

**CITY COUNCIL MEETINGS
RULES – PUBLIC DECORUM**

Strict adherence to the following rules of decorum by the public will be observed and adhered to during City Council meetings, including open forum, public comment period on legislative items, and Council deliberations:

- 1. No Clapping!**
- 2. No Cheering!**
- 3. No Booing!**
- 4. No public outbursts!**
- 5. Three-minute time limit for comments made during open forum and public testimony on legislative items!**

In addition, please silence your cell phones when entering the Council Chambers!

Further, keep the following City Council Rules in mind:

Rule 2.2 Open Forum

2.2.4 The open forum is a limited public forum and all matters discussed shall relate to affairs of the City. No person may use the open forum to speak on such matters and in such a manner as to violate the laws governing the conduct of municipal affairs. No person shall be permitted to speak on matters related to the current or advance agendas, potential or pending hearing items, or ballot propositions for a pending election. Individuals speaking during the open forum shall address their comments to the Council President and shall not make personal comment or verbal insults about any individual.

Rule 5.4 Public Testimony Regarding Legislative Agenda Items – Time Limits

- 5.3.1 Members of the public may address the Council regarding items on the Council's legislative agenda, special consideration items, hearing items and other items before the City Council requiring Council action that are not adjudicatory or administrative in nature. This rule shall not limit the public's right to speak during the open forum.
- 5.3.2 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 and provide his or her address as a condition of recognition. In order for a council member to be recognized by the Chair for the purpose of obtaining the floor, the council member shall either raise a hand or depress the call button on the dais until recognized by the Council President.
- 5.3.3 Each person speaking at the public microphone shall verbally identify him(her)self by name and, if appropriate, representative capacity.
- 5.3.4 Each speaker shall follow all written and verbal instructions so that verbal remarks are electronically recorded and documents submitted for the record are identified and marked by the Clerk.
- 5.3.5 In order that evidence and expressions of opinion be included in the record and that — decorum befitting a deliberative process be maintained, no modes of expression not provided by these rules, such as demonstrations, banners, applause and the like will be permitted.
- 5.3.6 A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.
- 5.3.7 When addressing the Council, members of the public shall direct all remarks to the Council President and shall confine remarks to the matters that are specifically before the Council at that time.
- 5.3.8 When any person, including members of the public, City staff and others are addressing the Council, council members shall observe the same decorum and process, as the rules require among the members inter se. That is, a council member shall not engage the person addressing the Council in colloquy, but shall speak only when granted the floor by the Council President. All persons and/or council members shall not interrupt one another. The duty of mutual respect set forth in Rule 1.2 and the rules governing debate set forth in *Robert's Rules of Order* shall extend to all speakers before the City Council. The council president pro-tem shall be charged with the task of assisting the council president to insure that all individuals desiring to speak, be they members of the public, staff or council members, shall be identified and provided the opportunity to speak.

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, JANUARY 26, 2015

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

**COUNCIL BRIEFING SESSION-3:30 P.M.
CITY HALL - COUNCIL CHAMBERS**

**TOWN HALL/LEGISLATIVE SESSION-6:00 PM
CITY HALL – COUNCIL CHAMBERS
808 W. SPOKANE FALLS BLVD.**

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 THURSDAYS 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 entrance and verbally identify him/herself by name, address and, if appropriate, representative capacity.
- If you are submitting letters or documents to the Council Members, please provide a minimum of ten copies via the City Clerk. The City Clerk is responsible for officially filing and distributing your submittal.
- In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, modes of expression such as demonstration, banners, applause and the like will not be permitted.
- A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.

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

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

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Christine Cavanaugh at (509) 625-6383, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or 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. Authorization to increase the administrative reserve on the Contract with Spokane Rock Products, Inc., (Spokane, WA) for Mission Avenue from Hamilton Street to Perry Street—increase of \$25,000 for a total administrative reserve of \$60,447.74 or 17.05% of the contract price.
Ken Brown | Approve | PRO 2014-0016
ENG 2013209 |
| 2. Supplemental Agreement No. 1 with SPVV Landscape Architects (Spokane, WA) for Landscape Architect Design On-Call Services, extending it through December 31, 2015—increase of \$50,000. Total Contract Amount: \$300,000.
Dan Buller | Approve | OPR 2012-1026
ENG 2009117 |
| 3. Consultant Agreement with Taylor Engineering (Spokane, WA) for design and construction management of Rowan Avenue from Driscoll Boulevard to Alberta Street Phase 1—\$418,137, plus a management reserve fund of \$20,970, which is 5% of the agreement price.
Dan Buller | Approve | PRO 2015-0007
ENG 2014135
RFQ 4093-14 |

- | | | |
|---|------------------------|------------------------------|
| 4. Contract with American Recycling Corporation (Spokane, WA) for purchase of recovered metals from the Waste to Energy Facility from January 1, 2015, to December 31, 2015—estimated revenue \$1,500,000.
Chuck Conklin | Approve | OPR 2015-0022
RFP 4071-14 |
| 5. Contract with United States Electric Corporation of Washington (Olympia, WA) for electrical, technical and maintenance support services for the Waste to Energy Facility from January 1, 2015, to February 1, 2016—\$90,000 per year (excluding taxes).
Chuck Conklin | Approve | OPR 2015-0023
RFP 4077-14 |
| 6. Change Order with Garco Construction (Spokane, WA) for the Spokane Central Service Center construction and street improvements project for offsite street improvements, site conditions, water line requirements, landscaping and other items—\$1,444,730.
Ken Gimpel | Approve | PRO 2013-0037
ENG 13633 |
| 7. Purchase and Sale Agreement with Hal Lotzenhiser for real property located at 4304 East Trent Avenue—not to exceed \$180,000 minus closing costs and deductions.
David Steele | Approve | OPR 2015-0024 |
| 8. Amendment No. 8 to Contract with Esvelt Environmental Engineering (Spokane, WA) to conduct a Filtration Pilot Study to determine the most suitable technology for the Next Level of Treatment at Riverside State Park Water Reclamation Facility in connection with Ecology's Dissolved Oxygen Total Maximum Daily Load—\$598,000. (Total amount: \$4,060,700 through March 1, 2021.)
Lars Hendron | Approve | OPR 2007-0468 |
| 9. Report of the Mayor of pending: | Approve &
Authorize | |
| a. Claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2015 total \$ _____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$ _____. | Payment | CPR 2015-0002 |
| b. Payroll claims of previously approved obligations through _____, 2015: \$ _____. | | CPR 2015-0003 |
| 10 City Council Meeting Minutes: (a) January 5, 2015, (b) January 8, 2015, Retreat, (c) January 8, 2015 Study Session, and (d) January 12, 2015. | Approve
All | CPR 2015-0013 |

EXECUTIVE SESSION

(Closed Session of Council)

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

CITY COUNCIL SESSION

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

(Council Briefing Center)

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

TOWN HALL 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)

APPOINTMENTS

Spokane Airport Board: One Appointment

RECOMMENDATION

Confirm CPR 1982-0071

CITY ADMINISTRATION REPORT

COUNCIL COMMITTEE REPORTS

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

TOWN HALL 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.

NEIGHBORHOOD REPORTS

LEGISLATIVE AGENDA

EMERGENCY BUDGET ORDINANCE

(Require Five Affirmative, Recorded Roll Call Votes)

ORD C35222

Amending Ordinance No. C35185 passed the City Council November 24, 2014, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2015, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2015, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Howard Delaney

General Fund

FROM: Municipal Court, Administrator \$102,897; and
Unappropriated Reserves, \$9,604;

TO: Court Commissioner (from 2 to 3 positions), \$112,501.

(This action reflects consolidating the position of Court Administrator of the Spokane Municipal Court into a newly established Court Commissioner position and allows the former Court Administrator, an active member of the state bar, to be appointed as a Court Commissioner.)

NO EMERGENCY ORDINANCES

RESOLUTIONS & FINAL READING ORDINANCES

(Require Four Affirmative, Recorded Roll Call Votes)

- RES 2015-0010 Setting hearing before City Council for February 23, 2015, for vacation of the alley between Pacific Avenue and 2nd Avenue from Scott Street to Sprague Way as requested by SAMCA, LLC.
Eldon Brown
- RES 2015-0011 Regarding approval of the construction of traffic calming projects constructed in 2014 and planned for 2015 through the Traffic Calming Measures Fund.
Council Member Snyder
- RES 2015-0006 Adopting the Comprehensive Water System Plan. (The City of Spokane, being a Group A water system, is required to submit an updated Water System Plan for review and approval to the Washington State Department of Health.) (Deferred from January 12, 2015, Agenda)
Dan Kegley

NO FIRST READING ORDINANCES

NO SPECIAL CONSIDERATIONS

NO HEARINGS

Motion to Approve Advance Agenda for January 26, 2015
(per Council Rule 2.1.2)

TOWN HALL 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 January 26, 2015, Regular Legislative Session of the City Council is adjourned to February 2, 2015.

NOTES

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

01/26/2015

<u>Date Rec'd</u>	1/14/2015
<u>Clerk's File #</u>	PRO 2014-0016
<u>Renews #</u>	

<u>Submitting Dept</u>	ENGINEERING SERVICES	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	KEN BROWN 625-7727	<u>Project #</u>	2013209
<u>Contact E-Mail</u>	KBROWN@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	CR 15077
<u>Agenda Item Name</u>	0370 = ADMINISTRATIVE RESERVE INCREASE - SPOKANE ROCK PRODUCTS		

Agenda Wording

Authorization to increase the administrative reserve on the contract with Spokane Rock Products, Inc., for Mission Avenue from Hamilton Street to Perry Street - for an increase of \$25,000.00 for a total administrative reserve of \$60,447.74 or 17.05%

Summary (Background)

During construction of this project additional removal and replacement of sidewalks and curbs, additional removal and replacement of asphalt, and additional irrigation work was required than the plans originally called for. Unsuitable sub-grade was encountered that required removal and replacement to stabilize the roadbed. Additional work was required at Mission Avenue and Superior Street to install a protected crosswalk that was added to the project with Red Light Camera Funds. Therefore,

<u>Fiscal Impact</u>		<u>Budget Account</u>
Expense	\$ 8,480.11	# 3404 49738 95300 56501 99999
Expense	\$ 16,519.89	# 1380 24100 94000 56501 99999
Select	\$	#
Select	\$	#
<u>Approvals</u>		<u>Council Notifications</u>
<u>Dept Head</u>	TWOHIG, KYLE	<u>Study Session</u>
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u> Public Works 1/26/14
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>
<u>Legal</u>	WHALEY, HUNT	lhattenburg@spokanecity.org
<u>For the Mayor</u>	SANDERS, THERESA	mhughes@spokanecity.org
Additional Approvals		mlesesne@spokanecity.org
<u>Purchasing</u>		htrautman@spokanecity.org
		ktwohig@spokanecity.org
		kbrown@spokanecity.org
		jahensley@spokanecity.org



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

of the contract price.

Summary (Background)

it will be necessary to increase the administrative reserve an additional \$25,000.00 or 7.05%.

Fiscal Impact		Budget Account	
Select	\$		#
Select	\$		#
Distribution List			

BRIEFING PAPER
Engineering Services Department
Date January 26, 2015

Subject: **Mission Avenue from Hamilton Street to Perry Street., #2013209**

Request for additional administrative reserve

Background:

During construction of this project additional removal and replacement of sidewalks and curbs, additional removal and replacement of asphalt, and additional irrigation work was required than the plans originally called for. Unsuitable sub-grade was encountered that required removal and replacement to stabilize the roadbed. Additional work was required at Mission and Superior to install a protected crosswalk that was added to the project with Red Light Camera Funds.

Bid Item overruns not including the protected crosswalk equaled approximately \$26,000.

The change orders processed to install additional irrigation equaled approximately \$9,000.

The change order processed to remove and replace the unsuitable sub-grade equaled approximately \$2,000.

The total cost of the protected crosswalk equaled \$16,519.89

The cost of the above work exceeds the original project amount plus administrative reserve.

Impact:

Original Contract Amount:	\$ 354,477.42
Original Administrative Reserve:	\$ 35,447.74 (10%)
Admin. Reserve, this request:	\$ 25,000.00 (7.05%)

Total Budget if approved: \$ 414,925.16

Cost for this increase will come 66% from the Red Light Camera Funds and 34% from the 2004 Street Bond

Action:

Approve this request for \$25,000 additional administrative reserve to make final payment on the project.

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

01/26/2015

<u>Date Rec'd</u>	1/14/2015
<u>Clerk's File #</u>	OPR 2012-1026
<u>Renews #</u>	

<u>Submitting Dept</u>	ENGINEERING SERVICES	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	DAN BULLER 625-6391	<u>Project #</u>	2009117
<u>Contact E-Mail</u>	DBULLER@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	MASTER
<u>Agenda Item Name</u>	0370 - LANDSCAPE ARCHITECT DESIGN ON-CALL SERVICES SUPPLEMENTAL NO.		

Agenda Wording

Supplemental Agreement No. 1 with SPVV Landscape Architects for Landscape Architect Design On-Call Services. The Supplemental Agreement extends the contact to run through December 31, 2015 and increases the amount of the contract by \$50,000.0 for a

Summary (Background)

The City entered into a contract with SPVV Landscape Architects for a period of two years with a third year option, which Engineering Services would now like to exercise. This extends the Supplemental Agreement to run through December 31, 2015. Also, due to the high volume of public works projects being designed and the need for landscape architect design services, it is necessary to increase the contract amount.

<u>Fiscal Impact</u>		<u>Budget Account</u>
Expense	\$ 50,000.00	# Various
Select	\$	#
Select	\$	#
Select	\$	#
<u>Approvals</u>		<u>Council Notifications</u>
<u>Dept Head</u>	TWOHIG, KYLE	<u>Study Session</u>
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>
<u>Legal</u>	WHALEY, HUNT	lhattenburg@spokanecity.org
<u>For the Mayor</u>	SANDERS, THERESA	mhughes@spokanecity.org
Additional Approvals		mlesesne@spokanecity.org
<u>Purchasing</u>		htrautman@spokanecity.org
		jahensley@spokanecity.org



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

total contract amount of \$300,000.00.

Summary (Background)

Fiscal Impact

Select \$

Budget Account

#

Select \$

#

Distribution List



**Washington State
Department of Transportation**

Supplemental Agreement Number 1		Organization and Address SPVV Landscape Architects 1908 W. Northwest Blvd. Ste. A Spokane, WA 99205	
Original Agreement Number OPR 2012-1026		Phone: (509) 325-0511	
Project Number 2009117	Execution Date 2/4/13	Completion Date 12/31/14	
Project Title Landscape Architect Design On-Call Services	New Maximum Amount Payable \$300,000.00		
Description of Work: Landscape Architect Design On-Call Services			

The Local Agency of City of Spokane
desires to supplement the agreement entered into with SPVV Landscape Architects
and executed on February 4, 2013 and identified as Agreement No. OPR 2012-1026
All provisions in the basic agreement remain in effect except as expressly modified by this supplement.
The changes to the agreement are described as follows:

I

Section II, SCOPE OF WORK, is hereby changed to read:
No Change

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: Completion date shall be extended for the optional third year and run through December 31, 2015

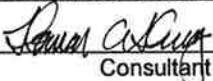
III

Section V, PAYMENT, shall be amended as follows:
This Supplemental Agreement increases the contract in the amount of \$50,000.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action.

By: SPVV Landscape Architects

By: _____


Consultant Signature


Approving Authority Signature

January 7, 2015

Date

Attest: _____
City Clerk

Approved to form:



Assistant City Attorney

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

01/26/2015

<u>Date Rec'd</u>	1/14/2015
<u>Clerk's File #</u>	PRO 2015-0007
<u>Renews #</u>	

<u>Submitting Dept</u>	ENGINEERING SERVICES	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	DAN BULLER 625-6391	<u>Project #</u>	2014135
<u>Contact E-Mail</u>	DBULLER@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	BT
<u>Agenda Item Name</u>	0370 - TAYLOR ENGINEERING AGREEMENT		

Agenda Wording

Agreement with Taylor Engineering (Spokane, WA) for design and construction management of Rowan Ave. from Driscoll Blvd. to Alberta St. Phase 1 for an amount of \$418,137.00 plus a management reserve fund of \$20,970.00, which is 5% of the agreement.

Summary (Background)

The recently passed (Nov. 4, 2014) street levy included several large projects in 2015 which cannot be fit into Engineering Services' full design & construction administration schedule due to the final push to complete the CSO program by 2017. Engineering Services therefore advertised a Request for Qualifications (RFQ) soliciting statements of qualifications (SOQs) from interested engineering consulting firms. Five firms submitted SOQs which were subsequently ranked by a selection committee.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 439,044.00	#	3200 49125 95100 56501 99999
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	TWOHIG, KYLE	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	Public Works 1/12/15
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	mhughes@spokanecity.org	
<u>Additional Approvals</u>		mlesesne@spokanecity.org	
<u>Purchasing</u>		htrautman@spokanecity.org	
		jahensley@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

The top ranked firm, Taylor Engineering, was offered the larger of the two projects, Rowan Ave. The second ranked firm, TD&H was offered the smaller of the two projects, Indiana Ave.

Fiscal Impact		Budget Account	
Select	\$	#	
Select	\$	#	
Distribution List			

City of Spokane

CONSULTANT AGREEMENT

Design, Bidding and Construction Management for
Rowan Avenue Rehabilitation Project – Phase 1
from Driscoll Boulevard to Alberta Street
PROJECT NUMBER 2014135

RFQ Number 4093-14

This Agreement is made and entered into by and between the City of Spokane ("City"), a Washington municipal corporation, and Taylor Engineering, Inc., 106 West Mission Avenue, Suite 206, Spokane, Washington 99201 ("Consultant").

Recitals:

The Consultant will provide professional design and construction engineering services for improvements to an existing portion of Rowan Avenue. Topographic surveying will be furnished by the City. The Consultant will prepare plans and specifications necessary to bid the project, with direction, review and support provided by the City. The Contract plans and provisions (bid package) will be prepared in conformance with local and state requirements for public works projects. Consultant will also provide construction engineering and inspection services to aid the City in assuring that the construction meets the City's General Special Provisions and the Washington State Department of Transportation's Standard Specifications for construction.

Project Limits: Rowan Avenue, from the east curb returns of Driscoll Boulevard to the west curb returns of Alberta Street. Approximate length 5,000 feet. The project involves curb-to-curb removal and reconstruction of pavement, with storm drainage and ADA accessibility upgrades. The current road geometry varies with existing curb on both sides and intermittent sidewalks on either side, but no bike lanes. The existing 12-inch water distribution line will also be replaced from approximately Driscoll Boulevard to Alberta Street.

The Consultant was selected from responses to a Request for Qualifications dated November 26, 2014.

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 when fully executed by all parties, and ends when work is completed and accepted by the City, unless amended by written agreement or terminated earlier under termination provisions.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the work outlined in the "Scope of Work" ("Work") upon receipt of written 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 Exhibit A, which is attached to and made a 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 contract provides for a lump-sum payment negotiated based on cost to complete the Scope of Work, and shall include only those costs allowed. Total compensation under this Agreement shall not exceed \$418,137.00 unless modified by a written amendment to this Agreement.

The Contract Amount includes a Management Reserve Fund of Twenty Thousand Nine Hundred Seven and 00/100 Dollars (\$20,907.00) which is strictly governed by the terms of the Contract section entitled "Payment from the Management Reserve Fund."

5. GUARANTEED PAY TO SMALL SUBCONSULTANTS.

Regardless of City Payment, every Consultant of any tier shall pay their Small Subconsultants (defined below) no less than every 30 days, as partial payment for work completed to-date. Small Consultants (as defined below) acting as a prime are exempt from this requirement. The Consultant may withhold only the portion of amounts due for work in dispute. The Consultant shall ensure the Small Subconsultant has sufficient support for proper invoice preparation and submittal.

6. REIMBURSABLES

If the Agreement specified reimbursables to be compensated by the City, the following limitations apply. If no travel or direct charges are identified and allowed in the Agreement, the City shall provide no reimbursement.

- A. City will reimburse the Consultant at actual cost for expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses or include a markup. Other direct charges may include, but are not limited to the following types of items: travel, printing, cell phone, supplies, materials, computer charges, and fees of subconsultants.
- B. The billing for third party direct expenses specifically identifiable with this project shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, subconsultant paid invoices, and other supporting documents used by the Consultant to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All charges must be necessary for the services provided under this Contract.
- C. The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Spokane Travel Policy, details of which can be provided upon request.
- D. **Airfare:** Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.
- E. **Meals:** Meals will be reimbursed at the Federal Per Diem daily meal rate (*excluding the "Incidental" portion of the published CONUS Federal M&I Rate*) for the city in which the work is performed. *Receipts are not required as documentation.* The invoice shall state "the meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.
- F. **Lodging:** Lodging will be reimbursed at actual cost incurred up to a maximum of the published Runzheimer Cost Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing

each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)

- G. **Vehicle mileage:** Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in affect at the time the mileage expense is incurred (currently that rate is 56.5 cents per mile.) Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.
- H. **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).
- I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.
- J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a mark up. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual cost incurred and may not include a mark up. Copies of all Subconsultant invoices that are rebilled to the City are required.

7. 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:
<p>Department of Engineering Services 2nd Floor City Hall 808 W. Spokane Falls Blvd. Spokane WA 99201-3343</p>
Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):
<ul style="list-style-type: none"> • Invoice Date and Invoice Number • City Project Manager Name: 2014135 (Please do not put PM's name in the address portion of the invoice) • Contract Title: Design, Bidding and Construction Management for Rowan Avenue Rehabilitation Project – Phase 1 from Driscoll Boulevard to Alberta Street • 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 (attach Sub-Consultant invoices as backup): <ul style="list-style-type: none"> ○ 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

8. 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. As authorized by SMC, the Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.

9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
Dan Buller, Project Manager Engineering Services 808 W. Spokane Falls Blvd. Spokane WA 99201-3343	Mike Morse Taylor Engineering, Inc. 106 W. Mission Ave., Ste. 206 Spokane, WA 99201

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 whenever feasible. 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 releases and shall defend, indemnify, and hold the City and its officers, employees and agents harmless from all losses, liabilities, claims (including claims arising under federal, state or local laws or regulations) (and including, but not limited to, claims for infringement of any copyright, patent, trademark, or trade secret), costs (including attorneys' fees), actions or damages of any sort arising out of the Consultant's performance or nonperformance of the services to be provided under this Agreement attributable to the acts or omissions, willful misconduct, or breach of this Agreement by the Consultant, subconsultants, its servants, agents, officers or employees. The Consultant's obligations shall not be eliminated or reduced by any alleged negligence on the part of the City. 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 under Title 51 RCW, or any other industrial insurance, workers compensation, disability, employee benefit or similar laws. The Consultant acknowledges that the foregoing waiver of immunity was mutually negotiated, and that the contract price reflects this negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

12. INSURANCE.

During the term of the Contract, the Contractor shall maintain in force at its own expense, the following insurance coverages:

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 Contractor or its insurer(s) to the City.

As evidence of the insurance coverages required by this Contract, the Contractor shall furnish an acceptable Certificate of Insurance (COI) to the City at the time it returns the signed Contract. The COI 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 A.M. Best. Copies of all applicable endorsements shall be provided. The Contractor shall be solely 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 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 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 (SMC 1.04).

- 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. Such workers are subject to the City Ethics Code, SMC 1.04. 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) 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 provide you "third party notice", giving ten (10) 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 contract. 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 five (5) 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. DEBARMENT.

The Director of Finance and Administrative Services or designee may debar a and prevent a Consultant from contracting or subconsultant with the City for up to five (5) years after determining the Consultant:

- A. Received overall performance evaluations of deficient, inadequate, or substandard performance on three or more City contracts;
- B. Failed to comply with City ordinances or contract terms, including but not limited to, ordinance or contract terms related to woman and minority business utilization, discrimination, equal benefits, or other state, local or federal non-discrimination laws;
- C. Abandoned, surrendered, or failed to complete or to perform work on or for a City contract;
- D. Failed to comply with contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards;
- E. Submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a contract;
- F. Colluded with another firm to restrain competition;
- G. Committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a contract for the City or any other government entity;
- H. Failed to cooperate in a City debarment investigation.

26. 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.

27. 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, and the Consultants Proposal, 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 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 Agreement, 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

By: _____
Signature Date

Type or Print Name

Title

Attest:

City Clerk

CITY OF SPOKANE

By: _____
Signature Date

Type or Print Name

Title

Approved as to form:

Assistant City Attorney

Attachments: Exhibit A - Scope of Work

2014135 Taylor Engineering Agreement

Exhibit A Scope of Work

Project: Rowan Avenue Rehabilitation Project - Phase 1
Driscoll Boulevard to Alberta Street
Design, Bidding, and Construction Management
Owner: City of Spokane RFQ No. 4093-14 / Project No. 2014135
Consultant: Taylor Engineering, Inc. Project No. 15-500

General Description

The Owner's objective in this Agreement is for the Consultant to provide professional design and construction engineering services for improvements to an existing portion of Rowan Avenue. Topographic surveying will be furnished by the City. Consultant will prepare plans and specifications necessary to bid the project, with direction, review, and support provided by the City. The Contract plans and provisions (bid package) will be prepared in conformance with local and state requirements for public works projects. Consultant will also provide construction engineering and inspection services to aid the City in assuring that the construction meets the City's General Special Provisions and the Washington State Department of Transportation's Standard Specifications for construction.

Project Limits: Rowan Avenue, from the east curb returns of Driscoll Boulevard to the west curb returns of Alberta Street. Approximate length 5,000 feet. The project involves curb-to-curb removal and reconstruction of pavement, with storm drainage and ADA accessibility upgrades. The current road geometry varies with existing curb on both sides and intermittent sidewalks on either side, but no bike lanes. The existing 12-inch water distribution line will also be replaced from approximately Driscoll Boulevard to Alberta Street.

