

**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, AUGUST 24, 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 MIKE FAGAN

COUNCIL MEMBER CANDACE MUMM

COUNCIL MEMBER JON SNYDER

COUNCIL MEMBER KAREN STRATTON

COUNCIL MEMBER AMBER WALDREF

CITY COUNCIL CHAMBERS
CITY HALL

808 W. SPOKANE FALLS BLVD.
SPOKANE, WA 99201

CITY COUNCIL BRIEFING SESSION

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

SPOKANE CITY COUNCIL BRIEFING SESSIONS (BEGINNING AT 3:30 P.M. EACH MONDAY) AND LEGISLATIVE SESSIONS (BEGINNING AT 6:00 P.M. EACH MONDAY) ARE BROADCAST LIVE ON CITY CABLE CHANNEL FIVE AND STREAMED LIVE ON THE CHANNEL FIVE WEBSITE. THE SESSIONS ARE REPLAYED ON CHANNEL FIVE ON 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. Renewal of Value Blanket Orders with:**Approve
All

- a. Goodyear Commercial Tire & Service Center (Spokane, WA) for Goodyear Duraseal Tires, estimated annual expenditure—\$116,852.50 (incl. tax) **Gene Jakubczak**

OPR 2015-0743
BID 4023-14

- b. Battery Systems of Spokane for miscellaneous automotive batteries—\$44,000 (incl. tax).

Gene JakubczakOPR 2015-0744
BID 4028-14

- c. Wingfoot Commercial Tire Systems, LLC (Spokane Valley, WA) for miscellaneous tire related services—\$200,000 (incl. tax).

Gene JakubczakOPR 2015-0745
BID 3964-13

2. Blanket Order with Connell Oil (Spokane, WA) for miscellaneous lubricants for multiple City Departments, of which Fleet is the main user, using Washington State Contract #02411—estimated annual usage \$150,000 (incl. tax).

Gene Jakubczak

Approve

OPR 2015-0730

- | | | | |
|-----|---|--------------------------------|------------------------------|
| 3. | Purchase of retread tires on an as-needed basis from Wingfoot Tires, Inc. (Spokane, WA) using Washington State Contract #00113—\$165,000 (incl. tax).
Gene Jakubczak | Approve | OPR 2015-0731 |
| 4. | Purchase of three 1500 GPM Custom Pumps from Pierce Manufacturing (Appleton, WI) for the Fire Department—\$1,890,872 (incl. tax, options & discounts). Bobby Williams | Approve | OPR 2015-0732
BID 4147-15 |
| 5. | Two-year Contract with Clean Energy (Newport Beach, CA) for the on-going maintenance of the new Compressed Natural Gas Fueling Facility—estimated annual expenditure for first year: \$100,000; second year: \$138,000.
Gene Jakubczak | Approve | OPR 2015-0733
BID 4156-15 |
| 6. | Loan Agreement and documents with West 315 LLC, (Spokane, WA) for construction of West 315, a 33-unit apartment building at 315 West Mission—\$200,000 HOME funds (Emerson Garfield Neighborhood).
Melora Sharts | Approve | OPR 2015-0734 |
| 7. | Contract with Dundee Concrete and Landscaping LLC, (Mead, WA) to replace the media material in a Bio Filter at the Riverside Park Water Reclamation Facility—total \$80,068.42 (incl. tax).
Mike Coster | Approve | OPR 2015-0735
SW 14-15 |
| 8. | Consultant Agreement with Taylor Engineering, Inc. (Spokane WA) to provide professional design and construction engineering services for improvements to an existing portion of Rowan Avenue—not to exceed \$435,000. Dan Buller | Approve | OPR 2015-0736
ENG 201452 |
| 9. | Contract with SCS Engineers (Bellevue, WA) to provide Revised Closure and Post-Closure Plan and Update with Financial Assurances for the Northside Landfill—\$55,800 (incl. taxes). Chuck Conklin | Approve &
Auth.
Contract | OPR 2015-0737
RFP 4110-15 |
| 10. | Contract with Echochem Analytics (League City, TX) to provide procurement, installation and support during certification of the Continuous Emissions Monitoring System—\$357,500 (plus tax).
Chuck Conklin | Approve &
Auth.
Contract | OPR 2015-0738
RFP 4160-15 |
| 11. | Contract with Helfrich Brothers Boiler Works (Lawrence, MA) for installation of superheater pendants during the Fall 2015 outage on one unit and the Spring 2016 outage for another unit—total estimate \$1,000,000 (without tax). Chuck Conklin | Approve &
Auth.
Contract | OPR 2015-0739
BID 4161-15 |
| 12. | Contract with Halme Construction (Spokane, WA) to construct a Landfill Gas Biofilter System and perform | Approve &
Auth. | OPR 2015-0740
BID 4151-15 |

minor road and drainage repairs at the Southside Landfill—\$96,579.95 (incl. tax). **Chuck Conklin**

Contract

13. Contract with Maul Foster Alongi chosen through the RFQ process to implement an EPA Brownfield Grant for Area-Wide Planning—\$180,000.
Teri Stripes Approve OPR 2015-0741
RFQ 4133-15
14. Report of the Mayor of pending: Approve & Authorize CPR 2015-0002
Payments
- 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 \$_____.
- b. Payroll claims of previously approved obligations through _____, 2015: \$_____. CPR 2015-0003
15. City Council Meeting Minutes: _____, 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.

LEGISLATIVE SESSION

(6:00 P.M.)

(Council Reconvenes in Council Chamber)

WORDS OF INSPIRATION

PLEDGE OF ALLEGIANCE

ROLL CALL OF COUNCIL

ANNOUNCEMENTS

(Announcements regarding Changes to the City Council Agenda)

NO BOARDS AND COMMISSIONS APPOINTMENTS

CITY ADMINISTRATION REPORT

COUNCIL COMMITTEE REPORTS

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

OPEN FORUM

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

LEGISLATIVE AGENDA

EMERGENCY BUDGET ORDINANCES

(Require Five Affirmative, Recorded Roll Call Votes)

Ordinance No. C35296 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:

Fire/EMS Fund

FROM: Transfer from General Fund, \$195,000;

TO: Various Accounts, same amount.

Bobby Williams

(This action adds additional revenue and expenses in the Fire/EMS Fund for 12 hire ahead firefighters.)

NO EMERGENCY ORDINANCES

RESOLUTIONS & FINAL READING ORDINANCES(Require Four Affirmative, Recorded Roll Call Votes)

- RES 2015-0090 Approving settlement of claim from Patron Properties and Patrick DeVries relating to an incident that occurred on or about March 25, 2015—\$338,403.16.
Nathaniel Odle
- RES 2015-0091 Stating the policy of the City of Spokane that it will not mandate the installation of fire suppression systems in single-family residential buildings in the City of Spokane.
Mike Allen
- RES 2015-0092 Authorizing a State Revolving Fund loan of approximately \$91,000 to assist the Hideaway Mobile Home Park connect to City water following a failing water well.
Dan Kegley
- ORD C35198 Vacating an un-named portion of right-of-way, 60 feet by 447.97 feet, approximately 650 feet north of 8018 West Sunset Highway in Section 20, T25N, R42E, W.M., Spokane, Washington as requested by Rodney Black and John McCormack. (First Reading held December 8, 2014).
Eldon Brown
- ORD C35294 Amending C32780 vacating the south 60 feet of Syndicate Boulevard from the west line of vacated Ferrall Street to the west line of Sycamore Street, and from the east line of Sycamore Street to five feet south of the south line of Mission Avenue.
Eldon Brown

NO FIRST READING ORDINANCES

NO HEARINGS

Motion to Approve Advance Agenda for August 24, 2015
(per Council Rule 2.1.2)

OPEN FORUM (CONTINUED)

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

ADJOURNMENT

The August 24, 2015, Regular Legislative Session of the City Council is adjourned to August 31, 2015.

NOTES

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

08/24/2015

Date Rec'd

8/11/2015

Clerk's File #

OPR 2015-0743

Renews #

OPR 2014-0525

Submitting Dept	FLEET SERVICES	Cross Ref #	
Contact Name/Phone	GENE 625-7865	Project #	
Contact E-Mail	GJAKUBCZAK@SPOKANECITY.ORG	Bid #	BID #4023-14
Agenda Item Type	Purchase w/o Contract	Requisition #	VB
Agenda Item Name	5100-FLEET SERVICES PURCHASE OF DURASEAL TIRES		

Agenda Wording

Renew Value Blanket Order with Goodyear Commercial Tire & Service Center (Spokane, WA) for Goodyear Duraseal Tires - estimated annual expenditure - \$116,852.50 including tax

Summary (Background)

On 7/28/14 City Council approved the award of this VB to Goodyear Commercial Tire & Service Center (OPR 2014-0525). The bid called for four (4) one-year optional renewals - this is the first renewal with no increase in price. These tires are being utilized on refuse collection vehicles in Solid Waste Mgmt Department and will be purchased on an "as needed" basis.

Fiscal Impact		Budget Account	
Expense	\$ 116,852.50	#	various
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	JAKUBCZAK, GENE	Study Session	
Division Director	ROMERO, RICK	Other	PWC 8/10/15
Finance	SALSTROM, JOHN	Distribution List	
Legal	WHALEY, HUNT	TPRINCE	
For the Mayor	SANDERS, THERESA	GJAKUBCZAK	
Additional Approvals		TAXES & LICENSES	
Purchasing	PRINCE, THEA		

BRIEFING PAPER
Public Works Committee
Fleet Services
August 10, 2105

Subject

The renewal of the Value Blanket (VB) with Goodyear Commercial Tire and Service Centers for the purchase of Goodyear Duraseal tires for \$116,852.50 (tax incl.).

Background

This is a renewal Value Blanket for Goodyear Duraseal tires. These tires are being utilized on refuse collection vehicles in the Solid Waste Mgt. Dept. Experience within the fleet has shown these tires reduce the incidents of flat tires and last longer than the tires used previously.

Impact

Continuing the purchase of these tires will reduce operating costs for the Solid Waste Mgt. Dept. refuse collection vehicles.

Action

Recommend approval.

Funding

Funds are available in the Fleet Services Department budget.

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

08/24/2015

Date Rec'd

8/11/2015

Clerk's File #

OPR 2015-0744

Renews #

OPR 2014-0526

Submitting Dept	FLEET SERVICES	Cross Ref #	
Contact Name/Phone	GENE 625-7865	Project #	
Contact E-Mail	GJAKUBCZAK@SPOKANECITY.ORG	Bid #	BID #4028-14
Agenda Item Type	Purchase w/o Contract	Requisition #	VB
Agenda Item Name	5100-FLEET SERVICES PURCHASE OF AUTO BATTERIES		

Agenda Wording

Renewal of VB for Automotive Batteries with Battery Systems of Spokane (Spokane, WA)for miscellaneous automotive batteries - \$44,000.000 including tax

Summary (Background)

On 7/28/14 City Council approved the award of this VB to Battery Systems of Spokane (OPR #2014-0526). The bid called for four (4) one-year optional renewals which this is the first. The average price change is approximately 3%.

Fiscal Impact		Budget Account	
Expense	\$ 44,000.00	#	various
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	JAKUBCZAK, GENE	Study Session	
Division Director	ROMERO, RICK	Other	PWC 8/10/15
Finance	SALSTROM, JOHN	Distribution List	
Legal	WHALEY, HUNT	TPRINCE	
For the Mayor	SANDERS, THERESA	GJAKUBCZAK	
Additional Approvals		TAXES & LICENSES	
Purchasing	PRINCE, THEA		

BRIEFING PAPER
Public Works Committee
Fleet Services
August 10, 2015

Subject

The renewal of the Value Blanket (VB) with Battery Systems of Spokane of Spokane for the purchase of automotive batteries for an estimated annual expenditure of \$44,000.00.

Background

This is a renewal of an annual Value Blanket to purchase automotive batteries as needed for the Fleet Services department.

Impact

Batteries are purchased by Fleet Services for use throughout the city of Spokane fleet of equipment.

Action

Recommend approval.

Funding

Funds are available in the Fleet Services Department budget.

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

08/24/2015

Date Rec'd

8/12/2015

Clerk's File #

OPR 2015-0745

Renews #

OPR #2014-0702

Submitting Dept

FLEET SERVICES

Contact Name/Phone

GENE 625-7865

Contact E-Mail

GJAKUBCZAK@SPOKANECITY.ORG

Agenda Item Type

Purchase w/o Contract

Agenda Item Name

5100-FLEET SERVICES TIRE RELATED SERVICES VALUE BLANKET ORDER

Cross Ref #**Project #****Bid #**

BID #3964-13

Requisition #

VB

Agenda Wording

Renewal of Value Blanket Order with Wingfoot Commercial Tire Systems, LLC (Spokane Valley, Wa) for miscellaneous tire related services - \$200,000 including tax

Summary (Background)

On 9/23/13 City Council approved award to Wingfoot Commercial Tire Systems for miscellaneous tire services (OPR 2013-0675). The bid called for four (4) one-year renewals and this is the second renewal.

Fiscal Impact

Expense \$ 200,000.00

Select \$

Select \$

Select \$

Budget Account

various

#

#

#

Approvals**Dept Head**

JAKUBCZAK, GENE

Division Director

ROMERO, RICK

Finance

SALSTROM, JOHN

Legal

WHALEY, HUNT

For the Mayor

SANDERS, THERESA

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

PWC 8/10/15

Distribution List

TPRINCE

GJAKUBCZAK

Additional Approvals

TAXES & LICENSES

Purchasing

PRINCE, THEA

BRIEFING PAPER
Public Works Committee
Fleet Services
August 10, 2015

Subject

Annual renewal of a contract for tire related services to Wingfoot Commercial Tire Systems, LLC.

Background

Bid #3964-13 for tire related services was opened on August 26, 2013 and was awarded to Wingfoot Commercial Tire Systems, LLC with an option for four annual renewals. This will be the first renewal.

Impact

This contracted is utilized by Fleet Services to purchase tire related services. The vendor provides services and reports as part of the overall tire management program. The primary users of retread tires are the Solid Waste Management and Street Departments. The estimated annual expenditure is \$200,000.

Action

Recommend approval.

Funding

Funding is available in the Fleet Services Department's operating budget.



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	8/3/2015
Clerk's File #	OPR 2015-0730
Renews #	
Cross Ref #	
Project #	
Bid #	WA STATE CONTRACT
Requisition #	VB
Agenda Item Name	5100-FLEET SERVICES - MISCELLANEOUS LUBRICANTS - STATE CONTRACT

Agenda Wording

Blanket Order with Connell Oil (Spokane, WA) for miscellaneous lubricants using Washington State Contract #02411 for multiple City Departments, but of which Fleet is the main user - estimated ANNUAL usage \$150,000.00 (including tax)

Summary (Background)

As a member of the Washington State Purchasing Cooperative, State Contract pricing is available to the City. The State Contract represents the best pricing to us because the State Contractor is allowed a deeper discount from the manufacturer. Staff requests a Blanket Order for TWO (2) years to be approved to enable purchases from this State Contract on an "as needed" basis.

Fiscal Impact

Expense \$ 300,000.00

Select \$

Select \$

Select \$

Budget Account

various

#

#

#

Approvals

Dept Head JAKUBCZAK, GENE

Division Director ROMERO, RICK

Finance SALSTROM, JOHN

Legal WHALEY, HUNT

For the Mayor SANDERS, THERESA

Council Notifications

Study Session

Other PWC - 6/8/15

Distribution List

TPRINCE

GJAKUBCZAK

Additional Approvals FLEETSERVICES

Purchasing PRINCE, THEA TAXES & LICENSES

BRIEFING PAPER
Public Works Committee
Fleet Services
June 8, 2015

Subject

The renewal of the Value Blanket (VB) with Connell Oil of Spokane for lubricants.

Background

The Fleet Services Department purchases lubricants utilizing the Washington State Contract #02411 for the city of Spokane fleet through Connell Oil. This is the VB for the supply of lubricants. The estimated annual expenditure is \$150,000.

Impact

This VB allows the purchase of oils, grease, and other automotive lubricants to maintain the city of Spokane equipment fleet.

Action

Recommend approval of \$300,000 (\$150,000 annually) for the renewal of the Value Blanket for the supply of automotive lubricants for two years.

Funding

Funding is available in the Fleet Services and affected department's budgets.



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	8/11/2015
Clerk's File #	OPR 2015-0731
Renews #	
Cross Ref #	
Project #	
Bid #	STATE CONTRACT
Requisition #	VB

Submitting Dept	FLEET SERVICES
Contact Name/Phone	GENE 625-7865
Contact E-Mail	GJAKUBCZAK@SPOKANECITY.ORG
Agenda Item Type	Purchase w/o Contract
Agenda Item Name	5100-FLEET SERVICES PURCHASE OF MISC RETREAD TIRES

Agenda Wording

Purchase of retread tires on an "as needed" basis from WINGFOOT TIRES, INC. (Spokane, WA) using Washington State Contract #00113 - \$165,000.00 including tax.

Summary (Background)

As a member of the Washington State Purchasing Cooperative, State contract pricing is available to the city through Wingfoot Tires Inc. The state contract represents the best price available to the city as the State Contractor is allowed a deeper discount through the manufacturers.

Fiscal Impact		Budget Account	
Expense	\$ 165,000.00	#	various
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	JAKUBCZAK, GENE	Study Session	
Division Director	ROMERO, RICK	Other	PWC 8/10/15
Finance	SALSTROM, JOHN	Distribution List	
Legal	WHALEY, HUNT	TPRINCE	
For the Mayor	SANDERS, THERESA	GJAKUBCZAK	
Additional Approvals		TAXES & LICENSES	
Purchasing	PRINCE, THEA		

BRIEFING PAPER
Utilities Division
Fleet Services Department
August 10, 2015

Subject:

The renewal of the Value Blanket (VB) with Wingfoot Tires Inc. (Spokane Valley, WA) for miscellaneous retread tires to be purchased on an "as needed" basis by the Fleet Services Department using Washington State contract #0113. The estimated annual expenditure is \$165,000 including tax.

Background:

As a member of the Washington State Purchasing Cooperative, State contract pricing is available to the city through Wingfoot Tires Inc. The state contract represents the best price available to the city as the State Contractor is allowed a deeper discount through the manufacturers.

Impact:

This VB is used to procure retread truck tires required to maintain the city's equipment fleet.

Action:

Approve the renewal of the annual VB blanket with Wingfoot Inc. for the supply of miscellaneous retread tires.

Funding:

The estimated annual expenditure was included in the 2015 Fleet Services Department budget.

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

08/24/2015

Date Rec'd

8/11/2015

Clerk's File #

OPR 2015-0732

Renews #**Submitting Dept**

FIRE

Cross Ref #**Contact Name/Phone**

BOBBY 625-7001

Project #**Contact E-Mail**

BWILLIAMS@SPOKANECITY.ORG

Bid #

#4147-15

Agenda Item Type

Purchase w/o Contract

Requisition #

RE #17470

Agenda Item Name

0440 -FIRE DEPARTMENT PURCHASE OF CUSTOM PUMPERS

Agenda Wording

Award purchase of three (3) 1500 GPM Custom Pumps to Pierce Mfg (Appleton, WI)- \$1,890,872 including taxes, options & discounts.

Summary (Background)

On 6/29/15 sealed bids were received for 1500 GPM Custom Pumps for the City of Spokane Fire Department. Two (2) responses were received with Pierce Mfg being the most responsive. General Fire was the lowest responsive bidder, but it was determined that their bid did not meet specifications for a number of reasons as spelt out on the attached Memo from Chief Williams.

Fiscal Impact**Budget Account**

Expense \$ 1,890,872.00

5901-79125-94000-56404

Select \$

#

Select \$

#

Select \$

#

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

SCHAEFFER, BRIAN

Study Session**Division Director**

SCHAEFFER, BRIAN

Other

PSC 8/17/15

Finance

SALSTROM, JOHN

Distribution List**Legal**

WHALEY, HUNT

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

WAHL, CONNIE



ROBERT S. WILLIAMS
FIRE CHIEF

August 10, 2015

To: City Council Members
From: Bobby Williams, Fire Chief
Subject: Recommendation of Bid Award for 3 1500 GPM Custom Pumpers – Bid #4147-15

It is recommended that the purchase of three (3) 1500 GPM Custom Pumpers that were bid through Request for Bid # 4147-15, be awarded to Pierce Manufacturing of Appleton, WI in the total amount of \$1,890,872 (includes tax, options and discounts).

Although Pierce was not the low bidder it was determined that the low bidder, General Fire Apparatus, bid did not meet specifications.

Background:

After the City Council allocated funding for needed Fire Department capital including apparatus, equipment, etc., a committee was established to develop specifications for new Custom Pumpers. The committee makeup was primarily members of Local 29 who work in the Operations division and provide service daily on pumpers.

Over a number of months the committee discussed the needs for SFD pumpers that are expected to serve our citizens over the next 15-20 years or longer. The committee researched and reviewed information from a number of apparatus manufacturers during their development of the bid specifications.

Response to City's Bid #4147-15:

Two bids were received in response to the City's Bid #4147-15. The lowest bid was from General Fire Apparatus whose price per unit was \$27,020.63 (including taxes, options, discounts, etc) or \$81,061.89 less for the three (3) units.

It was determined that General Fire Apparatus' bid did not meet the specifications for a number of reasons. Below are some of the reasons:

- GF's bid did not meet the Chassis requirement, Part II, Section 3, Item 3.01 Chassis. (copied below & non compliance area highlighted)
 - GF's proposed Chassis has only been in production for 3.5 years rather than the 5 years required.

This is an important issue for the FD due to the typical lengthy longevity of fire apparatus. Since apparatus is normally relied upon for 15-20 years, the FD wants to insure that the chassis being provided has a reasonable longevity track record.

Section 3: CHASSIS

3.01 CHASSIS

The custom chassis developed exclusively for the fire service. *Chassis provided will be a new, tilt-type custom fire apparatus and one that has been in production for at least five (5) years* (emphasis added). The chassis shall be manufactured in the apparatus body builder's facility eliminating any split responsibility. The chassis shall be designed and manufactured for heavy-duty service, with adequate strength and capacity for the intended load to be sustained and the type of service required. **Chassis in production domestically for at least 5 years: yes/no? _____**

If yes provide date and department where the first chassis you are provided was placed into service.

- GF's bid did not meet the Mirrors requirement, Part II, Section 3, Item 3.75 Mirrors. (copied below & noncompliance area highlighted)
 - GF's proposed Mirrors, Ramco model CRM-1350-PCHR, were not the required West Coast Mirrors.

3.75 MIRRORS

A Velvac®, Model 2010, west coast mirror will be mounted on each side of the front cab door. Mirror dimensions will be 7.00" wide x 16.00" high, and will be heated and motorized. The shell will be bright annealed stainless steel. Both mirrors will be heated and have a remote control that is convenient to the driver.

Submittal was for Ramco model CRM-1350-PCHR

- GF's bid did not appear to meet the Underbody Support System requirement, Part II, Section 4, Item 4.01 Underbody Support System. (copied below & noncompliance area highlighted)
 - GF's proposal took Exception to the City Specification and provided an alternative but without details of how the alternate supports the Underbody.

4.01 UNDERBODY SUPPORT SYSTEM

Due to the severe loading requirements of this pumper a method of body and compartment support suitable for the intended load will be provided.

The backbone of the support system shall be the chassis frame rails which is the strongest component of the chassis and is designed for sustaining maximum loads.

The support system should include .375" thick steel vertical angle supports bolted to the chassis frame rails with .625" diameter bolts. Attached to the bottom of the steel vertical angles shall be horizontal angles, with gussets welded to the vertical members, which extend to the outside edge of the body.

A steel frame shall be mounted on the top of these supports to create a floating substructure which shall result in a 500 lb. equipment support rating per lower compartment.

The floating substructure shall be separated from the horizontal members with neoprene elastomer isolators. These isolators shall reduce the natural flex stress of the chassis from being transmitted to the body.

Isolators shall have a broad load range, proven viability in vehicular applications, be of a fail-safe design and allow for all necessary movement in three (3) transitional and rotational modes.

The neoprene isolators shall be installed in a modified V three (3)-point mounting pattern to reduce the natural flex of the chassis being transmitted to the body.

A design with body compartments hanging on the chassis in an unsupported fashion **shall not be acceptable**.

- GF's bid did not appear to meet the Compartments requirement, Part II, Section 4, Items 4.05-4.06.
 - GF's proposal took Exception to the City Specification and provided an alternative but without details of how the alternate Compartments would be different.
- GF's bid did not appear to meet the Pump requirement, Part II, Section 5.
 - GF's proposal took Exception to the City Specification and provided an alternative but without details of how the alternate Pump would be different.
- GF's bid did not appear to meet the Deadlay Hose Bed requirement, Part II, Section 5, Item 5.40.
 - GF's proposal did not take Exception to the City Specification and did not appear to include this item in their submittal.

- GF's bid did not meet the General Instructions, Part II, Section 1, Items 13B; 15 and 16. (copied below & non compliance areas highlighted).
 - GF's bids were not in the same order as the City's specifications as required under section 15.
 - GF's bid did not clearly identify and explain "Exceptions" as required under sections 13B & 16.

PART II. SPECIFICATIONS

Section 1: General Instructions

13. Vendor must acknowledge each specification shown in Section III, Technical Specifications, as follows:

A. **"To Be Supplied" Column**

Vendor will initial when the product offered is equal to or better than the individual specification. State your exact capabilities if different from specification stated or a tolerance is given overstated.

B. **"Exceptions" Column**

Explain all exceptions to specification as stated. NOTE: All equivalents (substitutes) require detailed explanation. (Use additional paper with reference to item number and respective question (number)).

15. It shall be the responsibility of the Vendor to state exactly what items are being offered in place of, when an exception is taken to bids specifications. Vendor proposal shall be in the exact same order as our specifications, to aid and facilitate evaluation of proposals. Any exceptions not taken shall be assumed by the purchaser to be included in the proposal, regardless of the cost to the bidder.
16. **Note: All equivalents (Substitutes) Require Explanation** (Use additional paper with reference to item number and respective question number).

- GF's bid did not meet the Special Instructions, Part II, Section 2, Item 2.14 Table of Contents. (copied below & non compliance area highlighted)
 - GF's Table of Contents did not assist with ease in locating items as required under section 2.14

2.14 TABLE OF CONTENTS

A table of contents shall be provided with all proposals, for ease in locating items, which shall be provided by the bidder.

Note: Because General Fire did not format their bid as required by the City's Specification, it made it extremely difficult and required excessive time to try to determine GF's responsiveness and compliance with the bid requirements.

Summary:

The City's Specifications clearly identified that the award of the bid would not be based solely on the bid amount. This clarification is identified in the sections of the City's Specifications copied below.

2.01 INTENT OF SPECIFICATIONS

It shall be the intent of these specifications to cover the furnishing and delivery of a complete apparatus equipped as hereinafter specified. These specifications cover only the general requirements as to the type of construction and test to which the apparatus shall conform, together with certain details as to finish, equipment and appliances with which the successful bidder shall conform. It is not the intent of the Fire Department to develop specifications that only one manufacturer can bid on, but to use these specifications as a platform to illustrate our intentions as to design and construction. Certain aspects of construction and designs are more important than others. *The Fire Department reserves the right to weight the manufacturer's different types of constructions and designs in the bid evaluation and not just low bid* (emphasis added). Minor details of construction and materials, which are not otherwise specified, are left to the discretion of the contractor, who shall be solely responsible for the design and construction of all features. Apparatus proposed by the bidder shall meet the requirements of the National Fire Protection Association (NFPA) as stated in current Pamphlet 1901. Loose equipment shall be provided only as stated in the following pages.

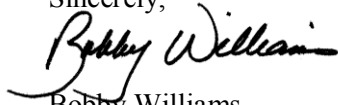
2.03 BID ANALYSIS

Award of bid will not be based solely upon the bid amount. Evaluation will include key apparatus features (emphasis added).

Based on the evaluation of the bids, it is the recommendation of the apparatus committee that the bid be awarded to Pierce Manufacturing of Appleton, WI in the total amount of \$1,890,872 (includes tax, options and discounts), as the low bidder meeting the City's Specifications.

If you have questions or require additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Bobby Williams". The signature is written in a cursive, flowing style.

Bobby Williams
Fire Chief

1500 GPM CUSTOM PUMPER
 BID 4148-15 OPEN: 6/29/15

	GENERAL FIRE APPARATUS 4004 E TRENT AVENUE SPOKANE WA 99202 BRENDEN FEIST 509-535-4255 Brendenf@generalfire.com	Pierce Manufacturing PO Box 2017 Appleton, WI 54912 DENNIS WATERS 509-521-1901 dwaters@hughesfire.com
UNIT PRICE: (3 EA)	\$558,967.00	\$586,124.00
SUBTOTAL	\$1,676,901.00	\$1,758,372.00
Delivery	300-325 days FRO	270-335 Days FRO
Chassis in production domestically for at least five years WHEELBASE_____	No WB 175”	Yes WB 180”
Discounts (combined) Chassis progress payments Payment at factory for final 100% prepayment discount Customer Drive out discount No performance bond discount	 -\$15,0000.00	 -\$28,431.00 -\$20,558.00 -\$43,122.00 -\$13,500.00 -\$4,735.00
Option (each) Aluminum Wheels Intercom System Over the Head Headset Headset Hangers Vogel Automatic Lubricating Chassis System	Included in base price \$7,895.00 Included in above Included in above Included in base bid	\$5,200.00 \$2,800.00 \$1,695.00 \$90.00 \$4,400.00
Exceptions	Too many to mention and not really stated as being an exception	Variable exceptions but acceptable



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	8/12/2015
Clerk's File #	OPR 2015-0733
Renews #	

Submitting Dept	FLEET SERVICES	Cross Ref #	
Contact Name/Phone	GENE 625-7865	Project #	
Contact E-Mail	GJAKUBCZAK@SPOKANECITY.ORG	Bid #	#4156-15
Agenda Item Type	Contract Item	Requisition #	BT
Agenda Item Name	5100- CONTRACT WITH CLEAN ENERGY FOR CNG FUELING SITE MAINTENANCE		

Agenda Wording

Award a two (2) year contract to Clean Energy (Newport Beach, CA) for the on-going maintenance of the new Compressed Natural Gas Fueling Facility. Estimated annual expenditure for first year \$100,000.00 - \$138,000 for second year.

Summary (Background)

On 7/27/15 sealed proposals were received to provide the CNG Fueling Site Maintenance. One (1) response was received from Clean Energy. Twenty of the Solid Waste Collection vehicles used to collect refuse will begin operating on CNG (Compressed Natural Gas) by September of this year. A new facility has been constructed for the compression and distribution of CNG to the equipment. The site includes compressors, filters, etc. to process natural gas for the supply pipeline to a highly compressed for use in vehicles. Eventually, apx. 100 Solid Waste Collection vehicles will be operating on CNG.

Fiscal Impact		Budget Account	
Expense	\$ 100,000.00	#	2015/2016
Expense	\$ 138,000.00	#	2016/2017
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
<u>Dept Head</u>	JAKUBCZAK, GENE	<u>Study Session</u>	
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	PWC- 8/10/15
<u>Finance</u>	SALSTROM, JOHN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	TPRINCE	
<u>For the Mayor</u>	SANDERS, THERESA	GJAKUBCZAK	
<u>Additional Approvals</u>		JSALSTROM	
<u>Purchasing</u>	PRINCE, THEA	TAXES & LICENSES	

**FLEET SERVICES
MEMORANDUM**

August 12, 2015

TO: PURCHASING DEPARTMENT

**FROM: GENE JAKUBCZAK
FLEET SERVICES DIRECTOR**

SUBJ: BID # 4156-15

After careful consideration, the Fleet Services Department recommends bid #4156-15 be awarded to Clean Energy, the lowest responsive bidder, for the on-going maintenance of the new Compressed Natural Gas fueling facility located at the Spokane Central Service Center.

This will include all required maintenance and 24 hour monitoring and emergency response as needed for the systems to compress, filter and distribute compressed natural gas. The cost is based on the throughput of CNG measured in DGE's (Diesel Gallon Equivalent). The first year expenditure is estimated to be \$100,000, second year apx. \$138,000 based on usage estimates. Expenses will increase in subsequent years as the volume of CNG used increases. This is a two year contract with options for three one year extensions. The cost of the maintenance of the site will be included in the cost of the fuel dispensed. Initially, the sole user of the facility will be the Solid Waste Collection Department.

Operations & Maintenance Cost Structure

Monthly Volume range in DGE units	O&M fee per DGE
<34,666	\$0.50
34,667 – 43,333	\$0.46
43,334 – 52,000	\$0.42
>52,000	\$0.38

Washington sales tax of 8.7% will be added to all monthly invoices.

cc: Ken Gimpel
Scott Windsor

BRIEFING PAPER
Public Works Committee
Fleet Services
August 10, 2015

Subject

Award of bid #4156-15 for the maintenance of the new Compressed Natural Gas fueling facility at the Spokane Central Service Center to Clean Energy.

Background

Twenty of the Solid Waste Collection vehicles used to collect refuse will begin operating on CNG (Compressed Natural Gas) by September of this year. A new facility has been constructed for the compression and distribution of CNG to the equipment. The site includes compressors, filters, etc. to process natural gas for the supply pipeline to a highly compressed for use in vehicles. Eventually, apx. 100 Solid Waste Collection vehicles will be operating on CNG.

