR1910 Subpart S & 29CFR1926 Subpart K, 8CCR-Subchapter 5 – 2299 through 2974 and WAC 296-800-280, WAC 296-155 Part I, and WAC 296-24-980)
- Excavations (29CFR1926 Subpart P, 8CCR1539 through 8CCR1547 and WAC 296-155 Part N)
- Permit-Required Confined Spaces (29CFR1910.146, 8CCR5156 through 8CCR5159 and WAC 296-809)
- The Control of Hazardous Energy (Lockout/Tagout) (29CFR1910.147, 8CCR3314 and WAC 296-803)
- Bloodborne pathogens (29CFR 1910.1030, 8CCR5193 and WAC 296-823)
- Ionizing Radiation (29CFR1910.1096, 1926.53 and WAC 296-62-09004 & WAC 296-155-150)
- Non-ionizing Radiation (29CFR 1910.1097, 1926.54, 8CCR5085 & 8CCR1801 and WAC 296-62-09005 & WAC 296-155-155)

- **Blasting and the use of Explosives (29CFR 1910.109, 29CFR 1926 Subpart U, 8CCR5236 through 8CCR5374 and WAC 296-52)**
  - **Process Safety Management (29CFR 1910.119, Subpart H, 8CCR7850 through 8CCR7870 and WAC 296-67)**
  - **Fuel Oil and Chemicals (40CFR 112 and State-Specific Requirements)**
  - **EPA-Hazardous Waste Generator Personnel training 40 CFR 265.16**
  - **OSHA - Hazardous waste operations and emergency response 29 CFR 1910.120 (q) or (p)(8)**
4. Contractor will complete Attachment C-2.
5. All representatives and employees of Contractor completing Services on site at Company's location shall participate in the on-site Environmental Health and Safety orientation, RCRA Awareness Training if deemed by Company to be necessary based on the Services to be performed hereunder, site-specific Environmental Health and Safety Briefing, and any other on-site trainings deemed necessary by Company for the safe completion of Services hereunder, and shall verify attendance by signing an attendance sheet attached to the On-site Declaration (OSD).
6. Equipment Usage: If the Scope of Services indicates that Contractor is authorized to use Company equipment, complete the following:

The work to be performed by Contractor includes the use of the following Company equipment (list all equipment authorized for Contractor) (the "Equipment").

N/A

Contractor acknowledges and agrees (i) that only Contractor employees who have been trained by Contractor to properly operate the Equipment and who are familiar with all related operating and safety procedures are authorized to use the Equipment; and (ii) Contractor's employees are not authorized to use any Company equipment not identified above. If Contractor's employees are authorized to use Wheelabrator equipment, they must sign the Contractor Waiver and Release Agreement for Equipment form.

7. Please identify by name and phone number who at the Contractor's office can provide additional safety and health information, if needed.

Contractor Contact:      Name: LARRY GOWOSKI  
                                  Phone: 406-434-5583  
                                  E-mail: Safety@3rivers.net

Signed by Contractor's Authorized Representative:

Signature: \_\_\_\_\_

2014 Local Washington Service Agreement Sent 8-20-2013

Printed Name: **Dick Irvin, Inc.**

Company Name:

LARRY COROSKI

Title:

Safety Supervisor

Date:

10-24-13

**ATTACHMENT C-2**  
**CONTRACTOR'S SAFETY INFORMATION**

1. Have you enclosed a signed copy of your company's 3 most recent years' State or Federal OSHA Forms 300 and 300A? ☒ Yes ☐ No

If no, please explain:

\_\_\_\_\_

\_\_\_\_\_

2. Please provide your company's OSHA Recordable Incidence Rate<sup>1</sup> for the past 3 years.

Current year (20 12) = 3.21

Past year (20 11) = 4.92

2 Years ago (20 10) = 5.63

3. Please provide your company's North American Industrial Classification System (NAICS) Code: 484121

4. Has your company experienced a fatality in the past three years? ☐ Yes ☒ No

If yes, please explain:

\_\_\_\_\_

\_\_\_\_\_

5. Please provide your company's current and last year's Worker's Compensation Insurance loss-ratio data (also known as an insurance modifier or EMR).

Current year: 20 13 = 92 Previous year: 20 12 = 0.84

6. Has your company received a State or Federal OSHA or Environmental citation within the last three years?

☐ Yes ☒ No

If yes, please answer the following questions:

a. Number of citations: \_\_\_\_\_

b. Please list the number of each:

1. Willful citation (s): \_\_\_\_\_

2. Serious citation (s): \_\_\_\_\_

3. Other than serious citation (s): \_\_\_\_\_

c. Pending citations: \_\_\_\_\_

7. Company Name: **Dick Irvin, Inc.**

Date:

8/21/13



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<sup>1</sup>The OSHA Incidence Rate is determined by dividing the number of OSHA Recordable Injuries and Illnesses by the total annual work hours. That number is then multiplied by 200,000 to yield an OSHA Recordable Incidence Rate

# Log of Work-Related Injuries and Illnesses

You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR Part 1904.8 through 1904.12. Feel free to use two lines for a single case if you need to. You must complete an Injury and Illness Incident Report (OSHA Form 301) or equivalent form for each injury or illness recorded on this form. If you're not sure whether a case is recordable, call your local OSHA office for help.

**Attention:** This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.

Year 20 12  
 U.S. Department of Labor  
 Occupational Safety and Health Administration  
 Form approved OMB no. 1218-0176

## Identify the person

## Describe the case

## Classify the case

CHECK ONLY ONE box for each case based on the most serious outcome for that case:

## Enter the number of days the injured or ill worker was:

## Check the "injury" column or choose one type of illness:

Employment name DICK IRVIN, INC.  
 City SHELBY State MT

(A) Case no.	(B) Employee's name	(C) Job title (e.g., Welder)	(D) Date of injury or onset of illness	(E) Where the event occurred (e.g., Loading dock north end)	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burns on right forearm from oxyacetylene torch)	(G) Death	(H) Days away from work or restriction	Remained at Work		(K) Days lost from work	(L) On job transfer or restriction	(M) Injury	(1) Skin disorder	(2) Respiratory condition	(3) Poisoning	(4) Hearing loss	(5) All other illnesses
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# Summary of Work-Related Injuries and Illnesses

All establishments covered by Part 1904 must complete this Summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0".

Employees, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35 in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

## Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
(g) <u>0</u>	(h) <u>1</u>	(i) <u>0</u>	(j) <u>1</u>

## Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
(k) <u>45</u>	(l) <u>0</u>

## Injury and Illness Types

Total number of ...	(m) <u>2</u>	(4) Poisonings	_____
(1) Injuries		(5) Hearing loss	_____
(2) Skin disorders	_____	(6) All other illnesses	_____
(3) Respiratory conditions	_____		

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 50 minutes per response, including time to review the instructions, search and gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about this estimate of burden, including suggestions for reducing this burden, write to Washington, DC 20503. Do not send the completed form to this office.

## Establishment information

Your establishment name DICK TRUIN, INC.  
 Street 475 WILSON AVE  
 City SHELBI State MI ZIP 49424

Industry description (e.g., Manufacturer of motor truck trailers)

MOTOR TRAILER

Standard Industrial Classification (SIC), if known (e.g., 3715)

OR

North American Industrial Classification (NAICS), if known (e.g., 336212)

484121

Employment information (If you don't have these figures, see the Worksheet on the back of this page to estimate.)

Annual average number of employees

48

Total hours worked by all employees last year

124,392

## Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

Dick Truin Date 1/16/13  
 Title Owner

# Log of Work-Related Injuries and Illnesses

You must record information about every work-related death and about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria listed in 29 CFR Part 1904.8 through 1904.12. Feel free to use two lines for a single case if you need to. You must complete an Injury and Illness Incident Report (OSHA Form 301) or equivalent form for each injury or illness recorded on this form. If you're not sure whether a case is recordable, call your local OSHA office for help.

**Attention:** This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.

Year 20 11  
**U.S. Department of Labor**  
 Occupational Safety and Health Administration

Form approved OSHA no. 1218-01-75

## Identify the person

## Describe the case

## Classify the case

CHECK ONLY ONE box for each case based on the most serious outcome for that case:

Enter the number of days the injured or ill worker was:

Check the "Injury" column or choose one type of illness:

(A)	(B)	(C)	(D)	(E)	(F)	CHECK ONLY ONE BOX for each case based on the most serious outcome for that case:				Enter the number of days the injured or ill worker was:		Check the "injury" column and choose one type of illness:											
Case no.	Employee's name	Job title (e.g., Welder)	Date of injury or onset of illness	Where the event occurred (e.g., Loading dock north end)	Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g., Second degree burns on right forearm from methylene bath)	Death	Days away from work or restriction	Job transfer	Other recordable cases	Away from work restriction	On job transfer or restriction	(1)	Injury	(2)	Skin disorder	(3)	Respiratory condition	(4)	Poisoning	(5)	Hearing loss	(6)	All other
1-11	Thomas Hughes	FAIR	7/13/11	SHOP	TOXICITY TO CHEMICALS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2 days	2 days	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2-11	ZACHARIA GREENE	MACH	8/11/11	SHOP	CHEMICAL BURN ANKLES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2 days	2 days	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3-11	WILLIAM ESTES	DRUMEN	9/11/11	SHOP	BACED STAIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7 days	7 days	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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			mon/tuesday			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	days	days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			mon/tuesday			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	days	days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			mon/tuesday			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	days	days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			mon/tuesday			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	days	days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			mon/tuesday			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	days	days	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							

# Summary of Work-Related Injuries and Illnesses

All establishments covered by Part 1904 must complete this Summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0".

Employees, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35, in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

## Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
(G) <u>0</u>	(H) <u>2</u>	(I) <u>2</u>	(J) <u>1</u>

## Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
(K) <u>9</u>	(L) <u>0</u>

## Injury and Illness Types

Total number of ...	
(M) Injuries <u>2</u>	(4) Poisonings _____
(2) Skin disorders <u>1</u>	(5) Hearing loss _____
(3) Respiratory conditions _____	(6) All other illnesses _____

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 50 minutes per response, including time to review the instructions, search and gather the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to Washington, DC 20503. Do not send the completed forms to the office.

## Establishment information

Your establishment name DICK TEARD TIRE

Street 475 Wilson Ave

City SHEPP State DC ZIP 47404

Industry description (e.g., Manufacture of motor truck trailers)

MOTOR VEHICLE

Standard Industrial Classification (SIC), if known (e.g., 3713)

OR

North American Industrial Classification (NAICS), if known (e.g., 336212)

484121

Employment information (If you don't have these figures, see the instructions on the back of this page to estimate.)

Annual average number of employees 47

Total hours worked by all employees last year 121781

## Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

\_\_\_\_\_  
 Title \_\_\_\_\_  
 Telephone \_\_\_\_\_  
 Fax \_\_\_\_\_



# Summary of Work-Related Injuries and Illnesses

All establishments covered by Part 1904 must complete this Summary page, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.

Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0."

Employees, former employees, and their representatives have the right to review the OSHA Form 300 in its entirety. They also have limited access to the OSHA Form 301 or its equivalent. See 29 CFR Part 1904.35, in OSHA's recordkeeping rule, for further details on the access provisions for these forms.

## Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
(G) <u>0</u>	(H) <u>1</u>	(I) <u>0</u>	(J) <u>2</u>

## Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
(K) <u>120</u>	(L) <u>      </u>

## Injury and Illness Types

Total number of . . . (M) <u>      </u>					
(1) Injuries	<u>2</u>	(4) Poisonings	<u>      </u>	(5) Hearing loss	<u>      </u>
(2) Skin disorders	<u>      </u>	(6) All other illnesses	<u>      </u>		<u>      </u>
(3) Respiratory conditions	<u>1</u>				

Post this Summary page from February 1 to April 30 of the year following the year covered by the form.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time to review the instructions, search and gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about these estimates or any other aspect of this data collection, contact US Department of Labor, OSHA Office of Statistical Analysis, Room N-5644, 200 Constitution Avenue, NW, Washington, DC 20210. Do not send the completed forms to this office.

## Establishment Information

Your establishment name PICK TRUCK, Inc  
 Street 475 Wilson Ave  
 City SHELBY State MT ZIP 59474

Industry description (e.g., Manufacture of motor truck trailers) MOTOR TRAILER

Standard Industrial Classification (SIC), if known (e.g., 3715)       

OR

North American Industrial Classification (NAICS), if known (e.g., 336212) 484181

**Employment information** (If you don't have these figures, see the Worksheet on the back of this page to estimate.)

Annual average number of employees 49

Total hours worked by all employees last year 106505

## Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

Company name Leann Gerosci Title Safety  
 Phone (406) 434-5583 Date 1/17/11

## **ATTACHMENT D**



## Supplier Code of Conduct



### TO OUR VALUED CONSULTANTS, CONTRACTORS AND SUPPLIERS:

We have established a set of guidelines to assist our consultants, contractors and suppliers in adhering to ethical business standards. As you are an integral part of our success, Waste Management ("Waste Management" or the "Company") expects you to comply with all required laws and regulations, and avoid any activities that might lead to the appearance of conflicts or improper conduct. Please review and use this Code as guidance in conducting all of your business and interactions with, on behalf of, or otherwise related to Waste Management. Should you require further guidance or have a question, please utilize the Waste Management Integrity Helpline listed below.

### BUILDING MUTUAL TRUST AND RESPECT

In working together, we emphasize teamwork, dignity, and mutual respect. Verbal or physical conduct that unreasonably disrupts others at work is harassment. Waste Management expects everyone working on behalf of the Company to treat others with dignity, respect, and fairness.

Waste Management is an equal opportunity employer and is committed to an environment free from discrimination. Consultants, contractors and suppliers are expected to comply with all applicable laws concerning discrimination in hiring and employment practices.

### CONFLICT OF INTEREST

You must take care that your personal business relationships never influence the decisions you make for Waste Management. You must report any relationships that could cast doubt on your ability to act with total objectivity with regard to the Company's interests to the Ethics and Compliance Department and any relationship, which might be viewed as a conflict of interest, must be disclosed to the Ethics and Compliance Department.

### PROTECTION OF COMPANY ASSETS AND CONFIDENTIAL INFORMATION

The assets of Waste Management are intended to be used in ways that benefit the Company. The use of Company time, equipment, computer network, supplies, and facilities for personal reasons, or taking Company-owned equipment off Company premises for personal use, is not allowed.

You are prohibited from taking, or directing another company to take, a business opportunity discovered through the use of Waste Management's property, information, or your position at the Company. You are also prohibited from using Waste Management's property, information, or your position for personal gain and from competing with Waste Management. You must protect Waste Management's confidential and proprietary information that you may have access to and ensure that it is not shared with or disclosed to any unauthorized parties.

### GIFTS AND ENTERTAINMENT

You must never offer, give or accept gifts that would appear to undermine or influence good business judgment. You must never solicit any favors while representing Waste Management.



On occasion, you may accept or provide novelties, promotional items of a nominal value, or modest gifts if:

- The gift complies with Waste Management's Gift and Entertainment policy.
- This happens only occasionally.
- The gift was not solicited.
- Open disclosure of the gift would not embarrass Waste Management or the people involved.
- The gift is not given to a governmental official or employee.
- The value of the gift is under \$100 (U.S.)

You may offer or accept in connection with your work for Waste Management an occasional invitation to a sporting activity, entertainment, or meal if:

- The gift complies with Waste Management's Gift and Entertainment Policy.
- The activity is infrequent and of reasonable and not excessive value.
- The disclosure of the activity would not embarrass Waste Management or the people involved.
- The entertainment is approved by the recipient's supervisor at Waste Management.

Travel and accommodations for entertainment are generally not reimbursable unless previously approved in writing by Waste Management.

#### Approval Process

The following types of "high profile" events must be approved by a member of Waste Management's Senior Leader Team AND the Chief Compliance Officer prior to acceptance:

- Highly popular concert or sporting event, such as:
  - Super Bowl
  - Major Golf Tournament
  - NCAA Final Four Basketball Tournament
  - Other popular and high cost sporting event
  - Popular concert or cultural event
- Elaborate entertainment, such as:
  - Expensive hunting trip
  - Use of vacation home
- Out of town professional conference
- Any other high cost event

Offering or accepting bribes, kickbacks, payoffs or other unusual or improper payments to obtain or keep business is unethical, illegal and strictly forbidden.

#### ACCURACY OF BOOKS AND RECORDS

Accurate record keeping is critical. Any bills, reimbursement request or cost submitted or billed to Waste Management must have sufficient and accurate supporting documentation. Falsifying information, invoices or records while working on behalf of or for Waste Management is prohibited. All transactions must be properly authorized and completely and accurately recorded, and all reasonable supporting documentation must be provided where required or requested.



## COPYRIGHTS, PATENTS AND TRADEMARKS

Our intellectual property is a valuable asset. This includes copyrights, patents, trade secrets and trademarks. We respect and protect intellectual property, whether it belongs to us or to others. You are prohibited from making unauthorized copies of copyrighted written documents or computer software. Waste Management owns all inventions, discoveries, ideas, and trade secrets created by employees, contractors or consultants on the job or produced using Company resources. All confidential and proprietary Waste Management information must be returned to Waste Management upon termination or completion of any work you are performing on behalf of Waste Management.

## CONFIDENTIAL INFORMATION

Waste Management is committed to complying with applicable laws concerning proprietary, confidential and personal information. Consultants, contractors and suppliers are expected to comply with all applicable laws and regulations governing the protection, use and disclosure of Waste Management's proprietary, confidential and personal information. Unauthorized disclosures are prohibited.

## REGULATORY COMPLIANCE

Waste Management operates in a highly regulated environment. In the U.S., the agencies that regulate our business include the Environmental Protection Agency, Department of Transportation, Internal Revenue Service, Occupational Health and Safety Administration, Department of Labor, and the Securities and Exchange Commission, plus many other federal, state, and local agencies. In Canada, we are similarly regulated. Waste Management expects all its consultants, contractors and suppliers to comply with all applicable laws and regulations in conducting business on behalf of Waste Management.

No consultant, contractor or supplier may make a political contribution on behalf of Waste Management. Any political contribution by a consultant, contractor or supplier that gives the appearance of being directly or indirectly associated with Waste Management business is prohibited. A "political contribution" is any direct or indirect payment, distribution, subscription, loan, advance, deposit, or gift of money, services, or anything of value to a government official or employee, or a person running for an elected office, or in connection with an election, or to an organization or group formed to support or defeat a referendum or ballot issue.

## COMMUNITIES AND ENVIRONMENT

Waste Management strives to be a trusted and valued community partner by improving the quality of life in the areas in which we live and work. We expect our contractors, consultants and suppliers to be good corporate citizens and safeguard our environment and natural resources.

## SAFETY

Safety is our primary goal at Waste Management. All contractors, consultants and suppliers are responsible for ensuring that their operations are conducted safely. You are expected to



observe all safety rules and practices, and to follow instructions concerning safe and efficient work practices.

#### INTEGRITY HELPLINE

You have an obligation to report any known or perceived violation of laws, regulations, our policies or our Code of Conduct. You can report issues confidentially and/or anonymously via the Company's toll-free Integrity Helpline at 800-265-9381. For international locations, the toll-free number is 00-800-2659-3810.

#### QUESTIONS

Contact Waste Management Ethics and Compliance department at 1-800-633-7871 X6554 or via e-mail at [ethics@wm.com](mailto:ethics@wm.com).

Note: This Code of Conduct contains information pertaining to certain Waste Management policies and practices. We expect the recipients to read this Code carefully as it is a valuable reference for understanding your work responsibilities. Nothing contained in this Code shall be construed as constituting a contract or as creating any contractual obligations on the part of the Company; nor does anything in this Code expand or increase your legal rights or the Company's legal obligations.

## ATTACHMENT E

### INSURANCE

During the term of this Agreement, Contractor shall keep in force the following minimum insurance coverages on an occurrence basis with insurance companies rated "B+" or better by A.M. Best rating service:

<u>Coverages</u>	<u>Limits of Liability</u>	
Comprehensive General Liability Insurance, including contractual and products/completed operations	Per Occurrence	\$1,000,000
	General Aggregate	\$2,000,000
Comprehensive Automobile Liability Insurance, including non-owned and hired vehicle coverage	For bodily injury and property damage	
	Per Occurrence	\$1,000,000
Comprehensive Excess Umbrella	Per Occurrence	\$4,000,000
Workers' Compensation Insurance Employers' Liability Insurance	Statutory	
	Per Occurrence	\$1,000,000

The comprehensive general liability insurance shall be specifically endorsed to provide coverage for the contractual liability accepted by Contractor in this Agreement.

Prior to commencing performance of the Services, Contractor shall furnish Company certificates of insurance or other evidence satisfactory to Company to the effect that such insurance has been procured and is in force. At least thirty (30) days prior to the expiration of any of the insurance policies required herein, Contractor shall furnish Company certificates of insurance, in accordance with the terms hereof, evidencing the renewal of such insurance for a period equal to at least the earlier of (a) the expiration of the term of this Agreement and (b) one year from the date of expiration of the then current insurance policies.

The insurance policies required herein shall be endorsed with, and the certificates of insurance shall contain, the following language:

"Wheelabrator Environmental Systems Inc. and its affiliates are named as an additional insured with respect to the comprehensive general, excess umbrella, and automobile liability policies set forth herein. A waiver of the underwriter's rights of subrogation applies in favor of Wheelabrator Environmental Systems Inc. and its affiliates as their interest may appear with respect to all policies described herein."

The certificates shall also contain the following express obligation:

"In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days' prior written notice will be

ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/30/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Hub Int'l. Mountain States Ltd 3533 Gabel Road Billings, MT 59102 406 652-9151	<b>CONTACT NAME:</b> Chris Jermunson <b>PHONE (A/C, No, Ext):</b> 406 652-9151 <b>FAX (A/C, No):</b> 406 652-7838 <b>E-MAIL ADDRESS:</b> Kristin.Piccioni@hubinternational.com																					
<b>INSURED</b> Dick Irvin Inc Irvin Inc & MICO Inc DBA I & T Transfer PO Box 950 Shelby, MT 59474-0950	<table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr> </thead> <tbody> <tr> <td>INSURER A:</td><td>Continental Western Insurance C</td><td>10804</td></tr> <tr> <td>INSURER B:</td><td>Travelers Indemnity Co of Ameri</td><td>25666</td></tr> <tr> <td>INSURER C:</td><td></td><td></td></tr> <tr> <td>INSURER D:</td><td></td><td></td></tr> <tr> <td>INSURER E:</td><td></td><td></td></tr> <tr> <td>INSURER F:</td><td></td><td></td></tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Continental Western Insurance C	10804	INSURER B:	Travelers Indemnity Co of Ameri	25666	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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INSURER C:																						
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INSURER E:																						
INSURER F:																						

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	Y	Y	CWP600793120	05/01/2013	05/01/2014	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	Y	Y	MCP600698920	05/01/2013	05/01/2014	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$10,000	Y	Y	CU600845220	05/01/2013	05/01/2014	EACH OCCURRENCE \$9,000,000 AGGREGATE \$9,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	<b>Motor Truck Cargo</b>			QT6603064N390TIA13	05/01/2013	05/01/2014	Limit: \$500,000* Deductible: \$1,000*

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

\*\$250,000 Limit / \$2,500 Deductible applies for Temperature, Spoilage and Breakdown (Reefer) Coverage  
 Wheelabrator Spokane, Inc and its Affiliates are additional insureds with regard to the General Liability, Excess Umbrella Coverage and Automobile Liability policies set forth herein per forms CLCG0013 01/12, CW1550 10/96 and CU0001 12/07 and when required in a written contract. A Waiver of Transfer of Rights of Recovery applies in favor of Wheelabrator Spokane, Inc. and its Affiliates as their interest may (See Attached Descriptions)

## CERTIFICATE HOLDER

## CANCELLATION

Wheelabrator Spokane Inc.  
 2900 S Geiger Blvd.  
 Spokane, WA 99224-0000

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

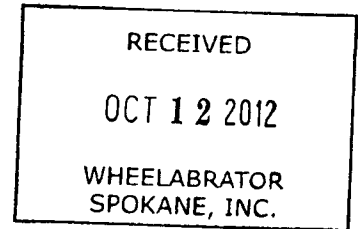
*Rose Kelley*

## DESCRIPTIONS (Continued from Page 1)

appear with respect to the General Liability, Auto Liability and Excess Umbrella Coverage per form CG2404 10/93, CW1712 05/99 and CU2403 03/09 when required in a written contract.



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES  
PO Box 44140 • Olympia, Washington 98504-4140



August 31, 2012

DICK IRVIN INC  
PO BOX 950  
SHELBY MT 59474-0950

**RE: Approval - Extraterritorial Certificates**

Dear employer,

The Washington State Department of Labor and Industries has approved your request to extend your existing workers' compensation to your Montana employees while they are temporarily working in Washington.

Please ensure this coverage meets all of Montana's workers' compensation requirements. Your Montana workers' compensation coverage applies only to your Montana employees while they are temporarily working in the state of Washington. Any workers you hire in Washington or hire specifically to work in Washington must be covered by a separate policy through the Department of Labor and Industries.

Thank you for your request. Please contact me if you have any questions.

Sincerely,

Amy Perdue  
Out-of-State Certificates and Coverage Specialist  
PO Box 44140  
Olympia, WA 98504-4140  
(360) 902-4638

Enclosures: Approved Request for Extraterritorial Coverage

CC: MONTANA STATE FUND  
HUB INT'L MOUNTAIN STATES LTD



ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/24/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Hub Int'l. Mountain States Ltd 3533 Gabel Road Billings, MT 59102 406 652-9151	<b>CONTACT NAME:</b> Chris Jermunson <b>PHONE (A/C, No, Ext):</b> 406 652-9151 <b>FAX (A/C, No):</b> 406 652-7838 <b>E-MAIL ADDRESS:</b> Kristin.Piccioni@hubinternational.com
<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURER A:</b> Montana State Fund	
<b>INSURER B:</b>	
<b>INSURER C:</b>	
<b>INSURER D:</b>	
<b>INSURER E:</b>	
<b>INSURER F:</b>	

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below			030929558	07/01/2013	07/01/2014	X WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E L EACH ACCIDENT \$1,000,000 E L DISEASE - EA EMPLOYEE \$1,000,000 E L DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

## CERTIFICATE HOLDER

## CANCELLATION

Wheelabrator Spokane, Inc.  
 2900 S Geiger Blvd  
 Spokane, WA 99224

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Rose Delgado*

**SERVICE AGREEMENT ASSIGNMENT**

THIS SERVICE AGREEMENT ASSIGNMENT is between DICK IRVIN, INC., a Montana corporation, as "Irvin", and WHEELABRATOR SPOKANE INC., whose address is 4 Liberty Lane West, Hampton, New Hampshire, 03842 as "Contractor" or "Assignor" interchangeably, and CITY OF SPOKANE, a Washington State municipal corporation, as "City", whose address is 808 West Spokane Falls Boulevard, Spokane, Washington 99201, as "Assignee."

WHEREAS Irvin and Assignor entered into a contract dated January 1, 2014, attached hereto as Exhibit "A", wherein Assignor agreed to terms of transportation of lime from Graymont Indian Creek Plant, Townsend, Montana on pneumatic equipment to Assignor to include, but not limited to: 1) Coordinate daily with Assignor Control Room regarding deliveries, 2) Off loading of lime via vendor provided blower into Assignor silo, 3) Provide a prepositioned, and on-site lime-loaded, "pup" trailer at the Waste To Energy Facility, and off load for emergency situations or as directed, and 4) 24 hour on call availability; and

WHEREAS, Assignor desires to assign the contract to Assignee; and in accordance with the policy and terms of the contract, consent of Irvin is required for the Assignment; -- Now, Therefore,

The parties agree as follows:

1. **ASSIGNMENT.** For value received, Assignor assigns all of its rights, title and interest under the contract described above to Assignee, effective November 17, 2014. Assignee accepts the Assignment and agrees to assume all contractual liabilities arising after such date.
2. **CONSENT OF SYSTEM.** Irvin agrees to the above Assignment and represents that the contract is in full force and effect and that Irvin has no knowledge of any material default by Assignor.

Dated: \_\_\_\_\_

**ASSIGNEE  
CITY OF SPOKANE**

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

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

Attest:

Approved as to form:

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

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

Dated: \_\_\_\_\_

**ASSIGNOR/CONTRACTOR**  
**WHEELABRATOR SPOKANE, INC.**

E-Mail address, if available \_\_\_\_\_  
\_\_\_\_\_

City of Spokane Business License  
No. \_\_\_\_\_

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

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

Dated: \_\_\_\_\_

**DICK IRVIN, INC**

E-Mail address, if available \_\_\_\_\_  
\_\_\_\_\_

City of Spokane Business License  
No. \_\_\_\_\_

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

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

14-603



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	OPR 2014-0757
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	
<b>Requisition #</b>	

<b>Submitting Dept</b>	SPOKANE REGIONAL SOLID WASTE
<b>Contact Name/Phone</b>	KEN GIMPEL 625-6532
<b>Contact E-Mail</b>	KGIMPEL@SPOKANECITY.ORG
<b>Agenda Item Type</b>	Contract Item
<b>Agenda Item Name</b>	4490 ASSIGNMENT OF CONTRACT WITH AMERICAL RECYCLING COPORATION

**Agenda Wording**

Assignment and extension of Contract between American Recycling Corporation (Spokane) and Wheelabrator Spokane Inc. for sale of metals recovered from the Waste to Energy Facility. November 17, 2014 to December 31, 2015. Estimated revenue \$78,000.00

**Summary (Background)**

Recovered metals are magnetically separated from the ash after combustion at the WTEF and discharged via a conveyor belt. Metals are also recovered from the tipping floor for recycling. Wheelabrator Spokane Inc. currently has a contract with American Recycling Corporation to transport, process, and sell these metals. The Assignment and extension of this contract will allow for continued operation of this recycling program, and continued revenue to the City.

<b>Fiscal Impact</b>		<b>Budget Account</b>
Revenue	\$ 78,000.00	# 4490-44110-37079-36911
Select	\$	#
Select	\$	#
Select	\$	#
<b>Approvals</b>		<b>Council Notifications</b>
<b><u>Dept Head</u></b>	GIMPEL, KEN	<b><u>Study Session</u></b>
<b><u>Division Director</u></b>	ROMERO, RICK	<b><u>Other</u></b>
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>
<b><u>Legal</u></b>	DALTON, PAT	ttauscher@spokanecity.org
<b><u>For the Mayor</u></b>	SANDERS, THERESA	cmarchand@spokanecity.org
<b><u>Additional Approvals</u></b>		lbutz@spokanecity.org
<b><u>Purchasing</u></b>		



**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

**Summary (Background)**

A Request for Proposals has been issued for metals processing and marketing. A contract with the prevailing respondent is anticipated to begin on January 1, 2015.

<b><u>Fiscal Impact</u></b>		<b><u>Budget Account</u></b>
Select	\$	#
Select	\$	#

**Distribution List**


## **Assignment and Extension**

This Assignment of Wheelabrator Service Agreement (“Assignment”) dated as of \_\_\_\_\_, 2014, is entered into among Wheelabrator Environmental Systems Inc. (“Wheelabrator”), the City of Spokane (“City”) and American Recycling Corporation (“Contractor”) (collectively, the Company, the City and the Contractor are referred to as the “Parties”).

WHEREAS, Wheelabrator and Contractor are parties to that certain Wheelabrator Service Agreement dated January 1, 2008 (the “Agreement”), which is attached hereto as exhibit “A”, whereby Contractor performs certain Services for Wheelabrator at the waste-to-energy facility located in Spokane, Washington (the “Spokane Facility”); and

WHEREAS, as of November 17, 2014 (the “Effective Date”), the City will take over operation of Spokane Facility; and

WHEREAS, the City seeks for Contractor to continue providing the Services it currently provides to the Spokane Facility under the Agreement; and

WHEREAS, the City also requests to extend the date of services provided by Contractor connected with the Agreement to December 31, 2014,

WHEREAS, the Parties wish to document a partial Assignment and Extension of the Agreement for Services to be provided at the Spokane Facility on and after the Effective date on the terms hereof.

NOW, THEREFORE, the Parties, intending to be legally bound, hereby agree as follows:

1. Capitalized terms used herein without definition shall have the definitions ascribed to them in the Agreement.
2. Except as otherwise provided herein, the Agreement, solely as it pertains to any Services performed by the Contractor at the Spokane Facility on or after the Effective Date, is hereby assigned by Wheelabrator to the City. From and after the Effective Date, the City assumes all rights and obligations of Company under the Agreement with respect to the Spokane Facility. Any and all obligations of Company with respect to the Spokane Facility arising prior to the Effective Date shall remain the responsibility of Wheelabrator.
3. The Effective Date of the Service Agreement between the City and Contractor is Extended to run through December 31, 2014.
4. Contractor acknowledges the foregoing assignment of the Agreement by Wheelabrator with respect to Services performed at the Spokane Facility on or after the Effective Date and the assumption by the City of all Company obligations related thereto. Any Services performed by Contractor at the Spokane Facility on or after the Effective Date shall be

for and at the behest of City and shall be completed under the terms and conditions of the Agreement. Contractor hereby releases Wheelabrator from any and all obligations or liability with respect to Services performed at the Spokane Facility on or after the Effective Date.

5. Notwithstanding the foregoing, the Parties acknowledge the possibility that Wheelabrator may be retained by the City to conduct and oversee certain repair and maintenance work at the Spokane Facility after the Effective Date. In the event Wheelabrator is so retained and seeks to subcontract Services from Contractor, Wheelabrator shall issue a purchase order to Contractor and specify that the terms and conditions of the Agreement shall apply to such work. Under these limited circumstances, the terms of the Agreement shall apply to Wheelabrator for Services conducted at the Spokane Facility and Contractor's obligations under the Service Agreement shall run to Wheelabrator.
6. Each of the Parties hereto covenants and agrees, at its own expense, to execute and deliver, at the request of any other party hereto, such further instruments of transfer and assignment and to take such other action as such other party may reasonably request to more effectively consummate the assignments and assumptions contemplated by this Assignment.
7. Other than the partial Assignment and the Extension of the Agreement contained herein, the Agreement shall remain in full force and effect and otherwise shall remain unchanged with respect to Services performed by Contractor at Wheelabrator's other Facilities.

WITNESS the execution hereof as of the date first above written.

WHEELABRATOR ENVIRONMENTAL  
SYSTEMS INC.

Name:

Title:

CITY OF SPOKANE

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

Name:

Title:

AMERICAN RECYCLING CORPORATION

Name:

Title:

Attest:

Approved as to form:

City Clerk

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Assistant City Attorney

14-605





**Wheelabrator Spokane Inc.**

A Waste Management Company  
South 2900 Geiger Boulevard  
Spokane, WA 99224 5400

June 24, 2013

Glenn Dart  
American Recycling Corporation  
East 6203 Mission Avenue  
Spokane, Washington 99224

Re: Recovered Metals Purchase Agreement

Dear Mr. Dart:

Reference is made to the Recovered Metals Purchase Agreement between Wheelabrator Spokane Inc. ("Wheelabrator") and American Recycling Corporation ("ARC") dated January 1, 2008 (the "Agreement").

ARC and Wheelabrator hereby agree to extend the term of the Agreement through November 16, 2014.

Except for the extension of the term of the Agreement, the terms of the Agreement shall remain in full force and effect. Any modification to the terms of the Agreement shall be valid only if set forth in writing and duly executed by both parties.

If the foregoing is acceptable to you, please sign below where indicated.


Very truly yours

Wheelabrator Spokane Inc.

By:   
Its: PLANT MANAGER

Agreed to:

American Recycling Corporation

By:   
s: Glenn E. Dart



## RECOVERED METALS PURCHASE AGREEMENT

THIS RECOVERED METALS PURCHASE AGREEMENT (this "Agreement") is made as of the first day of January 2008 between Wheelabrator Spokane Inc. ("Wheelabrator"), and American Recycling Corporation, a Washington corporation, with principal offices at East 6203 Mission Avenue, Spokane, Washington ("Purchaser").

WHEREAS, Wheelabrator operates a resource recovery facility located in Spokane, Washington (the "Facility"), which receives and combusts quantities of residential and commercial waste and thereby produces energy and recovers certain ferrous metals ("Recovered Metals"), and

WHEREAS, the Recovered Metals are mechanically and/or magnetically separated from the ash residue remaining after the combustion of the waste and are discharged from the Facility by means of a conveyor, and are also recovered on the Facility's tipping floor; and

WHEREAS, Wheelabrator desires to transfer and sell the Recovered Metals to Purchaser; and

WHEREAS, Purchaser is in the Recovered Metals business and desires to acquire Recovered Metals recovered by Wheelabrator in the Facility's operations; and

WHEREAS, Purchaser operates ferrous metals baling and processing equipment inside a building on the Facility site; and

NOW, THEREFORE, in consideration of the foregoing premises, and the promises and mutual covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto intending to be legally bound, do hereby make the following agreements:

1. Transfer of Recovered Metals.

Pursuant to the terms of this Agreement, Wheelabrator shall transfer and sell to Purchaser, and Purchaser shall accept and purchase from Wheelabrator the Recovered Metals generated by the Facility through combustion at the Facility. Wheelabrator anticipates that it will transfer approximately 9,000 tons per year of Recovered Metals to Purchaser; provided, however, that Wheelabrator has no obligation to transfer any Recovered Metals during periods that the Facility is not generating Recovered Metals. Wheelabrator makes no representation or warranty, written or oral, express or implied, as to the quantity or quality of the Recovered Metals. The Recovered Metals are transferred to Purchaser "AS-IS, WHERE-IS."

WHEELABRATOR EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE REGARDING THE RECOVERED METALS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. 2.

2. Transport and Processing of Recovered Metals.

(a) Purchaser shall process and/or bale Recovered Metals generated by Wheelabrator, and shall remove such processed or baled Recovered Metals from the Facility. Purchaser shall retain all personnel necessary to process and/or bale and remove all Recovered Metals generated by the Facility. Purchaser shall conduct all processing and baling operations at the metals processing building located at the Facility (the "Metals Processing Building"). Purchaser shall diligently conduct its operations and operate all necessary equipment related thereto (the "Equipment") using the highest professional standards. Purchaser shall use best efforts to maintain the Equipment in good working order, and shall promptly repair all damage to the Metals Processing Building and the Equipment caused by Purchaser and its employees,

contractors, and agents. Wheelabrator shall not be liable for any damage that may occur to Purchaser's Equipment while present on or located at the Facility, other than direct damages due to Wheelabrator's sole negligence or willful misconduct. Purchaser shall perform good

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housekeeping practices within the Metals Processing Building. Purchaser shall remove all Recovered Metals from the Facility, promptly after delivery to Purchaser of such Recovered Metals, except for such temporary storage in the area and to the extent permitted by Section 3. Purchaser shall not restrict or impede normal operations of the Facility during the course of its performance hereunder.

(b) Purchaser shall also provide an appropriate number of containers for the storage of Recovered Metals on the Facility tipping floor that are generated by Wheelabrator tipping floor operations, and Purchaser shall remove the Recovered Metals from the tipping floor and the Facility promptly after being notified by Wheelabrator that the containers are full.

3. Wheelabrator Obligations.

(a) Wheelabrator shall use all reasonable precautions to prevent its employees from altering, repairing, adjusting, or tampering with the Equipment.

(b) Wheelabrator shall provide reasonable access for Purchaser to the Metals Processing Building, including removing snow and ice from the access road leading to the Metals Processing Building.

(c) Wheelabrator shall maintain all equipment as may be necessary to transfer Recovered Metals from the Facility's ash room to the Metals Processing Building.

(d) Wheelabrator shall provide, at its sole cost and expense, such equipment, containers and personnel as are necessary to collect and transport, on a daily basis, ash and

non-metallic residue separated from the Recovered Metals during processing to the disposal area designated by Wheelabrator.

(e) Wheelabrator shall provide Purchaser with electric service for the Equipment and Metals Processing Building and shall make restroom facilities available to Purchaser's employees operating the Equipment.

4. Title to Equipment.

Title, possession, and control of Equipment installed by Purchaser at the Facility shall at all times remain with Purchaser. Upon expiration or termination of this Agreement, Purchaser shall promptly remove such Equipment at its own expense.

5. Traffic Management.

Purchaser agrees to cooperate with Wheelabrator to minimize local truck traffic and shall access the Facility by such roads as Wheelabrator may from time to time designate. Purchaser's employees agree to park personal vehicles in the public parking lots designated by Wheelabrator. All vehicles used by Purchaser in the performance of its obligations hereunder shall be covered at all times after leaving the Metals Processing Building. The cover shall enclose the entire length and width of the vehicle so as to ensure that no dust escapes therefore. Purchaser shall ensure, and shall cause its drivers to ensure, there is no ash residue on vehicle truck frames or bodies prior to leaving the Metals Processing Building.

6. Access to Facility and Metals Processing Building.

Purchaser shall keep the access road to the Metals Processing Building, including the paved segment and the trailer storage area, free from debris including loose metal debris. Purchaser shall employ, at its own expense, all necessary equipment or manpower to meet the requirements of this provision on a daily basis. The access road through this area shall be kept

open and clear of vehicles, equipment, and debris at all times to allow uninterrupted passage of Wheelabrator vehicles, or the vehicles of Wheelabrator's customers, agents, or employees.

Wheelabrator and its employees and representatives shall have the right of access to the Metals Processing Building at any time so long as it is in a manner that does not interfere with Purchaser's performance of its obligations hereunder or the operation of the Equipment.

Wheelabrator may schedule visits to the Metals Processing Building by third parties upon 24 hours' notice to Purchaser. Purchaser may schedule third-party visitors to the Metals Processing Building upon 24 hours notice to Wheelabrator. All third-party visitors shall sign Wheelabrator's visitor log, shall comply with Wheelabrator's safety requirements, and shall be required to sign Wheelabrator's Form Waiver and Indemnity Agreement. All third-party visitors to the Metals Processing Building shall be accompanied at all times by Purchaser's representative. All third-party visitors to areas of the Facility, other than the Metals Processing Building, shall be accompanied at all times by a Wheelabrator representative. It is agreed that vendors and subcontractors of Purchaser are not considered third-party visitors and advance notice of their access to the Metals Processing Building is not required; provided, however, that such vendors and subcontractors shall be required to sign Wheelabrator's visitor's log and Form Waiver and Indemnity Agreement.

7. Residue.

Wheelabrator shall have no legal or financial obligation, responsibility, or any other liability for any ash or non-metallic residue that may be generated by the processing of Recovered Metal by Purchaser or by a third party at a location other than the Facility.

8. Weighing Procedures.

All Recovered Metals shall be weighed at the truck scales at the Facility before being removed by Purchaser from the Facility.

9. Monthly Fee.

(a) Purchaser shall pay Wheelabrator a fee (the "Fee") for each Ton (1 Ton equals 2000 pounds) of Recovered Metals each month according to the following formula:

$$(\#2 \text{ Bundles} - \$55.00) \times (2000/2240)$$

Where:

#2 Bundles = the midpoint of the No. 2 Bundles Index, Consumer Buying Prices, for the Seattle/Portland area as published at [www.amm.com](http://www.amm.com) on the first business day of the month.

Example: # 2 Bundles = \$100-\$102

$$(\$101.00 - \$55.00) \times (2000/2240) = \$ 41.07 \text{ per Ton.}$$

Notwithstanding anything to the contrary set forth herein, the Fee shall never be less than \$0.00 per Ton.

(b) No invoicing of Purchaser will be required of Wheelabrator. With each payment of the Monthly Fee, Purchaser shall submit appropriate documentation on the quantity of Recovered Metal transferred by Wheelabrator to Purchaser during the corresponding month. Purchaser shall pay Wheelabrator within thirty (30) days of the end of each month. Any amount not received by Wheelabrator within thirty (30) days of the end of each month may be assessed a late fee of one and one-half percent (1-1/2%) (or the maximum legal rate per month or fraction thereof)..

(c) Purchaser shall pay all sales, use, or excise taxes imposed by any governmental authority with respect to the sale of Recovered Metals to Purchaser pursuant hereto. If such

taxes, fees, or charges are paid or required to be paid by Wheelabrator, the amount thereof shall be added to and become part of the Monthly Fee.