Schedule

The overall project is broken into two (2) phases, each phase consisting of approximately half (1/2) of the project. This scope of work is for the first phase (western portion) of the project from Driscoll Boulevard to Alberta Street. The second phase of the project will be from Alberta Street to Monroe Street. The first phase of the project must have 100% complete plans and specifications submitted for bid advertisement by April 23, 2015 to enable construction of that phase to be completed during the 2015 construction season assuming an approximate construction start date of July 1, 2015. Second phase construction is planned for the 2016 construction season. A separate scope of work will be provided for the second phase of the project. Provided below is a summary of the Phase 1 design schedule.

	<u>Phase 1 (West Half)</u>
35% Design Submittal:	February 20, 2015
65% Design Submittal:	March 16, 2015
95% Design Submittal:	April 10, 2015
100% Plans & Specs to Printer:	April 23, 2015

Schedule is based on a notice to proceed date of on or, before January 28, 2015, and City of Spokane submittal review time of approximately 2 weeks. Consultant will keep the City informed of any issue that could impact the schedule.

Project Scope

The Consultant shall provide the following services for Phase 1 of the Project:

1. PRELIMINARY ENGINEERING

1.1 Prepare Base Maps: The City of Spokane has conducted a topographic field survey of the existing roadway and adjacent improvements. The City will provide data files to the Consultant in AutoCAD “.dwg” format with limited line work, and mapping. It is assumed that the City’s survey work has been conducted with the standard degree of skill and diligence normally performed for similar projects at the time said services were performed, including:

- a. Field locates of all monumentation;
- b. Initial right-of-way mapping summarizing research of Records of Survey and plats in the area, and based on found monuments;
- c. Vertical control based on NAVD 88 datum;
- d. Temporary benchmarks/control points set every 400 to 600 LF.
- e. Field surveying of pertinent ground features, and
- f. Preparation of electronic AutoCAD transferable data.

The Consultant will visually verify dimensions of existing features (lane widths, sidewalks, catch basins, curb ramps, etc.), and complete the linework, utility research, and mapping. Consultant will complete measure downs for invert elevations at existing storm and sanitary sewer structures for design purposes. If required, Consultant will identify additional topographic survey areas which will be completed by the City with electronic data files of additional survey points provided to the Consultant.

1.2 Project Kick-Off Meeting: A project “kick-off” meeting will be held to discuss the project scope and objectives. Consultant will present an existing background base map developed from the survey point files provided by the City for the first phase of the project for discussion.

1.3 Collect Available Data: Consultant will collect available data from prior surveys and from existing utilities in the project area and will incorporate pertinent information into the base map.

1.3.1 Existing Utilities: Consultant will develop a contact list with names and addresses of utility purveyors in the project area, and collect maps of their facilities and incorporate their facilities into the base map.

1.3.2 Plat Maps, Records of Survey: Consultant will collect available maps within ¼ mile of the project; review the maps and incorporate relevant discovered data into the base map.

1.3.3 Design Standards: City will provide its AutoCAD drafting standards, an electronic copy of its standard drawing template, shall designate the roadway classification (minor arterial, principal arterial, etc.) for the route and intersecting roadways, and provide examples of recent projects; all of which will serve as a design template for the Consultant to set Design Standards for the Contract Plans and Provisions.

1.4 Verification of Right-of-Way Plans: Consultant will review right-of-way plans provided by the City based on collected available plat maps and records of surveys. Provided plans

are to include existing right-of-way limits, widths, and local bearings and distances along the assumed centerline of Rowan Avenue. This information will be incorporated into the base map electronically as a background layer in the Construction Plans, with an appropriate disclaimer note.

- 1.5 Preliminary Plans and Technical Design Memo:** Consultant will develop preliminary cross-sections showing existing right-of-way and lane widths, develop a base map of illustrating existing structures, and provide a summary of impervious surface areas. Consultant will establish design criteria for the roadway based on design speed (assumed to be the same as existing) and the City's arterial classification. Consultant will summarize findings and conclusions from the above tasks in a technical design memorandum, meet with Owner to receive comments, and revise the memo, as required.
- 1.6 Utility Coordination:** The Consultant will prepare and distribute utility notification letters for the project for determination of which purveyors plan to construct, relocate, and/or otherwise modify their facilities in conjunction with this project.
- 1.6.1 Preliminary Franchise Utility Coordination:** Consultant will develop a contact list with names and addresses of utility purveyors in the project area, and collect maps of their facilities and incorporate their facilities into the base map. The Consultant will attend 2 (two) meetings with franchise utility purveyors (gas, electric, telecommunications and cable TV) to present the project and review conceptual water distribution main horizontal alignment, drainage swale configuration(s), roadway features, drainage issues, utility concerns, right-of-way concerns, and other known coordination issues with the purveyors so that they may incorporate upgrades to their facilities in conjunction with this project.
- 1.6.2 Preliminary City Utility Coordination:** The Consultant will attend 2 (two) meetings with the City's Traffic Department, Urban Forestry Department, Planning Department, Water Department, Wastewater Department and other agencies to present the project and review conceptual water distribution main horizontal alignment, traffic issues, pavement design issues, preliminary drainage swale configuration(s), roadway features, drainage issues, utility concerns, right-of-way concerns, and other known coordination issues.
- 1.7 35% Submittal:** Consultant will submit three (3) copies of the preliminary background plan (roll stock format – i.e., no sheets cut), technical design memo, and a preliminary phase 1 cost estimate. Consultant will use best available information and provide “continuous” communication with the City and stakeholders in order to obtain review responses during the project design phase to facilitate progress.

2. INTERMEDIATE DESIGN

2.1 Geotechnical Investigation:

- 2.1.1 Evaluate Existing Information:** The Consultant will conduct non-destructive testing (falling-weight deflectometer/FWD method) along the route. Consultant will visually inspect the existing pavement and review recent City-sponsored geotechnical studies conducted in the area, to supplement proposed subsurface explorations described below. The City will provide core the existing pavement and provide thickness results to the Consultant. The pavement core data will be provided in the Contract Provisions.

2.1.2 Subsurface Investigation: Consultant will conduct additional roadway subsurface investigations necessary for drainage design; pavement design; and evaluation of subsurface conditions as described in City Design Standards Section 3.3-22 (amended September 2010), including six borings (3 along the roadway for determining resilient modulus of the subgrade and 3 at the drainage swale location for infiltration design). City will waive the requirement for a formal right-of-way permit. Traffic control and utility notifications for the subsurface investigation work will be provided by the Consultant.

2.1.3 Laboratory Testing: Consultant will conduct testing to assess pertinent physical characteristics of the subgrade soils. Lab tests will include gradation and infiltration analyses. Resilient modulus tests on sampled street sub-grade materials will be performed and correlated with FWD data.

2.1.4 Geotechnical Report: Consultant will summarize its findings in a written report. Recommendations will be provided for site preparation and earthwork, suitability of excavated materials for re-use, and criteria for imported material. Stormwater treatment and disposal criteria for the regional storm water facility will be included in the geotechnical report.

2.2 65% Street Plan & Profile Sheets: The 65% street plans will include existing utilities, provided right-of-way, existing roadway profile, mainline plan and preliminary left and right curb profiles, new curb and sidewalk locations, typical cross-sections, and location of storm drain inlets. Roadway rehabilitation plans will include the following:

- Begin / End construction
- Structures to be adjusted
- Subgrade repair areas
- Paving fabric limits (if used)
- Traffic signal interconnect conduit (if required)
- Sidewalk in-fill locations
- Driveways to be repaired or replaced
- Curb ramps (new, replacement or, retrofit)
- Saw cutting at side streets
- Catch basins and piping to be replaced
- Drywell cones (if any) and tops to be replaced
- Replacement of curb and sidewalk impacted by stormwater system upgrades
- Landscaping plans (w/o irrigation) for the stormwater swales along Driscoll Blvd.
- Signing and striping plans
- Phasing plan for traffic control (to be completed by the City of Spokane)

2.3 65% Waterline Plan & Profile Sheets: The 65% waterline plans will include existing utilities, provided right-of-way, existing waterline profile, new distribution line plan and profile, preliminary connection details, new fire hydrants, air valve location(s), crossing details, and locations of existing services.

2.4 Pavement Design: The City will provide results of recent traffic studies, including 18-Kip equivalent single-axle loading (ESAL) projections. Consultant shall determine the required structural section of the roadway based on results of the subsurface investigation and City-

provided traffic analysis. Consultant will design pavement in accordance with AASHTO pavement design methods, using *WINPAS* design software.

2.5 Drainage Design:

2.5.1 Existing Drainage Structures: Consultant will determine drainage structures to be adjusted or replaced, inventory existing drainage features including pipe size and depth, and document drainage problems within the project limits. Selected catch basins may be upgraded with spill control separators to treat storm water.

2.5.2 Drainage Facility: The City has completed partial installation of storm drain piping for a drainage swale to serve the western portion of the project. Storm water drainage designs will be finalized to utilize/extend the storm drain piping for a stormwater facility (swale) in City identified parcel(s) near the existing right-of-way. A drainage report will be provided which will include a map delineating between combined (discharge to WWTP) and separated storm drainage areas, and proposed remediation methods for problem drainage areas.

2.6 Permits and Environmental Documents:

2.6.1 Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP): Land disturbance within the project limits is greater than 1 acre and therefore a Notice of Intent (NOI) will be completed by the Consultant for the project. The City will advertise the required 2 legal notices and be responsible for Department of Ecology permit fees. The Contractor will be required to transfer the Stormwater General Permit from the City to itself and terminate the permit following construction. The Consultant will prepare a Stormwater Pollution Prevention Plan for Phase 1 of the project that will be suitable for the Contractor to adopt.

2.6.2 SEPA Environmental Checklist: The City will prepare checklist with limited input provided by the Consultant. The City will prepare the checklist, distribute and issue a determination.

2.7 Specifications: The WSDOT 2014 Standard Specifications and the City's General Special Provisions (GSP's) shall form the basis of the specifications. Consultant will review GSP's and GSP Instructions provided by the City, and will modify and prepare additional special provisions as required for the project. Consultant will incorporate special provisions, plans and proposal into the Contract Provisions book (bid documents).

2.8 Cost Estimate: Consultant will estimate Construction Cost on the approximate quantities of work identified in the 65% drawings. Consultant will apply an estimated unit cost to each item, and will add a contingency amount appropriate to the completion status.

2.9 Preliminary Design Report: Consultant will provide a Preliminary Design Report from the tasks listed above. The report will include design standards, concept plan, typical roadway sections, storm drainage approach, water distribution main design approach, major utility relocations, and right-of-way needs/status.

2.10 Coordination Meetings:

2.10.1 Coordination Meetings: Attend approximately 4 (four) meetings with the City to present and discuss plans for the project. Meetings shall be held to review progress, complete coordination items, and review preliminary alternatives regarding alignment, roadway features, water distribution main features, and drainage features.

2.10.2 Utility Coordination Meetings: Attend approximately 2 meetings with utility purveyors (sewer, water, gas, electric, telecommunications, and cable TV) to present and discuss plans for the project. Meetings shall be held to review progress, coordination issues and alternatives regarding utility relocations / modifications required by the design and/or requested by the purveyors. Consultant shall coordinate with these purveyors to resolve design issues and mitigate potential construction conflicts. Consultant may request field investigations be performed by the City and/or the purveyors to more accurately locate the utilities.

2.10.3 Design Review Meeting: Attend one (1) design review meeting for administrative review of the project to date. Consultant will prepare material for presentation based on an example provided by the City. Two (2) members of the Consultant's staff will attend the meeting.

2.10.4 Technical Advisory Committee/Design Advisory Committee Presentation: Consultant will prepare and present the project to the TAC/DAC committee. Consultant will provide project information boards for the meeting similar to examples provided by the City. Two (2) members of the Consultant's staff will attend the meeting.

2.11 Driveway Replacement Design: Consultant will prepare exhibits of affected driveways that will need to be replaced based on the preliminary street profile and existing curb grades. The Consultant will attend, with a City representative, on-site meetings with the affected property owners the proposed limits of driveway replacement. Consultant will incorporate driveway design modifications, as provided by the City, following negotiations with the property owner(s). The City will coordinate any necessary "Permits to Enter" with property owners.

2.12 Landscape Restoration Plans at Drainage Swale Site: Consultant will coordinate with the City to confirm the scope of landscape restoration design services at the drainage swales site adjacent to Driscoll Boulevard. Consultant will prepare lawn restoration notes and a seed mix design regarding preparing and seeding disturbed areas. Design questions and review questions will be addressed as they arise during the design. Landscape restoration notes for the drainage swale site will be added to the civil drawings.

2.13 Submit 65% PS&E Package: Consultant will prepare and submit three (3) copies of the 65% Plans, Specifications, and Engineer's Estimate. The scales to be used, the lettering, and the general delineation of the plans shall be as such to provide legible reproduction when the plans are reduced to 1/2 of their original size.

3. FINAL DESIGN

- 3.1 Public Information Meeting:** Consultant will attend a community meeting for affected property owners, neighborhood associations, roadway users, and other interested parties. The purpose of this meeting is to present the project to the community and listen to their concerns. Consultant will also provide project information boards for the meeting similar to examples provided by the City. This meeting shall be scheduled, advertised, and conducted by the City. Two (2) members of the Consultant's staff will attend the meeting.
- 3.2 Drainage Design:** Consultant will show remediation work on the Plans, including pipes, drainage structures, relocated drainage appurtenances, storm water treatment and disposal facilities (swales and drywells), and removal items, and will update the Drainage Report, accordingly.
- 3.3 Quantity Calculations and Cost Estimates:** Consultant shall prepare a bid schedule including all anticipated bid items. Consultant shall apply an estimated unit cost of construction to the computed quantities. Complete a summary of quantities tabulation and develop unit prices for each item based on recent City of Spokane bid history and engineering judgment. Engineer's estimate will be finalized prior to bidding.
- 3.4 Prepare and Submit 95% PS&E Package:** Consultant will prepare and submit three (3) copies of the 95% Plans, Specifications (Contract Provisions), and Engineer's Estimate. The scales to be used, the lettering, and the general delineation of the plans shall be as such to provide legible reproduction when the plans are reduced to ½ of their original size. Plans for Phase 1 will likely consist of the following sheets:

- Cover Sheet with Vicinity Map (1 each)
- Abbreviations, Legend and Construction Notes (1 each)
- Waterline Plan/Profile Sheets at 1 inch = 50 feet, (5 sheets)
- Waterline Connection Details (1 each)
- Typical Roadway Sections (1 each)
- Street Plan/Profile Sheets at 1 inch = 50 feet (5 sheets),
- Drainage Swale, Piping and Vault Plans including Details (5 sheets),
- Intersection Plans (3)
- Landscape & Irrigation Plans for Drainage Swales including Details (4 sheets)
- Civil Details (2 sheets)
- Striping & Signage Plans (4 sheets), and
- Temporary Traffic control Plans (to be prepared by the City of Spokane).

The City shall review and provide written comments, and shall provide frontal documents for the final Contract Provisions package.

- 3.5 Final Revisions:** Consultant will incorporate comments from the 95% PS&E package.
- 3.6 Final (100%) Submittal:** Submit final plans (mylars), specifications, and cost estimate to the City for signature / final approval and printing. Prepare one bound Contract Provisions book for review and one original, unbound book for City's use in advertising and bidding. Consultant will provide one (1) electronic copy of the bid documents in CD format.

4. BIDDING PHASE

- 4.1 Issue Bid Packages:** Prepare one bound copy and one loose copy of the bid documents; and prepare one full-size (22"x34") set of signed black-lines and one reduced-size (11"x17") set of signed black-lines. The Owner will make copies of these "Issued for Bid" documents for prospective Bidders.
- 4.2 Support during Ad, Bid, and Award:** The City will issue Plans and Contract Provisions to prospective bidders and local agencies and track their distribution. City will field questions from prospective bidders during the advertisement period, and forward technical questions to the Consultant. Consultant will provide responses to the City, and will prepare addendum documents for the City's distribution. City will tabulate bids. Consultant will review bids and recommend award. Consultant will verify the apparent low bidders' status with the Excluded Parties List System (EPLS) to determine whether the Contractor has been suspended or debarred.
- 4.3 Issue Construction Documents:** Submit one full-size (22"x34") set of signed mylars and one reduced-size (11"x17") set of signed black-lines; and a CD-RW disc containing the bid documents (including any issued Addendum) and drawings, each in separate files in PDF format. The Owner will make copies of these "Issued for Construction" documents for the successful Bidder.

5. CONSTRUCTION STAKING

- 5.1 Verify Control:** Verify horizontal and vertical control to be provided by the City of Spokane and as shown on the Contract Plans.
- 5.2 Sawcut Limits:** Stake approximately seventeen (17) intersections for saw-cuts, and stake approximately forty (40) curb returns for ADA curb ramps – one ramp at each corner; excluding recently installed curb ramps.
- 5.3 Grading:** Stake approximately 5,000 lineal feet of road centerline at 50-ft. stations, once for red-tops (subgrade), once for blue-tops (top of rock), once for asphalt wearing course (top of asphalt base course). Stake gutter grades at 50-ft stations by scribing finish pavement grade on existing curbs on each side of the 5,000-ft long roadway. Stake limits of in-fill sidewalks, curb replacements and new driveways. Provide staking for rim adjustments at manholes, structures and valve boxes.
- 5.4 Water Distribution Main:** Stake approximately 5,000 lineal feet of water distribution main at 50-ft. stations. Stake connections to new hydrants, air valve(s), and existing waterlines. Staking for new water services is not included.
- 5.5 Pavement Markings:** Layout pavement markings including skip stripe, bike lane and stop bars along the Phase 1 project limits.

6. CONSTRUCTION PHASE

- 6.1 Pre-Construction Services:** The City will provide the schedule and meeting site for the pre-construction meeting. The consultant will attend and facilitate the pre-construction meeting. The Consultant will prepare and distribute minutes to interested parties.
- 6.2 Contract Administration:** Provide point of contact for City and Contractor. Coordinate scheduling and provide interface between City, Contractor, and users. Develop, review, and approve all progress payment estimates. Submit required paperwork to City for payment. Track working days and issue weekly statement of working days. Review design change requests, notify Owner, and evaluate as directed. Prepare and process all construction change authorizations and resultant change orders. Make recommendation on acceptance to City.
- 6.3 Submittal Review:** The City will prepare the Record of Materials for the project and provide an electronic copy to the Consultant for tracking purposes. The consultant will review Contractor submittals, shop drawings, and material samples (prior to the start of production) for conformance to the approved Plans and Contract Provisions.
- 6.4 Weekly Progress Meetings (16 Ea):** Prepare agenda and facilitate meetings. Type and distribute meeting minutes. Provide copies of daily Construction Inspection on a weekly basis until project is complete.
- 6.5 Construction Observation:** Provide one and a half (1-1/2) full-time construction inspector(s) to monitor street and storm drainage compliance with the Contract Plans and Contract Provisions. The City will provide an inspector for water distribution main and appurtenances construction. The Consultant will schedule the water distribution inspections with the City. Anticipated construction time is 80 working days (16 weeks). Typical contractor work hours include 10 hour days (minimum). Provide periodic inspections by Project Manager. Monitor quality control testing by the Contractor for conformance. Provide nuclear densiometer testing of soils and aggregate, (pavement testing to be completed by the Consultant); including geotechnical laboratory testing (proctors) of placed materials.
- 6.6 Contract Close-Out and Record Documents:** Attend and facilitate final inspection. Prepare and distribute punch list. Monitor completion of punch list items. Coordinate punch list items with the City's water and wastewater departments. Recommend acceptance when items are satisfactorily completed. Receive Contractor as-built drawings and provide the City one set of legible red-lines for completion of the record drawings by the City. Facilitate final submittals from the Contractor, including QC Reports and O & M Manuals. Recommend release of retainage when all close-out requirements are completed.

DESIGN CRITERIA

To the extent feasible, the design will be developed in accordance with the following:

1. City of Spokane Design Standards, Feb 2007, including Amendment No. 2 dated September 2010.
2. City of Spokane Standard Plans, updated October 2014.
3. City of Spokane General Special Provisions (e-version).
4. Spokane Regional Stormwater Manual, April 2008.
5. Urban Street Design Guide, published by the National Association of City Transportation Officials, October 2013.
6. Manual on Uniform Traffic Control Devices (MUTCD), Millennium edition.
7. AASHTO Guide for Design of Pavement Structures, 1993 edition
8. A Policy on Geometric Design of Highways and Streets (AASHTO "Green Book")
9. WSDOT Standard Specifications for Road and Bridge Construction (2014 version)
10. WSDOT Local Agency Guidelines (LAG) Manual, Nov 2014
11. WSDOT Design Manual
12. WSDOT Right of Way Manual

DOCUMENTS TO BE FURNISHED BY THE CONSULTANT

Consultant shall furnish the following documents, exhibits, or presentations for the work covered by this Agreement. All such material used in the project shall become and remain the property of the City:

1. Monthly Progress Reports: The Consultant shall prepare a letter report each month, summarizing the progress on each task item, and work planned during the next period.
2. Preliminary (35%) Design Report and Plans.
3. Intermediate (65%) Design Report, Drainage Report, Plans, Specifications, and Cost Estimate.
4. 95% Drainage Reports, Plans, Specifications, and Cost Estimate.
5. One (1) copy of pertinent reports with design calculations (field survey notes, traffic study, soils reports, Falling Weight Deflectometer (FWD) test results, pavement design, stormwater calculations, etc.).
6. Visual aids (boards) for Public Information Meetings.
7. Upon final acceptance of the design:
 - a) One set of full-size (Mylars) and half-size of the Contract Plans (paper)
 - b) Two copies (one bound, one unbound) of the Contract Provisions;
 - c) One construction cost estimate;

DATA TO BE FURNISHED BY THE CITY

The City shall make the following data available to the Consultant:

1. Topographic survey results, electronic version with paper copies of field notes, point lists, and limited line work (if any);
2. Additional topographic survey results as identified by the Consultant in electronic format;
3. Right of Way drawing in AutoCAD format that is tied to the City's completed topographic survey;
4. As-built drawings of existing roadway, water distribution main, and storm drain lines, if available;

5. Plans, reports, and other pertinent information from proposed developments along the project corridor;
6. Sample Plans and Contract Provisions from a recent City pavement rehabilitation or reconstruction project;
7. Equivalent single-axle loading (ESAL) loadings, existing and projected at design life of pavement.
8. City of Spokane General Special Provisions (GSP's) in a editable electronic format (MS Word);
9. Contract Provisions "frontal' documents;
10. Right-of-Way Agreement Forms (Standard City format)

EXTRA SERVICES:

In addition to the foregoing specific services, the following special services may be added upon written agreement of the parties by executing an Amendment to this Agreement:

1. Right of Way Documents, Right of Way Plans, Legal Descriptions, Title Reports, PFE's, Appraisals, DOV's, Offers, etc.
2. Redesigns ordered by the City after final plans have been accepted.
3. Special Inspections not specifically described above.
4. Biological Assessment.
5. Cultural resources surveys.
6. Boundary surveys.
7. Structural engineering (including retaining walls).
8. Advertising, preparing copies of bid sets, and distribution/tracking of Bid Set Documents.
9. Title Company, Utility Company, agency and processing fees.
10. Environmental studies or reports not specifically described above.
11. Franchise utility staking.
12. Street and/or, traffic light design.
13. Landscape planting plans.

BRIEFING PAPER
Public Works Committee
Engineering Services
January 12, 2015

Subject

Rowan Ave. – Driscoll Blvd. to Monroe St. – 2014135 (Ph 1), 2014152 (Ph 2)
Indiana Ave. – Division St. to Perry St. – 2014134 (Ph 1), 2014150 (Ph 2)

Background

The recently passed (Nov. 4, 2014) street levy included several large projects in 2015 which cannot be fit into Engineering Services' full design & construction administration schedule due to the final push to complete the CSO program by 2017. Engineering Services therefore advertised a Request for Qualifications (RFQ) soliciting statements of qualifications (SOQs) from interested engineering consulting firms. Five firms submitted SOQs which were subsequently ranked by a selection committee. The top ranked firm, Taylor Engineering (Spokane) , was offered the larger of the two projects, Rowan Ave. The second ranked firm, TD&H (Spokane) was offered the smaller of the two projects, Indiana Ave.

Because of the lateness getting started (dictated by the date of the election), it has been decided to split each project into two phases with the first phase to be constructed in 2015 and the 2nd phase of each project to be constructed in 2016. We expect to finalize the scope/budget with each consultant the week of Jan 12 for design and construction management of phase 1 of each project.

Public Impact

The hiring of consultants which is the subject of this briefing paper has no direct impact on the public. The project will be advertised approx. May 1, 2015 with construction beginning on approx. July 1, 2015 and lasting through October 2015. Phase 1 of each project will be constructed approximately simultaneously.

An extensive public outreach will be conducted during design.