Impact

This contract will provide for the required maintenance, 24 monitoring and support of the facility to ensure its safe, reliable operation.

Action

Recommend approval.

Funding

Costs will be added to the cost of the CNG used to fuel the trucks. Initially, the sole user of the facility will be the Solid Waste Collection Department. The CNG will displace the cost of diesel fuel and will result in overall lower fuel costs per equivalent unit.



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	7/12/2013
Clerk's File #	OPR 2015-0734
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	BT

Submitting Dept	COMMUNITY, HOUSING & HUMAN SERVICES
Contact Name/Phone	M SHARTS X6325
Contact E-Mail	MSHARTS@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	1680 WEST 315 LLC

Agenda Wording

Loan Agreement & other documents with West 315 LLC (Spokane, WA) for construction of West 315, a 33-unit apartment building at 315 West Mission - \$200,000 HOME funds (Emerson Garfield neighborhood)

Summary (Background)

The City receives HOME grants from HUD for rental housing projects affordable to low-income households. The loan agreement requires that 7 1-bedroom units benefit households at or below 30% of the area median income for at least 20 years. The \$200,000 loan at 3% interest will be deferred 20 years, then repaid over 10 years. Other financing includes a construction loan, County 2060 funds, tax credit equity, and seller loan. Community Frameworks (Spokane) is sole member of LLC's managing member.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 200,000 HOME	#	1710-95845-59230-54201-99999
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	STAPLETON, JENNIFER	<u>Study Session</u>	PCED 12/15/14
<u>Division Director</u>	MALLAHAN, JONATHAN	<u>Other</u>	
<u>Finance</u>	SALSTROM, JOHN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	jphillips, mhughes	
<u>For the Mayor</u>	SANDERS, THERESA	schamberlin	
<u>Additional Approvals</u>		jstapleton	
<u>Purchasing</u>		msharts	
		maxb@communityframeworks.org	
		navej@foster.com	

DRAFT PROPOSED BUDGET

WEST 315 LLC WEST 315 APARTMENTS

315 West Mission Avenue Construction of 33-unit Apartment Building with 1-bedroom Units

Purchase price	\$715,380	Tax Credit Equity	\$4,540,096	
Closing, title, excise tax	33,120	County 2060		1,200,000
Demolition	75,000	Deferred developer fee loan		310,000
Construction	3,621,900	Utility incentive		66,000
Construction contingency	277,138	Unidentified		130,000
Sales tax	315,105			
Equipment & furnishings	5,000	City HOME funds		200,000
Seller appraisal, market study	8,500			
Architect, engineering	240,000			
Environ, geotech, survey	22,600			
Legal fees	75,000			
Other consultants	3,000			
Relocation expenses	70,000			
Permits, fees, hookups	25,000			
Impact fees	9,400			
Development period utilities	6,000			
RE taxes, insurance	19,600			
Construction loan costs	57,000			
Construction loan interest	80,000			
Other loan fees	7,650			
LIHTC fees	58,703			
LIHTC nonprofit donation	14,500			
Accounting, audit	15,000			
Marketing, leaseup	3,000			
Carrying costs during leaseup	10,000			
Operating reserves	56,500			
Replacement reserves	32,000			
Developer fee (9%)	590,000			
TOTAL	\$6,446,096	TOTAL		\$6,446,096

Construction of 33-unit apartment building with 32 one-bedroom units for rent and a two-bedroom unit for a resident manager. Budget also includes improvements to the site and adjacent public sidewalks and vacated street. A construction loan will be in a lien position superior to the City's lien and will be repaid from tax credit equity. County lien may be superior to City lien.

BRIEFING PAPER

City of Spokane

Community, Housing and Human Services Department (CHHS)

HOME Fund Allocations / VOA project

December 15, 2014

Subject

Update regarding CHHS Board approval of the proposed HOME Multifamily Housing grant funds and approval of staff efforts to identify additional funding for VOA East 2nd project.

Background

The City receives federal funds from the U.S. Department of Housing and Urban Development (HUD) through its HOME Investment Partnerships Program (HOME), which is administered by the CHHS department. Eligible uses include the construction, rehabilitation, and acquisition of rental properties, which are affordable to low-income tenants. Eligible recipients include for-profit and non-profit housing providers and housing authorities. Some funding is restricted to non-profits designated as Community Housing Development Organizations (CHDO).

The department received requests for 5 projects requesting \$1,771,180. Following an RFP process and reviews by its Affordable Housing subcommittee, the CHHS Board recommends 3 projects for allocations of \$896,616 in HOME funds. The three projects are included in the attached table, which shows proposed projects and projects that are currently underway from prior funding rounds. The pending projects are:

- **West 315** will consolidate parcels to construct 33-unit apartment building with 31 one-bedroom and 2 2-bedroom units, which will have some units designated for homeless people and those with disabilities. A portion of the site currently has a one-story office building, which is owned by the Community Frameworks (CF), the project sponsor. In January 2015, the project will apply for low-income housing tax credits, which will apply affordability restrictions to all units, except the manager unit. The County has committed \$1.2 million in 2060 funds to the project. The project budget has a shortfall of \$100k, as the City did not fully fund the request. It is looking for alternative additional funding and/or cost savings. Project-based rent subsidies for some units have been recommended by the State. Spokane Housing Ventures (SHV) will be the property manager. CF and SHV work with Frontier Behavioral Health and other service providers to locate tenants and for services, as needed.

- **TIP City Lots** will develop five units on 3 City-owned lots in the Sprague Targeted Improvement Pilot program area. East Central Community Organization (ECCO) proposed two duplexes with four 3-bedroom units and a 2-bedroom single family residence. ECCO will apply for a bank loan and County 2060 funds to complete the project. The project has a funding shortfall, as its allocation was \$214k below what ECCO requested. It might request additional CHDO funds from the City in a future funding round. Depending upon funding received, the project might be scaled back. If it is, the unused City lots will be made available for other projects. ECCO will manage the units.
- **East 2nd Avenue** is a 51-unit, 4 story apartment building with 17 studio apartments, 33 one-bedroom units and a manager's unit for previously homeless persons. It is a collaborative effort of Volunteers of America of Eastern Washington and Northern Idaho and Catholic Housing Services, which plans to use County 2060 funds and low-income housing tax credit to construct Father Bach Haven II for the same population on an adjacent site. In January 2015, the VOA will apply for low-income housing tax credits, which will apply affordability restrictions to all units, except the manager unit. The project budget has a shortfall of \$675k, which is has asked the City to fill. The project expects to receive project-based rental assistance from the Spokane Housing Authority. Catholic Housing Services will manage the property. Services will be coordinated by VOA.

One of the recommended recipients (VOA) will require additional funding to successfully bring their project to fruition. Based on this project meeting the priority need of serving chronically homeless, the CHHS Affordable Housing committee and full CHHS board authorized CHHS staff to negotiate with VOA to assist in meeting their funding shortfall. Potential sources of funding have been identified and staff has begun to research those that would be the most appropriate fit for this project. Additionally, efforts will be made to identify ways to reduce the project costs and need for additional funding. As it stands, VOA's recommended allocation is \$525,388 and their HOME request was \$730,000. VOA also had a stated funding need of \$470,000 that has not been identified.

Impact

Combined, these projects will provide 89 housing units (41 designated as HOME units). Most are targeted to households at or below 30% of the AMI (Area Median Income). The VOA project will serve chronically homeless individuals – a need that has been identified as a high priority for the City by the CHHS Board, and the administration.

Action

No formal action is required at this time. Final proposals will be brought to City Council for each project separately.

Funding

Potential funding sources include UDAG, HOPE Acquisition Fund, Rental Rehabilitation Fund, and Program Income from the Delaney project. Only unappropriated sources are being considered (e.g. by funding this project, we are not defunding something else).

HOME-FUNDED RENTAL PROJECTS PROPOSED AND UNDERWAY

Pending (allocations recommended for approval by Community, Housing & Human Services Board)

Project name	Owner/Sponsor	Ownership type	City HOME funds	Total cost	Leverage 1 to X	Total no. of units	Unit type & approx sq ft	Cost/ unit	Cost/ sq ft	Tenant income level	AH Committee Allocation	CHHS Board approval
West 315 315 W Mission (Emerson Garfield) Buses: 27 & 91 (0 ft), 1 & 25 (.2 mi)	Community Frameworks	Non-profit sponsor/ for-profit owner, LIHTC	\$200,000	\$6,446,096	31.2	33	32 1bd/560 sf 1 2bd/825 sf	\$195,336	\$ 269	ELI, VLI-40, LI-60	11/20/14	12/3/2014
TIP City Lots 1808 E 1st/2418 E 1st/118 S Napa (East Central) Buses: 90 & 94 (1-4 blocks)	East Central Community Organization	Non-profit, CHDO	\$171,228	\$774,130	3.5	5	1 2bd /920 sf 4 3bd/1,170 sf	\$154,826	\$138	ELI, VLI-50	11/20/14	12/3/2014
East 2nd Avenue 217 & 223 E 2nd (East Central) Buses: 94, 45 (0 ft & 1 block), 90 (4 blocks)	Volunteers of America Eastern WA & Northern ID	Non-profit sponsor/ for-profit owner, LIHTC	\$525,388	\$10,054,605	18.1	51	17 stu/sf TBD 33 1bd/sf TBD 1 mngr/sf TBD	\$197,149	\$359	ELI, VLI-40, VLI-50	11/20/14	12/3/2014
Total			\$896,616	\$17,274,831	18.3	89						

Previously Approved by City Council (Underway)

Project name	Owner/Sponsor	Ownership type	City HOME funds	Total cost	Leverage 1 to X	Total no. of units	Unit type/ approx sq ft	Cost/ unit	Cost/ sq ft	Tenant income level	Allocation date	Council approval
The Delaney 242 W Riverside (Downtown)	Catholic Housing Services of Eastern Washington	Non-profit sponsor/ for-profit owner, LIHTC	\$300,000	\$7,566,586	24.2	71	70 1bd/414-440 sf 1 mngr	\$106,572	\$133	ELI, VLI-40, LI-60	11/6/12	2013-611 8/19/13
Sharp Residence 2808 E Sharp (Chief Garry Park)	C&H Duplexes, LLC	For-profit	\$80,000	\$151,731	0.9	1	1 4bd/1,773 sf	\$151,731	\$86	VLI-50	5/1/14	2014-530 5/16/2014
Liberty Park Terrace 1411 E Hartson (East Central)	Proclaim Liberty	Non-profit	\$203,007	\$1,616,000	7.0	48	24 2bd/753sf 24 3bd/934sf	\$33,667	\$40	ELI, VLI-50	5/1/14	2014-772 5/16/2014
Lilac Plaza 7007 N Wiscomb (Nevada Lidgerwood)	Spokane Baptist Association Homes	Non-profit sponsor/ for-profit owner, LIHTC	\$300,000	\$13,326,833	43.4	175	126 stu/360-440sf 49 1bd/470-612sf	\$76,153	\$107	ELI, VLI-50, mkt	11/6/12	2013-685 9/30/13
Garfield Apts. 532 S Garfield (East Central)	Vasilenko	For-profit	\$400,000	\$651,960	0.6	10	2 1bd/671 sf 2 2bd/956 sf 6 3bd/1,186 sf	\$65,196	\$71	ELI, VLI-50, MKT	5/1/14	2014-492 5/16/2014
Luhn House 2236 W Pacific (Browne's Addition)	Volunteers of America Eastern WA & Northern ID	Non-profit	\$37,500	\$235,000	5.3	1	1 6bd/4379sf	\$235,000	\$54	ELI, VLI-50	10/11/11	2013-310 minor contract 4/15/13
Total			\$1,320,507	\$23,548,110	16.8	306						

Income levels relate to Spokane area median income (AMI):
 Extremely low-income (ELI)
 Very low-income (VLI-45)
 Very low-income (VLI-50)
 Very low-income (LI-60)
 Market (MKT)

Household income at or below 30% AMI.
 Household income at or below 45% AMI.
 Household income at or below 50% AMI.
 Household income at or below 60% AMI.
 Unrestricted income.

DRAFT

Needs new budget, legal, timeline

OPR #2015-_____

**CITY OF SPOKANE
WEST 315 LLC**

WEST 315

HOME PROGRAM LOAN AGREEMENT

This HOME Program Loan Agreement (the "Loan Agreement") is made effective this ____ day of _____ 2015 ("Effective Date"), by and between the **City of Spokane**, Washington, a Washington municipal corporation (the "City"), whose address is City of Spokane, c/o Community, Housing and Human Services Department (the "Department"), 808 W. Spokane Falls Blvd., Room 650, Spokane, WA 99201, **West 315 LLC**, a Washington limited liability company (the "Borrower"), whose address is c/o Community Frameworks, 907 West Riverside Avenue, Spokane, WA 99201. The Borrower and the City are together referenced as the "Parties". This Loan Agreement is part of a transaction further reflected in a Promissory Note (the "Note") and a HOME Program Loan Covenant Agreement ("Covenant Agreement"). The City's disbursements under the Loan Agreement are further secured by a Deed of Trust of even date herewith (the "Deed of Trust"). The terms of said documents are incorporated herein as if fully set forth herein, and together shall be referenced as the "Related Documents." The capitalized terms in said documents shall have the same meaning in this Loan Agreement unless the context clearly suggests otherwise. In the event of conflict in the terms of any of these documents, the terms most favorable to the City shall apply.

WITNESSETH: The Parties hereby agree to diligently fulfill the following duties and to perform the following services in accordance with all of the conditions, terms and requirements of this Loan Agreement.

I. PURPOSE

- A. The purpose of this Loan Agreement is to expand the supply of decent, safe, sanitary, and affordable housing for extremely low-income households pursuant to the HOME Investment Partnerships Program (24 CFR part 92 et seq., CFDA #14.239) ("HOME").
- B. To accomplish the purpose of this Loan Agreement, the City shall use HOME funds to provide a portion of the financing for the Borrower's construction of West 315, a 33-unit apartment building, to be constructed at 315 West Mission Avenue in Spokane, WA (the "Project"). The abbreviated legal description of the Project is: UPDATE

insert updated abbreviated legal description
Assessor's Parcel Number: _____._____.

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Property Address: _____.

See Attachment 1 for the full legal description.

The Project includes seven (7) one-bedroom units that will be designated as floating HOME-assisted units. Borrower shall provide the City with the address (e.g., street address and apartment number) of each HOME assisted unit no later than the time of initial occupancy. If the Project includes floating units, the units originally designated as HOME-assisted may change over time, but the number of HOME-assisted units, for purposes of this Loan Agreement and Related Documents, shall never be less than the number designated in this section, and any replacement units must be comparable in size, features, and number of bedrooms to those units originally identified as HOME-assisted in this section.

Upon completion, at least _____ (#) units in the Project shall be accessible to individuals with mobility impairments and _____ (#) additional unit(s) shall be accessible to individuals with sensory impairments pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

- C. The Project is expected to conform to the estimates noted in the Project Budget, attached hereto as "Attachment 2" and incorporated herein. All additional costs over and above the sum noted as compensation for this Loan Agreement shall be borne by the Borrower.

II. DURATION OF THE LOAN AGREEMENT

This Loan Agreement shall commence and be effective on the Effective Date and shall terminate on the later of the end of the HOME Affordability Period or full repayment of sums due under the Note. The Parties, upon mutual agreement, shall have the power to extend the term of this Loan Agreement. Any extension shall not increase the overall dollar amount loaned by the City pursuant to this Loan Agreement.

III. AMOUNT OF LOAN

The City shall loan the Borrower a sum not to exceed TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00) from HOME funds, to be disbursed as provided herein, subject to the terms and conditions of this Loan Agreement and Related Documents.

IV. PRICING

This loan is subject to interest on the outstanding principal balance loaned at the rate of three percent (3%) per annum, such interest commencing on the time of disbursement(s) and compounding monthly during the Affordability Period. Payments shall be made pursuant to the Note and Section XV herein below. If rents for any HOME-assisted in the Project are increased above the level of the Affordability

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Requirements defined in this Loan Agreement or any other provisions, covenants, terms, conditions or restrictions of this Loan Agreement are not adhered to, then the rate on the outstanding balance shall be increased to the prevailing prime lending rate as published in The Wall Street Journal, plus three percent (3%) for the remaining term of the loan, compounded monthly, and may be subject to accelerated repayment pursuant to XV.B. herein below.

V. SECURITY/SUPPORT

- A. Borrower shall assure and maintain the City's security position on the underlying real estate as evidenced by the Deed of Trust, which will be subordinate only to the following (if any): covenants, use restrictions, and deeds of trust of the Washington State Housing Finance Commission, the County of Spokane, and an interim construction lender. The sum of all loans against the Project, including the City's, cannot exceed ninety percent (90%) of the lesser of appraised value or cost.
- B. The Affordability Requirement outlined in this Loan Agreement shall be recorded as a **covenant running with the Project**, and shall apply without regard to the term of any loan or mortgage or transfer of ownership.
- C. Borrower shall keep in force, continuously, insurance covering the Project and property legally described above, listing the City as policy beneficiary, pursuant to Section IX of this Loan Agreement.

VI. FUNDING DISBURSEMENTS

- A. The timing and disbursement of HOME funds shall be determined by the City in its sole discretion, consistent with the provisions of this Loan Agreement. Without limiting the forgoing, funding disbursements are subject to the following conditions:
 - 1. City HOME funds shall be disbursed only after completion of all requirements imposed by the United States Department of Housing and Urban Development ("HUD"), as determined by the City in its sole discretion, and upon completion of an environmental review by the City.
 - 2. All loaned funds must be utilized by December 31, 2016.
 - 3. Borrower may not request disbursement of funds until needed for payment of eligible project costs, as defined by 24 CFR §92.206 and as further defined in the Program Description of the City's Multifamily Housing Program, and the amount of each request must be limited to the amount needed. Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups may be reimbursed if they were incurred not more than 24 months before the date of this Loan Agreement. In case of a dispute between the Parties regarding when the funds shall be disbursed, the

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determination of the Director of the Department of Community, Housing, and Human Services of the City of Spokane ("Director") shall govern.

- B. Notwithstanding any other provision of this Loan Agreement, except as approved by the City, prior to the drawdown or disbursement of any City HOME funds hereunder, the Borrower shall provide documentation, in a form reasonably acceptable to the City, that the following actions have been taken to the City's satisfaction:
1. Recording of the Covenant Agreement and Deed of Trust.
 2. The Borrower has in place all applicable construction, land use, environmental, zoning permits and/or other federal, state and local governmental approvals as necessary for undertaking the activity for which the specific draw request is to be used.
 3. For projects including acquisition of land and/or buildings, an appropriate assessment of fair market value must be reviewed and approved by the City.
 4. Notwithstanding any provision in this Loan Agreement, the Borrower and the City hereto agree and acknowledge that Borrower shall not be entitled to any drawdown or disbursement of funds until satisfactory completion of environmental review and receipt by the City of a release of funds from HUD under 24 CFR Part 58. The Borrower and the City further agree that the provision of any funds to the Project shall be conditioned upon the City's determination to proceed with, modify, or cancel the project based on the results of a subsequent environmental review. The Borrower shall not spend any funds on physical or choice-limiting actions, including property acquisitions, demolition, movement, rehabilitation, conversion, repair, or construction prior to the environmental clearance as described herein. Violation of this provision may result in the denial of any funds under this Loan Agreement. The Borrower shall perform all the required mitigation measures referenced in the environmental review record completed by the City.
 5. As applicable, the Borrower shall demonstrate, to the City's satisfaction, full compliance with the minimum wage requirements set forth in Section XVIII herein below.
- C. Notwithstanding the foregoing, a retainage of ten percent (10%) of the total amount allocated under this Loan Agreement shall be held by the City until all permits have been received, final inspections are complete, a final Certificate of Occupancy is issued, the Borrower accepts the work, federal requirements are fully satisfied, and all other obligations under this Loan Agreement or related agreements are carried out to the satisfaction of the Director.

VII. INCOME DETERMINATIONS

- A. For purposes of this Loan Agreement, tenant "annual income" is defined pursuant to 24 CFR §92.203, and includes income from all persons in the household, less income adjustments pursuant to 24 CFR §5.611. An individual

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does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.

- B. Initial tenant annual income determinations shall be made by the Borrower pursuant to 24 CFR §92.203. Subsequent tenant income determinations shall be made by the Borrower pursuant to 24 CFR §92.203 and 24 CFR §92.252(h).
- C. Rent increases and annual income recertifications shall be governed by the terms outlined in the Affordability Requirements.

VIII. AFFORDABILITY REQUIREMENTS

- A. HOME Affordability Period. The HOME Affordability Period, established pursuant to 24 CFR §92.252, is twenty (20) years, beginning after Project Completion, as determined by the Director. "Project Completion" means that all necessary title transfer requirements and construction work have been performed; the Project complies with the requirements of 24 CFR §92, including the property standards under 24 CFR §92.251; the final drawdown of HOME funds has been disbursed for the Project; and the project completion information has been entered in the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of 24 CFR §92.502(d), Project Completion occurs upon completion of construction and before occupancy. Repayment of the loan during the HOME Affordability Period will not extinguish the requirements of the Related Documents.
- B. City Affordability Period. The City Affordability Period is thirty (30) years, beginning after Project Completion, as determined by the Director. The HOME Affordability Period and City Affordability Period shall run concurrently. Collectively, the two periods are hereinafter referred to as the "Affordability Period." Upon expiration of the HOME Affordability Period, the City Affordability Period shall continue, but HUD will no longer monitor compliance with Affordability Requirements, unless the City Affordability Period is coterminous with the HOME Affordability Period. The requirements of the Affordability Period and other conditions of the Related Documents shall apply, as long as there are funds owing under the Note.
- C. Rent Limit. During the Affordability Period, rents (i.e., exclusive of rent paid through project-based subsidies) on the seven (7) HOME-assisted units shall not exceed thirty percent (30%) of the adjusted income of a family whose annual income equals thirty percent (30) of Spokane area median income ("AMI"), as defined by HUD and adjusted for family size, unit size by number of bedrooms, tenant-paid utilities and tenant-supplied appliances. These units shall include seven (7) one-bedroom units. Should the HUD rents decline below the initial project rents, the Borrower's rents do not need to be reduced below the initial rents. A table of initial HOME rents for the Project as established by HUD is attached to this Loan Agreement as Attachment 3. The adjustment for tenant-paid utilities and tenant-supplied appliances is subject to 24 CFR §92.252,

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which previously used the Section 8 existing housing allowance for tenant-furnished utilities and other services as published annually by HUD and issued by the Spokane Housing Authority or twelve (12) months of documented actual utility costs as acceptable to the Department. New HUD requirements are being clarified and may include that the adjustment for tenant-paid utilities and tenant-supplied appliances be based on the HUD Utility Schedule Model, twelve (12) months of documented actual utility costs as acceptable to the Department, or other methods as determined by HUD. Currently the HUD Utility Schedule Model can be found at: <http://huduser.org/portal/resources/utimodel.html>.

However, any HOME-assisted unit receiving federal or state project-based rental assistance, where the tenant pays not more than thirty percent (30%) of the household's adjusted income as a contribution toward rent, shall be limited to the maximum rent allowed under the federal or state project-based rental assistance program.

The City will provide Borrower with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits exclusive of rent paid through project-based subsidies) in accordance with this Loan Agreement and 24 CFR §92.252(f)(2). The Borrower must annually provide the City with information on rents and occupancy of HOME-assisted units to demonstrate compliance with the Affordability Requirements of this Loan Agreement. The City will review rents for compliance and approve or disapprove them every year. The Borrower must provide tenants of HOME-assisted units written notification of rent increases no less than 30 days prior to the beginning of the month in which the increase is intended to be implemented, subject to the provisions of a tenant's lease agreement, pursuant to 92.252.(f)(3).

- D. LIHTC Rent Clause. For tenants of low-income tax credit assisted units (if low-income housing tax credits are awarded to the Project or portions of the Project), any increases in rent associated with tenant income shall be governed solely by section 42 of the Internal Revenue Code of 1986, as amended from time to time.
- E. Upon completion of the HOME Affordability Period, if the maximum rent and income limits are exceeded, the loan will be subject to repayment at the higher interest rate as provided for in Paragraph 2 of the Promissory Note.
- F. Income Limit. At initial occupancy, tenants of the seven (7) HOME-assisted units shall have incomes not greater than thirty percent (30%) of AMI, as defined by HUD. If any of these tenants' incomes increases to a level exceeding fifty percent (50%) of AMI, then the next available HOME-assisted unit shall be made available to families at or below thirty percent (30%) of AMI. If the income of a tenant of a HOME-assisted unit increases and exceeds eighty percent (80%) of AMI, then the tenant's rent shall increase to the lesser of thirty percent (30%)

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of the tenant's adjusted monthly income or Fair Market Rent, subject to paragraph VIII.D hereof.

- G. Income Certifications. All tenants' incomes shall be recertified annually by the Borrower. Any applicable rent increases will be effective upon the next lease renewal, and are subject to thirty (30) days' written notice.
- H. Additional Affordability Requirements. The Project must comply with the affordable housing requirements of 24 CFR §92.252.
- I. Relocation. Tenants in occupancy prior to the Project are subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended ("URA"), 42 USC 4601 et seq. and the regulations promulgated thereunder. All relocation payments and expenses shall be borne by the Borrower.
- J. Protection of Affordability Requirements – City Purchase Option. The Affordability Requirements will terminate upon foreclosure or transfer in lieu of foreclosure by any lender (a "Senior Lender") whose mortgage or deed of trust (the "Senior Mortgage") is senior to the Deed of Trust. In the event of a pending or threatened foreclosure, once applicable notice and cure periods have expired, the City is hereby granted an option to purchase the Project before foreclosure or deed in lieu of foreclosure to preserve affordability. The City may exercise its option to purchase the Project by paying the purchase price to Borrower (who shall immediately transfer such amount, without deduction, to the Senior Lender). Borrower shall provide written notice of pending or threatened foreclosure proceedings and/or a possible deed in lieu of foreclosure to the City immediately upon Borrower learning of the same. The purchase price shall be the assessed fair market value of the Project at the time of the City's exercise of its purchase option, less any financial obligations assumed by the City at the time of the City's acquisition of the Project. Pursuant to 24 CFR §92.252(e)(3), the City further reserves the right to revive any affordability restrictions according to the original terms of this Loan Agreement if, during the HOME Affordability Period (as defined herein), the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Project or property.

IX. INSURANCE

The Borrower shall keep the Project and all improvements now existing or hereafter erected thereon continuously insured as required in the Deed of Trust, the Note and the Covenant Agreement and this Loan Agreement, naming the City as mortgagee and/or loss payee. The insurance requirements apply during the Affordability Period, or during any such time as there are outstanding sums due under the Note, whichever is longer.

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X. PROPERTY STANDARDS

- A. All HOME-assisted housing under this Loan Agreement shall meet the requirements of 24 CFR §92.251, which includes applicable Federal, State and local code requirements and housing quality standards, rehabilitation standards, ordinances and zoning ordinances at the time of Project completion and for the duration of the Affordability Period. Where relevant, the housing must be constructed to mitigate the impact of potential disasters (e.g., earthquakes, hurricanes, flooding, and wildfires), in accordance with applicable State and local codes, ordinances, or other State and local requirements, or such other requirements as HUD may establish). The standards under 24 CFR §92.251 were modified in 2013 and implementation awaits further clarification from HUD, at this time.
- B. Any accessible HOME-assisted housing units under this Loan Agreement shall, for the duration of the Affordability Period, meet the accessibility requirements of 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. Covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619). The foregoing shall not be interpreted as limiting Borrower's obligation to comply with accessibility requirements applicable to the Project as whole.
- C. The Borrower shall comply with the provisions of 24 CFR §92.251.

XI. ADDITIONAL MISCELLANEOUS COVENANTS

Borrower shall:

- A. Comply with the Affordability Requirements described in this Loan Agreement and Related Documents.
- B. Maintain all required insurance, including without limitation the insurance required by the Deed of Trust.
- C. Maintain Project financial reports, Project financial records, and provide all other information and documentation that the City may reasonably request.
- D. Make prompt payment of all taxes and financial liabilities.
- E. Not hypothecate or encumber Project assets in any way, except to the extent provided for under this Loan Agreement or as approved of by the Director in writing. The Director may withhold such approval at his/her reasonable discretion.

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- F. Promptly provide (i) rent and tenant income information at initial tenant occupancy and (ii) rent, occupancy, and tenant income information annually throughout the term of this Loan Agreement, or as otherwise requested by the City. If the Project has floating HOME units, the Borrower must provide the City with information regarding the unit substitution and filling vacancies so that the Project remains in compliance with HOME rental occupancy requirements.
- G. Promptly provide, upon request by the City, such documentation as is necessary (including financial statements) to enable the City to determine the financial condition and continued financial viability of the Project.
- H. During the Affordability Period, prohibit occupancy of any HOME-assisted unit by Borrower (or officer, employee, agent, elected or appointed official, or consultant of the Borrower, or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of Borrower) whether private, for-profit or nonprofit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor).
- I. Comply with all applicable federal, state, and local regulations and requirements, including, but not limited to Uniform Administrative Requirements, Federal Labor Standards, Davis-Bacon and Related Acts, Uniform Relocation Act requirements applicable as of the date of the execution of this Loan Agreement, and the provisions of the Lead-Based Paint Poisoning Prevention Act. When applicable, the City's costs to administer Davis-Bacon Federal Labor Standards, and Related Acts shall be borne by the Borrower. When Washington State prevailing wages apply, the Borrower shall comply with all State requirements under RCW 39.12 to the satisfaction of the State of Washington. When applicable, the higher of Washington State prevailing wages or Davis-Bacon wages shall apply.
- J. Comply with all HOME program project requirements pursuant to 24 CFR part 92 et seq.
- K. Maintain housing in compliance with the property standards of 24 CFR §92.251 and local code requirements throughout the term of this Loan Agreement.
- L. Upon Project completion, the Project shall obtain a final Certificate of Occupancy, meet all licensing requirements needed to operate the facility as proposed by Borrower in its various funding applications, and meet the property standards of 24 CFR §92.251, minimum rehabilitation standards, and all applicable state and local codes and ordinances. New construction projects must also meet HUD, state, and local requirements relating to accessibility and disaster mitigation.
- M. Cause each of the seven (7) HOME-assisted units to have been occupied by income-eligible households within eighteen (18) months after the Project is

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completed. If any HOME-assisted units have not been occupied by eligible tenants within 6 months following the date of Project Completion, Borrower shall submit to the City current marketing information and, if the City requests it, an enhanced marketing plan for leasing the unoccupied units as quickly as possible, which information the City will provide to HUD as required by 24 CFR §92.252. If any HOME-assisted unit has not been rented to eligible tenants within eighteen (18) months after the date of Project Completion, Borrower shall repay the City \$28,571.43/unit for each such unit within thirty (30) days of the City's written request for repayment. This reflects the proportionate per unit share of HOME funds, i.e., \$200,000.00 HOME dollars/7 HOME units. The number of HOME-assisted units required hereunder shall be reduced in proportion to the amounts so repaid.

The Borrower shall cause the Covenant Agreement (which shall contain the foregoing covenants) to be recorded as a covenant running with the land and the Project.

Borrower shall pay at loan closing all costs associated with the negotiation, documentation and closing of the loan, including without limitation title premiums escrow fees, recording fees, appraisal fees and City's attorneys' fees.

XII. PROJECT TIMETABLE

- A. The Borrower agrees to complete work required in accordance with the timetable set forth in Attachment 4. Timely completion of the work is an integral and essential part of performance. The expenditure of HOME funds is subject to Federal deadlines and failure to meet deadlines could result in the loss of the Federal funds. By the acceptance and execution of this Loan Agreement, the Borrower agrees that the Project will be completed as expeditiously as possible and make every effort to ensure the project will proceed and will not be delayed. Failure to meet these deadlines can result in cancellation of this contract and revocation of HOME funds. Since it is mutually agreed that time is of the essence, the Borrower shall cause appropriate provisions to be included in all contracts or subcontracts relative to the work tasks in Attachment 4. It is intended that such provisions included in any subcontracts be, to the fullest extent permitted by law and equity, binding for the benefit of the City and enforceable by the City against the Borrower and its successors and assigns to the project or any part thereof or any interest therein.
- B. In the event the Borrower is unable to meet the above schedule or complete the above services due to delays resulting from Acts of God, untimely review and approval by the City and other governmental authorities having jurisdiction over the Project, or other delays that are not caused by the Borrower, the City shall grant a reasonable extension of time for completion of the work. It shall be the responsibility of the Borrower to notify the City promptly in writing whenever a delay is anticipated or experienced, and to inform the City of all facts and delays related to the delay.