10. Term.

The term of this Agreement will commence on the date hereof and shall terminate on December 31, 2010, unless earlier terminated as set forth herein. This Agreement may be renewed for an additional one-year period upon mutual agreement by the parties.

11. Compliance with Law and Regulations; WM Third Party Service Provider

Approval.

Purchaser shall abide by all federal, state and local laws, regulations and rulings in performance of its obligations hereunder. Purchaser has been informed and has agreed that the work to be performed under this Agreement is subject to Washington's law governing Prevailing Wages on Public Works (RCW 39.12). Accordingly, Purchaser agrees to comply with RCW 39.12 and shall require any subcontractors under Purchaser to comply with RCW 39.12.

Purchaser shall comply with all safety, health, or other administrative rules, regulations, or procedures adopted by Wheelabrator, including the Wheelabrator Safety and Environmental Requirements attached hereto as Attachment A. Purchaser shall cause the Safety Declaration in the form attached hereto as Attachment A-1 to be executed by its authorized representative and shall complete Attachment A-2 prior to the performance of any services hereunder. During the term hereof, Purchaser shall comply with all of its obligations in the Safety Declaration and will maintain in effect and comply with all of the policies, procedures, programs and systems described therein.

Purchaser shall comply with the Waste Management, Inc. Third Party Waste Services Provider Policy (the "Policy"). Purchaser's compliance with the Policy shall include, but not be



limited to, (a) completing and signing all forms required by the Policy, (b) providing copies of all documents required by Wheelabrator to determine compliance with the Policy, (c) allowing representatives of Wheelabrator to contact appropriate regulatory authorities regarding Purchaser's environmental, health and safety ("EH&S") compliance record, (d) providing the Wheelabrator, at Wheelabrator's request, all relevant U.S. Department of Transportation EH&S records of Purchaser; and, (e) providing representatives of Wheelabrator, at Wheelabrator's request, access to inspect Purchaser's operations. Wheelabrator shall have the right to terminate this Agreement should Purchaser fail to comply with the provisions of this Section 11.

12. Warranty.

Purchaser warrants that its performance of its obligations hereunder (i) shall be consistent with that level of care and skill ordinarily exercised by other contractors under similar circumstances, and (ii) shall in all respects conform to the representations and descriptions set forth herein. In addition, Purchaser represents that it has full authority to enter into this Agreement and perform its obligations hereunder.

13. Independent Contractor.

Purchaser shall act as an independent contractor pursuant to this Agreement and nothing herein shall create an agency relationship between Wheelabrator and Purchaser. Furthermore, Purchaser understands that it has no authority to make or imply any commitments that are binding upon Wheelabrator. None of Purchaser's employees or agents shall be considered or in any way represent themselves as being employees of Wheelabrator or be entitled to any of the benefits supplied by Wheelabrator to its own employees. Purchaser shall at all times have a designated supervisor for its employees and its subcontractors at or available to the Facility throughout its performance hereunder.

14. Force Majeure.

Neither Wheelabrator nor Purchaser shall be responsible for failure or delay in fulfilling the terms of this Agreement when such failure or delay is due solely to uncontrollable circumstances beyond its reasonable control, including acts of God, war, terrorism, mobilization, civil commotion, riots, change in law, fires, floods, heavy snow accumulation, major accidents, quarantine, strikes, or lockouts. Each party shall give prompt notice to the other party of an uncontrollable circumstance. This provision shall not, however, relieve Wheelabrator or Purchaser from using all reasonable efforts to overcome or remove such uncontrollable circumstance or paying any amounts otherwise due hereunder.

15. Insurance.

Purchaser shall procure and maintain, at its own expense, the insurance coverage, with companies acceptable to Wheelabrator, set forth in Attachment B and comply with all of the terms and conditions thereof.

16. Default and Termination.

Wheelabrator shall have the right to terminate this Agreement by giving written notice to Purchaser if any of the following events occur:

- (i) Non-performance by Purchaser of any of its obligations under this Agreement, after Wheelabrator has notified Purchaser of its non-performance and has given Purchaser fourteen (14) calendar days to cure its non-performance;
- (ii) Assignment by Purchaser for the benefit of creditors, appointment of a receiver, filing of a voluntary or involuntary petition in bankruptcy, or

institution of proceedings for an arrangement or reorganization of or with respect to Purchaser; or

(iii) Purchaser loses or fails to maintain its FUD Approval.

17. Indemnification.

Purchaser shall indemnify, defend and save Wheelabrator harmless from any and all claims, damages, demands, liabilities, expenses and causes of action for, or on account of, (i) any injury to persons, damage to property (including the property of Wheelabrator) to the extent arising out of or in connection with Purchaser's negligence or willful misconduct, or arising out of or in any way relating to any act or omission to act by any officer, employee or agent of Purchaser, whether or not relating to third party claims; (ii) of non-fulfillment of any agreement, covenant or undertaking of Purchaser contained herein; (iii) of any damage to the Metals Processing Building or the Equipment to the extent arising out of or in connection with Purchaser's (or Purchaser's employees, agents, contractors, or visitors) negligence or willful misconduct; and (iv) of any act or omission by Purchaser or its employees, agents or contractors which results or may result in the breach or violation of any federal, state or local statutory or common laws, regulations, rules, ordinances, permits, judicial decrees or the like relating to pollution or protection of the environment, natural resources or human health. This Section 17 shall survive the termination or expiration of this Agreement.

18. Taxes and Permits.

Purchaser shall pay all sales and other taxes which may be applicable to the transfer of Recovered Metals hereunder by Wheelabrator to Purchaser and shall, at its own cost and expense, apply for, obtain and maintain all permits and/or licenses which may be required in order for it to perform its obligations hereunder.

19. Limitation of Liability.

In no event shall Wheelabrator be liable to Purchaser for any consequential, incidental, special, indirect or punitive damages, including, without limitation, damages in the nature of lost profits, income or revenue, regardless of the legal basis for such damages, including tort, contract or operation of law.

20. Notices.

All notices required or permitted to be given hereunder shall be in writing and deemed to have been duly given if delivered personally, or mailed first class, registered or certified mail or by overnight delivery service as follows:

If to Purchaser: AMERICAN RECYCLING  
CORPORATION  
East 6203 Mission Avenue  
P.O. Box 11337  
Spokane, WA 99211-1337  
ATTN: Mr. Roger Baldwin/General Manager

If to Wheelabrator: WHEELABRATOR SPOKANE INC.  
South 2900 Geiger Boulevard  
Spokane, WA 99224  
ATTN: Mr. Chuck Conklin/Plant Manager

21. Successors and Assigns.

The provisions of this Agreement shall extend to and be binding upon the parties hereto and their respective successors and assigns; provided, however, Purchaser may not assign the benefits or burdens of this Agreement without the prior written consent of Wheelabrator and any such assignment without Wheelabrator's consent shall be considered null and void.

22. Entire Agreement.

This Agreement contains the entire agreement and understanding of the parties in respect to the transaction contemplated hereby, and supersedes all prior agreements, representations and understandings relating to the subject matter hereof. This Agreement may be amended or cancelled only by written instrument duly executed by both parties.

23. Severability.

If any section or provision of this Agreement shall be determined to be invalid by applicable law, then for such time as it is invalid, it shall be deemed to be deleted from this Agreement and the remaining portion of this Agreement shall remain in full force and effect.

24. Governing Law.

This Agreement shall be construed, and the rights and obligations of the parties shall be determined, in accordance with the laws of the State of Washington without giving effect to the conflict of law rules thereof.

25. Waiver.

Neither the failure of either party to require any performance by the other under this Agreement nor the waiver of either party of any breach of this Agreement by the other party shall prevent a subsequent enforcement of such performance or be deemed a waiver of any subsequent breach.

26. Confidentiality

Except as required to be disclosed to its employees and advisors, Purchaser shall hold in confidence the terms of this Agreement during the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
as of the day and year first written above.

Wheelabrator Spokane Inc.

By: Raymond Soular

Name: RAYMOND SOULAR

Title: Regional V.P.

American Recycling Corporation

By: R Baldwin

Name: ROGER BALDWIN

Title: General Manager

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

11/10/2014

**Date Rec'd**

10/29/2014

**Clerk's File #**

OPR 2014-0758

**Renews #****Submitting Dept**

GRANTS MGMT &amp; FINANCIAL ASST

**Contact Name/Phone**

JENNIFER 625-6091

**Contact E-Mail**

JSTAPLETON@SPOKANECITY.ORG

**Agenda Item Type**

Contract Item

**Agenda Item Name**

0680-COPS HIRING GRANT FY 2014

**Cross Ref #****Project #****Bid #****Requisition #****Agenda Wording**

To accept funding from the Department of Justice for the COPS 2014 Hiring Program Award. The amount of the grant is \$625,000.00 over a period of three years. The award is for five officer positions.

**Summary (Background)**

In 2014, the City of Spokane submitted a request for funding for 5 officer positions under the 2013 COPS Hiring Program. SPD has been awarded funding for five officer positions. Estimated funding awarded over a period of three years is \$625,000.00. The funding will be used to hire new officers. Grant term is 09/01/2014 to 08/31/2017. A no cost extension may be available. The City is required to maintain the positions for a 4th year. Total City share is \$1.32 million over 4 years.

**Fiscal Impact**

Revenue \$ 116,000

Revenue \$ 262,500

Expense \$ 116,000

Expense \$ 262,500

**Budget Account**

# 1620-91709-99999-39710

# 1620-99146-99999-33116

# 1620-91709-21221-various

# 1620-99146-21221-various

**Approvals****Dept Head**

STAPLETON, JENNIFER

**Division Director**

COOLEY, GAVIN

**Finance**

LESESNE, MICHELE

**Legal**

DALTON, PAT

**For the Mayor**

SANDERS, THERESA

**Council Notifications****Study Session**

PSC-10/20/14

**Other****Distribution List**

slynds

achirowamangu

**Additional Approvals****Purchasing**

kwatkins

jstapleton

contract accounting

**Briefing Paper  
City of Spokane  
Spokane Police Department  
2014 COPS Hiring Program  
PSC – October 20, 2014**

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**Subject**

2014 COPS Hiring Program Grant Acceptance.

**Background**

The City of Spokane Police Department submitted a request for funding for 5 officer positions under the 2014 COPS Hiring Program to address “quality of life” as a community policing effort. SPD has been approved for five officer positions as requested in the application submitted in June 2014. Of 1,296 applicants only 215 were funded and City of Spokane was one of them, which represented 17% of total number of applications.

**Impact**

The federal share of funding to be awarded over the three year grant period is \$625,000.00. The local cash match will be \$748,331.00. Grant funding may be used to hire new officers or rehire officers who have been laid off, or were at the time of the application scheduled to be laid off on a specific future date, as a result of local budget cuts, on or after the official grant award start date. Start date is 9/01/2014 with an end date of 8/31/2017. This grant has a sustainability requirement of the City to provide retention of each officer position awarded for at least one year (12 months) following the conclusion of three years (36 months) of federal funding for that position. The additional officer positions will be added to the law enforcement budget over and above the number of locally-funded officer positions that would exist in the absence of the grant.

**Action**

Acceptance of 2014 COPS Hiring Program grant funding.

**Funding**

US Department of Justice, Office of Community Oriented Policing Services (COPS) grant funds and the General Fund.





U.S. DEPARTMENT OF JUSTICE  
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES  
145 N Street, N.E., Washington, DC 20530

**COPS**

**Grants Administration Division  
COPS Hiring Program  
Treasury Account Symbol (TAS) 15X0406**

*Grant #:* 2014ULWX0016

*ORI #:* WA03204

*Applicant Organization's Legal Name:* **Spokane Police Department**

*DUNS #:* 1155281890000

**Law Enforcement Executive:** Chief of Police Frank Straub

**Government Executive:** Mayor David A. Condon

*Award Start Date:* **09/01/2014**

*Award End Date:* **08/31/2017**

**Full-Time Officers Funded:** 5

New Hires: 5

Rehires - Scheduled for Lay-Off: 0

Rehires - Previously Laid Off: 0

**Award Amount:** \$625,000.00

Ronald L. Davis  
Director

**09/28/2014**

Date

By signing this Award Document, the grantee agrees to abide by all FY 2014 COPS Hiring Program (CHP) grant terms and conditions and, if applicable, the Special Award Conditions and/or High Risk Conditions in the Award Document Supplement.

False statements or claims made in connection with COPS grants may result in fines, imprisonment, debarment from participating in federal grants or contracts, and/or any remedy available by law to the Federal Government.

**ADVANCING PUBLIC SAFETY THROUGH COMMUNITY POLICING**

U. S. Department of Justice  
*Office of Community Oriented Policing Services*  
**2014 COPS Hiring Program Grant Terms and Conditions**

By signing the Award Document to accept this COPS Hiring Program (CHP) grant, the grantee agrees to abide by the following grant terms and conditions:

1. **Grant Owner's Manual.** The grantee agrees to comply with the terms and conditions in the 2014 COPS Hiring Program Grant Owner's Manual; COPS statute (42 U.S.C. §. 3796dd, et seq.); 28 C.F.R. Part 66 or 28 C.F.R. Part 70 as applicable (governing administrative requirements for grants and cooperative agreements); 2 C.F.R. Part 225 (OMB Circular A-87), 2 C.F.R. Part 220 (OMB Circular A-21), 2 C.F.R. Part 230 (OMB Circular A-122), and 48 C.F.R. Part 31.000 et seq. (FAR 31.2) as applicable (governing cost principles); OMB Circular A-133 (governing audits); representations made in the CHP grant application; and all other applicable program requirements, laws, orders, regulations, or circulars.

2. **Assurances and Certifications.** The grantee acknowledges its agreement to comply with the Assurances and Certifications forms that were signed as part of its CHP application.

3. **Allowable Costs.** The funding under this project is for the payment of approved full-time entry-level salaries and fringe benefits over three years (for a total of 36 months of funding), up to a maximum federal share of \$125,000 per officer position for career law enforcement officer positions hired and/or rehired on or after the official grant award start date. Any salary and fringe benefit costs higher than entry-level that your agency pays a CHP-funded officer must be paid with local funds.

Your agency is required to use CHP grant funds for the specific hiring categories awarded. Funding under this program may be used for the following categories:

- a. Hiring new officers, which includes filling existing officer vacancies that are no longer funded in your agency's budget;
- b. Rehiring officers laid off by any jurisdiction as a result of state, local, or Bureau of Indian Affairs (BIA) budget cuts; and/or
- c. Rehiring officers who were, at the time of grant application, scheduled to be laid off (by your jurisdiction) on a specific future date as a result of state, local, or BIA budget cuts.

If your agency's local fiscal conditions have changed and your agency needs to change one or more of the funded hiring categories, your agency should request a post-award grant modification and receive prior approval before spending CHP funding under the new category.

The Financial Clearance Memorandum (FCM), included in your award package, specifies the amount of CHP funds awarded to your agency. You should carefully review your FCM, which contains the final officer salary and fringe benefit categories and amounts for which your agency was approved. Please note that the salary and fringe benefit costs requested in your CHP application may have been adjusted or removed. Your agency may only be reimbursed for the approved cost categories that are documented within the FCM, up to the amounts specified in the FCM. **Your agency may not use CHP funds for any costs that are not identified as allowable in the Financial Clearance Memorandum.**

Only actual allowable costs incurred during the grant award period will be eligible for reimbursement and drawdown. If your agency experiences any cost savings over the course of the grant (for example, your grant application overestimated the total entry-level officer salary and fringe benefits package), your agency may not use that excess funding to extend the length of the grant beyond 36 months. Any funds remaining after your agency has drawn down for the costs of approved salaries and fringe benefits incurred for each awarded position during the 36-month funding period will be deobligated during the closeout process, and should not be spent by your agency.

4. **Local Match.** Grantees are required to contribute a local match of at least 25 percent towards the total cost of the approved grant project, unless waived in writing by the COPS Office. The local match must be a cash match from funds not previously budgeted for law enforcement purposes and must be paid during the grant award period. The local match contribution must be made on an increasing basis during each year of the three-year grant period, with the federal share decreasing accordingly.

5. **Supplementing, Not Supplanting.** State, local, or BIA funds budgeted to pay for sworn officer positions irrespective of the receipt of CHP grant funds may not be reallocated to other purposes or refunded as a result of a CHP grant being awarded. Non-federal funds must remain available for and devoted to that purpose, with CHP funds supplementing those non-federal funds. Funding awarded cannot be obligated until after the grant award start date. This means that CHP funds cannot be applied to any agency cost or obligation incurred prior to the award start date. In addition, your agency must take active and timely steps pursuant to its standard procedures to fully fund law enforcement costs already budgeted as well as fill all locally-funded vacancies resulting from attrition during the life of the grant.

6. **Retention.** At the time of grant application, your agency committed to retaining all sworn officer positions awarded under the CHP grant with state and/or local funds for a minimum of 12 months following the conclusion of 36 months of federal funding for each position, over and above the number of locally-funded sworn officer positions that would have existed in the absence of the grant. Your agency cannot satisfy the retention requirement by using CHP-funded positions to fill locally-funded vacancies resulting from attrition.

7. **Extensions.** Your agency may request an extension of the grant award period to receive additional time to implement your grant program. Such extensions do **not** provide additional funding. Grants may be extended a maximum of 36 months beyond the initial award expiration date. Any request for an extension beyond 36 months will be evaluated on a case-by-case basis. Only those grantees that can provide a reasonable justification for delays will be granted no-cost extensions. Reasonable justifications may include difficulties in filling COPS-funded positions, officer turnover, or other circumstances that interrupt the 36-month grant funding period. An extension allows your agency to compensate for such delays by providing additional time to complete the full 36 months of funding for each position awarded. **Extension requests must be received prior to the end date of the award.**

8. **Modifications.** During the CHP grant award period, it may become necessary for an agency to modify its CHP grant award due to changes in an agency's fiscal or law enforcement situation. Modification requests should be submitted to the COPS Office when an agency determines that it will need to shift officer positions awarded in one hiring category into a different hiring category, reduce the total number of positions awarded, shift funds among benefit categories, and/or reduce the entry-level salary and fringe benefit amounts. For example, an agency may have been awarded CHP grant funding for ten new, additional full-time sworn officer positions, but due to severe fiscal distress/constraints, the agency determines it is unable to sustain all ten positions and must reduce its request to five full-time positions; or an agency may have been awarded CHP grant funding for two new, additional sworn officer positions, but due to fiscal distress/constraints the agency needs to change the hiring category from the new hire category to the rehire category for officers laid off or scheduled for lay-off on a specific future date post-

U. S. Department of Justice  
*Office of Community Oriented Policing Services*  
**2014 COPS Hiring Program Grant Terms and Conditions**

application. Grant modifications under CHP are evaluated on a case-by-case basis. The COPS Office will only consider a modification request after an agency makes final, approved budget and/or personnel decisions. An agency may implement the modified grant award following written approval from the COPS Office. Please be aware that the COPS Office will not approve any modification request that results in an increase of federal funds.

9. **Evaluations.** The COPS Office may conduct monitoring or sponsor national evaluations of the COPS Hiring Program. The grantee agrees to cooperate with the monitors and evaluators.
10. **Reports.** To assist the COPS Office in the monitoring of your award, your agency will be responsible for submitting quarterly programmatic progress reports and quarterly Federal Financial Reports using Standard Form 425 (SF-425).
11. **Federal Civil Rights Laws.** As a condition of receipt of federal financial assistance, you acknowledge and agree that you will not (and will require any subgrantees, contractors, successors, transferees, and assignees not to), on the ground of race, color, religion, national origin (which includes providing limited-English proficient persons meaningful access to your programs), sex, disability or age, unlawfully exclude any person from participation in, deny the benefits of, or employment to any person, or subject any person to discrimination in connection with any programs or activities funded in whole or in part with federal funds. These civil rights requirements are found in the non-discrimination provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. § 3789d); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); the Age Discrimination Act of 1975 (42 U.S.C. § 6101, et seq.); Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 et seq.); and the corresponding DOJ regulations implementing those statutes at 28 C.F.R. Part 42 (subparts C, D, E, G, and I). You also agree to comply with Executive Order 13279 Equal Treatment for Faith-Based Organizations and its implementing regulations at 28 C.F.R. Part 38, which requires equal treatment of religious organizations in the funding process and non-discrimination of beneficiaries by Faith-Based Organizations on the basis of belief or non-belief.
12. **Equal Employment Opportunity Plan (EEO Plan).** All recipients of funding from the COPS Office must comply with the federal regulations pertaining to the development and implementation of an Equal Employment Opportunity Plan (28 C.F.R. Part 42 subpart E).
13. **Grant Monitoring Activities.** Federal law requires that law enforcement agencies receiving federal funding from the COPS Office must be monitored to ensure compliance with their grant conditions and other applicable statutory regulations. The COPS Office is also interested in tracking the progress of our programs and the advancement of community policing. Both aspects of grant implementation—compliance and programmatic benefits—are part of the monitoring process coordinated by the U.S. Department of Justice. Grant monitoring activities conducted by the COPS Office include site visits, office-based grant reviews, alleged noncompliance reviews, financial and programmatic reporting, and audit resolution. As a CHP grantee, you agree to cooperate with and respond to any requests for information pertaining to your grant.
14. **Employment Eligibility.** The grantee agrees to complete and keep on file, as appropriate, a Bureau of Citizenship and Immigration Services Employment Eligibility Verification Form (I-9). This form is to be used by recipients of federal funds to verify that persons are eligible to work in the United States.
15. **Community Policing.** Community policing activities to be initiated or enhanced by your agency were identified and described in your CHP grant application. Your agency developed a community policing plan for the CHP grant with specific reference to a crime or disorder problem and the following elements of community policing: a) problem solving—your agency’s plan to assess and respond to the problem identified; b) community partnerships and support, including related governmental and community initiatives that complement your agency’s proposed use of CHP funding; and c) organizational transformation—how your agency will use the funds to reorient its mission to community policing or enhance its involvement in and commitment to community policing.
- The COPS Office defines community policing as a philosophy that promotes organizational strategies, which support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime. CHP grants must be used to initiate or enhance community policing activities. All newly hired, additional or rehired officers (or an equal number of redeployed veteran officers) funded under CHP must implement your agency’s approved community policing plan, which you described in your grant application.
16. **Community Policing Self Assessment Tool (CP-SAT).** The COPS Office will require your agency to complete the Community Policing Self Assessment Tool (CP-SAT) twice within the grant period, at the beginning and again towards the end of your grant period.
17. **Contracts With Other Jurisdictions.** Grantees that provide law enforcement services to another jurisdiction through a contract must ensure that officers funded under this grant do not service the other jurisdiction, but will only be involved in activities or perform services that exclusively benefit the grantee’s own jurisdiction.
18. **False Statements.** False statements or claims made in connection with COPS grants may result in fines, imprisonment, or debarment from participating in federal grants or contracts, and/or any other remedy available by law.
19. **Additional High-Risk Grantee Requirements.** The recipient agrees to comply with any additional requirements that may be imposed during the grant performance period if the awarding agency determines that the recipient is a high-risk grantee (28 C.F.R. Parts 66 and 70).
20. **System for Award Management (SAM) and Universal Identifier Requirements.**

The Office of Management and Budget requires federal agencies to include the following standard award term in all grants and cooperative agreements made on or after October 1, 2010:

*A. Requirement for System for Award Management (SAM) Registration*

Unless you are exempted from this requirement under 2 C.F.R. Part 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

U. S. Department of Justice  
*Office of Community Oriented Policing Services*  
**2014 COPS Hiring Program Grant Terms and Conditions**

***B. Requirement for Data Universal Numbering System (DUNS) Numbers***

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

***C. Definitions***

For purposes of this award term:

1. *System for Award Management (SAM)* means the federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site at [www.sam.gov](http://www.sam.gov).
  2. *Data Universal Numbering System (DUNS) number* means the nine- or thirteen-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866.705.5711) or the Internet at <http://fedgov.dnb.com/webform>.
  3. *Entity*, as it is used in this award term, means all of the following, as defined at 2 C.F.R. Part 25, subpart C:
    - a. A governmental organization, which is a state, local government, or Indian Tribe;
    - b. A foreign public entity;
    - c. A domestic or foreign non-profit organization;
    - d. A domestic or foreign for-profit organization; and
    - e. A federal agency, but only as a subrecipient under an award or subaward to a non-federal entity.
  4. *Subaward*:
    - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
    - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_\_\_210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
    - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
  5. *Subrecipient* means an entity that:
    - a. Receives a subaward from you under this award; and
    - b. Is accountable to you for the use of the federal funds provided by the subaward.
21. **Reporting Subaward and Executive Compensation.** The Office of Management and Budget requires federal agencies to include the following standard award term in all grants and cooperative agreements made on or after October 1, 2010:
- a. Reporting of first-tier subawards.**
1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111–5) for a subaward to an entity (see definitions in paragraph e. of this award term).
  2. *Where and when to report.*
    - i. You must report each obligating action described in paragraph a.1. of this award term to [www.fsrs.gov](http://www.fsrs.gov).
    - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
  3. *What to report.* You must report the information about each obligating action that the submission instructions posted at [www.fsrs.gov](http://www.fsrs.gov) specify.
- b. Reporting Total Compensation of Recipient Executives.**
1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
    - i. the total federal funding authorized to date under this award is \$25,000 or more;
    - ii. in the preceding fiscal year, you received—
      - (A) 80 percent or more of your annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. Part 170.320 (and subawards); and
      - (B) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. Part 170.320 (and subawards); and
    - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at [www.sec.gov/answers/excomp.htm](http://www.sec.gov/answers/excomp.htm).)
  2. *Where and when to report.* You must report executive total compensation described in paragraph b.1 of this award term:
    - i. As part of your registration profile at [www.sam.gov](http://www.sam.gov).
    - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c. Reporting of Total Compensation of Subrecipient Executives.**

U. S. Department of Justice  
*Office of Community Oriented Policing Services*  
**2014 COPS Hiring Program Grant Terms and Conditions**

1. **Applicability and what to report.** Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
  - i. in the subrecipient's preceding fiscal year, the subrecipient received—
    - (A) 80 percent or more of your annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. Part 170.320 (and subawards); and
    - (B) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. Part 170.320 (and subawards); and
  - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at [www.sec.gov/answers/excomp.htm](http://www.sec.gov/answers/excomp.htm).)
2. **Where and when to report.** You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
  - i. To the recipient.
  - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

**d. Exemptions**

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

**e. Definitions. For purposes of this award term:**

1. **Entity** means all of the following, as defined in 2 C.F.R. Part 25:
  - i. A governmental organization, which is a state, local government, or Indian Tribe;
  - ii. A foreign public entity;
  - iii. A domestic or foreign non-profit organization;
  - iv. A domestic or foreign for-profit organization;
  - v. A federal agency, but only as a subrecipient under an award or subaward to a non-federal entity.
2. **Executive** means officers, managing partners, or any other employees in management positions.
3. **Subaward:**
  - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_\_\_210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
  - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. **Subrecipient** means an entity that:
  - i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the federal funds provided by the subaward.
5. **Total compensation** means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 C.F.R. Part 229.402(c)(2)):
  - i. **Salary and bonus.**
  - ii. **Awards of stock, stock options, and stock appreciation rights.** Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - iii. **Earnings for services under non-equity incentive plans.** This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - iv. **Change in pension value.** This is the change in present value of defined benefit and actuarial pension plans.
  - v. **Above-market earnings on deferred compensation that is not tax-qualified.**
  - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
22. **Debarment and Suspension.** The recipient agrees not to award Federal funds under this program to any party which is debarred or suspended from participation in Federal assistance programs.
23. **Duplicative Funding.** The recipient understands and agrees to notify the COPS Office if it receives, from any other source, funding for the same item or service also funded under this award.
24. **Whistleblower Protection.** The recipient agrees not to discharge, demote, or otherwise discriminate against an employee as reprisal for the employee disclosing information that he/she reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. The recipient also agrees to provide to their employees in writing (in the predominant native

U. S. Department of Justice  
*Office of Community Oriented Policing Services*  
**2014 COPS Hiring Program Grant Terms and Conditions**

language of the workforce) of the rights and remedies provided in 41 U.S.C. 4712. Please see Appendix F in the Grant/Award Owner's Manual for a full text of the statute.



**Memorandum**

**COPS Hiring Program (CHP)**

**To:** Chief of Police Frank Straub  
Spokane Police Department

**Re:** COPS Hiring Program Financial Clearance Memo  
A financial analysis of budgeted costs has been completed. Costs under this award appear reasonable, allowable, and consistent with existing guidelines. Exceptions / Adjustments are noted below.

**ORI #: WA03204**

**Grant #: 2014ULWX0016**

**Total Officers Awarded: 5**

	Year 1 – Approved Costs Per Entry-level Officer	Year 2 – Approved Costs Per Entry-level Officer	Year 3 – Approved Costs Per Entry-level Officer
<b>Base Salary Information:</b>	<b>\$48,573.00</b>	<b>\$58,030.00</b>	<b>\$83,145.00</b>
<b>Fringe Benefits</b>	<b>\$26,009.31</b>	<b>\$27,974.44</b>	<b>\$30,934.40</b>
Social Security:	\$2,545.00	\$3,041.00	\$4,356.80
Medicare:	\$704.31	\$841.44	\$1,205.60
Health Insurance:	\$16,994.00	\$18,166.00	\$19,206.00
Life Insurance:	\$30.00	\$30.00	\$30.00
Vacation:	\$0.00	\$0.00	\$0.00
Sick Leave:	\$0.00	\$0.00	\$0.00
Retirement:	\$3,800.00	\$3,960.00	\$4,200.00
Worker's Compensation:	\$366.00	\$366.00	\$366.00
Unemployment Insurance:	\$70.00	\$70.00	\$70.00
Other Costs:	\$1,500.00	\$1,500.00	\$1,500.00
<b>Total Per Year:</b>	<b>\$74,582.31</b>	<b>\$86,004.44</b>	<b>\$114,079.40</b>

**Officer Costs:**

<b>Project Costs Per Officer:</b>	<b>Grand Total Project Costs:</b>
Salaries and Fringe Benefits: <b>\$274,666.00</b>	Salaries and Fringe Benefits: <b>\$1,373,331.00</b>
Federal Share: <b>\$125,000.00</b>	Federal Share: <b>\$625,000.00</b>
Applicant Share: <b>\$149,666.00</b>	Applicant Share: <b>\$748,331.00</b>

**Waiver Granted:** No

**Budget Cleared Date:** 09/28/2014

**Overall Comments:**

A financial analysis of budget costs has been completed, and this Financial Clearance Memorandum (FCM) reflects the amount of federal funds awarded to your agency for officer salaries and approved benefits. Please note that the salary and benefit costs requested in your original application may have been updated or corrected from the original version submitted to COPS. You should carefully review your FCM. The FCM contains the final officer salary and fringe benefit categories and amounts for which your agency was approved. You will note that some costs may have been adjusted or removed. Your agency may only be reimbursed for the approved cost categories that are documented within the FCM. Fringe benefits already reflected in the base salary may not be drawn down individually under Fringe Benefits.

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

11/10/2014

<b>Date Rec' d</b>	10/29/2014
<b>Clerk' s File #</b>	OPR 2014-0762
<b>Renews #</b>	

<b>Submitting Dept</b>	GRANTS MGMT & FINANCIAL ASST	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	JENNIFER 625-6091	<b>Project #</b>	
<b>Contact E-Mail</b>	JSTAPLETON@SPOKANECITY.ORG	<b>Bid #</b>	
<b>Agenda Item Type</b>	Contract Item	<b>Requisition #</b>	
<b>Agenda Item Name</b>	0680-SPOKANE REGIONAL DRUG TASK FORCE GRANT		

**Agenda Wording**

Acceptance of grant for the work of the Spokane Regional Drug Task Force. Supports salaries and benefits to collaborate with local jurisdictions in the eradication of narcotics in the region. Term 7/1/2014-12/31/2014. Total amount--\$84,832

**Summary (Background)**

The Spokane Regional Drug Task Force (SRDTF) operates in and around the City and County of Spokane. The Spokane Police Department (SPD) has maintained an on-going participation in the SRDTF by dedicating officers to the effort. Criminal cases may be prosecuted in the jurisdiction of occurrence or through the federal system. SPD's participation in the task force allows the department to participate in asset sharing that occurs from operation forfeitures and drug seizures.

<b><u>Fiscal Impact</u></b>		<b><u>Budget Account</u></b>	
Expense	\$ 84,832.00	#	0680-11210-21231-various
Revenue	\$ 19,346.00	#	0680-11210-21231-33316-68012
Revenue	\$ 5,457.00	#	0680-11210-21231-33819-68012
Revenue	\$ 60,029.00	#	0680-11210-21231-33821-68012
<b><u>Approvals</u></b>		<b><u>Council Notifications</u></b>	
<b><u>Dept Head</u></b>	STAPLETON, JENNIFER	<b><u>Study Session</u></b>	PSC-8/18/14
<b><u>Division Director</u></b>	DOLAN, PAM	<b><u>Other</u></b>	
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	jstapleton	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	slynds	
<b><u>Additional Approvals</u></b>		kwatkins	
<b><u>Purchasing</u></b>		achirowamangu	



# **AGREEMENT SPOKANE COUNTY AND CITY OF SPOKANE POLICE DEPARTMENT IN CONJUNCTION WITH SPOKANE REGIONAL DRUG TASK FORCE GRANT**

<b>1. Grantee</b> City of Spokane Spokane Police Department Public Safety Building 1100 W Mallon Spokane, WA 99201 (509) 625-4056 sllynds@spokanepolice.org		<b>2. Contract Amount</b> <div style="text-align: center;">\$ 84,832</div>	<b>3. Tax ID#</b> <div style="text-align: center;">91-6001280</div>
<b>5. Grantee Representative</b> City of Spokane Public Safety Building 1100 W. Mallon Spokane, WA 99201 (509) 625-4056 sllynds@spokanepolice.org		<b>6. County's Representative</b> Kari Grytdal Office of Financial Assistance 1116 W. Broadway Spokane, WA 99260 Phone: (509) 477-7273 kgrytdal@spokanecounty.org	
<b>7. Grantor ID</b> 290FA56-01	<b>8. Original Grant ID#</b> <div style="text-align: center;">M14-31440-016</div>	<b>9. Start Date</b> <div style="text-align: center;">07/01/14</div>	<b>10. End Date</b> <div style="text-align: center;">12/31/2014</div>
<b>11. Funding Source:</b> <div style="text-align: center;"> <input type="checkbox"/> State    <input checked="" type="checkbox"/> Federal    <input type="checkbox"/> Other - <u>Forfeiture Funds</u> </div>			
<b>12. Federal Funds</b> (as applicable) <div style="text-align: center;">\$19,346</div>	<b>CFDA #</b> <div style="text-align: center;">16.738</div>	<b>Federal Agency:</b> <div style="text-align: center;">U.S. Department of Justice</div>	
<b>13. Contractor Selection Process:</b> (check all that apply or qualify) <input checked="" type="checkbox"/> Sole Source <input checked="" type="checkbox"/> A/E Services <input type="checkbox"/> Competitive Bidding <input checked="" type="checkbox"/> Pre-approved by Funder		<b>14. Contractor Type:</b> (check all that apply) <input type="checkbox"/> Private Organization/Individual <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input type="checkbox"/> <b>VENDOR</b> <input checked="" type="checkbox"/> <b>SUBRECIPIENT</b> <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> For-Profit	
<b>15. Grant Purpose:</b> To support the Spokane Regional Drug Task Force with interdicting drugs in Spokane County.			
<b>16. COUNTY and the Grantee, as identified above, acknowledge and accept the terms of this Agreement and attachments and have executed this Agreement the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Agreement are governed by this Agreement and the following other documents incorporated by reference: (1) General Terms and Conditions, (2) Attachment "A"-Scope of Work, (3) Attachment "B" Budget, and (4) Attachment "C" Washington State Department of Commerce Justice Assistance Grant Sub-Recipient Compliance Verification</b>			
<b>FOR THE GRANTEE :</b> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>		<b>FOR COUNTY:</b> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>	
Signature Date		Signature Date	
Name		Name	

**(FACE SHEET)**

Title

Title

## **GENERAL TERMS AND CONDITIONS**

### **SECTION NO. 1: SERVICES**

**Office for Civil Rights Compliance Checklist**  
**<Jurisdiction>**



## **GENERAL TERMS AND CONDITIONS**

### **SECTION NO. 1: SERVICES**

GRANTEE shall provide those services set forth in the Scope of Work attached hereto as Attachment "A" and incorporated herein by reference.

### **SECTION NO. 2: COMPENSATION**

COUNTY shall reimburse GRANTEE an amount not to exceed the amount set forth in Attachment "B", attached hereto and incorporated herein by reference for the performance of all things necessary for or incidental to the performance of Scope of Work as set forth in Attachment "A". Grantee's reimbursement for services set forth in Attachment "A" shall be in accordance with the terms and conditions set forth in the Budget attached hereto as Attachment "B" and incorporated herein by reference. Invoices must be submitted with appropriate supporting documentation, including copies of receipts and a brief narrative on the work program performed and progress achieved and how any items purchased are being used to further the work program, as directed by the COUNTY's representative designated hereinafter. Requests for reimbursement by GRANTEE shall be made on or before the 20<sup>th</sup> of each month for the previous month's expenditures. In conjunction with each reimbursement request, GRANTEE shall certify that services to be performed under this Agreement do not duplicate any services to be charged against any other grant, subgrant, or other funding source. Requests for reimbursement should not be submitted more than monthly. December's reimbursement request must be received no later than January 10<sup>th</sup> to be allowable under grant. Reimbursement voucher is provided and required for requests for payment.

Requests for reimbursement shall be submitted electronically to:

**Celia Peterson**  
**Spokane County Sheriff's Office**  
**CPeterson@spokanesherriff.org**

**and**

**Contessa Tucker**  
**Spokane County Sheriff's Office**  
**CTucker@spokanesherriff.org**

Payment shall be considered timely if made by COUNTY within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the GRANTEE.

### **SECTION NO. 3: TERM**

The term of this Agreement shall commence as of the date on the FACE SHEET and shall terminate on the date on the FACE SHEET.

### **SECTION NO. 4: RELATIONSHIP OF THE PARTIES**

The PARTIES intend that an independent contractor relationship will be created by this Agreement. The COUNTY is interested only in the results that can be achieved and the conduct and control of set forth in Section No. 1 and described in Attachment "A" will be solely with GRANTEE. No agent, employee, servant or otherwise of GRANTEE shall be deemed to be an employee, agent, servant, or otherwise of the COUNTY for any purpose, and the employees of

GRANTEE are not entitled to any of the benefits that the COUNTY provides for COUNTY employees. GRANTEE will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, and subcontractors or otherwise, during the performance of this Agreement.

#### **SECTION NO. 5: VENUE STIPULATION**

This Agreement has and shall be construed as having been made and delivered in the State of Washington and the laws of the State of Washington shall be applicable to its construction and enforcement. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provision hereto shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.

#### **SECTION NO. 6: COMPLIANCE WITH LAWS**

The PARTIES specifically agree to observe all federal, state and local laws, ordinances and regulations and policies to the extent that they may have any bearing on meeting their respective obligations under the terms of this Agreement, including, but not limited to those set forth in Attachment “C” and the following:

- A. Audits – Office of Management and Budget (OMB) Revised Circular A-133 “Audits of States, Local Governments, and Non-Profit Organizations.” Office of Management and Budget Circulars – Cost Principles for State, Local and Indian Tribe Governments, OMB Circular A-87, 2 CFR, Part 225; Cost Principles for Nonprofit Organizations, OMB Circular A-122 (if the Grantee is a nonprofit organization); Grants and Cooperative Agreements with State and Local Governments, OMB Circular A-102 (if the Grantee is a local government or federally recognized Indian tribal government); Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations, OMB Circular A-110.
- B. Labor and Safety Standards – Convict Labor 18 U.S.C. 751, 752, 4081, 4082; Drug-Free Workplace Act of 1988, 41 USC 701 et seq.; Federal Fair Labor Standards Act 29 U.S.C. 201 et seq.; Work Hours and Safety Act of 1962 40 U.S.C. 327-330 and Department of Labor Regulations, 29 CFR Part 5.
- C. Laws Against Discrimination – Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101-07, 45 CFR Part 90 Nondiscrimination in Federally Assisted Programs; Americans with Disabilities Act of 1990 Public Law 101-336; Equal Employment Opportunity, Executive Order 11246, as amended by Executive Order 11375 and supplemented in U.S. Department of Labor Regulations, 41 CFR Chapter 60; Executive Order 11246, as amended by EO 11375, 11478, 12086 and 12102; Handicapped Employees of Government Contractors, Rehabilitation Act of 1973, Section 503, 29 U.S.C. 794; Handicapped Recipients of Federal Financial Assistance, Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794; Minority Business Enterprises, Executive Order 11625, 15 U.S.C. 631; Minority Business Enterprise Development, Executive Order 12432, 48 CFR 32551; Nondiscrimination and Equal Opportunity, 24 CFR 5.105(a); Nondiscrimination in benefits, Title VI of the Civil Rights Act of 1964, Public Law

88-352; Nondiscrimination in Federally Assisted Construction Contracts, Executive Order 11246, 42 U.S.C. 2000e, as amended by Executive Order 11375, 41 CFR Chapter 60; Section 3, Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (See 24 CFR 570.607(b))

D. Other – Anti-Kickback Act, 18 U.S.C. 874; 40 U.S.C. 276b, 276c; 41 U.S.C. 51-54; Governmental Guidance for New Restrictions on Lobbying; Match Political Activity Act, 5 U.S.C. 1501-8; Internal Revenue Service Rules, August 31, 1990; Lobbying and Disclosure, 42 U.S.C. 3537a and 3545 and 31 U.S.C. 1352 (Byrd Anti-Lobbying Amendment); Non-Supplanting Federal Funds; Section 3 Housing Assistance Payments Program

E. Privacy – Privacy Act of 1974, 5 U.S.C. 552a

### **Washington State Laws and Regulations**

- A. Affirmative action, RCW 41.06.020 (11)
- B. Boards of directors or officers of non-profit corporations – Liability – Limitations, RCW 4.24.264
- C. Disclosure-campaign finances-lobbying, Chapter 42.17 RCW
- D. Discrimination-human rights commission, Chapter 49.60 RCW
- E. Ethics in public service, Chapter 42.52 RCW
- F. Office of minority and women's business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC
- G. Open public meetings act, Chapter 42.30 RCW
- H. Public records act, Chapter 42.56 RCW
- I. State budgeting, accounting, and reporting system, Chapter 43.88 RCW

### **SECTION NO. 7: TERMINATION FOR CAUSE / SUSPENSION**

In the event COUNTY determines that the GRANTEE failed to comply with any term or condition of this Agreement, COUNTY may terminate the Agreement in whole or in part upon written notice to the GRANTEE. Such termination shall be deemed "Termination for Cause." Termination shall take effect on the date specified in the notice.

In the alternative, COUNTY upon written notice may allow the GRANTEE a specific period of time in which to correct the non-compliance. During the corrective-action time period, COUNTY may suspend further payment to the GRANTEE in whole or in part, or may restrict the GRANTEE's right to perform duties under this Agreement. Failure by the GRANTEE to take timely corrective action shall allow COUNTY to terminate the Agreement upon written notice to the GRANTEE.

"Termination for Cause" shall be deemed a "Termination for Convenience" when COUNTY determines that the GRANTEE did not fail to comply with the terms of the Agreement or when COUNTY determines the failure was not caused by the GRANTEE's actions or negligence.

If the Agreement is terminated for cause, the GRANTEE shall be liable for damages as authorized by law, including, but not limited to, any cost difference between the original Agreement and the replacement Agreement, as well as all costs associated with entering into the replacement

Agreement (i.e., competitive bidding, mailing, advertising, and staff time).

#### **SECTION NO. 8. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Agreement, COUNTY may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part. If this Agreement is so terminated, the COUNTY shall be liable only for payment required under the terms of this Agreement for services rendered prior to the effective date of termination.

#### **SECTION NO. 9: TERMINATION PROCEDURES**

After receipt of a Notice of Termination, except as otherwise directed by COUNTY, the GRANTEE shall:

- A. Stop work under the Agreement on the date, and to the extent specified, in the notice;
- B. Place no further orders for materials, services, or facilities related to the Agreement;
- C. Assign to COUNTY all of the rights, title, and interest of the GRANTEE under the orders and subcontracts so terminated, in which case COUNTY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts. Any attempt by the GRANTEE to settle such claims must have the prior written approval of COUNTY; and
- D. Preserve and transfer any materials, Agreement deliverables and/or COUNTY property in the GRANTEE'S possession as directed by COUNTY.