Action

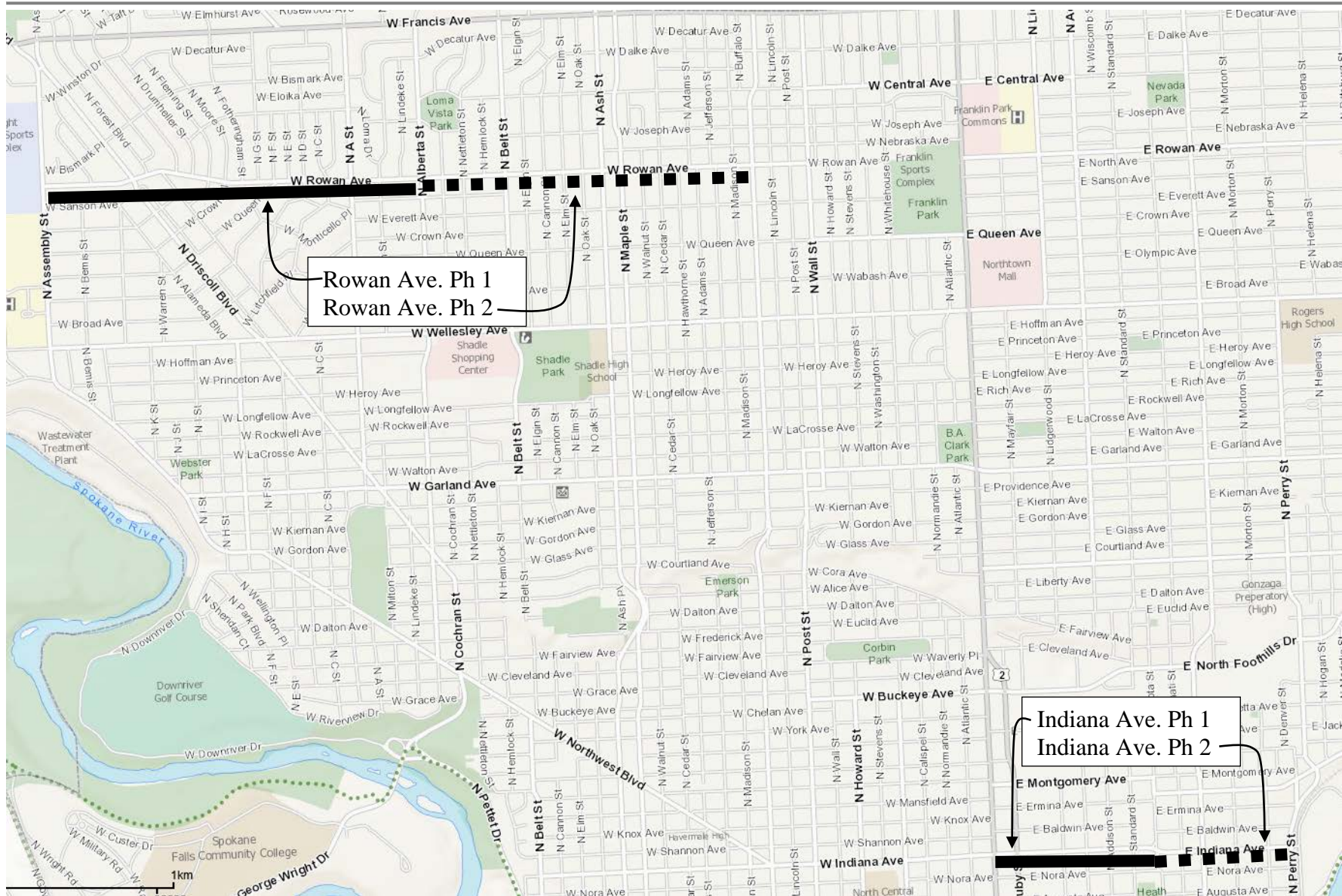
Information is provided for Council background. The proposed agreements with the two consultants will be on the 1-26-15 council agenda.

Funding

This project is funded with street levy funds.

Attachments

Project phasing maps are attached.



January 9, 2015

Revised from January 6, 2015

SCOPE:

Provide construction materials testing services for Rowan Avenue roadway and utility improvements. Services to include laboratory testing of soils, aggregates, and concrete in accordance with WSDOT and City of Spokane standards.

Proposal Number M15003

PROJECT: Rowan Ave Phase 1
Spokane, WA

SUBJECT: Proposal for Materials Testing Services

COST ESTIMATE (Subconsultant Fee Determination Summary Sheet)

DIRECT SALARY COST (DSC):

<u>Classification</u>	<u>Hours</u>		<u>Rate</u>		<u>Cost</u>
Construction Services Manager (TB)	8	x	\$32.71	=	\$261.68
Administration	8	x	\$16.00	=	\$128.00
SUBTOTAL					\$389.68

OVERHEAD (OH COST - including Salary Additives)

OH Rate x DSC	132.33%	x	\$389.68	=	\$515.66
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FIXED FEE (FF)

FF Rate x DSC	30.00%	x	\$389.68	=	\$116.90
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REIMBURSABLE

Maximum Density/Optimum Moisture (Proctor)	4	x	\$120.00	=	\$480.00
Specific Gravity	3	x	\$75.00	=	\$225.00
Sieve Analysis	2	x	\$100.00	=	\$200.00
Sand Equivalent	2	x	\$100.00	=	\$200.00
Fractured Face	2	x	\$100.00	=	\$200.00
Uncompacted Void Content	2	x	\$101.00	=	\$202.00
Theoretical Maximum Density- Rice	2	x	\$80.00	=	\$160.00
Oil Content/Gradation	2	x	\$250.00	=	\$500.00
VMA, VF, VA (Volumetrics)	3	x	\$350.00	=	\$1,050.00
Small Support Truck (hrs)	10	x	\$17.64	=	\$176.40
Concrete Cylinders	30	x	\$20.00	=	\$600.00
SUBTOTAL					\$3,993.40

TOTAL **\$5,015.65**

January 9, 2015

Revised from January 6, 2015

SCOPE:

Provide construction materials testing services for Rowan Avenue roadway and utility improvements. Services to include laboratory testing of soils, aggregates, and concrete in accordance with WSDOT and City of Spokane standards.

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Spokane, WA

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FIXED FEE (FF)

FF Rate x DSC	30.00%	x	\$389.68	=	\$116.90
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REIMBURSABLE

Maximum Density/Optimum Moisture (Proctor)	4	x	\$120.00	=	\$480.00
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Sand Equivalent	2	x	\$100.00	=	\$200.00
Fractured Face	2	x	\$100.00	=	\$200.00
Uncompacted Void Content	2	x	\$101.00	=	\$202.00
Theoretical Maximum Density- Rice	2	x	\$80.00	=	\$160.00
Oil Content/Gradation	2	x	\$250.00	=	\$500.00
VMA, VF, VA (Volumetrics)	3	x	\$350.00	=	\$1,050.00
Small Support Truck (hrs)	10	x	\$17.64	=	\$176.40
Concrete Cylinders	30	x	\$20.00	=	\$600.00
SUBTOTAL					\$3,993.40

TOTAL **\$5,015.65**

REQUEST FOR QUALIFICATIONS

ENGINEERING DESIGN & CONSTRUCTION MANAGEMENT FOR ROWAN AVENUE & INDIANA AVENUE REHABILITATION PROJECTS

City of Spokane Engineering Services

RFQ #4093-14

Sealed Proposals will be acknowledged at the 1:15 p.m. public bid opening on **FRIDAY, DECEMBER 12, 2014**, in the Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, for Engineering Design & Construction Management for Rowan Avenue & Indiana Avenue Rehabilitation Projects for the City of Spokane Engineering Services Department.

The Request for Qualifications document is available by contacting Connie Wahl, City of Spokane Purchasing, 4th Floor, City Hall, 808 West Spokane Falls Blvd, Spokane WA 99201 at purchasinghelp@spokanecity.org.

Proposal documents should be submitted to City of Spokane Purchasing **no later than 1:00 p.m. on Friday, December 12, 2014**. Proposals must be sent sufficiently ahead of time to be received by the required date and time. The City of Spokane is not responsible for Proposals delivered late. **Only firm Proposals with signatures will be evaluated.**

Submit one (1) paper original, four (4) paper copies, and one (1) reproducible digital copy (CD or thumb drive) of the Proposal to:

**City of Spokane - Purchasing
4th Floor – City Hall
808 W. Spokane Falls Blvd.
Spokane, Washington 99201**

The right is reserved to reject any and all Proposals and to waive any informalities in the bidding. Special attention will be directed to the qualifications of the Proposer when considering this contract.

All response packages are to be clearly marked with:

“RFQ #4093-14, ENGINEERING DESIGN & CONSTRUCTION MANAGEMENT FOR ROWAN AVENUE & INDIANA AVENUE REHABILITATION PROJECTS, DUE 12/12/2014”

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

01/26/2015

Date Rec'd

1/14/2015

Clerk's File #

OPR 2015-0022

Renews #Submitting Dept

SPOKANE REGIONAL SOLID WASTE

Contact Name/Phone

CHUCK 625-6524

Cross Ref #Project #Contact E-Mail

CCONKLIN@SPOKANECITY.ORG

Bid #

RFP 4071-14

Agenda Item Type

Contract Item

Requisition #Agenda Item Name

4490 CONTRACT WITH AMERICAN RECYCLING CORPORATION

Agenda Wording

Contract with American Recycling Corporation (Spokane) for purchase of recovered metals from the Waste to Energy Facility. January 1, 2015 to December 31, 2015. \$1,500,000. estimated revenue.

Summary (Background)

The WTEF separates metals from the ash for recycling. Metals are also removed from the waste tipping area prior to combustion and collected directly from the public in the recycling area. Request for Proposals #4071-14 was issued on November 5, 2014, for recycling of these metals. Proposals were received from American Recycling Corporation and FeNix Ash. American Recycling Corporation was deemed to be the most qualified and the best price.

Fiscal ImpactBudget Account

Revenue \$ 1,500,000.00

4490-44110-37079-36911

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

CONKLIN, CHUCK

Study Session

PWC 1/12/2015

Division Director

ROMERO, RICK

OtherFinance

LESESNE, MICHELE

Distribution ListLegal

WHALEY, HUNT

ttauscher@spokanecity.org

For the Mayor

SANDERS, THERESA

lbutz@spokanecity.org

Additional ApprovalsPurchasing

PRINCE, THEA



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

American Recycling Corporation has been purchasing the metals from the WTEF since 1993. Staff recommends approval of this contract.

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal Department
January 12, 2015

Subject

Contract with American Recycling Corporation for recycling of metals collected from the WTEF ash and scrap metals from the tipping floor.

Background

Metals are removed from the ash prior to disposal to reduce the disposal cost, increase recycling, and generate revenue.

Impact

Recycling of the metals from the ash and the tipping floor generates approximately \$1.5 million in revenue annually, subject to market changes.

Action

Recommend approval.

Funding

This is a revenue contract.

REVENUE AGREEMENT

THIS AGREEMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and AMERICAN RECYCLING CORPORATION, whose address is 6203 East Mission Avenue, Spokane Valley, Washington 99212, as "Company".

The parties agree as follows:

1. DESCRIPTION OF WORK. The City shall provide Company POST COMBUSTIBLE RECOVERED METALS, RECOVERED METALS FROM THE TIPPING FLOOR AND RECOVERED METALS FROM THE RECYCLING AREA OF THE CITY'S WASTE TO ENERGY FACILITY (WTEF), WHICH INCLUDES THE COMPANY'S PROCESS, TRANSPORT AND PURCHASE OF WTEF FERROUS METALS in accordance with the Company's response to the City's RFP # 4071-14, dated November 5, 2014, and is attached hereto.

2. CONTRACT TERM. The Agreement shall begin on January 1, 2015 and end on December 31, 2015, unless terminated earlier. Two (2) additional one-year periods shall be allowed, subject to mutual written agreement of both parties.

3. COMPENSATION. The Company will pay the City for all recyclable metals picked up at the WTEF and delivered to the Company's yard. COMPENSATION WILL BE PAID ACCORDING TO SCALE TICKET NET WEIGHTS WITH THE FERROUS MATERIALS PAID IN NET TONS AND THE NON-FERROUS MATERIALS PAID IN POUNDS. The City estimates approximately ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00) as annual revenue from the Company for the RECOVERED METALS provided for under this Agreement. There will be no costs to the City for Company's performance of the services related to this Agreement. The Company shall pay for all its employees and all costs incurred in the performance of this Agreement.

A. BUY PRICE QUOTE: The buy prices paid to the City will be based on AMM magazine categories. The Company will use the published price on the 15th of each month (retro for the entire month).

Non-ferrous Example:

Non-ferrous category will be from the AMM non-ferrous scrap prices (Estimated Dealer Buying Prices). Company will use the LA low side price minus (-) an adjustment of \$0.15 cents per Pound picked up by Company or \$0.10 cents per Pound if the City delivers.

Example formula:

October 15th published price = #2 copper (LA low side) - Adjustment = buy price

\$2.47 per pound - \$0.15 cents per Pound = \$2.32 paid to the City for material picked up by the Company.

\$2.47 per pound - \$0.10 cents per Pound = \$2.37 paid to the City if delivered to Company by the City.

Ferrous buy prices quote:

The category Company will use is LA Export and Dealer Buying Prices published on the 15th of every month (retro for the entire month). Company will use the #2 bundles commodity, minus (-) an adjustment and changed from gross tons to net tons.

Formula if American Recycling hauls:

Category price - adjustment, divided by 1.12 (gross ton to net ton) = buy price.

Example Formula:

LA price for #2 bundles (135 gross tons [GT] - \$65.00) / 1.12 = \$62.50 per net ton.

Formula Example for City of Spokane hauling material:

October 15th - (\$135/GT - \$50) 1.12 = \$75.89 per net ton.

Category adjustments:

If Company hauls the loads = \$65 per gross ton. If the City hauls the loads = \$50 per gross ton.

[LA Export yard buying price for #2 bundles is used in both cases]

Note: These prices are for metal. Any wood, rocks, cement, rubber, carbon or other non-metallic items will be adjusted off the scale weights and sent back to the WTEF.

4. PAYMENT. The Company shall submit payment to the Solid Waste Disposal Department, 2900 South Geiger Boulevard, Spokane, Washington 99224. If the City objects to all or any portion of the payment, it shall notify the Company and reserves the right to only receive that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.

5. TERMINATION. Either party may terminate this Agreement, with or without cause, by ten (10) days written notice to the other party. In the event of such termination, the City shall pay the Company for all work previously authorized and performed prior to the termination date.

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

7. INDEPENDENT CONTRACTOR. The parties intend that an independent contractor – employer relationship will be created by this Agreement.

8. INDEMNIFICATION. The Company shall defend, indemnify and hold harmless the City, its officers and employees, from and against all claims for damages, liability,

cost and expense arising out of the negligent conduct of the Company's performance of this Agreement, except to the extent of those claims arising from the negligence of the City, its officers and employees.

The Company waives its immunity under Industrial Insurance, Title 51 RCW, to the extent necessary to protect the City's interests under this indemnification. This provision has been specifically negotiated.

9. INSURANCE. During the term of the Agreement, the Company shall maintain in force at its own expense, the following types and amounts of insurance:

- 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;
- 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 provide that the City, its agents, officers and employees are Additional Insureds but only with respect to the Company'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 or non-owned vehicles.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Company or its insurer(s) to the City. As evidence of the insurance coverages required by this Agreement, the Company shall furnish an acceptable insurance certificate to the City at the time the Company returns the signed Agreement.

10. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor 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 Contractor.

11. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Company shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Company does not believe it is required to obtain a business registration, it may contact

the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

12. 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.

13. AUDIT / RECORDS. The Company and its sub-companies shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. The Company and its sub-companies shall provide access to authorized City representatives at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Agreement, the federal law shall prevail.

14. MISCELLANEOUS PROVISIONS.

A. ASSIGNMENTS. Neither party may assign, transfer or subcontract its interest, in whole or in part, without the other party's prior written consent. In the event of an assignment or transfer, the terms of this Agreement shall continue to be in full force and effect.

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

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

D. AMENDMENTS. This Agreement may be amended at any time by mutual written agreement.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

AMERICAN RECYCLING CORPORA
TION

Email Address, if available: _____

By: _____

Title: _____

Attachments that are part of this Agreement:

Company's response to the City's RFP # 4071-14, dated November 5, 2014

15-408

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

01/26/2015

<u>Date Rec'd</u>	1/14/2015
<u>Clerk's File #</u>	OPR 2015-0023
<u>Renews #</u>	

<u>Submitting Dept</u>	SPOKANE REGIONAL SOLID WASTE	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	CHUCK 625-6524	<u>Project #</u>	
<u>Contact E-Mail</u>	CCONKLIN@SPOKANECITY.ORG	<u>Bid #</u>	RFP 4077-14
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	C/O
<u>Agenda Item Name</u>	4490 CONTRACT WITH US ELECTRIC CORP		

Agenda Wording

Contract with United States Electric Corporation of Washington (Olympia) for electrical technical and maintenance support services for the waste to energy facility January 1, 2015, to February 1, 2016. \$90,000 per year, excluding taxes.

Summary (Background)

The WTEF at times has need for electrical technical and maintenance services to maintain the 24 hrs/7 days operations. If these services are not available it could cause an interruption in operations. Request for Proposals #4077-14 was issued, and proposals were received from US Electric Corporation and Power City Electric. US Electric Corporation was deemed to be the most qualified and lowest cost of the 2 proposers. Staff recommends approval of this contract.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 90,000.00	#	4490-44100-37148-54201
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	GIMPEL, KEN	<u>Study Session</u>	PWC 1/12/2015
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	ttauscher@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	lbutz@spokanecity.org	
<u>Additional Approvals</u>		mlesesne@spokanecity.org	
<u>Purchasing</u>	PRINCE, THEA		

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal Department
January 12, 2015

Subject

Contract with United States Electric Corporation of Washington to provide Electrical Technical & Maintenance Support services for the Waste to Energy Facility

Background

Electrical Technical & Maintenance Supports services for the WTEF may include, but are not limited to, support and maintenance of the Variable Frequency Drives and Motors, High Voltage and Medium Voltage Distribution Equipment, Transformers, Switchgear, Relays, and others. It may also include temporary power shutdowns, WECC testing and documentation and repairs to various electrical systems

Impact

Maintenance of the many electrical systems at the WTEF is essential for continued operations.

Action

Recommend approval.

Funding

Funding is included in the 2015 operation and maintenance budget.

City of Spokane

CONSULTANT AGREEMENT

Title: Electrical Technical & Maintenance Support for the City's Waste To Energy Facility

This Agreement is made and entered into by and between the City of Spokane ("City"), a Washington municipal corporation, and UNITED STATES ELECTRIC CORPORATION OF WASHINGTON, whose address is P.O. Box 87, Olympia, Washington 98507 as ("Consultant"). Individually referenced hereafter as a "party", and together as the "parties".

WHEREAS, the purpose of this Contract is to secure the provision of electrical services as requested or as needed in an emergency situation for the City's Waste To Energy Facility; and

WHEREAS, the Consultant was selected from a Request for Proposals (RFP) issued by the City as number 4077-14; and

WHEREAS, the Consultant shall provide manpower, equipment and supervision to perform the following:

- *Electrical Technical & Maintenance Support services for the Waste to Energy Facility (WTEF) located in Spokane, Washington at 2900 South Geiger Boulevard.*
- *In addition Contractor may be asked to perform miscellaneous repairs agreed upon by WTEF and Contractor; and*

-- 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 January 1, 2015, and ends on February 1, 2016, unless amended by written agreement or terminated earlier under the provisions. This Agreement can be renewed for up to four (4) additional one (1) year periods, upon mutual agreement of the parties.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the work outlined in the "Scope of Work" ("Work") upon receipt of written 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 City's RFP #4077-14, and Consultant's LETTER OF SUBMITTAL to the City on October 29, 2014, which is attached to and made a part of this Agreement. Additionally, the Consultant shall be available on a stand-by basis, at the rates identified on Attachment 3.) US Electric stand-by rates.

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.

Total compensation under this Agreement shall not exceed NINETY THOUSAND AND NO/100 DOLLARS (\$90,000.00) per year excluding taxes, unless modified by a written amendment to this Agreement.

5. REIMBURSABLES

If the Agreement specified reimbursables to be compensated by the City, the following limitations apply. If no travel or direct charges are identified and allowed in the Agreement, the City shall provide no reimbursement.

- A. City will reimburse the Consultant at actual cost for expenditures that are pre-approved by the City in writing and are necessary and directly applicable to the work required by this Contract provided that similar direct project costs related to the contracts of other clients are consistently accounted for in a like manner. Such direct project costs may not be charged as part of overhead expenses or include a markup. Other direct charges may include, but are not limited to the following types of items: travel, printing, cell phone, supplies, materials, computer charges, and fees of subconsultants.
- B. The billing for third party direct expenses specifically identifiable with this project shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, subconsultant paid invoices, and other supporting documents used by the Consultant to generate invoice(s) to the City. The original supporting documents shall be available to the City for inspection upon request. All charges must be necessary for the services provided under this Contract.
- C. The City will reimburse the actual cost for travel expenses incurred as evidenced by copies of receipts (excluding meals) supporting such travel expenses, and in accordance with the City of Spokane Travel Policy, details of which can be provided upon request.
- D. **Airfare:** Airfare will be reimbursed at the actual cost of the airline ticket. The City will reimburse for Economy or Coach Fare only. Receipts detailing each airfare are required.
- E. **Meals:** Meals will be reimbursed at the Federal Per Diem daily meal rate for the city in which the work is performed. *Receipts are not required as documentation.* The invoice shall state "the meals are being billed at the Federal Per Diem daily meal rate", and shall detail how many of each meal is being billed (e.g. the number of breakfasts, lunches, and dinners). The City will not reimburse for alcohol at any time.
- F. **Lodging:** Lodging will be reimbursed at actual cost incurred up to a maximum of the published Runzheimer Cost Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)
- G. **Vehicle mileage:** Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in effect at the time the mileage expense is incurred (currently that rate is 56.5 cents per mile.) Please note: payment for mileage for long distances traveled will not be more than an equivalent trip round-trip airfare of a common carrier for a coach or economy class ticket.
- H. **Rental Car:** Rental car expenses will be reimbursed at the actual cost of the rental. Rental car receipts are required for all rental car expenses. The City will reimburse for a standard car of a mid-size class or less. The City will not reimburse for ancillary expenses charged to the car rental (e.g. GPS unit).
- I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.
- J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a mark up. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual cost incurred and may not include a mark up. 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:
Solid Waste Disposal – Waste To Energy Facility 2900 S. Geiger Blvd. Spokane, WA 99224
Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):
<ul style="list-style-type: none"> • Invoice Date and Invoice Number • City Project Manager Name: Chuck Conklin or Tia Tauscher (Please do not put PM's name in the address portion of the invoice) • Contract Title: Electrical Technical & Maintenance Support for the City's Waste To Energy Facility • Period covered by the invoice • Task # and title • Total labor costs per task • Cumulative costs per task and for the total project

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.
- C. As authorized by SMC, the Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.

8. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
Chuck Conklin or Tia Tauscher - Project Manager Solid Waste Disposal – Waste To Energy Facility 2900 S. Geiger Blvd. Spokane, WA 99224	Brady Malcolm - brady@uselectriccorp.com UNITED STATES ELECTRIC CORPORATION OF WASHINGTON P.O. Box 87 Olympia, WA 98507

9. SOCIAL EQUITY REQUIREMENTS.

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.

10. INDEMNIFICATION.

The Consultant releases and shall defend, indemnify, and hold the City and its officers, employees and agents harmless from all losses, liabilities, claims (including claims arising under federal, state or local laws or regulations) (and including, but not limited to, claims for infringement of any copyright, patent, trademark, or trade secret), costs (including attorneys' fees), actions or damages of any sort arising out of the Consultant's performance or nonperformance of the services to be provided under this Agreement attributable to the acts or omissions, willful misconduct, or breach of this Agreement by the Consultant, subconsultants, its servants, agents, officers or employees. The Consultant's obligations shall not be eliminated or reduced by any alleged negligence on the part of the City. 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 under Title 51 RCW, or any other industrial insurance, workers compensation, disability, employee benefit or similar laws. The Consultant acknowledges that the foregoing waiver of immunity was mutually negotiated, and that the contract price reflects this negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

11. INSURANCE.

The Contractor represents that it and its employees, agents and subcontractors, in connection with the Contract, are protected against the risk of loss by the insurance coverages required in the contract documents. The policies shall be issued by companies that meet with the approval of the City Risk Manager. The policies shall not be canceled without at least minimum required written notice to the City as Additional Insured.

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 Contractor or its insurer(s) to the City.

As evidence of the insurance coverages required by this Contract, the Contractor shall furnish an acceptable Certificate of Insurance (COI) to the City at the time it returns the signed Contract. The COI 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 A.M. Best. Copies of all applicable endorsements shall be provided. The Contractor shall be solely financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

12. 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 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.

13. 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 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.

14. 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.

15. 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.

16. CITY ETHICS CODE (SMC 1.04).

- 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 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.

17. 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.

18. 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.

19. 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.

20. 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 (2) 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.

21. 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 contract. 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.

22. 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 five (5) 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.

23. 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.

24. 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

By _____
Signature Date

Type or Print Name

Title

CITY OF SPOKANE

By _____
Signature Date

Type or Print Name

Title

Attest:

City Clerk

Approved as to form:

Assistant City Attorney

Attachments: 1.) City's RFP #4077-14
2.) Consultant's LETTER OF SUBMITTAL to the City on October 29, 2014
3.) US Electric email containing stand-by rates

14-674

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

01/26/2015

<u>Date Rec'd</u>	1/14/2015
<u>Clerk's File #</u>	PRO 2013-0037
<u>Renews #</u>	

<u>Submitting Dept</u>	UTILITIES	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	KEN GIMPEL 625-6523	<u>Project #</u>	13633
<u>Contact E-Mail</u>	KGIMPEL@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	CR #15071
<u>Agenda Item Name</u>	5200 - CHANGE ORDER - SPOKANE CENTRAL SERVICE CENTER		

Agenda Wording

Change Order for the Spokane Central Service Center construction and street improvements project.

Summary (Background)

Change order with Garco Construction as it pertains to the Spokane Central Service Center for off site street improvements, site conditions, water line requirements, landscaping, and other items outlined in attachment A of the change order.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 1,444,730.00	#	4500-45700-94000-56202
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	ROMERO, RICK	<u>Study Session</u>	
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	PWC 1/12/15
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Design-Build Change Order Form

For Use with DBIA Document No. 525, *Standard Form of Agreement Between Owner and Design-Builder – Lump Sum* (2010 Edition) and DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder – Cost Plus Fee with an Option for A Guaranteed Maximum Price* (2010 Edition)

Change Order Number: One	Change Order Effective Date: (date when executed by both parties)
Project: Spokane Central Service Center	Design-Builder's Project No: 13633
	Date of Agreement: December 20, 2013
Owner: City of Spokane	Design-Builder: Garco Construction, Inc.