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XIII. DEFAULT

A. The following shall be considered “Events of Default” for purposes of this Loan Agreement:

1. Failure of Borrower to make any principal and interest payment within fifteen (15) days after such payment is due.
2. Failure to perform, observe or comply with the Affordability Requirements, Income Determinations, or any other provisions, related covenants, terms, conditions or restrictions of this Loan Agreement or any agreement relating to the Project (i.e., the occurrence of an event of default under other indebtedness secured by the Project property) or any part thereof, and failure to fully cure the same within the period of time, if any, permitted for cure and, if no period for cure is otherwise provided for, within sixty (60) days of written notice from the City of such failure, requesting the same to be remedied; provided, after a second non-compliance of any provision in a five- (5-) year period, only fourteen (14) days written notice is needed.
3. Failure to perform required maintenance or performance of any act by Borrower which would, in the City's reasonable opinion, adversely affect the value of the Project.
4. Except as otherwise permitted under this Loan Agreement, the sale, transfer, lease, or other conveyance of the Project or any portion thereof, including assumptions and subordinations, without obtaining the prior written consent of the Director.
5. Filing a voluntary or involuntary petition not dismissed within ninety (90) days after filing under the United States Bankruptcy Code by or against the Borrower.
6. Any representation, warranty, or disclosure made to the City or any other Project lender which proves to be materially false or misleading as of the date made, whether or not such representation, warranty or disclosure appears in this Loan Agreement.
7. Failure to maintain and keep in force adequate amounts of insurance as is usual in the business carried on by the Borrower, or as required herein.
8. Without limiting any of the foregoing, Borrower's failure to comply with the minimum wage requirements set forth in Section XVIII of this Loan Agreement.

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XIV. REMEDIES

- A. Upon the occurrence of an event of default not timely cured after notice, the City may, in addition to any other remedies which the City may have hereunder or under this Loan Agreement or by law or equity, at its option and upon written notice to the Borrower, take any or all of the following actions:
1. Immediately terminate any further advance of loan funds.
 2. Declare the debt incurred hereunder and under the Related Documents immediately due and payable and commence collection proceedings against the Borrower.
 3. Seek judicial appointment of a receiver.
 4. Foreclose under the security documents or instruments, judicially or non-judicially.
 5. File suit against the Borrower.
 6. Seek specific performance or injunctive relief to enforce performance of the undertakings, duties, and agreements provided in this Loan Agreement or any related security document or instrument, whether or not a remedy at law exists or is adequate.
- B. All remedies of the City provided for herein are cumulative and shall be in addition to all other rights and remedies provided by law or in equity or by this Loan Agreement. The exercise of any right or remedy by the City shall not in any way constitute a cure or waiver of default under this Loan Agreement or any other related Project agreement, or invalidate any act done pursuant to any notice of default, or prejudice the City in the exercise of any of its rights unless, in the exercise of such rights, the City realizes all amounts owed to it by the Borrower.
- C. A failure to declare or a delay in declaring a default shall not constitute a waiver of any rights or remedies or excuse any failure by the Borrower to strictly comply with its obligations under this Loan Agreement or any other related Project agreement or document.
- D. As long as Wincopin Circle LLLP, a Maryland limited liability limited partnership ("Tax Credit Investor") or an affiliate thereof remains the investor member of Borrower, if a default occurs under this Loan Agreement or any other related document, and the City intends to exercise any of its remedies on account of such default, then prior to the initiation of any remedy by the City on account of such default, then City at the same time as it delivers notice to the Borrower shall deliver written notice of such default to the Tax Credit Investor at the address specified in Section XXVII. The City shall accept cure of the defaults by the Tax Credit Investor within the cure periods, if any, provided

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in this Loan Agreement or any other related document, and in any event, shall not exercise any rights to accelerate or foreclose with respect to this Loan until Tax Credit Investor has been given the notice (but not the obligation) to remedy any default forming the basis with respect to such remedy.

- E. Notwithstanding anything to the contrary herein, the Borrower, its members, officers, directors, employees, agents and contractors shall have no personal liability for payment of the indebtedness evidenced hereby or performance of the covenants set forth in this Loan Agreement and in the Related Documents and the sole recourse of the City shall be confined to the exercise of its rights under this Loan Agreement and the Related Documents, provided that nothing shall diminish the Borrower's liability for damages or deficiencies resulting from theft, waste, fraud, material misrepresentation and misuse of rents.

XV. REPAYMENT

- A. Deferral Period: No payments of principal or interest shall be due during the HOME Affordability Period, so long as Borrower and the Project are in compliance with the Affordability Requirements per the terms of this Loan Agreement and Covenant Agreement together with all other provisions of this Note and Related Documents..
- B. Payment Period: Following the HOME Affordability Period, and during the remainder of the City Affordability Period, principal and interest due under the Note shall be repayable in approximately equal amortized installments of principal and interest on the first day of each month (or the first business day thereafter if the first day of the month is a weekend or a holiday for the City), in the amount required to fully amortize the principal and accrued interest during the remaining term of the City Affordability Period.
- C. Notification of Non-Compliance: During the Affordability Period, Borrower shall notify the City in writing if, for any reason, the Project will not comply with the Affordability Requirements, at which time any and all outstanding balance would become immediately due and payable in full.
- D. Prepayment: The Borrower may repay all or any portion of the outstanding principal of the Loan at any time, without penalty. Repayment during the HOME Affordability Period described in Paragraph VIII.A of this Loan Agreement shall not extinguish the Affordability Requirements.
- E. Late Charges: A late charge of thirty dollars (\$30.00) will be added to any payment received after the 10th day of the month in which it is due in addition to any other remedy.
- F. Application of Payments: Payments received will first be applied to late charges, then to interest, and finally to principal.

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- G. Place of Payment: Payment of principal, interest, and fees shall be made in lawful money of the United States of America in immediately available funds to the City of Spokane, at the Community, Housing and Human Services Department, 808 W. Spokane Falls Blvd., Room 650, Spokane, WA 99201, or at such other place as the City may designate to Borrower in writing.

XVI. NONDISCRIMINATION/RENT SUBSIDY

Neither the Borrower nor any of its agents shall refuse to lease HOME-assisted units to a certificate or voucher holder under 24 CFR part 982 – Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.

XVII. FAITH-BASED ACTIVITIES AND ORGANIZATIONS

- A. Borrower, in providing services supported in whole or in part with HOME program funds, shall not discriminate against current or prospective program beneficiaries (i.e., tenants) on the basis of religion, a religious belief, or a refusal to attend or participate in a religious practice.
- B. If Borrower engages in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, Borrower must perform such activities and offer such services outside of and separately in time or location, from the activities or programs financed under this Loan Agreement, and participation in any such explicitly religious activities must be voluntary for the program beneficiaries of the HUD-funded programs or services (i.e., tenants).
- C. Whether or not Borrower is a faith-based organization, it may use the loan proceeds provided under this Loan Agreement as provided under relevant regulations and this Loan Agreement without impairing its independence, autonomy, expression of religious beliefs, or religious character. Borrower will retain its independence from Federal, State, and local government, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct HOME funds to support or engage in any explicitly religious activities, including activities that involve overt religious content, such as worship, religious instruction, or proselytization, or any manner prohibited by law. Borrower may use space in its facilities to provide program-funded services, without removing or altering religious art, icons, scriptures, or other religious symbols. In addition, Borrower retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

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- D. The loan proceeds provided to Borrower pursuant to this Loan Agreement may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are or will be used for explicitly religious activities. Subject to other limitations in this Loan Agreement, loan proceeds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under HOME regulations. When a structure is or will be used for both eligible and explicitly religious activities, HOME funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to the HOME program. Sanctuaries, chapels, or other rooms that Borrower uses as its principal place of worship, however, are ineligible for HOME-funded improvements. Disposition of real property after the term of the loan or grant, or any change in use of the property during the term of the loan or grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85).
- E. This limitations in this Section XVII shall apply regardless whether the loan proceeds under this Loan Agreement includes local funds that the City has voluntarily contributed to supplement federally funded activities.

XVIII. COMPLIANCE WITH LAWS

- A. The Borrower shall comply with all HOME Program requirements as outlined in 24 CFR part 92 et seq., as may be amended from time to time.
- B. The Borrower shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601 et seq.), E.O. 11063 (3 CFR, 1959-1963 Comp., p. 652), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and HUD regulations issued pursuant thereto.
- C. The Borrower shall comply with the nondiscrimination and equal opportunity, disclosure requirements, debarred, suspended or ineligible contractors, and drug-free workplace, per 24 CFR §92.350.
- D. The Borrower shall comply with the affirmative marketing and minority outreach program of 24 CFR §92.351, and shall further comply with the tenant selection requirements set forth in 24 CFR 92.253(d). For purposes of complying with 24 CFR 92.253(d), the City agrees that the Borrower may limit eligibility or give a preference to chronically homeless persons and families when selecting tenants.
- E. The Borrower shall comply with the National Environmental Policy Act of 1969, as outlined in 24 CFR 92.352 and Borrower agrees to implement City-identified conditions on safeguards to protect and enhance environmental quality or minimize adverse environmental impacts.
- F. Minimum Wages (State Prevailing Wage and Federal Davis-Bacon Wage).

1. Federal Labor Standards/Davis-Bacon Act of 1931 (Title 40 U.S.C. 3141) ☐ Applicable ☒ Not Applicable. If the "Applicable" box is checked, the following provisions apply:
 - a. The Borrower shall pay prevailing wages, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5) (<http://www.dol.gov/whd/regs/statutes/dbra.htm>), to all laborers and mechanics employed in the development of the Project; provided, in the event the Project is subject to state minimum wage requirements, and if the state minimum wage rate exceeds the Department of Labor rate, the conflict will be resolved by applying the higher rate.
 - b. All contracts relating to the Project shall contain a provision requiring the payment of such wages, as predetermined by the Secretary of Labor under the Davis-Bacon Act, 40 USC 276(a) under wage decision [DECISION #], modification [MODIFICATION #], dated _____.
 - c. The Borrower shall pay overtime, as applicable, pursuant to the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).
 - d. The Borrower shall comply with all regulations issued under the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act, all Federal laws and regulations pertaining to labor standards, Federal Labor Standards, HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), and 24 CFR §92.354, as applicable.
 - e. The Borrower shall provide contracts with the prime contractor and major subcontractors as soon as these contracts are available and the contracts shall evidence compliance with Federal Labor Standards.
 - f. These prevailing wage requirements do not apply to volunteers or sweat equity pursuant to 24 CFR §92.354(a) and (b).
 - g. Borrower shall reimburse the City for all costs incurred by the City in administering Borrower's compliance with applicable Davis-Bacon, Federal Labor Standards, and Related Acts.
 2. Labor Standards. If applicable, the Federal Labor Standards Provisions (HUD 4010) are attached as Attachment n.a.
 3. State Minimum Wage. When Washington State prevailing wages apply, the Borrower shall comply with all State requirements under RCW 39.12 to the satisfaction of the State of Washington. When applicable, the higher of Washington State prevailing wages or Davis-Bacon wages shall apply.
- G. Conflict of Interest. The Borrower shall comply with the conflict of interest provisions prescribed in 24 CFR §92.356(f). During the Affordability Period, Borrower shall prohibit occupancy of any HOME-assisted unit by Borrower (or officer, employee, agent, elected or appointed official, or consultant of the Borrower, or immediate family member or immediate family member of an

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officer, employee, agent, elected or appointed official, or consultant of the Borrower), whether private, for-profit or nonprofit (including a community housing development organization (CHDO) when acting as an owner, developer, or sponsor).

- H. The Borrower shall comply with the equal employment opportunities for low- and very low-income persons pursuant to 24 CFR part 135.
- I. The Borrower shall comply with the Fair Housing Act as implemented by 24 CFR parts 100-115, as applicable.

XIX. TENANT AND PARTICIPANT PROTECTIONS

- A. There must be a written lease between the tenant and the Borrower that complies with 24 CFR §92.253 (Tenant Protections and Selection) and that is for a period of not less than one year, unless by mutual agreement between the tenant and the Borrower a shorter period is specified.
- B. Leases between the Borrower and a tenant shall not contain any of the following provisions:
 - 1. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Borrower in a lawsuit brought in connection with the lease.
 - 2. Agreement by the tenant that Borrower may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the Borrower and tenant. This prohibition does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. Borrower may dispose of this personal property in accordance with Washington state law.
 - 3. Agreement by the tenant not to hold the Borrower or the Borrower's agents legally responsible for any action or failure to act, whether intentional or negligent.
 - 4. Agreement by the tenant that the Borrower may institute a lawsuit against a tenant or affecting a tenant's interests without notice to tenant.
 - 5. Agreement by the tenant that the Borrower may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the Borrower and tenant.
 - 6. Agreement by the tenant to waive any right to a trial by jury.

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7. Agreement by the tenant to waive the tenant's right to appeal, or otherwise challenge in court, a court decision in connection with the lease.
 8. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the Borrower against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
 9. Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.
- C. Borrower may not terminate the tenancy or refuse to renew the lease of a tenant occupying a HOME-assisted unit except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan; or for other good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing. To terminate or refuse to renew tenancy, Borrower must serve written notice upon the tenant specifying the grounds for the action at least thirty (30) days before the termination of tenancy.
- D. Borrower shall adopt and follow written tenant selection policies and criteria that:
1. Limit the HOME-assisted units to very low-income and low-income families;
 2. Are reasonably related to the applicants' ability to perform the obligations of the lease (i.e., to pay the rent, not to damage the housing, not to interfere with the rights and quiet enjoyment of other tenants);
 3. Limit eligibility or give a preference to a particular segment of the population if otherwise permitted in this Loan Agreement (and only if the limitation or preference is described in the City's consolidated plan).
- E. Borrower shall select tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and give prompt written notification to any rejected applicant of the grounds for any rejection pursuant to 24 CFR §92.253(d)(5) and 24 CFR §92.253(d)(6).
- F. Borrower shall not charge fees that are not customarily charged in rental housing (e.g., laundry room access fees), except that Borrower may charge: (i) reasonable application fees to prospective tenants; (ii) parking fees to tenants only if such fees are customary for rental projects in the neighborhood; and (iii) fees for services such as bus transportation or meals, as long as such services are voluntary and fees are charged for services provided.

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XX. TENANT PARTICIPATION PLAN

If the Borrower is a Community Housing Development Organization (“CHDO”) as defined by 24 CFR 92.2, the Borrower shall adhere to a fair lease and grievance procedure approved by the City and shall provide a plan for and follow a program of tenant participation in management decisions pursuant to 24 CFR §92.303.

XXI. UNIFORM ADMINISTRATIVE REQUIREMENTS/PROJECT REQUIREMENTS

- A. The Borrower shall comply with the applicable uniform administrative requirements of 24 CFR §92.505 if the Borrower is organized as a non-profit organization.
- B. The Borrower shall comply with all applicable Project requirements of Subpart F of 24 CFR part 92 et seq.
- C. The Borrower shall maintain all tenant and Project records for the most recent five- (5-) year period until five (5) years after the Affordability Period, terminates. The Borrower shall permit the Department, the HUD, and the Comptroller General of the United States, or their authorized representatives, access to all books, records, and papers of the Borrower pertinent to the Project. The Borrower shall keep and retain records sufficient to document invoices of all expenditures, project beneficiary data, and all other records required to be kept pursuant to 24 CFR §92.508.
- D. The Borrower shall permit the Department, HUD, the Comptroller General of the United States, or their authorized representatives, site visits at all times upon reasonable notice throughout the Affordability Period.

XXII. TRANSFER; ASSIGNMENT

The Borrower shall not assign, transfer, subordinate or sublet any obligation of this Loan Agreement nor shall it sell or otherwise transfer any property subject to this Loan Agreement (other than by leasing or renting for residential tenant use as contemplated by various provisions of the Loan Agreement, or for any other incidental use (to the extent permissible under all applicable federal and state laws and regulations)) without prior written consent of the Director, who may withhold consent at his/her discretion. Notwithstanding any other provision of this Loan Agreement or the Related Documents, the Director’s consent will not be required for any of the following transactions (“Permitted Transfers”):

- A. The transfer by Tax Credit Investor, as investor member of the Borrower as provided for in that certain First Amended and Restated Operating Agreement of Borrower dated on or about the date hereof (“Borrower’s Governing Agreement”), of its equity interests in Borrower to one or more Affiliates (as defined in Borrower’s Governing Agreement) of Tax Credit Investor, subject to any and all requirements for such a transfer set forth in Borrower’s Governing Agreement and so long as Tax Credit Investor or its Affiliate is not relieved of its obligation

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to make capital contributions to Borrower required under the terms of Borrower's Governing Agreement;

- B. The transfer of interests within Tax Credit Investor;
- C. The removal by Tax Credit Investor or its Affiliate of a managing member or manager of Borrower for cause in accordance with the terms of Borrower's Governing Agreement, and the replacement of such removed managing member or manager with an Affiliate, with the special limited member designated in the Borrower's Governing Agreement, or with an individual or entity, not an Affiliate, who or which is reasonably acceptable to the City and meets the requirements of Paragraph XXIV regarding suspension and debarment;
- D. Execution and/or exercise of a purchase option and/or right of first refusal agreement by Borrower's managing member or manager and/or its Affiliate to be exercised following expiration of the fifteen-year "compliance period" as defined in and determined in accordance with Section 42(i) of the Internal Revenue Code of 1986 (the "Code"), or any corresponding provision or provisions of succeeding law ("Section 42"); and
- E. Recording of the Washington State Housing Finance Commission's ("WSHFC") Regulatory Agreement (Extended Use Agreement), as required by Section 42.

The provisions of this Loan Agreement shall apply to all persons or entities performing obligations set forth by this Loan Agreement, including approved persons or entities to whom or to which the Borrower assigns, transfers, or sublets services as above. Such approved persons or entities shall be subject to the provisions for faith-based activities and organizations as outlined in this Loan Agreement, as applicable.

XXIII. HAZARDOUS SUBSTANCES/REPRESENTATIONS AND WARRANTIES

- A. The Borrower shall not cause or permit the presence, use, disposal, storage, or release of any "Hazardous Substances" (as defined below) on or in the Property. The Borrower shall not perform any act, nor allow, cause or permit the performance of any act, affecting the Property when such act constitutes a violation of any federal, state or local Environmental Law, ordinance or rule. As used in this provision, "Environmental Law" means federal laws, state laws and local codes, laws, and/or ordinances of the jurisdiction where the Property is located that relate to health, safety, or environmental protection.
- B. The Borrower shall promptly give the City written notice of any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property, and any hazardous substance or Environmental Law of which the Borrower has actual knowledge. If the Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any hazardous substance affecting the Property is necessary, the Borrower shall promptly take all necessary remedial

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actions in accordance with Environmental Law and shall bear all costs and expenses thereof.

- C. The Borrower hereby represents and warrants that, to the best of the Borrower's knowledge and belief, and after reasonable investigation and inquiry, the Project has never been and is not being used to make, store, handle, treat, dispose of, generate, or transport Hazardous Substances in violation of any applicable law, which Hazardous Substances have not been or will not be abated according to all applicable law and regulations related thereto prior to tenant occupancy of the rehabilitated project. To the best of Borrower's knowledge and belief, and after reasonable investigation and inquiry, there has not been a release of Hazardous Substances on, from, or near the Project, which release has not been or will not be abated to levels acceptable under all applicable law and regulations related thereto prior to tenant occupancy of the rehabilitated project. The Borrower has never received any notification, citation, complaint, violation, or notice of any kind from any person relating or pertaining to the making, storing, handling, treating, disposing, generating, transporting, or release of Hazardous Substances, for which there has not been or will not be abatement to levels acceptable under all applicable law and regulations related thereto prior to tenant occupancy. Borrower represents and warrants that any asbestos and lead-based paint found within the Project will be abated to levels acceptable under applicable law prior to tenant occupancy of the rehabilitated project. "Hazardous Substances" means (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601, et seq.), as amended from time to time, and regulations promulgated thereunder; (iii) "oil, petroleum products and their by-products" as defined under Washington law as amended from time to time, and regulations promulgated thereunder; (iv) any "hazardous substance" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder; (v) any "asbestos material" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder and/or as defined by 40 C.F.R. Section 61.141, as amended from time to time; (vi) any "radon gas" in excess of levels recommended in U. S. Environmental Protection Agency Guidance Documents, as modified from time to time, or lower levels as provided by any applicable law or regulation now or hereafter in effect; (vii) any "infectious waste" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder; (viii) any substance the presence of which on any property attributable to the operations of the Borrower is prohibited, restricted or regulated by any law or regulation similar to those laws, regulations and/or documents set forth above, including without limitation, polychlorinated biphenyls ("PCBs") and lead-based paints; and (ix) any other substance which by law or regulation requires special handling in its collection, generation, storage, transportation, treatment or disposal.

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XXIV. DEBARMENT AND SUSPENSION

The Borrower shall comply with the provisions of 24 CFR Part 24 that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any federal department or agency. Additionally, the Borrower shall not use, directly or indirectly, any of the funds provided by this contract to employ, award contracts to, or otherwise engage the services of, or fund any contractor/ subcontractor during any period that the contractor/subcontractor is debarred, suspended or ineligible under the provisions of 24 CFR Part 24. Using the System for Award Management (<https://www.sam.gov>), the City has determined, as of the date of this contract that the Borrower is not excluded from federal procurement and non-procurement programs. The Borrower has provided in Attachment 5 its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

XXV. ANTI-LOBBYING

Borrower certifies that, to the best of Borrower's knowledge and belief:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of this loan;
- B. That if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employees of Congress, or an employee of a Member of Congress in connection with this loan, Borrower shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying" in accordance with its instruction; and
- C. Borrower shall require that the language of paragraphs A and B of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all such subrecipients shall certify and disclose accordingly.

XXVI. SEVERABILITY

The invalidity of any clause, part or provision of this Loan Agreement shall not affect the validity of the remaining portions thereof.

XXVII. NOTICES

All notices given pursuant to this Loan Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested,

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to the Parties hereto at the addresses set forth below, or to such other place as a Party may from time to time designate in writing:

City of Spokane
Community, Housing and Human Services Department
808 W. Spokane Falls Blvd., rm. 650
Spokane, WA 99201-3339

West 315 LLC
c/o Community Frameworks
907 West Riverside Avenue
Spokane, WA 99201

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Attn: General Counsel

XXVIII. INDEMNIFICATION

The Borrower shall protect, defend, indemnify, and hold harmless the City, its officers, employees and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of, or in any way resulting from, the negligent acts or omissions of the Borrower, its officers, employees or agents, in its performance and/or non-performance of its obligations under this Loan Agreement. The Borrower agrees that its obligations under this indemnification shall extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. ***This agreement to indemnify is a separate agreement, shall survive any foreclosure action, attempted transfer or the like, is a legal obligation of the Borrower and action may be brought thereon independently of any other remedy at law or provided for herein.***

XXIX. TERMINATION

In accordance with 24 CFR §85.43, this Loan Agreement may be suspended or terminated if the Borrower materially fails to comply with any term of this Loan Agreement. This Loan Agreement may be terminated for convenience in accordance with 24 CFR §85.44.

XXX. CERTAIN CITY REPRESENTATIONS

The City represents and warrants to the Borrower that none of the money used by the City to make this loan is or will be derived, directly or indirectly, from any obligation the interest on which is exempt from tax under Section 103 of the Code.

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XXXI. EXECUTION IN COUNTERPARTS

This Loan Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, TO MODIFY OR AMEND ANY AGREEMENT TERMS, TO RELEASE ANY GUARANTOR, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT OR FORBEAR FROM EXERCISING ANY REMEDIES, OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION RELATED TO THIS LOAN AGREEMENT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, the Parties have executed this Loan Agreement as of the Effective Date.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.

WEST 315 LLC,
a Washington limited liability company

By: Community Frameworks, a Washington nonprofit corporation
Its: Manager and sole member

Date: _____

On this ____ day of _____, 2015, personally appeared before me **Linda Hugo**, to me known to be the President and Chief Executive Officer of Community Frameworks, a Washington nonprofit corporation, which is the manager member and sole member of West 315 Manager LLC, a Washington limited liability company, which is the managing member of West 315 LLC, a Washington limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of the Grantor, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

Loan Agreement - 25 of 31

CITY OF SPOKANE

Date: _____

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

Date: _____

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this ____ day of _____, 2015, personally appeared before me **David A. Condon** and **Terri L. Pfister**, to me known to be the Mayor and City Clerk, respectively, of and for the City of Spokane, Washington, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of
Washington, residing at _____
My Commission expires _____

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ATTACHMENT 1

LEGAL DESCRIPTION

Portions of lots 1, 2, 3 and 4 in Block 59 of Central Addition, according to the plat thereof recorded in Volume "A" of Plats, Page(s) 162, a portion of lots 1 and 2 in Block 2 of Stratton's Addition, according to the plat thereof recorded in Volume "A" of Plats, Page(s) 24 records of Spokane County, Washington and portion of alley lying between said Block 59 and said Block 2 and portions of North Calispel Street, being more particularly described as follows;

BEGINNING at the Southwest corner of lot 2 of said Block 2; thence along the West line of lot 1 and lot 2, North $02^{\circ}25'32''$ West a distance of 113.19 feet to the South right of way of West Mission Avenue; Thence along said South right of way the following four courses:

1. North $63^{\circ}37'23''$ East a distance of 155.45 feet;
2. North $61^{\circ}45'39''$ East a distance of 8.89 feet;
3. North $63^{\circ}44'18''$ East a distance of 74.47 feet;
4. North $63^{\circ}36'42''$ East a distance of 69.69 feet to the East line of Lot 1 of said Block 59;

Thence along said East line, South $02^{\circ}17'11''$ East a distance of 10.00 feet;

Thence North $87^{\circ}29'30''$ East a distance of 12.00 feet;

Thence parallel with and 12.00 feet East of said East line South $02^{\circ}17'11''$ East a distance of 116.62 feet;

Thence South $87^{\circ}29'30''$ West a distance of 83.89 feet;

Thence along a non-tangent curve to the left having a radius of 90.00 feet, a central angle of $55^{\circ}43'57''$, an arc length of 87.54 feet, a chord bearing of South $60^{\circ}08'01''$ West and a chord length of 84.13 feet;

Thence South $02^{\circ}23'33''$ East a distance of 72.30 feet to the South line of Lot 2 of said Block 2;

Thence along said South line, South $87^{\circ}14'47''$ West a distance of 134.96 feet to the POINT OF BEGINNING.

Containing 35,329.86 S.F. of land more or less.

Situate in the City of Spokane, County of Spokane, State of Washington.

Tax Parcel Number: _____.

Situs Address: STREET ADDRESS, Spokane, WA 9920__

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ATTACHMENT 2
PROPOSED BUDGET

315 WEST LLC
315 WEST

315 West Mission Avenue
Construction of 33-unit Apartment Building with 1-bedroom Units

Purchase price	\$715,380	Tax Credit Equity	\$4,540,096
Closing, title, excise tax	33,120	County 2060	1,200,000
Demolition	75,000	Deferred developer fee loan	310,000
Construction	3,621,900	Utility incentive	66,000
Construction contingency	277,138	Unidentified	130,000
Sales tax	315,105		
Equipment & furnishings	5,000	City HOME funds	200,000
Seller appraisal, market study	8,500		
Architect, engineering	240,000		
Environ, geotech, survey	22,600		
Legal fees	75,000		
Other consultants	3,000		
Relocation expenses	70,000		
Permits, fees, hookups	25,000		
Impact fees	9,400		
Development period utilities	6,000		
RE taxes, insurance	19,600		
Construction loan costs	57,000		
Construction loan interest	80,000		
Other loan fees	7,650		
LIHTC fees	58,703		
LIHTC nonprofit donation	14,500		
Accounting, audit	15,000		
Marketing, leaseup	3,000		
Carrying costs during leaseup	10,000		
Operating reserves	56,500		
Replacement reserves	32,000		
Developer fee (9%)	590,000		
TOTAL	\$6,446,096	TOTAL	\$6,446,096

Construction of 33-unit apartment building with 32 one-bedroom units for rent and a two-bedroom unit for a resident manager. Budget also includes improvements to the site and adjacent public sidewalks and vacated street. A construction loan will be in a lien position superior to the City's lien and will be repaid from tax credit equity. County lien may be superior to City lien.

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Attachment 3
Initial Project Rents

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ATTACHMENT 4

TIMETABLE

Category	Milestone/Task	Deadline Month Yr/Status
Site control	Transfer of property from Community Frameworks to LLC	September 2015
Financing	Funding awarded by all lenders.	Complete
	Rental assistance award.	Complete
	Funding documented by all lenders.	September 2015
Design/Permits	Site plan, construction plans.	September 2015
	Building permits issued.	September 2015
Construction	Select contractor.	Complete
	Begin construction.	September 2015
	Certificate of occupancy issued.	September 2016
Occupancy	Leaseup complete.	60 days from Certificate of Occupancy

ATTACHMENT 5**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Borrower) certifies, to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
 - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.

Where the undersigned is unable to certify to any of the statements in this contract, it shall attach an explanation to this contract.

2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the City.
3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

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

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
 2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded, as used in this exhibit, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. The undersigned may contact the City for assistance in obtaining a copy of these regulations.
 5. I understand that a false statement of this certification may be grounds for termination of the contract.

<u>West 315 LLC</u> Name of Borrower (Type or Print)	<u>West 315 Apartments</u> Program Title (Type or Print)
<u>Linda Hugo</u> Name of Certifying Official (Type or Print)	_____ Signature
President & CEO of Community Frameworks, sole member of <u>West 315 Manager LLC, the managing member of West 315 LLC</u> Title of Certifying Official (Type or Print)	_____ Date (Type or Print)

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Check address and legal description.

**CITY OF SPOKANE
WEST 315 LLC**

WEST 315

PROMISSORY NOTE

OPR #2015-_____

Borrower: West 315 LLC
c/o Community Frameworks
907 West Riverside Avenue
Spokane, WA 99201

Lender: City of Spokane
Community, Housing and Human Services Department
808 W. Spokane Falls Blvd., Room 650
Spokane, WA 99201

Principal: \$200,000.00

Date: _____

1. **PROMISE TO REPAY:** FOR VALUE RECEIVED, the undersigned WEST 315 LLC, a Washington limited liability company, hereinafter referred to as "Borrower", promises to repay to the order of the City of Spokane, a Washington state municipal corporation, or its successors and assigns (hereinafter called "Lender" or "City") the maximum principal sum of TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00) or so much of said sum or sums as may now or hereafter be loaned or disbursed to the Borrower by the Lender, for the purpose of providing a portion of the financing for the construction of West 315, a 33-unit apartment building, to be constructed at 315 West Mission Avenue in Spokane, WA (the "Project"). This Promissory Note (the "Note") is part of a transaction further reflected in a HOME Program Loan Agreement ("Loan Agreement") and HOME Program Loan Covenant Agreement ("Covenant Agreement") of even date herewith. Lender's disbursements under the Loan Agreement and the Note are further secured by a Deed of Trust of even date herewith ("Deed of Trust"). The terms of said documents are incorporated herein as if fully set forth herein, and together shall be referenced as the "Related Documents". The capitalized terms in said Related Documents shall have the same meaning in this Note unless the context clearly suggests otherwise. In the event of conflict or ambiguity in the terms of any of these documents, the terms most favorable to Lender shall apply.

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2. **INTEREST:** In addition to repayment of principal sums loaned, Borrower agrees to pay interest, compounded monthly, commencing on the date the money is first disbursed under the Loan Agreement, at the rate of three percent (3%) per annum. If rents for any HOME-assisted unit of the Project are raised above the level of the Affordability Requirement defined in the Loan Agreement, or any other provisions, covenants, terms, conditions or restrictions of the Loan Agreement are not adhered to, then the rate on the outstanding balance shall be increased to the prevailing prime lending rate as published in The Wall Street Journal, plus three percent (3%), compounded monthly, for the period of noncompliance, as determined by the Director of Community, Housing and Human Services for the City of Spokane (the "Director").

3. **REPAYMENT; MATURITY:**

A. **Deferral Period:** Payment of principal and interest shall be deferred during the HOME Affordability Period, as defined in the Loan Agreement and Covenant Agreement, so long as Borrower and the Project are in compliance with the Affordability Requirements per the terms of the Loan Agreement and Covenant Agreement together with all other provisions of this Note and Related Documents.

B. **Payment Period:** Principal and interest on this Note shall be payable in approximately equal amortized installments on the first day of each month (or the first business day thereafter if the first day of the month is a weekend or a holiday for the City of Spokane), commencing immediately after the HOME Affordability Period ends, in the amount required to fully amortize the outstanding principal and accrued interest on this Note (including the interest accrued) during the remaining City Affordability Period, as defined in the Loan Agreement. During the Affordability Period, Borrower shall notify the Lender in writing if, for any reason, Borrower and/or the Project will not comply with the Affordability Requirements, at which time any remaining balance would become immediately due and payable in full.

C. **Prepayment:** The Borrower may pay all or any portion of the outstanding principal of the Note at any time, without penalty. Repayment during the HOME Affordability Period, as described in the Loan Agreement, shall not extinguish the Affordability Requirements.

D. **Late Charges:** A late charge of thirty dollars (\$30.00) will be added to any payment received after the 10th day of the month in which it is due in addition to any other remedy.

E. **Application of Payments:** Payments received will first be applied to late charges, then to interest, and finally to principal.