Upon termination of the Agreement, COUNTY shall pay the GRANTEE for any service provided by the GRANTEE under the Agreement prior to the date of termination. COUNTY may withhold any amount due as COUNTY reasonably determines is necessary to protect COUNTY against potential loss or liability resulting from the termination. COUNTY shall pay any withheld amount to the GRANTEE if COUNTY later determines that loss or liability will not occur.

The rights and remedies of COUNTY under this Section are in addition to any other rights and remedies provided under this Agreement or otherwise provided under law. Provided, further, in the event that the GRANTEE fails to perform this Agreement in accordance with state laws, federal laws, and/or the provisions of this Agreement, COUNTY reserves the right to recapture funds in an amount to compensate COUNTY for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the GRANTEE of funds under this recapture provision shall occur within the time period specified by COUNTY. In the alternative, COUNTY may recapture such funds from payments due under this Agreement.

#### **SECTION NO. 10: COUNTY REPRESENTATIVE**

The COUNTY hereby appoints and GRANTEE hereby accepts the COUNTY'S representative or her designee as identified on the FACE SHEET as the COUNTY'S liaison for the purpose of administering this Agreement. GRANTEE hereby appoints and COUNTY hereby accepts

GRANTEE's representative or his/her designee as identified on the FACE SHEET as GRANTEE's liaison for the purpose of administering this Agreement.

#### **SECTION NO. 11: NOTICES**

Except as provided to the contrary herein, all notices or other communications given hereunder shall be deemed given on: (i) the day such notices or other communications are received when sent by personal delivery; or (ii) the third day following the day on which the same have been mailed by first class delivery, postage prepaid addressed to the COUNTY or GRANTEE at the address set forth on the FACE SHEET for such party, or at such other address as either party shall from time-to-time designate by notice in writing to the other Party.

#### **SECTION NO. 12: HEADINGS**

The Section headings in this Agreement have been inserted solely for the purpose of convenience and ready-reference. In no way do they purport to, and shall not be deemed to, define, limit or extend the scope or intent of the Sections to which they appertain.

#### **SECTION NO. 13: NON-DISCRIMINATION**

The PARTIES hereto specifically agree that no person shall, on the grounds of race, creed, color, sex, sexual orientation, national origin, marital status, age or the presence of any sensory, mental, or physical disability or Vietnam era or disabled veterans status be excluded from full employment rights and participation in, or be denied the benefits of, or be otherwise subject to, discrimination in conjunction with any Services which GRANTEE will receive payment under the provisions of this Agreement.

#### **SECTION NO. 14: MODIFICATION**

No modification or amendment of this Agreement shall be valid until the same is reduced to writing and executed with the same formalities as this present Agreement.

#### **SECTION NO. 15: WAIVER**

No officer, employee, agent or otherwise of the COUNTY has the power, right or authority to waive any of the conditions or provisions to this Agreement. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement or at law, shall be taken and construed as cumulative that is, in addition to every other remedy provided herein or by law. Failure of the COUNTY to enforce at any time any of the provisions of this Agreement, or to require at any time performance by GRANTEE of any provision hereof, shall in no way be construed to be a waiver of such provisions, nor in any way effect the validity of this Agreement of any part hereof, or the right of the COUNTY to hereafter enforce each and every such provision.

#### **SECTION NO. 16: INDEMNIFICATION**



To the fullest extent permitted by law, GRANTEE shall indemnify, defend, and hold harmless the COUNTY, its officers, agents and employees, from and against all claims, demands, suits in law or equity arising from the GRANTEE's intentional or negligent acts or breach of its obligations under this Agreement and/or damages for injuries or death to persons or property damages arising out of or incident to the GRANTEE's performance or failure to perform under the Agreement. The GRANTEE's obligation to indemnify, defend, and hold harmless includes any claim by the GRANTEE's agents, employees, representatives, or any Subcontractor, or its agents, employees, or representatives. The Grantee's obligation to indemnify, defend, and hold harmless shall be eliminated by any actual or alleged concurrent negligence of the COUNTY or its agents, agencies, employees and officers.

Subcontracts shall include a comprehensive indemnification clause holding harmless the GRANTEE and COUNTY and its officers, employees and authorized agents.

#### **SECTION NO. 17: MAINTENANCE OF RECORDS**

At no additional cost, GRANTEE shall make available to the COUNTY, Washington State Auditor, federal and state officials so authorized by law, or their duly authorized representatives at any time during their normal operating hours, all records, books or pertinent information which the COUNTY may be required by law to make part of its auditing procedures, an audit trail, or which may be required for the purpose of funding the Services contracted for herein. The GRANTEE shall provide access to its facilities for this purpose.

#### **SECTION NO. 18: ALL WRITINGS CONTAINED HEREIN**

This Agreement contains all the terms and conditions agreed upon by the PARTIES. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the PARTIES hereto. GRANTEE has read and understands all of this Agreement and now states that no representation, promise or condition not expressed in this Agreement has been made to induce GRANTEE to execute the same.

#### **SECTION NO. 19: SEVERABILITY**

It is understood and agreed between the PARTIES that if any parts, terms or provisions of this Agreement are held by the courts to be illegal, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the PARTIES shall not be affected in regard to the remainder of the Agreement. If it should appear that any part, term or provision of this Agreement is in conflict with any statutory provisions of the State of Washington, then the part, term or provision thereof that may be in conflict shall be deemed inoperative and null and void insofar as it may be in conflict therewith and this Agreement shall be deemed modify to conform to such statutory provision.

#### **SECTION NO. 20: EXECUTION AND APPROVAL**

The PARTIES warrant that the officers/individuals executing below have been duly authorized to act for and on behalf of the party for purposes of confirming this Agreement.

## **SECTION NO. 21: COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.

## **SECTION NO. 22: DISPUTE RESOLUTION**

Any dispute between the PARTIES which cannot be resolved between the PARTIES shall be subject to arbitration. Except as provided for to the contrary herein, such dispute shall first be reduced to writing. If the COUNTY and GRANTEE representatives cannot resolve the dispute it will be submitted to arbitration. The provisions of chapter 7.04A RCW shall be applicable to any arbitration proceeding.

The COUNTY and the GRANTEE shall have the right to designate one person each to act as an arbitrator. The two selected arbitrators shall then jointly select a third arbitrator. The decision of the arbitration panel shall be binding on the PARTIES and shall be subject to judicial review as provided for in chapter 7.04A RCW.

The costs of the arbitration panel shall be equally split between the PARTIES.

## **SECTION NO. 23: NO THIRD PARTY BENEFICIARIES**

Nothing in this Agreement is intended to give, or shall give, whether directly or indirectly, any benefit or right, greater than that enjoyed by the general public, to third persons.

## **SECTION NO. 24: SURVIVAL**

Any Sections of this Agreement which, by their sense and context, are intended to survive shall survive the termination of this Agreement.

## **SECTION NO. 25: INSURANCE**

GRANTEE shall furnish and maintain all insurance as required herein and comply with all limits, terms and conditions stipulated therein, at its expense, for the duration of the Agreement. The following is a list of the required Agreement coverage requirements:

**GENERAL LIABILITY INSURANCE:** GRANTEE shall have Commercial General Liability with limits of \$1,000,000.00 per occurrence, which includes general aggregate, products, completed operation, personal injury, fire damage and \$5,000.00 medical expense.

**ADDITIONAL INSURED ENDORSEMENT:** General Liability Insurance must state that COUNTY, its officers, agents and employees, and any other entity specifically required by the provisions of this Agreement will be specifically named additional insured(s) for all coverage provided by this policy of insurance and shall be fully and completely protected by this policy from all claims. Language such as the following should be used: "Spokane County, its officers, agents and employees are named as an additional insured with respect to the 2014 Agreement between the COUNTY and GRANTEE."

WORKERS COMPENSATION: If GRANTEE has employees, it shall show proof of Worker's Compensation coverage by providing its State Industrial Account Identification Number. Provision of this number will be the GRANTEE's assurance that coverage is in effect.

PROFESSIONAL LIABILITY INSURANCE: GRANTEE shall provide errors & omissions coverage in the form of Professional liability insurance coverage in the minimum amount of \$1,000,000.00.

Any exclusion of the Agreement's insurance coverage requirements must be pre-approved by the Spokane County Risk Management Department. Services under this Agreement shall not commence until evidence of all required insurance and bonding is provided to the COUNTY. GRANTEE's insurer shall have a minimum A.M. Best's rating of A-VII and shall be licensed to do business in the State of Washington. Evidence of such insurance shall consist of a completed copy of the certificate of insurance, signed by the insurance agent for GRANTEE and returned to the Spokane County Risk Manager. The insurance policy or policies will not be canceled, materially changed or altered without forty-five (45) days prior notice submitted to the COUNTY. The policy shall be endorsed and the certificate shall reflect that the COUNTY is named as an additional insured on the GRANTEE's general liability policy with respect to activities under the Agreement. The policy shall provide and the certificate shall reflect that the insurance afforded applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.

The policy shall be endorsed and the certificate shall reflect that the insurance afforded therein shall be primary insurance and any insurance or self-insurance carried by the COUNTY shall be excess and not contributory insurance to that provided by the GRANTEE.

GRANTEE shall not commence providing services until a Certificate of Insurance, meeting the requirements set forth herein, has been approved by the Spokane County Risk Management Department. Said proof of insurance should be mailed to the Risk Management Department: "Attention Agreement Between Spokane County and City of Spokane Police Department in Conjunction With Spokane Regional Drug Task Force Grant". Upon request, GRANTEE shall forward to the Risk Management Department the original policy, or endorsement obtained.

Failure of GRANTEE to fully comply with the insurance requirements set forth herein, during the term of the Agreement, shall be considered a material breach of contract and cause for immediate termination of the Agreement at the COUNTY's discretion.

Providing coverage in the above amounts shall not be construed to relieve the GRANTEE from liability in excess of such amounts.

#### **SECTION NO. 26: SUBCONTRACTORS**

GRANTEE shall seek and whenever appropriate will receive approval from the COUNTY for all subcontracts under this Agreement. All subcontractors employed or used by GRANTEE to provide the services under the terms of this Agreement agree to comply with Section Nos. 5, 16, 25, 29, and 31 of this Agreement. GRANTEE shall notify the COUNTY's representative of any subcontractor and certify that the subcontractor has been advised of the above provisions and has satisfied the Insurance provisions prior to providing any subcontracting services.

## **SECTION 27: ASSIGNMENT**

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the GRANTEE without prior written consent of COUNTY.

## **SECTION 28: ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Agreement, in the event of litigation or other action brought to enforce the terms of the Agreement, each party agrees to bear its own attorneys' fees and costs.

## **SECTION NO. 29: RECORDS MAINTENANCE**

The GRANTEE shall maintain all books, records, documents, data and other evidence relating to this Agreement and performance of the Services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. GRANTEE shall retain such records for a period of six years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

## **SECTION NO. 30: SAVINGS**

In the event funding from state, federal, or other sources which is the source of funding by the COUNTY for this Agreement is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to normal completion, COUNTY may terminate the Agreement under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Agreement may be amended to reflect the new funding limitations and conditions.

## **SECTION NO. 31: PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS**

A GRANTEE which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with OMB Circulars A-102, Uniform Administrative Requirements for Grants in Aid for State and Local Governments, for all purchases funded by Federal funds under this Agreement

A GRANTEE which is a nonprofit organization shall establish procurement policies in accordance with OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Nonprofit Agencies, for all purchases funded by this Agreement.

The GRANTEE'S procurement system should include at least the following:

1. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of Grants using federal funds.
2. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.

3. Minimum procedural requirements, as follows:

- a. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
- b. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
- c. Positive efforts shall be made to use small and minority-owned businesses.
- d. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Grantee, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
- e. Subgrants shall be made only with reasonable Subgrantees who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
- f. Some form of price or cost analysis should be performed in connection with every procurement action.
- g. Procurement records and files for purchases shall include all of the following:
  - 1) GRANTEE'S selection or rejection.
  - 2) The basis for the cost or price.
  - 3) Justification for lack of competitive bids if offers are not obtained.
- h. A system for Grant administration to ensure GRANTEE conformance with terms, conditions and specifications of this Grant, and to ensure adequate and timely follow-up of all purchases.

**SECTION NO. 32: SOLE SOURCE**

GRANTEE and Subgrantees must receive prior approval from COUNTY for using funds from this Grant to enter into a sole source Grant or a Grant where only one bid or proposal is received when value of this Grant is expected to exceed \$5,000.

Prior approval requests shall include a copy of proposed Grants and any related procurement documents and justification for non-competitive procurement, if applicable.

**SECTION NO. 33: AUDIT**

**A. General Requirements**

GRANTEE shall procure audit services based on the following guidelines.

The GRANTEE shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subcontractors also maintain auditable records.

The GRANTEE is responsible for any audit exceptions incurred by its own organization or that of its Subcontractors.

COUNTY reserves the right to recover from the GRANTEE all disallowed costs resulting from the audit.

As applicable, GRANTEE's requirement to have an audit must ensure the audits are performed in accordance with Generally Accepted Auditing Standards (GAAS); Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General.

Responses to any unresolved management findings and disallowed or questioned costs shall be

included with the audit report. The GRANTEE must respond to COUNTY requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

#### **B. State Funds Requirements**

If GRANTEE expends \$100,000 or more in total state funds in a fiscal year, it must have a financial audit as defined by Government Auditing Standards (The Revised Yellow Book) and according to Generally Accepted Auditing Standards (GAAS). The Schedule of State Financial Assistance must be included. The schedule includes:

Grantor agency name

State program name

BARS account number

Grantor

Agreement number

Agreement award amount including amendments (total grant award)

Beginning balance

Current year revenues

Current year expenditures

Ending balance

Program total

If the GRANTEE is a state or local government entity, the Office of the State Auditor shall conduct the audit.

The GRANTEE shall include the above audit requirements in any subcontracts.

In any case, the GRANTEE's financial records must be available for review by COUNTY and the Washington State Department of Commerce.

#### **C. Documentation Requirements**

GRANTEE must send a copy of the audit report described above no later than sixty (60) days after the completion of the audit to GRANTEE representative identified in Section No. 2 COMPENSATION.

In addition to sending a copy of the audit, when applicable, GRANTEE must include:

- Corrective action plan for auditing findings within three (3) months of the audit being received by COUNTY.
- Copy of the Management Letter.

If GRANTEE is required to obtain a Single Audit because of Circular A-133 requirements, no other report is required.

### **SECTION NO. 34: CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

A. "Confidential Information" as used in this section includes:

1. All material provided to the GRANTEE by COUNTY that is designated as "confidential" by COUNTY;
2. All material produced by the GRANTEE that is designated as "confidential" by COUNTY; and
3. All personal information in the possession of the GRANTEE that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The GRANTEE shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The GRANTEE shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COUNTY or as may be required by law. The GRANTEE shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the GRANTEE shall provide COUNTY with its policies and procedures on confidentiality. COUNTY may require changes to such policies and procedures as they apply to this Grant whenever COUNTY reasonably determines that changes are necessary to prevent unauthorized disclosures. The GRANTEE shall make the changes within the time period specified by COUNTY. Upon request, the GRANTEE shall immediately return to COUNTY any Confidential Information that COUNTY reasonably determines has not been adequately protected by the GRANTEE against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The GRANTEE shall notify COUNTY within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

### **SECTION NO. 35: COPYRIGHT PROVISIONS**

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COUNTY. COUNTY shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the GRANTEE hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COUNTY effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the GRANTEE hereby grants to COUNTY a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to

translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The GRANTEE warrants and represents that the GRANTEE has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COUNTY.

The GRANTEE shall exert all reasonable effort to advise COUNTY, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The GRANTEE shall provide COUNTY with prompt written notice of each notice or claim of infringement received by the GRANTEE with respect to any Materials delivered under this Grant. COUNTY shall have the right to modify or remove any restrictive markings placed upon the Materials by the GRANTEE.

### **SECTION NO. 36: REPORTING**

The GRANTEE shall maintain statistics and provide quarterly information as related to the Task Force on activities or the work program performed to the Task Force Supervisor, or his designee due five (5) days after the end of each quarter (i.e. reporting period July 1 through September 30, due on October 5<sup>th</sup>) for inclusion into Department of Commerce report.

### **SECTION NO. 37: MISC**

- GRANTEE shall comply with all applicable state or federal laws related to ethics or conflicts of interest in providing Services under this Agreement.
- GRANTEE shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary in conjunction with providing Services under this Agreement.
- No funds may be used under this Agreement for or against ballot measures or for or against the candidacy of any person for public office.
- The funds provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the Grant which is the basis of funding this Agreement or any other approval or concurrence under this Agreement. Provided, however, that reasonable fees for bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as costs.
- GRANTEE agrees not to publish or use any advertising or publicity materials with regard to its Services under this Agreement without the approval of the COUNTY.

### **SECTION NO. 38: SPECIAL PROVISIONS**

Attached hereto as Attachment “C” and incorporated herein by reference is the Washington State Department of Commerce Justice Assistance Grant Sub-Recipient Compliance Verification” which is applicable to this Agreement.



**SECTION NO. 39: ORDER OF PRECEDENCE:**

In the event on an inconsistency between the provisions in Agreement, the inconsistency shall be resolved by giving precedence in the following order:

- 1) Applicable federal and state of Washington statutes and regulations
- 2) Face Sheet
- 3) Attachment "A"-Scope of Work
- 4) Attachment "B"-Budget
- 5) Attachment "C" Washington State Department of Commerce Justice  
Assistance Grant Sub-Recipient Compliance Verification

## **ATTACHMENT “A”**

### **Scope of Work**

The GRANTEE shall perform all things necessary to implement the Multi-Jurisdictional Narcotics Task Force Program of the Spokane Regional Drug Task Force (Task Force) during the time frame of **July 1, 2014 through December 31, 2014**.

GRANTEE shall maintain statistics necessary for reporting activities as required by the Task Force.

GRANTEE shall designate a representative to attend Task Force meetings and shall participate in coordination of Task Force Programs.

Grantee will be reimbursed for the associated salary and benefits of the law enforcement officers in the amount defined in the approved Budget, Attachment “B”. The Grantee will be reimbursed for associated overtime for the two assigned full-time law enforcement officers not to exceed two thousand dollars (\$2,000) during the performance period of **July 1, 2014 through December 31, 2014**.

Grantee shall provide Time and Effort Certification for personnel funded under this grant Agreement by January 31, 2015 for the performance period of the Agreement.

## **ATTACHMENT “B”**

## Budget

<u>Funding Category</u>	<u>Amount</u>
<b><u>July 1, 2014 through December 31, 2014</u></b>	
Justice Assistance Grant – CFDA 16.738	\$ 19,346
State General Funds	\$ 5,457
• Salaries & Benefits	
• J. Pence – July 1 – August 2, 2014	
• B. Brannon – July 1 – September 28, 2014	
• K. Langford – September 1 – December 31, 2014	
• D. Presta – September 1 – December 31, 2014	
Local Forfeiture Funds	
• Salaries & Benefits	\$ 58,029
• J. Pence – July 1 – August 2, 2014	
• B. Brannon – July 1 – September 28, 2014	
• K. Langford – September 1 – December 31, 2014	
• D. Presta – September 1 – December 31, 2014	
Overtime	\$ 2,000
<b>Total Budget</b>	<b>\$84,832</b>

### **Budget Conditions:**

Sequence of expenditures against grant funds, and reimbursement of those expenditures, as follows:

- Grant funds shall be disbursed first.
- State General Funds awarded under this Agreement shall be disbursed at a rate proportionate to the total federal funds disbursed.
- Local Forfeiture Funds shall be disbursed once grants funds have been expended.

Approved expenditures for the performance of Services as set forth in Attachment “A” (Scope of Work) must be itemized into the following categories: salary and benefits, including overtime. Any amendments to the budget must be made in writing and approved by the COUNTY representative.

Payment will be on a reimbursement basis only.

### ***ALLOWABLE COSTS***

Allowable uses of federal grant funds include, but are not limited to, the following as they relate to the coordination and implementation of activities performed under the goal(s), objectives, and activities of the grant as described on Attachment A of the Grant, including:

- Operating costs, including:
  - Approved personnel costs (salaries and benefits).
  - Overtime

## ***UNALLOWABLE COSTS***

Unallowable uses of federal grant funds include:

- Food, beverages or other refreshments for meetings, conferences, or training (prohibition does not include standard per diem when otherwise authorized)
- Vehicles, vessels, and aircraft
- Construction
- Land acquisition
- Automatic and military grade weapons
- Victim compensation (direct payment)
- Losses arising from uncollected accounts
- Contributions to a contingency reserve
- Contributions or donations
- Entertainment
- Fines and penalties
- Interest and other financial costs
- Consultant fees (above a reasonable and consistent rate for similar services, and/or above \$450 for an eight-hour day—excluding travel and per diem)

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Initialed for Confirmation of Budget &  
Allowable/Unallowable Costs

<b>AGENCY NAME</b>
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Spokane Regional Drug Task Force  
Po Box 19163  
Spokane, WA 99219

**CLAIMANT (Warrant is to be payable to)**

(please fill in your department's mailing address)  
City of Spokane

BY

(SIGN IN INK)

(TITLE)

(DATE)

FEDERAL I.D. NO. OR SOCIAL SECURITY NO. (For reporting Personal Services Contract Payments to I.R.S.)

RECEIVED BY

DATE RECEIVED

DATE	DESCRIPTION	AMOUNT BILLED



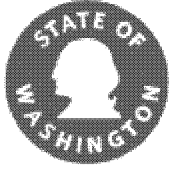
**Spokane County**

**INVOICE VOUCHER**

Subrecipient Number	Award Number	Award Name

*INSTRUCTIONS TO CLAIMANT: Submit this form to claim payment for materials, merchandise or services. Show complete detail for each item.*

**ATTACHMENT "C"**



**Department of Commerce**  
Innovation is in our nature.

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# **Justice Assistance Grant**

## **Sub-Recipient Compliance Verification**

**Note: Receipt of a completed  
Sub-Recipient Verification Package  
is required before reimbursement of  
any of that sub-recipient's expenses**

**STATE OF WASHINGTON JUSTICE ASSISTANCE GRANT  
DEPARTMENT OF COMMERCE**

**STATEMENT OF ASSURANCES**

The GRANTEE:

1. Has sufficient fiscal and management controls to implement and maintain the program in accordance with this application and program requirements. The GRANTEE has sufficient monetary resources to implement and maintain program operations in accordance with this application.
2. Will not use any grant funds to supplant local funds, but will use such grant funds to increase the amounts of funds that would, in the absence of federal funds, be made available for program activities.
3. Will provide full cooperation of administrative and program staff, and will provide availability of all records upon request and convenience of staff from the Department of Commerce; Office of the State Auditor; or U.S. Department of Justice, who are charged with monitoring program compliance and the use of funds provided.
4. Will comply with the requirements of the Justice Assistance Grant Program as published by the Department of Commerce and relevant federal agencies, and as embodied in statute.
5. Will comply with Title V of the Anti-Drug Abuse Act of 1988 and regulations promulgated by the federal government to maintain a drug-free workplace.
6. Will comply with Title II of the Americans with Disabilities Act of 1990.
7. Will not undertake any prohibited political activities with these funds including, but not limited to, voter registration; partisan political activity; lobbying congress, the Legislature, or any federal or state agency for project of jurisdictionally specific activity; or campaign for any ballot measure.
8. Will comply with the provisions of Title 28, Code of Federal Regulations; Part 61, Procedures for Implementing the National Environmental Policy Act; and Part 63, Floodplain Management and Wetland Protection Procedures.
9. Guarantees that in performing any contract, purchase, or other agreement, the organization shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, marital status, national origin, political affiliation, or the presence of any sensory, mental, or physical disability. The organization agrees to take affirmative action to ensure that applicants are employed and that employees are treated during the employment without discrimination because of their race, color, religion, age, sex, political affiliation, handicap or national origin. Such action shall include, but not be limited to, employment upgrading, demotion or transfer, recruitment and recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and training. This guarantee shall implement federal, state, and any local equal opportunity and non-discrimination statutes. The GRANTEE further will, without delay, bring any finding of an equal opportunity or non-discrimination violation to the attention of the Department of Commerce.

**Authorized Signature for the Applicant:**

SIGNATURE

VALID THROUGH

DATE

PRINTED NAME OF SIGNATURE

TITLE



**STATE OF WASHINGTON  
DEPARTMENT OF COMMERCE**

**JUSTICE ASSISTANCE GRANT**

U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS  
OFFICE OF THE COMPTROLLER

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**Certification Regarding  
Debarment, Suspension, Ineligibility and Voluntary Exclusion  
Lower Tier Covered Transactions  
(Sub-Recipient)**

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211).

- (1) The prospective lower tier participant certifies by submission of this proposal that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Name and Title of Authorized Representative

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Signature

---

Date

---

Valid Through

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Name of Organization

---

Address of Organization

**STATE OF WASHINGTON JUSTICE ASSISTANCE GRANT**

U.S. DEPARTMENT OF JUSTICE OFFICE OF JUSTICE PROGRAMS OFFICE OF THE COMPTROLLER	
<b>Certification Regarding Lobbying, Debarment, Suspension And Other Responsibility Matters; And Drug-Free Workplace Requirements</b>	
Grantees should refer to the regulations cited below to determine the certification to which they are required to attest. Grantees should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.	
<b>1. Lobbying</b> As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the Grantee certifies that: A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement; B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions; C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.	(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(B) of this certification; and (d) Have not within a three-year period preceding this grant award had one or more public transactions (Federal, State, or local) terminated for cause or default; and B. Where the Grantee is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application
<b>2. Debarment, Suspension, and Other Responsibility Matters (Direct Recipient)</b> <b>As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510 –</b> A. The Grantee certifies that it and its principals: (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;	<b>3. Drug-Free Workplace (Grantees Other Than Individuals As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67, Sections 67.615 and 67.620—</b> A. The Grantee certifies that it will or will continue to provide a drug-free workplace by: (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition; (b) Establishing an on-going drug-free awareness program to inform employees about— (1) The dangers of drug abuse in the workplace;

- (2) The Grantee's policy of maintaining a drug-free workplace.
- (3) Any available drug counseling, rehabilitation, and employee (WASHINGTON); and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency, in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs,  
Attn: Control Desk, 633 Indiana Avenue NW,  
Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
  - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or

- local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

- B. The Grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:  
Place of performance (street address, city, county, state, zip code):

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Check ☐ if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a Grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

#### **Drug-Free Workplace (Grantees Who Are Individuals)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

- A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and
- B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within ten calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue NW, Washington, DC 20531.

*As the duly authorized representative of the applicant, I hereby certify that the Grantee will comply with the above certifications.*

- 1. Grantee Name and Address:
- 2. Grant Number and/or Project Name:
- 3. Grantee IRS/Vendor Number
- 4. Typed Name and Title of Authorized Representative:
- 5. Valid Through Date:
- 6. Signature:
- 7. Execution Date:

**STATE OF WASHINGTON JUSTICE ASSISTANCE GRANT  
DEPARTMENT OF COMMERCE  
NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

The following information is required from each federal grant recipient. The Department of Commerce will consolidate all responses and submit a consolidated response to the U.S. Department of Justice.

Please check one of the blanks to the left of each item below to indicate whether or not the activity described is being undertaken to support or facilitate the federally funded activity by the grant recipient or any other party.

(Note<sup>1</sup>—the source of funds utilized is irrelevant to your response.)

(Note<sup>2</sup>—if the activity is being undertaken without regard to the presence or operation of a federally funded activity, the item should not be checked.)

Yes  
Activity    N/A

- |                          |                          |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | 1. New Construction  |
| <input type="checkbox"/> | <input type="checkbox"/> | 2. Minor renovation or remodeling of a property either:                                      |
| <input type="checkbox"/> | <input type="checkbox"/> | a. listed or eligible for listing on the National Register of Historical Places              |
| <input type="checkbox"/> | <input type="checkbox"/> | b. located within a 100-year flood plain   |
| <input type="checkbox"/> | <input type="checkbox"/> | 3. Renovation, lease or any proposed use of a building or facility that will either:         |
| <input type="checkbox"/> | <input type="checkbox"/> | a. result in a change in its basic prior use (between industrial, office, residential, etc.) |
| <input type="checkbox"/> | <input type="checkbox"/> | b. significantly changes its size (total structure, not program's portion thereof)           |
| <input type="checkbox"/> | <input type="checkbox"/> | 4. Implementation of a new program involving use of chemicals other than:                    |
| <input type="checkbox"/> | <input type="checkbox"/> | a. chemicals purchased as an incidental component of the funded activity                     |
| <input type="checkbox"/> | <input type="checkbox"/> | b. traditionally used (e.g., for office, household, recreational, educational environments)  |

If any item above is checked, a clarification of the activity may be requested.

Response is made related to the following Justice Assistance Grant funded program/project:

Project: \_\_\_\_\_

Certificate Valid Through (max of 2 years)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Typed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Representing:

**STATE OF WASHINGTON JUSTICE ASSISTANCE GRANT  
DEPARTMENT OF COMMERCE**

**ACKNOWLEDGEMENT OF FEDERAL FUNDS**

The recipient shall submit to the Department of Commerce, for re-submission to the Bureau of Justice Assistance, one copy of all reports and proposed publications resulting from this grant twenty (20) days prior to public release. Any written, visual, or audio publications, with the exception of press releases, whether published at the grantee's or government's expense, shall contain the following statements:

“This project was supported by Grant No. 2011-DJ-BX-2090 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the United States Department of Justice’ Office of Justice Programs, which also includes the National Institute of Justice, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the United States Department of Justice. Grant funds are administered by the Public Safety Unit, Community Services and Housing Division, Washington State Department of Commerce”

The undersigned agrees to the above requirements.

\_\_\_\_\_  
\_\_\_\_\_  
Signature

Printed Name

Certificate Valid Through  
(Max of two years)

\_\_\_\_\_  
Name of applicant organization

**STATE OF WASHINGTON JUSTICE ASSISTANCE GRANT  
DEPARTMENT OF COMMERCE**

**ACKNOWLEDGEMENT OF ALLOWABLE AND UNALLOWABLE COSTS**

**ALLOWABLE COSTS**

Allowable uses of federal grant funds include, but are not limited to, the following as they relate to the coordination and implementation of activities performed under the goal(s), objectives, and activities of the grant as described on Attachment B of the Grant, including:

- Operating costs, including:
  - Approved costs of personnel (salaries and benefits, and/or overtime).
  - Overtime
  - Costs reflected in the project budget proposal (such as training fees, printing, supplies, or contractual services).
- Procurement and installation of equipment (limitations may apply for high dollar items)
- Space and utilities, to the extent utilized for the approved project.
- Travel, per diem, and lodging at the federally approved rates.
- Printing and duplication of written and visual materials.

**UNALLOWABLE COSTS**

Unallowable uses of federal grant funds include:

- Food, beverages or other refreshments for meetings, conferences or training (prohibition does not include standard per diem when otherwise authorized)
- Body armor/protective vests
- Vehicles, vessels, and aircraft
- Construction
- Land acquisition
- Automatic and military grade weapons
- Victim compensation (direct payment)
- Losses arising from uncollected accounts
- Contributions to a contingency reserve
- Contributions or donations
- Entertainment
- Fines and penalties
- Interest and other financial costs
- Consultant Fees (above a reasonable and consistent rate for similar services, and/or above \$450 for an eight-hour day—excluding travel and per diem)

The undersigned agrees to the above requirements.

Signature

Printed Name

---

Name of GRANTEE organization

Certificate Valid Through (Not more than two years)

**STATE OF WASHINGTON JUSTICE ASSISTANCE GRANT  
DEPARTMENT OF COMMERCE**

**CIVIL RIGHTS TRAINING**

The following civil rights requirements apply to all units of local government and state agencies regardless of grant acceptance, and both for profit and non-profit organizations accepting federal grant funds. Beneath each requirement are one or more references that are provided to assist in understanding and compliance. It should be noted that the compliance requirements apply to the entire jurisdiction/organization, and not just to the funded activities.

**1. Omnibus Crime Control and Safe Streets Act of 1968 (42 USC § 3789d)**

Reference: [http://www.fcc.gov/Bureaus/OSec/library/legislative\\_histories/1615.pdf](http://www.fcc.gov/Bureaus/OSec/library/legislative_histories/1615.pdf)

**2. Victims of Crime Act reference:**

Reference: <http://www.nmdas.com/Victims%20of%20Crime%20Act.pdf>

**3. Title VI of the Civil Rights Act of 1964**

Reference: [http://www.fta.dot.gov/civilrights/civil\\_rights\\_5088.html](http://www.fta.dot.gov/civilrights/civil_rights_5088.html)

**4. Section 504 of the Rehabilitation Act of 1973**

Reference: <http://www.dol.gov/oasam/regs/statutes/sec504.htm>

**5. Title II of the Americans with Disabilities Act of 1990**

References:

- Text – The Americans with Disabilities Act  
[www.ada.gov/pubs/ada.htm](http://www.ada.gov/pubs/ada.htm)
- Title II Highlights  
<http://www.usdoj.gov/crt/ada/t2hlt95.htm>
- The Americans with Disabilities Act, Title II Technical Assistance Manual  
<http://www.usdoj.gov/crt/ada/taman2.html>
- Commonly Asked Questions – ADA and Law Enforcement  
[http://www.usdoj.gov/crt/ada/q%26a\\_law.htm](http://www.usdoj.gov/crt/ada/q%26a_law.htm)
- Commonly Asked Questions – ADA and Hiring Police Officers  
<http://www.usdoj.gov/crt/ada/copsq7a.htm>

**6. Title IX of the Education Amendments of 1972**

Reference: <http://www.dol.gov/oasam/regs/statutes/titleix.htm>

**7. Age Discrimination Act of 1975**

Reference: [http://www.dol.gov/oasam/regs/statutes/age\\_act.htm](http://www.dol.gov/oasam/regs/statutes/age_act.htm)

**8. USDOJ Non-Discrimination Regulations (28 CFR 42, Subparts C, D, E and G)**

Reference: [http://www.access.gpo.gov/nara/cfr/waisidx\\_00/28cfr42\\_00.html](http://www.access.gpo.gov/nara/cfr/waisidx_00/28cfr42_00.html)

**9. USDOJ Regulations on Disability Discrimination (28 CFR Part 35 & Part 39)**

References:

- Text – 28 CFR 28 Part 35  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_00/28cfr35\\_00.html](http://www.access.gpo.gov/nara/cfr/waisidx_00/28cfr35_00.html)
- Text – 28 CFR 28 Part 39



[http://www.access.gpo.gov/nara/cfr/waisidx\\_00/28cfr39\\_00.html](http://www.access.gpo.gov/nara/cfr/waisidx_00/28cfr39_00.html)

## INFORMATION AND ASISTANCE

The agencies and organizations listed below can provide technical advice and assistance.

**U.S. Department of Justice  
Office of Justice Programs  
Office for Civil Rights**

810 – 7<sup>th</sup> Street NW  
Washington, D.C. 20531  
Voice: (202) 307-0690  
TDD/TTY: (202) 307-2027  
[www.ojp.usdoj.gov/ocr](http://www.ojp.usdoj.gov/ocr)

***Washington Human Rights Commission***

711 S Capital Way, Suite 402  
PO Box 42490  
Olympia, WA 98504-2490  
Voice/TDD: 1-800-233-3247  
TTY: 1-800-300-7525  
[www.hum.wa.gov](http://www.hum.wa.gov)

**Job Accommodation Network (JAN)**

1-800-526-7234  
1-800-781-9403 (TTY)  
[www.askjan.org](http://www.askjan.org)

***U. S. Architectural and Transportation***

Barriers Compliance Board  
1-800-272-2253 (Voice)  
1-800-993-2822 (TTY)  
<http://www.access-board.gov/>

***Office for Civil Rights***

**Department of Health and Human Services**  
<http://www.hhs.gov/ocr/office/>

**Equal Employment Opportunity Commission**

**(U.S. Government)** With primary functional responsibility for equal opportunity and civil rights compliance for the applicant jurisdiction, I hereby certify that the applicant will comply with the above Civil Rights requirements specified on the previous page of this certification.  
909 – 1<sup>st</sup> Avenue, Suite 400  
Seattle, WA 98104-1061  
Voice/TTY: 1-800-669-4000/1-800-669-6820  
<http://www.eeoc.gov>

<http://www.eeoc.gov> With Functional Responsibility

\_\_\_\_\_  
Jurisdiction/Organization Represented

**Department of Personnel**

***Workforce Diversity Office***

<http://hr.wa.gov/diversity/DiversityProgram/Pages/default.aspx>  
PO Box 47500  
Olympia, WA 98504-7500  
Voice: (360) 664-1921  
TTY/TDD: (360) 664-6211

***Department of Labor and Industries***

**Vocational Services**

PO Box 44323  
Olympia, WA 98504-4323  
Voice: (360) 902-5456

***Washington Division of Vocational Rehabilitation***

**Department of Social and Health Services**

(38 field offices statewide)  
Provides employment services to persons with disabilities and businesses  
Voice/TDD: 1-800-637-5627

***Washington Governor's Committee on Disability***

**Issues and Employment**

PO Box 9046  
Olympia, WA 98507-9046  
Voice: (360) 725-9509  
Email:  
<http://www.esd.wa.gov/newsandinformation/legresources/gcd>

\_\_\_\_\_  
Title Of Official Completing The Waiver

\_\_\_\_\_  
Date

**STATE OF WASHINGTON JUSTICE ASSISTANCE GRANT  
DEPARTMENT OF COMMERCE**

**CIVIL RIGHTS REQUIREMENTS**

**1. LIMITED ENGLISH PROFICIENCY**

To ensure compliance with the Omnibus Crime control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, grant recipients must take reasonable steps to ensure that Persons with Limited English Proficiency have meaningful access to services and legal protections. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Assistance in understanding grant recipient's obligations under the law may be found in the Department of Justice's *Guidance to Federal Financial Assistance Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons* (LEP Guidance), which can be found at 67 Fed. Reg. 41455 (June 18, 2002). Additional assistance regarding LEP obligations and information may be found at [www.lep.gov](http://www.lep.gov).

**2. FEDERAL NON-DISCRIMINATION REQUIREMENTS**

The Grantee will comply with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control Act and Safe Streets Act of 1968 (42 U.S.C. § 3789d);
- the Victims of Crime Act (42 U.S.C. § 10604(e));
- the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b));
- the Civil Rights Act of 1964 (42 U.S.C. § 2000(d));
- the Rehabilitation Act of 1973 (29 U.S.C. § 794);
- the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34);
- the Education Amendments of 1972 (20 U.S.C. §§ 1681,1683,1685-86);
- the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07);
- 28 C.F.R. Part 42 (U.S. Department of Justice Regulations – Nondiscrimination, Equal Employment Opportunity, Policies and Procedures);
- Executive Order 13279 (equal protection of the law for-faith based and community organizations); and
- 28 C.F.R. Part 37 ((U.S. Department of Justice Regulations – Equal Treatment for Faith Based Organizations).

The Grantee shall further comply with Federal law prohibiting grant recipients from retaliating against individuals taking action or participating in action to secure rights protected by federal law.

**3. NOTIFICATION OF FINDINGS OF DISCRIMINATION OR NON-COMPLIANCE**

In the event a state or federal court or a state or federal administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, age, disability, or sex against the Grantee or a program partner or participant receiving grant funds, the applicant will forward a copy of the finding to the U.S. Department of Justice, Office of Justice Programs, Office of Civil Rights (OCR), and the Department of Commerce (COMMERCE).

The Grantee shall include a statement clearly stating whether or not the finding is related to any grant activity supported with a grant in which U.S. Department of Justice Funds are involved, and identify all open grants utilizing U.S. Department of Justice funding by contract number and program title.

**4. EQUAL EMPLOYMENT OPPORTUNITY PROGRAM (EEOP)**

The Grantee will determine whether it is required to formulate an Equal Employment Opportunity Program (EEOP), in accordance with 28 C.F.R. 42.301 et. seq. If the Grantee is not required to formulate an EEOP, it will submit a certificate form to the U.S. Department of Justice, Office of Justice Programs, Office of Civil Rights (OCR), and Washington State Department of Commerce (COMMERCE) indicating that it is not required to develop an EEOP.

If the Grantee is required to develop an EEOP but not required to submit the EEOP to the OCR, the Grantee will submit a certification to the OCR and COMMERCE certifying that it has an EEOP on file which meets the applicable requirements. If the Grantee is awarded a grant of \$500,000 or more and has 50 or more employees, it will submit a copy of its EEOP to the OCR and COMMERCE. Non-profit organizations, federally recognized Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption. A copy of the certification form will also be submitted to COMMERCE. Information about civil rights obligations of grantees can be found at <http://www.opj.usdoj.gov/ocr/>.

**5. APPLICANT DUTY TO ENSURE SUB-RECIPIENTS COMPLIANCE**

The applicant is required to ensure compliance with this requirement by any program partner or participant receiving funding under this grant.

As the individual with primary functional responsibility for equal opportunity/civil rights compliance for the Grantee jurisdiction, I hereby certify that the Grantee will comply with the above Civil Rights requirements specified in this certification.

\_\_\_\_\_  
Signature Of Individual with Functional Responsibility

\_\_\_\_\_  
Title Of Official Completing The Certification

\_\_\_\_\_  
Jurisdiction/Organization Represented

\_\_\_\_\_  
Date

\_\_\_\_\_  
Certificate Valid Through (Not more than two years)

**Office for Civil Rights Compliance Checklist**  
**<Jurisdiction>**

**Office for Civil Rights Compliance Checklist**  
**<Jurisdiction>**

**Office for Civil Rights Compliance Checklist**  
**<Jurisdiction>**

**Office for Civil Rights Compliance Checklist**  
**<Jurisdiction>**













**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	OPR 2014-0759
<b>Renews #</b>	

<b>Submitting Dept</b>	MUNICIPAL COURT	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	HOWARD 625-4450	<b>Project #</b>	
<b>Contact E-Mail</b>	HDELANEY@SPOKANECITY.ORG	<b>Bid #</b>	
<b>Agenda Item Type</b>	Contract Item	<b>Requisition #</b>	
<b>Agenda Item Name</b>	RENEWAL OF COLLECTIONS AND ACCOUNTS RECEIVABLE CONTRACT		

**Agenda Wording**

Renewal of contract W/Peterson Enterprises d/b/a Valley Empire Collection, for collection services, originally effective 4/1/10 to 12/31/13 and currently operating under and extension. This renewal has no cost to the court or the City of Spokane.

**Summary (Background)**

The initial two year and nine month contract with Valley Empire Collections expired on 12/31/13 and is currently effective under contractual extension outlined in paragraph 3 of the original agreement expiring June 30, 2015. The initial one year contract with PAR Acceptance Corporation expired June 30, 2014 and is currently effective under contractual extension outlined in paragraph 3 of the original agreement expiring June 30, 2015.

<b>Fiscal Impact</b>		<b>Budget Account</b>	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b>Approvals</b>		<b>Council Notifications</b>	
<b><u>Dept Head</u></b>	DELANEY, HOWARD	<b><u>Study Session</u></b>	OCTOBER 20, 2014
<b><u>Division Director</u></b>	LOGAN, MARY	<b><u>Other</u></b>	
<b><u>Finance</u></b>	DOLAN, PAM	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	hdelaney@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	mlogan@spokanecity.org	
<b><u>Additional Approvals</u></b>		tdunivant@spokanecity.org	
<b><u>Purchasing</u></b>		korlob@spokanecity.org	
		aharte@spokanecity.org	
		mpiccolo@spokanecity.org	

**Briefing Paper  
City of Spokane  
Spokane Municipal Court / Public Safety Committee  
October 20, 2014**

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**Subject**

Renewal of contract with Peterson Enterprises d/b/a Valley Empire Collection, for Municipal Court collection services, originally effective 4/1/2010 through 12/31/2013 (OPR 2010-0282), and currently operating under an extension as specified in the original agreement. This proposed renewal has no cost to the Spokane Municipal Court or the City of Spokane.