Scope of the Change: Unforeseen site conditions; additional water line requirement and permit fees/valves; testing; security cameras; Cooke Street sewer; additional street improvements required; landscaping, phase II; CNG Compressor; fuel island design changes; building signage. The Detailed project list and cost summary for this Change Order are fully described in Attachment "A".

Original Contract Price:	\$ 14,200,000.00
Net Change by Previous Change Order No(s): to:	\$ 0.00
This Change Order Increase/Decrease (attach breakdown):	\$ 1,444,730.00
New Contract Price:	\$ 15,644,730.00

Original Contract Completion Date: _____

Adjustments by Change Order No(s) to: 0 (calendar days)

This Change Order Contract Time Increase/Decrease: 0 (calendar days)

Revised Substantial Completion Date: _____

By executing this Change Order, Owner and Design-Builder agree to modify the Agreement's Scope of Work, Contract Price and Contract Time as stated above. Upon execution, this Change Order becomes a Contract Document issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder*, (2010 Edition).

OWNER:


By: _____

Printed Name: David A. Condon

Title: Mayor

Date: _____

DESIGN-BUILDER:

By:  _____

Printed Name: Hollis Barnett

Title: Vice President

Date: 1/12/15

Attachment A

(Project List Descriptions/Explanations)

- **Unforeseen Site Conditions - \$100,000.**
 - Old concrete footings and foundations not discovered during Geo-tech core samples. Discovered by Contractor during initial excavation.
- **Additional Water Line Requirement - \$33,734.**
 - City Water Department required an additional water line not anticipated during design process.
- **Required Testing - \$9,000.**
 - Unanticipated third party structural testing required by City.
- **Security Cameras - \$68,881.**
 - Interior and exterior security cameras were originally negotiated out of BMP for cost saving. City staff determined exterior security cameras should be installed for safety purposes (cameras will monitor truck parking and CNG fuel station).
- **Cook Street Sewer - \$55,254.**
 - During Cook Street improvements a private sewer line was discovered. City replacing it with new City sewer line and connections.
- **Off Site Street Improvements.**
 - Springfield - \$281,733.
 - Cook - \$395,911.
 - Nelson - \$71,735.
 - Broadway - \$203,599
 - Alternative Entrance (Nelson St.) - \$13,249.

City did not know extent of street improvements required at time of RFP so it was not included in original GMP. City did budget estimate for street improvements.

- **Phase II Landscaping - \$72,582.**
 - City did not know extent of landscaping required/requested at time of RFP or if we would use Garco for this work. City did budget estimate for landscaping.
- **CNG Compressor Modification - \$15,000.**
 - Received inaccurate initial gas pressure information from Avista. Lower actual pressure requires larger compressor.
- **Design Review Board Recommendations (screen wall & additional landscaping) - \$41,780.**
 - City/Contractor did not anticipate DRB additional cost recommendations.
- **Water Permit Fees - \$15,222.**
 - City did not know exact cost of permit fees at time of RFP. City did budget estimate cost of permit fees.
- **Additional Water Valves - \$12,050.**
 - City did not know exact cost of water valves at time of RFP. City did budget estimate cost of water valves.
- **Fuel Island Design Change - \$50,000.**
 - City required fuel island/truck parking design change for safety reasons (truck & pedestrian).
- **Building Signage - \$5,000.**
 - City did not determine signage until the neighborhood determined a name for the facility.

BRIEFING PAPER
Public Works Committee
Utilities Division
January 12, 2015

Subject

Change Order for the Spokane Central Service Center (SCSC) construction and street improvements project.

Background

Many of the elements included in the design build Guaranteed Maximum Price (GMP) were estimates at the time the Contract and GMP was executed by the City and Garco Construction. Since that time, we have determined and negotiated specific details and costs associated with the entire project. Some of the items in the Change Order such as off-site street improvements and landscaping were budgeted by the City but not included in the original Contract and GMP. It was not determined at the time whether the City or other contractors would be conducting that work. We have now determined it in the best interest of the City to have Garco Construction and their subcontractors perform that work. Other items in the Change Order such as water lines, valves, and meters were determined by City Departments and the Design Review Board after the Contract and GMP were executed. The items and costs listed in Attachment A of the Change Order are within our construction budget therefore, approval of this Change Order will not require an Emergency Budget Ordinance.

Impact

This Change Order will formalize the contractor's scope of work and adjust the GMP to \$15,644,730.

Action

Recommend approval of the Change Order with Garco Construction as it pertains to the Spokane Central Service Center.

Funding

This Change Order and increase to the GMP is within the overall project budget and will not require any additional funding sources.

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

01/26/2015

<u>Date Rec'd</u>	01/14/2015
<u>Clerk's File #</u>	OPR 2015-0024
<u>Renews #</u>	

<u>Submitting Dept</u>	ASSET MANAGEMENT	<u>Cross Ref #</u>	RES 2012-0083
<u>Contact Name/Phone</u>	DAVID STEELE 625-6064	<u>Project #</u>	
<u>Contact E-Mail</u>	DSTEELE@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	
<u>Agenda Item Name</u>	5900 - PURCHASE & SALE AGREEMENT - 4304 E.TRENT AVE		

Agenda Wording

Purchase and Sale Agreement with Hal Lotzenhiser for real property located at 4304 East Trent Avenue, Spokane, Washington, for an amount not to exceed \$180,000.00 minus closing costs and deductions.

Summary (Background)

This property was acquired as Right of Way for the construction of the Havana Street Bridge. A portion of the property was used to modify the intersection at Trent Avenue and Havana Street. As the remainder of this property is no longer needed, it was declared surplus in 2013 and subsequently listed with our commercial brokers. The property was acquired for \$240,000 with the substantial portion of those dollars being federal grant dollars. This agreement would sell the property for \$180,000

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Revenue	\$ 129,750.00	#	3200 94991 99999 39510 99999
Revenue	\$ 20,250.00	#	5900 41520 99999 39510 99999
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	WERNER, MICHAEL	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	PCED 1/5/15
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	RICHMAN, JAMES	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	mhughes@spokanecity.org	
<u>Additional Approvals</u>		dsteele@spokanecity.org	
<u>Purchasing</u>		mlesesne@spokanecity.org	
		htrautman@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

(with \$24,000 in deductions made for needed roof replacement, environmental work, and general repairs to plumbing). The transaction will close on or before January 31, 2015.

Fiscal Impact		Budget Account	
Select	\$		#
Select	\$		#
Distribution List			



Kiemle & Hagood Company
601 W Main Avenue, Suite 400
Spokane, WA 99201
Phone: (509) 838-6541
Fax: (509) 458-4014

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Association 2011
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CBA Form PS-1A
Purchase & Sale Agreement
Rev. 1/2011
Page 1 of 13

COMMERCIAL & INVESTMENT REAL ESTATE PURCHASE & SALE AGREEMENT

This has been prepared for submission to your attorney for review and approval prior to signing. No representation is made by licensee as to its sufficiency or tax consequences

Reference Date: **December 23, 2013**

Hal Lotzenhiser and/or assigns ("Buyer") agrees to buy and **City of Spokane** ("Seller") agrees to sell, on the following terms, the commercial real estate and all improvements thereon (collectively, the "Property") commonly known as **4304 E. Trent** in the City of **Spokane**, **Spokane** County, Washington **99212**, legally described on attached Exhibit A. The Reference Date above is intended to be used to reference this Agreement and is not the date of "Mutual Acceptance," which is defined in Section 23.

1. **PURCHASE PRICE.** The purchase price is **One Hundred Eighty Thousand No/100s** Dollars (**\$180,000.00**) payable as follows (check only one):

☐ All cash at closing with no financing contingency.

☒ All cash at closing contingent on new financing **UPON TERMS ACCEPTABLE TO THE BUYER. FINANCING CONTINGENCY TO BE REMOVED 60 DAYS FROM ACCEPTANCE OF THIS OFFER BY ALL PARTIES.** in accordance with the Financing Addendum (attach CBA Form PS_FIN).

☐ \$ _____ OR _____% of the purchase price in cash at closing with the balance of the purchase price paid as follows (check one or both, as applicable): ☐ Buyer's assumption of the outstanding principal balance as of the Closing Date of a first lien note and deed of trust (or mortgage), or real estate contract, in accordance with the Financing Addendum (attach CBA Form PS_FIN); ☐ Buyer's delivery at closing of a promissory note for the balance of the purchase price, secured by a deed of trust encumbering the Property, in accordance with the Financing Addendum (attach CBA Form PS_FIN).

☐ Other: _____

2. **EARNEST MONEY.** The earnest money in the amount of **\$5,000.00** shall be in the form of ☐ Cash ☒ Personal check ☐ Promissory note (attached CBA Form EMN) ☐ Other: _____

The earnest money shall be held by ☐ Selling Firm ☒ Closing Agent. Selling Broker may, however, transfer the earnest money to Closing Agent.

Buyer shall deliver the earnest money no later than:

☒ 5 days after Mutual Acceptance.

☐ On the last day of the Feasibility Period defined in Section 5 below.

☐ Other: _____

If the earnest money is to be held by Selling Firm and is over \$10,000, it shall be deposited to: ☐ Selling Firm's pooled trust account (with interest paid to the State Treasurer) ☐ A separate interest bearing trust account in Selling Firm's name. The interest, if any, shall be credited at closing to Buyer. If this sale fails to close, whoever is entitled to the earnest money is entitled to interest.

Selling Firm shall deposit any check to be held by Selling Firm within 3 days after receipt or Mutual Acceptance, whichever occurs later. Buyer agrees to pay financing and purchase costs incurred by Buyer. Unless otherwise provided in this Agreement, the earnest money shall be applicable to the purchase price.

3. **EXHIBITS AND ADDENDA.** The following Exhibits and Addenda are made a part of this Agreement:

☒ Exhibit A - Legal Description

☐ Earnest Money Promissory Note, CBA Form EMN

INITIALS: Buyer H.L. Date 12/23/13 Seller [Signature] Date 11/27/14
Buyer _____ Date _____ Seller _____ Date _____



Kiemle & Hagood Company
 601 W Main Avenue, Suite 400
 Spokane, WA 99201
 Phone: (509) 838-6541
 Fax: (509) 458-4014

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CBA Form PS-1A
 Purchase & Sale Agreement
 Rev. 1/2011
 Page 2 of 13

**COMMERCIAL & INVESTMENT REAL ESTATE
 PURCHASE & SALE AGREEMENT
 (CONTINUED)**

- ☐ Promissory Note, LPB Form No. 28A
- ☐ Short Form Deed of Trust, LPB Form No. 20
- ☐ Deed of Trust Rider, CBA Form DTR
- ☒ Utility Charges Addendum, CBA Form UA
- ☐ FIRPTA Certification, CBA Form 22E
- ☐ Assignment and Assumption, CBA Form PS-AS
- ☐ Addendum/Amendment, CBA Form PSA
- ☐ Back-Up Addendum, CBA Form BU-A
- ☐ Vacant Land Addendum, CBA Form VLA
- ☐ Financing Addendum, CBA Form PS_FIN
- ☐ Tenant Estoppel Certificate, CBA Form PS_TEC
- ☐ Defeasance Addendum, CBA Form PS_D
- ☒ Other Addendum Number One

4. SELLER'S UNDERLYING FINANCING. Unless Buyer is assuming Seller's underlying financing, Seller shall be responsible for confirming the existing underlying financing is not subject to any "lock out" or similar covenant which would prevent the lender's lien from being released at closing. In addition, Seller shall provide Buyer notice prior to the end of the Feasibility Period if Seller is required to substitute securities for the Property as collateral for the underlying financing (known as "defeasance"). If Seller provides this notice of defeasance to Buyer, then the parties shall close the transaction in accordance with the process described in CBA Form PS_D or any different process identified in Seller's defeasance notice to Buyer.

5. FEASIBILITY CONTINGENCY. Buyer's obligations under this Agreement are conditioned upon Buyer's satisfaction in Buyer's sole discretion, concerning all aspects of the Property, including its physical condition; the presence of or absence of any hazardous substances; the contracts and leases affecting the property; the potential financial performance of the Property; the availability of government permits and approvals; and the feasibility of the Property for Buyer's intended purpose. This Agreement shall terminate and Buyer shall receive a refund of the earnest money unless Buyer gives written notice to Seller within 60 days (30 days if not filled in) (the "Feasibility Period") of Mutual Acceptance stating that this condition is satisfied. If such notice is timely given, the feasibility contingency stated in this Section 5 shall be deemed to be satisfied.

a. Books, Records, Leases, Agreements. Seller shall make available for inspection by Buyer and its agents within 7 days (2 days if not filled in) after Mutual Acceptance all documents in Seller's possession or control relating to the ownership, operation, renovation or development of the Property, excluding appraisals or other statements of value, and including: statements for real estate taxes, assessments, and utilities for the last three years and year to date; property management agreements and any other agreements with professionals or consultants; leases or other agreements relating to occupancy of all or a portion of the Property and a suite-by-suite schedule of tenants, rents, prepaid rents, deposits and fees; plans, specifications, permits, applications, drawings, surveys, and studies; maintenance records, accounting records and audit reports for the last three years and year to date; and "Vendor Contracts" which shall include maintenance or service contracts, and installments purchase contracts or leases of personal property or fixtures used in connection with the Property. Buyer shall determine within the Feasibility Period: (i) whether Seller will agree to terminate any objectionable Vendor Contracts; and (ii) whether Seller will agree to pay any damages or penalties resulting from the termination of objectionable Vendor Contracts. Buyer's waiver of the Feasibility Contingency shall be deemed Buyer's acceptance of all Vendor Contracts which Seller has not agreed in writing to terminate. Buyer shall be solely responsible for obtaining any required consents to such assumption and the payment of any assumption fees. Seller shall cooperate with Buyer's efforts to receive any such consents but shall not be required to incur

INITIALS: Buyer H.L. Date 12/23/23 Seller [Signature] Date 1/7/14
 Buyer _____ Date _____ Seller _____ Date _____



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any out-of-pocket expenses or liability in doing so. Seller shall transfer the Vendor Contracts as provided in Section 17.

b. Access. Seller shall permit Buyer and its agents, at Buyer's sole expense and risk to enter the Property at reasonable times subject to the rights of and after legal notice to tenants, to conduct inspections concerning the Property and improvements, including without limitation, the structural condition of improvements, hazardous materials, pest infestation, soils conditions, sensitive areas, wetlands, or other matters affecting the feasibility of the Property for Buyer's intended use. Buyer shall schedule any entry onto the Property with Seller in advance and shall comply with Seller's reasonable requirements including those relating to security, confidentiality, and disruption of Seller's tenants. Buyer shall not perform any invasive testing including environmental inspections beyond a phase I assessment or contact the tenants or property management personnel without obtaining the Seller's prior written consent, which shall not be unreasonably withheld. Buyer shall restore the Property and improvements to the same condition they were in prior to inspection. Buyer shall be solely responsible for all costs of its inspections and feasibility analysis and has no authority to bind the Property for purposes of statutory liens. Buyer agrees to indemnify and defend Seller from all liens, costs, claims, and expenses, including attorneys' and experts' fees, arising from or relating to entry onto or inspection of the Property by Buyer and its agents. This agreement to indemnify and defend Seller shall survive closing. Buyer may continue to enter the Property in accordance with the foregoing terms and conditions after removal or satisfaction of the feasibility contingency only for the purpose of leasing or to satisfy conditions of financing.

c. Buyer waives the right to receive a seller disclosure statement ("Form 17-Commercial") if required by RCW 64.06. However, if Seller would otherwise be required to provide Buyer with a Form 17-Commercial, and if the answer to any of the questions in the section of the Form 17-Commercial entitled "Environmental" would be "yes," then Buyer does not waive the receipt of the "Environmental" section of the Form 17-Commercial which shall be provided by Seller.

6. TITLE INSURANCE.

a. Title Report. Seller authorizes Buyer, its Lender, Listing Broker, Selling Broker or Closing Agent, at Seller's expense, to apply for and deliver to Buyer a ☒ standard ☐ extended (standard, if not completed) coverage owner's policy of title insurance. If an extended coverage owner's policy is specified, Buyer shall pay the increased costs associated with that policy including the excess premium over that charged for a standard coverage policy, and the cost of any survey required by the title insurer. The title report shall be issued by First American Title Insurance Company (a title company of Seller's choice, if not completed). If Seller previously received a preliminary commitment from a title insurer that Buyer declines to use, Buyer shall pay any cancellation fee owing to the original title insurer. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed.

b. Permitted Exceptions. Buyer shall notify Seller of any objectionable matters in the title report or any supplemental report within the earlier of: (1) twenty (20) days after Mutual Acceptance of this Agreement; or (2) the expiration of the Feasibility Period. This Agreement shall terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless within five (5) days of Buyer's notice of such objections (1) Seller agrees, in writing, to remove all objectionable provisions or (2) Buyer notifies Seller that Buyer waives any objections which Seller does not agree to remove. If any new title matters are disclosed in a supplemental title report, then the preceding termination, objection and waiver provisions shall apply to the new title matters except that Buyer's notice of objections must be delivered within five (5) days of delivery of the supplemental report and Seller's response or Buyer's waiver must be delivered within two (2) days of Buyer's notice of objections. The closing date shall be extended to the extent necessary to permit time for these notices. Buyer shall not be required to object to any mortgage or deed of trust liens, or the statutory lien for real property taxes, and the same shall not be deemed to be Permitted Exceptions; provided, however, that the lien securing

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 Buyer _____ Date _____ Seller _____ Date _____



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any financing which Buyer has agreed to assume shall be a Permitted Exception. Except for the foregoing, those provisions not objected to or for which Buyer waived its objections shall be referred to collectively as the "Permitted Exceptions." Seller shall cooperate with Buyer and the title company to clear objectionable title matters but shall not be required to incur any out-of-pocket expenses or liability other than payment of monetary encumbrances not assumed by Buyer and proration of real property taxes, and Seller shall provide an owner's affidavit containing the information and reasonable covenants requested by the title company. The title policy shall contain no exceptions other than the General Exclusions and Exceptions common to such form of policy and the Permitted Exceptions.

7. **CLOSING OF SALE.** The sale shall be closed on or before March 31, 2014, ("Closing") by **First American Title Insurance Company** ("Closing Agent") (Seller shall select the Closing Agent, if not completed). Buyer and Seller shall deposit with Closing Agent by 12:00 p.m. on the scheduled Closing date all instruments and monies required to complete the purchase in accordance with this Agreement. "Closing" shall be deemed to have occurred when the deed is recorded and the sale proceeds are available to Seller. Time is of the essence in the performance of this Agreement. Sale proceeds shall be considered available to Seller, even though they cannot be disbursed to Seller until the next business day after Closing. Notwithstanding the foregoing, if Seller informed Buyer during the Feasibility Period that Seller's underlying financing requires that it be defeased and may not be paid off, then Closing shall be conducted in accordance with the three-day closing process described in CBA Form PS-D. This Agreement is intended to constitute escrow instructions to Closing Agent. Buyer and Seller will provide any supplemental instructions requested by Closing Agent provided the same are consistent with this Agreement.
8. **CLOSING COSTS AND PRORATIONS.** Seller shall deliver an updated rent roll to Closing Agent not later than two (2) days before the scheduled Closing date in the form required by Section 5(a) and any other information reasonably requested by Closing Agent to allow Closing Agent to prepare a settlement statement for Closing. Seller certifies that the information contained in the rent roll is correct as of the date submitted. Seller shall pay the premium for the owner's standard coverage title policy. Buyer shall pay the excess premium attributable to any extended coverage or endorsements requested by Buyer, and the cost of any survey required in connection with the same. Seller and Buyer shall each pay one-half of the escrow fees. Any real estate excise taxes shall be paid by the party who bears primary responsibility for payment under the applicable statute or code. Real and personal property taxes and assessments payable in the year of closing; collected rents on any existing tenancies; interest; utilities; and other operating expenses shall be pro-rated as of Closing. If tenants pay any of the foregoing expenses directly, then Closing Agent shall only pro rate those expenses paid by Seller. Buyer shall pay to Seller at Closing an additional sum equal to any utility deposits or mortgage reserves for assumed financing for which Buyer receives the benefit after Closing. Buyer shall pay all costs of financing including the premium for the lender's title policy. If the Property was taxed under a deferred classification prior to Closing, then Seller shall pay all taxes, interest, penalties, deferred taxes or similar items which result from removal of the Property from the deferred classification. At Closing, all refundable deposits on tenancies shall be credited to Buyer or delivered to Buyer for deposit in a trust account if required by state or local law. Buyer shall pay any sales or use tax applicable to the transfer of personal property included in the sale.
- a. **Unpaid Utility Charges.** Buyer and Seller ☐ WAIVE ☒ DO NOT WAIVE (do not waive if neither box checked) the right to have the Closing Agent disburse closing funds necessary to satisfy unpaid utility charges affecting the Property pursuant to RCW 60.80. If "do not waive" is checked, then attach CBA Form UA ("Utility Charges" Addendum) to this Agreement.
9. **POST-CLOSING ADJUSTMENTS, COLLECTIONS, AND PAYMENTS.** After Closing, Buyer and Seller shall reconcile the actual amount of revenues or liabilities upon receipt or payment thereof to the extent those items were prorated or credited at Closing based upon estimates. Any bills or invoices received by Buyer after Closing which relate to services rendered or goods delivered to the Seller or the Property prior to Closing shall be paid by Seller upon presentation of such bill or invoice. At Buyer's option, Buyer may pay such bill or invoice and be

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Buyer _____ Date _____ Seller _____ Date _____



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reimbursed the amount paid plus interest at the rate of 12% per annum beginning fifteen (15) days from the date of Buyer's written demand to Seller for reimbursement until such reimbursement is made. Notwithstanding the foregoing, if tenants pay certain expenses based on estimates subject to a post-closing reconciliation to the actual amount of those expenses, then Buyer shall be entitled to any surplus and shall be liable for any credit resulting from the reconciliation. Rents collected from each tenant after Closing shall be applied first to rentals due most recently from such tenant for the period after closing, and the balance shall be applied for the benefit of Seller for delinquent rentals owed for a period prior to closing. The amounts applied for the benefit of Seller shall be turned over by Buyer to Seller promptly after receipt. Seller shall be entitled to pursue any lawful methods of collection of delinquent rents but shall have no right to evict tenants after Closing.

- 10. OPERATIONS PRIOR TO CLOSING.** Prior to Closing, Seller shall continue to operate the Property in the ordinary course of its business and maintain the Property in the same or better condition than as existing on the date of Mutual Acceptance but shall not be required to repair material damage from casualty except as otherwise provided in this Agreement. After the Feasibility Period, Seller shall not enter into or modify existing rental agreements or leases (except that Seller may enter into, modify, extend, renew or terminate residential rental agreements or residential leases in the ordinary course of its business), service contracts, or other agreements affecting the Property which have terms extending beyond Closing without first obtaining Buyer's consent, which shall not be unreasonably withheld.
- 11. POSSESSION.** Buyer shall be entitled to possession ☐ on closing ☒ subject to existing lease (on closing, if not completed). Buyer shall accept possession subject to all tenancies disclosed to Buyer during the Feasibility Period.
- 12. SELLER'S REPRESENTATIONS.** Except as disclosed to or known by Buyer prior to the satisfaction or waiver of the feasibility contingency stated in Section 5 above, including in the books, records and documents made available to Buyer, or in the title report or any supplemental report or documents referenced therein, Seller represents to Buyer that, to the best of Seller's actual knowledge, each of the following is true as of the date hereof: (a) Seller is authorized to enter into the Agreement, to sell the Property, and to perform its obligations under the Agreement; (b) The books, records, leases, agreements and other items delivered to Buyer pursuant to this Agreement comprise all material documents in Seller's possession or control regarding the operation and condition of the Property; (c) Seller has not received any written notices that the Property or the business conducted thereon violate any applicable laws, regulations, codes and ordinances; (d) Seller has all certificates of occupancy, permits, and other governmental consents necessary to own and operate the Property for its current use; (e) There is no pending or threatened litigation which would adversely affect the Property or Buyer's ownership thereof after Closing; (f) There is no pending or threatened condemnation or similar proceedings affecting the Property, and the Property is not within the boundaries of any planned or authorized local improvement district; (g) Seller has paid (except to the extent prorated at Closing) all local, state and federal taxes (other than real and personal property taxes and assessments described in Section 8 above) attributable to the period prior to closing which, if not paid, could constitute a lien on Property (including any personal property), or for which Buyer may be held liable after Closing; (h) Seller is not aware of any concealed material defects in the Property except as disclosed to Buyer in writing during the Feasibility Period; (i) There are no Hazardous Substances (as defined below) currently located in, on, or under the Property in a manner or quantity that presently violates any Environmental Law (as defined below); there are no underground storage tanks located on the Property; and there is no pending or threatened investigation or remedial action by any governmental agency regarding the release of Hazardous Substances or the violation of Environmental Law at the Property. As used herein, the term "Hazardous Substances" shall mean any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, toxic substance, pollutant, or contaminant under any federal, state, or local law, regulation, or ordinance governing any substance that could cause actual or suspected

INITIALS: Buyer H. L. Date 12/23/13 Seller DAE Date 1/7/14
Buyer _____ Date _____ Seller _____ Date _____



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harm to human health or the environment ("Environmental Law"). The term "Hazardous Substances" specifically includes, but is not limited to, petroleum, petroleum by-products, and asbestos.