F. **Place of Payment:** Payments of principal, interest, and fees shall be made in lawful money of the United States of America in immediately available funds to the City of Spokane, at the Community, Housing and Human Services Department, 808 W. Spokane Falls Blvd., Room 650, Spokane, WA 99201, or at such other place as Lender may designate in writing according to the schedule noted above.

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4. SECURITY: This Note is secured by the Deed of Trust of even date herewith, duly filed for record in the County of Spokane, Washington.

5. PURPOSE: This loan is made for the purpose of financing a portion of the costs of acquisition and construction of the West 315 project on the property described in the Deed of Trust and Loan Agreement. As a condition of receiving this loan, Borrower agrees to abide by all of the terms and conditions of this Note, the Deed of Trust, the Loan Agreement and associated Covenant Agreement, incorporated herein by reference as if fully set forth.

6. IF THE BORROWER SHALL default in the payment of any amount due under this Note, and such default is not cured within ten (10) days after such payment is due, or if any other Event of Default occurs under the Deed of Trust, the Loan Agreement or the Covenant Agreement and such default is not cured within the cure period, if any, applicable thereto, the entire unpaid principal amount of this Note, together with accrued interest, shall immediately become due and payable, at Lender's option, upon notice to the Borrower. Failure of Lender to exercise such option shall not constitute a waiver of default. If Lender exercises its option to declare the entire amount of Borrower's loan immediately due and payable as provided above, Borrower agrees to pay Lender's cost and expenses of collection, including reasonable attorney's fees and court costs. If this Note is reduced to judgment, the judgment shall bear interest at the maximum rate permissible on judgments in the State of Washington.

7. IF THE BORROWER voluntarily sells, transfers, leases or otherwise conveys the Project or any portion thereof, to any person/persons or entity/entities (the "Transferee"), other than by leasing or renting for residential tenant use as contemplated by various provisions of the Loan Agreement, or for any other incidental use (to the extent permissible under all applicable federal and state laws and regulations), an Event of Default shall occur under the terms of this Note and the Related Documents unless the Borrower obtained prior written consent of the Director. The remedies provided for Default may be exercised at the discretion of the Director. An unauthorized transfer also occurs if Borrower grants a junior security interest without obtaining the prior written consent of the Director. However, the following actions are consented to and shall not trigger loan acceleration or cause an event of default: The admission of the investor partners to West 315 LLC; and/or a transfer of the Property at the end of the compliance period to West 315 Manager LLC or Community Frameworks. Any sale, transfer, leasing or other disposition of the Project in violation of this Section 7 shall not relieve the Borrower of any obligation or obligations under this Note or any Related Document. The Borrower hereby agrees that upon any sale, transfer, lease or other disposition of the Project, the Borrower shall transfer all records, accounts, electronic data or other documents pertaining to the Project, including documents related to Borrower's compliance with this Note and any Related Document, to the Transferee or its designated agent. Failure by the City to exercise any of its rights and remedies under this Note or any Related Documents

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shall not be construed as a waiver of any kind. The Director's written consent may be conditioned upon the following, at the Director's sole discretion:

(a) reasonable evidence satisfactory to the Director that the Borrower is not then in default under any document related to this transaction beyond any applicable grace period or cure period;

(b) an opinion of counsel for the Transferee, delivered to the City, to the effect that the Transferee (i) has assumed in writing and in full, all duties and obligations of the Borrower under this Note, the Loan Agreement and the Covenant Agreement, and (ii) that this Note and the Related Documents constitute the legal, valid and binding obligations of the Transferee;

(c) a showing that written assumption of the Transferee and/or the written agreement of the Transferee complies with all provisions of local, state and federal laws, ordinances and regulations applicable to the Borrower under this Note and Related Documents;

(d) a showing that the Borrower or the Transferee is not in arrears on any payments due and owing to the City or is in default under this Note or any of the Related Documents, beyond any applicable grace period or cure period;

(e) a showing that the Borrower or the Transferee do not have a history of instances of non-compliance with any non-monetary provision of this Note or any of the Related Documents, which were not cured after notice thereof and within the applicable cure period or grace period; and/or,

(f) a showing that the Borrower or the Transferee do not have a documented history of instances of failure to make payments due and owing to the City which are not paid within a reasonable period after notice thereof.

Notwithstanding any other provision of this Note or the Related Documents, the Director's consent will not be required for any of the following transactions ("Permitted Transfers"):

A. The transfer by Wincopin Circle LLLP, a Maryland limited liability limited partnership ("Tax Credit Investor"), as investor member of the Borrower as provided for in that certain First Amended and Restated Operating Agreement of Borrower dated on or about the date hereof ("Borrower's Governing Agreement"), of its equity interests in Borrower to one or more Affiliates (as defined in Borrower's Governing Agreement) of Tax Credit Investor, subject to any and all requirements for such a transfer set forth in Borrower's Governing Agreement and so long as Tax Credit Investor or its Affiliate is not relieved of its obligation to make capital contributions to Borrower required under the terms of Borrower's Governing Agreement;

B. The transfer of interests within Tax Credit Investor;

C. The removal by Tax Credit Investor or its Affiliate of a managing member or manager of Borrower for cause in accordance with the terms of Borrower's Governing Agreement, and the replacement of such removed managing member or manager with an Affiliate, with the special limited member designated in the Borrower's Governing Agreement, or with an individual or entity, not an Affiliate, who

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or which is reasonably acceptable to the City and meets the requirements of Paragraph XXIV of the Loan Agreement regarding suspension and debarment;

D. Execution and/or exercise of a purchase option and/or right of first refusal agreement by Borrower's managing member or manager and/or or its Affiliate to be exercised following expiration of the fifteen-year "compliance period" as defined in and determined in accordance with Section 42(i) of the Internal Revenue Code of 1986, as amended from time to time, or any corresponding provision or provisions of succeeding law ("Section 42"); and

E. Recording of the Washington State Housing Finance Commission's ("WSHFC") Regulatory Agreement (Extended Use Agreement), as required by Section 42.

8. ASSIGNMENT: This Note is not assignable or assumable without the express written consent of the Lender, except for the transfer of the Property to West 315 Manager LLC or Community Frameworks, as provided for in Paragraph 7.D.

9. MISCELLANEOUS: Each maker and endorser of this Note hereby waives demand and presentment for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, bringing of suit, and diligence in taking action to collect any amounts called for hereunder and in the handling of properties, rights or collateral at any time existing in connection herewith. Each maker and endorser expressly agrees that this Note or any payment thereunder may be extended from time to time, and consent to the acceptance of further security for this Note, including other types of security, all without in any way affecting the liability of each maker and endorser hereof. The right to plead any statutes of limitation as a defense to any demand on this Note, or any guaranty thereof or to any agreement to pay the same or to any demand secured by the Deed of Trust or other security, securing the Note, or any and all obligations or liabilities arising out of or in connection with said Note or Deed of Trust by any parties hereto is expressly waived by each and every of the makers, endorsers, guarantors or sureties.

10. SEVERABILITY: If any provision, or a part thereof, of this Note is declared by a court of competent jurisdiction to be invalid, the invalid provision or part thereof shall be stricken, with the remainder of the provision and other provisions of this Note surviving with full force and effect.

11. NO MATERIAL ADVERSE CHANGE: Borrower ratifies and reaffirms all information previously submitted in Borrower's loan application or financial statement, and by signing this Note, Borrower represents and warrants to Lender that the information provided is true and correct and that there has been no adverse change in Borrower's financial condition as disclosed to Lender in Borrower's most recent application or financial statement.

12. APPLICABLE LAW AND VENUE: This Note has been issued, executed and delivered in the State of Washington and shall be governed by and construed in

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accordance with the laws of the State of Washington, except to the extent that the laws of the United States of America may prevail. Venue to enforce any provision shall be in the Spokane County Superior Court.

13. NONRECOURSE. Notwithstanding anything to the contrary herein, Borrower, its partners, officers, directors, employees, agents and contractors shall have no personal liability for payment of the indebtedness evidenced by this Note or performance of the covenants set forth in the Loan Agreement and in the Related Documents, and the sole recourse of the City shall be confined to the exercise of its rights under the Loan Agreement and the Related Documents, provided that nothing shall diminish Borrower's liability for damages or deficiencies resulting from theft, waste, fraud, material misrepresentation and misuse of rents.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, TO MODIFY OR AMEND ANY AGREEMENT TERMS, TO RELEASE ANY GUARANTOR, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT OR FORBEAR FROM EXERCISING ANY REMEDIES, OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION RELATED TO THIS NOTE ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

PRIOR TO SIGNING THIS NOTE, BORROWER HAS READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO ALL TERMS AND CONDITIONS OF THIS NOTE AND ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS NOTE.

IN WITNESS WHEREOF, the Borrower executed this Promissory Note on the date first set forth above.

West 315 LLC,
a Washington limited liability company

By: West 315 Manager LLC, a Washington limited liability company
Its: Managing Member

By: Community Frameworks, a Washington nonprofit corporation
Its: Manager and sole member

By: _____
Name: Linda Hugo
Title: President and Chief Executive Officer

Date of execution: _____

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Add correct name of priority agreement (pg 3)
Check legal, address

AFTER RECORDING MAIL TO:

City of Spokane
Department of Community, Housing and Human Services
808 W. Spokane Falls Blvd., Room 650
Spokane, WA 99201

OPR #2015-_____

**CITY OF SPOKANE
WEST 315 LLC**

WEST 315

DEED OF TRUST

Grantor: West 315 LLC, a Washington limited liability company

Beneficiary: City of Spokane, a Washington state municipal corporation

Assessor's Parcel No.: _____

Legal Description (abbreviated): UPDATE ABBREVIATED DESCRIPTION

See Attachment 1 for full legal description.

THIS DEED OF TRUST, made as of _____ day of _____, 2015, by and between West 315 LLC, a Washington limited liability company, referred to herein as GRANTOR, whose address is c/o Community Frameworks, 907 West Riverside Avenue, Spokane, WA 99201, Stewart Title of Spokane LLC, TRUSTEE, whose address is 908 North Howard Street, Suite 201, Spokane, WA 99201, and the City of Spokane, Washington, a Washington state municipal corporation, BENEFICIARY, whose address is City of Spokane, c/o Community, Housing and Human Services Department, 808 W. Spokane Falls Blvd., Room 650, Spokane, WA 99201.

This Deed of Trust is part of a transaction further reflected in a HOME Program Loan Agreement ("Loan Agreement"), HOME Program Loan Covenant Agreement ("Covenant Agreement"), and Promissory Note, secured by this Deed of Trust. The terms of said agreements are incorporated into this Deed of Trust, and the capitalized terms in said agreements shall have the same meaning in this Deed of Trust unless the context

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clearly suggests otherwise. In the event of conflict in the terms of any of these documents, the terms most favorable to Beneficiary shall apply.

WITNESSETH: Grantor hereby irrevocably grants and conveys to Trustee in trust, with power of sale, the following described real property (the "Property") in Spokane County, Washington: UPDATE ABBREVIATED DESCRIPTION

Assessor's Parcel Number: ____.

Property Address: 315 West Mission Avenue, Spokane, WA 9920_

See Attachment 1 for full legal description.

which real property is not used principally for agricultural or farming purposes, together with all the tenements, hereditaments, easements, fixtures and appurtenances now or hereafter thereunto belonging or in any way appertaining, and the rents, issues, and profits thereof.

This Deed of Trust is for the purpose of securing performance of each agreement of Grantor herein contained and as further contained in the Loan Agreement, Covenant Agreement, and Promissory Note, secured by this Deed of Trust, and for the purpose of securing payment of the sum of TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00) with interest, in accordance with the terms of a Promissory Note of even date herewith, payable to Beneficiary, and made by Grantor, and all renewals, modifications, and extensions thereof, and also such further sums as may be advanced or loaned by Beneficiary to Grantor, or any of his/her/their successors or assigns, together with interest thereon at such rate as shall be agreed upon. This Deed of Trust also secures to Beneficiary: (a) the payment of other sums, with interest, advanced to protect the security of this Deed of Trust; and (b) the performance of Grantor's covenants and agreements under this Deed of Trust and the Promissory Note, Covenant Agreement and Loan Agreement of even date herewith.

GRANTOR COVENANTS that Grantor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property that the Property is unencumbered, except for encumbrances of record. Grantor warrants and will defend the title to the Property against all claims and demands, subject to any prior encumbrances of record and encumbrances listed in the Recording Priority and Subordination Agreement recorded of even date herewith. *(adjust name of document when we get it)*

COVENANTS: Grantor and Beneficiary covenant and agree as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST; PREPAYMENT AND LATE CHARGES. Grantor shall promptly pay when due the principal of and interest on the debt evidenced by the Promissory Note and any late charges due under the Promissory Note.

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2. APPLICATION OF PAYMENTS. Unless applicable law provides otherwise, all payments received by Beneficiary under Paragraph 1 shall be applied: first, to any late charges due under the Promissory Note; second, to interest; and third, to principal due under the Promissory Note.

3. CHARGES; LIENS. Grantor shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property, which may attain priority over this Deed of Trust, including utility charges, whether or not reflected in a recorded lien. Grantor shall pay these obligations on time directly to the person or entity owed payment. Grantor shall promptly furnish to Beneficiary upon request copies of all notices of amounts to be paid under this Paragraph. If Grantor makes these payments directly, Grantor shall promptly furnish to Beneficiary upon request receipts evidencing the payments. Grantor shall promptly discharge any lien which has priority over this Deed of Trust unless: (a) Grantor agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Beneficiary; (b) Grantor contests in good faith the lien in legal proceedings, or defends against enforcement of the lien in legal proceedings, which, in the Beneficiary's opinion, operate to prevent the enforcement of the lien; or (c) Grantor secures from the holder of the lien an agreement satisfactory to Beneficiary subordinating the lien to this Deed of Trust, or (d) Beneficiary has executed an agreement subordinating its interest. If Beneficiary determines that any part of the Property is subject to a lien to which the Beneficiary has not provided its consent, which may attain priority over this Deed of Trust, Beneficiary may give Grantor a notice identifying the lien. Grantor shall satisfy the lien or take one or more of the actions set forth above within ten business (10) days of the giving of the notice. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, recorded or unrecorded liens, encumbrances, or other charges against the Property, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the Promissory Note secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

4. HAZARD OR PROPERTY INSURANCE. A. Grantor shall keep the improvements now existing or hereafter erected on the Property continuously insured against loss by fire, hazards included within the term "extended coverage", and any other hazards, including floods or flooding, for which the Beneficiary requires insurance. This insurance shall be maintained in the amounts and for the periods that Beneficiary requires in order to maintain adequate protection for the Property, but no act or omission by the Beneficiary shall relieve Grantor of the primary duty to procure adequate insurance. In no event shall such insurance be less than the full replacement cost of the Property (*i.e.*, 100% of replacement cost). The insurance carrier providing the insurance shall be chosen by the Grantor subject to Beneficiary's approval. All policies shall be held by the Beneficiary, and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor. If Grantor fails to maintain coverage as described above, Beneficiary may, at Beneficiary's option, obtain coverage to protect Beneficiary's rights in the Property in accordance with Paragraph 7.

B. All insurance policies and renewals shall be acceptable to Beneficiary and shall include a standard mortgage clause. If Beneficiary requires, Grantor shall promptly

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give to Beneficiary all receipts of paid premiums and renewal notices. In the event of loss, Grantor shall give prompt notice to the insurance carrier and to Beneficiary. Beneficiary may make proof of loss if not made promptly by Grantor.

C. Unless Beneficiary and Grantor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Beneficiary's security is not lessened thereby. If the restoration or repair is not economically feasible or if Beneficiary's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Grantor. If Grantor abandons the Property or does not answer within thirty (30) days notice from the Beneficiary that the insurance carrier has offered to settle a claim, then Beneficiary may collect the insurance proceeds. Beneficiary may, in its sole discretion, use the proceeds to restore or repair the Property or to pay sums secured by this Deed of Trust, whether or not then due. The 30-day period will begin when the notice is given. Such application of proceeds by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

D. Unless Beneficiary and Grantor otherwise agree in writing, any application of insurance proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in Paragraph 1 or change the amount of the payments. If under Paragraph 20, the Property is acquired by Beneficiary, Grantor's right to any insurance policies or proceeds resulting from damage to the Property prior to the acquisition shall pass to Beneficiary to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

5. FLOOD INSURANCE. If the Property is located in a one hundred year FEMA Flood Zone, Grantor shall maintain flood insurance throughout the term of the Loan in an amount not less than the total amount of the Loan or the maximum amount of coverage available through the National Flood Insurance Program, furnishing proof of same upon request by Beneficiary.

6. OCCUPANCY, PRESERVATION, MAINTENANCE AND PROTECTION OF THE PROPERTY; LOAN APPLICATION; LEASEHOLDS. Grantor shall cause the Property to be occupied, established, and used as decent, safe, sanitary and affordable housing for low-income families pursuant to the HOME Investment Partnerships Program (24 CFR part 92 et seq.) throughout the term of the loan as described in the Promissory Note and Covenant Agreement. Grantor covenants and agrees to keep the Property in good condition and repair, to permit no waste thereof, to complete any building, structure, or improvement being built now or hereafter thereon, to restore or replace promptly any building, structure, or improvement thereon which may be damaged or destroyed, and to comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the Property. Grantor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Beneficiary's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Deed of Trust or Beneficiary's security interest. Grantor may cure

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such a default and reinstate, as provided in Paragraph 17 by causing the action or proceeding to be dismissed with a ruling that, in Beneficiary's good faith determination, precludes forfeiture of Grantor's interest in the Property or other material impairment of the lien created by this Deed of Trust or Beneficiary's security interest. Grantor shall also be in default if Grantor, during the loan application process, gave materially false or inaccurate information or statements to Beneficiary (or failed to provide Beneficiary with any material information) in connection with the loan evidenced by the Promissory Note. If this Deed of Trust is on a leasehold, Grantor shall comply with all the provisions of the lease. If Grantor acquires fee title to the property, the leasehold and the fee title shall not merge unless Beneficiary agrees to the merger in writing.

7. PROTECTION OF BENEFICIARY'S RIGHTS IN THE PROPERTY. A. If Grantor fails to perform the covenants and agreements contained in this Deed of Trust, the Loan Agreement and/or the Covenant Agreement, or there is a legal proceeding which, in the Beneficiary's good faith judgment, may affect Beneficiary's rights in the Property (including but not limited to proceedings in bankruptcy, probate, for condemnation or forfeiture, or to enforce laws or regulations), then Beneficiary shall have the right to take whatever action it deems reasonably necessary and appropriate to protect the value of the Property and Beneficiary's rights in the Property. Although Beneficiary may take action under this Paragraph 7, Beneficiary is not obligated to do so.

B. Any amounts caused to be disbursed by Beneficiary under this Paragraph 7 shall become additional debt secured by this Deed of Trust. Unless Grantor and Beneficiary agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Promissory Note rate and shall be payable with interest upon notice from Beneficiary to Grantor requesting payment.

C. Grantor covenants and agrees to defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including the cost of title search and any and all attorney's fees actually incurred, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

D. Grantor further covenants and agrees to pay any and all costs, fees, and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligations secured hereby and Trustee's and attorney's fees actually incurred, as provided by statute.

8. INSPECTIONS. Beneficiary or its agent may make reasonable entries upon and inspections of the Property, subject to all applicable landlord/tenant laws. Beneficiary shall give Grantor notice at least 24 hours prior to an inspection; provided, however, such right to notice does not apply to Beneficiary when acting in its regulatory capacity or when exercising its police powers.

9. CONDEMNATION. A. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property or any part thereof, or for conveyance in lieu of condemnation, are hereby assigned and

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shall be paid to Beneficiary. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust and other liens as approved by the Beneficiary, whether or not then due, with any excess paid to Grantor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Deed of Trust immediately before the taking, unless Grantor and Beneficiary otherwise agree in writing, the sums secured by this Deed of Trust shall be reduced by the amount of the proceeds multiplied by the following fraction: (i) the total amount of the sums secured immediately before the taking, divided by (ii) the fair market value of the Property immediately before the taking. Any balance shall be paid to Grantor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Grantor and Beneficiary otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Deed of Trust whether or not the sums are then due.

B. If the Property is abandoned by Grantor, or if, after notice by Beneficiary to Grantor that the condemnor offers to make an award or settle a claim for damages, and Grantor fails to respond to Beneficiary within thirty (30) days after the date the notice is given, Beneficiary is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust, whether or not then due.

C. Unless Beneficiary and Grantor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in Paragraph 1 or change the amount of such payments.

10. GRANTOR NOT RELEASED; FORBEARANCE BY BENEFICIARY NOT A WAIVER. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Beneficiary to any successor in interest of Grantor shall not operate to release the liability of the original Grantor or of Grantor's successors in interest. Beneficiary shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Grantor or Grantor's successors in interest. Any forbearance by Beneficiary in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CO-SIGNERS. The covenants and agreements of this Deed of Trust shall bind and benefit the successors and assigns of Beneficiary and Grantor, except as otherwise provided for in this Deed of Trust. Grantor's covenants and agreements shall be joint and several.

12. LOAN CHARGES. If the loan secured by this Deed of Trust is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan

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exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit, and; (ii) any sums already collected from Grantor which exceeded permitted limits will be refunded to Grantor. Beneficiary may choose to make this refund by reducing the principal owed under the Promissory Note or by making a direct payment to Grantor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Promissory Note.

13. NOTICES. Grantor shall promptly give Beneficiary written notice of any and all Project defaults (regardless of whether the default is related to the financing provided by Beneficiary and the various agreements governing the terms of such financing, or whether the default is related to any of the various other parties or entities providing financing to the Project under their various agreements), investigations, claims, demands, lawsuits, licensing issues relating to the operation of the building or care facility, or other actions by any governmental or regulatory agency or private party involving the Property, and any hazardous substance or Environmental Law (as defined in Paragraph 19 of this Deed of Trust) of which Grantor has actual or constructive knowledge. Any notice provided for in this Deed of Trust shall be given pursuant to the procedures outlined in the Loan Agreement.

14. GOVERNING LAW; SEVERABILITY. This Deed of Trust shall be governed by federal law and the laws of the State of Washington. In the event that any provisions of this Deed of Trust or the Promissory Note conflict with applicable law, such conflict shall not affect other non-conflicting provisions of this Deed of Trust or the Promissory Note, which shall continue in full force and effect.

15. GRANTOR'S COPY. Grantor hereby acknowledges receipt of a conformed copy of the Loan Agreement, Covenant Agreement, Promissory Note, and of this Deed of Trust.

16. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN GRANTOR.

A. Except as provided in the Loan Agreement, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest of Grantor is sold or transferred and Grantor is not a natural person) without Beneficiary's prior written consent, or if any other default occurs under this Deed of Trust, the Promissory Note, the Loan Agreement or the Covenant Agreement, Beneficiary may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the execution date of this Deed of Trust. By accepting payment of any sum secured by this Deed of Trust after payment is due, Beneficiary does not waive the right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

B. If Beneficiary exercises the above option, Beneficiary shall give Grantor notice of acceleration. The notice shall provide a cure period of not less than thirty (30) days from the date the notice is delivered or mailed within which Grantor must pay all sums secured by this Deed of Trust. If Grantor fails to pay these sums prior to the expiration of this period, Beneficiary may invoke any and all remedies permitted by this Deed of Trust without further notice or demand on Grantor.

17. GRANTOR'S RIGHT TO REINSTATE FOLLOWING ACCELERATION. If Grantor meets the conditions outlined in this paragraph, Grantor shall have the right to have enforcement by acceleration of this Deed of Trust discontinued at any time prior to the earlier of: (i) 10 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (ii) entry of a judgment enforcing this Deed of Trust. The conditions which Grantor must meet are that Grantor shall: pay Beneficiary all sums which then would be due under this Deed of Trust and the Promissory Note as if no acceleration had occurred; cure any default of any other covenants or agreements; pay all expenses incurred in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees, and; take such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's rights in the Property, and Grantor's obligation to pay the sums secured by this Deed of Trust continue unchanged. Upon reinstatement by Grantor, this Deed of Trust and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration caused by Grantor's selling or transferring all or any part of the Property or any interest in it (or if a beneficial interest of Grantor is sold or transferred and Grantor is not a natural person) without Beneficiary's prior written consent.

18. NO FURTHER ENCUMBRANCES. A. For the purposes of protecting Beneficiary's security and keeping the Property free from junior and subordinate financing liens, Grantor agrees and understands that any sale, conveyance, further encumbrance (including the granting of easements and any and all other matters affecting title except for easements required for delivery of services or utilities to the Property or other transfer of title to the Property, or any interest therein (whether voluntary or by operation of law), without Beneficiary's prior written consent or except as permitted under the Loan Agreement or Note, shall be an Event of Default under this Deed of Trust.

B. Notice is hereby given to all third parties that any mortgage or other Deed of Trust that they may receive against the Property without the prior written approval and acknowledgment of the Beneficiary of this Deed of Trust shall be null and void and without force or effect.

19. HAZARDOUS SUBSTANCES; REPRESENTATIONS AND WARRANTY. A. Grantor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances (as defined in this Paragraph 19) on or in the Property, except for the presence, use, storage and disposal of reasonable quantities of such Hazardous Substances as are generally used in the ordinary course of operating, maintaining or developing properties such as the Property, all of which Indemnitor represents, warrants and covenants shall be used, stored and disposed of in accordance with commercially reasonable practices and all applicable laws. Grantor shall not perform any act, nor allow, cause or permit the performance of any act, affecting the Property when such act constitutes a violation of any federal, state, or local Environmental Law, ordinance, or rule. As used in this Paragraph 19, "Environmental Law" means federal laws, state laws and local codes, laws, and/or

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ordinances of the jurisdiction where the Property is located that relate to health, safety, or environmental protection.

B. Grantor shall promptly give Beneficiary written notice of any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property, and any hazardous substance or Environmental Law of which Grantor has actual knowledge. If Grantor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any hazardous substance affecting the Property is necessary, Grantor shall promptly take all necessary remedial actions in accordance with Environmental Law and shall bear all costs and expenses thereof.

C. The Grantor hereby represents and warrants that, to the best of the Grantor's knowledge and belief, and after reasonable investigation and inquiry, the Project has never been and is not being used to make, store, handle, treat, dispose of, generate, or transport Hazardous Substances in violation of any applicable law, which Hazardous Substances have not been or will not be abated according to all applicable law and regulations related thereto prior to tenant occupancy of the rehabilitated project. To the best of Grantor's knowledge and belief, and after reasonable investigation and inquiry, there has not been a release of Hazardous Substances on, from, or near the Property, which release has not been or will not be abated to levels acceptable under all applicable law and regulations related thereto prior to tenant occupancy of the rehabilitated project. The Grantor has never received any notification, citation, complaint, violation, or notice of any kind from any person relating or pertaining to the making, storing, handling, treating, disposing, generating, transporting, or release of Hazardous Substances, for which there has not been or will not be abatement to levels acceptable under all applicable law and regulations related thereto prior to tenant occupancy. Grantor represents and warrants that any asbestos and lead-based paint found within the Project will be abated to levels acceptable under applicable law prior to tenant occupancy of the rehabilitated project. "Hazardous Substances" means (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601, et seq.), as amended from time to time, and regulations promulgated thereunder; (iii) "oil, petroleum products and their by-products" as defined under Washington law as amended from time to time, and regulations promulgated thereunder; (iv) any "hazardous substance" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder; (v) any "asbestos material" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder and/or as defined by 40 C.F.R. Section 61.141, as amended from time to time; (vi) any "radon gas" in excess of levels recommended in U. S. Environmental Protection Agency Guidance Documents, as modified from time to time, or lower levels as provided by any applicable law or regulation now or hereafter in effect; (vii) any "infectious waste" as defined under Washington law, as amended from time to time, and regulations promulgated thereunder; (viii) any substance the presence of which on any property attributable to the operations of the Grantor is prohibited, restricted or regulated by any law or

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regulation similar to those laws, regulations and/or documents set forth above, including without limitation, polychlorinated biphenyls ("PCBs") and lead-based paints; and (ix) any other substance which by law or regulation requires special handling in its collection, generation, storage, transportation, treatment or disposal.

20. ACCELERATION: REMEDIES. A. Beneficiary shall give notice to Grantor, prior to acceleration, following Grantor's breach of any covenant or agreement noted in this Deed of Trust, the Loan Agreement, or the Covenant Agreement. The notice shall specify: (a) the nature of the default; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is given to Grantor, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property at public auction to the highest bidder, in accordance with the Deed of Trust Act of the State of Washington (RCW 61.24 or as hereafter amended). The notice shall further inform Grantor of applicable rights to reinstate after acceleration, rights to bring a court action to assert the nonexistence of a default or any other defense Grantor wishes to assert prior to acceleration and sale, and of any other matters required by applicable law to be included in the notice. If the default is not cured on or before the date specified in the notice (or, if later, by the date specified in the Loan Agreement), Beneficiary, at its option, may require immediate payment in full of all sums secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted under the Loan Agreement, the Covenant Agreement, the Promissory Note, this Deed of Trust or by applicable law. Beneficiary shall be entitled to collect from Grantor all expenses incurred in pursuing the remedies provided in this Paragraph 20, including, but not limited to, attorneys' fees and costs of title evidence.

B. If Beneficiary invokes the power of sale, Beneficiary shall give written notice to Trustee of the occurrence of an event of default. Upon instruction from the Beneficiary to do so, Trustee shall cause the trust Property to be sold, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Beneficiary or its designee may purchase the Property at any sale. Trustee and Beneficiary shall take such action regarding notice of sale and shall give such notices to Grantor and to other persons as applicable law may require.

C. Trustee shall deliver to the purchaser a Trustee's Deed conveying the Property without warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitled to it or to the clerk of the superior court of the county in which the sale took place.

D. The power of sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy. Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

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E. As long as Wincopin Circle LLLP, a Maryland limited liability limited partnership ("Tax Credit Investor") or an affiliate thereof remains the investor member of Grantor, if a default occurs under the Loan Agreement, this Deed of Trust or any other related document, and Beneficiary intends to exercise any of its remedies on account of such default, then prior to the initiation of any remedy by Beneficiary on account of such default, then Beneficiary at the same time as it delivers notice to Grantor shall deliver written notice of such default to the Tax Credit Investor at the address specified in the Loan Agreement. Beneficiary shall accept cure of the defaults by the Tax Credit Investor within the cure periods, if any, provided in the Loan Agreement, this Deed of Trust or any other related document, and in any event, shall not exercise any rights to foreclose this Deed of Trust until Tax Credit Investor has been given the notice (but not the obligation) to remedy any default forming the basis with respect to such remedy.

21. RECONVEYANCE. Upon payment of all sums secured by this Deed of Trust, Beneficiary shall request Trustee to reconvey the Property to the person entitled thereto and shall surrender this Deed of Trust and all Promissory Notes evidencing the debt secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs.

22. SUBSTITUTE TRUSTEE. In the event of the death, incapacity, disability, or resignation of Trustee, or at Beneficiary's reasonable discretion, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of an action or proceeding in which Grantor, Trustee, or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

23. USE OF PROPERTY. The Property is not used principally for agricultural or farming purposes.

24. BINDING EFFECT. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on his/her/their heirs, devisees, legatees, administrators, executors, and assigns. The term "Beneficiary" shall mean the holder and owner of the Promissory Note secured hereby, whether or not named as Beneficiary herein.

25. EXTENDED USE AGREEMENT. Beneficiary acknowledges that Grantor intends to enter into an extended use agreement, which constitutes the extended low-income housing commit described in Section 42(h)(6)(B) of the Internal Revenue Code, as amended (the "Code"). As of the date hereof Code Section 42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under Code Section 42 or a period of three (3) years after the date the building is acquired by foreclosure or by instrument in lieu of foreclosure. In the even the extended use agreement is recorded against the Property, the

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Beneficiary agrees to comply with the provisions set forth in Code Section 43(h)(6)(E)(ii).

26. NONRECOURSE PROVISION. Notwithstanding anything to the contrary herein, Borrower, its partners, officers, directors, employees, agents and contractors shall have no personal liability for payment of the indebtedness secured or evidenced hereby or performance of the covenants set forth in this Deed of Trust, the Loan Agreement, the Covenant Agreement or the Promissory Note, and the sole recourse of the Beneficiary shall be confined to the exercise of its rights under this Deed of Trust, the Loan Agreement, the Covenant Agreement and the Promissory Note, provided that nothing shall diminish Borrower's liability for damages or deficiencies resulting from theft, waste, fraud, material misrepresentation and misuse of rents.

27. ORAL AGREEMENTS OR ORAL COMMITMENTS. ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, TO MODIFY OR AMEND ANY AGREEMENT TERMS, TO RELEASE ANY GUARANTOR, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT OR FORBEAR FROM EXERCISING ANY REMEDIES, OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION RELATED TO THIS INSTRUMENT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

BY SIGNING BELOW, Grantor accepts and agrees to the terms and covenants contained in this Deed of Trust and in any riders executed by Grantor and recorded with it.

IN WITNESS WHEREOF, the Parties have executed this Deed of Trust as of the day and year first written above.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.