Renewal of contract with PAR Acceptance Corporation, for Municipal Court accounts receivable management services originally effective 7/1/2013 through 6/30/2014 (OPR 2013-0486), and currently operating under an extension as specified in the original agreement. This proposed renewal has no cost to the Spokane Municipal Court or the City of Spokane.

**Background**

The initial two year and nine month contract with Valley Empire Collections expired on December, 2013, and is currently effective under contractual extension outlined in paragraph 3 of the original agreement, expiring December 21, 2015.

The initial one year contract with PAR Acceptance Corporation expired June 30, 2014, and is currently effective under contractual extension outlined in paragraph 3 of the original agreement, expiring June 30, 2015.

These agreements, although entered into with separate sister entities, function symbiotically to manage the accounts receivable and collection functions of the Spokane Municipal Court. The parties are seeking to renew both agreements through December 31, 2017, rather than operate under staggered extensions. The consideration for the renewal includes both the extra services performed and fee forbearance by Valley Empire Collection associated with the parking amnesty program, as well as the work performed by Valley Empire Collection and PAR Acceptance Corporation in establishing and maintaining electronic interfaces with the Spokane Municipal Court case management software.

**Impact**

Renewal of these agreements has no fiscal expense impact on the Spokane Municipal Court or the City of Spokane.

**Action**

Approve renewal of agreements with Valley Empire Collection and PAR Acceptance Corporation.

**Funding**

No funding is required through the expiration of the agreements.

## COLLECTION AGENCY AGREEMENT

THIS CONTRACT is between the CITY OF SPOKANE MUNICIPAL COURT, as "Court," and PETERSON ENTERPRISES, INC. d/b/a VALLEY EMPIRE COLLECTION, whose address is 8817 E Mission Ave #101, Spokane Valley, Washington 99212, as "Agency."

W I T N E S S E T H:

The parties agree as follows:

1. CONTRACT DOCUMENTS. This contract, the Court's Request for, Proposals and the Agency's Proposal constitute the contract documents and are complimentary. In the event of conflict, the documents control in the order listed.

2. ASSIGNMENT. The Court hereby assigns to the Agency and the Agency hereby agrees to provide COLLECTION SERVICES FOR MUNICIPAL COURT. The types and amounts of the accounts shall be determined by the Court.

3. CONTRACT T E R M. The contract shall begin on July 1, 2014 and continue in force through December 31, 2017, unless terminated sooner. The contract may be extended for one (1) additional two (2) year period, subject to mutual agreement

4. COLLECTION PRACTICES.

A. The Agency shall handle and process all accounts referred by the Court in strict conformity with all applicable Federal and Washington State laws, and any applicable laws the City of Spokane may enact, including but not limited to:

Washington State laws enacted or hereinafter amended governing collection agencies and practices, including, but not limited to chapter 19.16 RCW "Washington State Collection Agency Act", chapter 19.86 RCW "Unfair Business Practices Act", and RCW 3.02.045 "Use of Collection Agencies.

Federal laws enacted or hereinafter amended governing collection agencies and practices, including, but not limited to, "The Fair Debt Collection Practices Act (15 USC 1692 et seq) and all applicable laws and regulations of the United States Postal Service and the Federal Trade Commission.

- B. **Infractions/Civil Violations:** Upon receiving notice from the Court on delinquent accounts, the Agency will mail thirty (30)-day pre-referral notices to the debtors in compliance with RCW 19.16.500. On all accounts that have had no response to the notice at the end of the thirty (30) days, the Agency will initiate collection enforcement upon notice from the Court.
- C. **Parking Infractions/Civil Parking Violations:** Parking Infractions with FTR status are considered delinquent fifteen (15) days from the date of the violation. Upon receiving notice from the Court on these accounts, the Agency will mail thirty (30) day notices to the debtors in compliance with RCW 19.16.500. On all accounts that have had no response to the notice at the end of the thirty (30) days, the Agency will initiate collection enforcement upon notice from the Court.

6. **REMITTANCE.** The Agency shall remit collections made on Court accounts on a daily basis on each business day following collection. Errors in remitting to the Court shall be the Agency's responsibility. If payment is made via electronic transfer, all costs of such transfers shall be borne by the Agency. The Agency shall have ACH transfer capabilities set up with a bank for the daily transfer of funds collected.

## 7. **REPORTING**

- A. Daily remittance reports, in a format responsive to the Court's needs, shall accompany the payments.
- B. Monthly reports of accounts status, collection statistics and other information as required by the Court. This shall include, but not be limited to the following for each referring the Court department and in total and by the following categories: criminal, infractions and parking.
- C. Quarterly report of all accounts deemed uncollectible due to the age of the account. All other accounts deemed uncollectible shall be returned to the Court immediately, for example death of the debtor or return requested by the Court. These reports shall list all cases alphabetically.
- D. The Agency shall report all uncollectible accounts to a major credit bureau(s).

8. **RECORDS.** The Agency shall utilize a comprehensive computerized system to manage and account for actions taken on the accounts referred by the Court. The Agency shall maintain a complete, separate and detailed record of each account, including all collection actions taken and related transactions, for a period of no less than six (6) years after termination of collection action on each account. Inspections by the Court, or its authorized representative, of these records during reasonable business hours shall be granted by the Agency up to six (6) years after expiration/termination of this contract. If any such records are not kept in Spokane County, and upon reasonable request made available to the Court and if the Court



- C. Parking Violations: The Agency shall attach one hundred percent (100%) on tickets less than or equal to \$50.00. Agency fee shall be forty percent (40%) on tickets greater than \$50.00.
- D. Partial Payments. When a partial payment is received the monies received will be posted to interest first.
- E. NSF Checks. The Agency will remit one hundred percent (100%) of the principal amount of the check upon collection. The Agency will be entitled to retain all applicable fees, charges and interest per Washington State law pertaining to the collection of NSF checks. Per state law, the Agency will mail the statutory notice of dishonor and charge a twenty five dollar (\$25.00) handling fee per check.
- F. Interest. Any and all money received on the account from accrued interest after the assignment or date of referral collected by the Agency shall be split with fifty percent (50%) being paid to the Court.

12. WAIVERS AND CONFLICTS OF LAW. No delay or failure of either party in exercising any right shall be considered a waiver of such right or any other right. This contract shall be construed and enforced in accordance with the laws of the State of Washington.

13. 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.

14. MODIFICATION. No modification of this contract shall be valid unless made in writing and signed by both parties.

15. NOTICES. All notices required under this contract shall be directed to:

Municipal Court

Howard F. Delaney  
Court Administrator  
Spokane Municipal Court  
1100 West Mallon Avenue  
Spokane, Washington 99260

Valley Empire Collection

Troy Peterson  
President  
Valley Empire Collection  
8817 E Mission Ave #101  
Spokane Valley, Washington 99212

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

Dated: \_\_\_\_\_

PETERSON ENTERPRISES, INC.  
D/B/A VALLEY EMPIRE COLLECTION

Email address: troy@debtintocash.com

City of Spokane Business License No.  
T10068082BUS

By: \_\_\_\_\_  
TROY PETERSON, President

**ACCOUNTS RECEIVABLE AGREEMENT BETWEEN  
CITY OF SPOKANE MUNICIPAL COURT AND  
PAR ACCEPTANCE CORPORATION**

THIS AGREEMENT is between the CITY OF SPOKANE MUNICIPAL COURT, having offices for the transaction of business at 1100 West Mallon Avenue, Spokane, Washington 99260, as "Court," and PAR ACCEPTANCE CORPORATION, having offices for the transaction of business at 1718 West Broadway Avenue, Spokane, Washington 99201, as "PAR," jointly referred to as the "Parties".

WHEREAS, the Court has inherent and statutory authority to establish time payment accounts related to fines owed by defendants (the "Customer") in criminal and civil citations (traffic and non-traffic), and

WHEREAS, participation in time payment accounts is done so voluntarily by the Customer, and

WHEREAS, the Court presently has numerous time payment accounts and anticipates additional time payment accounts; -- Now, Therefore,

The Parties agree as follows:

1. SERVICES

The Court hereby engages PAR to perform the accounts receivable services set forth in the attached Attachment "A" (the "Services"). This Agreement is nonexclusive. The Court may contract with other persons, firms, or corporations to provide the same or similar Services.

2. FEES FOR SERVICES

PAR shall charge and collect the fees set forth in the attached Attachment "B" in conjunction with providing the Services set forth in Attachment "A". Prior to any annual renewal, PAR may request an adjustment of the fees. The fee increase request shall be in writing directed to the Court's representative identified in this Agreement and received sixty (60) days prior to the end of the current term. The Court reserves the right to accept or reject, at its sole discretion, requests for adjustments. Any fee adjustment must be supported by adequate documentation acceptable to the Court.

3. TERM

This initial term of this Agreement commences on January 1, 2015 and runs through December 31, 2017. Thereafter, this Agreement may be extended for one (1) additional two (2) year period, subject to mutual agreement unless terminated by either party.

## 8. ASSIGNMENT

PAR may not, without the express written consent of the Court, assign sublet or transfer in whole or in part its interest in this Agreement.

## 9. MODIFICATION

No modification or amendment to this Agreement shall be valid until the same is reduced to writing, in the form of an amendment, and executed with the same formalities as this present Agreement.

## 10. VENUE STIPULATION

This Agreement has and shall be construed as having been made and delivered within the State of Washington and the laws of the State of Washington shall be applicable to its construction and enforcement. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provisions hereto shall be instituted only in the courts of competent jurisdiction within Spokane County, Washington. In the event of any litigation, the prevailing party will be entitled to reasonable attorney's fees and the costs of litigation.

## 11. WAIVER

No officer, employee, agent or otherwise of the Court, has the power, right or authority to waive any of the conditions or provisions of this Agreement. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement or a law shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law. Failure of the Court to enforce at any time any of the provisions of this Agreement or to require at any time performance by PAR of any provision hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this Agreement or any part hereof, or the right of the Court to hereafter enforce each and every such provision.

## 12. INDEMNIFICATION

- A. In providing services under this Agreement, PAR is an independent contractor, not an employee of the Court or City for any purpose. PAR shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for the Services and shall make no claim of career service or civil service rights which may accrue to a Court or City employee under state or local law. The Court or City assumes no responsibility for the payment of any compensation, wages, benefits, or taxes to, or on behalf of, PAR, its employees or others by reason of this Agreement. PAR shall protect, defend and indemnify and save harmless the Court, City, their officers, agents and employees from and against any and all claims, costs, and losses whatsoever occurring or resulting from: 1) PAR's failure to pay any such compensation, wages,

## 15. SEVERABILITY

If any parts, terms or provisions of this Agreement are held by the court to be illegal, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the Parties shall not be affected in regard to the remainder of the Agreement. If it should appear that any part, term or provision of this Agreement is in conflict with any statutory provisions of the State of Washington, then the part, term or provision thereof that may be in conflict shall be deemed inoperative and null and void insofar as it may be in conflict therewith and this Agreement shall be deemed to modify to conform to such statutory provision.

## 16. PAYMENT OF TAXES

PAR is solely responsible for paying any and all taxes associated with the Services provided under this Agreement including but not necessarily limited to income and social security taxes.

## 17. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties. The Parties have read and understand the Agreement and now state that no representations, promises, or agreements not expressed by this Agreement have been made to induce the other to execute the same.

## 18. OTHER EMPLOYMENT

This Agreement is not an exclusive Agreement. PAR may take on other professional assignments while providing the Services set forth herein.

## 19. SUPERSEDES

This Agreement supersedes any prior agreement that may exist between Court and PAR, but only as to accounts received from Court after July 1, 2013.

## 20. PARTIES REPRESENTATIVES

The Court designates Howard F. Delaney, Clerk of the Court for City of Spokane Municipal Court, or his designee for the purpose of administering this Agreement.

PAR designates Troy M. Peterson or his designee for the purpose of administering this Agreement.

24. FIDELITY BOND

PAR, at its own expense, shall procure and maintain from a surety company authorized to do business in the State of Washington, a fidelity bond in the amount of no less than Fifty Thousand and No/100 Dollars (\$50,000.00) covering all of its officers and employees, which bond shall indemnify the Court, its appointed and elected officials and employees on account of any losses sustained by reason of the failure of Contractor, its agents, employees or representative to faithfully and honestly deposit and account for and remit all funds coming to its hand under the terms of this Agreement consistent with the terms of the Agreement. The bond shall be conditioned so that cancellation will only be effective thirty (30) days after written notice has been given to PAR and the Court. PAR shall provide the Court with a certified copy of the fidelity bond.

25. THIRD PARTY BENEFICIARIES

This Agreement is intended for the benefit of the Court and PAR and not for the benefit of any third parties.

26. CONFLICT AMONG PROVISIONS

In the event of an inconsistency with any provisions with in this Agreement to include any Attachment hereto, the more specific provision shall govern.

27. 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. PAR 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 PAR 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.

28. 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 this Agreement.

Dated: \_\_\_\_\_

CITY OF SPOKANE  
MUNICIPAL COURT

By: \_\_\_\_\_  
Mary Logan, Presiding Judge

## ATTACHMENT "A"

### **SERVICES**

PAR shall provide accounts receivable services to the City of Spokane Municipal Court for various types of accounts, which the Court shall refer to PAR.

The Accounts Receivable Services shall comply with the following conditions:

#### **A. ACCOUNTS RECEIVABLE EFFORTS**

PAR shall exercise its best, prudent and lawful efforts to secure payments on all accounts referred by the Court. All accounts receivable activities shall be in compliance with all federal and Washington State laws.

Two (2) types of account referrals will occur: Initial Referral of Debt and Current Debt. PAR shall utilize a comprehensive computerized system to manage and account for actions taken on the accounts referred by the Court. On-line Court access to this system would be preferred. PAR will also have the capability to send and receive electronic messages between PAR and the Court.

An interface will be required from PAR for referring cases, processing payments and reporting adjustments to the Court database system. The cost of providing this interface from the various court systems to outside sources will be at the expense of PAR. The data elements for the interface may include:

- Court/Agency ID number
- Account number-Court case or citation number including county identifier
- Debtor Name
- Date of Birth
- Drivers License Number
- Drivers License State
- Debtor Address
- Debtor Phone Number
- Taxpayer Number (Social Security Number or Tax ID)
- Principle Amount of Debt
- Original Due Date of Debt
- Debt Description (Offense & Offense Date)
- Court/Agency Contact Name
- Court/Agency Contact Address
- Court/Agency Contact Phone

The Court firmly believes in a positive approach in dealing with Customers. PAR shall not use tactics which may be interpreted as harassment, or as demeaning, or which may reflect poorly on the Court.

PAR shall use a comprehensive computerized system to report to the Court on a monthly basis, such as accounts status, collection statistics and other information as required by the Court. This shall include, but not be limited to, the following in total and by these categories: criminal, infractions, and parking.

- 1) A listing and current status of each account referred.
- 2) Monthly individual account status update.
- 3) The current balance owing, amount collected on each account during the previous month and to-date, and the age of each account since referral.

PAR petition A.O.C. (Administrative Office of the Courts) for access to DISCIS (District Court Information Systems).

#### F. PERSONNEL AND CUSTOMER SERVICE

In performing the scope of Services, PAR shall utilize properly trained staff and adequate facilities capable of properly and expeditiously processing all Court accounts referred. Account contacts must be performed in a professional and respectful manner that does not reflect poorly on the Court. No harassment, verbal abuse, or compromising the rights of the Customers will be tolerated and may result in recalling the account and cancellation of the Agreement. PAR shall provide detailed information on its customer service record and provisions in place to ensure that:

- Customer contacts are handled appropriately and professionally
- Accurate and timely information is always provided to Customers
- Processes are in place for recording and resolving Customer complaints
- Service options are available for limited English proficiency clients and American Sign Language. (Customers include, but are not limited to, Spanish and Russian populations.)

PAR shall enforce payments while adhering to the integrity and customer service standards of the Court.

PAR shall be responsible for providing staff on-site at Court to assist in the conversion process of existing time-pay accounts from the Court to PAR.

#### G. VOLUME

It is anticipated that the accounts referred will consist of: Municipal Court fines, fees, restitution, and civil penalties; adult detention work release room and board fees; public defense attorney fees, probation fees; and others. The Court anticipates approximately six hundred (600) accounts will be referred monthly. Provided, however, the Court reserves the right to determine which accounts will be referred and the number of accounts which will be referred. The Court is not guaranteeing the referral of any specific number or kind of account.



#### I. REFERRAL METHOD

PAR shall have the computer capability to accommodate manual and automated referrals of accounts from the Court.

#### J. DISHONORED CHECKS

On payments by personal check from Customer, the Court elects to have PAR hold funds for fifteen (15) days minimum to ensure check clears before remitting to the Court. In the event of dishonor of any check received by PAR in payment of a referred account, PAR shall forward a statutory notice of dishonor pursuant to RCW 62A.3.520 and may charge, collect and retain no more than thirty five and no/100 dollars (\$35.00) per dishonored check from the Customer. In the event that funds represented by dishonored checks are transmitted to the Court, such funds may be charged-back by PAR if the dishonored check is not made good as demanded by the notice of dishonor. However, sufficient documentation shall first be provided by PAR to the Court for approval prior to processing such charge-backs.

Returned check/ACH transaction fees will be applied to the Customer's account for each transaction. The transaction fees are set forth in Attachment "B".

#### K. DELINQUENT ACCOUNTS AND RESETS

Accounts which PAR has deemed delinquent shall be returned to the Court immediately. PAR shall provide the Court a detailed report which details the accounts deemed to be delinquent (due to non-payment, death, statute, return requested by court, etc.) This report shall list all cases alphabetically by Customer's (defendant's) last name separated by case type.

Customers, at their request to PAR, may be reset on a payment plan with PAR during the thirty (30)-day pre-collection period. Customers will only be allowed two (2) resets.

#### L. DEBT COMPROMISES

PAR has no authority to accept compromises of the total amount owed and may not represent that it has such authority. However, the Court may choose to allow PAR to negotiate lower monthly payments at the Customer's request.

#### M. COMPLAINTS AND CORRECTIVE ACTION

Upon request of the Court, PAR will provide the Court in writing a response to complaints received by the Court or PAR on any alleged actions taken by PAR. The response will be made by someone designated by PAR and the response will be made within five (5) working days upon notification to the Court. All questions and statements made by the Court concerning the alleged actions will be addressed in PAR's response.

3. PAR will hold the remittance to the Court for a period of fifteen (15) days for payments that are paid by checks.
4. The billing cycle for Customers will be as follows:
  - a. Statements will be sent out by PAR on or about the first (1st) of each month. PAR will mail a statement to the Customer on a monthly basis. Statement will include a return envelope for the Customer's payment. Monthly payment amount due will be based on the Contractor's time payment schedule (see Attachment "C"), but PAR will accommodate exceptions to the monthly payment amount at the discretion and direction of the Court. PAR will also accommodate a direct request from the Customer for PAR to set the Customer's monthly payment at an amount less than that specified on Attachment "C". Said request shall be made to PAR using the Contractor's Time Payment Reduction Request Form. In the event PAR reasonably verifies the Customer's income is at or below the poverty line, as may be established by the U.S. Department of Health and Human Services for any given calendar year of this Agreement, PAR shall set the Customers monthly time obligation at fifty-percent (50%) of the amount specified on Attachment "C", but in no event less than thirty dollars (\$30.00) per month including PAR fees.
  - b. The Customer's payment will be due by the twenty fifth (25<sup>th</sup>) of each month. If no payment is received prior to the next billing cycle, PAR will send a cancellation notice to the Customer. PAR will send a detailed report of accounts to the Court that need to be selected for collections.
  - c. Customers will be sent a thirty (30)-day pre-collection notice. This notice will warn Customer that they have thirty (30)-days to make an arrangement to avoid being assigned to a collection agency.
  - d. If a Customer contacts PAR or the Court during the thirty (30)-day pre-collection period, the Customer can be put back on time payment. The Customer will be assessed a delinquent fee to be put back on time payment (See Attachment "B"). Customers will be able to re-setup for time payments only twice.
  - e. If a Customer does not resume payments during the thirty (30)-day pre-collection period the Customer's accounts will be sent to PAR.
5. PAR will accept payment in cash, personal checks, money orders, traveler's checks, debit cards, Visa and MasterCard. Customers will have the following payment options :

ATTACHMENT "B"

**FEE SCHEDULE**

Setup Fees	-\$15.00
Setup Fee (one or more citations)	
Recurring Fees	
Monthly billing fee	\$5.00
Other Fees	
Returned Check Fee	\$35.00
Returned ACH Transaction	\$35.00
Delinquent Fee	\$16.00

Note: For all accounts referred by the Court, PAR fee(s) shall be added by PAR to the principal amount of the debt billed by PAR from the Customer and deducted by PAR prior to remitting the principal amount to the Court.

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

11/10/2014

**Date Rec'd**

10/29/2014

**Clerk's File #**

OPR 2007-0372

**Renews #****Submitting Dept**

CITY ATTORNEY

**Cross Ref #****Contact Name/Phone**

PAT DALTON 6818

**Project #****Contact E-Mail**

PDALTON@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

Contract Item

**Requisition #**

CR 14885

**Agenda Item Name**

0500 AMENDMENT TO FOSTER PEPPER CONTRACT RE WORLD WIDE VIDEO

**Agenda Wording**

A contract amendment to the contract with Milt Rowland and the law firm of Foster Pepper PLLC for special counsel services in regard to the World Wide Video matter which has been resolved. Additional funds are required to pay the final invoice.

**Summary (Background)**

Settlement has been reached regarding the City of Spokane v World Wide Video matter. Additional funds are required to pay the final invoice from Foster Pepper PLLC, who provided legal services and advice to the City.

**Fiscal Impact****Budget Account**

Expense \$ 10,000

# 0020-88100-19990-54915

Select \$

#

Select \$

#

Select \$

#

**Approvals****Council Notifications****Dept Head**

DALTON, PAT

**Study Session****Division Director****Other****Finance**

LESESNE, MICHELE

**Distribution List****Legal**

WHALEY, HUNT

rowlandm@foster.com

**For the Mayor**

SANDERS, THERESA

tdunivant@spokanecity.org

**Additional Approvals**

rimus@spokanecity.org

**Purchasing**

nnewcomb@spokanecity.org

mlesesne@spokanecity.org

CONTRACT AMENDMENT #5

THIS CONTRACT AMENDMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and MILTON ROWLAND and the law firm of FOSTER PEPPER PLLC, whose address is U.S. Bank Building, 422 West Riverside Avenue, Suite 1310, Spokane, Washington 99201-1600, as "Firm".

WHEREAS, the parties entered into a Contract wherein the Firm agreed to act as SPECIAL COUNSEL representing the City of Spokane in the City of Spokane v. World Wide Video matter; and

WHEREAS, the matter has been resolved and additional funds are required to pay the last invoice; -- Now, Therefore,

The parties agree as follows:

1. DOCUMENTS. The Contract dated June 11, 2007 and any previous amendments and/or extensions/renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. EFFECTIVE DATE. This Contract Amendment shall become effective upon signature of both parties.

3. AMENDMENT. Section 3 of the contract documents is amended to read as follows:

3. COMPENSATION. The City shall pay the firm a maximum not to exceed ONE HUNDRED FIFTY FIVE THOUSAND AND NO/100 DOLLARS (\$155,000.00) ONE HUNDRED SIXTY FIVE THOUSAND AND NO/100 DOLLARS (\$165,000.00).

4. COMPENSATION. The City shall pay TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) for everything furnished and done under this Contract Amendment.

Dated: \_\_\_\_\_

CITY OF SPOKANE

By:

Title:

Attest:

Approved as to form:

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

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

Dated: \_\_\_\_\_

MILTON ROWLAND AND THE LAW  
FIRM OF FOSTER PEPPER PLLC

E-Mail address, if available:

\_\_\_\_\_

By:

Title:

14-241



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	OPR 2014-0760
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	
<b>Requisition #</b>	BT

<b>Submitting Dept</b>	PLANNING & DEVELOPMENT
<b>Contact Name/Phone</b>	TERI STRIPES 625-6597
<b>Contact E-Mail</b>	TSTRIPES@SPOKANECITY.ORG
<b>Agenda Item Type</b>	Contract Item
<b>Agenda Item Name</b>	0650 - BROWNFIELDS GRANT - STANEC

**Agenda Wording**

Agreement with Stantec Consulting Services, Inc. (Spokane, WA) for Brownfields grant writing services and project implementation in the YARD in the amount of \$386,000.00.

**Summary (Background)**

The YARD development strategy implementation pursues multiple grant sources to implement industrial development and redevelopment projects. These services and agreement will be for the US EPA Assessment Grant (\$400K). We have received the Commerce grant, have submitted and are in the 2015 pipeline for the USEDA and Integrated Planning grants and are submitting the Area-Wide application September 22, 2014.

<b>Fiscal Impact</b>		<b>Budget Account</b>	
Expense	\$ 386,000.00	#	1360-94163-58100-54201
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b>Approvals</b>		<b>Council Notifications</b>	
<b><u>Dept Head</u></b>	CHESNEY, SCOTT	<b><u>Study Session</u></b>	
<b><u>Division Director</u></b>	QUINTRALL, JAN	<b><u>Other</u></b>	PCED 9/15/2014
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	lhattenburg@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	mhughes@spokanecity.org	
<b><u>Additional Approvals</u></b>		mlesesne@spokanecity.org	
<b><u>Purchasing</u></b>		tstripes@spokanecity.org	
		pdolan@spokanecity.org	

## **BRIEFING PAPER**

### **City of Spokane**

#### **PCED**

9/15/2014

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#### **Subject**

Consultant contract for Brownfields grant writing services and project implementation in the YARD. The contractual services will be managed by Planning and Development Services.

#### **Background**

The YARD development strategy implementation pursues multiple grant sources to implement industrial development and redevelopment projects. This matrix provides an overview of the funding sources and what will be accomplished with each. These services and contract will be for the US EPA Assessment Grant (\$400K). We have received the Commerce grant, have submitted and are in the 2015 pipeline for the USEDPA and Integrated Planning grants and are submitting the Area-Wide application Sept 22.

Tasks	Funding Sources				
	Commerce Grant (\$100K)	US EDA Grant (\$35K)	US EPA Area-Wide Planning (\$200K)	Integrated Planning Grant (\$200K)	US EPA Assessment Grant (\$400K)
Market Study Brownfield Redevelopment Opportunity Zone Analysis Infrastructure Assessment NEPDA Business Plan	✓				
Focused Market Study Supply Chain Analysis		✓			



Site Specific Feasibility Study (Concept Plan, Pro Forma) Infrastructure Planning & Preliminary Design (Site Specific and Regional Solutions for Stormwater in Coordination with CSO Abatement Plans) Redevelopment Strategy			✓		
Environmental Assessment Sub-Area Plan & Planned Action SEPA				✓	
Brownfield Inventory Environmental Assessment (Additive to Work Conducted under AWP & IPG)					✓

### **Action**

Council approval of the contract, October 6, 2014.

### **Funding**

None at this time.

**City of Spokane**

**CONSULTANT AGREEMENT**

**Title: The YARD – Grant Writing and Technical Assistance for U.S. EPA Brownfield Grants – in response to the City's RFQ #4040-14**

This Agreement is made and entered into by and between the City of Spokane ("City"), a Washington State municipal corporation; and **STANTEC CONSULTING SERVICES INC.**, whose address is 621 West Mallon Avenue, Suite 309, Spokane, Washington 99201-2181 as ("Consultant"), individually referred hereafter as a ("Party"), and together as ("Parties").

*WHEREAS, the purpose of this Agreement is to provide grant application assistance, project management, environmental inventory and assessment, and public information and outreach support for, but not limited to the United States Environmental Protection Agency (U.S. EPA) Brownfields Community Assessment grant as part of the U.S. EPA Brownfields Grant Competition for Fiscal Year 2015 and 2016 (FY 2015 and 2016); and*

*WHEREAS, the Consultant was selected because they have excellent qualifications and the experience necessary to provide these aforementioned services sought by the City; and*

*WHEREAS, the City required a Consultant familiar with compliance and adherence to local and U.S. EPA federal procurement requirements specified in 40 CFR 31.36.; and*

*WHEREAS, the initial contract includes grant application and Cooperative Agreement/Work Plan services being performed for a \$0 fee, any subsequent contract/work order awarded as a result of this procurement is contingent upon the availability of funding, and will be provided at a time and materials basis using the rates provided in the Stantec proposal letter submitted to the City on October 10, 2014, and the budget specified in Cooperative Agreement Work Plan which will be established with the U.S. EPA following the notice of award.*

*-- NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:*

**1. TERM OF AGREEMENT.**

The term of this Agreement begins on October 24, 2014, and ends on December 31, 2018, unless amended by written agreement or terminated earlier under the provisions.

**2. TIME OF BEGINNING AND COMPLETION.**

The Consultant shall begin the work outlined in the Consultant's August 25, 2014 response to the City's RFQ #4040-14, and the attached Stantec proposal letter submitted to the City on October 10, 2014, "Scope of Work" ("Work") upon notice to proceed from the City. The City will acknowledge in writing when the Work is complete. Time limits established under this Agreement shall not be extended because of delays for which the Consultant is responsible, but may be extended by the City, in writing, for the City's convenience or conditions beyond the Consultant's control.

**3. SCOPE OF WORK.**

The Scope of Work for this Agreement and the time schedule for completion of such Work are described in the attached Stantec proposal submitted to the City on October 10, 2014, and outlined in the Consultant's response to the City's RFQ #4040-14, both of which constitute a portion of the contract documents and are included as part of this Agreement.

The Work is subject to City review and approval. The Consultant shall confer with the City periodically, and prepare and present information and materials (e.g. detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Consultant's progress.

#### **4. PAYMENT.**

This Agreement provides for a total compensation of THREE HUNDRED EIGHTY SIX THOUSAND AND NO/100 DOLLARS (\$386,000.00) for the entirety of Consultant's services over the four (4) years of this Agreement. These charges are based on Consultants' cost to complete the Scope of Work, and shall include only those costs and items utilized as outlined in Consultant's proposal, which are incorporated by reference.

#### **5. REIMBURSABLES**

If the Agreement specified reimbursables to be compensated by the City, the following limitations apply. For equipment owned by Stantec, Consultant would charge the rates provided in the cost proposal (i.e. – no additional markup). For equipment Consultant needs to rent, or other reimbursables (like travel, rented or purchased supplies), Consultant will charge cost + 10% markup. This is standard on Consultant's other EPA grant projects and is acceptable to EPA.

**Subconsultant:** Subconsultant expenses will be reimbursed at actual cost plus a 10% markup for subconsultant services. Copies of all Subconsultant invoices that are rebilled to the City are required.

#### **6. PAYMENT PROCEDURES.**

The Consultant may submit invoices to the City as frequently as once per month during progress of work, for partial payment for work completed to date. Payment shall be made by the City to the Consultant upon the City's receipt of an invoice containing the information listed below.

Invoices shall be submitted to:
CITY OF SPOKANE PLANNING AND DEVELOPMENT DEPARTMENT – 3 <sup>rd</sup> Floor – City Hall 808 West Spokane Falls Boulevard Spokane, WA 99224
<b>Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):</b>

- Invoice Date and Invoice Number
- Assistant Planner: Teri Stripes  
(Please do not put name in the address portion of the invoice)
- Department Contract No. OPR # \_\_\_\_\_
- Contract Title: **The YARD – Grant Writing and Technical Assistance for U.S. EPA Brownfield**
- **Grants – in response to the City’s RFQ #4040-14**
- Period covered by the invoice
- Task # and title
- Employee's name and classification
- Employee's all-inclusive hourly rate and # of hours worked
- Total labor costs per task
- Itemization of direct, non-salary costs (per task, if so allocated)
- The following Sub-Consultant payment information will be provided *[if needed]*  
(attach Sub-Consultant invoices as backup):
  - Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).
  - Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).
- Cumulative costs per task and for the total project

- A. If there are any grant or loan monies involved in this Contract, the Consultant shall retain all required records for three years after the funding agency has audited the grant or loan. The funding agency shall be allowed access to such records for the same time duration.

Funding Agency	Project Grant or Loan Number.
_____	_____

Third Party Beneficiary. If there are ever any Department of Ecology grant monies involved in this Contract, the State Department of Ecology shall be designated as an express third party beneficiary with full rights as such.

## 7. TAXES, FEES AND LICENSES.

- A. Consultant shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. It the Consultant's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.
- C. The Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.

## 8. CITY OF SPOKANE BUSINESS LICENSE.

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 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.

## 9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

<b>If to the City:</b>	<b>If to the Consultant:</b>
Teri Stripes PLANNING AND DEVELOPMENT DEPARTMENT 3 <sup>rd</sup> Floor – City Hall 808 West Spokane Falls Boulevard Spokane, WA 99201	Chris Gdak STANTEC CONSULTING SERVICES INC. 11130 NE 33 <sup>rd</sup> Place Suite 200, Bellevue, WA 98004 Bellevue, Washington 98004-1465

#### **10. SOCIAL EQUITY REQUIREMENTS.**

- A. Consultant shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Consultant shall affirmatively try to ensure applicants are employed, and employees are treated during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identify, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap. Such efforts include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training. The Consultant agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Consultant.
- B. Consultant shall seek inclusion of woman and minority business for subcontracting. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

#### **11. INDEMNIFICATION.**

The Consultant shall indemnify and hold the Agency and the State and their officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from 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. In furtherance of these obligations, and only regarding the City and its officers, employees, and agents, the Consultant waives any immunity it may have or limitation on the amount or type of damages imposed 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 and defense, the Consultant specifically waives any immunity under the state industrial insurance law, Title 51 RCW, or any other industrial insurance, workers compensation, disability, employee benefit or similar laws. 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. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

#### **12. 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.

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 \$1,500,000 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 \$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 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, the sixty (60) day cancellation clause, and the deduction or retention level. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

### **13. AUDIT.**

Upon request, the Consultant shall permit the City and any other governmental agency ("Agency") involved in the funding of the Work to inspect and audit all pertinent books and records. This includes work of the Consultant, any subconsultant, or any other person or entity that performed connected or related Work. Such books and records shall be made available at any and all times deemed necessary by the Agency, including up to six (6) years after final payment or release of withheld amounts. Such inspection and audit shall occur in Spokane County, Washington, or other reasonable locations that the Agency selects. The Consultant shall supply or permit the Agency to copy such books and records. The Consultant shall ensure that inspection, audit and copying rights of the Agency is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform Work under this Agreement.

### **14. INDEPENDENT CONSULTANT.**

- A. The Consultant is an independent Consultant. This Agreement does not intend the Consultant to act as a City employee. The City has neither direct nor immediate control over the Consultant nor the right to control the manner or means by which the Consultant works. Neither the Consultant nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Consultant to act as an agent or legal representative of the City. The Consultant is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Consultant shall pay all income and other taxes as due. The Consultant may perform work for other parties; the City is not the exclusive user of the services that the Consultant provides.

- B. If the City needs the Consultant to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Consultant works on the City premises using City equipment, the Consultant remains an independent Consultant and does not as a City employee. The Consultant will notify the City Project Manager if s/he or any other Workers are within ninety (90) days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Consultant will be required to work from its own office space or in the field. The City may negotiate a reduction in Consultant fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

#### **15. KEY PERSONS.**

The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.

#### **16. ASSIGNMENT AND SUBCONTRACTING.**

The Consultant shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Consultant shall incorporate by reference this Agreement, except as otherwise provided. The Consultant shall ensure that all subconsultants comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the consultant from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

#### **17. FEDERAL DEBARMENT.**

The Consultant shall immediately notify the City of any suspension or debarment or other action that excludes the Consultant or any subconsultant from participation in Federal contracts. Consultant shall verify all subconsultants intended and/or used by the Consultant for performance of City Work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal Government. Debarment shall be verified at <https://www.sam.gov>. Consultant shall keep proof of such verification within the Consultant records.

#### **18. CITY ETHICS CODE.**

- A. Consultant shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.
- B. Consultant shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two (2) years.
- C. Consultant shall provide written notice to the City of any Consultant worker who shall or is expected to perform over 1,000 hours of contract work for the City within a rolling 12-month period. Such hours include those performed for the Consultant and other hours that the worker performed for the City under any other contract. The Consultant shall advise their Consultant Workers.
- D. Consultant shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Consultant. Promotional items worth less than \$25 may be distributed by the Consultant to City employees if the Consultant uses the

items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

#### **19. NO CONFLICT OF INTEREST.**

Consultant confirms that the Consultant or workers have no business interest or a close family relationship with any City officer or employee who was or will be involved in the consultant selection, negotiation, drafting, signing, administration or evaluation of the Consultant's work. As used in this Section, the term Consultant includes any worker of the Consultant who was, is, or will be, involved in negotiation, drafting, signing, administration or performance of the Agreement. The term "close family relationship" refers to: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law, daughter-in-law; or any parent, parent in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

#### **20. ERRORS AND OMISSIONS, CORRECTIONS.**

Consultant is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Agreement. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications, and/or other consultant services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.

#### **21. INTELLECTUAL PROPERTY RIGHTS.**

- A. Copyrights. The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant for the Work, whether or not the Work is completed. The Consultant grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Consultant for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials and/or any other related documents or materials developed solely for and paid for by the City to perform the Work, shall be promptly delivered to the City.
- B. Patents: The Consultant assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Consultant created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Consultant has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Consultant grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.
- C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project.

#### **22. CONFIDENTIALITY.**

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act*) all materials received or created by the City of Spokane are **public records**. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid



material. Some records or portions of records are legally *exempt from disclosure* and can be redacted or withheld. The Public Records Act (RCW 42.56 and RCW 19.10)8 describes those exemptions. Consultant must familiarize themselves with the Washington State Public Records Act (PRA) and the City of Spokane's process for managing records.

The City will try to redact anything that seems obvious in the City opinion for redaction. For example, the City will black out (redact) Social Security Numbers, federal tax identifiers, and financial account numbers before records are made viewable by the public. However, this does not replace your own obligations to identify any materials you wish to have redacted or protected, and that you think are so under the Public Records Act (PRA).

**Protecting your Materials from Disclosure (Protected, Confidential, or Proprietary):** You must determine and declare any materials you want exempted (redacted), and that you also believe are eligible for redaction. This includes but is not limited to your bid submissions, contract materials and work products.

**Contract Work Products:** If you wish to assert exemptions for your contract work products you must notify the City Project Manager at the time such records are generated.

Please note the City cannot accept a generic marking of materials, such as marking everything with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. You may not exempt an entire page unless each sentence is entitled to exemption; instead, identify paragraphs or sentences that meet the RCW exemption criteria you are relying upon.

**City's Response to a Public Records Act Requests:** The City will prepare two versions of your materials:

**Full Redaction:** A public copy that redacts (blacks out) both the exemptions (such as social security numbers) identified by the City and also materials or text you identified as exempt. The fully redacted version is made public upon contract execution and will be supplied with no notification to you.

**Limited Redaction:** A copy that redacts (blacks out) only the exemptions (such as social security numbers) identified by the City. This does not redact (black out) exemptions you identified. The Limited Redaction will be released only after you are provided "third party notice" that allows you the legal right under RCW 42.56.540 to bring a legal action to enjoin the release of any records you believe are not subject to disclosure.

If any requestor seeks the Limited Redacted or original versions, the City will provide you "third party notice", giving ten business days to obtain a temporary restraining order while you pursue a court injunction. A judge will determine the status of your exemptions and the Public Records Act.

## **23. DISPUTES.**

Any dispute or misunderstanding that may arise under this Agreement, concerning the Consultant's performance, shall first be through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager. It shall be referred to the Director and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such disputes, including but not limited to alternative dispute resolution processes. Nothing in this dispute process shall mitigate the rights of the City to terminate the Agreement. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Consultant to correct such work prior to the City payment. The City will provide to the Consultant an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute,

or if the Consultant provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed.

#### **24. TERMINATION.**

- A. For Cause: The City may terminate the Agreement if the Consultant is in material breach of this Agreement, and such breach has not been corrected to the City's reasonable satisfaction in a timely manner.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control.
- C. For City's Convenience: The City may terminate this Agreement without cause and including the City's convenience, upon written notice to the Consultant.
- D. Notice: Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- E. Actions upon Termination: if termination occurs not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to termination, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Consultant agrees this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.
- F. Upon termination, the Consultant shall provide the City with the most current design documents, contract documents, writings and other products the Consultant has produced to termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided however, that the City shall indemnify and hold the Consultant harmless from any claims, losses, or damages to the extent caused by modifications made by the City to the Consultant's work product.

#### **25. EXPANSION FOR NEW WORK.**

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the New Work was not reasonably known either the City or Consultant at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes, emergency or sole source conditions, or other situations required in City opinion. Certain changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

#### **26. MISCELLANEOUS PROVISIONS.**

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.

- C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- D. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
- E. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of Spokane County.
- F. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- G. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.
- H. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- I. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- J. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. The solicitation (Request for Proposal or Solicitation for Qualifications), Addenda, Consultants Proposal, and Consultants WMBE Inclusion Plan, are each explicitly included as Attachments material to the Agreement. Where there are conflicts between these documents, the controlling document will first be this Agreement as amended, the WMBE Inclusion Plan as adopted, the Consultant's Proposal, then the City Solicitation documents. If conflict occurs between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.
- K. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship.
- L. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

**CONSULTANT**

**CITY OF SPOKANE**

STANTEC -  
Brownfield Grants

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Attest:

\_\_\_\_\_

City Clerk

By \_\_\_\_\_  
Signature                      Date

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

Approved as to form:

\_\_\_\_\_

Assistant City Attorney

**City of Spokane Business License Number:** \_\_\_\_\_

**Attachments:**    October 10, 2014 letter from Stantec's Chris Gdak to the City RE: Scope of Work

14-604



October 10, 2014

**Attention: Teri Stripes**

City of Spokane Planning and Development  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201-3316

VIA EMAIL

Dear Ms. Stripes,

**Reference: The YARD – Grant Writing and Technical Assistance for U.S. EPA Brownfield Grants RFQ #4040-14**

Stantec Consulting Services Inc. (Stantec) has prepared the following cost estimate to perform the services outlined in our proposal of August 25, 2014, in response to your RFQ #4040-14, for Grant Writing and Technical Assistance for U.S. EPA Brownfield Grants.

Per the work plan described in our proposal, the project shall have two phases:

- Phase I - U.S. EPA Grant Application Services
- Phase II - U.S. EPA Grant Implementation Services

**PHASE I – U.S. EPA GRANT APPLICATION SERVICES**

Stantec will prepare a single application for hazardous and petroleum substance brownfield assessment grant funding as part of the FY15 EPA Brownfields Grant Competition, scheduled to be announced in mid-late October, 2014, and due approximately 10 weeks later. The grant application will be prepared at no cost to the City.

Stantec will also assist the City with administrative requirements in order to initiate the grant process with EPA, including establishing a Cooperative Agreement (CA) Workplan. These pre-award tasks will commence upon notification of funding award (spring/summer 2015) and will be completed in advance of the Cooperative Agreement start date, anticipated to be October 1, 2015. Pre-award tasks will be completed at no cost to the City.

**PHASE I TOTAL ESTIMATED COST:**

**\$0**

**PHASE II – U.S. EPA GRANT IMPLEMENTATION SERVICES**

As outlined in our proposal, based on our experience and understanding of Spokane's redevelopment goals, we've developed a proposed scope of work for Phase II – U.S. EPA Grant Implementation Services. A brief description of the proposed scope of work for each of the four (4) main project tasks is presented below. The actual scope of work and budget for each task will be established via the CA Workplan (following award of grant funding by the U.S. EPA). A preliminary cost estimate and rate schedule follow.



**Reference: The YARD – Grant Writing and Technical Assistance for U.S. EPA Brownfield Grants RFQ #4040-14**

### **Task 1 – Project Management and Reporting**

The objective of this task is to properly manage the project per U.S. EPA and City requirements. Stantec will prepare all quarterly and annual financial and progress reports and provide technical assistance and updates including site-specific information required to complete U.S. EPA Assessment, Cleanup and Redevelopment Exchange (ACRES) updates.