If prior to Closing Seller or Buyer discovers any information which would cause any of the representations above to be false if the same were deemed made as of the date of such discovery, then the party discovering the same shall promptly notify the other party in writing. If the newly-discovered information will result in costs or liability to Buyer in excess of the lesser of \$100,000 or five percent (5%) of the purchase price stated in this Agreement, or will materially adversely affect Buyer's intended use of the Property, then Buyer shall have the right to terminate the Agreement and receive a refund of its earnest money. Buyer shall give notice of termination within five (5) days of discovering or receiving written notice of the new information. Nothing in this paragraph shall prevent Buyer from pursuing its remedies against Seller if Seller had actual knowledge of the newly-discovered information such that a representation provided for above was false.

- 13. AS-IS.** Except for those representations and warranties specifically included in this Agreement: (i) Seller makes no representations or warranties regarding the Property; (ii) Seller hereby disclaims, and Buyer hereby waives, any and all representations or warranties of any kind, express or implied, concerning the Property or any portion thereof, as to its condition, value, compliance with laws, status of permits or approvals, existence or absence of hazardous material on site, occupancy rate or any other matter of similar or dissimilar nature relating in any way to the Property, including the warranties of fitness for a particular purpose, tenantability, habitability and use; (iii) Buyer otherwise takes the Property "AS IS;" and (iv) Buyer represents and warrants to Seller that Buyer has sufficient experience and expertise such that it is reasonable for Buyer to rely on its own pre-closing inspections and investigations.

14. PERSONAL PROPERTY.

a. This sale includes all right, title and interest of Seller to the following tangible personal property: ☒ None
☐ That portion of the personal property located on and used in connection with the Property, which Seller will itemize in an Exhibit to be attached to this Agreement within ten (10) days of Mutual Acceptance (None, if not completed). The value assigned to the personal property shall be \$ _____ (if not completed, the County-assessed value if available, and if not available, the fair market value determined by an appraiser selected by the Listing Broker and Selling Broker). Seller warrants title to, but not the condition of, the personal property and shall convey it by bill of sale.

b. In addition to the leases and Vendor Contracts assumed by Buyer pursuant to Section 5(a) above, this sale includes all right, title and interest of Seller to the following intangible property now or hereafter existing with respect to the Property including without limitation: all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Property; all rights to utilities serving the Property; all drawings, plans, specifications and other architectural or engineering work product; all governmental permits, certificates, licenses, authorizations and approvals; all rights, claims, causes of action, and warranties under contracts with contractors, engineers, architects, consultants or other parties associated with the Property; all utility, security and other deposits and reserve accounts made as security for the fulfillment of any of Seller's obligations; any name of or telephone numbers for the Property and related trademarks, service marks or trade dress; and guaranties, warranties or other assurances of performance received.

- 15. CONDEMNATION AND CASUALTY.** Seller bears all risk of loss until Closing, and thereafter Buyer shall bear the risk of loss. Buyer may terminate this Agreement and obtain a refund of the earnest money if improvements on the Property are destroyed or materially damaged by casualty before Closing, or if condemnation proceedings are commenced against all or a portion of the Property before Closing. Damage will be considered material if the cost of repair exceeds the lesser of \$100,000 or five percent (5%) of the purchase price stated in this Agreement. Alternatively, Buyer may elect to proceed with closing, in which case, at Closing, Seller shall assign to Buyer all

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Buyer _____ Date _____ Seller _____ Date _____



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claims and right to proceeds under any property insurance policy and shall credit to Buyer at Closing the amount of any deductible provided for in the policy.

16. **FIRPTA - TAX WITHHOLDING AT CLOSING.** Closing Agent is instructed to prepare a certification (CBA or NWMLS Form 22E, or equivalent) that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act, and Seller shall sign it on or before Closing. If Seller is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.
17. **CONVEYANCE.** Title shall be conveyed by a Statutory Warranty Deed subject only to the Permitted Exceptions. If this Agreement is for conveyance of Seller's vendee's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a contract vendee's assignment sufficient to convey after acquired title. At Closing, Seller and Buyer shall execute and deliver to Closing Agent CBA Form No. PS-AS Assignment and Assumption Agreement transferring all leases and Vendor Contracts assumed by Buyer pursuant to Section 5(a) and all intangible property transferred pursuant to Section 14(b).
18. **NOTICES AND COMPUTATION OF TIME.** Unless otherwise specified, any notice required or permitted in, or related to, this Agreement (including revocations of offers and counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and must be delivered to Seller and Listing Broker with a courtesy copy to any other party identified as a recipient of notices in Section 28. A notice to Seller shall be deemed delivered only when received by Seller, Listing Broker, or the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and must be delivered to Buyer, with a copy to Selling Broker and with a courtesy copy to any other party identified as a recipient of notices in Section 28. A notice to Buyer shall be deemed delivered only when received by Buyer, Selling Broker, or the licensed office of Selling Broker. Selling Broker and Listing Broker have no responsibility to advise of receipt of a notice beyond either phoning the represented party or causing a copy of the notice to be delivered to the party's address provided in this Agreement. Buyer and Seller shall keep Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt of a notice. If any party is not represented by a licensee, then notices must be delivered to and shall be effective when received by that party at the address, fax number, or email indicated in Section 28.

Unless otherwise specified in this Agreement, any period of time in this Agreement shall mean Pacific Time and shall begin the day after the event starting the period and shall expire at 5:00 p.m. of the last calendar day of the specified period of time, unless the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in which case the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays or legal holidays. Notwithstanding the foregoing, references to specific dates or times or number of hours shall mean those dates, times or number of hours; provided, however, that if the Closing Date falls on a Saturday, Sunday, or legal holiday as defined in RCW 1.16.050, or a date when the county recording office is closed, then the Closing Date shall be the next regular business day.

19. **AGENCY DISCLOSURE.** At the signing of this Agreement,

Selling Broker Tracy Lucas of Kiemle & Hagood Company

represented dual agency

and the Listing Broker Mike Livingston and Tracy Lucas of Kiemle & Hagood Company

represented dual agency.

Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any)

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represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to the Brokers' Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as a dual agent. If Selling Broker and Listing Broker are the same person representing both parties, then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency."

- 20. ASSIGNMENT.** Buyer ☒ may ☐ may not (may not, if not completed) assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, unless provided otherwise herein. If the "may not" option is selected and the words "and/or assigns" or similar words are used to identify the Buyer, then this Agreement may be assigned with notice to Seller but without Seller's consent only to an entity which is controlled by or under common control with the Buyer identified in this Agreement. Any other assignment requires Seller's consent. The party identified as the initial Buyer shall remain responsible for those obligations of Buyer stated in this Agreement notwithstanding any assignment and, if this Agreement provides for Seller to finance a portion of the purchase price, then the party identified as the initial Buyer shall guarantee payment of the Seller financing.

21. DEFAULT AND ATTORNEY'S FEE.

a. Buyer's default. In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then (**check one**):

☒ Seller may terminate this Agreement and keep the earnest money as liquidated damages as the sole and exclusive remedy available to Seller for such failure; or

☐ Seller may, at its option, (a) terminate this Agreement and keep as liquidated damages the earnest money as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.

b. Seller's default. In the event Seller fails, without legal excuse, to complete the sale of the Property, then (**check one**):

☒ As Buyer's sole remedy, Buyer may either (a) terminate this Agreement and recover all earnest money or fees paid by Buyer whether or not the same are identified as refundable or applicable to the purchase price; or (b) bring suit to specifically enforce this Agreement and recover incidental damages, provided, however, Buyer must file suit within sixty (60) days from the scheduled date of closing or from the date Seller has informed Buyer in writing that Seller will not proceed with closing, whichever is earlier; or

☐ Buyer may, at its option, (a) bring suit against Seller for Buyer's actual damages, (b) bring suit to specifically enforce this Agreement and recover any incidental damages, or (c) pursue any other rights or remedies available at law or equity.

Neither Buyer nor Seller may recover consequential damages such as lost profits. If Buyer or Seller institutes suit against the other concerning this Agreement, the prevailing party is entitled to reasonable attorneys' fees and expenses. In the event of trial, the amount of the attorney's fee shall be fixed by the court. The venue of any suit shall be the county in which the Property is located, and this Agreement shall be governed by the laws of the state where the Property is located.

22. MISCELLANEOUS PROVISIONS.

a. Complete Agreement. This Agreement and any addenda and exhibits thereto state the entire understanding of Buyer and Seller regarding the sale of the Property. There are no verbal or other written agreements which modify or affect the Agreement.

INITIALS: Buyer H.L. Date 12/23/13 Seller DA Date 1/7/14
Buyer _____ Date _____ Seller _____ Date _____



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- b. Counterpart Signatures.** This Agreement may be signed in counterpart, each signed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same agreement.
- c. Electronic Delivery.** Electronic delivery of documents (e.g., transmission by facsimile or email) including signed offers or counteroffers and notices shall be legally sufficient to bind the party the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will replace electronically delivered offers or counteroffers with original documents.
- d. Section 1031 Like-Kind Exchange.** If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party agrees to cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding Section 20 above, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.
- 23. ACCEPTANCE; COUNTEROFFERS.** Seller has until ~~midnight of~~ 5 pm, Tuesday, January 7, 2014 (if not filled in, the third business day) following the day Buyer delivers the offer to accept this offer, unless sooner withdrawn. If this offer is not timely accepted, it shall lapse and the earnest money shall be refunded to Buyer. If either party makes a future counteroffer, the other party shall have until 5:00 p.m. on the second business day (if not filled in, the second business day) following receipt to accept the counteroffer, unless sooner withdrawn. If the counteroffer is not timely accepted or countered, this Agreement shall lapse and the earnest money shall be refunded to the Buyer. No acceptance, offer or counteroffer from the Buyer is effective until a signed copy is received by the Seller, the Listing Broker or the licensed office of the Listing Broker. No acceptance, offer or counteroffer from the Seller is effective until a signed copy is received by the Buyer, the Selling Broker or the licensed office of the Selling Broker. "Mutual Acceptance" shall occur when the last counteroffer is signed by the offeree, and the fully-signed counteroffer has been received by the offeror, his or her broker, or the licensed office of the broker. If any party is not represented by a broker, then notices must be delivered to and shall be effective when received by that party.
- 24. INFORMATION TRANSFER.** In the event this Agreement is terminated, Buyer agrees to deliver to Seller within ten (10) days of Seller's written request copies of all materials received from Seller and any non-privileged plans, studies, reports, inspections, appraisals, surveys, drawings, permits, applications or other development work product relating to the Property in Buyer's possession or control as of the date this Agreement is terminated.
- 25. CONFIDENTIALITY.** Until and unless closing has been consummated, Buyer and Seller shall follow reasonable measures to prevent unnecessary disclosure of information obtained in connection with the negotiation and performance of this Agreement. Neither party shall use or knowingly permit the use of any such information in any manner detrimental to the other party.
- 26. SELLER'S ACCEPTANCE AND BROKERAGE AGREEMENT.** Seller agrees to sell the Property on the terms and conditions herein, and further agrees to pay a commission in a total amount computed in accordance with the listing or commission agreement. If there is no written listing or commission agreement, Seller agrees to pay a commission of 6% of the sales price or \$_____. The commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing or any co-brokerage agreement. If there is no listing or written co-brokerage agreement, then Listing Firm shall pay to Selling Firm a commission of _____% of the sales price or \$_____. Seller assigns to Listing Firm and Selling Firm a portion of the sales proceeds equal to the commission. If the earnest money is retained as liquidated damages, any costs advanced or committed by Listing Firm or Selling Firm for Buyer or Seller shall be reimbursed or paid therefrom, and the balance shall be paid one-half to Seller and one-half to Listing Firm and Selling Firm according to the listing agreement and any co-brokerage agreement. In any action by Listing Firm or Selling Firm to enforce this Section, the prevailing party is entitled to reasonable

INITIALS: Buyer H. L. Date 12/23/13 Seller DA Date 1/7/14
Buyer _____ Date _____ Seller _____ Date _____



Kiemle & Hagood Company
601 W Main Avenue, Suite 400
Spokane, WA 99201
Phone: (509) 838-6541
Fax: (509) 458-4014

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CBA Form PS-1A
Purchase & Sale Agreement
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**COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)**

attorneys' fees and expenses. Neither Listing Firm nor Selling Firm are receiving compensation from more than one party to this transaction unless disclosed on an attached addendum, in which case Buyer and Seller consent to such compensation. The Property described in attached Exhibit A is commercial real estate. Notwithstanding Section 25 above, the pages containing this Section, the parties' signatures and an attachment describing the Property may be recorded.

- 27. LISTING BROKER AND SELLING BROKER DISCLOSURE.** EXCEPT AS OTHERWISE DISCLOSED IN WRITING TO BUYER OR SELLER, THE SELLING BROKER, LISTING BROKER, AND FIRMS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OR CONDUCTED ANY INDEPENDENT INVESTIGATION CONCERNING THE LEGAL EFFECT OF THIS AGREEMENT, BUYER'S OR SELLER'S FINANCIAL STRENGTH, BOOKS, RECORDS, REPORTS, STUDIES, OR OPERATING STATEMENTS; THE CONDITION OF THE PROPERTY OR ITS IMPROVEMENTS; THE FITNESS OF THE PROPERTY FOR BUYER'S INTENDED USE; OR OTHER MATTERS RELATING TO THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE PROPERTY'S ZONING, BOUNDARIES, AREA, COMPLIANCE WITH APPLICABLE LAWS (INCLUDING LAWS REGARDING ACCESSIBILITY FOR DISABLED PERSONS), OR HAZARDOUS OR TOXIC MATERIALS INCLUDING MOLD OR OTHER ALLERGENS. SELLER AND BUYER ARE EACH ADVISED TO ENGAGE QUALIFIED EXPERTS TO ASSIST WITH THESE DUE DILIGENCE AND FEASIBILITY MATTERS, AND ARE FURTHER ADVISED TO SEEK INDEPENDENT LEGAL AND TAX ADVICE RELATED TO THIS AGREEMENT.

INITIALS: Buyer H.G. Date 12/23/13 Seller DA Date 1/7/14
Buyer _____ Date _____ Seller _____ Date _____



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**COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)**

28. IDENTIFICATION OF THE PARTIES. The following is the contact information for the parties involved in this Agreement:

Buyer

Contact: Hal Lotzenhiser
Address: _____
Business Phone: _____
Mobile Phone: 509.995.4424
Fax: _____
Email: prosoundaudio@msn.com

Seller

Contact: Dave Steele
Address: 808 W. Spokane Falls Blvd., Spokane, WA
Business Phone: 509.625.6700
Mobile Phone: _____
Fax: _____
Email: dsteale@SpokaneCity.org

Selling Firm

Name: Kiemle & Hagood Compay
Assumed Name (if applicable) : _____
Selling Broker: Tracy Lucas
Address: 601 W Main Ave, #400, Spokane, WA 99201
Business Phone: 509.755.7558
Mobile Phone: _____
Email: tracyl@khco.com
Fax: 509.755.7570
MLS Office No.: _____

Listing Firm

Name: Kiemle & Hagood Compay
Assumed Name (if applicable) : _____
Listing Broker: Mike Livingston
Address: 601 W Main Ave, #400, Spokane, WA 99201
Business Phone: 509.755.7559
Mobile Phone: _____
Email: mikel@khco.com
Fax: 509.458.4014
MLS Office No.: _____

Licensed Office of the Selling Broker

Address: _____
Business Phone: _____
Email: _____
Fax: _____
CBA Office No.: _____

Licensed Office of the Listing Broker

Address: _____
Business Phone: _____
Email: _____
Fax: _____
CBA Office No.: _____

INITIALS: Buyer H. L. Date 12/23/13 Seller DS Date 1/7/14
Buyer _____ Date _____ Seller _____ Date _____



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**COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)**

Courtesy Copy of Notices to Buyer to:

Name: _____
Address: _____
Business Phone: _____
Fax: _____
Mobile Phone: _____
Email: _____

Courtesy Copy of Notices to Seller to:

Name: _____
Address: _____
Business Phone: _____
Fax: _____
Mobile Phone: _____
Email: _____

IN WITNESS WHEREOF, the parties have signed this Agreement intending to be bound.

Buyer Hal Lotzenhiser and/or assigns
Printed name and type of entity

Buyer Hal Lotzenhiser, Owner
Signature and title

Date signed 12/23/13

Seller City of Spokane
Printed name and type of entity

Seller Dan A. Cowan
Signature and title

Date signed 1/7/14

Buyer _____
Printed name and type of entity

Buyer _____
Signature and title

Date signed _____

Seller _____
Printed name and type of entity

Seller _____
Signature and title

Date signed _____

INITIALS: Buyer H.L. Date 12/23/13 Seller DA Date 1/7/14
Buyer _____ Date _____ Seller _____ Date _____



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**COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)**

EXHIBIT A *

[Legal Description]

14-26-42 PTN OF NW1/4 OF NW1/4 DAF: BEG AT A PT ON W LN OF SEC, 672.70FT S OF NW COR, TH
N72DEG 3 49SDS E 142.06FT, TH N PARA WITH W LN OF SEC 247.88FT M/L TO PT ON S LN TRENT AVE, TH
SWLY ALG SD SLY R/W LN TO W LN OF SEC, TH S ALG W LN TO POB EXC HAVANA ST

PARCEL NUMBER: 35142.0007

- * To ensure accuracy in the legal description, consider substituting the legal description contained in the preliminary commitment for title insurance or a copy of the Property's last vesting deed for this page. Do not neglect to label the substitution "Exhibit A." You should avoid transcribing the legal description because any error in transcription may render the legal description inaccurate and this Agreement unenforceable.

INITIALS: Buyer H. L. Date 12/23/13 Seller [Signature] Date 1/7/14
Buyer _____ Date _____ Seller _____ Date _____



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Utility Addendum
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Page 1 of 2

UTILITY CHARGES ADDENDUM

CBA Text Disclaimer: Text deleted by licensee indicated by strike.
New text inserted by licensee indicated by small capital letters.

The following is part of the Purchase and Sale Agreement dated December 23, 2013 between Hal Lotzenhiser and/or assigns ("Buyer") and City of Spokane ("Seller") concerning 4304 E. Trent (the "Property").

Pursuant to RCW 60.80, Buyer and Seller request the Closing Agent to administer the disbursement of closing funds necessary to satisfy unpaid utility charges affecting the Property. The names and addresses of all utilities providing service to the Property and having lien rights are as follows:

Water District:

City of Spokane Utilities Division - 509.625.6270

Name

808 W. Spokane Falls Blvd

Address

Spokane, WA 99201

City, State, Zip

Sewer District:

City of Spokane Utilities Division - 509.625.6270

Name

808 W. Spokane Falls Blvd.

Address

Spokane, WA 99201

City, State, Zip

Irrigation District:

Name

Address

City, State, Zip

Garbage:

City of Spokane - 509.625.6000

Name

808 W. Spokane Falls Blvd.

Address

Spokane, WA 99201

City, State, Zip

Electricity:

Avista - 509.924.9400

Name

1411 E. Mission Avenue

Address

Spokane, WA 99252

City, State, Zip

Gas:

Avista - 509.924.9400

Name

1411 E. Mission Avenue

Address

Spokane, WA 99252

City, State, Zip

INITIALS: Buyer H.L. Date 12/23/13 Seller DM Date 1/7/14
Buyer _____ Date _____ Seller _____ Date _____



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Utility Addendum
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**UTILITY CHARGES ADDENDUM
(CONTINUED)**

Special District(s):
(local improvement districts
or utility local improvement)

Name

Address

City, State, Zip

IF THE ABOVE INFORMATION HAS NOT BEEN FILLED IN AT THE TIME OF MUTUAL ACCEPTANCE OF THIS AGREEMENT, THEN (1) WITHIN _____ DAYS (5 DAYS IF NOT FILLED IN) OF MUTUAL ACCEPTANCE OF THIS AGREEMENT, SELLER SHALL PROVIDE THE LISTING BROKER, SELLING BROKER, OR CLOSING AGENT WITH THE NAMES AND ADDRESSES OF ALL UTILITY PROVIDERS HAVING LIEN RIGHTS AFFECTING THE PROPERTY AND (2) BUYER AND SELLER AUTHORIZE LISTING BROKER, SELLING BROKER OR CLOSING AGENT TO INSERT INTO THIS ADDENDUM THE NAMES AND ADDRESSES OF THE UTILITY PROVIDERS IDENTIFIED BY SELLER. SELLER ACKNOWLEDGES THAT THIS ADDENDUM DOES NOT RELIEVE SELLER OF ITS OBLIGATION TO PAY UTILITY CHARGES, BILLED OR UNBILLED OR EVIDENCED BY A RECORDED LIEN OR NOT. THE PARTIES UNDERSTAND THAT NEITHER LISTING BROKER NOR SELLING BROKER IS RESPONSIBLE FOR PAYING UTILITY CHARGES OR FOR INSURING THAT THEY ARE PAID BY ANY OTHER PERSON.

INITIALS: Buyer N. L. Date 12/23/13 Seller [Signature] Date 1/7/14
Buyer _____ Date _____ Seller _____ Date _____

BRIEFING PAPER
Asset Management Group
Monday, January 5, 2015

Subject:

Purchase and Sale Agreement for the sale of 4304 East Trent Avenue.

Background:

This property was acquired as ROW for the construction of the Havana Street Bridge. A portion of the property was used to modify the intersection at Trent and Havana Street. As the remainder of this property is no longer needed, it was declared surplus in 2013 and subsequently listed with our commercial brokers.

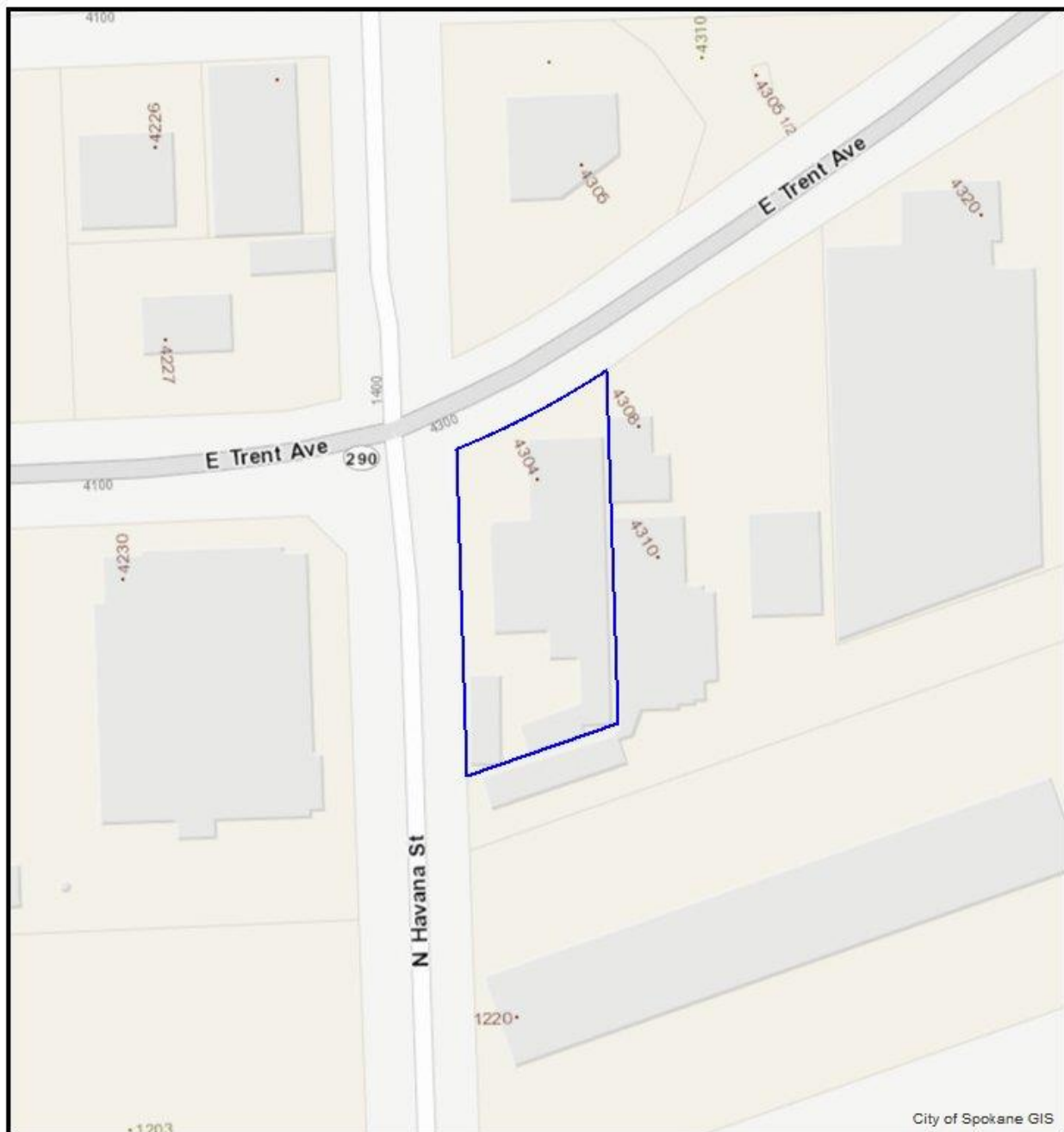
The property was acquired for \$240,000 with the substantial portion of those dollars being federal grant dollars. This agreement would sell the property for \$180,000 (with \$24,000 in deductions made for needed roof replacement, environmental work, and general repairs to plumbing). The transaction will close on or before January 31st, 2015.

Impact:

The closing of this sale provides \$156,000 for reinvestment by Arterial Streets and Asset Management on current needs.

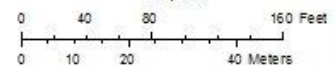
Action:

Approval of the Purchase and Sale Agreement



Legend

1:1,200



4304

January 5, 2015



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.

For further information on this subject contact David Steele, Asset Management
Business & Development Services, 625-6064.

RESOLUTION NO. 2012-0083

A RESOLUTION PROVIDING FOR THE SALE OF SURPLUS CITY PROPERTY.