West 315 LLC,
a Washington limited liability company

By: Community Frameworks, a Washington nonprofit corporation
Its: Manager and sole member

Date: _____

On this ____ day of _____, 2015, personally appeared before me **Linda Hugo**, to me known to be the President and Chief Executive Officer of Community Frameworks, a Washington nonprofit corporation, which is the manager and sole member of West 315 Manager LLC, a Washington limited liability company, which is the managing member of West 315 LLC, a Washington limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of the Grantor, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.

NOTARY PUBLIC, in and for the State of
Washington, residing at _____
My Commission expires _____

BENEFICIARY - CITY OF SPOKANE

Date: _____

APPROVED AS TO FORM:

By: Assistant City Attorney

Date: _____

On this ____ day of _____, 2015, personally appeared before me **David A. Condon** and **Terri L. Pfister**, to me known to be the **Mayor** and **City Clerk**, respectively, of and for the City of Spokane, Washington, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of
Washington, residing at _____
My Commission expires _____

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ATTACHMENT 1

LEGAL DESCRIPTION

Portions of lots 1, 2, 3 and 4 in Block 59 of Central Addition, according to the plat thereof recorded in Volume "A" of Plats, Page(s) 162, a portion of lots 1 and 2 in Block 2 of Stratton's Addition, according to the plat thereof recorded in Volume "A" of Plats, Page(s) 24 records of Spokane County, Washington and portion of alley lying between said Block 59 and said Block 2 and portions of North Calispel Street, being more particularly described as follows;

BEGINNING at the Southwest corner of lot 2 of said Block 2; thence along the West line of lot 1 and lot 2, North $02^{\circ}25'32''$ West a distance of 113.19 feet to the South right of way of West Mission Avenue; Thence along said South right of way the following four courses:

1. North $63^{\circ}37'23''$ East a distance of 155.45 feet;
2. North $61^{\circ}45'39''$ East a distance of 8.89 feet;
3. North $63^{\circ}44'18''$ East a distance of 74.47 feet;
4. North $63^{\circ}36'42''$ East a distance of 69.69 feet to the East line of Lot 1 of said Block 59;

Thence along said East line, South $02^{\circ}17'11''$ East a distance of 10.00 feet;

Thence North $87^{\circ}29'30''$ East a distance of 12.00 feet;

Thence parallel with and 12.00 feet East of said East line South $02^{\circ}17'11''$ East a distance of 116.62 feet;

Thence South $87^{\circ}29'30''$ West a distance of 83.89 feet;

Thence along a non-tangent curve to the left having a radius of 90.00 feet, a central angle of $55^{\circ}43'57''$, an arc length of 87.54 feet, a chord bearing of South $60^{\circ}08'01''$ West and a chord length of 84.13 feet;

Thence South $02^{\circ}23'33''$ East a distance of 72.30 feet to the South line of Lot 2 of said Block 2:

Thence along said South line, South $87^{\circ}14'47''$ West a distance of 134.96 feet to the POINT OF BEGINNING.

Containing 35,329.86 S.F. of land more or less.

Situate in the City of Spokane, County of Spokane, State of Washington.

Tax Parcel Number: _____.

Situs Address: STREET ADDRESS, Spokane, WA 9920__

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Update Legal & address

WHEN RECORDED RETURN TO:

CITY OF SPOKANE

COMMUNITY, HOUSING AND HUMAN SERVICES DEPARTMENT

808 W. SPOKANE FALLS BLVD., ROOM 650

SPOKANE, WASHINGTON 99201-3339

OPR #2015-_____

**CITY OF SPOKANE
WEST 315 LLC**

**WEST 315
HOME PROGRAM LOAN COVENANT AGREEMENT**

Grantor/Borrower: West 315 LLC

Beneficiary: City of Spokane, a Washington state municipal corporation

Assessor's Parcel No.: ____.

Legal Description (abbreviated): UPDATE WITH ABBREVIATED LEGAL

(See Attachment 1 for full legal description.)

This HOME Program Loan Covenant Agreement ("Covenant Agreement") is made this ____ day of ____, 2015, by and between the **City of Spokane**, Washington, a Washington municipal corporation (the "City"), whose address is City of Spokane, c/o Community, Housing and Human Services Department, 808 W. Spokane Falls Blvd., Room 650, Spokane, Washington 99201-3339, **West 315 LLC**, a Washington limited liability company (the "Borrower" or "Grantor"), whose address is West 315 LLC, c/o Community Frameworks, 907 West Riverside Avenue, Spokane, WA 99201.

I. STIPULATIONS

1. This Covenant Agreement is a condition of and part of the consideration for the financial assistance provided by the City to the Borrower for the Borrower's construction of West 315, a 33-unit apartment building, to be located at 315 West Mission Avenue in Spokane, WA (the "Project"). Seven (7) of the thirty-three (33) units will be HOME-assisted.

2. This Covenant Agreement is part of a transaction further reflected in a Promissory Note ("Promissory Note") and a HOME Program Loan Agreement ("Loan Agreement") of even date herewith. The City's disbursements under the Loan

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Agreement are further secured by a Deed of Trust ("Deed of Trust"). The terms of said documents are incorporated herein as if fully set forth herein, and together shall be referenced as the "Related Documents." The capitalized terms in said agreements shall have the same meaning in this Covenant Agreement unless the context clearly suggests otherwise. In the event of conflict in the terms of any of these documents, the terms most favorable to the City shall apply.

3. The Project is situated in the City and County of Spokane, State of Washington, and is legally described in Attachment 1. The abbreviated legal description is:

UPDATE WITH ABBREVIATED LEGAL

Assessor's Parcel Number: _____._____.

4. This Covenant Agreement shall be filed and recorded in the official public land records of Spokane County, Washington, and shall constitute a restriction upon the use of the property and Project described herein, subject to and in accordance with the terms of this Covenant Agreement during the Affordability Period described in Section IV herein below.

5. The covenants contained herein are to be taken and construed as **covenants running with the land** and shall pass to and be binding upon the Borrower, its successors in interest, assigns, heirs or lessees of the Project, beginning on the date this Covenant Agreement is executed. Each and every contract, deed or other instrument covering or conveying the property or Project, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants regardless of whether such covenants are set forth in such contract, deed or other instrument.

NOW, THEREFORE, it is hereby covenanted, that during the Affordability Period described in Section IV herein below, the Borrower agrees to the following covenants running with the land which shall bind the Borrower, its heirs, assigns, lessees and successors in interest through the Affordability Period.

II. COVENANTS

Borrower shall:

- A. Comply with the Affordability Requirements described in this Covenant Agreement and Related Documents.
- B. Maintain all required insurance, including without limitation the insurance required by the Deed of Trust.
- C. Maintain Project financial reports, Project financial records and provide all other information and documentation that the City may reasonably request.

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- D. Make prompt payment of all taxes and financial liabilities.
- E. Not hypothecate or encumber Project assets in any way, except to the extent provided for under the Loan Agreement or as approved of by the Director of Community, Housing and Human Services of the City of Spokane (the "Director") in writing. The Director may withhold such approval at his/her reasonable discretion.
- F. Promptly provide (i) rent and tenant income information at initial tenant occupancy and (ii) rent, occupancy, and tenant income information annually throughout the term of the Loan Agreement or the extended term of the Loan Agreement, in accordance with the Loan Agreement, or as otherwise requested by the City. If the Project has floating HOME units, the Borrower must provide the City with information regarding the unit substitution and filling vacancies so that the Project remains in compliance with HOME rental occupancy requirements.
- G. Promptly provide, upon request by the City, such documentation as is necessary (including financial statements) to enable the City to determine the financial condition and continued financial viability of the Project.
- H. During the Affordability Period, prohibit occupancy of any HOME-assisted unit by Borrower (or officer, employee, agent, elected or appointed official, or consultant of the Borrower, or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of Borrower) whether private, for-profit or nonprofit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor).
- I. Comply with all applicable federal, state, and local regulations and requirements, including, but not limited to, Uniform Administrative Requirements, Federal Labor Standards, Davis-Bacon and Related Acts, Uniform Relocation Act requirements applicable as of the date of the execution of this Covenant Agreement, and the provisions of the Lead-Based Paint Poisoning Prevention Act. When applicable, the City's cost to administer Davis Bacon Federal Labor Standard, and Related Acts shall be borne by the Borrower. When Washington State prevailing wages apply, the Borrower shall comply with all State requirements under RCW 39.12 to the satisfaction of the State of Washington. When applicable, the higher of Washington State prevailing wages or Davis-Bacon wages shall apply.
- J. Comply with all HOME program project requirements pursuant to 24 CFR part 92 et seq.
- K. Maintain housing in compliance with the property standards of 24 CFR §92.251 and local code requirements throughout the term of the Loan Agreement or the extended term of the Loan Agreement.

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- L. Upon Project Completion (as defined in Section IV.A), the Project shall obtain a final Certificate of Occupancy, meet all licensing requirements needed to operate the facility as proposed by Borrower in its various funding applications, and meet the property standards of 24 CFR §92.251, minimum rehabilitation standards, and all applicable federal, state and local codes and ordinances. New construction projects must also meet HUD, state, and local requirements relating to accessibility and disaster mitigation.
- M. Cause each of the seven (7) HOME-assisted units to be occupied by income-eligible households within eighteen (18) months after the Project is completed. If any HOME-assisted units are not occupied by eligible tenants within 6 months following the date of Project Completion, Borrower shall submit to the City current marketing information and, if the City requests it, an enhanced marketing plan for leasing the unoccupied units as quickly as possible, which information the City will provide to HUD as required by 24 CFR §92.252. If any HOME-assisted unit has not been rented to eligible tenants within eighteen (18) months after the date of Project Completion, Borrower shall repay the City \$28,571.43/unit for each such unit within thirty (30) days of the City's written request for repayment. This reflects the proportionate per unit share of HOME funds, i.e., \$200,000.00 HOME dollars/7 HOME units. The number of HOME-assisted units required hereunder shall be reduced in proportion to the amounts so repaid.

The Borrower shall cause this Covenant Agreement to be recorded as a covenant running with the land and the Project.

Borrower shall pay at loan closing all costs associated with the negotiation, documentation and closing of the loan, including without limitation title premiums escrow fees, recording fees, appraisal fees and City's attorneys' fees.

III. INCOME DETERMINATIONS

- A. For purposes of this Covenant Agreement, tenant "annual income" is defined pursuant to 24 CFR §92.203), and includes income from all persons in the household, less income adjustments pursuant to 24 CFR §5.611. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.
- B. Initial tenant annual income determinations shall be made by the Borrower pursuant to 24 CFR §92.203. Subsequent tenant income determinations shall be made by the Borrower pursuant to 24 CFR §92.203 and 24 CFR §92.252(h).
- C. Rent increases and annual income recertifications shall be governed by the terms outlined in the Affordability Requirements.

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IV. AFFORDABILITY REQUIREMENTS

- A. HOME Affordability Period. The HOME Affordability Period, established pursuant to 24 CFR §92.252, is twenty (20) years, beginning after Project Completion, as determined by the Director. “Project Completion” means that all necessary title transfer requirements and construction work have been performed; the Project complies with the requirements of 24 CFR §92, including the property standards under 24 CFR §92.251; the final drawdown of HOME funds has been disbursed for the Project; and the Project Completion information has been entered in the disbursement and information system established by HUD, except that with respect to rental housing Project Completion, for the purposes of §92.502(d), Project Completion occurs upon completion of construction and before occupancy. Repayment of the loan during the HOME Affordability Period will not extinguish the requirements of the Related Documents.
- B. City Affordability Period. The City Affordability Period is thirty (30) years, beginning after Project Completion, as determined by the Director. The HOME Affordability Period and City Affordability Period shall run concurrently. Collectively, the two periods are hereinafter referred to as the “Affordability Period.” Upon expiration of the HOME Affordability Period, the City Affordability Period shall continue, but HUD will no longer monitor compliance with affordability requirements, unless the City Affordability Period is coterminous with the HOME Affordability Period. The requirements of the Affordability Period and other conditions of the Related Documents shall apply, as long as there are funds owing under the Note.
- C. Rent Limit. During the Affordability Period, rents (i.e., exclusive of rent paid through project-based subsidies) on the seven (7) HOME-assisted units shall not exceed thirty percent (30%) of the adjusted income of a family whose annual income equals thirty percent (30%) of Spokane area median income (“AMI”), as defined by HUD and adjusted for family size, unit size by number of bedrooms, tenant-paid utilities and tenant-supplied appliances. These units shall include seven (7) one-bedroom units.. Should the HUD rents decline below the initial project rents, the Borrower’s rents do not need to be reduced below the initial rents. A table of initial HUD rents for the Project is attached to the Loan Agreement as Attachment 3. The adjustment for tenant-paid utilities and tenant-supplied appliances is subject to §92.252, which previously used the Section 8 existing housing allowance for tenant-furnished utilities and other services as published annually by and issued by the Spokane Housing Authority or twelve (12) months of documented actual utility costs as acceptable to the City's Community, Housing & Human Services Department (“Department”). New HUD requirements are being clarified and may include that the adjustment for tenant-paid utilities and tenant-supplied appliances be based on the HUD Utility Schedule Model, twelve (12) months of documented actual utility costs as acceptable to the Department, or other methods as determined by HUD. Currently the HUD Utility Schedule Model can be found at: <http://huduser.org/portal/resources/utimodel.html>.

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However, any HOME-assisted unit receiving federal or state project-based rental assistance, where the tenant pays not more than thirty percent (30%) of the household's adjusted income as a contribution toward rent, shall be limited to the maximum rent allowed under the federal or state project-based rental assistance program.

The City will provide Borrower with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits exclusive of rent paid through project-based subsidies) in accordance with this Loan Agreement and 24 CFR §92.252(f)(2). The Borrower must annually provide the City with information on rents and occupancy of HOME-assisted units to demonstrate compliance with the Affordability Requirements of this Loan Agreement. The City will review rents for compliance and approve or disapprove them every year.

- D. LIHTC Rent Clause. For tenants of low-income tax credit assisted units (if low-income housing tax credits are awarded to the Project or portions of the Project), any increases in rent associated with tenant income shall be governed solely by section 42 of the Internal Revenue Code of 1986, as amended from time to time.
- E. Upon completion of the HOME Affordability Period, if the maximum rent and income limits are exceeded, the loan will be subject to repayment at the higher interest rate as provided for in Paragraph 2 of the Promissory Note.
- F. Income Limit. At initial occupancy, tenants of the seven (7) HOME-assisted units shall have incomes not greater than thirty percent (30%) of AMI, as defined by HUD. If any of these tenants' incomes increases to a level exceeding fifty percent (50%) of AMI, then the next available HOME-assisted unit shall be made available to families at or below thirty percent (30%) of AMI. If the income of a tenant of a HOME-assisted unit increases and exceeds eighty percent (80%) of AMI, then the tenant's rent shall increase to the lesser of thirty percent (30%) of the tenant's adjusted monthly income or Fair Market Rent, subject to paragraph VIII.D hereof.
- G. Income Certifications. All tenants' incomes shall be recertified annually by the Borrower. Any applicable rent increases will be effective upon the next lease renewal, and are subject to thirty (30) days' written notice.
- H. Additional Affordability Requirements. The Project must comply with the affordable housing requirements of 24 CFR §92.252.
- I. Relocation. Tenants in occupancy prior to the Project are subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended ("URA"), 42 USC 4601 et seq. and the regulations promulgated thereunder. All relocation payments and expenses shall be borne by the Borrower.

DRAFT

- J. Protection of Affordability Requirements – City Purchase Option. The Affordability Requirements may terminate upon foreclosure or transfer in lieu of foreclosure at the sole election of the Director. In the event of a pending or threatened foreclosure, once applicable notice and cure periods have expired, the City is hereby granted an option and a right of first refusal to purchase the Project before foreclosure or deed in lieu of foreclosure to preserve affordability. The City may exercise its right to purchase the Project in any reasonable manner following the City's receipt of written notice of pending or threatened foreclosure proceedings and/or a possible deed in lieu of foreclosure, which notice Borrower hereby agrees to provide to City. The purchase price shall be the assessed value of the Project at the time of the City's exercise of its purchase rights, less any financial obligations assumed by the City at the time of the City's acquisition of the Project. Pursuant to 24 CFR §92.252(e)(3), the City further reserves the right to revive any affordability restrictions according to the original terms of the Loan Agreement if, during the HOME Affordability Period (as defined herein), the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Project or property.

V. DEFAULT

If a violation of any of the foregoing covenants occurs, the City may, after thirty (30) days written notice, the default meanwhile not having been cured, institute and prosecute any proceeding at law or in equity or as otherwise provided for in this Covenant Agreement, or Related Documents, to abate, prevent, or enjoin any such violation or to compel specific performance by the Borrower of its obligations hereunder, including, without limitation of other remedies, the exercise of the City's purchase rights described herein. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation hereof at any later time.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, TO EXTEND CREDIT, TO MODIFY OR AMEND ANY AGREEMENT TERMS, TO RELEASE ANY GUARANTOR, TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT OR FORBEAR FROM EXERCISING ANY REMEDIES, OR TO MAKE ANY OTHER FINANCIAL ACCOMMODATION RELATED TO THIS COVENANT AGREEMENT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, the Parties have executed this Covenant Agreement on this ____ day of _____, 2015.

By: West 315 Manager LLC, a Washington limited liability company
Its: Managing Member

By: _____
Linda Hugo, President and Chief Executive Officer

STATE OF WASHINGTON)
) ss.
County of Spokane)

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of
Washington, residing at _____
My Commission expires _____

By: David A. Condon, Mayor

ATTEST:

By: _____
Terri L. Pfister, City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this ____ day of _____, 2015, personally appeared before me **David A. Condon** and **Terri L. Pfister**, to me known to be the **Mayor** and **City Clerk**, respectively, of and for the **City of Spokane**, Washington, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument.

GIVEN under my hand and official seal the day and year in this certificate above written.

NOTARY PUBLIC, in and for the State of
Washington, residing at _____
My Commission expires _____

DRAFT

ATTACHMENT 1

LEGAL DESCRIPTION

Portions of lots 1, 2, 3 and 4 in Block 59 of Central Addition, according to the plat thereof recorded in Volume "A" of Plats, Page(s) 162, a portion of lots 1 and 2 in Block 2 of Stratton's Addition, according to the plat thereof recorded in Volume "A" of Plats, Page(s) 24 records of Spokane County, Washington and portion of alley lying between said Block 59 and said Block 2 and portions of North Calispel Street, being more particularly described as follows;

BEGINNING at the Southwest corner of lot 2 of said Block 2; thence along the West line of lot 1 and lot 2, North 02°25'32" West a distance of 113.19 feet to the South right of way of West Mission Avenue; Thence along said South right of way the following four courses:

1. North 63°37'23" East a distance of 155.45 feet;
2. North 61°45'39" East a distance of 8.89 feet;
3. North 63°44'18" East a distance of 74.47 feet;
4. North 63°36'42" East a distance of 69.69 feet to the East line of Lot 1 of said Block 59;

Thence along said East line, South 02°17'11" East a distance of 10.00 feet;

Thence North 87°29'30" East a distance of 12.00 feet;

Thence parallel with and 12.00 feet East of said East line South 02°17'11" East a distance of 116.62 feet;

Thence South 87°29'30" West a distance of 83.89 feet;

Thence along a non-tangent curve to the left having a radius of 90.00 feet, a central angle of 55°43'57", an arc length of 87.54 feet, a chord bearing of South 60°08'01" West and a chord length of 84.13 feet;

Thence South 02°23'33" East a distance of 72.30 feet to the South line of Lot 2 of said Block 2;

Thence along said South line, South 87°14'47" West a distance of 134.96 feet to the POINT OF BEGINNING.

Containing 35,329.86 S.F. of land more or less.

Situate in the City of Spokane, County of Spokane, State of Washington.

Tax Parcel Number: _____.

Situs Address: STREET ADDRESS, Spokane, WA 9920__

**CITY OF SPOKANE
WEST 315 LLC**

WEST 315

PRIORITY AND SUBORDINATION AGREEMENT

**UNDER DEVELOPMENT AND NEGOTIATION WITH OTHER
FUNDERS**

(IT WILL BE INCLUDED WHEN AVAILABLE.)



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	8/11/2015
Clerk's File #	OPR 2015-0735
Renews #	
Cross Ref #	OPR2011-0008
Project #	
Bid #	SW 14-15
Requisition #	

Submitting Dept	WASTEWATER MANAGEMENT
Contact Name/Phone	MIKE COSTER 625-4640
Contact E-Mail	MCOSTER@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	4320 BIO FILTER MEDIA REPLACEMENT AT RPWRF

Agenda Wording

Contract with Dundee Concrete and Landscaping LLC (Mead, WA) to replace the media material in Bio filter at the Riverside Park Water Reclamation Facility - total \$80,068.42 including tax (\$73,660.00 + \$6,408.42 tax)

Summary (Background)

Dundee Concrete and Landscaping LLC submitted the low and only project quote from the Small Works Roster. The Request for Bid was sent to over 40 companies. There are two Bio Filters at RPWRF which are used for odor control by filtering exhaust air from the process building. The filter beds are composed of bark nuggets and hog fuel (strips of wood) which settle over time and become ineffective. The media in each bed needs to be replaced approximately every five years on an alternating basis.

Fiscal Impact		Budget Account	
Expense	\$ 80,068.42	#	4320-43230-35145-54803
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	COSTER, MICHAEL	Study Session	
Division Director	ROMERO, RICK	Other	PW 8/10/15
Finance	SALSTROM, JOHN	Distribution List	
Legal	WHALEY, HUNT	kbustos@spokanecity.org	
For the Mayor	SANDERS, THERESA	Tax & Licenses	
Additional Approvals		mcoster@spokanecity.org	
Purchasing	WAHL, CONNIE	hbarnhart@spokanecity.org	
		mlesesne@spokanecity.org	
		sjohnson@spokanecity.org	
		cwahl@spokanecity.org	

C O N T R A C T

THIS CONTRACT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and DUNDEE CONCRETE AND LANDSCAPING LLC, whose address is 12812 North Chronicle Road, Mead, Washington 99021, as "Contractor".

W I T N E S S E T H:

The parties agree as follows:

1. PERFORMANCE. The Contractor will do all work, furnish all labor, materials, tools, construction equipment, transportation, supplies, supervision, organization and other items of work and cost necessary for the proper execution and completion of the work described as BIOFILTER MEDIA REPLACEMENT according to the Contractor's bid.
2. CONTRACT DOCUMENTS. This Contract, the request for bids other than as expressly excepted to in the Contractor's bid proposal, and the Contractor's bid proposal constitute the contract documents and are complementary. Federal and state requirements and the terms of this Contract, respectively, supersede other inconsistent provisions. These contract documents are on file with the Wastewater Management Department, 909 East Sprague Avenue, Spokane, Washington, and are incorporated into this Contract by reference as if they were set forth at length.
3. TIME OF PERFORMANCE. The Contract shall begin after the notice to proceed and once commenced, all work shall be done within fourteen (14) working days.
4. TERMINATION. The City may, without cause, terminate this Contract at any time. In the event of such termination, the Contractor shall be entitled to receive payment for work performed and costs incurred up to the date of termination.
5. PREVENTATIVE MAINTENANCE. The following preventative maintenance requirements apply to the work under this Contract:
 - A. The Contractor shall pay state prevailing wages. The Contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the State Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by a Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. At the end of the work, the Contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

B. A payment/performance bond is NOT required.

C. Statutory retainage is NOT required.

6. COMPENSATION. The City will pay SEVENTY THREE THOUSAND SIX HUNDRED SIXTY AND NO/100 DOLLARS (\$73,660.00), the amount in the Contractor's proposal, as full compensation for everything furnished and done under this Contract, subject to allowable additions and deductions as provided.

7. TAXES. Retail sales tax where applicable shall be added to the amounts due and the Contractor shall be responsible for making payment of the tax to Washington State. The City reserves the right to claim any exemption authorized by law.

8. PAYMENT. The Contractor will send its applications for payment to the Director of Wastewater Management, 909 West Sprague Avenue, Spokane, Washington 99202. Payment will be made within thirty (30) days after receipt of the Contractor's application except as provided in RCW 39.76. Five percent (5%) of the Contract price may be retained by the City, in accord with RCW 60.28 for a minimum of forty five (45) days after final acceptance, as a trust fund for the protection and payment of: the claims of any person arising under the Contract; and the State with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from the Contractor.

9. INDEMNIFICATION. The Contractor agrees to defend, indemnify and hold the City harmless from any and all claims, demands, losses and liabilities to or by third parties arising from, resulting from or connected with services performed or to be performed under this Contract by the Contractor, its agents or employees to the fullest extent permitted by law. The Contractor's duty to indemnify the City shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City, its agent or employees. The Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) the Contractor or its agents or employees, shall apply only to the extent of negligence of the Contractor or its agents or employees. The Contractor's duty to defend, indemnify and hold the City harmless shall include, as to all claims, demands, losses and liability to which it applies, the City's personnel-related costs, reasonable attorneys' fees, court costs and all other claim-related expenses. **The Contractor waives immunity under Title 51 RCW to the extent necessary to protect the City's interests under this indemnification. This provision has been specifically negotiated.**

11. 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 Contract. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Contractor's services to be provided under this Contract;
- C. Property insurance if materials and supplies are furnished by the Contractor. The amount of the insurance coverage shall be the value of the materials and supplies of the completed value of improvement. Hazard or XCU (explosion, collapse, underground) insurance should be provided if any hazard exists; and
- D. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.

There shall be no cancellation, 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. CONTRACTOR'S WARRANTY. The Contractor guarantees all work, labor and materials under this Contract for one (1) year following final acceptance. If any unsatisfactory condition or defect develops within that time, the Contractor will immediately place the work in a condition satisfactory to the City and repair all damage caused by the condition or defect. The Contractor will repair or restore to the City's satisfaction, in accordance with the contract documents and at its expense, all property damaged by its performance under this Contract. This warranty is in addition to any manufacturer's or other warranty in the contract documents.

13. WAGES. The Contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by the Contractor for payment on a project estimate shall state that the

prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. Prior to the payment of funds held under RCW 60.28, the Contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

14. STATEMENT OF INTENT TO PAY PREVAILING WAGES TO BE POSTED. The Contractor and each subcontractor required to pay the prevailing rate of wages shall post in a location readily visible at the job site: (1) a copy of a "Statement of Intent to Pay Prevailing Wages" approved by the industrial statistician of the State Department of Labor and Industries; and (2) the address and telephone number of the industrial statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.

15. FEES. Reimbursement for the fees paid by the Contractor for the approval of "Statements of Intent to Pay Prevailing Wages" and certification of "Affidavits of Wages Paid" by the industrial statistician of the State Department of Labor and Industries will be added to the amounts due the Contractor. The Contractor will remain responsible for the actual submittal of the documents to the industrial statistician. In order to receive this reimbursement the Contractor will be required to submit to the City, prior to final acceptance of the work, a list of its subcontractors at all tiers and have their "Statements of Intent to Pay Prevailing Wages" on file with the City.

16. SUBCONTRACTOR RESPONSIBILITY.

- A. The Contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the City, the Contractor shall promptly provide documentation to the City demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this section apply to all subcontractors regardless of tier.
- B. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:
 - 1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;
 - 2. Have a current Washington Unified Business Identifier (UBI) number;
 - 3. If applicable, have:
 - a. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;

- b. A Washington Employment Security Department number, as required in Title 50 RCW;
 - c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
 - d. An electrical contractor license, if required by Chapter 19.28 RCW;
 - e. An elevator contractor license, if required by Chapter 70.87 RCW.
4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

17. 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.

18. ASSIGNMENTS. The Contractor may not assign, transfer or sublet any part of the work under this Contract, or assign any monies due, without the written approval of the City, except as may be required by law. In the event of assignment of accounts or monies due under this Contract, the Contractor specifically agrees to give immediate written notice to the City Administrator, no later than five (5) business days after the assignment.

19. COMPLIANCE WITH LAWS. Each party shall comply with all applicable federal, state, and local laws and regulations that are incorporated herein by reference.

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

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

22. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Contractor shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

23. CONSTRUAL. The Contractor acknowledges receipt of a copy of the contract documents and agrees to comply with them. The silence or omission in the contract documents concerning any detail required for the proper execution and completion of the work means that only the best general practice is to prevail and that only material and workmanship of the best quality are to be used. This Contract shall be construed neither in favor of nor against either party.

24. MODIFICATIONS. The City may modify this Contract and order changes in the work whenever necessary or advisable. The Contractor will accept modifications when ordered in writing by the Director of Wastewater Management, and the Contract time and compensation will be adjusted accordingly.

25. INTEGRATION. This Contract, including any and all exhibits and schedules referred to herein or therein set forth the entire Agreement and understanding between the parties pertaining to the subject matter and merges all prior agreements, negotiations and discussions between them on the same subject matter.

26. FORCE MAJEURE. Neither party shall be liable to the other for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to: (1) acts of God or public enemy, acts of government, riots, terrorism, fires, floods, strikes, lock outs, epidemics, act or failure to act by the other party, or unusually severe weather affecting City, Contractor or its subcontractors, or (2) causes beyond their reasonable control and which are not foreseeable (each a "Force Majeure Event"). In the event of any such Force Majeure Event, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the delay.

Dated on 7/30/15

CITY OF SPOKANE

By: [Signature]

Title: President

Approved as to form

Attest: _____

City Clerk

[Signature]
Assistant City Attorney

Dated on 7/30/15

DUNDEE CONCRETE AND
LANDSCAPING LLC

E-Mail address, if available:



By: Steve Folchlin

Title: Pres. dent

15-196

BID

TO: CITY OF SPOKANE, WASHINGTON

PROJECT NAME: RPWRF Biofilter Media Replacement

The undersigned firm has examined the site, read and understands the specifications for the above project and proposes to do the described work at the following price:

Base Bid \$ 73660.00

Alternate 1 Bid \$ _____

The firm acknowledges receipt of addendum number _____ and agrees that its requirements have been included in this bid.

The firm agrees that its bid will NOT be withdrawn for a minimum of forty five (45) calendar days after the stated submittal date.

CONTRACTOR RESPONSIBILITY.

Washington State Contractor's Registration No.

U.B.I. Number 602 589 496

Washington Employment Security Department Number 42-169-7326

Washington Excise Tax Registration Number

City of Spokane Business License Number
dundeeci885dl

Firm confirms by submission of bid that it is not debarred, suspended, or otherwise excluded from participating in Federal government projects (Federal Debarred List).

COMPLETION TIME. All work under the contract shall be started after the date of notice to proceed. Work once started shall be completed by 14 working days.

LIQUIDATED DAMAGES. If the work is not completed within the stated completion time, the Contractor agrees to pay to the City liquidated damages in the amount of \$275.00 for each and every day the work remains uncompleted.

FIRM NAME: Dundee Concrete & Landscaping LLC

SIGNATURE:  _____

TITLE: President PHONE: 509 216-3331

12812 N. chronicle mead wa 99021

RPWRF BIOFILTER #1 MEDIA REPLACEMENT

BIOFILTER #1 MEDIA REPLACEMENT COST PROPOSAL

Please provide the following costs for supplying, mixing, delivery, and installation of media under the provisions of the included specification titled "BIO-FILTER MEDIA" and drawing titled "BIOFILTER SITE PLAN".

- | | TOTALS |
|--|---------------|
| 1. BIOFILTER MEDIA: | |
| a. Medium Nugget Bark: | |
| 75% by Volume @ \$_____10___ / CY | |
| b. Large Hog Fuel: | |
| 25% by Volume @ \$_____20___ / CY | |
| c. Total Unit Price for Mixed Media | |
| Approximately 1122 cubic yards @ \$_____30___ / CY = | |
| \$__33660.00_____ | |
| 2. LOAD, HAUL, AND DISPOSE OF OLD MEDIA: | |
| a. Lump Sum Price for disposal of old biofilter media: | |
| \$_____6500.00_____ | |
| 3. MIXING, DELIVERY, AND INSTALLATION OF NEW MEDIA: | |
| a. Lump Sum Price for installation of new biofilter media: | |
| \$__25000.00_____ | |
| 4. CLEANING/REMOVAL OF DEBRIS FROM BIOFILTER PLENUM: | |
| a. Lump Sum Price for cleaning of biofilter plenum: | |
| \$_____8500.00_____ | |

TOTAL PROPOSED PRICE FOR BIOFILTER #1 MEDIA REPLACEMENT:

(Lump sum price for items 1-4 above – same as base bid)

\$_____73660.00_____ + Tax _____

SUBCONTRACTOR LIST

PROJECT NAME: RPWRF Biofilter Media Replacement

PROPOSED SUBCONTRACTORS/SUPPLIERS TO BE USED ON THE PROJECT ARE:

(USE ADDITIONAL PAGES IF NECESSARY)

CONTRACTOR/SUPPLIER Mountain west

TYPE OF WORK/BID ITEM Material / Bark media

AMOUNT \$ 32,000

CONTRACTOR'S REGISTRATION NO. _____

CONTRACTOR/SUPPLIER _____

TYPE OF WORK/BID ITEM _____

AMOUNT \$ _____

CONTRACTOR'S REGISTRATION NO. _____

CONTRACTOR/SUPPLIER _____

TYPE OF WORK/BID ITEM _____

AMOUNT \$ _____

CONTRACTOR'S REGISTRATION NO. _____

☐ NO SUBCONTRACTORS WILL BE USED ON THIS PROJECT

Attachment to Supplemental Bidder Responsibility Criteria

Work Experience Form

Please complete one form per project and include the minimum number of projects (and forms) as requested. If number of construction projects is not requested in Request for Bids document, list two (2) construction projects. You may include any additional work experience you deem relevant in determining bidder responsibility. Please be sure to provide a thorough description of the work in order to demonstrate how your firm meets any required experience detailed in the specifications. You may attach additional documentation if needed.