### **Task 2 - Community Outreach and Public Involvement**

The objective of this task is to ensure that community concerns are considered in assessment planning and execution and that the public is informed of project progress and provided opportunity for meaningful participation. Stantec will work with the City to conduct outreach tasks, including the following:

- Coordinate and conduct meetings with the Brownfield Advisory Committee (BAC), stakeholders, and the public
- Prepare meeting materials and presentations
- Prepare and publish public notices, press releases, project information sheets and website materials, compatible with the City's brand and public information image

### **Task 3 – Site Inventory, Prioritization and Assessment**

#### Site Inventory and Prioritization

Stantec will create a comprehensive database of potential brownfield sites within the focus area, which will be used to prioritize and select eligible opportunity sites at which ESA or cleanup/reuse planning activities will be performed. Various historical, environmental and assessors' data will be used to develop a Site Inventory Tool, a GIS-linked database of commercial and industrial parcels.

Following initial inventory activities, sites will be prioritized for assessment and/or cleanup/redevelopment planning. The list will be further evaluated by the City, BAC and real estate strategists to identify and focus ESA and other cleanup and reuse planning activities on those sites with the greatest redevelopment potential.

#### Eligibility Determinations and ESAs

Stantec will complete Eligibility Determinations (EDs) for prioritized brownfield sites in accordance with EPA requirements.

Stantec will complete Phase I ESAs at select, eligible priority sites. All Phase I ESAs will be performed in accordance with the All Appropriate Inquiries Final Rule and the standards set forth in the ASTM E1527-13 Phase I Environmental Site Assessment Process. Stantec will also collect information necessary for Endangered Species Act, Section 7 and National Historic Preservation Act, Section 106, as applicable.

Stantec will complete Phase II ESAs and/or other investigation/assessment activities at select eligible priority sites.

**Design with community in mind**



**Reference: The YARD – Grant Writing and Technical Assistance for U.S. EPA Brownfield Grants RFQ #4040-14**

#### QAPP, SSSAPs & HASPs

EPA requires that an approved Quality Assurance Project Plan (QAPP) be in place before Phase II ESA activities are completed. Stantec will prepare a general QAPP for approval by U.S. EPA. For each site assessed, a Site-Specific Sampling and Analysis Plan (SSSAP) and Health and Safety Plan (HASP) will also be prepared and submitted for U.S. EPA approval.

#### **Task 4 – Cleanup and Area-Wide Planning**

##### Cleanup Planning

At sites with significant documented environmental impacts, Stantec will prepare an Analysis of Brownfield Cleanup Alternatives (ABCA), which examines various remedial options for the site, a review of applicable regulations and cleanup standards, a cost benefit analysis, and an evaluation of feasible remedial actions. Once a preferred remedy has been identified, Stantec will prepare a Cleanup Action Plan (CAP), which details the process for implementing the remediation.

##### Area-Wide Planning

Area-Wide Planning (AWP) may include a variety of activities to identify potential future uses for brownfields-impacted area(s) and develop strategies to facilitate the reuse of existing infrastructure and/or identify potential infrastructure investments needed to accommodate alternative future uses. These activities may include market research, infrastructure and transportation analysis, and urban planning and design.

#### **PRELIMINARY COST ESTIMATE**

The total anticipated contractual costs for the tasks described above is \$386,000. This amount assumes that the City is awarded \$400,000 (\$200,000 for hazardous substance brownfield sites and \$200,000 for petroleum impacted brownfield sites). A preliminary cost estimate for each of the subtasks, as detailed above, is as follows:

	<b>Hazardous</b>	<b>Petroleum</b>	<b>Total</b>
<b>Task 1 – Project Management and Reporting</b>	\$7,000	\$7,000	\$14,000
<b>Task 2 – Community Outreach</b>	\$8,000	\$8,000	\$16,000
<b>Task 3 – Site Inventory, Prioritization &amp; Assessment</b>	\$128,000	\$128,000	\$256,000
<b>Task 4 – Cleanup Planning</b>	\$50,000	\$50,000	\$100,000
<b><i>PHASE II TOTAL ESTIMATED COST:</i></b>	<b><i>\$193,000</i></b>	<b><i>\$193,000</i></b>	<b><i>\$386,000</i></b>



October 10, 2014

Teri Stripes

Page 4 of 6

**Reference: The YARD – Grant Writing and Technical Assistance for U.S. EPA Brownfield Grants RFQ #4040-14**

Implementation charges for professional, technical, and administrative staff will be calculated and billed per the following schedule, on a time and materials basis. To the extent possible, work will be performed by staff with lower billing levels and overseen by senior staff.

Cost Category	Detailed Description	Unit Cost	Unit Basis	Anticipated Project Tasks
Stantec Labor	Admin/Field Tech 6 (Joe Neville, Nate Magnusson)	\$98	per hour	GIS, Brownfield Inventories, Phase I&II ESAs, Report Editing
	Project Support, CAD Tech 7	\$106	per hour	Inventory, ESAs, etc.
	Jr. Geologist, GIS Technician 8	\$114	per hour	
	Jr. Engineer/Geologist 9 (Megan Wall)	\$123	per hour	Project Administration, EPA Reporting, Phase I&II ESAs, Cleanup Planning
	Mid Engineer/Geologist 10	\$133	per hour	Inventory, ESAs, etc.
	Intermediate Engineer/Geologist 11	\$144	per hour	
	Engineer 12 (Greg McCormick)	\$157	per hour	
	Sr. Engineer 13 (Alan Gay)	\$168	per hour	Inventory, ESAs, Cleanup Planning, etc.
	Associate/Sr. PM 14 (Chris Gdak, Jeff Logan)	\$181	per hour	PM/Oversight of All Tasks, Eligibility, QA/QC, Inventory, ESAs, Cleanup Planning, etc.
Leland Consulting Group Labor	Admin	\$80	per hour	Real Estate Strategy/ Redevelopment Planning
	Analyst	\$90	per hour	
	Associate	\$140	per hour	
	Principal (Brian Vanneman)	\$150	per hour	
	Managing Principal	\$175	per hour	
Studio Cascade Labor	Senior Planner	\$125	per hour	Community Outreach/ Redevelopment Planning
	Principal	\$150	per hour	
GeoEngineers Labor	Administrator 1	\$63	per hour	Report Editing
	Administrator 2	\$68	per hour	
	Administrator 3	\$73	per hour	
	CAD Technician	\$78	per hour	Report Figures
	CAD Designer	\$88	per hour	
	CAD Design Coordinator	\$94	per hour	
	Technician	\$48	per hour	Inventory, ESAs, etc.
	Senior Technician	\$60	per hour	
	Lead Technician	\$68	per hour	





**Reference: The YARD – Grant Writing and Technical Assistance for U.S. EPA Brownfield Grants RFQ #4040-14**

GeoEngineers Labor	Environmental Technician	\$78	per hour	Inventory, ESAs, Cleanup Planning, etc.
	Staff 1 Engineer/Scientist/Analyst	\$92	per hour	
	Staff 2 Engineer/Scientist/Analyst	\$102	per hour	
	Staff 3 Engineer/Scientist/Analyst	\$115	per hour	
	Engineer/Scientist/Analyst 1	\$120	per hour	
	Engineer/Scientist/Analyst 2	\$125	per hour	
	Sr Engineer/Scientist/Analyst 1	\$140	per hour	
	Sr Engineer/Scientist/Analyst 2 (John Haney)	\$150	per hour	
	Associate	\$170	per hour	
	Principal (Bruce Williams)	\$195	per hour	
Field Equipment/ Reimbursable Expenses	PID (min-Rae 3000, 11.7 eV probe)	\$65	per day	Equipment Used in Phase II ESAs
	Oil/Water Interface Probe	\$45	per day	
	Miscellaneous Field Supplies (estimated)	\$50	per day (est)	
	Groundwater Sampling Supplies	\$25	per day (est)	
	YSI pH-Cond-temp Meter	\$50	per day	
	Well Sampling Pump	\$50	per day (est)	
	Field Filters for Groundwater Samples	\$15	each	
	Disposable Bailers for Groundwater Sampling	\$5	each	
	Field Vehicle	\$80	per day	Fieldwork
	Personal Vehicle Mileage	Prevailing Federal Rate		Travel to Meetings/Sites
	Digital Historic Fire Insurance Maps	\$2,000	estimated	GIS/Site Inventory
	Radius Map Report (Environmental Data Resources)	\$120	each	Phase I ESAs
	Supplemental Environmental Data Resources Reporting	\$205	each	
	Utility Locate	\$600	per day (est)	Phase II ESAs
	Health and Safety Equipment and Supplies		per day (est)	
	Photocopies		per page (est)	Various Project Deliverables
	FedEx and Postage		per report copy (est)	

Stantec standard billing rates in effect for 2015. Rates subject to annual increase. Equipment owned by Stantec will be charged at the rates provided in this table. Equipment rentals will be charged at cost +10% markup. All subcontractor/subconsultant fees, equipment, and reimbursable expenses will be charged at cost + 10% markup. Stantec will provide cost estimates for other fees/expenses as needed during the course of the project (in advance of performing such services).

Stantec appreciates this opportunity to work with the City secure and implement U.S. EPA Brownfield Community-Wide Assessment Grant funding. Should you have questions regarding any of the items in this proposed cost proposal, please do not hesitate to contact me.



October 10, 2014

Teri Stripes

Page 6 of 6

**Reference: The YARD – Grant Writing and Technical Assistance for U.S. EPA Brownfield Grants RFQ #4040-14**

Regards,

**Stantec Consulting Services Inc.**

Chris Gdak  
Sr. Associate/Project Manager  
Phone: 425-289-7355  
Fax: 425-869-1190  
Chris.Gdak@Stantec.com

DAVID A. CONDON  
MAYOR



CITY OF SPOKANE - PURCHASING  
808 W. Spokane Falls Blvd.  
Spokane, Washington 99201-3316  
(509) 625-6400  
FAX (509) 625-6413

# REQUEST FOR QUALIFICATIONS

City of Spokane, Washington

**RFQ NUMBER: #4040-14**

**DESCRIPTION: THE YARD - GRANT WRITING AND TECHNICAL  
ASSISTANCE FOR U.S. EPA BROWNFIELD GRANTS**

**DUE DATE: MONDAY, AUGUST 25, 2014  
No later than 1:00 p.m.**

**City of Spokane - Purchasing  
4<sup>TH</sup> Floor, City Hall  
808 W. Spokane Falls Blvd.  
Spokane WA 99201-3316**

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Connie Wahl, C.P.M., CPPB  
Purchasing

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# **1. INTRODUCTION**

## **1.1 BACKGROUND AND PURPOSE**

The City of Spokane, Washington, through this Request for Qualifications (RFQ), is seeking a qualified environmental consulting Firm to provide grant application assistance, project management, environmental inventory and assessment, and public information and outreach support for, but not limited to the United States Environmental Protection Agency (U.S. EPA) Brownfields Community Assessment grant as part of the U.S. EPA Brownfields Grant Competition for Fiscal Year 2014 and 2015 (FY 2014 and 2015).

The intent of the RFQ is to comply with local and U.S. EPA federal procurement requirements specified in 40 CFR 31.36. The City is seeking qualified Firms to assist with securing and subsequent implementation of this and possible future related Brownfields grants.

The objectives of the City may expand at a later date to include actual clean-up of individual sites targeted for assessment, depending on the future availability of funding. The successful Firm may bring experience and insight to a partnership with the City to refine and implement these grants and explore other grants and Brownfields initiatives if funds become available.

The City applied unsuccessfully for an EPA Brownfields Assessment grant in 2014, in partnership with the Northeast Public Development Authority (NEPDA) and the Washington State Department of Commerce. The City is aware of several privately and publically owned sites for which real or perceived environmental contamination may pose a barrier to redevelopment in the northeast target area called The YARD. The City desires to remove barriers to site re-use and redevelopment in order to spur private investment, create jobs, and revitalize areas of blight. If EPA Brownfields Assessment grant funds are awarded they will be used as an economic development tool to encourage site redevelopment/re-use, including of public spaces.

## **1.2 MINIMUM QUALIFICATIONS**

The Firm must be licensed to do business in the State of Washington. Internal staff assigned to the project should include at a minimum; a state licensed Professional Geologist (PG) or Professional Engineer (PE) as project manager with at least five (5) years of experience effectively managing large and challenging Brownfield projects and another staff person with equivalent experience as their replacement should it be needed during the term of the agreement, an AICP certified Planner with specific redevelopment planning experience, other support and field staff typically used on site assessment projects. A LEED-certified professional is desirable.

## **1.3 FUNDING**

Any contract awarded as a result of this procurement is contingent upon the availability of funding.

## 1.4 PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFQ is tentatively scheduled to begin on or about October, 2014 and to end in September, 2017.

Contract renewals or extensions shall be initiated at the discretion of the City and subject to mutual agreement. The contract may be extended for two (2) additional one-year contract periods with the total contract period not to exceed five (5) years.

## 1.5 DEFINITIONS

**Definitions for the purposes of this RFQ include:**

**City** – The City of Spokane, a Washington State municipal corporation, the agency issuing this RFQ.

**Firm** – Individual or company whose Proposal has been accepted by the City and is awarded a fully executed, written contract.

**Proposal** – A formal offer submitted in response to this solicitation.

**Proposer** - Individual or company submitting a Proposal in order to attain a contract with the City.

**Request for Qualifications (RFQ)** – Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFQ is to permit the consultant community to provide qualifications and various approaches to meet the City's need.

## 1.6 CONTRACTING WITH CURRENT OR FORMER CITY EMPLOYEES

Specific restrictions apply to contracting with current or former City officers and employees pursuant to the Code of Ethics in chapter 1.04 of the Spokane Municipal Code. Proposers should familiarize themselves with the requirements prior to submitting a Proposal that includes current or former City officers or employees.

## 2. SCOPE OF SERVICES

This RFQ is to solicit for a qualified Firm to provide a wide range of services to the City. The successful Firm is expected to perform many tasks including, but not limited to, the following:

The successful Firm, under the direction of the City, will:

- A. Prepare an application for up to \$400,000 in U.S. EPA Brownfield Community Assessment funding to assess sites contaminated with hazardous substances and petroleum. The successful Firm may also be contracted to assist with related federal, state, or local funding applications, if deemed necessary by the City, including for environmental remediation funding.

- B. Implement the successful grant application by conducting appropriate activities listed in the EPA Grant Guidelines in consultation with the City, U.S. EPA Region Project Manager, and appropriate Regional Washington Ecology Project Managers.
- C. Perform Key Tasks that may include, but also may not be limited to:
- Take the lead in coordination with the City, in preparing the 2015 EPA grant application.
  - Compile any associated demographic data to bolster the grant application.
  - Assist the City with solicitation of letters of support from the State, Spokane County, Washington Department of Ecology and other local stakeholders.
  - Review existing plans as they relate to redevelopment within the City, The YARD and specific site re-use.
  - Facilitate community outreach activities as needed to enhance the grant application.
  - Coordinate any necessary activities with the U.S. EPA staff for U.S. EPA grant(s).
  - Conduct and oversee site assessment studies and prepare appropriate technical reports required by the U.S. EPA and/or Washington Department of Ecology in print and electronic format.
  - Conduct field investigations including sample collection and lab analysis.
  - Evaluate cleanup options; complete associated risk assessment analysis and cost estimates.
  - Prepare a written Quality Assurance Project Plan (QAPP) in compliance with U.S. EPA regulations.
  - If required, delivery to the City completed Phase I and Phase II Environmental Site Assessment (ESA) reports, site investigation reports, remedial action options reports, remedial action plans and other environmental reports or plans required under the current EPA AND Ecology programs governing site investigations and remediation.
  - Project management, implementation, and/or technical oversight.
  - Professional advice regarding environmental issues associated with land reuse/ redevelopment.
  - Provide regulatory and financial information as needed, in support of the EPA grant.
  - Attend meetings of the City, NEPDA and advisory committees as requested.
  - Prepare presentations to provide information about the grant and/or individual project progress as requested.
  - Develop preliminary budget, financing options and implementation plan for assessments and cleanup/re-use.
  - Complete containment characterization and risk assessments as determined necessary following Phase II activities (as funds allow).

- Develop public and private opportunities for citizen participation throughout all phases of projects and where applicable, implement outreach/citizen participation efforts, in consultation with the City and NEPDA.

### 3. GENERAL INFORMATION

#### 3.1 RFQ COORDINATOR

The RFQ Coordinator is the sole point of contact in the City for this procurement. All communication between the Proposer and the City upon receipt of this RFQ shall be with the RFQ Coordinator, as follows:

Name	Teri Stripes, City of Spokane Planning and Development
E-Mail Address	<a href="mailto:tstripes@spokanecity.org">tstripes@spokanecity.org</a>

Any other communication will be considered unofficial and non-binding on the City. Firms are to rely on written statements issued by the RFQ Coordinator. Communication directed to parties other than the RFQ Coordinator may result in disqualification of the Firm.

#### 3.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Qualifications	July 24, 2014
Last date for questions requiring an Addendum	August 15, 2014
Proposals due	August 25, 2014
Evaluate Proposals	August 26 -September 12, 2014
Announce "Apparent Successful Firm"	September 15, 2014
Negotiate contract	September 16 to 26, 2014
City Council approval of contract	October 6, 2014
Begin contract work	October 7, 2014

The City reserves the right to revise the above schedule.

#### 3.3 SUBMISSION OF PROPOSALS

##### A. PREPARATION OF ENVELOPES

Place each copy of the Proposal in a separate sealed envelope. Please limit quantity of separate digital documents for digital Proposal copy to four (4). On the front of each envelope, clearly note if it contains the original or a copy and place the following information:

"SEALED PROPOSAL - IMPORTANT"

"RFQ #4040-14 THE YARD – GRANT WRITING TECHNICAL ASSISTANCE FOR U.S. EPA BROWNFIELD GRANTS"

"DUE: MONDAY, AUGUST 25, 2014 – 1:00 P.M."

YOUR COMPANY NAME



**B. SUBMISSION OF PROPOSALS**

Submit one (1) paper original, one (1) paper copy and one (1) reproducible digital copy (thumb drive or CD) of the Proposal to:

City of Spokane – Purchasing  
4<sup>th</sup> Floor – City Hall  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

**NOTE: Proposals will not be accepted by fax or email.**

**C. DUE DATE**

It is the responsibility of the Proposer to be sure its Proposals are sent sufficiently ahead of time to be received no later than 1:00 PM local time on Monday, August 25, 2014.

Proposers mailing Proposals should allow normal mail delivery time to ensure timely receipt of their Proposals. The City reserves the right to not consider Proposals received late. City Hall is now a secured building. If the Proposer is hand delivering a Proposal, note that additional time is required to sign in, receive a visitor's pass, and gain entrance to the building.

Sealed Proposals will be publicly acknowledged at 1:15 p.m., on the due date in the City of Spokane City Hall Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201.

**3.4 PROPRIETARY INFORMATION / PUBLIC DISCLOSURE**

Materials submitted in response to this competitive procurement shall become the property of the City.

All received Proposals shall remain confidential until the award of contract recommendation has been filed with the applicable Council Committee or the City Clerk for City Council action. Thereafter, the Proposals shall be deemed public records as defined in RCW 42.56, "Public Records."

Any information in the Proposal that the Proposer desires to claim as proprietary and thus exempt from disclosure under the provisions of existing state law, shall be clearly designated. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on it. Marking the entire Proposal exempt from disclosure will not be honored.

The City will consider a Proposer's request for exemption from disclosure; however, the City will make a decision predicated upon state law and regulations. If any information is marked as proprietary in the Proposal, it will not be made available until the affected Proposer has been given an opportunity to seek a court injunction against the requested disclosure.

All requests for information must be directed to the RFQ Coordinator.

### **3.5 REVISIONS TO THE RFQ**

In the event it becomes necessary to revise any part of this RFQ, addenda will be provided to all potential known proposers in receipt of the RFQ. For this purpose, the published questions and answers from the Pre-Proposal Conference and any other pertinent information shall be provided as an addendum to the RFQ.

The City also reserves the right to cancel or reissue the RFQ in whole or in part, prior to final award of a contract.

### **3.6 MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION**

The City encourages participation in all of its contracts by Firms certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE). Proposers may contact OMWBE at (360)753-9693 to obtain information on certified Firms.

### **3.7 ACCEPTANCE PERIOD**

Proposals shall remain in effect for forty-five (45) days for acceptance by the City from the due date for receipt of Proposals.

### **3.8 RESPONSIVENESS**

The Proposer is specifically notified that failure to comply with any part of the RFQ may result in rejection of its Proposal as non-responsive.

The City also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

### **3.9 MOST FAVORABLE TERMS**

The City reserves the right to make an award without further discussion of the Proposal submitted. Therefore, the Proposal should be submitted initially with the most favorable terms that can be proposed. There will be no best and final offer procedure. The City reserves the right to contact a Proposer for clarification of its Proposal.

The Proposer should be prepared to accept this RFQ for incorporation into a contract resulting from this RFQ. Contract negotiations may incorporate some or all of the Proposal.

### **3.10 COSTS TO PROPOSE**

The City will not be liable for any costs incurred by the Proposer in preparation of a Proposal submitted in response to this RFQ, in conduct of a presentation, or any other activities related to responding to this RFQ.

### **3.11 NO OBLIGATION TO CONTRACT**

This RFQ does not obligate the City to contract for services specified herein.

### **3.12 REJECTION OF PROPOSALS**

The City reserves the right at its sole discretion to reject any and all Proposals received without penalty and to not issue a contract as a result of this RFQ.

### **3.13 INTERLOCAL PURCHASE AGREEMENTS**

The City of Spokane has entered into Interlocal Purchase Agreements with other public agencies pursuant to chapter 39.34 RCW. In submitting a response, the Proposer agrees to provide its services to other public agencies at the same contracted price, terms and conditions it is providing to the City of Spokane, contingent upon the Firm's review and approval at the time of a requested contract. The Firm's right to refuse to enter into a contract with another public agency at the time of request shall be absolute.

## **4. PROPOSAL CONTENTS**

### **4.1 PREPARATION OF PROPOSAL**

Proposals shall be submitted on eight and one-half by eleven inch (8" 1/2 x 11") paper with tabs separating the major sections of the Proposal. Use recycled paper and both sides of paper sheets whenever practicable. The major sections of the Proposal are to be submitted in the order noted below:

1. Letter of Submittal.
2. Technical Proposal.
3. Management Proposal.
4. Cost Proposal.

Proposals shall provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the Proposal, but should assist the Proposer in preparing a thorough response.

### **4.2 LETTER OF SUBMITTAL**

The Letter of Submittal shall be signed and dated by a person authorized to legally bind the Firm to a contractual relationship, e.g., the president or executive director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include the following information about the Firm and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written;
2. Legal status of the Firm (sole proprietorship, partnership, corporation, etc.);

3. Location of the facility from which the Firm would operate;
4. Identify any current or former City employees employed by or on the Firm's governing board as of the date of the Proposal or during the previous twelve (12) months; and
5. Acknowledgement that the Firm will comply with all terms and conditions set forth in the Request for Qualifications, unless otherwise agreed by the City.

#### 4.3 TECHNICAL PROPOSAL

The Technical Proposal shall contain a comprehensive description of services including the following elements:

1. **PROJECT APPROACH / METHODOLOGY** – Include a complete description of the Firm's proposed approach and methodology for the project. This section should convey Firm's understanding of the proposed project.
2. **WORK PLAN** – Include and describe all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFQ **with particular attention to Section 2 "Scope of Services"**. This section of the technical Proposal shall contain sufficient detail to convey to members of the evaluation team, the Firm's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of City staff. The Firm may also present any creative approaches that may be appropriate and may provide any pertinent supporting documentation.
3. **PROJECT SCHEDULE** – Include a project schedule indicating when the elements of the work will be completed and when deliverables, if any, will be provided.
4. **DELIVERABLES** – Fully describe deliverables to be submitted under the proposed project.

#### 4.4 MANAGEMENT PROPOSAL

##### A. PROJECT MANAGEMENT

1. **PROJECT TEAM STRUCTURE / INTERNAL CONTROLS** - Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart of the Firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the Firm. This chart must also show lines of authority to the next senior level of management. Include who within the Firm will have prime responsibility and final authority for the proposed work.

## B. EXPERIENCE OF THE FIRM

1. Indicate the experience the Firm and any subcontractors have in the following areas:
  - a. Project Experience:
    - Conducting Phase I and Phase II ESAs.
    - Conducting environmental investigations and cleanups at sites impacted by petroleum and other hazardous materials.
    - Project management experience involving multiple parties (including public-private).
    - Conducting environmental investigations and cleanups under a government reimbursement and/or equivalent grant funded programs.
    - Designing and implementing outreach to support an EPA Brownfields Assessment grant or similar; communicating technical information in a clear/concise method in verbal, written, and electronic (graphical) formats.
    - Redevelopment planning and market research activities related to Brownfields properties and site re-use.
    - Other areas of expertise relevant or unique experience related to U.S. EPA grant implementation.
  - b. Grant Experience and Success:
    - U.S. EPA grant application preparation experience and success, including the role of your Firm and the individuals involved (key personnel).
    - Other grant writing, research, and data collection including collection and interpretation of demographic, health and environmental data.

## C. STAFF QUALIFICATIONS / EXPERIENCE

1. All project staff performing field work on Brownfield sites will be required to have current OSHA HAZWOPER training. In addition, the selected Firm should have a Certified Industrial Hygienist (CIH) on staff to oversee the health and safety program.

Internal staff assigned to the project should include at a minimum; a state licensed Professional Geologist (PG) or Professional Engineer (PE) as project manager with at least five (5) years' experience effectively managing large and challenging Brownfield projects and another staff person with equivalent experience as their replacement should it be needed during the term of the agreement, an AICP certified Planner with specific redevelopment planning experience, other support and field staff typically used on site assessment projects. A LEED-certified professional is desirable.

Identify staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide resumes' (not to exceed two (2) pages per person) for the named staff, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Firm shall commit that staff identified in its Proposal will actually perform the assigned work. Any staff substitution must have the prior approval of the City. Identify specifically how the City's need for the following regulatory and scientific/technical knowledge will be met:

- Knowledge and expertise pertaining to federal environmental statutes or associated regulations.
  - Knowledge and expertise pertaining to State environmental and pertinent statutes, laws, and regulations.
  - Knowledge and expertise pertaining to OSHA and other health and safety rules or requirements.
  - Knowledge and experience pertaining to site redevelopment services (planning, surveying, and engineering).
  - Individual staff knowledge and technical experience relative to ESAs, Brownfield projects and contaminated site remediation.
2. Indicate other relevant experience that indicates the qualifications of the Firm, Staff, and any subcontractors, for the performance of the potential contract.

#### **D. REFERENCES**

Include a list of contracts the Firm has had during the last five (5) years that relate to the Firm's ability to perform the services needed under this RFQ. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses. The Firm grants permission to the City to contact the references provided.

Specifically, List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three (3) business references for whom work has been accomplished and briefly describe the type of service provided. The Firm grants permission to the City to contact the references provided. Do not include current City staff as references. The City may evaluate references at the City's discretion.

#### **E. RELATED INFORMATION**

1. If the Firm has had a contract terminated for default in the last five (5) years, describe the incident. Termination for default is defined as notice to stop performance due to the Firm's non-performance or poor performance and if the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.
2. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Firm's position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the Proposal on the grounds of the past experience. If no such termination for default has been experienced by the Firm in the past five (5) years, so indicate.

### **5. EVALUATION**

#### **5.1 EVALUATION PROCEDURE**

Responsive Proposals will be evaluated in accordance with the requirements stated in this solicitation and any addenda issued. Evaluation of Proposals shall be accomplished by an evaluation team, to be designated by the City, which will determine the ranking of the Proposals.

The City, at its sole discretion, may elect to select the top-scoring Firms as finalists for an oral presentation.

The RFQ Coordinator may contact the Firm for clarification of any portion of the Firm's Proposal.

## 5.2 EVALUATION WEIGHTING AND SCORING

The following weighting and points will be assigned to the Proposal for evaluation purposes:

<b>Technical Proposal – 50%</b>		100 points
Project Approach/Methodology	20 Points (Maximum)	
Quality of Work Plan	50 Points (Maximum)	
Project Schedule	15 Points (Maximum)	
Project Deliverables	15 Points (Maximum)	
<b>Management Proposal - 50%</b>		100 points
Project Team Structure/ Internal Controls	25 Points (Maximum)	
Staff Qualifications/Experience	25 Points (Maximum)	
Experience of the Firm	50 Points (Maximum)	
<b>GRAND TOTAL FOR WRITTEN PROPOSAL</b>		<hr/> <b>200 POINTS</b>

## 5.3 AWARD OF CONTRACT

This RFQ does not obligate the City to award a contract.

The City of Spokane reserves the option of awarding this contract in any manner most advantageous for the City. More than one contract may be awarded.

Award of contract, when made, will be to the proposer whose Proposal is the most favorable to the City, taking into consideration the evaluation factors. STATE CONTRACTS WHERE APPLICABLE WILL BE CONSIDERED AS A PROPOSAL. The City Council shall make the award of contract or purchase. Unsuccessful proposers will not automatically be notified of Proposal results.

## 5.4 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon request, a debriefing conference will be scheduled with an unsuccessful Proposer. Discussion will be limited to a critique of the requesting Firm's Proposal. Comparisons between Proposals or evaluations of the other Proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone.

## **5.5 PROTEST PROCEDURE**

Following evaluation, a recommendation for award shall be submitted to the City Council. Award of contract, if made, shall be by the City Council in an open meeting. Proposers wishing to protest the award of the contract must make their protests before the city council at the award hearing.

## **6. CONTRACT TERMS**

### **6.1 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 business registration. The Firm 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 Firm 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.

### **6.2 ANTI-KICKBACK**

No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this contract shall have or acquire any interest in the contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the contract.

### **6.3 DISPUTES**

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

### **6.4 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. The Firm agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Firm.

### **6.5 LIABILITY**

The Firm shall indemnify, defend and hold harmless the City, its officers and employees from all claims, demands, or suits in law or equity arising from the Firm's negligence or breach or its obligations under the contract. The Firm's duty to indemnify shall not apply to liability caused by the sole negligence of the City, its officers and employees. The Firm's duty to indemnify for liability arising from the concurrent negligence of the City, its officers and employees and the Firm, its officers and employees shall apply only to the extent of the negligence of the Firm, its officers and employees. The Firm's duty to indemnify shall survive termination or expiration of the contract.



The Firm waives, with respect to the City only, its immunity under RCW Title 51, Industrial Insurance.

## **6.6 INSURANCE COVERAGE**

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

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers; and
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this contract. It shall provide that the City, its officers and employees are additional insureds, but only with respect to the Firm's services to be provided under this contract; 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 \$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 three [3] 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 forty-five (45) days written notice from the Firm or its insurer(s) to the City.

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



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	OPR 2014-0761
<b>Renews #</b>	

<b>Submitting Dept</b>	ASSET MANAGEMENT	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	DAVE STEELE 625-6064	<b>Project #</b>	
<b>Contact E-Mail</b>	DSTEELE@SPOKANECITY.ORG	<b>Bid #</b>	
<b>Agenda Item Type</b>	Contract Item	<b>Requisition #</b>	REVENUE
<b>Agenda Item Name</b>	5900 - LEASE AGREEMENT - 201 WEST MAIN		

**Agenda Wording**

Proposed property lease with the University of Washington for the former Spokane Visitors Center located at 201 West Main Avenue.

**Summary (Background)**

When the Spokane Visitors Center was vacated earlier this year, the City of Spokane made the decision to complete a public Request for Proposal process to secure a new tenant for the property. The RFP process resulted in three proposals and the selection committee unanimously selected the University of Washington proposal to proceed with. The proposed NNN lease is for three years with a two-year option, for a total of five years. The lease rate will be \$5,206.25 per month, plus necessary

<b>Fiscal Impact</b>		<b>Budget Account</b>	
Revenue	\$ 5,206.25 per month	#	5900 30900 18200 36291 81068
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b>Approvals</b>		<b>Council Notifications</b>	
<b><u>Dept Head</u></b>	WERNER, MICHAEL	<b><u>Study Session</u></b>	
<b><u>Division Director</u></b>	QUINTRALL, JAN	<b><u>Other</u></b>	Public Works - 10/13/14
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>		lhattenburg@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	mlesesne@spokanecity.org	
<b><u>Additional Approvals</u></b>		mhughes@spokanecity.org	
<b><u>Purchasing</u></b>		pdolan@spokanecity.org	
		dsteele@spokanecity.org	



**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

**Summary (Background)**

property management, maintenance, and facility repair costs, for the first year and will escalate to \$5,631.25 per month in the final year. The University of Washington will complete all necessary tenant improvements.

<b><u>Fiscal Impact</u></b>		<b><u>Budget Account</u></b>	
Select	\$		#
Select	\$		#

**Distribution List**


**BRIEFING PAPER**  
**Asset Management Group**  
**Monday, October 13, 2014**

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**Subject:**

Property lease for the Former Spokane Visitors Center

**Background:**

The City of Spokane is the owner of the property located at 201 West Main. This property previously housed the Spokane Visitors Center. Since the Visitors Center moved out early in 2014, the property has sat vacant.

Due to the rapidly changing landscape in the U-district, it has been determined that it is in the best interest of the City to lease the Main Street Property property rather than sell the property at this time. Leasing the property allows for the U-district to mature over the next 3-5 years, will reveal the development shift in the area, and will likely result in a completely different “highest and best use” for the City’s property.

The City issued an RFP for the lease of the property in September and received three proposals prior to the October 6<sup>th</sup> deadline.

**Impacts:**

Leasing this property to the selected proposer brings an additional draw and places a nationally recognized brand in the already active Main and Division Street area of the U-District.

**Action:**

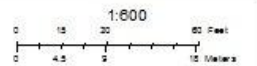
Approval of the property lease



City of Spokane GIS

Legend

Visitors Center  
October 14, 2014



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

## LEASE AGREEMENT

This Lease Agreement ("Lease") is by and between City of Spokane, a Corporation, limited liability company, etc ("Landlord"), and **THE BOARD OF REGENTS OF THE UNIVERSITY OF WASHINGTON**, a state institution of higher education and an agency of the State of Washington ("University").

1. SUMMARY OF LEASE TERMS. Capitalized terms in this summary are defined in the body of the Lease.

- a. DATE OF LEASE: October , 2014
- b. PREMISES: **201 W. Main, Spokane, WA 99201** (as depicted on Exhibit A and legally described in Exhibit B)
- c. BUILDING: **Visitor Center Building**
- d. PROJECT OF WHICH BUILDING IS A PART (if any): **N/A**
- e. PREMISES AREA: **N/A**
- f. UNIVERSITY'S USE OF PREMISES:
  - X Office
  - ☐ Classroom
  - ☐ Clinic
  - ☐ Storage use
  - ☐ Other: (describe) \_\_\_\_\_
- g. LEASE TERM: This Lease shall be for a Term of thirty-six (36) months. The Commencement Date of the Term shall be the date on which Landlord achieves Substantial Completion (defined in Section 3.2 below) of Landlord's Work (as defined in Exhibit C) and the Expiration Date shall be the last day of the thirty-six (36) full calendar month following the Commencement Date. The Estimated Commencement Date is March 1, 2015.
- h. MONTHLY RENT (months refer to period through the applicable full calendar month):

<u>Time Period</u>	<u>Monthly Rent</u>
Month 1 through Month 12	\$5,206.25
Month 13 through Month 24	\$5,312.50
Month 25 through Month 36	\$5,418.75

- i. UNIVERSITY'S PROPORTIONATE SHARE OF OPERATING COSTS:  
University's Proportionate Share of Building Operating Costs: 100 percent
- j. UNIVERSITY'S ADDRESS FOR NOTICES:

MAILING ADDRESS:

UW Real Estate  
Campus Box 359446  
Seattle, WA 98195-9446  
Phone: (206) 616-3400 Fax: (206) 685-1547

COURIER/DELIVERY ADDRESS:

UW Real Estate  
4333 Brooklyn Ave NE, T-12  
Campus Box 359446  
Seattle, Washington 98195-9446

- k. LANDLORD'S ADDRESS FOR NOTICES AND PAYMENT OF RENT:  
Address

- l. BROKER(S):  
University's Broker: Jim Quigley, Kiemle & Hagood  
Landlord's Broker: Mike Livingston, Kiemle & Hagood

THE ATTACHED EXHIBIT E SUMMARIZES ALL BROKERAGE FEES AND/OR COMMISSIONS PAID OR PAYABLE BY LANDLORD TO ANY BROKERS OR AGENTS IN RELATION TO THIS LEASE, INCLUDING ANY EXTENSION TERMS

- m. LANDLORD'S WORK: As defined in Exhibit C.
- n. EXTENSION OPTION: *One* (1) Extension Option(s) to extend the Term for a period of *two* (2) years, as set forth in Exhibit D.
- o. EXHIBITS:  
Exhibit A – The Premises  
Exhibit B – The Project (Legal Description)  
Exhibit C – Work Letter Agreement  
Exhibit D – Extension Option  
Exhibit E –Brokerage Commissions and Fees

## 2. PREMISES; DELIVERY CONDITION; PERMITTED USE.

2.1 Landlord does hereby lease to University, and University does hereby lease from Landlord, the premises described in Section 1(b) and shown on Exhibit A attached hereto ("Premises"), which are legally described in Exhibit B attached hereto, together with the benefits of any appurtenant easements and rights of way. Landlord warrants that it is the fee owner of the Premises described in Exhibit B.

2.2 Landlord shall deliver the Premises in compliance with all applicable laws, codes, ordinances and regulations; watertight; free of hazardous materials, mold or other biotoxins in violation of applicable laws, codes, ordinances or regulations; in a structurally sound condition; and with all Building utilities and systems in good working order. To the extent that any of the foregoing are not true and correct as of the Commencement Date, Landlord shall promptly correct the same at Landlord's sole cost as soon as Landlord becomes aware of such noncompliance.

2.3 University may use the Premises for the purposes described in Section 1(f) above, and such other uses consented to by Landlord, such consent not to be unreasonably withheld, conditioned or delayed. Landlord warrants to University that the Premises may lawfully be used for the use set forth in Section 1(f). Subject to Landlord's representations, warranties and obligations in this Lease, University shall use the Premises in accordance with applicable laws, ordinances, rules, regulations and requirements of governmental authorities. University shall not allow waste or nuisance to be committed on the Premises.

## 3. TERM.

3.1. This Lease shall be for the term set forth in Section 1(g) ("Term"), commencing on the date set forth in Section 1(g) ("Commencement Date") and ending on the date set forth in Section 1(g) ("Expiration Date"), except as such Term may be earlier terminated or extended pursuant to the terms of this Lease.

Landlord estimates that it will deliver the Premises to University with Landlord's Work (as defined in Exhibit C) Substantially Completed no later than the estimated commencement date set forth in Section 1(g) ("Estimated Commencement Date"). If Landlord's Work is not Substantially Completed and/or Landlord fails to deliver possession of the Premises to University in the condition required by this Lease within ninety (90) days following the Estimated Commencement Date, other than due to delay caused by University (provided that Landlord must deliver immediate written notice to University of any such delay), then even if delay is due to force majeure, University may, at its option, terminate this Lease by written notice to Landlord at no cost to University. In no event shall University owe any Rent until Landlord's Work is Substantially Completed and Landlord has delivered possession of the Premises to University in the condition required by this Lease. If University does not elect to terminate, University shall receive an offset of 1-1/2 days prorated Rent for each day past the end of such ninety (90) day period that Landlord's Work is not Substantially Completed and/or possession of Premises in the condition required by this Lease is not delivered, except to the extent such delay is caused by University (provided that Landlord delivered immediate written notice to University of any such delay).

3.2. For purposes of this Lease, "Substantially Completed" or "Substantial Completion" shall mean that (i) Landlord's Work is completed in accord with plans and specifications approved by the parties to such an extent that University can occupy the Premises for their intended purposes, (ii) only minor "punch list" items remain to be performed, (iii) a certificate of occupancy has been issued, (iv) Landlord has



provided at least ten (10) business days prior written notice to University of the date of anticipated Substantial Completion, and (v) Landlord has provided University, at Landlord's cost, with keys and keycards in a number specified by University as reasonably necessary for University's users.

3.3. University shall be entitled to possession of the Premises as of the mutual execution of this Lease and before the Commencement Date, in order to commence with improvements, move-in activities or other activities in preparation for University's occupancy, provided that (i) University shall not unreasonably interfere with Landlord's construction of Landlord's Work and shall coordinate its activities with Landlord's activities and comply with Landlord's reasonable directives, (ii) all provisions of this Lease other than those relating to continuous occupancy and payment of Rent shall apply to any such pre-commencement occupancy (including specifically without limitation all provisions relating to insurance, indemnity, and freedom from liens), and (iii) if University commences business operations from the Premises during such period, then the Commencement Date shall be deemed advanced to the date University commences such business operations. University shall not be deemed to have commenced business operations by moving furniture or equipment into the Premises, or by performing alterations or improvements (including, without limitation, cabling).

#### 4. RENT.

4.1 University covenants and agrees to pay Landlord, at the offices of Landlord, or to such other party or at such other place in the United States as Landlord may hereafter designate in writing, Monthly Rent in the amounts set forth in Section 1(h), in advance, on the first day of each month of the Term, without demand by Landlord. Monthly Rent and University's Proportionate Share of Operating Costs (as defined in the following Section 4.2) collectively shall be the "Rent." Notwithstanding the foregoing, (a) the first installment of Rent shall not be due until the 15<sup>th</sup> day following mutual execution of the Commencement Date Certificate (as set forth in Section 3.1 above), and (b) Rent due for the months of January and July shall not be due until the 10<sup>th</sup> of the month. At University's election, Rent payment shall be made by automated clearing house ("ACH") transfer to Landlord's designated bank account. Rent for any partial month shall be prorated.

4.2 During the Term, University shall pay to Landlord University's Proportionate Share, as set forth in Section 1(i) above, of Operating Costs.

4.2.1 The term "Operating Costs" means only the following operating costs actually and reasonably incurred by Landlord in the management and operation of the Premises, subject to the exclusion of those items listed in Section 4.2.2:

(a) The cost of all reasonable and necessary repairs, maintenance and operation of the parking areas, sidewalks and grounds including, without limitation, all exterior lighting and the snowplowing of all walks, driveways and parking areas associated with the Premises, including the cost of ordinary materials and supplies consumed in connection with any such maintenance, repair and operation that in accordance with generally accepted accounting principles would not be capitalized;

(b) The reasonable and customary management fee for Landlord or Landlord's managing agent (in accordance with the local marketplace for comparable buildings) not to exceed the percentage set forth in Section 1(i), which shall be inclusive of any cost of materials and

supplies used in connection with such management, Landlord's general overhead, a rental office for management, and salaries and benefits of Landlord's personnel, officers and executives;

(c) Salary of Landlord's employees directly engaged in the operation and maintenance of the Premises allocated to the Building based on the percentage of time each such employee devotes to the Premises or Building;

(d) Premiums incurred by Landlord for insurance coverage maintained by Landlord that is required by this Lease or that is customarily carried by operators of comparable buildings in the area, which coverage shall include reasonable and customary deductibles (but not to exceed \$10,000);

(e) Cost of repair, maintenance and operation with respect to the Premises, systems and utility lines contained therein, except that Landlord shall first look to any existing warranties and/or guaranties or other responsible third parties to pay such costs;

(f) The cost of refuse removal and janitorial services;

(g) Cost of supplies and materials used in connection with the operation, repair and maintenance of the Premises, including, without limitation, bathroom and cleaning supplies, light bulbs, ballasts, fuses, and other electrical supplies, paper and paper goods; and

(h) General real estate taxes levied against the Premises and that accrue and are payable during the Term, but not any special assessments or taxes in the nature of improvement or betterment assessments ("Real Estate Taxes"). Real Estate Taxes shall exclude, without limitation, any income, franchise, gross receipts, corporation, capital levy, excess profits, revenue, rent, inheritance, gift, estate, payroll or stamp tax or any increase in tax (or any tax protest) arising out of a reassessment on all or part of the Project upon the sale, transfer or assignment of Landlord's title or estate, which at any time may be assessed against or become a lien upon all or any part of the Premises or this leasehold. In addition, Real Estate Taxes shall exclude any liens or taxes, penalties or interest that are levied or assessed against the Premises for any time prior to the Term. Landlord represents and warrants that the tax parcel containing the Premises is fully assessed as a completed and occupied unit with all improvements contemplated by this Lease as of the Commencement Date.