WHEREAS, the City of Spokane is the owner of certain property located in the City of Spokane, County of Spokane, State of Washington, and more particularly described in Exhibit A hereto ("Property"); and

WHEREAS, the Property was acquired to facilitate construction of the Havana Street Bridge Project; and

WHEREAS, the bridge project is complete, and the City of Spokane finds that those portions of the Property that are no longer needed for project construction are no longer needed for any public use of the City of Spokane and are hereby declared to be surplus; and

WHEREAS, RCW 35.22.280(3) authorizes the City to dispose of surplus property, with RCW 39.33.020 providing the method for intergovernmental transfers of surplus City property with an estimated value in excess of fifty thousand dollars (\$50,000.00); and

WHEREAS, the City's Asset Management Department has determined that the estimated value of the Property exceeds \$50,000.00; and

WHEREAS, the City of Spokane is required to seek fair market value for the Property.

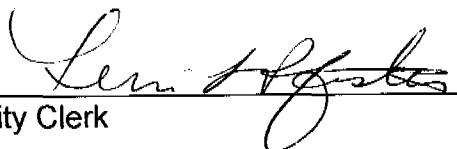
NOW, THEREFORE - - it is hereby resolved by the Spokane City Council;

1. The Property is hereby declared to be surplus City property no longer needed for the present and foreseeable public uses of the City.
2. The City of Spokane, acting through the Asset Management Department, shall determine the fair market value of the Property using the services of an M.A.I. Appraiser.
3. The Asset Management Department is authorized to seek a qualified buyer or buyers for the Property. In the event that an RFP process is utilized to select a buyer or buyers, the RFP evaluation team shall include the chair of the PCED Committee. The Asset Management Department is authorized to negotiate the terms of a purchase and sale agreement with said buyer(s), with final approval of any purchase and sale agreement being by the City Council.

4. The proceeds of such sale shall be handled in accordance with rules relating to the funding that was used to acquire the Property in connection with the Havana Street Bridge Project, with all revenues (minus fees and funds required to be directed to the Arterial Street Fund) being deposited in the "Asset Management Fund".

5. Because the estimated value of the Property is more than fifty thousand dollars (\$50,000.00), any such sale or transfer of the Property to a governmental agency shall be subject to the public notice and hearing requirements of RCW 39.33.020.

ADOPTED by the Spokane City Council this 1st day of October, 2012.


City Clerk

Approved as to form:


Assistant City Attorney



Exhibit 'A'

4304 East Trent Avenue Spokane County Assessor Parcel #35142.0007

Legal Description:

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 25 NORTH, RANGE 43 EAST, W.M., IN THE CITY OF SPOKANE, SPOKANE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF SAID SECTION, 572.7 FEET SOUTH OF THE NORTHWEST CORNER OF SAID SECTION;
THENCE NORTH 72°34' EAST, 142.06 FEET TO A POINT WHICH IS MARKED BY A WOODEN HUB; THENCE NORTH PARALLEL WITH THE WEST LINE OF SECTION 14, A DISTANCE OF 247.88 FEET, MORE OR LESS, TO A POINT IN THE SOUTH RIGHT OF WAY LINE OF TRENT AVENUE; THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY TO THE WEST LINE OF SECTION 14; THENCE SOUTH ALONG SAID WEST LINE TO A POINT OF BEGINNING;

EXCEPT HAVANA STREET ON THE WEST.

1001 North Havana Street Spokane County Assessor Parcel #35151.3323

Legal Description:

PARCEL A:

THAT PORTION OF BLOCKS 116, 117, 118, 119, 123 AND 124 AND PORTIONS OF VACATED CATALDO AVENUE, MALLON AVENUE AND CUBA STREET IN EAST SIDE SYNDICATE ADDITION, ACCORDING TO PLAT RECORDED IN VOLUME "C" OF PLATS, PAGE 73, IN THE CITY OF SPOKANE, SPOKANE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 200.00 FEET NORTH OF THE SOUTH LINE OF SAID BLOCK 117 AND 18.00 FEET WEST OF THE EAST LINE OF SAID BLOCK 117;
THENCE DUE WEST AT RIGHT ANGLES TO HAVANA STREET, 329.00 FEET;
THENCE NORTH 39.00 FEET;
THENCE WEST 133.50 FEET;

BRIEFING PAPER
Department of Public Works & Utilities
Monday, September 10, 2010

Subject:

Surplus of 3 properties acquired in conjunction with the Havana Street Bridge project.

Background:

In association with the Havana Street Bridge Project the City acquired several properties. These properties were determined to be heavily impacted by the construction of the new bridge and deemed as full takes for the purposes of ROW. Now with the project substantially complete, the City desires to surplus these 3 properties and dispose of them for fair market value.

Impact:

The Havana Street Bridge Project was completed through a partnership of seven funding agencies and a total budget of nearly \$22 million with the City's portion totaling roughly \$2 million. Completion of the project provides the City with the opportunity to surplus these properties, moving each parcel back on to the tax rolls, and capturing our initial investment. Each property will have an updated appraisal completed prior to sale.

Eligible proceeds from these sales or exchanges, above the City's original grant match contribution, are proposed to be deposited in the City's "Asset Management Fund".

Action:

Approval of the surplus resolution.

THENCE NORTH 411.71 FEET;
THENCE NORTH 72°43'30" EAST, 503.20 FEET TO A POINT ON THE EAST LINE OF SAID
BLOCK
124;
THENCE SOUTH 150.00 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 124;
THENCE SOUTH 89°33'42" WEST, ALONG THE SOUTH LINE OF SAID BLOCK 124, 18.00
FEET;
THENCE SOUTH 450.00 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A PERPETUAL EASEMENT FOR INGRESS AND EGRESS OVER AND
ACROSS THE
EASTERLY 50 FEET OF THAT PORTION OF BLOCK 124 IN SAID EAST SIDE SYNDICATE
ADDITION LYING NORTHERLY OF THE ABOVE DESCRIBED REAL PROPERTY.

EXCEPT THAT PORTION OF BLOCKS 116, 119 AND 123, AND PORTIONS OF VACATED
CATALDO
AVENUE AND MALLON AVENUE IN EAST SIDE SYNDICATE ADDITION, ACCORDING TO
PLAT
RECORDED IN VOLUME "C" OF PLATS, PAGE 73, IN THE CITY OF SPOKANE, SPOKANE
COUNTY,
WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 200.00 FEET NORTH OF THE SOUTH LINE OF SAID
BLOCK
117 AND 18.00 FEET WEST OF THE EAST LINE OF SAID BLOCK 117;
THENCE DUE WEST AT RIGHT ANGLES TO HAVANA STREET, 329.00 FEET;
THENCE NORTH 39.00 FEET;
THENCE WEST 133.50 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH, 411.71 FEET;
THENCE NORTH 72°43'36" EAST, 26.18 FEET;
THENCE SOUTH 419.48 FEET;
THENCE WEST, 25.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL B:

THAT PORTION OF BLOCKS 123 AND 124 AND PORTIONS OF VACATED CATALDO
AVENUE AND
CUBA STREET IN EAST SIDE SYNDICATE ADDITION, ACCORDING TO PLAT RECORDED IN
VOLUME "C" OF PLATS, PAGE 73, IN THE CITY OF SPOKANE, SPOKANE COUNTY,
WASHINGTON,
DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 200.00 FEET NORTH OF THE SOUTH LINE OF SAID
BLOCK
117 AND 18.00 FEET WEST OF THE EAST LINE OF SAID BLOCK 117;
THENCE DUE WEST, AT RIGHT ANGLES TO HAVANA STREET, 329.00 FEET;

THENCE NORTH 39.00 FEET;
THENCE WEST, 133.50 FEET;
THENCE NORTH, 537.02 FEET, MORE OR LESS, TO THE SOUTH LINE OF NORTHERN
PACIFIC
RAILWAY RIGHT-OF-WAY;
THENCE NORTH 72°43'36" EAST, 26.18 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 72°43'36" EAST, 477.02 FEET TO THE NORTHEAST
CORNER OF
SAID BLOCK 124;
THENCE SOUTH, ALONG THE EAST LINE OF SAID BLOCK 124, 125.31 FEET;
THENCE SOUTH 72°43'36" WEST, 477.02 FEET;
THENCE NORTH, 125.31 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL C:

THAT PORTION OF BLOCK 116 AND A PORTION OF VACATED CUBA STREET IN EAST SIDE
SYNDICATE ADDITION, ACCORDING TO PLAT RECORDED IN VOLUME "C" OF PLATS,
PAGE 73,
IN THE CITY OF SPOKANE, SPOKANE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS 200.00 FEET NORTH OF THE SOUTH LINE OF SAID
BLOCK
117 AND 18.00 FEET WEST OF THE EAST LINE OF SAID BLOCK 117;
THENCE DUE WEST AT RIGHT ANGLES TO HAVANA STREET, 329.00 FEET TO THE TRUE
POINT
OF BEGINNING;
THENCE NORTH 39.00 FEET;
THENCE WEST, 108.50 FEET;
THENCE SOUTH 39.90 FEET;
THENCE EAST, 108.50 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL D:

THE EAST 18 FEET OF BLOCKS 117 AND 118 IN EAST SIDE SYNDICATE ADDITION,
ACCORDING
TO PLAT RECORDED IN VOLUME "C" OF PLATS, PAGE 73, IN THE CITY OF SPOKANE,
SPOKANE
COUNTY, WASHINGTON;

EXCEPT THE SOUTH 200 FEET OF SAID EAST 18 FEET OF SAID BLOCK 117;

AND THE EAST 18 FEET OF VACATED MALLON AVENUE, 75 FEET IN WIDTH, LYING
BETWEEN
AND ADJOINING SAID BLOCKS 117 AND 118;

AND THE EAST 18 FEET OF VACATED CATALDO AVENUE, 75 FEET IN WIDTH, LYING
BETWEEN
AND ADJOINING SAID BLOCKS 118 AND 124;

AND LOT 3, BLOCK 124, EAST SIDE SYNDICATE ADDITION, ACCORDING TO PLAT
RECORDED
IN VOLUME "C" OF PLATS, PAGE 73, IN THE CITY OF SPOKANE, SPOKANE COUNTY,
WASHINGTON.

4323 East Broadway
Spokane County Assessor Parcel #35142.9041 and #35142.9078

Legal Description:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER
OF SECTION 14, TOWNSHIP 25 NORTH, RANGE 43 EAST, W.M., IN THE CITY OF
SPOKANE VALLEY, SPOKANE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF BROADWAY AVENUE
AND THE EAST LINE OF HAVANA STREET;
THENCE NORTH 360 FEET ALONG THE EAST LINE OF HAVANA STREET;
THENCE EAST 300 FEET;
THENCE SOUTH 360 FEET TO THE NORTH LINE OF BROADWAY AVENUE;
THENCE WEST 300 FEET TO THE POINT OF BEGINNING.

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

01/26/2015

<u>Date Rec'd</u>	1/14/2015
<u>Clerk's File #</u>	OPR 2007-0468
<u>Renews #</u>	

<u>Submitting Dept</u>	INTEGRATED CAPITAL MGMT	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	LARS HENDRON 625-7929	<u>Project #</u>	
<u>Contact E-Mail</u>	LHENDRON@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Contract Item	<u>Requisition #</u>	CR15031
<u>Agenda Item Name</u>	4320 FILTRATION PILOT STUDY AMENDMENT		

Agenda Wording

Amendment No. 8 to contract with Esvelt Environmental Engineering to conduct a Filtration Pilot Study to determine the most suitable technology for the Next Level of Treatment at Riverside State Park Water Reclamation Facility in connection (cont.)

Summary (Background)

The City is preparing to install membrane treatment at RPWRF to comply with its Waste Discharge Permit and Ecology's Dissolved Oxygen Total Maximum Daily Load. The 2009-2011 Phosphorus Pilot conducted by Esvelt Environmental Engineering (EEE) identified membranes as the best technology for the Next Level of Treatment (NLT). In 2014, the City selected CH2M Hill Engineers for design, construction management, and startup of the membrane project. The City subsequently selected (cont.)

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 598,000	#	4370-94338-94000-56501
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	TAYLOR, MIKE	<u>Study Session</u>	
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	Public Works 11/24/14
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	SCHOEDEL, ELIZABETH		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

with Ecology's Dissolved Oxygen Total Maximum Daily Load - \$598,000. (Total amount \$4,060,700 through March 1, 2021.) (OPR07-0468)

Summary (Background)

General Electric and Pall Corporation to each provide membrane units for a side-by-side pilot test to choose which is best for NLT. Based on its unique experience conducting the Phosphorus Pilot, EEE is proposed to operate the side-by-side membrane pilot and to provide independent consulting to the City throughout the implementation of NLT. Cost not to exceed \$598,000.

Fiscal Impact		Budget Account	
Select	\$		#
Select	\$		#

Distribution List	
kheatherly@spokanecity.org	

BRIEFING PAPER
Public Works Committee
Integrated Capital Management
November 24, 2014

Subject

Amendment to Contract with Esvelt Environmental Engineering (EEE) for professional services to (1) operate Membrane Pilot units at Riverside Park Water Reclamation Facility (RPWRF) and (2) provide independent consulting to the City regarding Next Level of Treatment (NLT) installation

Background

The City is preparing to install membrane treatment at RPWRF to comply with its Waste Discharge Permit and Ecology's Dissolved Oxygen Total Maximum Daily Load. The 2009-2011 Phosphorus Pilot conducted by EEE identified membranes as the best technology for NLT. Earlier this year, the City selected CH2M Hill Engineers for design, construction management, and startup of the membrane project. The City subsequently selected General Electric and Pall Corporation to provide membrane treatment units for a side-by-side pilot test to choose which is best for NLT. Cost not to exceed approximately \$750,000.00 (exact amount is being finalized).

Based on its unique experience conducting the Phosphorus Pilot, EEE is proposed to operate the side-by-side membrane pilot and to provide independent consulting to the City throughout the implementation of NLT.

Impact

EEE's services will help ensure the success of NLT to achieve a "cleaner river faster."

Action

Recommend approval.

Funding

Funding is generated from Sewer rates and is provided within the Wastewater Management Department budget.

CONTRACT AMENDMENT #8

THIS CONTRACT AMENDMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and ESVELT ENVIRONMENTAL ENGINEERING, whose address is 7605 East Hodin Drive, Spokane, Washington 99212-1816, as "Consultant".

WHEREAS, the parties entered into a Contract wherein the Contractor agreed to complete a FILTRATION PILOT STUDY; and

WHEREAS, the work associated with this Filtration Pilot Study in response to the City's RFQ Number 3390-7 is ongoing and the City requires additional work from Consultant on this Next Level Treatment (NLT) Project; and

WHEREAS, the Spokane River and Lake Spokane are listed under Federal Section 303(d) of the Clean Water Act as impaired regarding dissolved oxygen; and

WHEREAS, the City owns and operates Riverside Park Water Reclamation Facility (RPWRF), a Municipal Publically-Owned Treatment Works (POTW) that discharges treated effluent to the lower Spokane River; and

WHEREAS, the City in 2006 submitted to Ecology a required Technology Selection Protocol describing that the City would pilot various treatment technologies to identify the Next Level of Treatment (NLT) to reduce RPWRF's nutrient load to the Spokane River; and

WHEREAS, the City retained Esvelt Environmental Engineering (EEE) in 2007 to conduct a phosphorus pilot test of various full-scale tertiary treatment units to identify which technology was best-suited for the NLT; and

WHEREAS, Ecology established a Dissolved Oxygen Total Maximum Daily Load (TMDL) in 2011 that established a Waste Load Allocation for RPWRF regarding phosphorus, ammonia, and carbonaceous biological oxygen demand; and

WHEREAS, National Pollutant Discharge Elimination Program Permit No. WA 0024473 (Permit) issued by Ecology contains effluent limits reflecting the TMDL and requires the City install NLT by March 1, 2018 and comply with the final effluent limits by March 1, 2021; and

WHEREAS, the City selected CH2M Hill Engineers, Inc. via a qualifications-based selection per RCW 38.80.040 as its Engineer to provide professional engineering services to design NLT and manage the construction thereof; and

WHEREAS, EEE, because of its unique piloting role in choosing the NLT, was expressly excluded from competing for design and construction of NLT; and

WHEREAS, EEE's knowledge and insight regarding the phosphorus pilot information is crucial to the City and its Engineer during design and construction to ensure NLT performs as well as possible to meet the Permit limits and achieve the TMDL; and

WHEREAS, EEE is the only firm to have such knowledge and insight; -- Now, Therefore,

The parties agree as follows:

1. DOCUMENTS. The Contract dated June 19, 2007, 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 the parties, and run through March 1, 2021.
3. AMENDMENT. Section 1 and Section 2 of the contract documents is amended to read as follows:

1. PERFORMANCE. In addition to the original scope, the Consultant shall, as described in its proposal, incorporated herein as Exhibit A, provide pilot operation of a drum screen unit and two membrane treatment units, and provide independent engineering consulting to the City to enhance the implementation of membranes as NLT.

Task 6. Preliminary Engineering phase assistance

Task 7. Final Design phase assistance

Task 8. Construction phase assistance

Task 9. Operation and Maintenance assistance

Task 10. Process Consulting for NLT related projects and projects requiring integration with NLT and existing facilities

2. TIME OF PERFORMANCE. This Agreement shall begin ~~June 20, 2007~~, and run through March 1, 2021.

4. COMPENSATION. The City shall pay FIVE HUNDRED AND NINETY EIGHT THOUSAND AND NO/100 DOLLARS (\$598,000.00) 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: _____

ESVELT ENVIRONMENTAL
ENGINEERING

E-Mail address, if available:

Mark@esvelt.com

By: Mark Esvelt

Title: LLC Member

Attachment that is a part of this Contract:

Exhibit A: Esvelt Environmental Engineering's – Proposed Scope of Services, Next Level of Treatment Membrane Pilot Operation and Implementation Consulting

14-640

EXHIBIT A

Proposed Scope of Services

Next Level of Treatment Membrane Pilot Operation and Implementation Consulting

Riverside Park Water Reclamation Facility

City of Spokane



**ESVELT
ENVIRONMENTAL
ENGINEERING**

In association with:

Water & Wastewater Services, LLC





Water Quality & Treatment / Wastewater Treatment studies, Design, Operation / Industrial Wastewater Management
ESVELT ENVIRONMENTAL ENGINEERING
7605 E. Hodin Dr., Spokane, WA, 99212, Ph 509-926-3049 Fax 509-922-3073

April 1, 2014
Revised August 12, 2014
Final revision December 2, 2014

Mr. Lars Hendron, P.E.
City of Spokane
Integrated Capital Management Department
808 West Spokane Falls Blvd
Spokane, WA 99201

Dear Mr. Hendron:

Esvelt Environmental Engineering is pleased to submit this proposed scope for engineering services to assist the City of Spokane with the implementation phase of the Next Level of Treatment (NLT) at Riverside Park Water Reclamation Facility (RPWRF).

As the lead consultant in the RPWRF's NLT phosphorus removal pilot study, Esvelt Environmental Engineering is uniquely qualified to assist the City in the NLT implementation phase. Our familiarity with the RPWRF process, and the knowledge we gained during the pilot study and analysis of results will allow us to help the City integrate the NLT process and operations with existing facilities and operations.

We propose to draw on the experience and knowledge of Water & Wastewater Services, LLC (W&WS), as a sub-consultant on an as-needed basis. Specifically, we would use the individuals who operated the RPWRF phosphorus removal pilot studies as a resource to provide beneficial operationally-based input during the NLT implementation project, then rely more heavily on them to be available as much as the City needs during start-up and commissioning. Additional assistance in operation and maintenance, and sample handling and analytical procedures, would be available beyond the commissioning phase as a separate task.

Esvelt Environmental Engineering also has a strong understanding of the background and context for the NLT project, having been involved in the dissolved oxygen TMDL development since its beginning. We have participated in water quality, modeling, and technology workshops, and provided input to regulators and dischargers in the effort to allow the Lake Spokane dissolved oxygen issue to be addressed as cost-effectively and as practically as possible. We continue to stay abreast of developments in the implementation of the TMDL and the potential for adjustments to waste load allocations as we approach re-assessment of the CE-QUAL-W2 model parameters to take into consideration updated water quality data and phosphorus reduction efforts.

We will utilize this background, along with our extensive phosphorus-removal experience from other facilities to assist the City in working toward a successful project.

Qualifications and Experience

Our proposed team includes:

- **Esvelt Environmental Engineering.** Esvelt Environmental Engineering (EEE) was established in 1976 to specialize in water related environmental engineering services. The objective of EEE is to provide municipal and industrial clients and other consultants with state of the art consulting for water quality evaluations and designs for water and wastewater treatment.

EEE will be the process technical consultant for this implementation project. Our overall goal is to make sure the NLT implementation is successful for the City of Spokane. To us, this means it will meet the effluent quality goals, be cost-effectively implemented, be efficient to operate and maintain, and be an exemplary asset of the City for many years. By serving the City directly, we will be able to provide the City with valuable expertise and assistance in protecting the City's interests and investments, helping the City guide the design engineers at critical decision points in the process, and provide process technical input to help assure a successful project.

In addition to leading the RPWRF pilot study since 2007, EEE has been process lead design engineer for many phosphorus removal projects in recent years. These include biological phosphorus removal in Cheney, Medical Lake, Moscow, Enumclaw, Buckley, Liberty Lake, and Airway Heights. We have also been lead process engineer for physical/chemical phosphorus polishing facilities in Medical Lake, Moscow, Airway Heights, and are currently leading the process design for the Liberty Lake Sewer and Water District upgrade to achieve final effluent total phosphorus limitation loads based on 0.050 mg/L seasonal average using tertiary membrane filtration.

As a project process technical advisor and quality assurance consultant, we have assisted in the designs for biological phosphorus removal for Post Falls and Hayden Area Regional Sewerage Board (HARSB), and led the alternatives selection efforts for low-P effluent polishing for Post Falls and Pullman.

Our membrane design experience in wastewater applications includes effluent polishing at Airway heights, Liberty Lake (in design), Dover, Idaho, and Kamilche, Washington (Squaxin Island Tribe).

Mark Esvelt, P.E. and Allison Esvelt, P.E. would be the individuals working on this project for Esvelt Environmental Engineering. Both are board certified Water / Wastewater Specialists with the American Academy of Environmental Engineers and Scientists. NLT implementation will be Esvelt Environmental Engineering's highest priority project.



EEE is organized as a Limited Liability Company (LLC) in Washington with two members, Mark Esvelt and Allison Esvelt. We are located at 7605 East Hodin Drive, Spokane, WA 99212-1816. EEE has current Spokane Business License No.

T11049635BUS, valid through January 31, 2015. Insurance coverage in compliance with previous City contracts is maintained, and certificates of insurance are currently on file with the City of Spokane for current contract work with the RPWRF phosphorus removal pilot work.

- **Water and Wastewater Services, LLC.** W&WS is a full-service professional management, water and wastewater utility operations company. W&WS specializes in facility operations and project management for water and wastewater utilities, and is responsible for operations at multiple wastewater facilities utilizing membranes.

W&WS would be a sub-consultant to Esvelt Environmental Engineering for this project.

As the operator for the RPWRF pilot studies, W&WS staff has intimate knowledge of the NLT background and operational challenges that can be expected, and can help to offer ideas during design that may mitigate these challenges and result in a facility that is cost-effective to operate and maintain. W&WS can also provide direct assistance to RPWRF staff with regards to operations, maintenance, and sampling handling protocols for utilizing this type of equipment and operating for optimized phosphorus removal.

Kelly Wynn is the founder and owner of W&WS, and is certified as a group III wastewater treatment operator. Kelly will manage and direct the W&WS staff schedule to assure timely service for the City of Spokane needs.

Brian Walker holds Group IV wastewater operator certification, and was W&WS's project manager for the RPWRF phosphorus pilot study, and was responsible for all operations, maintenance, and the extensive sampling and data handling tasks. He authored the *P-Pilot Operator's Summary Report*, which is included in final study report as appendix B. In addition, Brian has direct experience operating membrane facilities for wastewater treatment plants, including GE-Zenon submerged membranes. He also has extensive experience with a wide range of chemical feed applications for coagulation and flocculation processes. Brian would be the primary operations advisor from W&WS on all review and assistance tasks for the NLT implementation project.

Proposed Tasks

Our proposal is based on the following tasks amended to the original agreement.

Task 6 – Preliminary Engineering Phase Assistance

The preliminary engineering phase is a critical component for this important project as it will refine the project scope moving forward into final design. Our goal would be to work to facilitate the City's review and coordination of the preliminary engineering work, by adding our expertise to the City's efforts to assure the design proceeds in a direction most beneficial to the City: cost-effectively and technically sound.

General descriptions of efforts included in Task 6:

- Selection and pre-purchase of membrane equipment. The pilot study results were developed using specific membrane equipment. We would help the City determine the applicability of the piloted equipment and/or other proposed equipment and appropriateness of extrapolating results to sizing the equipment.
- Operations assistance for side-by-side pilot study of final equipment alternatives. Water & Wastewater Services personnel would be available to operate side-by-side pilot equipment for the City. The proposed scope is based on the following operation assistance:
 - Assist City and manufacturers during the “dial-in” period. During this time, the manufacturers are expected to have the primary responsibility for operations. Water & Wastewater Services would be on-site part-time during the commission/start-up phase, in order to learn the operation and maintenance procedures from the manufacturers to the extent necessary to take over operations once the manufacturer's representatives have left the site. For the purposes of scoping this task, full-time presence is assumed for 2 weeks (to cover both pilot units), followed by 1 or 2-days per week presence for the balance of manufacturer's operation (while manufacturers operate the units), to assist with operations, help bring City personnel along in transitioning the operation and maintenance tasks, help reduce burden on the City staff in coordinating tasks such as sample collection and delivery, and to observe laboratory operations for low-level phosphorus measurements and offer assistance and input as needed.
 - Operate side-by-side units during the transition period from manufacturer operation. The transition from manufacturer is expected to take place during the winter months, when City staff will be responsible for varying duties that may not allow consistent hours for pilot operation. Water & Wastewater Services would be available full-time to take over all operation, maintenance, and sampling duties during the transition, while also working with the City personnel to allow the City to assume these duties on a day-to-day basis as tasks are streamlined and become more routine. It is assumed this transition period will be 4-weeks, in order to allow flexibility in the City's scheduling of operators.
 - Follow-up visits during the balance of the side-by-side testing period. After the nominal 4-week period of full-time operation indicated above, the City will assume routine testing and operation of the side-by-side pilot units. Site visits by

Water & Wastewater Services will be for the benefit of RPWRF staff, to assess operations, maintenance frequency and cleaning programs, to make any adjustments to operations or cleaning programs deemed appropriate by the City's NLT design consultants, and provide input regarding equipment operations to assist the City in its comparative assessment of the equipment for the purposes of selecting the final NLT technology. It is estimated visits would total of 3 or 4-days per month, no more than weekly.