PROJECT DETAIL

Bidder's Company Name

Dundee Conc + Land

Bidders Contact Name & Phone Number

Steve Felchlin Son 216-3331

Project Name

Bio Filter media Replacement

Project Contract Number

Project Owner

City of Spokane

Project Location

Waste water

Project Owner Contact Name & Title

Fred Brown

Owner's Telephone Number

Notice to Proceed Date

Final
Date

Completion

Awarded Contract Value

Final Contract Price

Prime Contractor Name (If Not Bidder)

Contractor Contact Name & Phone Number (If Not Bidder)

Brief Project Description

Brief Summary Of Technical Work Completed By Bidder, Including Any Relevant Details To Demonstrate Similar Experience And Any Required Experience Detailed In the Specifications



City of Spokane, Washington Supplemental Bidder Responsibility Criteria

After bid opening and prior to award, the apparent low bidder shall complete, sign and submit this form with attachments to the City (See instructions at the end of this form). The form shall be submitted within twenty four (24) hours after the notification, unless a different time and date is required by the specifications or otherwise mutually agreed upon.

Project Name: BIOFILTER MEDIA REPLACEMENT

Project #: SW14-15

Part A: General Company Information

Company Name:

Address:

Contact Name and Title:

Contact Phone:

Contact E-mail:

Years in business as a Prime Contractor:

Years in business as a sub-contractor:

Years in business under present Name:

List any former company names under which the company, its owners, and/or its principals has operated in the past five (5) years:

Explain reason for name change(s) in the past five (5) years:

Part B: Work Experience

If the request for bids has project specific criteria, including work experience, list at least the requested number of construction projects completed within the required time frame on the attached Project Experience form which are similar in type, size and scope of work required for this project. If number of construction projects is not requested in Request for Bids document, list two (2) construction projects.

Part C: Performance Evaluation

Under past or present names does the bidder have a history of receiving "deficient" or "inadequate" evaluations on two (2) or more contracts from the City or other municipalities or another governmental agency on a public works project within the last five (5) years?

☐ Yes ☒ No

If "Yes" attach a separate, signed / dated statement listing the projects and an explanation.

Part D: Record of Debarment / Disqualification

Has the bidder (including the primary contractor, any firm with which any of the primary contractor's owners, officers, or partners was associated) been debarred, disqualified, removed or has been otherwise prevented from bidding on, or completing any governmental agency or public works projects, including debarment by the federal, state or other municipal government during the last five (5) years?

☐ Yes ☒ No

If "Yes", attach a separate signed / dated statement listing any debarments, disqualifications, removal, etc. from any governmental public works project and the basis for the action.

Part E: Safety

In the last five (5) years, has the bidder received willful or repeat violations of safety or health regulations by the OSHA or other agencies responsible for safety oversight?

☐ Yes ☒ No

If "Yes," attach a separate signed /dated statement describing each willful or repeat violation, including information about the dates and nature of the violations, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed and a decision has been issued, state the case number and the date of the decision.

Part F: Environmental

In the last five (5) years, has the bidder received serious citations from government environmental enforcement agencies on projects for which the bidder was the contractor?

☐ Yes ☒ No

If "Yes," attach a separate signed / dated statement describing each serious citation, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed and a decision has been issued, state the case number and the date of the decision.

Part G. Utilization Requirements

In the last five (5) years, has it been determined by a government agency that the bidder did not comply with disadvantaged business enterprises, apprenticeship or other similar utilization requirements on public works projects?

☐ Yes ☒ No

If "Yes", attach a separate signed / dated statement listing the violations or failures to meet utilization requirements along with a detailed explanation of the extenuating circumstances surrounding the violation and/or failure.

Part H: Discrimination

Has the bidder or any of its owners, officers or partners been found guilty of violating or failing to comply with discrimination laws in contracting, employment or provision of public services?

☐ Yes ☒ No

If "Yes", attach a separate signed / dated statement identifying the type of violation, who was involved, the name of the public agency, year of the investigation, the resolution in court or administrative process, and the grounds for the findings.

Part I. Prevailing Wage

In the last five (5) years, has the bidder received prevailing wage violations as determined by the applicable state or federal government agency monitoring prevailing and/or Davis Bacon wage compliance?

☐ Yes ☒ No

If "Yes," attach a separate signed/dated statement listing the prevailing wage violations, along with an explanation of each violation and how it was resolved. The City shall evaluate these explanations and the resolution of each violation to determine whether the violations demonstrate a pattern of failure to pay prevailing wages to workers unless there are extenuating circumstances acceptable to the City.

Part J: Public Bidding Crime (Criminal Convictions)

Has the bidder been convicted of a crime involving bidding on a public works contract within the last five (5) years?

☐ Yes ☒ No

If "Yes", attach a separate signed / dated statement listing the dates of conviction(s), the offense(s) convicted of, the punishment, and a brief statement of the facts underlying the conviction(s)

Part K. Claims Against Retainage and Bonds

Does the bidder have a record of multiple claims filed against the retainage or payment bonds for public works projects during the previous three (3) years?

☐ Yes ☒ No

If "Yes", attach a separate signed / dated statement listing the claims filed against the retainage and/or payment bond for any completed public works projects and include for each project a written explanation of the circumstances surrounding the claim and the ultimate resolution of the claim. The City shall evaluate the statement to determine if it demonstrates a lack of effective management by the bidder of making timely and appropriate payments, unless there are extenuating circumstances acceptable to the City in its sole discretion.

Part L. Termination for Cause

Has the bidder had any public works contract terminated for cause by any government agency during the previous five (5) years?

☐ Yes ☒ No

If "Yes", attach a separate signed / dated statement listing each contract terminated, the government agency terminating the contract and the circumstances involving the termination for cause. The City will determine if there are extenuating circumstances acceptable to the City in its sole discretion.

Part M: Litigation

Has the bidder been involved in lawsuits (or arbitrations for those instances where arbitration is completed in lieu of a lawsuit) with judgments entered against the bidder for failure to meet terms on contracts in the previous five (5) years?

☐ Yes ☒ No

If "Yes", attach a list of lawsuits and/or arbitrations with judgments / arbitration awards entered against the bidder along with a written explanation of the circumstances surrounding each lawsuit and/or arbitration. The City will evaluate the explanations to determine whether the lawsuits and/or arbitrations demonstrate a pattern of failing to meeting terms of conditions of contracts, unless there are extenuating circumstances acceptable to the City in its sole discretion.

Part N: Delinquent State Taxes

Does the bidder owe delinquent taxes to the Washington State Department of Revenue without a payment plan approved by the Department before the date of contract award?

☐ Yes ☒ No

If "Yes", attach a separate signed / dated statement describing the circumstances and stating that the bidder is not on the Washington State Department of Revenue's "Delinquent Taxpayer List".

Part O: Subcontractor Responsibility

Does the bidder's standard subcontract form include the subcontractor language required by RCW 39.06.020? Does the bidder have an established procedure which it uses to validate the responsibility of each of its subcontractors? Does the subcontract form require that each of the bidder's subcontractors have and document a similar procedure for sub-tier subcontractors?

☒ Yes ☐ No

If "Yes" or "No", provide a copy of its standard subcontract form and a copy of the procedures used to validate the responsibility of subcontractors.

Signature

The undersigned certifies that the information and data contained herein is correct and complete. Failure to disclose information or submitting false or misleading information may result in rejection of my bid, revocation of award, contract termination, or may impact my firm's ability to bid on future projects by the City of Spokane.

Signature of Authorized Representative**Date**

6/25/15

Printed Name of Authorized Representative**Title**

Steve Felchlin

BID DEPOSIT

Herewith find the bid deposit in the form of cash, cashier's check or certified check in the amount of \$ 3683.00, which is equal to or more than five percent (5%) of the total bid.

Signature 

Deposit returned on _____ by _____
(Date) (Name)

BID BOND

We, Dundee Concrete + Land LLC as Principal,

and _____ as Surety,
are held and firmly bound unto the CITY OF SPOKANE, a Washington State municipal corporation, in the penal sum of FIVE PERCENT (5%) OF THE TOTAL AMOUNT BID, for the payment of which we jointly and severally bind ourselves, and our legal representatives and successors.

THE CONDITIONS OF THE OBLIGATION are that if the City of Spokane shall make timely award to the Principal for the RPWRF Biofilter Media Replacement according to the terms of the bid made by the Principal; and the Principal shall, within the specified time, enter into a contract with the City of Spokane and furnish bond(s) acceptable to the City, if required, then this obligation shall be null and void; otherwise it shall remain in full force and effect; but in no event will the surety's liability exceed this bond's face amount.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

SIGNED AND SEALED on _____

AS PRINCIPAL

By: _____
Title: _____

A valid POWER OF
ATTORNEY must
accompany this bond.

AS SURETY

By: _____
Attorney in Fact



CERTIFICATE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
7/14/2015

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

If this certificate is being prepared for a party who has an insurable interest in the property, do not use this form. Use ACORD 27 or ACORD 28.

PRODUCER
DAMIEN J RAMIREZ (17720)
711 W INDIANA AVE
STE 102
SPOKANE, WA 99205-0000

CONTACT NAME: DAMIEN J RAMIREZ
PHONE (A/C, No, Ext): 509-325-3986 FAX (A/C, No): 509-325-3362
E-MAIL ADDRESS: DAMIEN.RAMIREZ@COUNTRYFINANCIAL.COM
PRODUCER CUSTOMER ID:

INSURED 9982726
DUNDEE CONCRETE & LANDSCAPING LLC
12812 N CHRONICLE ST
MEAD, WA 99021

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : COUNTRY Mutual Insurance Company	20990
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

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

LOCATION OF PREMISES / DESCRIPTION OF PROPERTY (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Loc 1/Bldg 1/12812 N CHRONICLE ST, Mead, WA 990218311

Limit for Busn Income and Extra Expense is actual loss sustained not to exceed one year

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

INSR LTR	TYPE OF INSURANCE		POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	COVERED PROPERTY	LIMITS
A	PROPERTY		AM9175179	3/13/2015	3/13/2016	BUILDING	\$
	CAUSES OF LOSS	DEDUCTIBLES				PERSONAL PROPERTY	\$ 1,000
	BASIC	BUILDING				BUSINESS INCOME	\$ See Above
	BROAD	CONTENTS				EXTRA EXPENSE	\$ See Above
	<input checked="" type="checkbox"/> SPECIAL	\$1,000				RENTAL VALUE	\$
	EARTHQUAKE					BLANKET BUILDING	\$
	WIND					BLANKET PERS PROP	\$
	FLOOD					BLANKET BLDG & PP	\$
	<input checked="" type="checkbox"/> Equip Breakdown						\$
							\$
	INLAND MARINE	TYPE OF POLICY					\$
	CAUSES OF LOSS						\$
	NAMED PERILS	POLICY NUMBER					\$
							\$
	CRIME						\$
	TYPE OF POLICY						\$
							\$
							\$
	BOILER & MACHINERY / EQUIPMENT BREAKDOWN						\$
							\$
							\$
							\$

SPECIAL CONDITIONS / OTHER COVERAGES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

STATE OF WASHINGTON
CONTRACTORS REGISTRATION SECTION
PO BOX 44450
OLYMPIA, WA 98504

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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BRIEFING PAPER
Public Works Committee
Wastewater Management
August 10, 2015

Subject

Low bid for Bio Filter Media Replacement at Riverside Park Water Reclamation Facility (RPWRF).

Background

There are two bio filters at RPWRF which are used for odor control by filtering exhaust air from the process building. The filter beds are composed of bark nuggets and hog fuel (strips of wood) which settle over time and become ineffective. The media in each bed needs to be replaced approximately every five years on an alternating basis.

One quote was received.

\$73,660.00	Dundee Concrete & Landscaping (Spokane)
Did not bid	G&S Landscaping (Spokane)
Did not bid	Clearwater Summit Group Inc. (Spokane)

Impact

This project will replace the media in one of the two filter beds. The other filter bed will remain online to maintain air quality.

Action

The Wastewater Management Department is seeking Council approval to award the construction contract to Dundee Excavation & Landscaping as low bidder.

Funding

Funding for this purchase is provided in the Wastewater Management budget.

190 Excavation, Fill Material and Grading

COMPANY	CITY	STATE	CONTACT	PHONE	EMAIL ADDRESS
Advanced Excavation, Inc.	Moses Lake	WA	Jennifer Carlile	(509) 762-9421	advancedexcavation@hotmail.com
AM Landshaper, Inc.	Spokane	WA	Mark Albin	(509) 468-4335	amlandshaper@msn.com
Anderson Environmental Contracting, Inc.	Kelso	WA	Kylie Stansbury	(360) 577-9194	bids@aecllc.net
Bacon Concrete, Inc.	Colbert	WA	Greg Bacon	(509) 924-3910	baconconcrete@comcast.com
Brownscape LLC	Mead	WA	Robert Brown	(509) 230-1691	brownscape@comcast.net
C & C Yard Care	Spokane	WA	Chris Corigliano	(509) 482-0303	chrisc-cc@comcast.net
Camco Construction, Inc.	Spokane	WA	Lee Campbell	(509) 536-1818	lee@camcoconstruction.net
Clearwater Summit Group	Spokane	WA	Brent Schreiber	(509) 482-2722	bschreiber@clearwatersummitgroup.com
Cole Concrete, LLC	Nine Mile Falls	WA	Rick Winkler	(509) 481-1411	coleconcretelc@yahoo.com
Continental Contractors, Inc.	Nine Mile Falls	WA	Erik Zemke	(509) 276-3402	erik@continentalcontractors.net
Dardan Enterprises	Post Falls	ID	Darin Meeks	(208) 773-5418	darin@dardaninc.com
Dew Drop Sprinklers & Landscaping	Spokane Valley	WA	Doug Matthews	(509) 922-7168	Doug@dewdropnw.com
Dundee Concrete & Landscaping	Mead	WA	Steve Felchlin	(509) 216-3331	dundeespokane@gmail.com
Eller Corporation	Newman Lake	WA	Kathy Wilson	(509) 226-0333	kathywilson@ellercorporation.com
Engineering/Remediation Resources Group, Inc.	Airway Heights	WA	Timothy McCormack	(206) 282-4749	timothymccormack@errg.com
Four Seasons Landscaping, Inc.	Spokane	WA	Jeremy Deforge	(509) 489-5707	fourseasonlm@comcast.net
Greenleaf Landscaping, Inc.	Spokane	WA	Dan Gaffney	(509) 536-2885	left message for email 4-9-15
Halme Construction, Inc.	Davenport	WA	Jason Halme	(509) 725-4200	jasonh@halmeconstruction.com
Inland Asphalt Company	Spokane	WA	Jamie Tibbits	(509) 534-2657	jtibbits@oldcastlematerials.com
Jewell Excavating & Construction, Inc.	Spokane Valley	WA	Matt Connor	(509) 927-9600	info@jewellexcavating.com
Kirby-Hunt Construction, LTD	Spokane	WA	Bill Hunt	(509) 448-3988	khunt3@mindspring.com
Knife River Corporation - Northwest	Rathdrum	ID	Dustin Waldo	(208) 712-7300	dustin.waldo@kniferiver.com
L & L Cargile, Inc.	Spokane Valley	WA	Larry Cargile	(509) 534-3737	larry@lfcargile.com
Land Expressions	Mead	WA	Kelli Hochstedler;	(509) 466-6683	frontdesk@landexpressions.com; dnelson@landexpressions.com
Larry Miller Excavating	Spokane Valley	WA	Larry Miller	(509) 218-3335	gvknoles@gmail.com
Lilac City Sprinklers & Landscaping, Inc	Spokane	WA	Tim Burger	(509) 922-8900	lilacitysprinklr@aol.com
Mauer Construction, Inc.	Spokane	WA	Jared Mauer	(509) 456-7646	jared@mauerinc.com
Mountain Crest Enterprises, Inc.	Mead	WA	Don Mattson	(509) 466-5794	dmattson@mountain-crest.com
Murphy Brothers, Inc.	Airway Heights	WA	Tim Hurley	(509) 535-1591	tim@murphybros.us
N & N Excavation LLC	Mead	WA	Frank Nekich	(509) 435-2502	nnexcavation@live.com
N.A. Degerstrom, Inc.	Veradale	WA	Richard Stager	(509) 928-3333	
Northwest Industrial Services	Spokane	WA	Dave Alvarado	(509) 244-8404	dave-alvarado@air-pipe.com
Northwest Plant Health Care, Inc.	Post Falls	ID	Joseph Zubaly	(509) 892-0110	jzubaly@northwestplanthealthcare.com

Peplinski Excavation, Inc.	Newman Lake	WA	Mike Peplinski	(509) 226-5150	mike-pepexcavation-inc@msn.com
Piersol Construction, Inc.	Airway Heights	WA	Maurice Piersol	(509) 535-2901	mpiersol@piersolconstruction.com
R & L Landscape Construction	Spokane	WA	Rex Forsberg	(509) 385-8951	rllandscape@comcast.net
Red Diamond Construction, Inc.	Spokane	WA	Mike Schimmels	(509) 922-6674	schimsrd@comcast.net
Schimmels Construction	Spokane	WA	Gary Schimmels	(509) 443-2376	gschimmels@comcast.net
Senske Lawn and Tree Care	Spokane Valley	WA	Timm Turnbough	(509) 532-7892	Tturnbough@senske.com
Shamrock Paving Company	Spokane	WA	Chuck Green	(509) 244-2800	chuckg@shamrockpaving.us
SMS Holdings & Investment Solutions	Lynwood	WA	Matt Biggerstaff	(425) 776-8448	matt.biggerstaff@sms-servicesolutions.com
Spokane ProCare, Inc.	Spokane	WA	Kevin Schoreder	(509) 483-5249	info@spoprocare.com
Stone Creek Land Design & Development	Spokane	WA	Tom Pratt	(509) 892-4025	tpratt@stonecreeklanddesign.com
Stone Creek Land Design & Development, Inc.	Priest River	ID	Janice Martin	(208) 448-1106	janicem@stonecreeklanddesign.com
Superior Tractor Services, LLC	Spokane	WA	Johnnie Sylvester	(509) 429-8244	johnnie@superiortractorservices.com
T LaRiviere Equipment & Excavation, Inc.	Athol	ID	Tommy LaRiviere	(208) 683-2646	tommy@tlexid.com
WC Conner Excavating, Inc.	Spokane	WA	Jerry Conner	(509) 483-1123	jdconner75@aol.com
Wesslen Construction, Inc.	Spokane	WA	Jerry Wesslen	(509) 534-4346	jerry@wesslen.com
West Company, Inc.	Airway Heights	WA	Mark Johnson	(509) 468-8536	markj@westway.cc
Western States Construction, Inc.	Valleyford	WA	Maynard Davis	(509) 892-0600	wsc@air-pipe.com
Wm. Winkler Company	Newman Lake	WA	Brian Winkler	(509) 489-6100	brian@wmwinkler.com
Woodland Industries	Puyallup	WA	Lee Rogers	(253) 770-9663	lee@woodlandindustries.net
Wood's Crushing & Hauling, Inc.	Sandpoint	ID	Brian Wood	(208) 263-4800	pennyw933@gmail.com
Zeutschel Excavating	Spokane	WA	Aaron	(509) 979-6006	aazextreme@msn.com



City of Spokane Mandatory Bidder Responsibility Checklist

The following checklist may be used by City staff in documenting that a Bidder meets the mandatory bidder responsibility criteria. It is suggested that departments print a copy of documentation from the appropriate website to include with this checklist in the contract file.

General Information	
Project Name: <i>Biofilter Media Replacement</i>	Project Number: <i>SW14-15</i>
Bidder's Business Name: <i>Dundee Concrete & Landscaping, LLC</i>	Bid Submittal Deadline: <i>6/29/2015</i>
Contractor Registration – https://fortress.wa.gov/lni/bbip/	
License Number: <i>DUNDECL885DL</i>	Active Status: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Effective Date (must be effective on or before Bid Submittal Deadline): <i>3/13/2012</i>	Expiration Date: <i>4/14/2016</i>
Current UBI Number – http://dor.wa.gov/content/doingbusiness/registermybusiness/brd/	
UBI Number: <i>602-589-496</i>	Account Status: Open <input checked="" type="checkbox"/> Closed <input type="checkbox"/>
Industrial Insurance Coverage – https://fortress.wa.gov/lni/crpsi/MainMenu.aspx	
Account Number: <i>Country Mutual Insurance Co.</i>	Account Status: Current: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Employment Security Department Number –	
Employment Security Department Number: <i>42-169-7326</i>	
<ul style="list-style-type: none"> • Has Bidder provided account number on the Bid Form? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • And/or have you asked the Bidder for documentation from Employment Security Department on account number? Yes <input type="checkbox"/> No <input type="checkbox"/> 	
State Excise Tax Registration Number – http://dor.wa.gov/content/doingbusiness/registermybusiness/brd/	
Tax Registration Number: <i>602-589-496</i>	Account Status: Open <input checked="" type="checkbox"/> Closed <input type="checkbox"/>
Not Disqualified from Bidding – http://www.lni.wa.gov/TradesLicensing/PrevWage/AwardingAgencies/DebarredContractors/default.asp AND http://www.sam.gov	
Is the Bidder listed on the "Contractors Not Allowed to Bid" list of the Department of Labor and Industries? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
If federal funds, is the Bidder listed on the Excluded Parties List? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Checked by:	
Name of Employee:	Date:

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

08/24/2015

Date Rec'd

8/10/2015

Clerk's File #

OPR 2015-0736

Renews #**Submitting Dept**

ENGINEERING SERVICES

Contact Name/Phone

DAN BULLER 625-6391

Contact E-Mail

DBULLER@SPOKANECITY.ORG

Agenda Item Type

Contract Item

Agenda Item Name

0370 - CONTRACT - TAYLOR ENGINEERING, INC.

Cross Ref #**Project #**

2014152

Bid #**Requisition #**

BT

Agenda Wording

Taylor Engineering, Inc. will provide professional design and construction engineering services for improvements to an existing portion of Rowan Avenue for an amount not to exceed \$435,000.00.

Summary (Background)

This project includes full width reconstruction of approximately 1.1 miles of Rowan Avenue, installation of bike lanes/removal of on-street parking, water main replacement, sidewalk gap infill and miscellaneous minor stormwater system upgrades. Because of Engineering Services staffing constraints, a Request for Qualifications of consulting engineers was advertised in late 2014. Taylor Engineering was ranked the most qualified and therefore hired to design Phase I of this project.

Fiscal Impact

Expense \$ 435,000.00

Select \$

Select \$

Select \$

Budget Account

3200 49828 95100 56501 86002

#

#

#

Approvals**Dept Head**

TWOHIG, KYLE

Division Director

SIMMONS, SCOTT M.

Finance

SALSTROM, JOHN

Legal

WHALEY, HUNT

For the Mayor

SANDERS, THERESA

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

Public Works 8/10/15

Distribution List

lhattenburg@spokanecity.org

kbustos@spokanecity.org

jsalstrom@spokanecity.org

htrautman@spokanecity.org

jahensley@spokanecity.org

mhughes@spokanecity.org

Additional Approvals**Purchasing**



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Because of their successful work on Phase I, Engineering Services proposes to hire Taylor Engineering to design Phase II as well as provide construction phase administration and inspection.

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

City of Spokane

CONSULTANT AGREEMENT

Title: Rowan Avenue Rehabilitation Project - Phase II
Alberta Street to Monroe Avenue

This Agreement is made and entered into by and between the **City of Spokane** ("City"), a Washington municipal corporation, and **Taylor Engineering, Inc.**, whose address is 106 West Mission Avenue, Spokane, Washington 99201 ("Consultant"), sometimes hereafter individually referenced as a "party" and together as the "parties".

RECITALS:

WHEREAS, the purpose of this Agreement is to provide professional design and construction engineering services for improvements to an existing portion of Rowan Avenue; and

WHEREAS, the Consultant was selected as the most qualified firm from the City's Request for Qualifications (RFQ No. 4093-14).

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 upon signature by the parties, and ends on November 30, 2016, 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.

The Consultant will be reimbursed on a time and expense basis with a total not to exceed of FOUR HUNDRED THIRTY FIVE THOUSAND DOLLARS (\$435,000) which includes a base

amount of \$395,455 plus a management reserve of \$39,545. This amount shall not be exceeded unless modified by a written amendment to this Agreement. The City reserves the right to not award the construction phase services in which case only that portion of the time and expense costs included Tasks 1 through 3 in Exhibit B would be performed by the Consultant.

The Management Reserve Fund of THIRTY NINE THOUSAND FIVE HUNDRED FORTY FIVE AND NO/100 DOLLARS (\$39,545.00), is strictly governed by the terms of the Agreement Section 4D (below), entitled "Payment from the Management Reserve Fund."

- A. This Agreement is a payment negotiated on the basis of cost, and shall include only those costs allowed.
- B. Reasonable annual adjustments to salary rates may be allowed provided such adjustments do not increase costs above the Agreement Amount. Salary adjustments shall be subject to approval by the City, and an amended salary exhibit shall be submitted by the Consultant for attachment and incorporation into the Agreement.
- C. Direct Expenses. In addition to the salary-related payments set forth above, the City will reimburse the Consultant at cost, without any additional mark-up, for expenses that are necessary and directly applicable to the work required by this Agreement. Such direct project costs may not be included in the overhead expenses or direct labor multiplier of the Consultant. The direct expenses allowed under this Agreement are set forth in Section 5 & 6 (below), "Estimated Project Costs and Labor Hours." Sub-consultants are considered direct expenses. There is no mark-up allowed on any direct expenses. Payment from the Management Reserve Fund. For a Management Reserve Fund to be utilized on this Contract or any subsequent amendments it must already be identified on the associated exhibit for the estimated cost. The Management Reserve Fund is to provide the Department with flexibility to authorize additional funds for allowable unforeseen costs beyond those estimated for in the tasks of the Scope of Work, or for reimbursing the Consultant for additional work requested by the City toward completing the Scope of Work.
- D. Payment from the Management Reserve Fund is at the sole discretion of the Department and must be authorized in writing before the Consultant performs the additional work. Such written authorization will include a description of the work that is to be performed and shall specify the amount of the payment, including, if applicable, any profit factor. Any fixed fee for work reimbursed from the Management Reserve Fund shall be negotiated at the time such work is assigned to the Consultant and shall be authorized in writing by the City.
- E. The Consultant shall show separately and identify on its invoices all charges against the Management Reserve Fund.

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. **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.
- E. **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:
<p>CITY OF SPOKANE Department of Engineering Services Attn: Dan Buller 808 West Spokane Falls Boulevard Spokane, WA 99201</p>
Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):

- Invoice Date and Invoice Number
- Contact Name: Dan Buller
(Please do not put name in the address portion of the invoice)
- Department Contract No. OPR # _____
- Contract Title: Rowan Avenue Rehabilitation Project - Phase II
- Period covered by the invoice
- Task # and title
- Employee's name and classification
- Employee's all-inclusive hourly rate and # of hours worked
- Total labor costs per task
- Itemization of direct, non-salary costs (per task, if so allocated)
- The following Sub-Consultant payment information will be provided [*if needed*] (attach Sub-Consultant invoices as backup):
 - Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).
 - Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).
- Cumulative costs per task and for the total project
- Budget remaining 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 is the Consultant's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.
- C. The Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.

8. CITY OF SPOKANE BUSINESS LICENSE.

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Consultant shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
Dan Buller Dept. of Engineering Services 808 West Spokane Falls Boulevard Spokane, WA 99201	Mike Morse Taylor Engineering 106 West Mission Avenue Spokane, WA 99201

10. 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 identity, 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.

11. INDEMNIFICATION.

The Consultant shall indemnify and hold the Agency and the State and their officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the Consultant's negligence or breach of any of its obligations under this Agreement; provided that nothing herein shall require a Consultant to indemnify the Agency against and hold harmless the Agency from claims, demands or suits based solely upon the conduct of the Agency, its agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Consultant's agents or employees and (b) the Agency, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the Agency of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the Consultant, its agents or employees. In furtherance of these obligations, and only regarding the City and its officers, employees, and agents, the Consultant waives any immunity it may have or limitation on the amount or type of damages imposed. The Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the Agency and, solely for the purpose of this indemnification and defense, the Consultant specifically waives any immunity under the state industrial insurance law, Title 51 RCW, or any other industrial insurance, workers compensation, disability, employee benefit or similar laws. The Consultant recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

12. INSURANCE.

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

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

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;

- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$2,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the Agency, its officers and employees are additional insureds but only with respect to the Consultant's services to be provided under this Agreement; and
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.
- D. Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Agreement. The coverage must remain in effect for at least two (2) years after the Agreement is completed.

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

13. AUDIT.

Upon request, the Consultant shall permit the City and any other governmental agency ("Agency") involved in the funding of the Work to inspect and audit all pertinent books and records. This includes work of the Consultant, any subconsultant, or any other person or entity that performed connected or related Work. Such books and records shall be made available at any and all times deemed necessary by the Agency, including up to six (6) years after final payment or release of withheld amounts. Such inspection and audit shall occur in Spokane County, Washington, or other reasonable locations that the Agency selects. The Consultant shall supply or permit the Agency to copy such books and records. The Consultant shall ensure that inspection, audit and copying rights of the Agency is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform Work under this Agreement.

14. INDEPENDENT CONSULTANT.

- A. The Consultant is an independent Consultant. This Agreement does not intend the Consultant to act as a City employee. The City has neither direct nor immediate control over the Consultant nor the right to control the manner or means by which the Consultant works. Neither the Consultant nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Consultant to act as an agent or legal representative of the City. The Consultant is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Consultant shall pay all income and other taxes as due. The Consultant may perform work for other parties; the City is not the exclusive user of the services that the Consultant provides.

- B. If the City needs the Consultant to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Consultant works on the City premises using City equipment, the Consultant remains an independent Consultant and does not as a City employee. The Consultant will notify the City Project Manager if s/he or any other Workers are within ninety (90) days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Consultant will be required to work from its own office space or in the field. The City may negotiate a reduction in Consultant fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

15. KEY PERSONS.

The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.

16. ASSIGNMENT AND SUBCONTRACTING.

The Consultant shall not assign or subcontract its obligations under this Agreement without the City's written consent, which may be granted or withheld in the City's sole discretion. Any subcontract made by the Consultant shall incorporate by reference this Agreement, except as otherwise provided. The Consultant shall ensure that all subconsultants comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the consultant from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

17. FEDERAL DEBARMENT.

The Consultant shall immediately notify the City of any suspension or debarment or other action that excludes the Consultant or any subconsultant from participation in Federal contracts. Consultant shall verify all subconsultants intended and/or used by the Consultant for performance of City Work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal Government. Debarment shall be verified at <https://www.sam.gov>. Consultant shall keep proof of such verification within the Consultant records.

18. CITY ETHICS CODE.

- A. Consultant shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.
- B. Consultant shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two (2) years.
- C. Consultant shall provide written notice to the City of any Consultant worker who shall or is expected to perform over 1,000 hours of contract work for the City within a rolling 12-month period. Such hours include those performed for the Consultant and other hours that the worker performed for the City under any other contract. The Consultant shall advise their Consultant Workers.
- D. Consultant shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts,

work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Consultant. Promotional items worth less than \$25 may be distributed by the Consultant to City employees if the Consultant uses the items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

19. NO CONFLICT OF INTEREST.

Consultant confirms that the Consultant or workers have no business interest or a close family relationship with any City officer or employee who was or will be involved in the consultant selection, negotiation, drafting, signing, administration or evaluation of the Consultant's work. As used in this Section, the term Consultant includes any worker of the Consultant who was, is, or will be, involved in negotiation, drafting, signing, administration or performance of the Agreement. The term "close family relationship" refers to: spouse or domestic partner, any dependent parent, parent-in-law, child, son-in-law, daughter-in-law; or any parent, parent in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of a City officer or employee described above.

20. ERRORS AND OMISSIONS, CORRECTIONS.

Consultant is responsible for professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Consultant under this Agreement. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications, and/or other consultant services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.

21. INTELLECTUAL PROPERTY RIGHTS.

- A. Copyrights. The Consultant shall retain the copyright (including the right of reuse) to all materials and documents prepared by the Consultant for the Work, whether or not the Work is completed. The Consultant grants to the City a non-exclusive, irrevocable, unlimited, royalty-free license to use copy and distribute every document and all the materials prepared by the Consultant for the City under this Agreement. If requested by the City, a copy of all drawings, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs, and other storage facilities), software program or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials and/or any other related documents or materials developed solely for and paid for by the City to perform the Work, shall be promptly delivered to the City.
- B. Patents: The Consultant assigns to the City all rights in any invention, improvement, or discovery, with all related information, including but not limited to designs, specifications, data, patent rights and findings developed with the performance of the Agreement or any subcontract. Notwithstanding the above, the Consultant does not convey to the City, nor does the City obtain, any right to any document or material utilized by the Consultant created or produced separate from the Agreement or was pre-existing material (not already owned by the City), provided that the Consultant has identified in writing such material as pre-existing prior to commencement of the Work. If pre-existing materials are incorporated in the work, the Consultant grants the City an irrevocable, non-exclusive right and/or license to use, execute, reproduce, display and transfer the pre-existing material, but only as an inseparable part of the work.