4.2.2 Landlord shall at all times use its best efforts to operate the Building in an economically reasonable manner at costs not disproportionately higher than those experienced by other comparable buildings in the area. Landlord agrees that (i) Landlord will not collect or be entitled to collect Operating Costs from all of its tenants in an amount which is in excess of one hundred percent (100%) of the Operating Costs actually paid by Landlord in connection with the operation of the Building or Project, and (ii) Landlord shall make no profit from Landlord's collection of Operating Costs. In addition, and notwithstanding the generality of Section 4.2.1, the following items shall be excluded or deducted, as the case may be, from the calculation of University's Proportionate Share of Operating Costs:

(a) Any costs borne directly by University under this Lease;

(b) Any ground lease rental;

(c) Costs of capital repairs, replacements, improvements and equipment ("Capital Items"), except for: (A) the annual amortization (amortized over the useful life as reasonably determined by Landlord without interest) of costs incurred by Landlord after the Commencement Date for any capital improvements installed or paid for by Landlord and required by any new (or change in) laws, rules or regulations of any governmental or quasi-governmental authority which are enacted after the Commencement Date; (B) the annual amortization (amortized over the useful life as reasonably determined by Landlord without interest) of costs of any equipment, device or capital improvement purchased or incurred as a labor-saving measure or to affect other economics in the operation or maintenance of the Building, provided the annual amortized cost does not exceed the actual annual cost savings realized and such savings do not redound primarily to the benefit of any particular tenant other than University); or (C) minor capital improvements, tools or expenditures to the extent each such improvement or acquisition costs less than Five Thousand Dollars (\$5,000.00);

(d) Rentals and other related expenses incurred in leasing HVAC systems, elevators or other equipment ordinarily considered to be Capital Items, except for: (A) expenses in connection with making repairs on or keeping buildings systems in operation while repairs are being made, and (B) costs of equipment not affixed to the Building which is used in providing janitorial or similar services;

(e) Costs incurred by Landlord for the repair of damage to the Building or Project, to the extent that Landlord is entitled to be reimbursed by insurance proceeds (or would have been so entitled had it purchased the insurance required by this Lease) and cost of earthquake repairs in excess of Ten Thousand Dollars (\$10,000.00) per earthquake (which for this purpose, an earthquake is defined collectively as the initial earthquake and the aftershocks that relate to such initial earthquake);

(f) Costs, including permit, license and inspection costs, incurred with respect to the installation of tenants' or other occupants' improvements in the Building or Project or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Building or Project;

(g) Depreciation, amortization and interest payments;

(h) Marketing costs, including without limitation, leasing commissions, attorneys' fees in connection with the negotiation and preparation of letters, deal memos, letters of intent, leases, subleases and/or assignments, space planning costs, advertising and promotional expenditures, the cost of signs in or on the Building or Project identifying the owner, management or other tenants, and other costs and expenses incurred in connection with lease, sublease and/or assignment negotiations and transactions with present or prospective tenants or other occupants of the Building or Project;

(i) Expenses in connection with services or other benefits that are not offered to University or for which University is charged for directly but which are provided to another tenant or occupant;

(j) Overhead and profit increment paid to Landlord or to subsidiaries or affiliates of Landlord for goods and/or services to the extent the same exceeds the costs of such goods and/or services rendered by unaffiliated third parties on a competitive basis for comparable buildings;

(k) Landlord's general corporate overhead and general and administrative expenses;

(l) Any compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord and/or all fees paid to any parking facility operator (on or off site);

(m) The cost of any electricity, water, gas, sewer, or similar utility services ("Utilities") used by any other tenant in the Building, including without limitation the cost of any Utilities for which any tenant directly contracts with the local public service company or of which any tenant is separately metered or sub metered and pays Landlord directly; provided, however, that if any tenant in the Building contracts directly for Utilities or is separately metered or sub metered during any portion of the Base Year, the total costs for Utilities for the Building in the Base Year shall be "grossed up" to reflect what those costs would have been had each tenant in the Building used the Building standard amount of Utilities;

(n) Costs incurred in connection with upgrading the Building or Project to comply with the current interpretation of disability, life, fire and safety codes, ordinances, statutes, or other laws in effect prior to the Commencement Date, including, without limitation, the Americans With Disabilities Act, including penalties or damages incurred due to such non-compliance;

(o) Tax penalties incurred as a result of Landlord's negligence, inability or unwillingness to make payments and/or to file any tax or informational returns when due;

(p) Costs for which Landlord has been compensated by a management fee, and any management fees in excess of those management fees which are normally and customarily charged by comparable landlord's of comparable buildings;

(q) Costs arising from the negligence or fault of other tenants or Landlord, its employees or agents;

(r) Notwithstanding any contrary provision of this Lease, any and all costs arising from the release of hazardous materials or substances (as defined by applicable laws in effect on the date this Lease is executed) in or about the Premises, the Building or the Project, including without limitation, hazardous substances in the ground water or soil, not placed in the Premises, the Building or the Project by University;

(s) Costs arising from Landlord's charitable or political contributions;

(t) Costs related to the initial construction of the Building or Project;

(u) Costs arising from any voluntary special assessment on the Building or the Property by any transit district authority or any other governmental or quasi-governmental entity having the authority to impose such assessment in connection with the initial construction of the Building;

(v) Costs for sculpture, paintings or other objects of art;

(w) Costs (including in connection therewith all attorneys' fees and costs of settlement judgments and payments in lieu thereof) arising from claims, disputes or potential disputes in connection with potential or actual claims, litigation or arbitration pertaining to Landlord and/or the Building and/or the Project;

(x) Costs associated with the operation of the business of the partnership or entity which constitutes Landlord as the same are distinguished from the costs of operation of the Building, including partnership accounting and legal matters, costs of defending any lawsuits with any mortgagee, costs of selling, syndicating, financing, mortgaging or hypothecating any of Landlord's interest in the Building, costs of any disputes between Landlord and its employees (if any), disputes of Landlord with Building management, or costs incurred in connection with disputes with other tenants;

(y) Any increases of, or reassessment in, real property taxes resulting from a change in ownership of Landlord or from major alterations, improvements, modifications or renovations to the Building or the Property (except to the extent caused by alterations, improvements, modifications or renovations performed by the University);

(z) Costs of any "tap fees" or any sewer or water connection fees for the benefit of any particular tenant in the Building;

(aa) Any expenses incurred by Landlord for use of any portions of the Building to accommodate events including, but not limited to shows, promotions, kiosks, displays, filming, photography, private events or parties, ceremonies and advertising beyond the normal expenses otherwise attributable to providing Building services, such as lighting and HVAC to such public portions of the Building during normal operations;

(bb) Any entertainment, dining or travel expenses of Landlord for any purpose;

(cc) Any flowers, gifts, balloons, etc. provided to any entity whatsoever, including, but not limited to, University, other tenants, employees, vendors, contractors, prospective tenants and agents;

(dd) Costs for parking facilities (unless parking is provided free of charge), and any "validated" parking for any entity;

(ee) Any "finder's fees," brokerage commissions, job placement costs or job advertising cost;

(ff) Any "above standard" cleaning, including, but not limited to construction cleanup or special cleanings associated with parties/events and specific tenant requirements in excess of standard services, including related trash collection, removal, hauling and dumping;

(gg) The cost of any tenant relations parties, events or promotion not consented to by University in writing;

(hh) Legal fees;

(ii) Accounting fees not directly related to the management of the Building;  
and

(jj) Any other expenses which, in accordance with generally accepted accounting principles, consistently applied, would not normally be treated as Operating Costs by comparable landlords of comparable buildings.

4.3 Landlord shall reasonably estimate the Operating Costs for each calendar year wholly or partially included within the Term and shall send notice of the estimate to University at least thirty (30) days before the Commencement Date or the first day of each subsequent year, as applicable. If University requests, Landlord will give University reasonably detailed documentation supporting Landlord's estimate and University shall not be required to pay any portion of such estimate until Landlord has provided documentation supporting such estimate that is reasonably acceptable to University. During each calendar year included in the Term for which University is to pay Operating Costs, University shall pay one twelfth (1/12<sup>th</sup>) of the applicable estimate each month to Landlord together with the Monthly Rent. If Landlord does not give University an estimate within the time period stated above, then University shall continue to make estimated payments based upon the preceding year's estimate and within thirty (30) days after receipt of the new estimate for the current year (subject to Landlord's obligation to provide supporting documentation, as set forth above in this paragraph), University shall commence payment of the new estimated monthly amount and shall pay in a lump sum any retroactive amounts due from the beginning of the new year. Notwithstanding anything in this Article to the contrary, the amount of Operating Costs charged to and payable by University for a calendar year shall not exceed the amount paid by University for the prior calendar year by more than the cap on increases in Operating Costs set forth in Section 1(i). The monthly charge for estimated Operating Costs shall be prorated for any partial month by dividing the Operating Cost charge by three hundred sixty-five (365) and multiplying the result by the number of days in the partial month for which Operating Costs are owed.

4.4 Not later than ninety (90) days after the expiration of each calendar year included in the Term, Landlord shall submit to University a written, certified statement containing the amount of actual Operating Costs for such year broken down by component expenses, the Operating Cost increase for the year, the amount of University's Proportionate Share of the Operating Cost increase (capped, if applicable), the amount paid by University towards the Operating Costs increase, and the amount if any University owes Landlord or the amount Landlord owes University as a refund for such year. If Landlord does not furnish University with a certified statement of Operating Costs within ninety (90) days after the end of the year, then Landlord shall be deemed to have waived forever any and all claims for reimbursement from University for underpayment of Operating Costs for the year, in addition to any other rights and remedies to which University may be entitled under this Lease. University or its audit representatives shall have the right to inspect and audit Landlord's books and records with respect to this Lease once each year to verify actual Operating Costs. Landlord's books and records shall be kept in accordance with generally accepted accounting principles. If University's audit of the Operating Costs reveals an overcharge of more than three percent (3%), Landlord promptly shall reimburse University for the cost of the audit including University staff billed at the hourly payroll cost of those employees (including benefits) plus reasonable travel costs. Any overcharge or underpayment of Operating Costs shall be due from one party to the other within thirty (30) days.

4.5 If University fails to pay any Rent due hereunder within five (5) business days of receipt of written notice from Landlord regarding an overdue amount, then (a) a late charge equal to five percent (5%)

of the unpaid amount shall be assessed and be immediately due and payable; and (b) interest shall accrue at the rate of ten percent (10%) per annum on any Rent that is not paid when due.

5. UTILITIES AND SERVICES.

5.1 Landlord shall at all times furnish the Premises with: (i) water at those points of supply provided for general use of tenants of the Building; (ii) heated and refrigerated air conditioning as appropriate, at such temperatures and in such amounts as are required by governmental authority or as Landlord reasonably determines are standard for the Building, along with such systems or equipment as may be required to maintain a healthy air quality reasonably acceptable to University; (iii) janitorial service, recycling and trash removal on weekdays, other than holidays observed by University ("Holidays"), for Building-standard installations and such carpet cleaning and window washing as may from time to time be reasonably required; (iv) elevators for ingress and egress to the floor on which the Premises are located, in common with other tenants, provided that Landlord may limit the number of operating elevators during non-business hours and Holidays; (v) replacement of Building-standard light bulbs and fluorescent tubes in the Premises, provided that Landlord's standard charge for such bulbs and tubes shall be paid by University; and (vi) electrical current. If University desires any of the services specified in Section 5.1(i) at a time other than Normal Business Hours (as set forth in Section 1(i)), then such services shall be supplied to University upon request and University shall pay to Landlord the actual cost of such services within thirty (30) days after Landlord has delivered to University an invoice therefor.

5.2 No interruption or failure of any utilities or services from any cause whatsoever shall be deemed an eviction of University, provided that Landlord shall use commercially reasonable efforts to repair, replace or restore the same as quickly as possible. To the extent any interruption of services occurs to due to Landlord's negligence, intentional misconduct or breach of Lease, then Rent shall be abated for the period of interruption in the proportion of the square footage rendered unusable in addition to, and without limiting, University's other rights and remedies available at law and/or under this Lease.

5.3 University shall have the right to install telephone and data communications systems on the Premises and shall be entitled to use the building risers and similar above-ceiling or subfloor spaces for the purposes of connecting such systems to the exterior main lines. University shall pay for such services directly to the appropriate telephone company or other service provider. University shall not be responsible for removal of such telephone and data communications systems.

6. COMMON AREAS. N/A.

7. REPAIRS AND MAINTENANCE.

7.1 All repairs and maintenance necessary to keep the Premises, Building, Common Area and the Project in a good, safe, and tenantable condition and in compliance with all laws, rules and regulations shall be done promptly by Landlord. Landlord shall be solely responsible for the cost of repairing, maintaining and replacing the Building structure, systems and structural elements, slab, utilities and utility lines, floor and roof (including, without limitation, both the structural elements of the roof and the roof membrane); the cost of other repairs, maintenance and replacements shall be Operating Costs to the extent allowable under Article 4. With respect to all such repairs and maintenance, Landlord shall cause all laborers, workers and mechanics (as such terms are defined in Chapter 39.12 of the Revised Code of

Washington) performing repair or maintenance work to be paid the prevailing rate of wages (as defined in Chapter 39.12 of the Revised Code of Washington). University shall reimburse Landlord for the reasonable cost of repairing damage to the Premises to the extent such damage is caused by the negligence of University, its officers, employees or agents in connection with University's use of the Premises, except to the extent such costs are otherwise covered by Landlord's insurance (or required hereunder to be covered by Landlord's insurance, even if Landlord failed to obtain it).

7.2 In the event of interruption of any building services or interruption of use of any building areas, Landlord will proceed to restore such service or area promptly upon becoming aware of such interruption. In addition to the rent abatement addressed in Section 5.2 above, to the extent any repairs made by Landlord or its agents render the Premises or any part thereof unusable for University's intended purpose, then Rent shall be abated for the period of interruption in the proportion of the square footage rendered unusable. Notwithstanding anything to the contrary in this Lease, if Landlord fails to commence with any maintenance or repair obligation of Landlord within twenty-four (24) hours of notice from University (or if Landlord fails thereafter to diligently complete the same in a commercially reasonable manner), then University shall be entitled to take such actions and make such repairs to the Premises, Building or property associated with the same, as University may deem necessary to correct such interruption, and Landlord shall reimburse University for the reasonable cost thereof within thirty (30) days of invoice. The preceding sentence shall not diminish University's entitlement to abated Rent as set forth above.

8. SIGNS. All signs or symbols placed by University on the exterior of the Premises, or upon any exterior part of the Building, shall be subject to Landlord's prior written approval, which shall not be unreasonably withheld, conditioned or delayed. At the termination of this Lease, University will remove all signs placed by it upon the Premises, and will repair any damage caused by such removal. All signs must comply with sign ordinances and be placed in accordance with required permits.

9. ALTERATIONS. During the Lease Term, University shall have the right to make alterations and improvements to the Premises. Landlord shall make such alterations and improvements and University shall reimburse Landlord for the reasonable cost of the same. University shall reimburse Landlord within thirty (30) days after receipt of a fully documented invoice for work actually performed. In addition, Landlord will (a) if requested by University, solicit fixed bids and obtain final authorization from University prior to commencing the work; (b) cause all laborers, workers and mechanics (as such terms are defined in Chapter 39.12 of the Revised Code of Washington) performing such work to be paid the prevailing rate of wages (as defined in Chapter 39.12 of the Revised Code of Washington); (c) comply with such other requirements that University may impose on such work. All alterations shall be subject to Landlord's prior approval, which shall not be unreasonably withheld, conditioned or delayed, provided that Landlord's approval shall not be required for non-structural improvements costing less than \$25,000. Title to such alterations and improvements shall remain with Landlord upon termination of this Lease, unless otherwise agreed by the parties in writing at the time that Landlord approves of the same. University may install on the Premises trade fixtures and equipment as are customarily used in the type of business conducted by University on the Premises. Title to all trade fixtures and equipment shall remain with University, unless otherwise agreed by the parties. Upon termination of this Lease, University shall remove such trade fixtures and equipment and repair any damage to the Premises caused by removal thereof or, at University's election, Landlord will repair any such damage and University will reimburse the reasonable costs incurred by Landlord for the same.



10. CONDEMNATION. In the event all or a substantial part of the Premises, Building or Project is taken or damaged by the power of eminent domain, or purchased by the condemnor in lieu thereof so as to render the remaining Premises not appropriate or sufficient for University's intended purpose, then this Lease may be terminated as of the time of taking at the option of either party. In the event of any taking whatsoever where this Lease is not terminated, the Rent shall be reduced in direct proportion to the reasonable degree of interference and Landlord shall promptly restore the Premises and Building to a commercially reasonable condition. Without limitation on its right to make a claim for costs related to, incurred because of or suffered because of the condemnation, University shall be allowed to make a claim for the value of the leasehold, moving costs and alterations or improvements made to the Premises.

11. PARKING. N/A.

12. LIENS. University shall keep the Premises free from any liens arising out of any work performed for, materials furnished to, or obligations incurred by University and shall hold Landlord harmless against the same.

13. SUBLETTING OR ASSIGNMENT. University shall neither sublet the whole or any part of the Premises, nor assign this Lease in whole or in part, without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed.

14. ACCESS. Landlord shall have the right, upon prior written notice of at least three (3) business days (except in an emergency) to enter the Premises at all reasonable times for the purpose of inspection or of making repairs, additions, or alterations, and, for one hundred twenty (120) days prior to the Expiration Date, to show the Premises to prospective tenants. Landlord shall retain a key for such purposes. In exercising its rights of access, Landlord shall use reasonable best efforts to minimize any disruption to University's use of the Premises. If University has created any secure or specially isolated spaces, Landlord shall comply with University's security requirements.

15. DAMAGE OR DESTRUCTION. If the Premises are more than forty percent (40%) (based on usable square feet) destroyed from any cause, or rendered inaccessible or unusable from any cause (other than by condemnation) other than on a temporary basis, either University or Landlord may terminate this Lease by delivery of written notice to the other within thirty (30) days of such event. If forty percent (40%) or less (based on square feet) of the Premises are destroyed or rendered unusable, Landlord shall promptly retain a qualified contractor to estimate the time required to restore such portion of the Premises. If, in Landlord's contractor's reasonable estimation (which estimation shall be provided to University in writing within thirty (30) days following the destruction), the Premises cannot be restored within ninety (90) days following the date of destruction, then Landlord shall immediately notify University and University may terminate this Lease by delivery of notice to Landlord within thirty (30) days of receipt of Landlord's notice; otherwise this Lease shall remain in full force and effect. If neither Landlord nor University terminates this Lease as provided above, then Landlord shall promptly commence to restore the Premises in compliance with then existing laws and shall complete such restoration with due diligence. During any period in which this Lease remains in effect following damage or destruction, and until termination of this Lease or full restoration of University's use of the Premises, the then current Rent shall be reduced in the proportion that University's use and enjoyment of the Premises is reduced as a result of the damage or destruction.

16. INDEMNIFICATION. Each party shall defend, indemnify and hold the other harmless from and against any damage, loss or liability for injuries to persons or property (excluding consequential damages

such as lost profits) to the extent caused by the negligent acts or omissions of their respective agents, officers and employees acting in the scope of their employment.

17. LANDLORD'S INSURANCE.

17.1 Landlord shall maintain throughout the Lease Term policies of property insurance covering loss of or damage to the Building and Project (including tenant improvements and subsequent alterations) in the full amount of its replacement cost with endorsement to cover code changes, which shall be pursuant to the following ISO form(s) or their equivalent: CP 10 30 and CP 10 20, covering perils insured under special causes of loss form and broad causes of loss form. Such policies shall provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils ("special cause of loss"), and sprinkler leakage. If any permanent improvements are made to the Project at University's expense, Landlord shall and is hereby deemed to assign to University a right to insurance proceeds in the amount equal to the replacement cost of such improvements. Notwithstanding such assignment, and provided this Lease is not terminated pursuant to Section 15, all proceeds of Landlord's property insurance shall be applied toward the restoration or replacement of the Project (including the improvements constructed at University's expense), and University shall reassign to Landlord its portion of insurance proceeds for such purpose. The property insurance carried by Landlord pursuant to this Section shall be primary to and non-contributory with any property insurance carried by University.

17.2 Landlord shall further maintain throughout the Lease Term a policy of commercial general liability insurance with a combined single limit of not less than \$2,000,000 per occurrence and \$5,000,000 aggregate for bodily injury and property damage, insuring Landlord against liability arising out of the ownership, use, occupancy or maintenance of the Building and Project, which shall be pursuant to the following ISO form(s) or their equivalent: ISO CG 00 01 01 96. University shall be named as an additional insured on the liability insurance policy required to be carried by Landlord under this Section.

17.3 All required Landlord's insurance shall be issued by insurance companies authorized to do business in the State of Washington with a financial rating reasonably acceptable to University, and shall contain an endorsement requiring at least forty-five (45) days' prior written notice of cancellation to University before cancellation or material diminution in the coverage or amount of any policy. Landlord shall deliver a certificate or copy of such policies evidencing University's additional insured status as required by Section 17.2 together with evidence of payment of all current premiums to University within thirty (30) days of execution of this Lease.

17.4 Landlord hereby waives and releases any right of recovery (including by way of subrogation) against University, its officers, employees, students and agents for any loss or damage sustained by Landlord with respect to the Building, Project, or Premises or any portion thereof or the contents of the same or any operation therein, to the extent such loss or damage is actually insured against or is required hereunder to be insured against.

18. UNIVERSITY INSURANCE. University, at its cost, shall maintain commercial general liability insurance or self-insurance, or any combination of arrangements, with a liability limit of \$2,000,000 per occurrence and \$5,000,000 aggregate, insuring against liability of University and its officers, employees and agents to the extent caused by the performance or failure of performance of duties for University in connection with University's use and occupancy of the Premises.

19. UNIVERSITY DEFAULT. The occurrence of any one or more of the following events shall constitute a default of this Lease by University:

(a) The failure by University to make any payment of Monthly Rent or any other payment required to be made by University hereunder, as and when due, where such failure shall remain uncured for a period of five (5) days after written notice thereof by Landlord to University.

(b) The failure by University to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by University, other than as described in Section 19(a) above, where such failure shall remain uncured for a period of thirty (30) days after written notice thereof by Landlord to University; provided, however, that if the nature of University's default is such that more than thirty (30) days are reasonably required for its cure, then University shall not be deemed to be in default if University commences said cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

(c) The making by University of any general assignment or general arrangement for the benefit of creditors; or the filing by or against University of a petition to have University adjudged a bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy (unless in the case of a petition filed against University, the same is dismissed within sixty (60) days); or the appointment of a trustee or a receiver to take possession of substantially all of University's assets located at the Premises or of University's interest in this Lease, where possession is not restored to University within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of University's assets located at the Premises or of University's interest in this Lease, where such seizure is not discharged in thirty (30) days.

20. LANDLORD REMEDIES. In the event of a University default, Landlord agrees to use reasonable efforts to mitigate its damages and Landlord may:

(a) Terminate University's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and University shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from University (i) all reasonable damages incurred by Landlord by reason of University's default including, but not limited to, the cost of recovering possession of the Premises, expenses to relet the Premises, including necessary renovation and alteration of the Premises and reasonable attorney's fees incurred as a direct result of University's default; and (ii) any unpaid Rent that had been earned at the time of the termination, (iii) the amount by which the unpaid Rent that would have been earned between the time of the termination and the time of the award exceeds the amount of unpaid Rent that University proves could reasonably have been avoided, and (iv) the worth at the time of the award of the amount by which the unpaid Rent for the balance of the Lease Term after the time of the award exceeds the amount of unpaid Rent that University shows could reasonably have been avoided, to be computed by discounting that amount at ten percent (10%) per annum.

(b) Maintain University's right to possession, in which case this Lease shall continue in effect whether or not University shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the Rent as it becomes due hereunder.

(c) Pursue any other legal remedy now or hereafter available to Landlord.

(d) In the event Landlord lawfully re-enters the Premises as provided herein, Landlord shall have the right, but not the obligation, to remove all the personal property located herein and to place such property in storage at the expense and risk of University.

21. LANDLORD DEFAULT. Landlord shall be in default under this Lease if Landlord fails to perform any of the terms, provisions, covenants, or conditions to be performed or complied with by Landlord pursuant to this Lease, or if Landlord should fail to make any payment which Landlord agrees to make, and any such failure shall remain uncured for a period of thirty (30) days after written notice thereof by University to Landlord; provided, however, that if the nature of Landlord's default is such that more than thirty (30) days are reasonably required for its cure, then Landlord shall not be deemed to be in default if Landlord commences said cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

22. UNIVERSITY REMEDIES. Upon the occurrence of a Landlord default, University may, in addition to all other rights available to University at law and/or under this Lease, elect to:

(a) Cure the default and the reasonable cost of cure shall be reimbursed by Landlord to University with thirty (30) days of invoice therefor and if Landlord fails to reimburse University within such thirty (30) day period, then University may deduct such cost from the next owing installment(s) of Rent until recovered in full;

(b) Abate Rent for the portion(s) of the Premises rendered unusable for University's purposes; and/or

(c) Terminate this Lease if University's use and occupancy of the Premises or a material portion thereof are interfered with, prevented or made dangerous.

23. COST AND ATTORNEY'S FEES. If, by reason of any alleged default or breach on the part of either party in the performance of any of the provisions of this Lease, a legal action is instituted, the prevailing party shall recover its reasonable costs and attorney's fees in connection therewith. It is agreed that the venue of any legal action brought under the terms of this Lease shall be in the county in which the Premises are situated.

24. SUBORDINATION; ESTOPPELS.

24.1 This Lease shall be automatically subordinate to all of Landlord's mortgages or deeds of trust which heretofore and hereafter affect the Premises or Building; provided that so long as University is not in default hereunder beyond any applicable cure period, University shall have continued enjoyment of the Premises free from any disturbance or interruption by reason of any foreclosure of a lender's deed of trust or mortgage. This subordination shall be self-operative, and no further instrument of subordination shall be necessary to effect such subordination; nevertheless, if required by either Landlord or University, the parties hereto shall execute, and Landlord shall cause any lender or other such party to execute, a subordination agreement in the form set forth in the attached Exhibit G. If University is asked to execute a subordination agreement in any form other than that set forth in Exhibit G, then University shall execute the same only if (a) such other form is acceptable to University and (b) Landlord agrees to reimburse University within thirty (30) days of invoice for all attorneys' fees incurred by University in reviewing and negotiating such other form. In the event of sale or foreclosure of any such mortgage or deed of trust, or exercise of

the power of sale thereunder, or in the event of a transfer in lieu of foreclosure, University shall attorn to the purchaser (or transferee) of the Building at such foreclosure or sale and shall recognize such purchaser (or transferee) as Landlord under this Lease. Such attornment shall be self-operative and no further instruments need be executed to effect such attornment. If any Lender elects to have this Lease superior to its mortgage or deed of trust and gives notice of its election to University, then this Lease shall thereupon become superior to the lien of such mortgage or deed of trust, whether this Lease is dated or recorded before or after the mortgage or deed of trust.

24.2 Each party agrees, upon not less than twenty (20) days prior written notice from the other, to execute, acknowledge and deliver to the other party an estoppel in the form set forth in Exhibit F.

25. NO WAIVER OF COVENANTS; ENTIRE AGREEMENT. Any waiver by either party of any claim of breach of this Lease by the other shall not be considered a waiver of any future similar claim of breach. This Lease contains all the agreements between the parties; and there shall be no modification of the agreements contained herein except by written instrument.

26. SURRENDER OF PREMISES. University agrees, upon the expiration or earlier termination of this Lease, to peacefully quit and surrender the Premises without notice, leave the Premises neat and clean, subject to normal wear and tear and casualty, and to deliver all keys to the Premises to Landlord.

27. HOLDING OVER. If University continues to occupy the Premises after expiration of the Lease Term, such occupancy shall constitute a month-to-month tenancy subject to all of the terms of this Lease at 150% of the then current rental rate, and may be terminated as provided by the laws of the State of Washington.

28. BINDING ON HEIRS, SUCCESSORS AND ASSIGNS. The covenants and agreements of this Lease shall be binding upon the heirs, executors, administrators, successors and assigns of both parties hereto, except as hereinabove provided.

29. NOTICE. Notices under this Lease shall be in writing and delivered in person or sent by United States mail with postage prepaid to the parties at their respective addresses as set forth above, or to such other place as may hereafter be designated by either party in writing, effective as of two days following the postmark time and date following mailing or one business day following facsimile.

30. NONDISCRIMINATION. Landlord certifies it will not discriminate in employment on the basis of race, color, religion, sex, national origin, veteran status or physical or mental disability in regard to any position for which the employee is qualified, in compliance with (a) Presidential Executive Order 11246, as amended, including the Equal Opportunity Clause contained therein; (b) Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans Readjustment Act of 1974, as amended, and the Affirmative Action Clauses contained therein; (c) the Americans with Disabilities Act of 1990, as amended; and (d) Title VI of the Civil Rights Act of 1964. Landlord agrees it will not maintain facilities which are segregated on the basis of race, color, religion or national origin in compliance with Presidential Executive Order 11246, as amended, and will comply with the Americans with Disabilities Act of 1990, as amended, regarding its programs, services, activities and employment practices.

31. LEGISLATIVE APPROPRIATION. University's obligation under this Lease to make all rental and other payments is payable solely from the revenues of University. The Lease and the rental and other payment obligations hereunder shall not constitute an obligation of the State, moral or otherwise, for which the State is obligated to levy or pledge any form of taxation. Neither the Lease nor the rental or other payment

obligations hereunder constitute a pledge of the full faith and credit of the State of Washington within the meaning of the Constitution of the State of Washington or within the meaning of any statutory debt limitation or restriction. If the Washington Legislature or the funding agency allots or grants insufficient funds to continue rental or other payments under this Lease, in the judgment of University, for the remainder of the current fiscal period, or for a succeeding fiscal period, by appropriation, appropriation limitation, termination of grant or contract, or otherwise, then upon written notice from University to Landlord this Lease shall terminate and the obligation of University to make rental or other payments from money available to it shall terminate on the date on which, under the terms of the appropriation, appropriation limitation, termination of grant or contract, moneys will no longer be allotted for this Lease, without penalty, and such lease termination shall not constitute an event of default hereunder. However, in the event of such termination, University shall pay to Landlord the unamortized cost of initial alterations made by Landlord at its cost to the Premises so long as such initial alterations were made at University's written request. Such amortization shall be calculated in equal monthly amounts over the Lease Term, commencing upon completion of the initial alterations by Landlord.

32. QUIET ENJOYMENT. Landlord covenants that as of the Commencement Date, Landlord will have good right to lease the Premises for the purpose and uses stated herein and University shall have and quietly enjoy the Premises for the Lease Term.

33. FORCE MAJEURE. Except as otherwise specifically provided in this Lease, in the event either party is delayed or prevented from performing any of its respective obligations under this Lease by reason of acts of God, governmental requirement, fire, floods, strikes or due to any other cause beyond the reasonable control of such party, then the time period for performance such obligations shall be extended for the period of such delay.

34. AUTHORITY TO EXECUTE. If Landlord is a limited liability company, corporation, association, partnership or government agency, each individual executing this Lease on behalf of such entity represents and warrants that the entity is current in all fees, licenses and filings required to register in the State of Washington, and that he or she is duly authorized to execute and deliver this Lease on behalf of such entity, and that this Lease shall be binding upon said entity in accordance with its terms.

35. COUNTERPARTS. This Lease may be executed in counterparts and each counterpart constitutes an original document.

36. GOVERNING LAW. This Lease shall be governed by the laws of the State of Washington.

37. BROKERS. Neither party shall have any obligation to pay any broker or similar consultant hired by or claiming through the other party, except only that Landlord shall pay a commission for this transaction to the broker(s) listed in Section 1(m), pursuant to separate written commission agreements with such brokers as set forth in Exhibit E.

38. SUSTAINABILITY. University holds high standards for environmental stewardship in constructing, operating and maintaining all of its facilities. Accordingly, Landlord agrees to construct, operate and maintain the Building with good faith, reasonable efforts to (a) use recycled and recyclable materials and products, (b) use Energy Star appliances or their equivalent and employ sound practices to conserve energy, (c) encourage and facilitate the ability of tenants to car pool and/or commute via public transportation or other alternative method of transportation, (d) maintain and operate the Building, and/or require that any third party property manager(s) maintain and operate the Building, using products and practices designed

to support environmental stewardship to include, without limitation, efforts to educate tenants regarding the operation of their businesses.

LANDLORD:

**City of Spokane**

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

UNIVERSITY:

**THE BOARD OF REGENTS OF THE  
UNIVERSITY OF WASHINGTON**

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

Jeanette L. Henderson

Executive Director of Real Estate

STATE OF WASHINGTON )

COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared Jeanette L. Henderson, to me known as the Director of Real Estate of the University of Washington, who on oath stated that she was authorized to execute this instrument and acknowledged it to be the free and voluntary act and deed of said University of Washington as approved by **THE BOARD OF REGENTS OF THE UNIVERSITY OF WASHINGTON** for the uses and purposes mentioned in the instrument.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Notary Public in and for the State of Washington

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

My Commission expires on: \_\_\_\_\_

STATE OF WASHINGTON )

COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_, 2014, before me personally appeared \_\_\_\_\_, to me known as the \_\_\_\_\_ of \_\_\_\_\_, who on oath stated that s/he was authorized to execute this instrument and acknowledged it to be the free and voluntary act and deed of such entity for the uses and purposes mentioned in the instrument.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

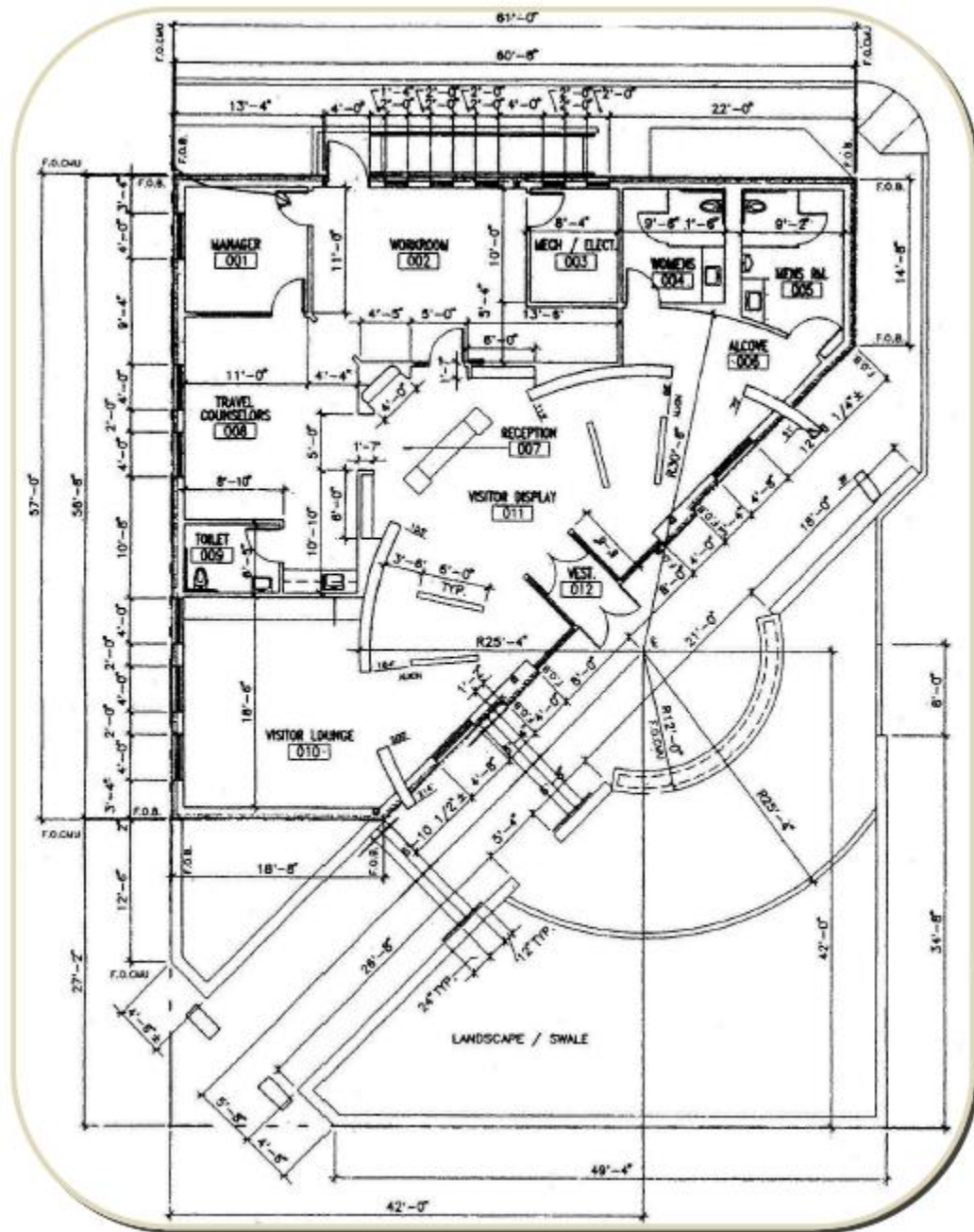
Notary Public in and for the State of Washington

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

My Commission expires on: \_\_\_\_\_



**EXHIBIT A  
DEPICTION OF PREMISES**



**EXHIBIT B**  
**LEGAL DESCRIPTION OF LAND ON WHICH PREMISES IS LOCATED**

Tax Parcel Numbers 35184.0901 and 35184.0902:

" Lots 1 and 2 in Block 5 of HAVERMAJE'S ADDITION TO  
THE TOWN OF SPOKANE, as per plat thereof recorded in Volume  
"A" of Plats, page 22.

Tax Parcel Number 35184.0924:

Building On Leased Land - Spokane Convention & Visitors Bureau

**EXHIBIT C**  
**LANDLORD'S WORK**

Landlord shall, at Landlord's cost, make those improvements to the Premises listed below ("Landlord's Work"). Landlord warrants that Landlord's Work shall (a) comply with all applicable laws, codes, ordinances and regulations; (b) cause all laborers, workers and mechanics (as such terms are defined in Chapter 39.12 of the Revised Code of Washington) performing such work to be paid the prevailing rate of wages (as defined in Chapter 39.12 of the Revised Code of Washington). Landlord shall use reasonable best efforts to achieve completion of Landlord's Work prior to the Estimated Completion Date set forth in Section 1(g) of the Lease.

1. Clean building exterior
2. Clean Site
3. Make best efforts to remove graffiti
4. Perform landscape maintenance to the exterior

Landlord shall at University's cost make those improvements to the Premises that will be requested by University ("Tenant Improvement Work"). University shall pay Landlord within thirty (30) days following Landlord's final completion of Tenant Improvement Work.

## EXHIBIT D

### EXTENSION OPTION(S)

University shall have the option(s) to extend the Term of the Lease (each an "Extension Option") beyond the initial Term as set forth in Section 1(q) of the Lease. The term(s) of the Extension Option(s) shall be as set forth in Section 1(q) of the Lease (each an "Option Term"). University shall exercise each Extension Option by written notice given to Landlord at least three (3) months prior to the end of the initial Term or immediately preceding Option Term, as applicable. All terms and conditions of this Lease shall be the same during each Option Term, except only that the Monthly Rent during each Option Term shall be as set forth below:

Year 1	\$5,525 per month
Year 2	\$5,631.25 per month

## EXHIBIT E

### **SUMMARY OF LANDLORD'S COMMITMENTS REGARDING COMMISSIONS AND FEES PAID OR PAYABLE BY LANDLORD TO BROKERS OR AGENTS IN RELATION TO THIS LEASE, INCLUDING ANY EXTENSION TERMS**

Landlord warrants to University that prior to University's execution of this Lease Landlord disclosed in writing to University (a) the identity of any brokers or similar consultants engaged or hired by Landlord with respect to this transaction and (b) all details regarding any payments made or owed by Landlord to such brokers or consultants as a result of this transaction. Landlord further warrants to University that the information pertinent to (a) and (b) in the foregoing sentence is summarized in this Exhibit E. Furthermore, Landlord shall promptly disclose to University on an ongoing basis the amount of all fees and commissions that Landlord agrees to pay or does pay to any broker or finder in connection with this Lease.

[Summary information to be attached by Landlord]

**EXHIBIT F  
FORM OF ESTOPPEL**

**TENANT ESTOPPEL CERTIFICATE**

Insert Date

To: Name, Address etc..

From: The Board of Regents of the University of Washington, a state institution of higher education and an agency of the State of Washington

University of Washington  
Real Estate Office  
4333 Brooklyn Ave NE, Floor T-12,  
Campus Box 359446  
Seattle, WA 98195-9446

Re: Lease dated       , 20      , [‘as modified by’ and insert references to all amendments]  
([collectively,]the "Lease") for premises located at        ("Premises")

The Board of Regents of the University of Washington is the tenant ("Tenant") under the above-referenced Lease with       , a       , as landlord ("Landlord"). Tenant represents the following as of the date hereof:

- 1) Tenant is the tenant under the Lease for the Premises. The initial term of the Lease commenced on       , 20       and will expire on       , 20      .
- 2) Tenant represents that (a) the Lease has been properly executed by Tenant; (b) the Lease has not been amended or modified except as set forth above; (c) the Premises consist of approximately        rentable square feet; (d) to the best of Tenant’s current knowledge, any construction required by the Lease to be made by Landlord has been completed and any payments, credits or abatements required to be given by Landlord to Tenant pursuant to the Lease have been given; (e) no installment of rent under the Lease other than monthly rent has been paid more than thirty days in advance; (f) Tenant is not in arrears on any rent or other charges payable by Tenant under the Lease; (g) Tenant has accepted and is occupying the Premises; (h) the Lease has not been assigned by Tenant nor the Premises subleased by Tenant; (i) Tenant is not currently aware of any defaults by Landlord under the Lease as of the date hereof [other than (reference any known or suspected defaults)]; (j) Tenant is not currently aware of any existing defenses, offsets, liens, claims or credits against the rentals under the Lease or against the enforcement of the Lease by Landlord [other than (reference any known or suspected defenses, offsets, etc.)]; (k) Tenant has not been granted any options to extend or terminate the term of the Lease, except as may be specified in the Lease, and Tenant has not been granted any rights to expand into other space in the [building/project] or any options to purchase the Premises or the [building/project] except as may be specified in the Lease; (l) Tenant has paid a security deposit of \$      ; and (m) Tenant has not received written notice of violation of any laws, regulations, codes or ordinances relating to the use or condition of the Premises.

- 3) Tenant is currently obligated to pay Landlord \$ [REDACTED] as monthly rent under the Lease, subject to any escalations set forth in the Lease.
- 4) The undersigned is authorized to execute this Tenant Estoppel Certificate on behalf of Tenant.
- 5) Tenant's representations in this Tenant Estoppel Certificate are made solely to estop Tenant from asserting to or against the above-named recipient of this certificate facts or claims contrary to those stated herein. This Tenant Estoppel Certificate does not constitute an independent contractual undertaking or constitute representations, warranties or covenants or otherwise have legal effect other than estopping Tenant from asserting to or against the above-named recipient of this certificate any contrary facts or claims. This estoppel certificate does not modify in any way Tenant's relationship, obligations or rights vis a vis Landlord.

THE BOARD OF REGENTS OF THE  
UNIVERSITY OF WASHINGTON, a state  
institution of higher education and an  
agency of the State of Washington

By: \_\_\_\_\_  
Name: Jeanette L. Henderson  
Title: Director of Real Estate

**EXHIBIT G  
SUBORDINATION, NONDISTURBANCE  
AND ATTORNMENT AGREEMENT**

After Recording Return To:

GRANTOR: [ GRANTOR NAME]

GRANTEE: [ GRANTEE NAME ]

Legal Description:

Abbreviated form: \_\_\_\_\_

Additional legal on page \_\_\_\_\_ of document

Assessor's Property Tax Parcel Account Number(s): \_\_\_\_\_

Reference number(s) of Related Document(s): \_\_\_\_\_

(Additional on page \_\_\_\_\_ of document)



**SUBORDINATION, NONDISTURBANCE  
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made and entered into as of \_\_\_\_\_ DAY 20YEAR, by and between **NAME**, a **DESCRIPTION** ("Beneficiary"), the Board of Regents of the University of Washington, an institution of higher education and agency of the State of Washington ("University"), and **NAME**, a **DESCRIPTION** ("Landlord").