- Final write-up of side-by-side operations presenting comparative level of effort for the two piloted units, estimates of man-power requirements for all operation and maintenance tasks, and other opinions relevant to the NLT technology selection.
- Operations assistance with the pilot drum screen unit.
- Schematic Design Input. Lessons learned during piloting will be applied to thorough review of proposed schematic flow diagrams presented by the NLT design engineers.
- Design and Technical Memorandum Review. Provide the City with comments and input during the development of preliminary design documents to help assure all concerns and options are identified and addressed to the City's satisfaction.
- Preview Technical Memoranda and Preliminary Drawings to facilitate City's milestone reviews. The NLT design engineers will expect the City to provide the most comprehensive reviews of the preliminary engineering documents drafts submitted to the City at specific milestones in order to allow them to move forward with final design with full support from the City. Esvelt Environmental Engineering will commit to as intensive and comprehensive reviews as the City desires during these milestone review periods. EEE is well-qualified to add our reviews to supplement that of City staff, which may be limited in review time, since regular staff obligations will continue to demand their time.

Task 7 – Final Design Phase Assistance

The Final Design phase will detail the facilities RPWRF operational staff will need to maintain for many years. Our own detailed design experience will help us provide meaningful input for consideration at each review point and decision point during this phase. Additionally, W&WS may be consulted to provide input. Task two efforts would be expected to include the following:

- Detailed Design Input. We anticipate attending design meetings to help the City stay responsive to the NLT design engineer's schedule, and provide input on specific design decisions and interim milestone documents.
- Design and Specifications Review. We would assist with the City's review of specifications and design documents at draft stages of design. Our own experience with equipment procurement and detailed design will be brought to the table to help the overall NLT process through this phase.
- Preview Design Documents to facilitate City's milestone reviews. Our efforts to review milestone documents as they are made available will include tracking progress leading up to the issuance of these drafts, and we will be able to present early preview comments

to the City going into the milestone reviews. This will help the City through its own reviews in a timely manner.

- Facilitate / enhance communication between the RPWRF staff and the NLT design engineers. Our experience during the phosphorus piloting will be used to help the City and RPWRF staff identify design elements where they will want to have specific input. W&WS will be brought along as needed to help provide operator-friendly solutions to these areas.
- Project coordination assistance to the City, as needed.

Task 8 – Construction Phase Assistance

The NLT implementation will include an extended construction phase due to the project complexity and size. Esvelt Environmental Engineering will be available during this time to

- Review key submittals. Consistency and deviations from pilot study results and conclusions will be identified, and interpretation of impacts to performance and operations will be provided.
- Provide construction observation at key points in the project.
- Provide input regarding changes during construction, as the City's resource in helping to assess the impacts of proposed changes to the final NLT functionality as well as impacts to other components of the overall RPWRF process.
- Provide input regarding the start-up and commissioning plans of the NLT design engineers, as well as assistance in helping RPWRF staff receive the maximum benefit from these services.
- Provide input during the NLT design engineer's development of the Standard Operation Procedures documentation and training of operator personnel.

Task 9 – Operation and Maintenance Assistance

Esvelt Environmental Engineering and Water & Wastewater Services will be available to provide additional operation and maintenance assistance to RPWRF staff during the "dial-in" period following start-up and commissioning. We propose the City authorize this task 'as-needed' after commissioning is complete.

- Assist RPWRF Operations and Maintenance staff during the "Dial-in" period for the new process. The permit limitations for total phosphorus are not scheduled to take effect until 2021, approximately two years after start-up of the NLT facilities. We would work to help RPWRF staff optimize operations to bring the new facilities up to the necessary performance level before the new limitations take effect. We would rely heavily on the experience of W&WS for this assistance, utilizing their experience in the phosphorus pilot study and elsewhere.
- Assist RPWRF Lab staff with sample handling, analysis, and interpretation of analytical results from the new facilities, to smooth the transition to reporting for compliance with the new total phosphorus limitations. Once again, we would take advantage of the lessons from the pilot study, by using W&WS for assistance.

Task 10 – Process Consulting for NLT related projects and projects requiring integration with NLT and existing facilities.

The NLT facilities will impact every aspect of the RPWRF facility. It is also anticipated that some projects will be performed to prepare for the NLT installation project. For example, site preparation and/or surplus of the City's pilot equipment. We propose to be available to assist the City in any way the City needs. Efforts may include the following:

- Input during project development and design.
- Review preliminary and final design memoranda, plans, specifications for compatibility with the NLT project and the process and water quality needs.
- Review design documents for coordination with on-going facility operations and associated constraints.
- Assist the City in coordinating projects to avoid conflicts and to help maintain the NLT implementation schedule.
- Assist the City in identifying critical portions of any proposed modifications to the DO TMDL implementation plan that may come out of the re-assessment efforts or that may arise between the start of the NLT implementation project out through commissioning. Modifications may consist of model adjustments to reflect new water quality data or rate parameters, pollutant trading efforts, or interactions between other dischargers and Avista.
- NPDES Permit review and comments related to the NLT facilities, projected performance, and framework for the permit limitations.

Proposed Budget Estimate

We propose to provide the above services billed on a time-and expense basis, to allow the City flexibility with respect to depth of review and technical process work, or input at each stage of the NLT implementation project. We will proceed with tasks as directed by the City. A proposed budget for these services, as described above, is broken out by task as follows.

Task No.	Description (Summary)	Professional Services ¹	Expenses ²	Total Budget
ESVELT ENVIRONMENTAL ENGINEERING				
6	Preliminary Engineering (2014-2015)	\$59,000	\$3,000	\$62,000
7	Final Engineering (2015-2017)	\$69,000	\$1,000	\$70,000
8	Construction Phase Assistance (2016-2019)	\$150,000	\$3,000	\$153,000
9	O&M Assistance – Post-commissioning ³	\$50,000	\$3,000	\$53,000
10	General Process Consulting regarding NLT-related projects (2014-2019)	\$70,000	\$1,000	\$71,000
Esvelt Environmental Engineering Budget				\$409,000
SUB-CONTRACT: WATER & WASTEWATER SERVICES				
6	Preliminary Engineering	\$78,000	\$2,000	\$80,000
7	Final Engineering	\$12,000	\$2,000	\$14,000
8	Construction Phase Assistance	\$30,000	\$10,000	\$40,000
9	O&M Assistance ³	\$40,000	\$10,000	\$50,000
10	General Process Consulting regarding NLT-related projects	\$4,000	\$1,000	\$5,000
W&WS Budget				\$189,000
Total Budget Amount Including Subs				\$598,000

Notes for table:

1. Current hourly billing rate for both Mark Esvelt and Allison Esvelt is \$120. The above estimated fee is based on updating billing rates annually at nominally 4% per year (consistent with our historical annual increases. Maximum annual increase during this contract would be limited to 5%.
2. Expenses include estimated 5% mark-up on sub-consultant to cover B&O tax, impact to professional liability insurance premiums, and additional bookkeeping. Mark-up will be clearly identified on billings.
3. Task 9 is additional assistance after commissioning is completed. Task 9 work would be done only with specific, separate authorization.

Proposed Contract Time

The above budget estimate is based on the NLT implementation project being commissioned in 2019. Tasks 7-9 and task 10 would be completed by the time the new facilities are through commissioning and standard operating procedures are finalized.

EEE effort would be distributed approximately equally through this period. W&WS effort would be weighted heavily into tasks 6 (side-by-side pilot testing) and then in the 6-months± leading up to commissioning and during commissioning and start-up periods, 2018-2019.

Task 9 is a post-commissioning task, and would begin after commissioning is complete and the City specifically authorizes it.

We very much appreciate the chance to present this proposed scope of services, and look forward to working with the City on this important project.

Sincerely Yours,

ESVELT ENVIRONMENTAL ENGINEERING



Mark H. Esvelt, P.E., BCEE
LLC Member

Attachments:

Esvelt Environmental Engineering, LLC Qualifications and Experience

MINUTES OF SPOKANE CITY COUNCIL

Monday, January 5, 2015

BRIEFING SESSION

The Briefing Session of the Spokane City Council held on the above date was called to order at 3:30 p.m. in the Council Chambers in the Lower Level of the Municipal Building, 808 West Spokane Falls Boulevard, Spokane, Washington.

Roll Call

On roll call, Council President Stuckart and Council Members Allen, Fagan, Mumm, Snyder, Stratton and Waldref were present.

City Administrator Theresa Sanders, Assistant City Attorney Mike Piccolo, and City Clerk Terri Pfister were also present on the dais.

Suspension of Council Rules to add Emergency Budget Ordinance C35221 to Advance Agenda and Resolution 2015-0007 to Current Agenda

Motion by Council Member Fagan, seconded by Council Member Waldref, **to suspend** the Council Rules; **carried unanimously.**

Motion by Council Member Fagan, seconded by Council Member Waldref, **to add** Emergency Budget Ordinance C35221 to next week's (January 12) Agenda; **carried unanimously.**

Motion by Council Member Mumm, seconded by Council Member Snyder, to add Resolution 2015-0007 to tonight's (January 5 Legislative) Agenda; **carried 6-1 (Council Member Fagan voting "no").**

Advance Agenda Review

Council received input from staff on the January 12, 2015, Advance Agenda items.

Resolution 2015-0006

Utilities Division Director Rick Romero provided an overview of Resolution 2015-0006 adopting the Comprehensive Water System Plan. He requested a deferral of the item so that an additional study session could be held on the implementation of the Plan. Subsequent to Council discussion, the following action was taken:

Motion by Council Member Waldref, seconded by Council Member Snyder, **to defer** Resolution 2015-0006 to January 26, 2015; **carried unanimously.**

Final Reading Ordinance C35214

Council Member Snyder, as sponsor, introduced Final Reading Ordinance C35214 relating to Historic Preservation and the Landmarks Commission. He called Historic Preservation Officer Megan Duvall forward to also provide comment and an overview of the ordinance and to respond to Council inquiries. Council President Stuckart indicated he was uncomfortable with language being removed (as provided by the ordinance), and he suggested it be sent back to committee for further discussion. Council President Stuckart noted the Plan Commission is planning to hold a hearing on the proposed ordinance on January 28. Subsequent to discussion, the following action was taken:

Motion by Council Member Mumm, seconded by Council Member Waldref, **to defer** Ordinance C35214 (for first reading) to the first week in February (February 2); **carried 6-1 (Council Member Snyder voting “no”).**

Action to Approve January 12, 2015, Advance Agenda

Following staff reports and Council inquiry and discussion regarding the January 12, 2015, Advance Agenda items, the City Council took the following action (pursuant to Council Rule 2.1.2):

Motion by Council Member Fagan, seconded by Council Member Allen, **to approve** the Advance Agenda for Monday, January 12, 2015 (as amended); **carried unanimously.**

ADMINISTRATIVE SESSION

Current Agenda Review

Council reviewed items on the January 5, 2015, Current Agenda for any changes and/or additions.

Proposed Initiative No. 2015-1 Filed by Jackie Murray (LGL 2014-0023)

Council Member Fagan requested that Current Consent Agenda Item No. 1—Proposed Initiative No. 2015-1 filed by Jackie Murray on behalf of Respect Washington to remove from the Spokane Municipal Code words added by Ordinance Nos. C35164 and C35167 which prohibit city employees from acquiring or ascertaining immigration status information in the course of lawful duties—be moved to tonight’s 6:00 p.m. Legislative Session.

Action to Approve January 5, 2015, Current Agenda

Following staff reports and Council inquiry and discussion regarding the January 5, 2015, Current Agenda items, the City Council took the following action (pursuant to Council Rule 2.1.2):

Motion by Council Member Allen, seconded by Council Member Waldref, **to approve** the Current Agenda for Monday, January 5, 2015 (as amended); **carried unanimously**.

CONSENT AGENDA

Upon motion of Council Member Snyder, seconded by Council Member Allen, Council unanimously approved Staff Recommendations for the following:

Extension of Value Blanket Order to purchase ammunition from San Diego Police Equipment (San Diego, CA) for the Spokane Police Department from October 1, 2014 through September 30, 2015—\$200,000. (OPR 2011-0770)

Purchase from Washington State Department of Enterprise Services (Olympia, WA) of various Software Products—\$150,000 (plus tax and shipping). (OPR 2015-0003)

Purchase of servers and related equipment from IBM Corporation/Lenovo, Inc. (Armonk, NY) for the IT Department utilizing Washington State Contract #T10-MST-312/T10-MST-300 from January 1, 2015 through December 31, 2015—\$150,000 (plus tax and shipping). (OPR 2015-0004)

Purchase of PC, Laptop and Mobile Data Hardware Equipment from Dell Marketing L.P. (Dell Financial Services, L.L.C.) (Austin, TX) from January 1, 2015 through December 31, 2015—\$360,000 (plus tax). (OPR 2015-0005)

Contract utilizing CompuCom Systems, Inc. (Dallas, TX) for the Microsoft Enterprise Agreement License Support to include Right to Use Microsoft Licenses and Software Assurance for the City of Spokane using Washington State DES Contract #T11-MST-579—\$481,827 (plus tax). (OPR 2015-0006)

Last of three one-year renewals with Structured Communications Systems, Inc. (Clackamas, OR) for 24x7 extended support for the Symantec centralized backup softwares utilized by the City of Spokane—\$104,895.35 (plus tax). (OPR 2012-1035)

First of four one-year renewal options with Cerium Networks, Inc. (Spokane, WA) for maintenance of Cisco equipment located in City Hall and other locations from January 1, 2015 through December 31, 2015—\$220,137.59 (plus tax). (OPR 2014-0008)

Interlocal Cooperation Agreements for Hearing Examiner services with:

- a. The City of Millwood. (OPR 2015-0007)
- b. The City of Liberty Lake. (OPR 2015-0008)

c. The City of Cheney. (OPR 2015-0009)

d. The City of Airway Heights. (OPR 2015-0010)

Interlocal agreement with Spokane Transit Authority (Spokane, WA) to provide the public with police services in the STA Plaza facility and a surrounding service area from January 1, 2015 to December 31, 2015—\$86,900. (OPR 2015-0011)

Accept funding recommendations from the Community, Housing and Human Services Board for the 2015 Coordinated Grant Application and authorize CHHS to enter into multiple contracts with awarded agencies. (OPR 2015-0012)

Contract renewal with Blumenthal Uniforms Co. (Spokane, WA) for police uniforms, alterations and repair services from January 1, 2015 through December 31, 2015—estimated annual expense \$150,000. (OPR 2012-0911)

Low Bid of Red Diamond Construction, Inc. (Spokane, WA) for Rebecca Street from Pratt Avenue to 7th Avenue and Julia Street from 7th Avenue to Hartson Avenue—\$505,708.52. An administrative reserve of \$50,570.85, which is 10% of the contract price, will be set aside. (PRO 2015-0006)

Report of the Mayor of pending:

- a. Claims and payments of previously approved obligations, including those of Parks and Library, through December 26, 2014, total \$18,224,191.08 (Check Nos. 501551-502587; ACH Payment Nos. 16228-16513, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$17,674,857.21. (CPR 2014-0002)
- b. Payroll claims of previously approved obligations through December 20, 2014: \$6,086,602.07 (Payroll Check Nos. 527262-527425). (CPR 2014-0003)

City Council Meeting Minutes: (a) December 8, 2014 and (b) December 15, 2014. (CPR 2014-0013)

Executive Session/Council Recess

The City Council adjourned at 4:23 p.m. No Executive Session was held. The City Council reconvened at 6:00 p.m. for the Regular Legislative Session, with Council President Stuckart and Council Members Allen, Fagan, Mumm, Snyder, Stratton and Waldref present. Assistant City Attorney Mike Piccolo and City Clerk Terri Pfister were also present.

LEGISLATIVE SESSION

Pledge of Allegiance

The Pledge of Allegiance was lead by Council President Stuckart.

Roll Call

On roll call, Council President Stuckart and Council Members Allen, Fagan, Mumm, Snyder, Stratton and Waldref were present.

COUNCIL SALUTATION

January 2015 Human Trafficking Prevention Month

Council Member Fagan read the Salutation and presented it to two individuals. The proclamation encourages citizens to join Lutheran Community Services Northwest and Partners Through Arts to attend a candle light vigil to honor the victims and survivors of human trafficking on Sunday, January 11, 2015, at the River Park Square Mall, with the walk beginning at 2:30 p.m., followed by the vigil from 3:00 p.m. to 4:00 p.m.

APPOINTMENTS

Police Ombudsman Hiring Committee

Motion by Council Member Snyder, seconded by Council Member Stratton, to **nominate** Adrian Dominguez to be the City Council representative on the Police Ombudsman Hiring Committee; **carried unanimously**.

February 19 Public Transportation Improvement Conference

Motion by Council Member Snyder, seconded by Council Member Mumm, to **nominate** Council Member Waldref to the February 19, 2015, Public Transportation Improvement Conference; **carried unanimously**.

CITY ADMINISTRATION REPORTS

Spokane Public Schools Bond and Levy Presentation

Dr. Shelley Redinger, Superintendent of Schools, and Mark Anderson, Associate Superintendent, presented an overview of Ballot Proposition No. 1 for "Replacement of Expiring Educational Programs and Operation Levy" and No. 2 for "Capital Improvement and School Construction General Obligation Bonds," which are both on the February 10, 2015, special election ballot.

COUNCIL COMMITTEE REPORTS

Planning, Community, and Economic Development Committee

Council Member Mumm reported on the PCED Committee meeting held earlier today (January 5). Minutes of the PCED Committee meetings are filed with the City Clerk's Office and are available for review following approval by the PCED Committee.

OPEN FORUM

Mr. Rick Bocook commented on skywalks and his feeling that they are public forums. He spoke regarding an incident where he was told by a security guard that music can't be played in the skywalk.

Mr. Alfredo Laredo commented on an incident he was involved in with police relating to the sit and lie ordinance, and he was given a criminal trespass warning. He feels the Police Department is ignoring the civil rights of citizens.

Mr. Henry Valder asked for a minute of silence for Council President Stuckart's father and commented on his impact. In addition he spoke regarding Community Court and homelessness.

Mr. George McGrath commented on snow plows throwing snow berms on sidewalks and into driveways.

Mr. Gabriel Elliot announced a monthly gathering for the Metaphysical Research Society of Spokane every second Thursday at the Spiritual Living Center on South Regal. He also commented on funding for police officers and more police ombudsmen and made other remarks.

LEGISLATIVE AGENDA

EMERGENCY BUDGET ORDINANCE

Emergency Budget Ordinance C35213

Subsequent to an opportunity for public testimony, with none provided, the following action was taken:

Upon Unanimous Roll Call Vote, the City Council **passed Emergency Budget Ordinance C35213** amending Ordinance No. C35185 passed the City Council November 24, 2014, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2015, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2015, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

General Fund—Police

FROM: IG Revenue, \$142,904;

TO: Various Accounts, same amount.

(This action reflects additional revenue and expenses from the Criminal Justice Training Center Basic Law Enforcement Academy reimbursements

for OPR 2014-0823, with funds being used for training software, training contracts, and overtime.)

There were no **Emergency Ordinances**.

RESOLUTIONS

Resolution 2015-0007

Council President Stuckart, as sponsor, introduced Resolution 2015-0007 and read the contents of the resolution (since it had not been on file for three days in the City Clerk's Office). Subsequent to public testimony from one individual and Council commentary, the following action was taken:

Upon 6-1 Roll Call Vote (Council Member Fagan voting "no"), the City Council adopted Resolution 2015-0007 relating to the City of Spokane supporting Ballot Proposition No. 1 entitled "Replacement of Expiring Education Programs and Operation Levy," and No. 2 entitled "Capital Improvement and School Construction General Obligation Bonds" submitted by the Spokane School District 81 for the February 10, 2015, special election regarding propositions for school bond and levy.

Resolution 2015-0001

Subsequent to an opportunity for public testimony, with none provided, the City Council took the following action:

Upon Unanimous Roll Call Vote, the City Council adopted Resolution 2015-0001 declaring Hyland Software, Inc. (Westlake, OH) who owns the rights to the patented software known as OnBase, which is used in various city departments, as sole source and authorizing its purchase—\$73,990.79 (plus tax).

Resolution 2015-0002 (OPR 2015-0014)

Subsequent to public testimony from two individuals, the following action was taken:

Upon Unanimous Roll Call Vote, the City Council adopted Resolution 2015-0002 declaring Lauri Lucas as a sole source to administer Spokane Police Department's Extra Duty program and thus authorizing a Contract with the Spokane Police Department for a period of five years (January 1, 2015 to December 31, 2019)—not to exceed \$183,891.24.

Resolution 2015-0003

Subsequent to an opportunity for public testimony, with none provided, the City Council took the following action:

Upon Unanimous Roll Call Vote, the City Council **adopted Resolution 2015-0003** accepting all of Volume 1 and the City of Spokane portion of Volume 2 (Chapter 9) of the Spokane County Hazard Mitigation Plan Update.

Resolution 2015-0004

Subsequent to an opportunity for public testimony, with none provided, the City Council took the following action:

Upon 6-1 Roll Call Vote (Council Member Fagan voting “no”), the City Council **adopted Resolution 2015-0004** regarding the adoption of the City of Spokane's 2015 Federal Legislative Agenda.

FINAL READING ORDINANCE

Final Reading Ordinance C35209

Subsequent to public testimony and Council discussion, the following action was taken:

Upon 6-1 Roll Call Vote (Council Member Fagan voting “no”), the City Council **passed Final Reading Ordinance C35209** relating to initiatives and referendums; amending SMC sections 2.02.020 and 2.02.130. (This amendment will clarify that a political committee must have a mailing address in the City and either its campaign manager, treasurer, or committee officers are a qualified, registered elector in the City.)

FIRST READING ORDINANCES

The following Ordinances were read for the First Time with further action deferred:

**ORD C35121
(As Amended)**

Vacating the north 30 feet of Rosewood Avenue 225 feet East from the East line of Helena Street to the West line of Pittsburg Street in the Southwest Quarter of Section 28, T26N, R43E, W.M., Spokane Washington (hereinafter “Rosewood Avenue” from owners having an interest in real estate abutting the above right-of-way.

ORD C35211

Amending the Land Use Plan Map of the City's Comprehensive Plan from “Residential 4-10” to “Centers & Corridors Core” for property located within the boundaries of the Hamilton Form Based Code Subarea Plan; and amending the Zoning Map to Context Areas CA1, CA1, CA3, and CA4 Form Based Code Zoning Categories within the boundaries of the Hamilton Form Based Code Subarea Plan, which generally includes a six-block area along Hamilton Street bounded by the alley between Augusta Avenue and Nora Avenue on the North and Desmet Avenue on the South,

all as set forth in Comprehensive Plan Land Use Plan Map Amendment File No. Z1400055COMP. (Relates to First Reading Ordinance C35212)

- ORD C35212** Relating to the Hamilton Form Based Code Subarea Plan; adopting a new chapter 17C.123 Form Based Code Zones to Title 17C Land Use Standards of the Spokane Municipal Code; amending SMC 17C.200.010, 17C.200.040 and 17C.200.050, relating to Landscaping & Screening; amending SMC 17C.230.100, 17C.230.120, 17C.230.130, 17C.230.140, 17C.230.145, and 17C.230.200, relating to Parking & Loading; and amending SMC 17A.020.010, SMC 17A.020.020, 17A.020.030, 17A.020.050, 17A.020.060, 17A.020.070, 17A.020.090, 17A.020.150, 17A.020.160 and 17A.020.220, relating to Definitions. (Relates to First Reading Ordinance C35211)
- ORD C35215** Relating to qualifications for the Planning and Development Services Director; amending SMC section 3.01A.365 of the Spokane Municipal Code.
- ORD C35216** Relating to vehicle impoundment and declaring an area within East Central as an area within which vehicles are subject to impoundment if used to patronize a prostitute and related offenses; amending SMC Section 10.06.037 of the Spokane Municipal Code.
- ORD C35217** Relating to animal control and amending SMC sections 10.03.020, 10.03.033, 10.03.035, and 10.03.050, and adopting a new chapter 10.24A to title 10 of the Spokane Municipal Code.
- ORD C35218** Amending SMC section 10.10.025 regarding vehicular interference.

First Reading Ordinance C35214 is deferred to February 2, 2015. (See section of minutes under 3:30 p.m. Briefing Session.)

SPECIAL CONSIDERATIONS

Proposed Initiative No. 2015-1 (LGL 2014-0023)

The City Council considered Proposed Initiative No. 2015-1 filed by Jackie Murray to remove from the Spokane Municipal Code words added by Ordinance Nos. C35164 and C35167 which prohibit city employees from acquiring or ascertaining immigration status information in the course of lawful duties. Council President Stuckart noted the options before the City Council on Proposed Initiative No. 2015-1 are, as follows: (1) the Council could do nothing, which means that it is then directed to the Hearing Examiner who will give advice on the legality of the initiative and then it gets sent out for signatures; (2) a council member can make a motion to make the proposed initiative into law; or (3) a

council member can make a motion to place the proposed initiative directly on the ballot without signatures.