- C. The City may make and retain copies of such documents for its information and reference with their use on the project. The Consultant does not represent or warrant that such documents are suitable for reuse by the City or others, on extensions of the project or on any other project.

22. CONFIDENTIALITY.

Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act*) all materials received or created by the City of Spokane are **public records**. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material. Some records or portions of records are legally *exempt from disclosure* and can be redacted or withheld. The Public Records Act (RCW 42.56 and RCW 19.10)8 describes those exemptions. Consultant must familiarize themselves with the Washington State Public Records Act (PRA) and the City of Spokane's process for managing records.

The City will try to redact anything that seems obvious in the City opinion for redaction. For example, the City will black out (redact) Social Security Numbers, federal tax identifiers, and financial account numbers before records are made viewable by the public. However, this does not replace your own obligations to identify any materials you wish to have redacted or protected, and that you think are so under the Public Records Act (PRA).

Protecting your Materials from Disclosure (Protected, Confidential, or Proprietary): You must determine and declare any materials you want exempted (redacted), and that you also believe are eligible for redaction. This includes but is not limited to your bid submissions, contract materials and work products.

Contract Work Products: If you wish to assert exemptions for your contract work products you must notify the City Project Manager at the time such records are generated.

Please note the City cannot accept a generic marking of materials, such as marking everything with a document header or footer, page stamp, or a generic statement that a document is non-disclosable, exempt, confidential, proprietary, or protected. You may not exempt an entire page unless each sentence is entitled to exemption; instead, identify paragraphs or sentences that meet the RCW exemption criteria you are relying upon.

City's Response to a Public Records Act Requests: The City will prepare two versions of your materials:

Full Redaction: A public copy that redacts (blacks out) both the exemptions (such as social security numbers) identified by the City and also materials or text you identified as exempt. The fully redacted version is made public upon contract execution and will be supplied with no notification to you.

Limited Redaction: A copy that redacts (blacks out) only the exemptions (such as social security numbers) identified by the City. This does not redact (black out) exemptions you identified. The Limited Redaction will be released only after you are provided "third party notice" that allows you the legal right under RCW 42.56.540 to bring a legal action to enjoin the release of any records you believe are not subject to disclosure.

If any requestor seeks the Limited Redacted or original versions, the City will provide you "third party notice", giving ten business days to obtain a temporary restraining order while you pursue

a court injunction. A judge will determine the status of your exemptions and the Public Records Act.

23. DISPUTES.

Any dispute or misunderstanding that may arise under this Agreement, concerning the Consultant's performance, shall first be through negotiations, if possible, between the Consultant's Project Manager and the City's Project Manager. It shall be referred to the Director and the Consultant's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, either party may decline or discontinue such discussions and may then pursue the legal means to resolve such disputes, including but not limited to alternative dispute resolution processes. Nothing in this dispute process shall mitigate the rights of the City to terminate the Agreement. Notwithstanding all of the above, if the City believes in good faith that some portion of the Work has not been completed satisfactorily, the City may require the Consultant to correct such work prior to the City payment. The City will provide to the Consultant an explanation of the concern and the remedy that the City expects. The City may withhold from any payment otherwise due, an amount that the City in good faith finds to be under dispute, or if the Consultant provides no sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed.

24. TERMINATION.

- A. For Cause: The City may terminate the Agreement if the Consultant is in material breach of this Agreement, and such breach has not been corrected to the City's reasonable satisfaction in a timely manner.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control.
- C. For City's Convenience: The City may terminate this Agreement without cause and including the City's convenience, upon written notice to the Consultant.
- D. Notice: Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- E. Actions upon Termination: if termination occurs not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to termination, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Consultant agrees this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.
- F. Upon termination, the Consultant shall provide the City with the most current design documents, contract documents, writings and other products the Consultant has produced to termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided however, that the City shall indemnify and hold the Consultant harmless from any claims, losses, or damages to the extent caused by modifications made by the City to the Consultant's work product.

25. EXPANSION FOR NEW WORK.

This Agreement scope may be expanded for new work. Any expansion for New Work (work not specified within the original Scope of Work Section of this Agreement, and/or not specified in the original RFP as intended work for the Agreement) must comply with all the following limitations and requirements: (a) the New Work is not reasonable to solicit separately; (b) the New Work is for reasonable purpose; (c) the New Work was not reasonably known either the City or Consultant at time of contract or else was mentioned as a possibility in the solicitation (such as future phases of work, or a change in law); (d) the New Work is not significant enough to be reasonably regarded as an independent body of work; (e) the New Work would not have attracted a different field of competition; and (f) the change does not vary the essential identified or main purposes of the Agreement. The City may make exceptions for immaterial changes, emergency or sole source conditions, or other situations required in City opinion. Certain changes are not New Work subject to these limitations, such as additional phases of Work anticipated at the time of solicitation, time extensions, Work Orders issued on an On-Call contract, and similar. New Work must be mutually agreed and issued by the City through written Addenda. New Work performed before an authorizing Amendment may not be eligible for payment.

26. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- D. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
- E. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of Spokane County.
- F. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- G. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.

- H. Severability: If any term or provision is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision shall be valid and enforceable to the fullest extent permitted by law.
- I. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- J. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. The solicitation (Request for Proposal or Solicitation for Qualifications), Addenda, and 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 Agreement to afford the City the maximum benefits.
- K. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship.
- L. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained, or attached and incorporated and made a part, the parties have executed this Agreement by having legally-binding representatives affix their signatures below.

CONSULTANT

CITY OF SPOKANE

By _____
Signature Date

By _____
Signature Date

Type or Print Name

Type or Print Name

Title

Title

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Attachments: Exhibit A - Scope of Work
Exhibit B – Consultant Fee Determination & Hourly Rates

15-594a

Exhibit A

Scope of Work

Project: **Rowan Avenue Rehabilitation Project - Phase 2**
Alberta Street to Monroe Street
Design, Bidding, and Construction Management

Owner: **City of Spokane RFQ No. 4093-14 / City Project No. 2014152**

Consultant: **Taylor Engineering, Inc. Project No. 15-501**

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 west curb returns of Alberta Street to the west curb returns of Monroe Street. Approximate length 4,600 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 main from Alberta Street to Belt Street and the 18-inch water main from Belt Street to Monroe Street will be replaced.

Schedule

The overall Rowan Avenue Rehabilitation project is broken into two (2) phases, each phase consisting of approximately half (1/2) of the overall project. A separate scope of work was provided for the first phase of the project. This scope of work is for the second phase (eastern portion) of the project from Alberta Street to Monroe Street. The first phase of the project was from Driscoll Boulevard to Alberta Street. The second phase of the project is to have 100% complete plans and specifications submitted for bid advertisement by January 28, 2016 to enable bidding to be completed early in 2016. The second phase of construction will be completed during the first half of the 2016 construction season assuming an approximate

construction start date of April 4, 2016. Provided below is a summary of the Phase 2 design schedule.

Phase 2 (East Half)

65% Design Submittal:	November 5, 2015
95% Design Submittal:	December 17, 2015
100% Plans & Specs to COS:	January 28, 2016

The schedule is based on a notice to proceed date of on or, before October 5, 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 2 of the Project:

1. PRELIMINARY & INTERMEDIATE DESIGN

1.1 Prepare Base Maps: The City of Spokane has conducted a topographic field survey of the existing roadway and adjacent improvements. The City has provided 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 and water valves 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 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.
- 1.2.1 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.
- 1.2.2 Plat Maps, Records of Survey:** Consultant will collect available plat maps and records of survey within ¼ mile of the project; review the maps and incorporate relevant discovered data into the base map.
- 1.2.3 Design Standards:** City will provide its AutoCAD drafting standards, an electronic copy of its standard drawing template and shall designate the roadway classification (minor arterial, principal arterial, etc.) for the route and intersecting roadways, all of which will serve as a design template for the Consultant to set Design Standards for the Contract Plans and Provisions.
- 1.3 Confirm/Adjust Right-of-Way:** Consultant will review right-of-way drawing 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. Consultant will also complete field surveys to tie-in existing found monumentation and provide a confirmed/adjusted a right of way drawing based on the survey monuments found and existing plat maps.
- 1.4 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.
- 1.4.1 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 approximately 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, 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.
- 1.4.2 Preliminary City Utility Coordination:** The Consultant will attend approximately 4 (four) meetings with the City's Traffic Department, Urban Forestry Department, Water Department, Wastewater Department and other agencies as necessary to present the project and review conceptual water distribution main horizontal

alignment, traffic issues, pavement design issues, roadway features, drainage issues, utility concerns, right-of-way concerns, and other known coordination issues.

1.5 Geotechnical Investigation: The Consultant will subcontract with a Geotechnical Engineering firm to complete field borings and complete a Geotechnical Investigations report.

1.5.1 Evaluate Existing Information: 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 core the existing pavement and provide thickness results to the Consultant. The pavement core data will be provided in the Contract Provisions.

1.5.2 Subsurface Investigation: Consultant will conduct roadway subsurface investigations, including four borings along the roadway, as necessary for drainage design and evaluation of subsurface conditions. 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.

1.5.3 Laboratory Testing: Consultant will conduct testing to assess pertinent physical characteristics of the subgrade soils. Lab tests will include Atterberg Limits, gradation and sieve analyses.

1.5.4 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.

1.6 65% Street Plan & Profile Sheets: The 65% street plans will include existing utilities, determined right-of-way, existing roadway profile, street 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
- Sanitary sewer brick cones (if any) and tops to be replaced
- Replacement of curb and sidewalk impacted by stormwater system upgrades
- Landscaping plans (w/irrigation) for the available pedestrian buffers strips along Rowan Avenue
- Signing and striping plans
- Phasing plan for traffic control (to be provided by the City of Spokane)

1.7 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) if required, crossing details, and locations of existing services.

1.8 Pavement Design Review/Confirmation: The City will provide results of recent traffic count data, including 18-Kip equivalent single-axle loading (ESAL) projections. Consultant will determine structural section options of the roadway based on City-provided direction and City-provided traffic analysis. Consultant will provide pavement section options in accordance with AASHTO pavement design methods, using *WINPAS* design software.

1.9 Drainage Design: With input from the City of Spokane's Wastewater Management Department, the 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.

1.10 Permits and Environmental Documents:

1.10.1 Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP):

The storm drainage collection system discharges to the Spokane River and land disturbance within the project limits is greater than 1 acre: therefore, a Notice of Intent (NOI) will be completed by the Consultant for the project for a Construction Stormwater General Permit. 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 2 of the project that will be suitable for the Contractor to adopt.

1.10.2 Street Tree Permit: The Consultant will coordinate with the City of Spokane Parks & Recreation Urban Forestry Department to facilitate the development of the Street

Tree Permit Application for Phase 2 of the Rowan Avenue Project. The street tree permit provided by the City will be included in the Contract Provisions.

1.11 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).

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

1.13 Coordination Meetings:

1.13.1 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. Meeting minutes will be prepared and distributed to interested parties.

1.13.2 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.

1.14 Administrative Design Reviews: Prepare documents for administrative design review of the project to date. Consultant will prepare material for based on an example provided by the City. Consultant will incorporate recommendations from the City's provided staff report into the Plans and Contract Provisions.

1.15 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.

1.16 Landscape and Irrigation Plans for Pedestrian Buffers: Consultant will coordinate with the City to confirm the scope of landscape restoration design services and irrigation

systems in available pedestrian buffer strips adjacent to existing curbs along Rowan Avenue. Consultant will prepare street tree planting and lawn restoration design including new half block irrigation systems.

- 1.17 Submit 65% PS&E Package:** Consultant will prepare and submit up to 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 approximately ½ of their original size.

2. FINAL DESIGN

- 2.1 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.
- 2.2 Parking Removal Report:** Consultant will prepare a parking removal report which will include finding from various aspects of the review. The report will be provided with a recommendation. Spot surveys will be conducted to observe and document vehicle parking. With assistance from the City, parking removal notices will be sent out to affected property owners.
- 2.3 Drainage Design:** Consultant will show remediation work on the Plans, including pipes, drainage structures, relocated drainage appurtenances, storm water treatment and disposal facilities (if any), and removal items, and will complete drainage calculations, accordingly. An abbreviated drainage report will be prepared and submitted.
- 2.4 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.
- 2.5 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 2 will likely consist of the following sheets:

Cover Sheet with Vicinity Map and Drawing Index (1 sheet)

Existing Conditions Plans (3 Sheets)

Temporary Erosion & Sedimentation Control Plan (1 sheet)

Street Plan/Profile Sheets at 1 inch = 50 feet (4 sheets),

Typical Roadway Sections (1 sheet)

Intersection Plans (3 sheets)

Civil Details (2 sheets)

Waterline Plan/Profile Sheets at 1 inch = 50 feet, (4 sheets)

Waterline Connection Details (2 Sheets)

Storm Drain Replacement Plan and Piping including Details (3 sheets),

Landscape Planting Plans for Pedestrian Buffers and Street Trees (3 sheets)

Landscape Irrigation Plans for Pedestrian Buffers and Street Trees (3 sheets)

Landscape Planting and Irrigation Details (2 sheets), and

Signing and Striping Plans (4 sheets),

Temporary traffic control plans (TCP's) are to be prepared by the City of Spokane. The TCP's will indicate construction staging that will be incorporated into the street, drainage and waterline plan sheets indicated above.

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

2.6 Final Revisions: Consultant will incorporate comments from the 95% PS&E package.

2.7 Final (100%) Submittal: Submit final plans, specifications, and cost estimate to the City for final approval. Final review comments will be incorporated into the Plans, Contract Provisions, bid items and construction cost estimate

3. BIDDING PHASE

3.1 Issue Bid Packages: Prepare one loose copy of the bid documents; and prepare one full-size (24"x36") set of mylars and reduced size (11"x17") set of the plans for signature. The Owner will make copies of these "Issued for Bid" documents for prospective Bidders. The unbound book will be for the City's use in advertising and bidding. Consultant will provide one (1) electronic copy of the bid documents in CD format.

3.2 Support during Ad, Bid, and Award: The City will issue Plans and Contract Provisions to prospective bidders and local agencies and track their distribution. Consultant will field questions from prospective bidders during the advertisement period, and forward administrative questions to the City. Consultant will provide responses 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.

- 3.3 Issue Construction Documents:** Submit one full-size (24"x36") 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.

4. CONSTRUCTION STAKING - OPTIONAL

- 4.1 Verify Control:** Verify horizontal and vertical control to be provided by the City of Spokane and as shown on the Contract Plans. Establish additional survey working control, as needed.
- 4.2 Sawcut Limits:** Stake approximately twenty (20) intersections for saw-cuts, and stake approximately forty (48) curb returns for ADA curb ramps – one ramp at each corner; excluding recently installed curb ramps.
- 4.3 Storm Drain Structures & Piping:** Stake approximately thirty (30) catch basins and associated replacement storm drain piping.
- 4.4 Grading:** Stake approximately 4,600 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 4,600-ft long roadway. Stake limits of in-fill sidewalks, curb replacements and new driveways.
- 4.5 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.
- 4.6 Rim Adjustments:** Provide staking for rim adjustments at manholes, structures and valve boxes.

5. CONSTRUCTION PHASE - OPTIONAL

- 5.1 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.
- 5.2 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.

- 5.3 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.
- 5.4 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.
- 5.5 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.
- 5.6 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. Intermediate (65%) Plans, Specifications, and Cost Estimate.
2. 95% Plans, Specifications, and Cost Estimate.
3. One (1) copy of pertinent reports with design calculations (field survey notes, soils reports, test results, pavement design, stormwater calculations, etc.).
4. Parking removal report with recommendation.
5. Visual aids (boards) for Public Information Meeting(s).
6. Upon final acceptance of the design:
 - a) One set of full-size (Mylars) and reduced-size set (paper) of the Contract Plans
 - b) One unbound copy 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.

Exhibit B
Consultant Fee Determination - Hourly Not to Exceed Contract

Project: Rowan Avenue Rehabilitation - Phase 2
Client: City of Spokane
Consultant: Taylor Engineering, Inc.

Alberta Street to Monroe Street
RFQ No. 4093-14 / Project No. 2014152
Project No. 15-501

		Ron P.	Chris M.	Mike M. Frank I.	Paul H./ Kevin A.	Tom J. / Andrea N.	Dave S.	Don R./ Beth D.	Gwain S./ Dale S.	Danielle K./ Debbie F.			
TASK No.	PROJECT TASK	Principal	Senior Proj. Manager	Sr. Proj. Engr. / Landscape Arch.	Proj Engr. II / Senior Designer	Design Engineer / Survey Tech.	Survey Manager	Senior Engr. Tech.	Field Surveyor / Inspector	Admin. Assistant	Sub Task MH's	Total Task MH	Running MH Total
1	Preliminary & Intermediate (65%) Design												
1.1	Prepare Base Map		1	16	40	16	1	16			90		
1.2	Collect Available Data		1	16	16	24	1		40	1	99		
1.3	Cofirm Adjust Provided Right-of-Way			2	4	40	8		32		86		
1.4	Utility Coordination		1	24	16	32		8		1	82		
1.5	Geotechnical Investigation												
	Coordination with Geotech Sub		2	8							10		
	Site Visits and Field Verifications		1	4	2	4			4		15		
1.6	Street Plan & Profile Sheet			24	60	4		16			104		
1.7	Water Main Plan & Profile Sheets			40	48	12		60			160		
1.8	Pavement Design Review/Confirmation			8	8	12					28		
1.9	Drainage Design									1	1		
	Existing Drainage Structures			16	32	40		16			104		
1.10	Permits and Environmental Documents												
	Notice of Intent & SWPPP					16				1	17		
	Street Tree Permit Coordination			2							2		
1.11	Specifications			40						8	48		
1.12	Cost Estimate	1	1	16	24	24					66		
1.13	Coordination Meetings												
	With City			16		12					28		
	With Utility Purveyors			8		4					12		
1.14	Admin. Design Review Submittal & Coord.			8	4	4		4		1	21		
1.15	Driveway Replacement Design			8	16	24		12	16		76		
1.16	Landscape & Irrigation Plans for Ped Buffer			12	2			60			74		
1.17	65% Plans & Contract Provisions Submittal	2	2	24	16	16		8			68	1,191	1,191
2	Final Design (95% & 100% PS&E)												
2.1	Public Information Meeting			16	8			12		1	37		
2.2	Parking Removal Report			8		24				4	36		
2.3	Drainage Design			24	40	40		8			112		
2.4	Engineer's Estimate	1	1	16	16	16					50		
2.5	Prepare & Submit 95% PS&E Doc.'s	2	2	40	40	40	2	40	32		198		
2.6	Final PS&E Revisions	2	2	40	40	40		32	40		196		
2.7	Final (100%) Submittal		2	24	16	16		8	16	2	84	713	1,904
3	Bidding Services												
3.1	Issue Bid Packages		1	4	8					2	15		
3.2	Support during Bid Phase												
	Respond to Bidder's Questions		1	8							9		
	Prepare Addendum(s)	1	2	8	8	4				4	27		
	Review bids and recommend award	1	2	4		2				2	11		
3.3	Issue Construction Documents		1	2	4					2	9	71	1,975
	Manhour Subtotal	10	23	486	468	466	12	300	180	30	1975		
	Rate per Hour (per TEI 2015 Fee Schedule)	\$140.00	\$130.00	\$120.00	\$90.00	\$85.00	\$110.00	\$80.00	\$75.00	\$50.00			
	Labor Subtotal	\$1,400	\$2,990	\$58,320	\$42,120	\$39,610	\$1,320	\$24,000	\$13,500	\$1,500			
	Design and Bidding Services Labor Total									\$184,760			

Subconsultant Costs:													
Budinger & Associates - Design Phase (See Attached Scope & Fees)											\$6,635.00		
DESIGN SERVICES TOTAL										\$191,395			

4	Optional Construction Staking												
4.1	Verify Control			2		2	2		32		38		
4.2	Saw Cut Limits			2		3	1		32		38		
4.3	Storm Drain Structures & Piping			4		11	2		32		49		
4.4	Red/Blue Tops & Gutter Grades			8		29	4		128		169		
4.5	Water Distribution Main			4		11	2		32		49		
4.6	Rim Adjustments			2		13	2		48		65	408	2,383
5	Optional Construction Phase												
5.1	Pre-Construction Services	2	2	8		4				2	18		
5.2	Contract Administration	4	4	160		48				24	240		
5.3	Review Submittals		2	24		16				2	44		
5.4	Weekly Progress Meetings	2	4	120						16	142		
5.5	Construction Observation & Testing	2	8	24				400	800		1,234		
5.6	Contract Closeout / Red Line Drawings	2	8	24	16	24		16	32	16	138	1,816	4,199
	Manhour Subtotal	12	28	382	16	161	13	416	1136	60	2,224		
	Rate per Hour (per TEI 2015 Fee Schedule)	\$140.00	\$130.00	\$120.00	\$90.00	\$85.00	\$110.00	\$80.00	\$75.00	\$50.00			
	Labor Subtotal	\$1,680	\$3,640	\$45,840	\$1,440	\$13,685	\$1,430	\$33,280	\$85,200	\$3,000			
	Optional Construction Services Labor Total									\$189,195			

Reimbursables:					
Mileage	2000	miles @	\$0.575	\$1,150.00	
Survey Equipment: GPS, Robotic, or Total Station	160	hrs @	\$35.00	\$5,600.00	
Nuke Gauge	4	mo	\$600.00	\$2,400.00	
Reproduction Expenses				\$600.00	
Communications, Postage, Overnight Mail				\$100.00	
			Reimbursable Total	\$9,850.00	
Subconsultant Costs:					
Budinger & Associates - CM Phase/Materials Testing				\$5,015.00	
			Subconsultant Total	\$5,015.00	
				OPTIONAL CONSTRUCTION SERVICES TOTAL	\$204,060
				GRAND TOTAL	\$395,455
Revised By: Mike Morse		6/1/2015			

BRIEFING PAPER
Public Works Committee
Engineering Services
August 10, 2015

Subject:

Rowan Avenue Rehabilitation Phase II – Alberta Street to Monroe Street

Background:

This project includes full width reconstruction of approx. 1.1 mile of Rowan Avenue, installation of bike lanes/removal of on-street parking, water man replacement, sidewalk gap infill and miscellaneous minor storm water system upgrades. Because of Engineering Services staffing constraints, a Request for Qualifications of consulting engineers was advertised in late 2014. Taylor Engineering was ranked the most qualified and therefore hired to design phase I of this project. Because of their successful work on phase I, Engineering Services proposes to hire Taylor Engineering to design phase II as well as provide construction phase administration and inspection.

This project will advertise for bids this coming fall/winter and be constructed in spring 2016.

Public Impact:

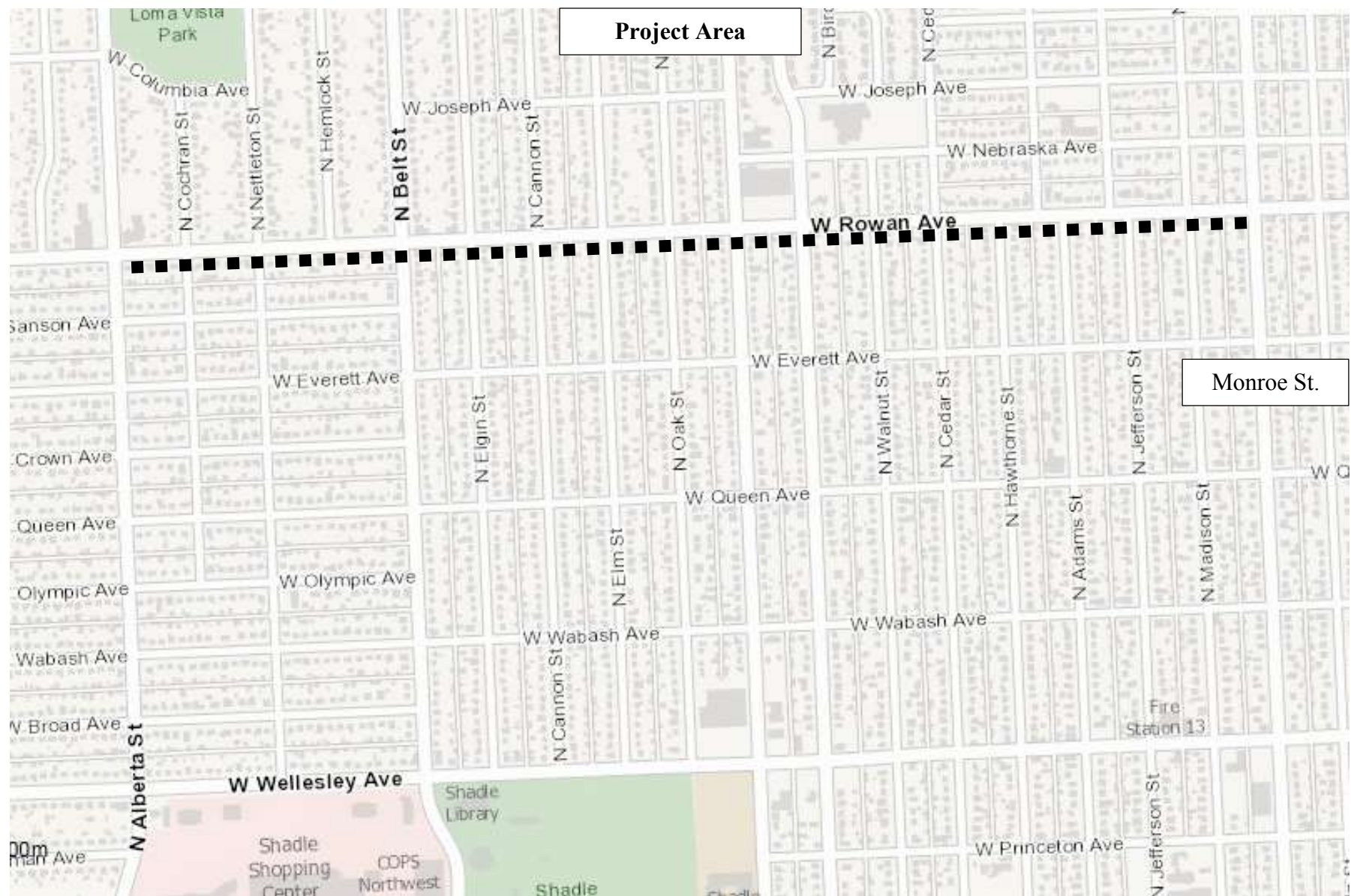
The hiring of consultants which is the subject of this briefing paper has no direct impact on the public.

Action:

Information is provided for Council background. The proposed agreement will be on the 8/17/15 council agenda.

Funding

This project is being paid for with the recently voter approved street levy funds.



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

08/24/2015

Date Rec'd

8/12/2015

Clerk's File #

OPR 2015-0737

Renews #**Submitting Dept**

SOLID WASTE DISPOSAL

Contact Name/Phone

CHUCK 625-6524

Contact E-Mail

CCONKLIN@SPOKANECITY.ORG

Agenda Item Type

Contract Item

Agenda Item Name

4490-SOLID WASTE DISPOSAL CONTRACT WITH SCS ENGINEERS

Cross Ref #**Project #****Bid #**

RFP #4110-15

Requisition #

BT

Agenda Wording

Award contract to SCS Engineers (Bellevue, WA) to provide Revised Closure and Post-Closure Plan and Update with Financial Assurances for the Northside Landfill - \$55,800.00 incl taxes

Summary (Background)

On March 2, 2015 sealed responses were received to provide Revised Closure and Post-Closure Plan and Update Financial Assurances for the Northside Landfill. Two (2) responses were received and it was determined that SCS Engineers was the most qualified respondent. This contract will ensure that the Northside Landfill will remain in compliance with the WA Dept of Ecology and WAC requirements for closure,

Fiscal Impact

Expense \$ 55,800.00

Select \$

Select \$

Select \$

Budget Account

4490-44800-53748-54201-99999

#

#

#

Approvals**Dept Head**

CONKLIN, CHUCK

Division Director

ROMERO, RICK

Finance

SALSTROM, JOHN

Legal

WHALEY, HUNT

For the Mayor

SANDERS, THERESA

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

PWC 8/10/15

Distribution List

ttauscher@spokanecity.org

jsalstrom

tprince

Additional Approvals**Purchasing**

PRINCE, THEA

taxes & licenses

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
August 10, 2015

Subject

Contract with SCS Engineers to provide Revised Closure and Post-Closure Plan and Update the Financial Assurances for the Northside Landfill. The total contract cost is \$55,800.00 including any applicable taxes.

Background

In November of 2012, the Washington Department of Ecology adopted amendments to the Washington Administrative Code (WAC) 173-351, *Criteria for Municipal Solid Waste Landfills*, that included, among other things, new performance-based post-closure care standards, a requirement to file an environmental covenant at the time of closure, annual review of post-closure financial assurance, and revised allowable mechanisms for funding of closure and post-closure financial assurance.

On March 2, 2015, two responses were received to RFP #4110-15; Landau Associates and SCS Engineers. After reviewing both responses, it was determined that SCS Engineers was the most qualified respondent.

Impact

This contract will ensure that the Northside Landfill will remain in compliance with the WA Department of Ecology and WAC requirements for Closure, Post-Closure, and Financial Assurances.

Action

Recommend approval.

Funding

Funds for this contract are included in the 2015 Northside Landfill operating budget.



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	8/12/2015
Clerk's File #	OPR 2015-0738
Renews #	

Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	CHUCK 625-6524	Project #	
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG	Bid #	RFP #4160-15
Agenda Item Type	Contract Item	Requisition #	CR#15886
Agenda Item Name	4490 - SOLID WASTE DISPOSAL CONTRACT WITH ECOCHEM ANALYTICS		

Agenda Wording

Award a contract to Echochem Analytics (League City, TX) to provide procurement, installation and support during certification of the Continuous Emissions Monitoring System (CEMS) - \$357,500 plus applicable taxes.

Summary (Background)

On August 3, 2015 sealed responses were received to provide the CEMs Analyzer Upgrade. Three (3) responses were received and it was determined that EcoChem Analytics is the most qualified respondent. Upgrading the CEMS and DAS Systems will ensure that the WTE remains in regulatory compliance with Title V Air Operating regulations. Without this upgrade, in the event of failure of this equipment, the WTE would be required to stop operations until the equipment was repaired or replaced.

Fiscal Impact		Budget Account	
Expense	\$ 357,500.00	#	4490-44100-94000-56401
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	CONKLIN, CHUCK	Study Session	
Division Director	ROMERO, RICK	Other	PWC 8/10/15
Finance	SALSTROM, JOHN	Distribution List	
Legal	WHALEY, HUNT	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	jsalstrom@spokanecity.org	
Additional Approvals		tprince	
Purchasing	PRINCE, THEA	taxes & licenses	

AMENDED BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
August 10, 2015

Subject

Contract with EcoChem Analytics of League City, TX, to provide procurement, installation and support during certification of the Continuous Emissions Monitoring System (CEMS) and Inlet and Outlet Analyzer and Data Acquisition System (DAS) upgrades at the WTE for \$357,500 plus applicable taxes.

Background

CEMS analyzers and Data Acquisition Systems are designed to continuously monitor plant emissions and ensure regulatory requirements are being met. The existing systems were installed in 2001, are no longer supported by the manufacturer (i.e. there are no longer parts available to replace parts that break), and increasing faults and errors indicate the system is approaching the end of its life. To ensure environmental compliance with Title V Air Operating regulations, the system will be upgraded.

Responses to Bid #4160-15 were received on August 3 from Teledyne Monitor, EcoChem Analytics, and CEMS Experts, with EcoChem being determined to be the most qualified respondent.

Impact

Upgrading the CEMS and DAS Systems will ensure that the WTE remains in regulatory compliance with Title V Air Operating regulations. Without this upgrade, in the event of failure of this equipment, the WTE would be required to stop operations until the equipment was repaired or replaced.

Action

Recommend approval.

Funding

Funds for this contract are included in the 2015 SWD capital budget.