**RECITALS**

- A. University has entered into a lease dated \_\_\_\_\_, DAY 20YEAR ("Lease") with Landlord concerning [ PREMISES ] ("Premises") in the [ BUILDING NAME ] Building ("Building") located at [ ADDRESS ] on the real property described in attached Exhibit A (the Premises, the Building and the real property shall together be referred to as the "Property").
- B. Beneficiary will make a first mortgage loan ("Loan") to Landlord in the amount of \$[ COST ] secured by a first lien Deed of Trust, Security Agreement and Assignment of Leases and Rents ("Security Documents") encumbering the Property.
- C. The Lease requires that University be assured of continued occupancy of the Premises and the protection of its other rights under the Lease.
- D. Beneficiary is willing to assure University of continued occupancy of the Premises and the protection of its other rights under the Lease as stated in this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed:

1. Beneficiary hereby consents to and approves the Lease [ ***OPTIONAL: and the [right of first refusal] [option to purchase] contained therein*** ].
2. University's interest in the Lease and all rights of University thereunder shall be subject and subordinate to the Security Documents encumbering the Property on the terms and conditions set forth in this Agreement.

[ OPTIONAL PROVISION: 2A. Any option or rights contained in the Lease, or otherwise existing, to purchase any or all of the Property are subject and subordinate to the rights of Beneficiary under the Security Documents, and any acquisition of all or any portion of the Property by University during the term of the Security Documents shall be subject to the terms of the Security Documents; provided, however, that University's [right of first refusal] [option to purchase the Property ] shall survive foreclosure of the Security Documents or transfer of the Property by Landlord to Beneficiary or any other party by deed in lieu of foreclosure, or otherwise.

3. In the event of a judicial or non-judicial foreclosure of the Security Documents, Beneficiary will not name or join University as a party to any foreclosure action except as required by law, nor will Beneficiary name or join University as a party in any suit, action or proceeding to enforce any rights under the Security Documents. [ OPTIONAL: Landlord and University agree that a foreclosure of the Security Documents or transfer of the Property by Landlord to Beneficiary shall not constitute an event which gives University the right to exercise its [right of first refusal] [option to purchase] the Property from Landlord. Notwithstanding the foregoing, University's [right of first refusal] [option to purchase] the Property shall survive such foreclosure or other transfer.]

4. University's possession of the Premises and use of the common areas and parking spaces (as defined in the Lease) shall not be interrupted, disturbed, affected or impaired by, nor will the Lease or the term of the Lease [ OPTIONAL: or University's [right of first refusal] [option to purchase the Property] ] be terminated or otherwise affected by, nor will University's other rights under the Lease be impaired or affected by, any default under the Security Documents or any suit, action or proceeding upon the Security Documents or for the foreclosure of the Security Documents or the enforcement of any rights under the Security Documents or any other documents held by the Beneficiary, or by any judicial or non-judicial sale or execution or other sale of the Property, or by any deed given in lieu of foreclosure, or by the exercise of any other rights given to the Beneficiary by any other documents or as a matter of law.

5. If the Beneficiary takes possession of the Property or becomes the owner of the Property by reason of foreclosure of the Security Documents or otherwise, or if the Property shall be sold as a result of any action or proceeding to foreclose the Security Documents or by a deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between University and the Beneficiary or the then owner of the Property as landlord upon all of the same terms, covenants and provisions contained in the Lease, [ OPTIONAL: including, but not limited to University's [right of first refusal] [option to purchase the Property] and in that event the Beneficiary or new owner shall, except as set forth in Section 6, be bound to University under all of the terms, covenants and provisions of the Lease [ OPTIONAL: including, but not limited to University's [right of first refusal] [option to purchase the Property] for the remainder of the term of the Lease which terms, covenants and provisions the Beneficiary or new owner agrees to assume and perform. University agrees, after receipt by University of notice from Beneficiary of any foreclosure of the Security Documents or any conveyance in lieu of foreclosure, to attorn to Beneficiary or its successor and accept the Beneficiary or any such successor owner as landlord under the Lease, and to be bound by and perform all of the obligations imposed upon University by the Lease. Except as set forth in Section 6, Beneficiary or any such successor owner of the Property shall be bound by, assume and perform all of the obligations imposed by the Lease upon Landlord and University shall have the same remedies against Beneficiary or a successor owner for breach of the Lease that University may have had under the Lease against Landlord.

6. Notwithstanding anything to the contrary in this Agreement, upon succeeding to the interest of Landlord under the Lease Beneficiary shall not be:

- (a) liable for any act or omission of Landlord, except to the extent attributable to acts or omissions that are continuing on or after the date Beneficiary succeeds to the right of Landlord under the Lease ("Continuing Matters");

(b) liable for the return of any security deposit unless such deposit has been delivered to Beneficiary; or

(c) subject to any offsets or defenses which University might have against Landlord, unless the offset or defense is attributable to a Continuing Matter.

7. Insurance and condemnation proceeds shall be disposed of in accordance with the Lease and not in accordance with the Security Documents.

8. Beneficiary acknowledges and agrees that all trade fixtures, equipment and other property owned by University located or installed in or on the Premises, regardless of the manner of attachment, shall be and remain the property of University and may be removed by University at any time. In no event (including a default under the Lease or Security Documents) shall Beneficiary have any liens, rights or claims in University's property, and Beneficiary expressly waives all rights of levy, distraint or execution with respect to University's property.

9. Beneficiary and University agree that so long as the Lease is in full force and effect, no exercise by University of its rights under the Lease shall constitute a default under the Security Documents or require Beneficiary's consent, and that except for the rights, privileges and benefits of Landlord and University expressly set forth herein, any conflict between the terms of the Lease and the terms of the Security Documents shall be resolved in favor of the Lease. In furtherance of and not as a limitation on the foregoing, University may, without causing a default to occur under the Security Documents and without Beneficiary's consent, to the extent expressly permitted by the Lease: (a) make alterations and improvements to the Premises; (b) assign the Lease and/or sublet all or any portion of the Premises as provided in the Lease; (c) contest legal requirements claimed to be applicable to the Premises and defer compliance with such legal requirements pending the determination of any such contest; (d) remove fixtures, improvements and/or personal property that it owns from the Premises; and (e) exercise any options to extend the term of the Lease or expand the Premises.

10. Before terminating the Lease due to a Landlord default, University shall notify Beneficiary in writing of the same. Beneficiary shall have the right (but not the obligation) to cure the default within ten (10) days after the receipt of such written notice by Beneficiary as to any default curable by the payment of money, and within thirty (30) days after receipt of such written notice by Beneficiary as to any other default. If Beneficiary does not cure the default within the preceding timeframes, then University may terminate the Lease as allowed by law or the Lease. Nothing contained in this Agreement shall limit the right of University under the Lease to receive any abatement of rent or to perform and discharge the obligations of Landlord prior to the expiration of such notice periods and deduct the expenses so incurred by it (including interest) from any amounts coming due with respect to the Premises under the Lease.

11. Upon receipt by University of written notice from Beneficiary that Beneficiary is entitled under the terms of the Security Documents to collect rents due under the Lease and directing University to make the payment of rents directly to Beneficiary, University shall comply with such direction to pay and shall not be required to determine whether Landlord is in default under the Security Documents. Landlord hereby consents to University making payments of any amounts due under the Lease directly to Beneficiary, releases University from liability for any such payments made by University to Beneficiary, and agrees that all such payments made by University shall be credited to University under the Lease as if University had made such payments directly to Landlord. Landlord further agrees that

University shall be entitled to make payments as directed by Beneficiary without any further inquiry into the validity of Beneficiary's notice and regardless of any contrary notice from Landlord, and Landlord hereby releases and discharges and agrees to indemnify, defend and hold University harmless from and against any liability and/or claims on account of any such payments made by University.

12. All notices required under this Agreement must be given in writing and shall be sent by United States registered or certified mail, postage prepaid, or by national overnight air courier and addressed to the parties at the addresses set forth below:

Landlord:       NAME  
                          ADDRESS  
                          PHONE/FAX/E-MAIL

Beneficiary:     NAME  
                          ADDRESS  
                          PHONE/FAX/E-MAIL

University delivery:   University of Washington  
                                  Real Estate Office  
                                  4333 Brooklyn Avenue NE, T-12  
                                  Seattle, WA 98195-9446

University mail:       University of Washington  
                                  Real Estate Office  
                                  Campus Box 359446  
                                  Seattle, WA 98195-9446

These addresses may be changed from time to time by a party serving notice of the changes as provided above. Notices shall be deemed given upon receipt or attempted delivery where delivery is not accepted.

13. This Agreement, and each of the provisions hereof, shall inure to the benefit of or bind as the case may require, and be enforceable by the parties hereto and their respective heirs, personal representatives, successors and assigns, including without limitation, any purchaser at any foreclosure sale or any transferee of a deed in lieu of foreclosure.

14. This Agreement may not be modified other than by an agreement in writing signed by the parties hereto or by their respective successors in interest. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Washington. Nothing in this Agreement and nothing done pursuant to the provisions hereof shall limit or otherwise modify the duties of Landlord to University under the Lease.

[INTENTIONALLY LEFT BLANK]

15. This Agreement will be effective once it has been executed by all parties and the fully executed original returned to the University. This Agreement will terminate and be of no further force and effect if the fully executed Agreement is not returned to the University within thirty (30) days.

**BENEFICIARY:**

By: [SAMPLE, NO SIGNATURE NEEDED]

Name: \_\_\_\_\_

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

**LANDLORD:**

By: [SAMPLE, NO SIGNATURE NEEDED]

Name: \_\_\_\_\_

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

**UNIVERSITY:**

**THE BOARD OF REGENTS OF THE  
UNIVERSITY OF WASHINGTON**, a  
state institution of higher education and  
an agency of the State of Washington

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

Jeanette L. Henderson  
Director of Real Estate

[ Add appropriate acknowledgements and legal description of the property]

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

11/10/2014

**Date Rec'd**

10/29/2014

**Clerk's File**

CPR 1981-0402

**Renews #****Submitting Dept**

MAYOR

**Cross Ref #****Contact Name/Phone**

BRANDY COTE 6256774

**Project #****Contact E-Mail**

BCOTE@SPOKANECITY.ORG

**Bid #****Agenda Item Type**Boards and Commissions  
Appointments**Requisition #****Agenda Item Name**

0520 APPOINTMENT FOR PARK BOARD

**Agenda Wording**

Appointment of Lauren Pendergraft to fill a vacated term on the park board, expiring 2016.

**Summary (Background)**

Appointment of Lauren Pendergraft to fill a vacated term on the park board, expiring 2016.

**Fiscal Impact****Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

**Approvals****Council Notifications****Dept Head**

COTE, BRANDY

**Study Session****Division Director****Other****Finance****Distribution List****Legal**

bcote@spokanecity.org

**For the Mayor**

SANDERS, THERESA

leadie@spokanecity.org

**Additional Approvals****Purchasing**



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	RES 2014-0107
<b>Renews #</b>	

<b>Submitting Dept</b>	SPOKANE REGIONAL SOLID WASTE	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	KEN GIMPEL 625-6532	<b>Project #</b>	
<b>Contact E-Mail</b>	KGIMPEL@SPOKANECITY.ORG	<b>Bid #</b>	
<b>Agenda Item Type</b>	Resolutions	<b>Requisition #</b>	
<b>Agenda Item Name</b>	A4490 SOLE SOURCE RESOLUTION ABB SERVICEGRID		

**Agenda Wording**

Resolution declaring ABB ServiceGrid a sole source for software used for operation of the Waste to Energy Facility.

**Summary (Background)**

ABB ServiceGrid owns the patented software which is used to enhance the overall operational effectiveness of the WTEF. Because of the uniqueness of the WTEF operation and maintenance needs, the City is desirous to continue the relationship with ABB ServiceGrid to maintain consistent operations.

<b>Fiscal Impact</b>		<b>Budget Account</b>	
Expense	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b>Approvals</b>		<b>Council Notifications</b>	
<b><u>Dept Head</u></b>	GIMPEL, KEN	<b><u>Study Session</u></b>	
<b><u>Division Director</u></b>	ROMERO, RICK	<b><u>Other</u></b>	
<b><u>Finance</u></b>	LESESNE, MICHELE	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	ttauscher@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	lbutz@spokanecity.org	
<b><u>Additional Approvals</u></b>			
<b><u>Purchasing</u></b>			

## RESOLUTION NO. RES 2014-0107

A Resolution declaring Asea Brown Boveri Limited (ABB) who owns the patented software known as ABB ServiceGrid which is used to to enhance the overall operational effectiveness and reduce maintenance costs at the City's Waste To Energy (WTE) Facility as sole source and thus authorizing its purchase from Asea Brown Boveri Limited (ABB), of Zurich, Switzerland, at an estimated cost for the first year of \$62,040, excluding taxes if applicable.

WHEREAS, the City is taking over responsibility of the entire operation of the WTE Facility from Wheelabrator on November 17, 2014 and requires the transition be smooth and seamless to avoid disruptions; and

WHEREAS, the WTE Facility currently uses ABB ServiceGrid as a sole source provider to supply its cost effective replacement, evolution and maintenance options for the waste to electricity assets; and

WHEREAS, the WTE Facility has successfully utilized the ABB ServiceGrid product for many years; and

WHEREAS, Asea Brown Boveri Limited (ABB) provides to the WTE Facility custom and proprietary software products, exclusive to their licensed ABB ServiceGrid software; and

WHEREAS, because of the uniqueness of the WTE Facility's operation and maintenance, the City is desirous of continuing the relationship with Asea Brown Boveri Limited (ABB) and their ServiceGrid product to maintain consistent functionality which is critical to the future operations of the WTE Facility; and

WHEREAS, since Asea Brown Boveri Limited (ABB) is the sole provider of this licensed and proprietary ABB ServiceGrid product which meets the specialized needs of the City to perform the intended functions at the WTE Facility, the City would like to establish Asea Brown Boveri Limited (ABB) as a sole source provider;

WHEREAS, the 2014 public bid limit for the purchase of goods is \$47,400.00;

-- Now, Therefore,

BE IT RESOLVED by the city council for the City of Spokane that it hereby declares Asea Brown Boveri Limited (ABB) who currently owns the ABB



ServiceGrid rights and licenses which the WTE Facility currently utilizes and authorizes its purchase, at an estimated cost for the first year of \$62,040, excluding taxes if applicable.

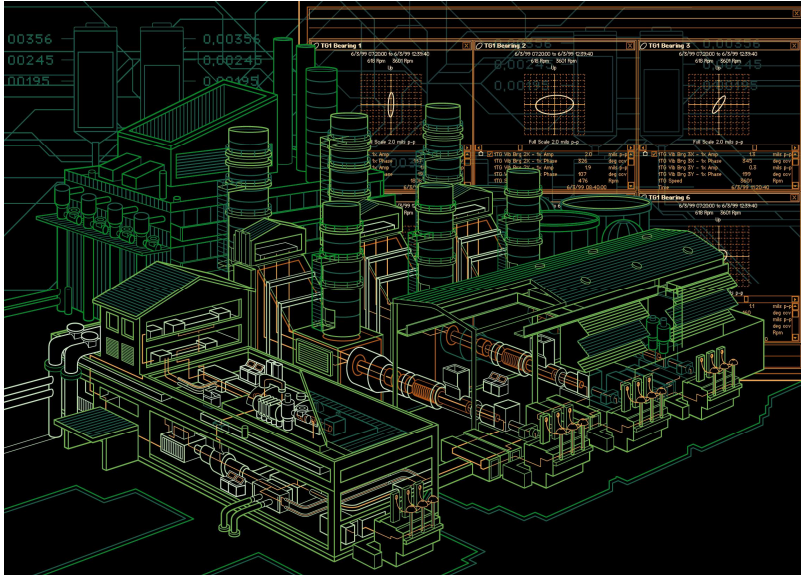
ADOPTED BY THE CITY COUNCIL ON \_\_\_\_\_

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

Approved as to form:

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

# ServiceGrid<sup>SM</sup>



## ABB ServiceGrid<sup>SM</sup> Proposal

Prepared for:

---

**Chuck Conklin**  
**WTE Facilities Director**  
**City of Spokane**  
**2900 South Greiger Blvd 99224**  
**Spokane, WA**

---

**Proposal Date:** October 22, 2014  
**Proposal number:** JRR-140908-1B  
**Account Manager:** Ted Collins  
**Prepared by:** Josue Romero Rojas

ServiceGrid<sup>SM</sup>





## Executive Summary

ABB Service is privileged to offer the following quotation for the ServiceGrid program to leverage ABB's capabilities to enhance your overall operational effectiveness, reduce maintenance costs, and increase the value of your talented staff. Our commitment to your success is vital to ensuring a long lasting partnership for years to come. Through cooperative planning involving our representatives and yours, we can identify and deliver cost effective replacement, evolution or maintenance options that efficiently address evolving market trends and demands.

---

### ServiceGrid<sup>SM</sup>

**ABB Service**

North America Customer Service Center  
Email: AutomationSupportLine@us.abb.com

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Wickliffe, Ohio 44092 USA  
Page 2 of 22

Telephone: **1-800-HELP-365** (1-800-435-7365)  
Fax: 440-585-5081  
Outside of the USA & Canada: 1-440-585-7804

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Proposal: JRR-140908-1B

October 22, 2014

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## 1 Introduction

ABB's world-class support offerings allow you to maximize productivity and minimize lifecycle costs. With unparalleled knowledge resulting from many decades as an industry-leading automation supplier, ABB Service is uniquely qualified to help manage all aspects of your control systems, drives, analytics, and/or quality control products and systems that you rely upon to maximize your production in demanding industrial applications.

ABB's commitment to performance optimization is evident in every aspect of our dynamic portfolio of services delivered through more than 10,000 service professionals worldwide. We continue to invest in new technologies and adapt our services to help you achieve operational excellence through reliability in production assets, processes, and people and position you as a leader in your industry today, tomorrow and well into the future.

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## 2 ServiceGrid Select

### 2.1 Sites and Systems Supported

The deliverables for ServiceGrid support contract described in Section 2 provide support for the sites and ABB control systems as defined in Appendix B: Sites & Systems.

#### 2.1.1 Annual Usage Report

ABB will provide an annual contract usage report. The annual report will summarize all of the support activity for the ServiceGrid agreement.

### 2.2 Technical Product Support

#### 2.2.1 Telephone Support

Under the ServiceGrid program, ABB will provide an **unlimited number** of technical product support cases during the contract period. The technical phone support cases are to assist when seeking advice when troubleshooting, installing, or updating ABB control systems. In cases where ABB service and/or support suspects a system problem or fault with an ABB product and is unable to determine a viable solution, escalation of the issue to ABB R&D design level engineers is done for further investigation and diagnosis.

Technical phone support will be provided by the local support center during normal business hours (excluding holidays). ABB's response commitment is **1 hours** to technical requests during normal business hours.

Technical support is available 24/365 with afterhours support limited to cases where the system is down, in danger of going down, or when system performance is significantly off from expected. This support function may be utilized by any employee of the customer using the ABB Systems (excluding contractors, subcontractors, integrators or any party other than an employee of the purchaser).

---

## ServiceGrid<sup>SM</sup>

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## 2.2.2 Internet (Web) Support

Access to technical documentation, user manuals & release notes, hardware & software release notifications, and links to product downloads are available as part of an Internet access solution. For each site included in the ServiceGrid program, up to **two (2)** user profiles can be configured to provide automated nightly notifications of newly released information related to the installed system.

The Internet support may be utilized by any employee of the customer using the ABB Systems (excluding contractors, subcontractors, integrators or any party other than an employee of the purchaser).

## 2.3 Software Maintenance Support

### 2.3.1 Software Maintenance Levels

**Update Level:** ABB releases software maintenance updates on a periodic basis and will provide these updates to Purchaser during the subscription term. Software maintenance updates include software error corrections, firmware error corrections, performance improvements, and 3<sup>rd</sup> party product compatibility updates. Software maintenance updates are normally cumulative and include all error corrections and improvements which have been made since the previous software update.

**Upgrade Level:** New Software Versions & Enhancements. During the contract period, the customer may request upgrades of currently installed software products from one version of the platform to the latest version of that same platform. In instances where the software maintenance upgrade is only available on CD / DVD ROM then one set of media will be provided per Purchaser upon written request.

The levels for the system(s) are identified in Appendix B.

### 2.3.2 Software Maintenance Delivery

Software maintenance updates will normally be available via online access from ABB's online web site <http://SolutionsBank.ABB.com>. In instances where the software maintenance update is only available on CD / DVD ROM then one set of media will be provided per Purchaser upon written request.

---

## ServiceGrid<sup>SM</sup>

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Flashable firmware updates will be provided via online access and download from ABB's online web site <http://SolutionsBank.ABB.com>. Firmware updates delivered on physical media may be purchased for an additional fee.

The software maintenance updates provided by ABB shall automatically be subject to the applicable end-user software license agreement.

For software corrections of individual issues that are not available prior to the release of a periodic software maintenance update, the customer may request the correction of that specific issue. ABB will attempt to make available, at its option, a temporary correction if ABB determines the issue to be business critical, and both technically and economically feasible.

### 2.3.3 Control Systems Security (Microsoft Critical Patch Testing)

ABB understands the need for our customers to maintain a secure, reliable, control environment with minimal time and effort expended. Cyber Security has become a major concern for Control System owner/operators and more so with NERC-CIP compliance requirements. ABB evaluates all Microsoft security updates for relevance and system compatibility as they are released by Microsoft. Secure access to the ABB security patch test result documentation is granted during the contract period.

## 2.4 Onsite Field Service

As part of the ServiceGrid contract, ABB will provide **160 hours** to perform Control System Maintenance Services. Service labor hours not used within the duration of this agreement shall be "lost" without compensation. Service labor time includes travel to and from the site, diagnostic time, repair time, verification time, time awaiting the delivery of parts, time waiting for access to equipment, and time required to complete the documentation of the service call activities.

Travel and living expenses are included.

In the event all of the hours are used, additional hours may be purchased at **15 percent off** the current field service labor rates if purchased during the contract period. Additional purchased material, equipment rental, oil processing trailers, etc. are in addition to service hours and will be quoted per the service required.

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## ServiceGrid<sup>SM</sup>

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## 2.5 Parts Discount

ABB will provide a replacement parts discount off the current ABB spare parts pricing during the ServiceGrid contract period. Parts discounts during the contract period will be extended at the following rates for DCS hardware:

### Harmony Rack

- New – 0.90 of list (10% discount)
- Refurbished – 0.90 of list (10% discount)
- Repair – 0.90 of list (10% discount)

### System 800xA

- New – 0.9 of list (10% discount)
- Refurbished – 0.95 of list (5% discount)
- Repair – 0.95 of list (5% discount)

## 2.6 ABB University

Providing world-class training and skills development to ensure maximum performance of your ABB automation equipment investment is important to us. For decades, ABB University has helped customers achieve optimized equipment performance by providing cost-effective, high quality, technical training.

As part of the ServiceGrid contract, you are entitled to purchase in-center training classes from ABB University at **10 percent** off the current list price if purchased during the contract period.

- The discounted pricing would only apply to list price, ABB in-center training classes, scheduled as open enrollment events.
- The discounted pricing would not apply to on-site training events or coaching services.
- This discount cannot be combined with any other agreements or promotions.
- ABB University has the right to cancel an open enrollment class that does not meet the student minimum to conduct the training class. ABB University commits to cancelling a class at least 2 weeks prior to the scheduled start date. If the customer chooses to cancel an enrollment, they must do so at least 2 weeks prior to the class start date to avoid a cancellation fee.

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## ServiceGrid<sup>SM</sup>

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## 2.7 Cyber Security Patch Delivery

ABB's cyber security patch delivery service provides, on a monthly basis during the contract period, a CD of all Microsoft validated patches for ABB control system software and associated ABB validation test status documentation. This document lists Microsoft security bulletins including relevant KB article numbers, criticality, affected Microsoft products, and ABB's validation status. The validation testing of Microsoft security updates is done along with McAfee VirusScan® Enterprise. Documentation about the latest patch level, scan engine, and virus definition file versions validated are published together with the Microsoft security update test results are also included. The information and software provided is for use on ABB systems covered by software maintenance agreements included in this offering as defined in Appendix B.

## 2.8 Remote Access Link

This proposal is to provide the Remote Access Link for ABB control systems and/or other ABB technologies addressed in this proposal. The customer will be responsible for providing Internet access and a PC on which the remote connectivity software will be installed to allow communications to the control system. Additional hardware is optional.

Implementation of remote connectivity for the Remote Access Link can be completed upon receipt of the customer's order. The cost associated with implementing remote connectivity is included in the price herein.

### 2.8.1 Remote Connectivity Options

The ABB Remote Access Platform - To enhance the maintenance of the control system as well as related process optimization activities, ABB offers a robust Remote Connectivity Solution. Facilitated by the ABB Remote Access Platform, the Remote Connectivity Solution provides secure access to a selected node on the control system network. This remote connection supplements the troubleshooting of the system with a direct view of the equipment and associated software applications. Secure access to the control system also allows process control experts to safely view and monitor process data and recommend improvements in applications related to the process. Through subscription-based remote support services as well as remote sessions associated with on-site services, the remote connectivity solution expands the resources available to help maintain and optimize the process automation system.

Customer Provided VPN Connectivity - A customer provided VPN connection can also be used in place of the RAP solution for an additional fee. Some customers prefer that

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### ServiceGrid<sup>SM</sup>

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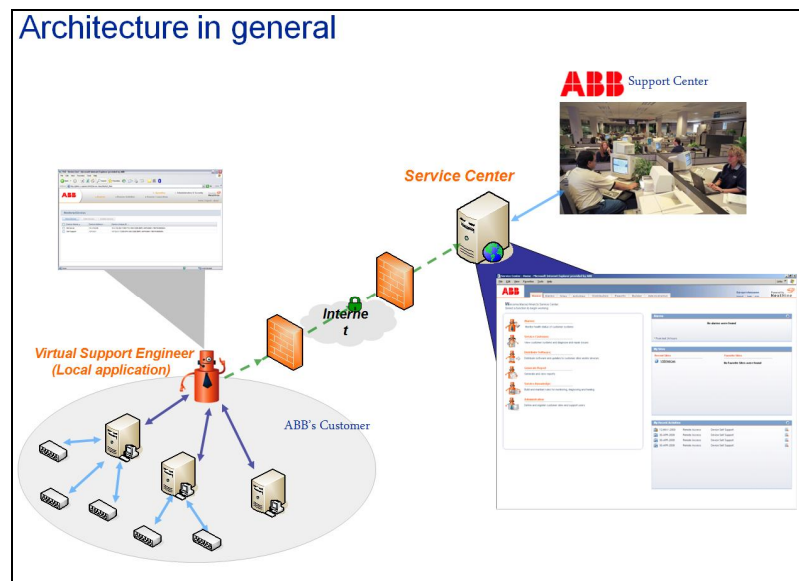
Telephone: **1-800-HELP-365** (1-800-435-7365)  
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ABB uses their VPN connection methods. ABB can incorporate any VPN method into the current infrastructure such as Cisco Anyconnect, Nortel VPN, Checkpoint VPN, Juniper Networks, PC Anywhere, etc.

## 2.8.2 Remote Access Platform Details

The RAP solution provides a secure and fast connection to support customer needs. This solution also meets standard NERC-CIP requirements. Connectivity is made by creating a secure tunnel to the customer site. The Virtual Support Engineer (VSE) software would be installed on an existing PC that is connected to the control network. The software is pre-configured to require the manual configuration of the remote user access list. Once the initial configuration is established, customers will have the ability to modify their settings which includes automating the entire remote access process.

The connectivity tunnel between the VSE and Service Center web application is an outbound connection via the secure socket layer (port 443). This connection is encrypted with an SSL public certification. The RAP solution provides access via VNC which allows the customer to monitor a user's remote session. This solution has an audit capability which can be used to monitor when a user makes a connection. Security settings can be configured on the VSE to give the customer control of each connectivity session. Remote users also have the option of file transfer.



## ServiceGrid<sup>SM</sup>

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### 2.8.3 Remote Services Applications

A secure remote connectivity solution provides numerous advantages for the automation system user by expanding the resources and services that can be applied to help maintain the system at peak performance levels. Access to the system enables ABB system and process experts to deliver the value-added services listed below.

**Enhanced Support Services** – Direct view of the customer system via remote connectivity speeds identification and resolution of system troubleshooting, configuration and maintenance issues. This service also allows ABB engineers to support project start-ups remotely.

**Evaluation & Reporting Services** – Access to the automation system allows periodic review and diagnosis of operating parameters. Comparisons to established benchmarks lead to recommendations for optimization of system and/or process parameters. With remote connectivity in place, periodic reports can be completed exclusively on a remote basis, as a supplement to on-site evaluations, or a mix of both delivery schemes.

**Continuous Condition Monitoring** – ABB's condition monitoring services provide system diagnostic applications that operate continuously, monitoring critical system parameters.

Users are notified of variance from optimum performance via flexible alarm and messaging services ranging from the operator's display to text messaging. Remote connectivity can be applied to allow ABB experts to assist on-site personnel in the evaluation of system anomalies and recommendations for corrective action.

### Features, Benefits, and Options

- 24-hour remote support access
- Access to a wider range of ABB Technical Support resources
- Real time access and support
- Quicker Information Retrieval and Response Time
- Industry proven secure broadband connection with simple implementation
- Reduced overall maintenance costs
- Optimized asset performance

### Customer Responsibilities

- Providing Internet access.
- Provide a PC for the VSE software. Minimum PC requirements are:
  - Windows XP Operating System
  - 1GB of RAM
  - 500 MB of Hard Drive Space
- Install VSE software on site machine. Firewall must be configured to allow outbound only connection through SSL port 443.

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## ServiceGrid<sup>SM</sup>

#### ABB Service

North America Customer Service Center  
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Wickliffe, Ohio 44092 USA  
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Fax: 440-585-5081  
Outside of the USA & Canada: 1-440-585-7804



### 3 ServiceGrid Optional Services

#### 3.1 Optional Parts Utilization Account

An optional parts utilization account in the amount of **\$15,000.00 per contract year** can be provided within this agreement that can be used for parts and parts repair. The Parts Utilization Program is limited to the traditional Bailey Trademark OCS Equipment, and does not provide for any hardware outside of the Bailey Trademark OCS Equipment system.

**For the purpose of this agreement:**

- The customer is responsible for returning all failed parts under the RMA issued within 14 days of receipt of RMA. Failure to return failed parts will result in an additional charge of 20% of the list price against the account balance.
- The published spare parts price for the part or repair cost will be deducted as ordered from the parts account balance.
- Any parts usage beyond the amount stated herein for the contract period will be invoiced separately at the list price less discount stated in Section 2.5 on all Infi-90 DCS parts ordered through the your ServiceGrid phone number. A purchase order will be required.
- All replaced components become the Property of ABB Inc.
- Customer is separately responsible for all shipping charges.
- Parts Usage below the cap may not be applied towards any other portion of this contract. Parts Usage account can be used for ServiceGrid loyalty offers and will be deducted at list price, no combining of discounts are permitted. Any unused allowance will be forfeited.

#### 3.2 Optional Firmware Maintenance

The Firmware Maintenance for Harmony, ServiceGrid program makes it easy to maximize the potential of installed control module technology. The program is designed to effectively satisfy the ever-increasing operational demands placed on automation systems with firmware upgrades as you need them. This program compliments the firmware deliverables of the Software Maintenance program with pre-programmed (ROM) module firmware kits. Kits may be requested throughout the program's active period with no restrictions on module type (one upgrade kit per module). A \$250 fee per kit is applied.

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## 4 Commercial Summary

### **ServiceGrid Support Contract – Three Year Agreement:**

The agreement starts 01 January 2015 ending 31 December 2017.

**\$ 62,040 Year 1 / \$5,170 per month\*\***

**\$ 68,940 Year 2 / \$5,745 per month\***

**\$ 68,940 Year 3 / \$5,745 per month\***

**\*\*Note: 10% Discount for City of Spokane per New Contract on Year One**

### **Optional Services\*\***

#### **Option 1**

Parts Utilization Account

**\$ 1,063 per month\***

#### **Option 2**

Firmware Maintenance

**\$ 250 per month\***

\* Monthly invoicing will apply to all ServiceGrid contract services as per the invoice schedule defined herein.

\*\* Optional Services pricing valid when purchased at the same time as ServiceGrid contract.

### 4.1 Purchase Order

Please submit your purchase order referencing proposal number JRR-140908-1B and ServiceGrid part number for duration of contract.

The purchase order must reference terms and conditions for this agreement. Please FAX or email your purchase order to:

**ServiceGrid<sup>SM</sup>**

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Monica Martinez  
ABB Inc  
579 Executive Campus Dr.  
Westerville, OH 43082  
(866) 695-7480 Ext. 57409  
Fax: 919-666-1391  
Email: monica.martinez@mx.abb.com

## 4.2 Terms and Conditions

The Terms and Conditions of this proposal are based on ABB Standard Terms and Conditions. No other terms and conditions shall apply.

## 4.3 Authorized Users

The ServiceGrid agreement and services are for the operator/operating company of the specific to the site and systems identified in this proposal. Third parties performing work or services are not authorized or permitted to utilize any of the features or benefits provided with this agreement.

The site operator also agrees that employees authorized to utilize the ServiceGrid agreement have had formal ABB training or significant experience with the ABB systems. ABB will assist in identifying training opportunities as necessary to help facilitate the level of support that can be provided. In cases that remote support cannot be effectively provided, ABB on-site involvement may be required and charged against the on-site field service allocation.

## 4.4 Travel and Living

Travel and living expenses are included at actual cost plus 10% (administrative fee). Travel time to and from site is considered part of the deliverable time.

## 4.5 Primary Working Hours

ABB will provide under this agreement the agreed upon amount of service hours during Primary Working Hours (PWH) defined as an 8-hour period beginning between 7:00

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### ServiceGrid<sup>SM</sup>





A.M. and 10: 00 A.M. Monday through Friday, excluding national and ABB recognized holidays. The primary work hours include a one half-hour non-paid lunch period and two 15-minute breaks during the day. ABB's Service Coordinator and the Field Service Engineer will work closely with customer personnel to coordinate visits and schedule work so as to maximize availability. All scheduled service described in this agreement shall be completed during planned visits as time and equipment availability permit. Whenever possible, local service support will be arranged.

#### 4.6 Invoice Schedule & Payment Terms

The terms of payment for all systems, services and products purchased under this agreement shall be 30 days from date on invoice, subject to **monthly** invoices issued following receipt and acceptance of your Purchase Order. **Monthly** invoicing will continue automatically for multi-year contract periods.

In the event of a lapsed ServiceGrid contract, a 10% increase will be applied to the monthly contract rate and invoiced to maintain services and support until a new ServiceGrid support contract has been put in place.

#### 4.7 Taxes and Duties

All other taxes and duty not explicitly expressed herein will be billed to the consignee. This include VAT or/and Service related Withholding tax.

#### 4.8 Proposal Validity

This Proposal is subject to acceptance within sixty (60) days from the date of proposal. All prices, schedules, and technical descriptions are valid throughout this period.

#### 4.9 Publication

Customer approves the use of its name in ABB newsletters, press releases, proposals, experience lists, and resumes (for proposal purposes) of our employees.

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### ServiceGrid<sup>SM</sup>



## 4.10 Confidentiality

The information contained in this proposal is proprietary to ABB Inc. and may not be disclosed to any third party or company without the written consent of ABB Inc.

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## Appendix A – ABB Standard Service Rate Sheet 2014

### **Base Service Labor Rates**

<b>Technology</b>	<b>Service Type</b>	<b>Hourly Rate</b>
Drives and Motors	Field Services	\$260
Open Control systems (OCS)	Field Services	\$260
	Process Application Engineering Services	\$325
Power Generation	Turbine Control Systems Services	\$290
	Flame Scanner Services	\$280
	Power Plant Tuning	\$325
All	Project Management Services	\$275
	Process Control Tuning Services	\$295
	Regional Technical Advisor, Network & Security Services	\$325
	Process Optimization Services	\$335

### **Overtime Hours**

For billing purposes ABB Inc. defines overtime as those hours worked outside the Primary Working Hours or in excess of eight (8) hours in one day. The standard charges for overtime are defined as follows:

- All work performed outside the PWH or over 8 hours in one day is charged at one and one half times the labor rate (Base Service Labor Rate X 1.5).
- All work performed on Saturday is charged at one and one half times the labor rate (Base Service Labor Rate X 1.5).
- All work performed on Sunday is charged at two times the labor rate (Base Service Labor Rate X 2).
- All work performed on national or an ABB holiday is charged at three times the labor rate (Base Service Labor Rate X 3).

### **Holiday Schedule for 2014**

Wednesday, Jan. 1 - New Year's Day	Thursday, Nov. 27 – Thanksgiving Day
Monday, May 26 - Memorial Day	Friday, Nov. 28 – Day After Thanksgiving
Friday, July 4 – Independence Day	Thursday, Dec. 25 – Christmas Day
Monday Sept. 1 - Labor Day	Friday, Dec. 26 - Day After Christmas

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## Appendix B – Sites & Systems

Site Name		System Name		
Spokane		Spokane		
System ID	Software Support Level	System Type	# of Concurrent Users	System Functionality Included:
SID13828	Upgrade Level	Type II	5 users	<input type="checkbox"/> Turbine Analyst <input type="checkbox"/> Safety <input type="checkbox"/> History <input type="checkbox"/> Batch <input type="checkbox"/> Harm. Gateway <input type="checkbox"/> Firmware
Licenses Included in System Identification				
License #	Product Description			License #
SL93455201924425	Conductor NT/Server, vSR6.0			35592
SL43455201924425	Conductor NT/Server, vSR6.0			35593
SL5590211924425	Conductor NT/Client, vSR6.0			35594
SL9180211924425	Conductor NT/Client, vSR6.0			35595
SL1371211924425	Conductor NT/Client, vSR6.0			32703
SL5437211914425	Composer Server, v5.0			32703
SL12216211924425	Composer Client, v5.0			32703

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## ABB INC.

## GENERAL TERMS AND CONDITIONS OF SALE

**1. General.** The terms and conditions contained herein, together with any additional or different terms contained in ABB's Proposal, if any, submitted to Purchaser (which Proposal shall control over any conflicting terms), constitute the entire agreement (the "Agreement") between the parties with respect to the order and supersede all prior communications and agreements regarding the order. Acceptance by ABB of the order, or Purchaser's acceptance of ABB's Proposal, is expressly limited to and conditioned upon Purchaser's acceptance of these terms and conditions, payment for or acceptance of any performance by ABB being acceptance. These terms and conditions may not be changed or superseded by any different or additional terms and conditions proposed by Purchaser to which terms ABB hereby objects. Unless the context otherwise requires, the term "Equipment" as used herein means all of the equipment, parts, accessories sold, and all software and software documentation, if any, licensed to Purchaser by ABB ("Software") under the order. Unless the context otherwise requires, the term "Services" as used herein means all labor, supervisory, technical and engineering, installation, repair, consulting or other services provided by ABB under the order. As used herein, the term "Purchaser" shall include the initial end use of the Equipment and/or services; provided, however, that Paragraph 13(a) shall apply exclusively to the initial end user.

**2. Prices.**

- (a) Unless otherwise specified in writing, all Proposals expire thirty (30) days from the date thereof.
- (b) Unless otherwise stated herein, Services prices are based on normal business hours (8 a.m. to 5 p.m. Monday through Friday). Overtime and Saturday hours will be billed at one and one-half (1 1/2) times the hourly rate; and Sunday hours will be billed at two (2) times the hourly rate; holiday hours will be billed at three (3) times the hourly rate. If a Services rate sheet is attached hereto, the applicable Services rates shall be those set forth in the rate sheet. Rates are subject to change without notice.
- (c) The price does not include any federal, state or local property, license, privilege, sales, use, excise, gross receipts, or other like taxes which may now or hereafter be applicable. Purchaser agrees to pay or reimburse any such taxes which ABB or its suppliers are required to pay or collect. If Purchaser is exempt from the payment of any tax or holds a direct payment permit, Purchaser shall, upon order placement, provide ABB a copy, acceptable to the relevant governmental authorities of any such certificate or permit.
- (d) The price includes customs duties and other importation or exportation fees, if any, at the rates in effect on the date of ABB's Proposal. Any change after that date in such duties, fees, or rates, shall increase the price by ABB's additional cost.

**3. Payment.**

- (a) Unless specified to the contrary in writing by ABB, payment terms are net cash, payable without offset, in United States Dollars, 30 days from date of invoice by wire transfer to the account designated by ABB in the Proposal.
- (b) If in the judgment of ABB the financial condition of Purchaser at any time prior to delivery does not justify the terms of payment specified, ABB may require payment in advance, payment security satisfactory to ABB, or may terminate the order, whereupon ABB shall be entitled to receive reasonable cancellation charges. If delivery is delayed by Purchaser, payment shall be due on the date ABB is prepared to make delivery. Delays in delivery or nonconformities in any installments delivered shall not relieve Purchaser of its obligation to accept and pay for remaining installments.
- (c) Purchaser shall pay, in addition to the overdue payment, a late charge equal to the lesser of 1 1/2% per month or any part thereof or the highest applicable rate allowed by law on all such overdue amounts plus ABB's attorneys' fees and court costs incurred in connection with collection.

**4. Changes.**

- (a) Any changes requested by Purchaser affecting the ordered scope of work must be accepted by ABB and resulting adjustments to affected provisions, including price, schedule, and guarantees mutually agreed in writing prior to implementation of the change.
- (b) ABB may, at its expense, make such changes in the Equipment or Services as it deems necessary, in its sole discretion, to conform the Equipment or Services to the applicable specifications. If Purchaser objects to any such changes, ABB shall be relieved of its obligation to conform to the applicable specifications to the extent that conformance may be affected by such objection.

**5. Delivery.**

- (a) All Equipment manufactured, assembled or warehoused in the continental United States is delivered F.O.B. point of shipment. Equipment shipped from outside the continental United States is delivered F.O.B. United States port of entry. Purchaser shall be responsible for any and all demurrage or detention charges.
- (b) If the scheduled delivery of Equipment is delayed by Purchaser or by Force Majeure, ABB may move the Equipment to storage for the account of and at the risk of Purchaser whereupon it shall be deemed to be delivered.
- (c) Shipping and delivery dates are contingent upon Purchaser's timely approvals and delivery by Purchaser of any documentation required for ABB's performance hereunder.
- (d) Claims for shortages or other errors in delivery must be made in writing to ABB within ten days of delivery. Equipment may not be returned except with the prior written consent of and subject to terms specified by ABB. Claims for damage after delivery shall be made directly by Purchaser with the common carrier.

**6. Title & Risk of Loss.** Except with respect to Software (for which title shall not pass, use being licensed) title to Equipment shall remain in ABB until fully paid for. Notwithstanding any agreement with respect to delivery terms or payment of transportation charges, risk of loss or damage shall pass to Purchaser upon delivery.

**7. Inspection, Testing and Acceptance.**

- (a) Any inspection by Purchaser of Equipment on ABB's premises shall be scheduled in advance to be performed during normal working hours.
- (b) If the order provides for factory acceptance testing, ABB shall notify Purchaser when ABB will conduct such testing prior to shipment. Unless Purchaser states specific objections in writing within ten (10) days after completion of factory acceptance testing, completion of the acceptance test constitutes Purchaser's factory acceptance of the Equipment and its authorization for shipment.
- (c) If the order provides for site acceptance testing, testing will be performed by ABB personnel to verify that the Equipment has arrived at site complete, without physical damage, and in good operating condition. Completion of site acceptance testing constitutes full and final acceptance of the Equipment. If, through no fault of ABB, acceptance testing is not completed within thirty (30) days after arrival of the Equipment at the site, the site acceptance test shall be deemed completed and the Equipment shall be deemed accepted.