Council President Stuckart reminded citizens about the rules of decorum and warned if the meeting gets out of hand the meeting will be gaveled. The City Council then received considerable public testimony on the matter.

(During the earlier portion of the public testimony on Proposed Initiative 2015-1, due to audience outbursts, Council President Stuckart gaveled the meeting adjourned at 7:43 p.m., and he left the meeting at that time. The City Council (Council President Stuckart absent) reconvened at 7:45 p.m., with Council President Pro Tem Snyder chairing the remainder of the meeting.)

Following public testimony, Council comment and debate ensued and the following actions were taken:

Motion by Council Member Fagan, seconded by Council Member Allen, that the City Council **adopt Initiative 2015-1** in its entirety; **rejected 2-4 (Council Members Allen and Fagan voting “aye” and Council President Pro Tem Snyder and Council Members Mumm, Stratton, and Waldref voting “no” and Council President Stuckart absent).**

Motion by Council Member Fagan, seconded by Council Member Allen, **to place Initiative 2015-1 on to the 2015 general election ballot**, foregoing the signature gathering process; **rejected 2-4 (Council Members Allen and Fagan voting “aye” and Council President Pro Tem Snyder and Council Members Mumm, Stratton, and Waldref voting “no” and Council President Stuckart absent).**

Council President Pro Tem Snyder noted that since both measures failed, there is no further business before the City Council and the measure will now go to the Hearing Examiner to review the validity of the measure. Assistant City Attorney Mike Piccolo noted that once the Hearing Examiner issues the written opinion, the sponsor has an opportunity to read that opinion and make any changes to the initiative measure based on that opinion or the sponsor can decide they are fine with it the way it is and then go forward to gather signatures. Upon questioning by Council President Pro Tem Snyder as to the timeline to get this on the November ballot, Mr. Piccolo stated that once the Hearing Examiner process is over and the sponsor decides to go forward with collecting signatures (with notification to the city clerk in writing), the sponsor will have 365 days to collect signatures. If they want to get on for a specific ballot, they have to turn in those signatures 120 days before the desired election date.

There were no **Hearings**.

No individuals spoke during the **Second Open Forum**.

ADJOURNMENT

There being no further business to come before the City Council, the Regular Legislative Session of the Spokane City Council adjourned at 8:44 p.m.

Minutes prepared and submitted for publication in the January 14, 2015, issue of the *Official Gazette*.

Terri Pfister, MMC
Spokane City Clerk

Approved by Spokane City Council on _____, 2015.

Ben Stuckart
City Council President

Council Retreat Meeting Minutes

January 8, 2015

Started at 9am

Present: Mike Allen, Jon Snyder, Karen Stratton, Amber Waldref, Candace Mumm, Mike Fagan, Mike Piccolo, Rae-Lynn, Lori, Adam, Richard, Skyler, Sheryl, Nathan.

Council cancellations

Council members suggested that July 6th be the day off for July 4th. Re-establish the meeting for June 29th. Move PCED and Finance.

Council Boards

Need to enshrine alternates – STA and SRTC.

Does airport board allow alternates? Richard would check.

Mike Allen said he would look in to whether there can be alternates for Park Board.

Council Attorney

The council funded a new position for a dedicated council attorney in the most recent budget cycle. City attorney (Nancy) sent out an opinion suggesting that a council attorney could only consult rather be legal counsel. Mike Piccolo does not have an interest in being in the position, wants to stay in the City Attorney's office.

Councilmember Waldref asked how Seattle handles their City attorney. Councilman Snyder said that they elect theirs. Piccolo said Seattle does have legal counsel in the Mayor's office. He suggested that moving forward, we keep the state model in mind (Governor has lawyer, lawyers for committees, lawyers for Attorney General Office).

Councilmember Waldref asked whether the Council attorney could give legal advice. Piccolo said he wasn't sure how you could avoid having them give legal advice given their role, but they could not represent the city in litigation.

Councilmember Snyder suggested there is a conflict with the current system due to attorney's office being under the Mayor. Piccolo suggested that there needs to be more discussion with Nancy, since he wasn't sure what exactly Nancy said.

Councilmember Mumm asked whether there were other cities that have a similar model. It was noted that the only other city is Seattle. She then suggested that we look in to hiring special counsel for different projects and/or policies for independent expertise. (Talk with Nancy). Councilmember Stratton agreed with Councilmember Mumm's suggestion on getting outside counsel for council.

Councilmember Waldref said part of the problem is that you're never going to find an attorney who is an expert on anything, and that we are currently lacking in labor law and land use law and environmental law.

Councilman Allen said he would like to see the position get filled, rather than going for outside counsel (subject matter expertise). CM Allen is concerned with what could happen with outside counsel representing the city and the interests of the municipality. Councilmember Waldref agreed with CM Allen that getting someone on sooner would probably be best given the steep learning curve with Piccolo not being there (He's worked with council for 14 years).

Councilman Snyder said Councilman Fagan and CP Stuckart need to be included in the discussion, and that they will continue the discussion at a later date.

Council office operations

Councilmember Mumm said the amount of calls coming in through the office has dropped. She said MySpokane is intercepting council calls. Sheryl suggested Carly would be the one to talk to regarding this issue. Rae-Lynn said constituents generally don't like phone trees.

Everyone was supportive of the council cash system.

Sheryl and Rae-Lynn asked for council to get a vacuum. Sheryl said she would be happy to pick out the vacuum.

Councilmember Mumm said that there is some ruling coming down that eliminates a council stipend for personal phones; would need to use city owned phone.

Councilmember Allen said this set-up is the best that he's seen so far. There was some discussion about recent incidents that suggest there is a hole in the security at city hall. Richard said we need to have a signal of some sort.

Will look in to another suggested location for a panic button; possible keyboard based panic button? Lori said our conference room does not lock (look in to it). Look in to what our escape/evacuation plan is for the office.

Candace said the new parking lot can be unsafe due to location, and the fact that she works at night. Councilman Snyder suggested that we look in to lighting in the lot (with LED bulbs). Councilman Allen asked whether we could get some hanger or something for parking permits.

Council chambers

Candace said that when she was in Olympia, she talked with council security there and they have a bulletproof shield built in to the front face of the dais. Security there said it is standard operating procedure. Council President Stuckart is meeting with Judy to kick start the revamping of the council chambers. Councilman Snyder's primary concern is universal access to council chambers (people with disabilities). He suggested that a screen or something outside showing what council is doing can help.

Sheryl echoed Jon's concern, and said a more formal set-up would be nice. Richard suggested that people should be able to sign up online.

Councilman Snyder, Council President Stuckart, Councilmember Mumm and Sheryl all said they would be like to on the subcommittee for remodeling the council chambers.

Councilman Allen said that the grant from Comcast could be used for remodeling portions of council (audio/video). Councilman Snyder said that we need to find a solution to the lack of ability to communicate between master control and council.

Councilman Snyder suggested making the agenda packet more easily available. Councilmember Mumm said that we could do something like have a wall tablet where people could scroll through the agenda. There were some suggestions about having briefing papers present at council meetings.

Council Budget Process

Councilmember Mumm worked with Debra on this, and said that she was looking for ways to make the process more efficient than it currently is. Councilman Allen said he thinks Debra's suggestion is great because it helps councilmembers focus. Councilmember Waldref agreed with Councilman Allen about this. Councilmember Stratton likes this system more than what was done in the previous budget cycle. Richard said we are not getting a true line item budget; and suggested we ask about getting a true line item budget.

Councilman Snyder said we have two strategies we could use for budget process:

Cherry picking (did last year): Deficiencies include losing comprehensive understanding of budget.

Drill down (take an extensive analysis of certain departments): This takes a lot of time and bandwidth for councilmembers.

Councilman Snyder said that the performance measure system is not efficient currently either.

Good strategies from last year

Councilmember Waldref suggested we do what did last year in at least one respect: budget priorities resolution.

Council stuck to timeline for budget last year.

Good budget study sessions included Utilities, Finance; Fire and Police were bad.

Council made significant budget changes.

There was broad consensus for some of the items included in the budget by council.

Tim Dunivant did a great job.

Suggestions for future budget cycles

Don't cram too many budget/departments in to one study session.

Extend study session hours (and/or flex hours to ensure everyone can be there).

Have an independent auditor (from auditor's office with the state) look in to specific budget item (More use of state auditor).

Find a way to have automatic flags/alerts for significant changes made to the budget.

Get a report on unused budget funds (if the funds have been sitting for longer than a year).

Analyze unused funds (to see what accounts are not used any more).

Increased and early use of Debra for specific budget information the council wants.

Get a budget with page numbers included in it.

Try to work with administration to set joint goals for budget (strategic plan/multi-year budget goals).

Have the administration get briefed on 20/20 Plan from the administration.

Look at comprehensive plan for city/budget goals (Chapter 2).

Have a special focus on departments (such as library and parks) that are often left out of the broader budget discussion.

Get financial analysis of interlocal agreements/MOUs/contracts with other municipalities.

Council website/Misc

Councilman Allen asked for study session regarding how the website is being used; and how we can use it better.

April Budget Priorities

Permanent/long-term COPS strategy.

Delve in to CHHS priorities and process and leadership.

6-Year Plan for Utilities and Budget Priorities.

Separate Arts Fund budget line item.

Overtime budget plans and policy.

Project funding for greenways projects (Cincinnati and Manito), Centennial trail design and signage.

Adjourned at 11:02am

MEETING MINUTES
SPOKANE CITY COUNCIL
Thursday, January 8, 2015

A Meeting of the Spokane City Council was held on the above date at 3:32 p.m. in the City Council Briefing Center, Lower Level – City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington. Council President Pro-Tem Snyder and Council Members Allen, Mumm, Stratton, and Waldref were present. Council President Stuckart and Council Member Fagan were absent.

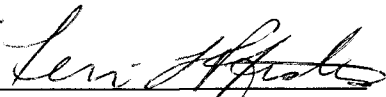
The following topics were discussed:

- Board and Commission Interview (Dan Zimmerer with Lodging Tax Board).
- Joint Park Board/City Council Meeting.

The meeting was open to the public but was conducted in a study session format. No public testimony was taken and discussion was limited to appropriate officials and staff.

The meeting adjourned at 4:36 p.m.

Minutes prepared and submitted for publication in the January 21, 2015, issue of the Official Gazette:



Terri L. Pfister, MMC
Spokane City Clerk

Approved by City Council on January 26, 2014.

Ben Stuckart
City Council President

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

01/26/2015

Date Rec'd

1/14/2015

Clerk's File #

CPR 1982-0071

Renews #Submitting Dept

MAYOR

Cross Ref #Contact Name/Phone

BRANDY COTE 625-6774

Project #Contact E-Mail

BCOTE@SPOKANECITY.ORG

Bid #Agenda Item Type

Boards and Commissions

Requisition #Agenda Item Name

0520 APPOINTMENT OF EZRA ECKHARDT TO THE SPOKANE AIRPORT BOARD

Agenda Wording

Appointment of Ezra Eckhardt to a three year term on the Spokane Airport Board. From January 26, 2015 - January 26, 2018.

Summary (Background)

Appointment of Ezra Eckhardt to a three year term on the Spokane Airport Board.

Fiscal ImpactBudget Account

Select \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

COTE, BRANDY

Study SessionDivision DirectorOtherFinanceDistribution ListLegal

bcote@spokanecity.org

For the Mayor

SANDERS, THERESA

Additional ApprovalsPurchasing

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

01/26/2015

Date Rec'd

1/14/2015

Clerk's File #

ORD C35222

Renews #Submitting Dept

MUNICIPAL COURT

Cross Ref #Contact Name/Phone

HOWARD 625-4450

Project #Contact E-Mail

HDELANEY@SPOKANECITY.ORG

Bid #Agenda Item Type

Emergency Budget Ordinance

Requisition #Agenda Item Name

COURT COMMISSIONER POSITION - MUNICIPAL COURT

Agenda Wording

An emergency budget ordinance to create an additional Court Commissioner Position in Municipal Court

Summary (Background)

Consolidating the position of Court Administrator of the Spokane Municipal Court into a newly established Court Commissioner position allows the former Court Administrator, an active member of the state bar, to be appointed as a Court Commissioner. The change permits the Court to function more efficiently, with seamless coverage of scheduled court dockets, and increased flexibility in its overall administrative and judicial operations.

Fiscal ImpactBudget Account

Select \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

DELANEY, HOWARD

Study SessionDivision Director

LOGAN, MARY

OtherFinance

LESESNE, MICHELE

Distribution ListLegal

DALTON, PAT

hdelaney@spokanecity.org

For the Mayor

SANDERS, THERESA

korlob@spokanecity.org

Additional Approvals

tdunivant@spokanecity.org

Purchasing

ORDINANCE NO C35222

An ordinance amending Ordinance No. C-35185, passed the City Council November 24, 2014, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2015, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2015, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2015 budget Ordinance No. C-35185, as above entitled, and which passed the City Council November 24, 2014, it is necessary to make changes in the appropriations of the General Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

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

FROM:	0560-13100	General Fund – Municipal Court	
	12500-07660	Municipal Court Administrator	102,897
		(from 1 to 0 positions)	
	0100-99999	General Fund	
	99999-	Unappropriated Reserves	<u>9,604</u>
			<u>\$ 112,501</u>
TO:	0560-13100	General Fund	
	12500-09590	Court Commissioner	<u>\$ 112,501</u>
		(from 2 to 3 positions)	

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

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date

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

01/26/2015

<u>Date Rec'd</u>	1/14/2015
<u>Clerk's File #</u>	RES 2015-0010
<u>Renews #</u>	

<u>Submitting Dept</u>	PLANNING & DEVELOPMENT	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	ELDON BROWN 625-6305	<u>Project #</u>	
<u>Contact E-Mail</u>	EBROWN@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Resolutions	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0650 - RESOLUTION SETTING HEARING - PACIFIC/SCOTT ALLEY STREET		

Agenda Wording

Resolution setting hearing before City Council for February 23, 2015 for vacation of the alley between Pacific Avenue and 2nd Avenue from Scott Street to Sprague Way as requested by SAMCA, LLC.

Summary (Background)

A Petition was submitted representing 100% of the abutting property. Staff requests that City Council set a public hearing on the vacation petition.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	WRIGHT, JO ANNE	<u>Study Session</u>	
<u>Division Director</u>	QUINTRALL, JAN	<u>Other</u>	PCED 1/8/15
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	lhattenburg@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	edjohnson@spokanecity.org	
<u>Additional Approvals</u>		sbishop@spokanecity.org	
<u>Purchasing</u>			

RESOLUTION 2015-0010

WHEREAS, on **October 30, 2014**, the Spokane City Council received a petition for the vacation of the Alley between Pacific Avenue and 2nd Avenue from Scott Street to Sprague Way, in Section 20, T25N, R43E, W.M., Spokane, Washington from owners having an interest in real estate abutting the above right-of-way; and

WHEREAS, it was determined that the petition was signed by the owners of more than two-thirds of the property abutting the Alley between Pacific Avenue and 2nd Avenue from Scott Street to Sprague Way; and

WHEREAS, the City Council desires to set a time and date through this resolution to hold a public hearing on the petition to vacate the above property in the City of Spokane;

NOW, THEREFORE,

The City Council does hereby resolve the following:

That hearing on the petition to vacate the Alley between Pacific Avenue and 2nd Avenue from Scott Street to Sprague Way will be held in front of the City Council at 6:00 P.M. or as soon thereafter as possible on **February 23, 2015**, and the City Clerk of the City of Spokane is instructed to proceed with all proper notice according to State law.

ADOPTED by the Spokane City Council, this _____ day of _____, 2015.

City Clerk

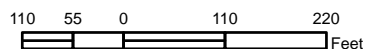
Approved as to form:

Assistant City Attorney



Right of Way Description:
The alley between Pacific Avenue and
2nd Avenue from Scott Street to
Sprague Way as requested by SAMCA, LLC

Disclaimer: This is not a legal document. The information shown on this map is compiled from various sources and is subject to revision. This map should not be used to determine the location of facilities in relationship to property lines, sections lines, streets, etc.
Not suitable for design purposes.



AREA

COSGIS
City of Spokane GIS

DISTRIBUTION LIST
VACATION OF ALLEY BETWEEN PACIFIC AVENUE AND 2ND AVENUE
FROM SCOTT STREET TO SPRAGUE WAY

POLICE DEPARTMENT

ATTN: SGT JOHN GATELY

FIRE DEPARTMENT

ATTN: LISA JONES
MIKE MILLER

CURRENT PLANNING

ATTN: TAMI PALMQUIST
DAVE COMPTON

WATER DEPARTMENT

ATTN: DAN KEGLEY
JAMES SAKAMOTO
ROGER BURCHELL
CHRIS PETERSCHMIDT
HARRY MCLEAN

STREETS

ATTN: MARK SERBOUSEK
DAUN DOUGLASS

TRANSPORTATION OPERATIONS

ATTN: BOB TURNER

PLANNING & DEVELOPMENT

ATTN: ERIK JOHNSON
ELDON BROWN
JOHN SAYWERS

CONSTRUCTION MANAGEMENT

ATTN: KEN BROWN

INTEGRATED CAPITAL MANAGEMENT

ATTN: KATHERINE MILLER

WASTEWATER MANAGEMENT

ATTN: BILL PEACOCK

PARKS & RECREATION DEPARTMENT

ATTN: LEROY EADIE

NEIGHBORHOOD SERVICES

ATTN: JACKIE CARO
JONATHAN MALLAHAN
ROD MINARIK
HEATHER TRAUTMAN

BICYCLE ADVISORY BOARD

ATTN: LOUIS MEULER

SOLID WASTE MANAGEMENT

ATTN: Scott Windsor

CITY CLERK'S OFFICE

ATTN: JACQUELINE FAUGHT

PUBLIC WORKS

ATTN: RICK ROMERO
MARCIA DAVIS

AVISTA UTILITIES

ATTN: DAVE CHAMBERS
RANDY MYHRE

COMCAST DESIGN & CONSTRUCTION

ATTN: BRYAN RICHARDSON

CENTURY LINK

ATTN: KAREN STODDARD

WRIGHT, KELLY A & CAROLYN L
12621 E APACHE PASS RD
SPOKANE, WA 99206

SALING PROPERTIES, LLC
727 E PACIFIC AVE
SPOKANE, WA 99202-2229

DISTRIBUTION LIST
VACATION OF ALLEY BETWEEN PACIFIC AVENUE AND 2ND AVENUE
FROM SCOTT STREET TO SPRAGUE WAY

BRAWNER RANCH COMPANY
PO BOX 423
OTIS ORCHARDS, WA 99027

SHOGUN, INC
821 E 3RD AVE
SPOKANE, WA 99202

SAMCA, LLC
1616 W 2ND AVE
SPOKANE, WA 99201

ESTATE OF WILLIAM A TOMBARI
4102 S REGAL STE 202
SPOKANE, WA 99223

DIVINE CORPORATION
203 W 3RD AVE
SPOKANE, WA 99201-3691

LARSON, L JEFFERY & CAROL
PO BOX 4535
SPOKANE, WA 99202-4535

GJJ LLC
2300 RIVER RD # 13
YAKIMA, WA 98902

ULUPALAKUA RANCH INC
HC 1 BOX 901
KULA, HI 96790-9302

SPOKANE PUBLIC LIBRARY
901 W MAIN AVE 3RD FLOOR
SPOKANE, WA 99201

GATEWAY ASSOCIATES
C/O KIEMLE & HAGOOD
SPOKANE, WA 99201

JOHNSON, ERIC W
704 E PACIFIC AVE
SPOKANE, WA 99202

SRINN CIS, LLC
1915 S DUSK LN
GREENACRES, WA 99016

ALL CITY DEVELOPMENTS, LLC
708 E PACIFIC AVE
SPOKANE, WA 99202

MILLER, JARED B
PO BOX 8107
SPOKANE, WA 99203

SPOKANE PUBLIC LIBRARY
906 W MAIN AVE
SPOKANE, WA 99201

UH, DAE KYUNG & HELENA
223 S HATCH ST
SPOKANE, WA 99202-2221

GJJ, LLC
2300 RIVER RD # 13
YAKIMA, WA 98902

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

01/26/2015

<u>Date Rec'd</u>	1/14/2015
<u>Clerk's File #</u>	RES 2015-0011
<u>Renews #</u>	

<u>Submitting Dept</u>	CITY COUNCIL	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	JON SNYDER 6254	<u>Project #</u>	
<u>Contact E-Mail</u>	JSNYDER@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Resolutions	<u>Requisition #</u>	
<u>Agenda Item Name</u>	0320 PHOTO RED PROJECT LIST RESOLUTION		

Agenda Wording

A resolution regarding approval of the construction of traffic calming projects constructed in 2014 and planned for 2015 through the Traffic Calming Measures Fund.

Summary (Background)

This resolution lists the projects that were constructed in 2014 and projects that are planned for construction in 2015 using funds from the Traffic Calming Measures Fund.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	STUCKART, BEN	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	PCED, 1/5/2014
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	jcaro@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	htrautman@spokanecity.org	
<u>Additional Approvals</u>		bturner@spokanecity.org	
<u>Purchasing</u>			

RESOLUTION NO. 2015-0011

A resolution regarding approval of the construction of traffic calming projects constructed in 2014 and planned for 2015 through the Traffic Calming Measures Fund.

WHEREAS, the City Council has adopted Resolution Nos. 2014-0032 and 2010-0001 regarding the allocation of funds generated from automated traffic safety cameras; and

WHEREAS, the funds generated from automated traffic safety cameras are designated for neighborhood traffic calming projects which the neighborhoods themselves apply for; and

WHEREAS, neighborhoods have worked with city staff and council to finalize a list of projects from applications submitted in 2013 and 2014 that have been constructed this year or will be constructed next year. Now, therefore –

BE IT RESOLVED that the list of traffic calming projects constructed in 2014 and planned for 2015 are as follows:

2014

District 1

Lincoln Rd & Standard St intersection crosswalk striping

No Truck signs on Union & Commerce Avenues between Waterworks and Fancher

4 crosswalks on Haven at Rowan, Everett, Wabash, and Queen

Traffic Circle – Cincinnati and Lyons

District 2

Bernard St & 25th Ave intersection crosswalk striping

5th Ave & Lee St Intersection crosswalk striping

5th & Stone St Intersection crosswalk striping

District 3

Pedestrian Refuge Island at Maxwell and Elm

Traffic Circle – Montgomery and Cedar

Traffic Circle – Montgomery and Madison

2015

District 1

Driver feedback signs on Cook St between Garland Ave and Rockwell Ave

Sidewalks and curb ramps along Jackson Ave between Perry St and Columbus St

District 2

Pedestrian Hybrid Beacon at 18th and Grand

Crosswalk at Arthur and Rockwood

Curb ramps and pedestrian bulb outs at Walnut St and 7th Ave

Sidewalk along D St between 19th Ave and 7th Ave

Sidewalk along Bernard St between 29th Ave and a ½ block south of 31st Ave

District 3

Sidewalk on Adams St from Mansfield Ave to Alley

Sidewalk on Madison from Mansfield Ave to Alley

Driver feedback signs on Garland between Stevens St and Madison St

ADOPTED by the City Council this _____ day of January 2015.

City Clerk

Approved as to form:

Assistant City Attorney

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

01/12/2015

<u>Date Rec'd</u>	12/30/2014
<u>Clerk's File #</u>	RES 2015-0006
<u>Renews #</u>	

<u>Submitting Dept</u>	WATER & HYDROELECTRIC SERVICES	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	DAN KEGLEY 625-7840	<u>Project #</u>	
<u>Contact E-Mail</u>	DKEGLEY@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Resolutions	<u>Requisition #</u>	
<u>Agenda Item Name</u>	4100 - ADOPTING THE CITY OF SPOKANE COMPREHENSIVE WATER SYSTEM		

Agenda Wording

The City of Spokane, being a Group A water system, is required to submit an updated Water System Plan (WSP) for review and approval to the Washington State Department of Health.

Summary (Background)

The updated Comprehensive Water System Plan, revised December 2014, as reviewed by the State of Washington Department of Health, has been prepared in accordance with the State of Washington Department of Health Rules and Regulation; including WAC 246-290-100.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SHUPE, LYNN	<u>Study Session</u>	PWC 1/5/2015
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	
<u>Finance</u>		<u>Distribution List</u>	
<u>Legal</u>	SCHOEDEL, ELIZABETH	dkegley, jsakamoto, acline	
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

RESOLUTION

WHEREAS, pursuant to the State of Washington Department of Health Rules and Regulations, WAC 246-290-100, the City of Spokane is required to update its Comprehensive Water System Plan every six years; and

WHEREAS, the last Comprehensive Water System Plan for the City of Spokane was prepared in 2006 and adopted by City Council on February 26, 2007; and

WHEREAS, the City of Spokane believes it is in the public interest to maintain a current Comprehensive Water System Plan to help ensure the continued, reliable delivery of safe drinking water at reasonable cost, facilitate economic growth, and foster coordination with adjacent water purveyors; and

WHEREAS, a Comprehensive Water System Plan provides guidance and planning information used by City staff in developing the Water Department's annual Six Year Capital Program update; and

WHEREAS, the Comprehensive Water System Plan (revised) December 2014, as developed and recommended by City staff and as reviewed by the State of Washington Department of Health, has been prepared in accordance with the State of Washington Department of Health Rules and Regulation; including WAC 246-290-100; and

WHEREAS, the Comprehensive Water System Plan: December 2014 includes the Environmental Checklist pursuant to the State Environmental Policy Act; and a Determination of non-significance has been issued; and

WHEREAS, the City Council of the City of Spokane finds implementation of the Plan to be in the public interest;--NOW, THEREFORE,

BE IT RESOLVED by the City of Spokane that the Comprehensive Water System Plan: December 2014, incorporated herein, is hereby adopted and approved.

Adopted and approved by City Council _____, 2014

City Clerk

Approved as to Form:

Assistant City Attorney