**8. Warranties and Remedies.**

- (a) **Equipment and Services Warranty.** ABB warrants that Equipment (excluding Software, which is warranted as specified in paragraph (d) below) shall be delivered free of defects in material and workmanship and that Services shall be free of defects in workmanship. The Warranty Remedy Period for Equipment (excluding Software, Spare Parts and Refurbished or Repaired Parts) shall end twelve (12) months after installation or eighteen (18) months after date of shipment, whichever first occurs. The Warranty Remedy Period for new spare parts shall end twelve (12) months after date of shipment. The Warranty Remedy Period for refurbished or repaired parts shall end ninety (90) days after date of shipment. The Warranty Remedy Period for Services shall end ninety (90) days after the date of completion of Services.
- (b) **Equipment and Services Remedy.** If a nonconformity to the foregoing warranty is discovered in the Equipment or Services during the applicable Warranty Remedy Period, as specified above, under normal and proper use and provided the Equipment has been properly stored, installed, operated and maintained and written notice of such nonconformity is provided to ABB promptly after such discovery and within the applicable Warranty Remedy Period, ABB shall, at its option, either (i) repair or replace the nonconforming portion of the Equipment or re-perform the nonconforming Services or (ii) refund the portion of the price applicable to the nonconforming portion of Equipment or Services. If any portion of the Equipment or Services so repaired, replaced or re-performed fails to conform to the foregoing warranty, and written notice of such nonconformity is provided to ABB promptly after discovery and within the original Warranty Remedy Period applicable to such Equipment or Services or 30 days from completion of such repair, replacement or re-performance, whichever is later, ABB will repair or replace such nonconforming Equipment or re-perform the nonconforming Services. The original Warranty Remedy Period shall not otherwise be extended.

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(c) **Exceptions.** ABB shall not be responsible for providing working access to the nonconforming Equipment, including disassembly and re-assembly of non-ABB supplied equipment, or for providing transportation to or from any repair facility, all of which shall be at Purchaser's risk and expense. ABB shall have no obligation hereunder with respect to any Equipment which (i) has been improperly repaired or altered; (ii) has been subjected to misuse, negligence or accident; (iii) has been used in a manner contrary to ABB's instructions; (iv) is comprised of materials provided by or a design specified by Purchaser; or (v) has failed as a result of ordinary wear and tear. Equipment supplied by ABB but manufactured by others is warranted only to the extent of the manufacturer's warranty, and only the remedies, if any, provided by the manufacturer will be allowed.

(d) **Software Warranty and Remedies.** ABB warrants that, except as specified below, the Software will, when properly installed, execute in accordance with ABB's published specification. If a nonconformity to the foregoing warranty is discovered during the period ending one (1) year after the date of shipment and written notice of such nonconformity is provided to ABB promptly after such discovery and within that period, including a description of the nonconformity and complete information about the manner of its discovery, ABB shall correct the nonconformity by, at its option, either (i) modifying or making available to the Purchaser instructions for modifying the Software; or (ii) making available at ABB's facility necessary corrected or replacement programs. ABB shall have no obligation with respect to any nonconformities resulting from (i) unauthorized modification of the Software or (ii) Purchaser-supplied software or interfacing. ABB does not warrant that the functions contained in the software will operate in combinations which may be selected for use by the Purchaser, or that the software products are free from errors in the nature of what is commonly categorized by the computer industry as "bugs".

(e) **THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF QUALITY AND PERFORMANCE, WHETHER WRITTEN, ORAL OR IMPLIED, AND ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USAGE OF TRADE ARE HEREBY DISCLAIMED. THE REMEDIES STATED HEREIN CONSTITUTE PURCHASER'S EXCLUSIVE REMEDIES AND ABB'S ENTIRE LIABILITY FOR ANY BREACH OF WARRANTY.**

#### 9. Patent Indemnity.

(a) ABB shall defend at its own expense any action brought against Purchaser alleging that the Equipment or the use of the Equipment to practice any process for which such Equipment is specified by ABB (a "Process") directly infringes any claim of a patent of the United States of America and to pay all damages and costs finally awarded in any such action, provided that Purchaser has given ABB prompt written notice of such action, all necessary assistance in the defense thereof and the right to control all aspects of the defense thereof including the right to settle or otherwise terminate such action in behalf of Purchaser.

(b) ABB shall have no obligation hereunder and this provision shall not apply to: (i) any other equipment or processes, including Equipment or Processes which have been modified or combined with other equipment or process not supplied by ABB; (ii) any Equipment or Process supplied according to a design, other than an ABB design, required by Purchaser; (iii) any products manufactured by the Equipment or Process; (iv) any patent issued after the date hereof; or (v) any action settled or otherwise terminated without the prior written consent of ABB.

(c) If, in any such action, the Equipment is held to constitute an infringement, or the practice of any Process using the Equipment is finally enjoined, ABB shall, at its option and its own expense, procure for Purchaser the right to continue using said Equipment; or modify or replace it with non-infringing equipment or, with Purchaser's assistance, modify the Process so that it becomes non-infringing; or remove it and refund the portion of the price allocable to the infringing Equipment. **THE FOREGOING PARAGRAPHS STATE THE ENTIRE LIABILITY OF ABB AND EQUIPMENT MANUFACTURER FOR ANY PATENT INFRINGEMENT.**

(d) To the extent that said Equipment or any part thereof is modified by Purchaser, or combined by Purchaser with equipment or processes not furnished hereunder (except to the extent that ABB is a contributory infringer) or said Equipment or any part thereof is used by Purchaser to perform a process not furnished hereunder by ABB or to produce an article, and by reason of said modification, combination, performance or production, an action is brought against ABB, Purchaser shall defend and indemnify ABB in the same manner and to the same extent that ABB would be obligated to indemnify Purchaser under this "Patent Indemnity" provision.

#### 10. Limitation of Liability.

(a) In no event shall ABB, its suppliers or subcontractors be liable for special, indirect, incidental or consequential damages, whether in contract, warranty, tort, negligence, strict liability or otherwise, including, but not limited to, loss of profits or revenue, loss of use of the Equipment or any associated equipment, cost of capital, cost of substitute equipment, facilities or services, downtime costs, delays, and claims of customers of the Purchaser or other third parties for any damages. ABB's liability for any claim whether in contract, warranty, tort, negligence, strict liability, or otherwise for any loss or damage arising out of, connected with, or resulting from this Agreement or the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, repair, replacement, installation, technical direction of installation, inspection, operation or use of any equipment covered by or furnished under this Agreement, or from any services rendered in connection therewith, shall in no case (except as provided in the section entitled "Patent Indemnity") exceed one-half (1/2) of the purchase price allocable to the Equipment or part thereof or Services which gives rise to the claim.

(b) All causes of action against ABB arising out of or relating to this Agreement or the performance or breach hereof shall expire unless brought within one year of the time of accrual thereof.

(c) In no event, regardless of cause, shall ABB be liable for penalties or penalty clauses of any description or for indemnification of Purchaser or others for costs, damages, or expenses arising out of or related to the Equipment and/Services.

**11. Laws and Regulations.** ABB does not assume any responsibility for compliance with federal, state or local laws and regulations, except as expressly set forth herein, and compliance with any laws and regulations relating to the operation or use of the Equipment or Software is the sole responsibility of the Purchaser. All laws and regulations referenced herein shall be those in effect as of the Proposal date. In the event of any subsequent revisions or changes thereto, ABB assumes no responsibility for compliance therewith. If Purchaser desires a modification as a result of any such change or revision, it shall be treated as a change per Article 4. Nothing contained herein shall be construed as imposing responsibility or liability upon ABB for obtaining any permits, licenses or approvals from any agency required in connection with the supply, erection or operation of the Equipment. This Agreement shall be governed by the laws of the State of New York, but excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and excluding New York law with respect to conflicts of law. Purchaser agrees that all causes of action against ABB under this Agreement shall be brought in the State Courts of the State of New York, or the U.S. District Court for the Southern District of New York. If any provision hereof, partly or completely, shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision or portion hereof and these terms shall be construed as if such invalid or unenforceable provision or portion thereof had never existed.

**12. OSHA.** ABB warrants that the Equipment will comply with the relevant standards of the Occupational Safety and Health Act of 1970 ("OSHA") and the regulations promulgated thereunder as of the date of the Proposal. Upon prompt written notice from the Purchaser of a breach of this warranty, ABB will replace the affected part or modify it so that it conforms to such standard or regulation. ABB's obligation shall be limited to such replacement or modification. In no event shall ABB be responsible for liability arising out of the violation of any OSHA standards relating to or caused by Purchaser's design, location, operation, or maintenance of the Equipment, its use in association with other equipment of Purchaser, or the alteration of the Equipment by any party other than ABB.

#### 13. Software License.

(a) ABB owns all rights in or has the right to sublicense all of the Software, if any, to be delivered to Purchaser under this Agreement. As part of the sale made hereunder Purchaser hereby obtains a limited license to use the Software, subject to the following: (i) The Software may be used only in conjunction with equipment specified by ABB; (ii) The Software shall be kept strictly confidential; (iii) The Software shall not be copied, reverse engineered, or modified; (iv) The Purchaser's right to use the Software shall terminate immediately when the specified equipment is no longer used by the Purchaser or when otherwise terminated, e.g. for breach, hereunder; and (v) the rights to use the Software are non-exclusive and non-transferable, except with ABB's prior written consent.

(b) Nothing in this Agreement shall be deemed to convey to Purchaser any title to or ownership in the Software or the intellectual property contained therein in whole or in part, nor to designate the Software a "work made for hire" under the Copyright Act, nor to confer upon any person who is not a named party to this Agreement any right or remedy under or by reason of this Agreement. In the event of termination of this License, Purchaser shall immediately cease using the Software and, without retaining any copies, notes or excerpts thereof, return to ABB the Software and all copies thereof and shall remove all machine readable Software from all of Purchaser's storage media.

**14. Inventions and Information.** Unless otherwise agreed in writing by ABB and Purchaser, all right, title and interest in any inventions, developments, improvements or modifications of or for Equipment and Services shall remain with ABB. Any design, manufacturing drawings or other information submitted to the Purchaser remains the exclusive property of ABB. Purchaser shall not, without ABB's prior written consent, copy or disclose such information to a third party. Such information shall be used solely for the operation or maintenance of the Equipment and not for any other purpose, including the duplication thereof in whole or in part.

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Fax: 440-585-5081  
Outside of the USA & Canada: 1-440-585-7804



**15. Force Majeure.** ABB shall neither be liable for loss, damage, detention or delay nor be deemed to be in default for failure to perform when prevented from doing so by causes beyond its reasonable control including but not limited to acts of war (declared or undeclared), Acts of God, fire, strike, labor difficulties, acts or omissions of any governmental authority or of Purchaser, compliance with government regulations, insurrection or riot, embargo, delays or shortages in transportation or inability to obtain necessary labor, materials, or manufacturing facilities from usual sources or from defects or delays in the performance of its suppliers or subcontractors due to any of the foregoing enumerated causes. In the event of delay due to any such cause, the date of delivery will be extended by period equal to the delay plus a reasonable time to resume production, and the price will be adjusted to compensate ABB for such delay.

**16. Cancellation.** Any order may be cancelled by Purchaser only upon prior written notice and payment of termination charges, including but not limited to, all costs identified to the order incurred prior to the effective date of notice of termination and all expenses incurred by ABB attributable to the termination, plus a fixed sum of ten (10) percent of the final total price to compensate for disruption in scheduling, planned production and other indirect costs.

**17. Termination.** No termination by Purchaser for default shall be effective unless, within fifteen (15) days after receipt by ABB of Purchaser's written notice specifying such default, ABB shall have failed to initiate and pursue with due diligence correction of such specified default.

**18. Export Control.**

(a) Purchaser represents and warrants that the Equipment and Services provided hereunder and the "direct product" thereof are intended for civil use only and will not be used, directly or indirectly, for the production of chemical or biological weapons or of precursor chemicals for such weapons, or for any direct or indirect nuclear end use. Purchaser agrees not to disclose, use, export or re-export, directly or indirectly, any information provided by ABB or the "direct product" thereof as defined in the Export Control Regulations of the United States Department of Commerce, except in compliance with such Regulations.

(b) If applicable, ABB shall file for a U.S. export license, but only after appropriate documentation for the license application has been provided by Purchaser. Purchaser shall furnish such documentation within a reasonable time after order acceptance. Any delay in obtaining such license shall suspend performance of this Agreement by ABB. If an export license is not granted or, if once granted, is thereafter revoked or modified by the appropriate authorities, this Agreement may be canceled by ABB without liability for damages of any kind resulting from such cancellation. At ABB's request, Purchaser shall provide to ABB a Letter of Assurance and End-User Statement in a form reasonably satisfactory to ABB.

**19. Assignment.** Any assignment of this Agreement or of any rights or obligations under the Agreement without prior written consent of ABB shall be void.

**20. Nuclear Insurance – Indemnity.** For applications in nuclear projects, the Purchaser and/or its end user customer shall have complete insurance protection against liability and property damage resulting from a nuclear incident to and shall indemnify ABB, its subcontractors, suppliers and vendors against all claims resulting from a nuclear incident.

**21. Resale.** If Purchaser resells any of the Equipment, the sale terms shall limit ABB's liability to the buyer to the same extent that ABB's liability to Purchaser is limited hereunder.

**22. Entire Agreement.** This Agreement constitutes the entire agreement between ABB and Purchaser. There are no agreements, understandings, restrictions, warranties, or representations between ABB and Purchaser other than those set forth herein or herein provided.

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ServiceGrid<sup>SM</sup>

**ABB Service**

North America Customer Service Center  
Email: AutomationSupportLine@us.abb.com

29801 Euclid Avenue  
Wickliffe, Ohio 44092 USA  
Page 22 of 22

Telephone: **1-800-HELP-365** (1-800-435-7365)  
Fax: 440-585-5081  
Outside of the USA & Canada: 1-440-585-7804

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

11/03/2014

Date Rec'd

10/23/2014

Clerk's File #

ORD C35174

Renews #Submitting Dept

CITY COUNCIL

Cross Ref #Contact Name/Phone

BEN STUCKART 625-6269

Project #Contact E-Mail

AMCDANIEL@SPOKANECITY.ORG

Bid #Agenda Item Type

First Reading Ordinance

Requisition #Agenda Item Name

0320 AUDIT FINDINGS TRANSPARENCY AND ACCOUNTABILITY ORDINANCE

Agenda Wording

An ordinance relating to financial audit findings; adopting a new chapter 7.18 to title 7 of the Spokane Municipal Code.

Summary (Background)

This ordinance provides that the City shall post on the webpage, the external website and the City's intranet site all financial audit findings issued the Washington State Auditor's Office, any federal agency, or other applicable and authorized governmental agency as well as any corrective action documents created by the City in response to the audit findings.

Fiscal ImpactBudget Account

Select \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

MCDANIEL, ADAM

Study SessionDivision DirectorOther

Finance

Finance

DOLAN, PAM

Distribution ListLegal

PICCOLO, MIKE

Tim Dunivant

For the Mayor


SANDERS, THERESA

Gavin Cooley

Additional Approvals

Jennifer Stapleton

Purchasing

		<b>Agenda Sheet for City Council Meeting of:</b>		<u>Date Rec'd</u>		10/23/2014	
		11/03/2014		<u>Clerk's File #</u>		ORD C35174	
				<u>Renews #</u>			
<u>Submitting Dept</u>		CITY COUNCIL		<u>Cross Ref #</u>			
<u>Contact Name/Phone</u>		BEN STUCKART 625-6269		<u>Project #</u>			
<u>Contact E-Mail</u>		AMCDANIEL@SPOKANECITY.ORG		<u>Bid #</u>			
<u>Agenda Item Type</u>		First Reading Ordinance		<u>Requisition #</u>			
<u>Agenda Item Name</u>		0320 AUDIT FINDINGS TRANSPARENCY AND ACCOUNTABILITY ORDINANCE					
<u>Agenda Wording</u>							
<p>An ordinance relating to financial audit findings; adopting a new chapter 7.18 to title 7 of the Spokane Municipal Code.</p>							
<u>Summary (Background)</u>							
<p>This ordinance provides that the City shall post on the webpage, the external website and the City's intranet site all financial audit findings issued the Washington State Auditor's Office, any federal agency, or other applicable and authorized governmental agency as well as any corrective action documents created by the City in response to the audit findings.</p>							
<u>Fiscal Impact</u>				<u>Budget Account</u>			
Select \$				#			
Select \$				#			
Select \$				#			
Select \$				#			
<u>Approvals</u>				<u>Council Notifications</u>			
<u>Dept Head</u>		MCDANIEL, ADAM		<u>Study Session</u>			
<u>Division Director</u>				<u>Other</u>		Finance	
<u>Finance</u>		DOLAN, PAM		<u>Distribution List</u>			
<u>Legal</u>		PICCOLO, MIKE		Tim Dunivant			
<u>For the Mayor</u>		SANDERS, THERESA		Gavin Cooley			
<u>Additional Approvals</u>				Jennifer Stapleton			
<u>Purchasing</u>							





Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

The audit findings and corrective action documents shall remain posted until the auditor/auditing organization determines the findings have been officially mitigated.

<u>Fiscal Impact</u>		<u>Budget Account</u>
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Select	\$	#
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Select	\$	#
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<u>Distribution List</u>	
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Ordinance No. C-35174

AN ORDINANCE relating to financial audit findings; adopting a new chapter 7.18 to title 7 of the Spokane Municipal Code.

WHEREAS, the City receives financial audits from the Washington State Auditor's Office on an annual basis as well as other financial audits from federal agencies providing federally funded grants; and

WHEREAS, those financial audits may including findings requiring corrective actions on behalf of the City; and

WHEREAS, it is the intent of this ordinance to provide full transparency of those findings and the City's corrective action to the public; - - Now, Therefore,

The City of Spokane does ordain:

Section 1. That there is adopted a new chapter 7.18 to title 7 of the Spokane Municipal Code to read as follows:

**7.18 Posting of Financial Audit Findings**

**7.18.010 Posting of Financial Audit Findings and Corrective Action**

- A. All financial audit findings issued by the Washington State Auditor's Office, any federal agency, or other applicable and authorized governmental agency shall be posted on the City's external website as well as the City's intranet within two days of receipt or public disclosure by the issuing agency. The postings shall be located on the webpage most applicable to the audit findings.
- B. Any corrective action documents created by the City in response to the audit findings shall also be posted in addition to the original audit findings.
- C. The audit findings and corrective action documents shall remain posted until the auditor/auditing organization determines the findings have been officially mitigated.

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

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

Attest:

Approved as to form:

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City Clerk

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Assistant City Attorney

---

Mayor

---

Date

---

Effective Date

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

11/10/2014

**Date Rec'd**

10/29/2014

**Clerk's File #**

ORD C35178

**Renews #****Submitting Dept**

FINANCE

**Cross Ref #****Contact Name/Phone**

TIM DUNIVANT 625-6845

**Project #****Contact E-Mail**

TDUNIVANT@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

Final Reading Ordinance

**Requisition #****Agenda Item Name**

0410 - PROPERTY TAX ORDINANCE (2015 TAXES)

**Agenda Wording**

An ordinance making the annual City of Spokane property tax levy for 2015.

**Summary (Background)**

Each year per RCW 84.52.070, the City Council must pass the annual property tax levy and transmit to the County Assessor and the Board of County Commissioners the amount of property taxes levied on property in the City.

**Fiscal Impact****Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

**Approvals****Council Notifications****Dept Head**

DUNIVANT, TIMOTHY

**Study Session****Division Director**

DUNIVANT, TIMOTHY

**Other**

11/03/14 Finance

**Finance**

LESESNE, MICHELE

**Distribution List****Legal**

DALTON, PAT

tdunivant@spokanecity.org

**For the Mayor**

SANDERS, THERESA

jsalstrom@spokanecity.org

**Additional Approvals**

kbustos@spokanecity.org

**Purchasing**


## ORDINANCE NO. ORD C35178

An ordinance updating the annual City of Spokane property tax levy for 2015.

WHEREAS, the Spokane City Council, the governing body of the City of Spokane, a taxing district ("District" or "City") of the State of Washington, has met and considered its budget for the calendar year 2015, holding public hearings thereon; and

WHEREAS, the District's actual regular levy amount from the previous year (2014) was \$45,151,581.45, plus \$163,343.15 in administrative refunds, for a total regular levy of \$45,314,924.60; and

WHEREAS, the City Council, after hearing and after duly considering all relevant evidence and testimony presented, has determined that the City of Spokane requires a regular levy as provided hereafter, as well as an EMS levy as provided hereafter, both of which include an increase in property tax revenue from the previous year, and amounts resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, and amounts authorized by law as a result of any annexations that have occurred and refunds made, and authorized refunds, in order to discharge the expected expenses and obligations of the City and in its best interest; and

WHEREAS, the District population is more than 10,000; Now, Therefore,

The City of Spokane does ordain:

### **Section 1. Regular Levy.**

- A. An increase in the regular annual property tax levy is hereby authorized for the levy to be collected in the 2015 tax year, said increase to be in the amount of \$451,515.81, which is a percentage increase of 1% from the previous year's actual levy, prior to the inclusion of administrative refunds of \$163,343.15 in the 2014 levy, for a total regular property tax levy for 2015 of \$45,603,097.26.
- B. This increase is exclusive of additional revenue in 2015 resulting from new construction, improvements to property, newly constructed wind turbines, increase in the value of state assessed property, and any annexations that have occurred and refunds made or amounts as required or permitted by law. The total regular property tax levy for 2015, including amounts estimated for new construction, annexations, refunds, and any other add-ons, is estimated at \$46,300,000 and is a percentage increase of 2.54% from the previous year, prior to the inclusion of 2014 administrative refunds. Inclusive of the \$163,343.15 of 2014 administrative refunds in the 2014 levy, the 2015 levy represents a 2.18% increase.

## **Section 2. Existing GO Bonds.**

In the case of the tax levied to raise \$11,328,629 for Principal and Interest on the City of Spokane's outstanding General Obligation Bonds, the County Assessor, in spreading the tax upon the rolls shall determine the dollar rate required.

## **Section 3. EMS Levy.**

Ordinance C-34568 concerning a levy for emergency medical services (EMS), passed by the Spokane City Council on March 8, 2010 and approved by the voters in the election of April 27, 2010, provides for a levy for six consecutive years beginning in 2011, with the rate in the first year being 50 cents per \$1,000 of assessed valuation.

- A. As required by RCW 84.55.120, this ordinance must specifically state the dollar increase requested, as well as the percent change from the previous year. For 2015, the City is requesting an increase of \$74,774.36 which is a 1% increase over the 2014 EMS Levy.
- B. This increase is exclusive of additional revenue in 2015 resulting from new construction, improvements to property, newly constructed wind turbines, increase in the value of state assessed property, and any annexations that have occurred and refunds made or amounts as required or permitted by law. The total EMS levy for 2015, including amounts we have estimated for new construction, annexations, refunds, and other add-ons, is estimated at \$7,650,000 and is a percentage increase of 2.31% from the previous year levy of \$7,477,435.76.

## **Section 4. Certification; Filing.**

The City Council certifies all information as stated herein. Appropriate City staff is directed to transmit all required information required to the Clerk of Spokane County Board of County Commissioners and County Assessor, including budget estimates of amounts to be raised by taxation on assessed value of property (RCW 84.55.020), estimated beginning and ending cash balances (RCW 84.52.025), and the amount of taxes levied on assessed value within the City (RCW 84.52.070). Pursuant to Section 19 of the City Charter, this measure takes effect immediately on first reading and passage.

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

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

Attest:

Approved as to form:

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City Clerk

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Assistant City Attorney

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Mayor

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Date



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	ORD C35176
<b>Renews #</b>	

<b>Submitting Dept</b>	MUNICIPAL COURT	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	HOWARD 625-4450	<b>Project #</b>	
<b>Contact E-Mail</b>	HDELANEY@SPOKANECITY.ORG	<b>Bid #</b>	
<b>Agenda Item Type</b>	First Reading Ordinance	<b>Requisition #</b>	
<b>Agenda Item Name</b>	AMENDMENT OF COURT COMMISSIONER SALARIES		

**Agenda Wording**

Amending the Spokane Municipal Code to amend the salary structure for Municipal Court Commissioners from a fixed salary of \$105,000 per year to an existing six step City salary range, effective January 1, 2015.

**Summary (Background)**

When Municipal Court was formed in 2008-2009, the decision was made to place Court Commissioner salaries at the maximum amount then earned by an Assistant City Attorney L IV. Since 2009, the salaries for Court Commissioners have remained static, while the comparable salary for an Assistant City Attorney L IV has risen to \$113,733.76. This has resulted in the Court Commissioners losing about 15% of their net effective wage to cumulative inflation over the same period.

<b>Fiscal Impact</b>		<b>Budget Account</b>	
Expense	\$ \$32, 698	#	0560-13100-12500-09590
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b>Approvals</b>		<b>Council Notifications</b>	
<b><u>Dept Head</u></b>	DELANEY, HOWARD	<b><u>Study Session</u></b>	OCTOBER 20, 2014
<b><u>Division Director</u></b>	LOGAN, MARY	<b><u>Other</u></b>	
<b><u>Finance</u></b>	DOLAN, PAM	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	PICCOLO, MIKE	hdelaney@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	tdunivant@spokanecity.org	
<b><u>Additional Approvals</u></b>		mlogan@spokanecity.org	
<b><u>Purchasing</u></b>		korlob@spokanecity.org	
		aharte@spokanecity.org	
		mpiccolo@spokanecity.org	



**Briefing Paper  
City of Spokane  
Spokane Municipal Court / Public Safety Committee  
October 20, 2014**

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**Subject**

Amending the Spokane Municipal Code to amend the salary structure for Municipal Court Commissioners from a fixed salary of \$105,000 per year to an existing six step City salary range, which in 2014 starts at \$90,285.12 and has a maximum pay rate of \$112,501.44.

**Background**

When Municipal Court was formed in 2008-2009, the decision was made to place Court Commissioner salaries at the maximum amount then earned by an Assistant City Attorney L IV.

Since 2009, the salaries for Court Commissioners have remained static, while the comparable salary for an Assistant City Attorney L IV has risen to \$113,733.76. This has resulted in the Court Commissioners losing about 15% of their net effective wage to cumulative inflation over the same period.

**Impact**

The total maximum fiscal impact as a result of passing the proposed ordinance, adjusting the existing Court Commissioner salaries in conformity therewith, and changing the existing Court Administrator position to that of a Court Commissioner in charge of administrative matters, is \$32,698, including all salary increases and associated benefits.

**Action Requested**

Approve the attached ordinance amending the Spokane Municipal Code (Appendix "A").

**Funding**

An additional \$32,698 in funding is required in 2015.

## ORDINANCE NO. C35176

AN ORDINANCE relating Court Commissioner hiring, salaries, performance,; amending SMC 5A.05.020 B.

The City of Spokane does ordain:

Section 1. Than SMC section 5A.05.020 B is amended to read as follows :

### A. Judges Pro Tern.

1. Pursuant to RCW 3.50.090, the presiding municipal court judge may designate one or more persons as judges pro tern to serve in the absence or disability of the elected or duly appointed judges of the court, subsequent to the filing of an affidavit of prejudice, or in addition to the elected or duly appointed judges when the administration of justice and the accomplishment of the work of the court make it necessary.
2. The qualifications of a judge pro tempore shall be the same as for judges as provided under RCW 3.50.040, except that a judge pro tempore need not be a resident of the City or County of Spokane.
3. Judges pro tempore shall have all of the powers of the duly appointed or elected judges when serving as judges pro tempore of the court.
4. Before entering his or her duties, each judge pro tempore shall take, subscribe, and file an oath as is taken by a duly appointed or elected judge.
5. Judges pro tempore shall receive, and the City shall pay, compensation as fixed by ordinance. The compensation of a judge pro tern shall be one hundred twenty-five dollars per half-day of service.
6. The City shall have authority to appoint a district judge as its municipal judge when the municipal judge is not required to serve full time. In the event of the appointment of a district judge, the City shall pay a pro rata share of the salary.

### B. Court Commissioners.

1. Pursuant to RCW 3.50.075, one or more court commissioners may be appointed by the presiding judge of the municipal court. Each commissioner holds office at the pleasure of the appointing judge.
2. A commissioner authorized to hear or dispose of cases must be a lawyer who is admitted to practice law in the State of Washington or a nonlawyer who has passed, prior to January 1, 2003, the qualifying examination for lay judges for courts of limited jurisdiction under RCW 3.34.060.
3. On or after July 1, 2010, when serving as a commissioner, the commissioner does not have authority to preside over trials in criminal matters or jury trials in civil matters unless agreed to on the record by all parties.
4. A commissioner need not be a resident of the City or County of Spokane.
5. Full-time commissioners shall receive ((a maximum compensation of one hundred five thousand dollars per year)) compensation equivalent to the City's 2014 pay plan for elected officials and outside agencies. Group A09, Grade 69, as it may be hereafter amended or retitled. Newly appointed court commissioners may be placed at any of the pay plan's six steps, at the discretion of the Presiding Judge. Step increases will not occur annually on an automatic basis, but will be approved

or disapproved on an annual basis based upon an individual commissioner receiving a satisfactory rating on that commissioner's annual performance review. Performance reviews shall be conducted by the Presiding Judge, in consultation with the Associate Judges, on the annual anniversary date of each commissioner's appointment as a commissioner, or as soon thereafter as may be practical.

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

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

Attest:

Approved as to form:

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date



**Agenda Sheet for City Council Meeting of:**  
11/10/2014

<b>Date Rec'd</b>	10/29/2014
<b>Clerk's File #</b>	ORD C35177
<b>Renews #</b>	

<b>Submitting Dept</b>	INTEGRATED CAPITAL MGMT	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	KATHERINE 625-6338	<b>Project #</b>	
<b>Contact E-Mail</b>	KEMILLER@SPOKANECITY.ORG	<b>Bid #</b>	
<b>Agenda Item Type</b>	First Reading Ordinance	<b>Requisition #</b>	
<b>Agenda Item Name</b>	4250 - ORDINANCE - 2015 - 2020 CITYWIDE CAPITAL IMPROVEMENT		

**Agenda Wording**

An ordinance adopting a six-year Citywide Capital Improvement Program for the years 2015-2020, and amending Section 5.5 Capital Facilities Program of the City's Comprehensive Plan.

**Summary (Background)**

City of Spokane's Spokane Municipal Code chapter 7.17 indicates the City's must adopt and annually update a Citywide Six-Year Capital Improvement Program. Two Plan Commission workshops were held on September 28, 2014 and October 8, 2014. A Plan Commission hearing was held on October 22, 2014. The Citywide Improvement Program was found to be consistent with the Comprehensive Plan. The 2015-2020 Citywide Six-Year Capital Improvement Program can be viewed on line at: <http://www.myspokanebudget.org>.

<b>Fiscal Impact</b>		<b>Budget Account</b>	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b>Approvals</b>		<b>Council Notifications</b>	
<b><u>Dept Head</u></b>	TAYLOR, MIKE	<b><u>Study Session</u></b>	
<b><u>Division Director</u></b>	ROMERO, RICK	<b><u>Other</u></b>	Public Works 10/27/14
<b><u>Finance</u></b>	DOLAN, PAM	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	DALTON, PAT	lhattenburg@spokanecity.org	
<b><u>For the Mayor</u></b>	SANDERS, THERESA	mlesesne@spokanecity.org	
<b><u>Additional Approvals</u></b>		mhughes@spokanecity.org	
<b><u>Purchasing</u></b>		kemiller@spokanecity.org	



**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

**Summary (Background)**

the City's must adopt and annually update a Citywide Six-Year Capital Improvement Program. SMC Chapter 7 also indicates that to determine the Program's consistency with the Comprehensive Plan it shall be reviewed by the City Plan Commission. The 2015-2020 Citywide Six-Year Capital Improvement Program can be viewed on line at: <http://www.myspokanebudget.org>

**Fiscal Impact**

Select      \$

Select      \$

**Budget Account**

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**Distribution List**


**BRIEFING PAPER**  
**Public Works Committee**  
**Integrated Capital Management**  
**November 3, 2014**

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**Subject:**

An ordinance adopting a six-year Citywide Capital Improvement Program for the years 2015-2020, and amending Section 5.5 Capital Facilities Program of the City's Comprehensive Plan.

**Background:**

GMA provides that proposed amendments to a comprehensive plan may be considered by the governing body of a city no more frequently than once per year, but further provides that amendments to the capital facilities element of a comprehensive plan may be considered outside of this annual process where the amendment is considered concurrently with the adoption or amendment of a city budget.

City of Spokane's Spokane Municipal Code (SMC) chapter 7.17 indicates the City's must adopt and annually update a Citywide Six-Year Capital Improvement Program. The Program must be updated annually as part of the budget process. With the approval of the 2015 Budget, the first year of the Program reflects the 2015 budget.

SMC Chapter 7 also indicates that to determine the Program's consistency with the Comprehensive Plan it shall be reviewed by the City Plan Commission. Two Plan Commission workshops were held on September 28<sup>th</sup> and October 8<sup>th</sup>. A Plan Commission hearing was held on October 22<sup>nd</sup>. The Citywide Improvement Program was found to be consistent with the Comprehensive Plan.

The 2015-2020 Citywide Six-Year Capital Improvement Program can be viewed on line at: <http://www.myspokanebudget.org>

**Impact:**

In order to comply with the provisions of the Growth Management Act, the City's SMC's and qualify for grant and low interest loan funds, it is required that the City maintain a Capital Improvement Program for the respective utilities and departments that have capital needs.

**Action:**

City Council will be requested to adopt the 2015-2020 Citywide Capital Improvement Program and to authorize staff to apply for state and federal grants and low-interest loans in support of projects as identified in said Programs.

## **ORDINANCE NO. ORD C35177**

AN ORDINANCE OF THE CITY OF SPOKANE, WASHINGTON, ADOPTING A SIX-YEAR CITYWIDE CAPITAL IMPROVEMENT PROGRAM FOR THE YEARS 2015 THROUGH 2020, AND AMENDING SECTION 5.5 CAPITAL FACILITIES PROGRAM (CFP) OF THE CITY OF SPOKANE COMPREHENSIVE PLAN.

WHEREAS, in accordance with the Growth Management Act ("GMA"), the City of Spokane previously adopted a Comprehensive Plan that includes a Capital Facilities Program that includes an inventory, analysis, and a six-year financing plan for needed capital facilities; and

WHEREAS, the City formed a Capital Facilities Technical Team which has assembled proposed amendments to Section 5.5 Capital Facilities Program (CFP) of the City of Spokane Comprehensive Plan ("Comprehensive Plan"), which amendments consist of an updated six-year plan (years 2015 through 2020) identifying the proposed locations and capacities of expanded or new capital facilities and a plan to finance such capital facilities within projected funding capacities (the "Six-Year Citywide Capital Improvement Program" or "CIP"); and

WHEREAS, the City previously adopted the Six-Year Street Program (RCW 35.77.010) on June 23, 2014 by Council Resolution 2014-0068, and that program is incorporated into the CIP; and

WHEREAS, GMA provides that proposed amendments to a comprehensive plan may be considered by the governing body of a city no more frequently than once per year, but further provides that amendments to the capital facilities element of a comprehensive plan may be considered outside of this annual process where the amendment is considered concurrently with the adoption or amendment of a city budget; and

WHEREAS, on August 6, 2014, the City's responsible official issued a Determination of Non-Significance for the CIP; and

WHEREAS, the Spokane City Plan Commission conducted public workshops regarding the CIP on September 24<sup>th</sup> and October 8<sup>th</sup> 2014; and

WHEREAS, after providing appropriate public notices, on October 22, 2014, the Spokane City Plan Commission, conducted a public hearing to take testimony on the CIP, and at the close of the hearing, and after considering public input, the SEPA determination, and required decision criteria, found that the CIP is consistent with the Comprehensive Plan and voted unanimously to recommend that the City Council approve the CIP; and

WHEREAS, on August 5<sup>th</sup>, 2014, the City provided the State of Washington the required sixty (60) day notification under RCW 36.70A.106 of the City's proposed amendment to the CPI. The 60-day notice period has lapsed; and

Now, Therefore,

The City of Spokane does ordain:

Section 1. Amendment. The City of Spokane Comprehensive Plan and its capital facilities element are hereby amended to reflect a six-year plan for capital improvement projects (2015-2020), as set forth in the attached Citywide Capital Improvement Program (2015-2020).

Section 2. Authorization to Seek Funding. City staff are authorized to apply for state and federal grants and low-interest loans in support of the projects identified in the Citywide Capital Improvement Program (2015-2020).

Section 3. Effective Date. This ordinance shall take effect and be in force on \_\_\_\_\_.

PASSED BY THE CITY COUNCIL ON \_\_\_\_\_.

\_\_\_\_\_  
Terri Pfister, City Clerk

Approved as to Form:

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



# **CITY PLAN COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS ON THE 2015-2020 CITYWIDE CAPITAL IMPROVEMENT PROGRAM**

**A Recommendation of the City Plan Commission certifying that the 2015-2020 Six Year Citywide Capital Improvement Program (CIP) is in conformance with the City of Spokane's Comprehensive Plan.**

## **FINDINGS OF FACT:**

**A. In May 2001, the City of Spokane adopted its Comprehensive Plan under the Growth Management Act (Chapter 36.70A RCW or "GMA").**

**B. The City's Comprehensive Plan is required to be consistent with the GMA.**

**C. The GMA requires that the City's annual CIP shall be in conformance with the City's Comprehensive Plan.**

**D. The 2015-2020 Six Year Citywide CIP identifies capital project activity which has implications on the growth of the community.**

**E. The City Plan Commission held two workshops on September 24<sup>th</sup> and October 8<sup>th</sup> 2014, to obtain public comments on the 2015-2020 Six Year Citywide CIP.**

**F. The City Council must receive a recommendation from the City Plan Commission to certify that the 2015-2020 Six Year Citywide CIP is in conformance with the City's Comprehensive Plan in effect on the day of certification.**

***ACTION: Motion to accept the staff's Findings of Fact A through F.***

## **CONCLUSIONS:**

**A. The 2015-2020 Six Year Citywide CIP has been prepared in full consideration of the City's Comprehensive Plan.**

**B. The 2015-2020 Six Year Citywide CIP has been reviewed by the City Plan Commission and found to be in conformance with the goals and policies of the City's 2001 Comprehensive Plan, as well as the Arterial Street Plan.**

***ACTION: Motion to accept conclusions A and B by staff as conclusions of the Plan Commission.***

## **RECOMMENDATIONS:**

**A. The Spokane City Plan Commission that the 2015-2020 Six Year Citywide CIP is in full compliance with the existing Spokane Comprehensive Plan as required by RCW 36.70A and RCW 35.77.010 and is recommended for adoption by the Spokane City Council.**

B. By a vote of 7 to 0, the Plan Commission recommends the approval of these amended documents by the City Council.

A handwritten signature in dark ink, appearing to read "Dennis Dellwo", is written over a horizontal line.

Dennis Dellwo, President  
Spokane Plan Commission  
October 22, 2014

# Citywide Capital Improvement Program

## 2015 – 2020

A copy of this 895+ page document is viewable electronically at [\(A link will be provided when available\)](#)

A copy is also viewable at the City Clerk's office on the 5<sup>th</sup> floor of City Hall.



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

11/10/2014

**Date Rec'd**

10/29/2014

**Clerk's File #**

ORD C35179

**Renews #****Submitting Dept**

CITY COUNCIL

**Contact Name/Phone**

JON SNYDER 6254

**Contact E-Mail**

JSNYDER@SPOKANECITY.ORG

**Agenda Item Type**

First Reading Ordinance

**Cross Ref #****Project #****Bid #****Requisition #****Agenda Item Name**

0320 ORD RE LOBBYING AND LEGISLATIVE AGENDA

**Agenda Wording**

An ordinance relating to state and federal lobbying and the City's legislative agenda; amending SMC section 2.03.010 and 2.03.020; amending Chapter 2.03; and adopting a new section 2.03.030 to chapter 2.03 of the Spokane Municipal Code.

**Summary (Background)**

This ordinance provides several amendments relating to lobbying and creation of the City's legislative agenda. The ordinance clarifies that the requirement for council approval of contracts for lobbying by private parties applies to all contracts regardless of the dollar amount.

**Fiscal Impact**

Select \$

Select \$

Select \$

Select \$

**Budget Account**

#

#

#

#

**Approvals****Dept Head**

MCDANIEL, ADAM

**Division Director****Finance**

DOLAN, PAM

**Legal**

DALTON, PAT

**For the Mayor**

SANDERS, THERESA

**Council Notifications****Study Session****Other****Distribution List****Additional Approvals****Purchasing**



**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

**Summary (Background)**

The ordinance also clarifies that any legislative agenda to be advocated by the City of Spokane shall be adopted by the City Council, after consultation with the Mayor's office, as the official City of Spokane legislative agenda. The ordinance further clarifies that all lobbying efforts are to be consistent with the adopted legislative agenda.

<b><u>Fiscal Impact</u></b>		<b><u>Budget Account</u></b>
Select	\$	#
Select	\$	#

**Distribution List**


## ORDINANCE NO. ORD C35179

AN ORDINANCE relating to state and federal lobbying and the City's legislative agenda; amending SMC section 2.03.010 and 2.03.020; amending Chapter 2.03; and adopting a new section 2.03.030 to chapter 2.03 of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That SMC Chapter 2.03 is amended to read as follows:

### **Chapter 2.03 State and Federal Lobbying**

Section 2. That SMC section 2.03.010 is amended to read as follows:

#### **2.03.010 Lobbying by Officers and Employees**

The mayor, members of the city council, and all employees under the direction of the mayor or a member of the city council are authorized to attempt to influence the passage or defeat of any legislation by the legislature of the State of Washington, ~~((or))~~ the adoption or rejection of any rule, standard, rate or other legislative enactment of any state agency under the State Administrative Procedures Act, chapter 34.04 RCW or the enactment or approval of any legislation, rules, regulations or other enactments established by the federal government, including Congress or any federal agencies.

Section 3. That SMC section 2.03.020 is amended to read as follows:

#### **2.03.020 Contract Lobbying by Private Persons**

Activities authorized in SMC 2.03.010 may be performed by private persons, firms or corporations; provided, that each such contract, regardless of dollar amount, shall be approved by the city council prior to performance of any lobbying activities.

Section 4. That there is adopted a new section 2.03.030 to chapter 2.03 of the Spokane Municipal Code to read as follows:

#### **2.03.030 City of Spokane Legislative Agenda**

Any legislative agenda to be advocated for by the City of Spokane at the state or federal level shall be adopted and may be amended by resolution of the City Council, after consultation with the Mayor, as the official legislative agenda of the City of Spokane. All lobbying activity, either by City officials or private parties authorized under this chapter shall be consistent with the legislative agenda adopted by the City Council.

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

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

Attest:

Approved as to form:

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date

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

10/06/2014

**Date Rec'd**

9/24/2014

**Clerk's File #**

FIN 2014-0001

**Renews #****Submitting Dept**

FINANCE

**Cross Ref #****Contact Name/Phone**

TIM DUNIVANT 625-6845

**Project #****Contact E-Mail**

TDUNIVANT@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

Report Item

**Requisition #****Agenda Item Name**

0410 - SET BUDGET HEARINGS

**Agenda Wording**

Setting the hearings for review of the 2015 Proposed Budget beginning Monday, October 27, 2014 and continuing thereafter at the regular council meetings and concluding on November 10, 2014.

**Summary (Background)**

As part of the annual budget process, the City Council will hold public hearings on the proposed 2015 budget for the City of Spokane. Public testimony is welcome on all sections of the budget at each of the budget hearings. The scheduled hearing dates are October 27, November 3, and November 10. The City Council may continue the hearings up to the 25th calendar day prior to the beginning of the next fiscal year (December 6th).

**Fiscal Impact****Budget Account**

Select \$

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Select \$

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Select \$

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Select \$

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**Approvals****Council Notifications****Dept Head**

DUNIVANT, TIMOTHY

**Study Session****Division Director**

DUNIVANT, TIMOTHY

**Other**

None

**Finance**

DOLAN, PAM

**Distribution List****Legal**

DALTON, PAT

tdunivant@spokanecity.org

**For the Mayor**

SANDERS, THERESA

**Additional Approvals****Purchasing**