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	8/12/2015
Clerk's File #	OPR 2015-0739
Renews #	

Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	CHUCK 625-6524	Project #	
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG	Bid #	BID #4161-15
Agenda Item Type	Contract Item	Requisition #	CR#15887
Agenda Item Name	4490-SOLID WASTE DISPOSAL CONTRACT WITH HELFRICH BROTHERS		

Agenda Wording

Award contract to Helfrich Brothers Boiler Works (Lawrence, MA) for installation of Superheater pendants during the Fall, 2015 outage on one unit and the Spring 2016 outage for another unit - estimate \$1,000,000.00 without tax

Summary (Background)

On August 10, 2015 sealed bids were received for Superheater Pendant Installation. Three (3) responses were received with Helfrich Brothers Boiler Works being the lowest responsive bidder. High heat and pressure conditions cause increased wear rates on boiler tubes. Under previous operations of the Waste-to-Energy facility, the type of tube was switched from carbon to stainless steel, increasing the overall life of the tubes. During routine outages, tubes are tested to find thin spots, which are cut out and replaced. The more the tubes wear, the greater the chance of boiler failure, additional negative impact to related pieces of equipment, and increased risk of unsafe working conditions.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 1,000,000.00	#	4490-44100-37148-54201
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	CONKLIN, CHUCK	<u>Study Session</u>	
<u>Division Director</u>	ROMERO, RICK	<u>Other</u>	PWC 8/10/15
<u>Finance</u>	SALSTROM, JOHN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	ttauscher@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	jsalstrom@spokanecity.org	
<u>Additional Approvals</u>		tprince	
<u>Purchasing</u>	PRINCE, THEA	taxes & licenses	

AMENDED BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
August 10, 2015

Subject

Contract with Helfrich Brothers Boiler Works, Inc. of Lawrence, MA, the lowest bidder for installation of Superheater pendants during the Fall 2015 outage on one unit and the Spring 2016 outage on the other unit, for an estimated cost of \$1,000,000 (without tax).

Background

High heat and pressure conditions cause increased wear rates on boiler tubes. Under previous operations of the Waste-to-Energy facility, the type of tube was switched from carbon to stainless steel, increasing the overall life of the tubes. During routine outages, tubes are tested to find thin spots, which are cut out and replaced. The more the tubes wear, the greater the chance of boiler failure, additional negative impact to related pieces of equipment, and increased risk of unsafe working conditions. Additionally, there is a financial point when costs to replace sections are more than the pendant replacement. After 3 years of use, the pendants have reached that point and need to be replaced.

The preliminary estimate for this installation is \$500,000.00 for each outage. Responses to Bid #4161-15 will be received on August 10. Bids (without tax) are as follows:

- | | |
|----------------------|-------------------------|
| 1. Helfrich Brothers | at \$ <u>485,000.00</u> |
| 2. CH Murphy | at \$ <u>501,725.00</u> |
| 3. NEMO | at \$ <u>518,000.00</u> |

Impact

This will reduce costs during future outages, and increase reliability of the boilers.

Action

Recommend approval.

Funding

Funds for this contract are included in the 2015 SWD budget.



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	8/12/2015
Clerk's File #	OPR 2015-0740
Renews #	

Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	CHUCK 625-6524	Project #	
Contact E-Mail	CCONKLIN@SPOKANECITY.ORG	Bid #	BID #4151-15
Agenda Item Type	Contract Item	Requisition #	BT
Agenda Item Name	4490 - SOLID WASTE DISPOSAL CONTRACT WITH HALME CONSTRUCTION		

Agenda Wording

Award contract to Halme Construction (Spokane, WA) to construct a Landfill Gas Biofilter System and perform minor road and drainage repairs at the Southside Landfill - \$96,579.95 including taxes

Summary (Background)

On July 20, 2015 sealed bids were received to provide Landfill Gas Biofilter System and Road Repairs. Three (3) responses were received with Halme Construction being the lowest responsive bidder. By executing this contract, the Southside Landfill will remain in compliance with all applicable regulations.

Fiscal Impact		Budget Account	
Expense	\$ 96,579.95	#	4490-44800-53748-54201-99999
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	CONKLIN, CHUCK	Study Session	
Division Director	ROMERO, RICK	Other	PWC 8/10/15
Finance	SALSTROM, JOHN	Distribution List	
Legal	WHALEY, HUNT	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	jsalstrom@spokanecity.org	
Additional Approvals		tprince	
Purchasing	PRINCE, THEA	taxes & licenses	

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
August 10, 2015

Subject

Contract with Halme Construction to construct a Landfill Gas Biofilter System and perform minor road and drainage repairs at the Southside Landfill. This Contract is for the amount of \$96,579.95 including any applicable taxes.

Background

The City of Spokane Southside Landfill was closed in accordance with WAC 350-304 in 1988 and has been monitored and operated in good faith to this day in accordance with all applicable and required regulations.

In recent years operation of the landfill has been problematic due to lessening landfill gas quality and quantity that is resulting from the age of the landfill. The main problem resulting from current operations is the increased oversight of the landfill due to the flare going out frequently, requiring the flare to be restarted immediately when the gas quality builds up. This results in increasing operational costs. To address this issue, the City contracted with HDR Engineers to determine options to traditional landfill gas flaring and other operational and maintenance issues that resulted from their initial baseline assessment report produced in August 2010.

HDR recommended investigating shutting down the flaring operations by installing a Biofilter System that will treat the landfill gas to permissible levels. Proposals, including modeling and Biofilter System design were made to and accepted by the Spokane Regional Clean Air Agency in 2014.

This system will utilize existing roll-off containers obtained from the Solid Waste Collections Department and will fill them with wood shavings to create Biofilters that will provide an environment for oxidation of the landfill gas methane and other pollutants to levels that are not harmful to the public. It will utilize the current landfill gas collection system to deliver gas to the Biofilters. It is anticipated that the wood shaving medium will be replaced 2 to 3 times per year. Monitoring and maintenance operations will remain in their current capacity as required by our regulators.

Impact

By executing this contract, the Southside Landfill will remain in compliance with all applicable regulations.

Action

Recommend approval.

Funding

Funds for this contract are included in the 2015 Southside Landfill operating budget.

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

08/24/2015

Date Rec'd

8/11/2015

Clerk's File #

OPR 2015-0741

Renews #**Submitting Dept**

PLANNING & DEVELOPMENT

Contact Name/Phone

TERI STRIPES 625-6597

Contact E-Mail

TSTRIPES@SPOKANECITY.ORG

Agenda Item Type

Contract Item

Agenda Item Name

0670 - CONTRACT - MAUL FOSTER ALONGI - AWP PLANNING

Cross Ref #**Project #****Bid #**

RFQ 4133-15

Requisition #

CR 15888

Agenda Wording

Contract with Maul Foster Alongi chosen through the RFQ process to implement an EPA Brownfield Grant for Area-Wide Planning. The AWP planning process will result in a series of infrastructure financing strategies informed by community input,

Summary (Background)

This contract is one component of a larger effort to support economic and community development in the Hillyard neighborhood and Spokane. Efforts within this contract are consistent with Spokane's Comprehensive Plan and 2010 Hillyard Neighborhood Plan.

Fiscal Impact

Expense \$ 180,000.00

Select \$

Select \$

Select \$

Budget Account

1360 91521 58100 54201 99999

#

#

#

Approvals**Dept Head**

MEULER, LOUIS

Division Director

SIMMONS, SCOTT M.

Finance

SALSTROM, JOHN

Legal

RICHTMAN, JAMES

For the Mayor

SANDERS, THERESA

Council Notifications**Study Session****Other****Distribution List**

hattenburg@spokanecity.org

tstripes@spokanecity.org

goolie.mary@epa.gov

Additional Approvals**Purchasing**

WAHL, CONNIE

mhughes@spokanecity.org

jahensley@spokanecity.org

jsalstrom@spokanecity.org



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

economic analysis, and scenario planning.

Summary (Background)

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

City of Spokane
CONSULTANT AGREEMENT

Title: **Preparing a Brownfields Area-Wide Plan**

This Agreement is made and entered into by and between the City of Spokane ("City"), a Washington municipal corporation, and MAUL FOSTER ALONGI, whose address is 400 East Mill Plain Boulevard, Vancouver, Washington 98660 ("Consultant"). Sometimes hereafter individually referenced as a "party" and together as the "parties".

Recitals:

WHEREAS, the purpose of this Agreement is to assist the City in Preparing a Brownfields Area-Wide Plan;

WHEREAS, the Consultant was selected from the City's Request For Qualifications (RFQ) # 4133-15.

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 August 24, 2015, and ends on December 31, 2017, unless amended by written agreement or terminated earlier under the provisions.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the work outlined in the "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.

- A. This Agreement 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 ONE HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$180,000.00), unless modified by a written amendment to this Agreement.

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:
PLANNING AND DEVELOPMENT 808 West Spokane Falls Blvd, 3RD FLOOR Spokane WA 99201
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: Teri Stripes (Please do not put PM's name in the address portion of the invoice) • Contract Title: Preparing a Brownfields Area-Wide Plan • 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

- A. If there are any grant or loan monies involved in this Contract, the Consultant shall retain all required records for three years after the funding agency has audited the grant or loan. The funding agency shall be allowed access to such records for the same time duration.

Funding Agency	Project Grant or Loan Number.

Third Party Beneficiary. If there are ever any Department of Ecology grant monies involved in this Contract, the State Department of Ecology shall be designated as an express third party beneficiary with full rights as such.

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:
Teri Stripes, Project Manager PLANNING AND DEVELOPMENT 808 W. Spokane Falls Boulevard, 3rd Floor Spokane WA 99201	Jim Darling Maul Foster Alongi 400 E. Mill Plain Blvd. Vancouver, WA 98660

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 identity, 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.

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.

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 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. INTERLOCAL COOPERATION ACT.

RCW 39.34 allows cooperative agreements between public agencies and other political subdivisions, to share the work or results of work that each agency also has authority to independently perform. SMC 20.60.100 allows certain non-profits to also use these agreements. If a public agency files or has filed an Intergovernmental Cooperative Purchasing Agreement with the City Purchasing and Contracting Services Division, those agencies may utilize City contracts in lieu of their own selection process, as long as the contract meets the requirements requires of their local and state law. The Consultant may accept or decline such Work. If the Consultant accepts work from another public agency using the City of Spokane Agreement as the authority, the Consultant shall offer the same prices, terms and conditions. The City of Spokane accepts no responsibility for the choice of an agency to utilize the City contract, or for payment or performance.

27. 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.

28. 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

15-617a



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	8/11/2015
Clerk's File #	ORD C35296
Renews #	
Cross Ref #	C-35185
Project #	
Bid #	
Requisition #	EBO

Submitting Dept	FIRE
Contact Name/Phone	BOBBY WILLIAMS 625-7001
Contact E-Mail	BWILLIAMS@SPOKANECITY.ORG
Agenda Item Type	Emergency Budget Ordinance
Agenda Item Name	1970 EBO FOR HIRE AHEAD FIREFIGHTERS

Agenda Wording

An emergency budget ordinance to add revenues and expenses in the Fire/EMS Fund for 12 hire ahead firefighters. Revenue is from the General Fund.

Summary (Background)

The FD currently has 10 vacant firefighter positions and is anticipating approximately 8 additional retirements (or more) between now and during the first half of 2016. The FD is scheduled to begin a Recruit Academy in late September that would finish by year's end so new FF's could be assigned to the fire station in early 2016. It is believed that this approach of front loading hiring, will help with controlling overtime expenditures going forward.

<u>Fiscal Impact</u>	<u>Budget Account</u>
Revenue \$ 195,000	# 1970-35121-99999-39710-99999
Expense \$ 195,000	# 1970-35121-22200-Various - See Ordinance
Select \$	#
Select \$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SCHAEFFER, BRIAN	<u>Study Session</u>	PSC 08/17/15
<u>Division Director</u>	SCHAEFFER, BRIAN	<u>Other</u>	
<u>Finance</u>	SALSTROM, JOHN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	Fire: bwilliams, bschaeffer, korlob, mdoval	
<u>For the Mayor</u>	SANDERS, THERESA	Finance: tdunivant	

<u>Additional Approvals</u>	
<u>Purchasing</u>	

ORDINANCE NO C35296

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 Fire/EMS 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 Fire/EMS Fund, and the budget annexed thereto with reference to the Fire/EMS Fund, the following changes be made:

FROM:	1970-35121	Fire/EMS Fund	
	99999-39710	Transfer from General Fund	<u>\$ 195,000</u>
TO:	1970-35120	Fire/EMS Fund	
	22200-09310	Firefighter (12 new hire-ahead positions)	138,000
	22200-52110	Medicare	2,000
	22200-52210	Retirement	8,000
	22200-52310	Medical	42,000
	22200-51640	Deferred Compensation	5,000
			<u>\$ 195,000</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to create twelve hire-ahead Firefighter positions needed to maintain current staffing levels, 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

Briefing on Fire Department Items
Public Safety Committee Meeting
August 17, 2015

Full Agenda Items:

- **Purchase of 3 Pumpers** – After soliciting bids (Bid #4147-15) for these apparatus, two bids were received. Although General Fire Apparatus of Spokane was the low bidder, their bid did not meet specifications therefore it is recommended that the bid be awarded to Pierce Manufacturing as the low bid and met specifications. The bid amount totals \$1,890,872 for the 3 units with tax, discounts and options. The purchase of this apparatus was funded by the capital funding plan approved by City Council last year. This is on the Council agenda for briefing on August 17th and approval the following week. A detailed letter of recommendation from the Apparatus Committee accompanies the agenda item.
- **EBO for Hire Aheads** – An EBO providing for the hiring of 12 Hire Ahead Firefighters is on the Council agenda for briefing on August 17th and approval the following week. The FD currently has 10 vacant firefighter positions and is anticipating approximately 8 additional retirements (or more) between now and during the first half of 2016. The FD is scheduled to begin a Recruit Academy in late September that would finish by year's end so new FF's could be assigned to the fire station in early 2016. As has been discussed with City Council, it is believed that this approach of front loading hiring, will help with controlling Overtime expenditures going forward. The draft EBO language is attached.

Informational Items:

- **New Code Cycle** – This is a reminder that the International Code cycle will be before the State and City next calendar year. As background, the International Codes (Building, Fire, etc) are on a three year cycle and after review, are recommended by the State Building Code Council to the Legislature, for approval. Once adopted by the State of Washington, these codes become the minimum level of code requirements in the State of Washington. BDS and the Fire Department will prepare a briefing for City Council in the spring as to the changes and the time schedule for the local code adoption. Under normal circumstances, the codes take effect at the State level on July 1st (2016) and local jurisdictions try to adopt before the July 1st effective date.
- **Haz Mat Response Agreement with FAFB** – SFD is still awaiting final review of the draft by FAFB legal. It will come forward to the Council once the review is complete.
- **Automatic Aid update** – The Auto Aid agreement became operational in July. The agencies (SFD, Spokane Valley Fire, Fire District 8 and Fire District 9) are regularly monitoring the new program and making adjustments where necessary. As a reminder, this agreement provides for the closest unit(s) to be dispatched to an incident, regardless of whose jurisdiction the incident resides.
- **Station 5 (SW Spokane) update** – The 21 day appeal period for the Hearings Examiner's decision ended on July 28th without any filings. Work is underway on site to make final preparations for the FD's occupancy which is expected to occur in September.

ORDINANCE NO _____

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 Fire/EMS 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 Fire/EMS Fund, and the budget annexed thereto with reference to the Fire/EMS Fund, the following changes be made:

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	99999-39710	Transfer from General Fund	<u>\$ 195,000</u>
TO:	1970-35120	Fire/EMS Fund	
	22200-09310	Firefighter	138,000
		(12 new hire-ahead positions)	
	21330-52110	Medicare	2,000
	21330-52210	Retirement	8,000
	21330-52310	Medical	42,000
	21330-51640	Deferred Compensation	5,000
			<u>\$ 195,000</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to create twelve hire-ahead Firefighter positions needed to maintain current staffing levels, 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:
08/24/2015

Date Rec'd	8/6/2015
Clerk's File #	RES 2015-0090
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY ATTORNEY
Contact Name/Phone	NATHANIEL J. ODLE 625-6288
Contact E-Mail	NODLE@SPOKANECITY.ORG
Agenda Item Type	Resolutions
Agenda Item Name	0500 RESOLUTION APPROVING SETTLEMENT

Agenda Wording

Resolution approving settlement of claim from Patron Properties and Patrick DeVries relating to an incident that occurred on or about March 25, 2015.

Summary (Background)

This claim was settled through direct negotiation.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 338403.16	#	5800-78100-18680-54601
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	DALTON, PAT	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	SALSTROM, JOHN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	sdhansen@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

RESOLUTION RE SETTLEMENT OF
CIVIL CLAIM AGAINST CITY OF SPOKANE

WHEREAS, the City of Spokane has received a claim for damages from Patron Properties and Patrick DeVries, hereinafter "claimant." The allegations set forth in and the subject of said claim relate to an incident that occurred on or about March 25, 2015, resulting in damages to claimant's property.

WHEREAS, the parties have mutually agreed to release each other from and waive their rights to bring all claims, counter-claims, and cross-claims that relate to the incident, claim and facts referred to therein.

WHEREAS, the City has determined to resolve all differences with claimant and any third parties who may claim a subrogated interest against the City for a payment of THREE HUNDRED THIRTY EIGHT THOUSAND FOUR HUNDRED THREE DOLLARS AND SIXTEEN CENTS (\$338,403.16) total monies; and

WHEREAS, the claimant has agreed to accept said payment and in return to provide a release of all claims to the City.

NOW THEREFORE, be it resolved by the City Council of the City of Spokane:

That the City of Spokane authorizes the payment to claimant in the amount of Three Hundred Thirty Eight Thousand Four Hundred Three Dollars and Sixteen Cents (\$338,403.16) in return the claimant will provide a signed release fully extinguishing all claims in connection with the claim and pledging to fully protect and indemnify the City of Spokane, its officers, agents, employees and contractors, against all loss or liability in connection with said claim.

PASSED the City Council this _____ day of _____, 2015.

City Clerk

Approved as to form:

Assistant City Attorney



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	8/11/2015
Clerk's File #	RES 2015-0091
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	MIKE ALLEN 625-6715
Contact E-Mail	RBARDEN@SPOKANECITY.ORG
Agenda Item Type	Resolutions
Agenda Item Name	A RESOLUTION REGARDING FIRE SUPPRESSION SYSTEMS

Agenda Wording

A Resolution stating the policy of the City of Spokane that it will not mandate the installation of fire suppression systems in single-family residential buildings

Summary (Background)

Smoke alarms have been proven to be a low-cost and highly effective measure to save lives and prevent injuries. The risks from fire in the City of Spokane are very low due to the extensive fire flow component of the City's water system and the excellent response times of our City Fire Department, each of which result in the City's maintenance of an excellent insurance rating. Unlike smoke alarms, fire sprinkler systems are very expensive to install and maintain and a requirement to add such a system could add thousands of dollars to the price of a home.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MCDANIEL, ADAM	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	SALSTROM, JOHN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

RESOLUTION NO. 2015-0091

A Resolution stating the policy of the City of Spokane that it will not mandate the installation of fire suppression systems in single-family residential buildings in the City of Spokane.

WHEREAS, the City of Spokane has the duty to ensure that its citizens and property are safe, and that individuals do not face unreasonable mandates or regulations, particularly where it involves their use and ownership of property; and

WHEREAS, smoke alarms have been proven to be a low-cost and highly effective measure to save lives and prevent injuries.

WHEREAS, the risks from fire in the City of Spokane are very low due to the extensive fire flow component of the City's water system and the excellent response times of our City Fire Department, each of which result in the City's maintenance of an excellent insurance rating.

WHEREAS, unlike smoke alarms, fire sprinkler systems are very expensive to install and maintain and a requirement to add such a system could add thousands of dollars to the price of a home; and

WHEREAS, owners and purchasers of single-family residential properties in the City of Spokane are best situated to decide whether to install fire suppression systems such as fire sprinklers, rather than face regulatory mandates beyond the requirements of the state building code, chapter 19.27 RCW, and the City's building and fire codes, chapters 17F.040 and 17F.080 SMC.

NOW, THEREFORE, BE IT RESOLVED that the Spokane City Council states the City's policy that fire suppression systems are not required and will not be mandated for single-family residential properties.

Passed by the City Council this ____ day of August, 2015.

City Clerk

Approved as to form:

Assistant City Attorney

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

08/24/2015

Date Rec'd

8/4/2015

Clerk's File #

RES 2015-0092

Renews #**Submitting Dept**

WATER & HYDROELECTRIC SERVICES

Contact Name/Phone

DAN KEGLEY 625-7840

Contact E-Mail

DKEGLEY@SPOKANECITY.ORG

Agenda Item Type

Special Considerations

Agenda Item Name

4100 - CHANGE TO DEPARTMENT OF HEALTH LOAN (DM 13-952-123)

Agenda Wording

The Department of Health Office of Drinking Water has asked for assistance to consolidate a non performing loan issued to the Hideaway Mobile Home Park. The loan was issued to connect to the City of Spokane due to a failing well in 2009.

Summary (Background)

The City of Spokane has a 20 year State Revolving Fund Loan #DM 13-952-123 for \$5,549,000.00 with an interest rate of 1.5%. The non-performing loan, approximately \$91,000.00 would be added to this loan creating a new balance of 5,640,000.00 and the interest rate would be lowered to 1.20% over the 20 year term. The consolidation of these loans with the lowered interest rate would decrease the annual payment by \$4,332.00. The total savings in interest over the life of the loan would

Fiscal Impact**Budget Account**

Expense \$ (177,653.00)

4100-30210-92000-58300

Select \$

#

Select \$

#

Select \$

#

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

KEGLEY, DANIEL

Study Session**Division Director**

ROMERO, RICK

Other

PWC 8/10/15

Finance

SALSTROM, JOHN

Distribution List**Legal**

SCHOEDEL, ELIZABETH

acline

For the Mayor

SANDERS, THERESA

dkegley

Additional Approvals

mpapich

Purchasing



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

be approximately \$177,653.00. The money consolidated in this loan would then be available to the State Revolving Fund for additional loan requests.

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

August 1, 2015

To: Joe Crossland, Chris McCord – DOH

Fr: Mike Copeland, Commerce

Re: Hideaway Mobile Home Park / City of Spokane

The following information is proposed to incent the City of Spokane to take on the debt of the above mentioned non-performing contract. The existing contract to Spokane #DM 13-952-123 has a current interest rate of 1.50%, a balance of about \$5,549,000 and will be amortized for 20 years. The annual payment on this debt will be about \$323,205. Total interest paid over the life of the loan is about \$915,111.

If we modify the interest rate on the above loan from the current rate of 1.50% and drop it to 1.20%, annual loan payment drops to about \$313,728. The savings on the annual payment over the life of the loan (\$9,477. per month X 20 = \$189,540) The total interest savings by reducing the rate over the term of the loan goes from the above mentioned \$915,111 to about \$725,559 or a reduction on total interest of \$189,552.

If we add the existing loan balance of the non performing mobile home park loan (approx. \$91,000) to the existing Spokane contract balance (\$5,549,000) we arrive at a new loan balance of about \$5,640,000. If we use that as our new loan amount at an interest rate of 1.20% amortized for 20 years, we arrive at our new loan payment amount of about \$318,873 annually. Total interest over the life of the loan is about \$737,458.

SUMMARY:

Existing contract #DM 13-952-123: Interest rate of 1.50% 20 year am. Payment \$323,205 .

New proposed loan of \$5,640,000 (added \$91,000) 1.20% 20 year am. Payment \$318,873.

Annual payment savings = \$ 4,332.

Total interest charge over life of contract at original interest rate and loan term = \$915,111.

Total interest charge over life of loan at proposed amount, rate and term = \$737,458.

Total proposed interest savings = \$177,653.

RESOLUTION No. 2015-0092

A Resolution authorizing a State Revolving Fund loan of approximately \$91,000 to assist the Hideaway Mobile Home Park connect to City water following a failing water well.

WHEREAS, the water well serving Hideaway Mobile Home Park, located on S. Cheatham Road, failed in 2009, and

WHEREAS, the Department of Health Office of Drinking Water loaned money to the Hideaway Mobile Home Park to help the Park connect to City of Spokane water, and

WHEREAS, approximately \$91,000 of that loan is now non-performing, and

WHEREAS, the City of Spokane currently has a 20-year State Revolving Fund loan # DM 13-952-123 for approximately \$5.5 million and at an interest rate of 1.5%, and

WHEREAS, the Department of Health has proposed to decrease the rate of interest on that loan from 1.5% per annum to 1.2% per annum in return for the City assuming the non-performing part of the DOH loan to the Mobile Home Park, and

WHEREAS, the decrease in interest rate will decrease the annual payment to the Revolving Fund by approximately \$4,332, saving the City more than \$177,000 over the life of the loan –

NOW, THEREFORE, be it resolved by the City Council of the City of Spokane:

The City Administration is hereby authorized to amend necessary documents and take whatever action is necessary for the City to assume the non-performing amount of the State loan to Hideaway Mobile Home Park in an amount of approximately \$91,000 in return for which the State has agreed to decrease the interest rate on the City's existing 20-year State Revolving Fund loan.

PASSED the City Council this _____ day of August 2015.

City Clerk

Approved as to form:

Assistant City Attorney



Agenda Sheet for City Council Meeting of:
08/24/2015

Date Rec'd	11/19/2014
Clerk's File #	ORD C35198
Renews #	
Cross Ref #	RES 2014-0104
Project #	
Bid #	
Requisition #	
Agenda Item Name	0650 - HEARINGS - VACATION OF UN-NAMED PORTION OF RIGHT-OF-WAY

Agenda Wording

Vacation of an un-named portion of right-of-way, 60 feet by 447.97 feet, approximately 650 feet north of 8018 West Sunset Highway, requested by Rodney Black and John McCormack.

Summary (Background)

At its legislative session held on November 3, 2014 the City Council set a hearing on the above vacation for December 8, 2014. Since that time, staff has solicited responses from all concerned parties.

Fiscal Impact

Neutral \$

Select \$

Select \$

Select \$

Budget Account

#

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#

Approvals

Dept Head MEULER, LOUIS

Division Director QUINTRALL, JAN

Finance LESESNE, MICHELE

Legal RICHMAN, JAMES

For the Mayor SANDERS, THERESA

Council Notifications

Study Session

Other PCED - 10/20/14

Distribution List

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mnilsson@spokanecity.org

Additional Approvals

Purchasing

City of Spokane
Planning and Development
808 West Spokane Falls Blvd.
Spokane, WA 99201-3343
(509) 625-6300

ORDINANCE NO. C35198

An ordinance vacating an un-named portion of right of way, 60 feet by 447.97 feet, approximately 650 feet north of 8018 West Sunset Highway in Section 20, T25N, R42E, W.M., Spokane, Washington as requested by Rodney Black & John McCormack.

WHEREAS, a petition for the vacation of an un-named portion of right of way, 60 feet by 447.97 feet, approximately 650 feet north of 8018 West Sunset Highway in Section 20, T25N, R42E, W.M., Spokane, Washington, has been filed with the City Clerk representing 100% of the abutting property owners, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

WHEREAS, the City Council has found that the public use, benefit and welfare will best be served by the vacation of said public way; -- NOW, THEREFORE,

The City of Spokane does ordain:

Section 1. That the un-named portion of right of way, 60 feet by 447.97 feet, approximately 650 feet north of 8018 West Sunset Highway in Section 20, T25N, R42E, W.M., Spokane, Washington as requested by Rodney Black & John McCormack is hereby vacated. Parcel number not assigned.

Section 2. That this ordinance shall not become effective until the owners of parcel north of the area to be vacated have deeded to the City of Spokane the north 30 feet of the property north of the vacated right-of-way.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to Form:

Assistant City Attorney

Mayor

Date: _____

Effective Date: _____



CITY OF SPOKANE
PLANNING AND DEVELOPMENT SERVICES

808 West Spokane Falls Blvd., Spokane WA 99201-3343
(509) 625-6700 FAX (509) 625-6349

STREET VACATION REPORT (P1304309VACA)
November 04, 2014

LOCATION: Vacation of an un-named 60 foot by 447.97 foot strip approximately 650 feet North of 8018 West Sunset Hwy (US2)

PROPONENT: Rodney Black & John McCormack

PURPOSE: To aggregate parcel #28204.9024 on the north side of right of way with parcel #25204.9025 on the south side from the City to facilitate future development.

HEARING: To be determined

REPORTS:

AVISTA UTILITIES – No objection. Provide copy of the Ordinance upon approval.

COMCAST – No objection.

CENTURYLINK – No objection.

ASSET MANAGEMENT - CAPITAL PROGRAMS – No comment.

FIRE DEPARTMENT – No objection.

NEIGHBORHOOD SERVICES – No comment.

PARKS DEPARTMENT – No comment.

PLANNING & DEVELOPMENT – DEVELOPER SERVICES – No objection.

PLANNING & DEVELOPMENT – TRAFFIC DESIGN – No comment.

PLANNING & DEVELOPMENT – PLANNING – No objection. If the owner wishes to consolidate the parcels after street vacation a boundary line adjustment will be necessary.

POLICE DEPARTMENT – No comment.

SOLID WASTE MANAGEMENT – No comment.

STREET DEPARTMENT – No comment.

WASTEWATER MANAGEMENT – No objection. Onsite runoff to be maintained and treated onsite.

WATER DEPARTMENT – No objection. The Water Department has no infrastructure in the proposed vacation area and no current plans to install water infrastructure in the proposed vacation area.

BIKE ADVISORY BOARD – No comment.

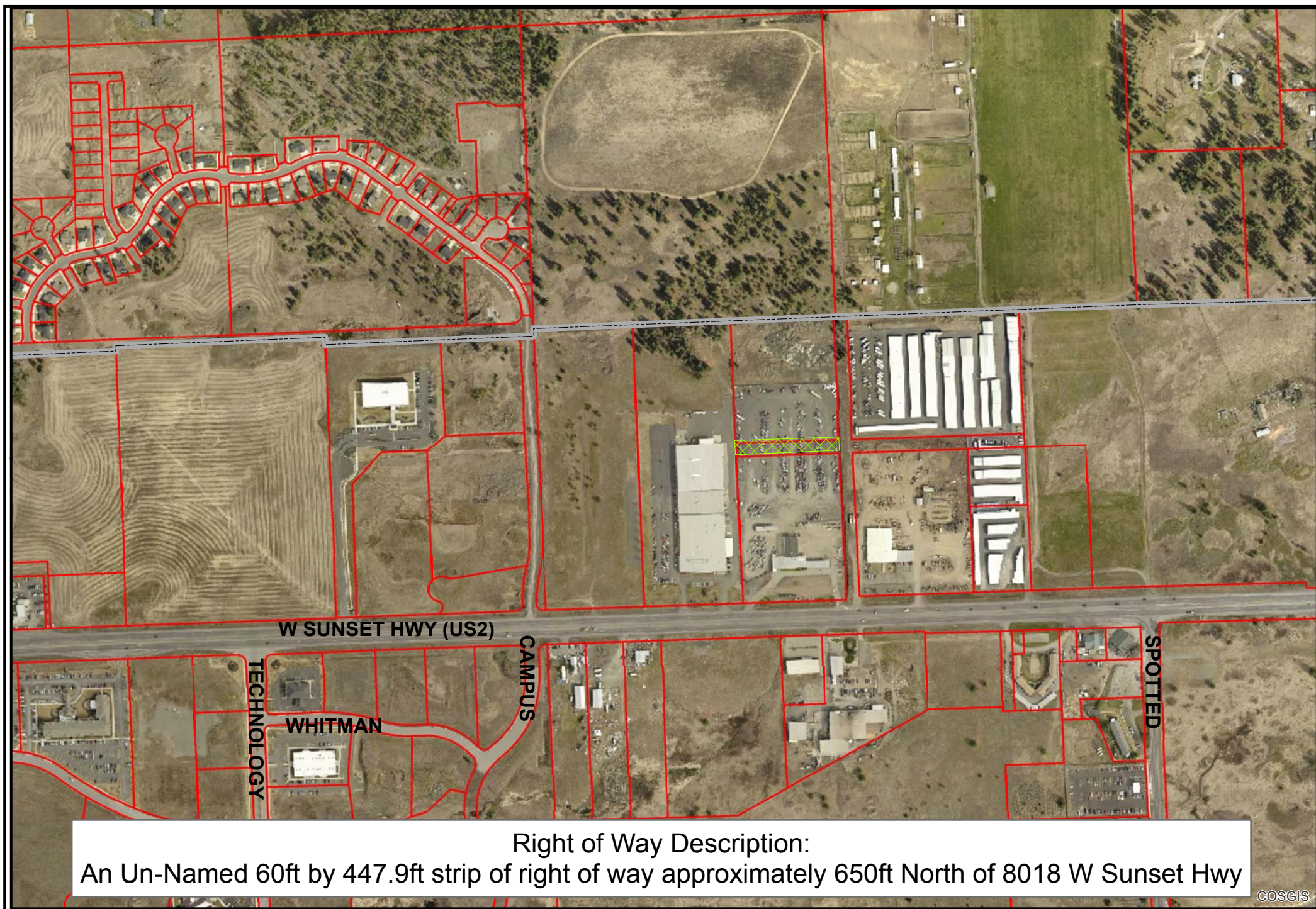
SPOKANE COUNTY – No comment received from the County Engineer.

RECOMMENDATION: That the petition be granted based on the intent of the applicant and recommendations from received comments and a vacating ordinance be prepared subject to the following conditions:

1. On-site runoff must be collected and treated on the site.
2. Granting the applicants a no-cost vacation provided that they deed the north 30 feet of the property north of the vacated right-of-way to the City.
3. That the final reading of the vacation be held in abeyance until all of the above conditions are met, and that the above conditions are met by December 31, 2015.

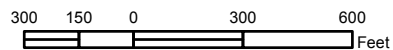


Eldon Brown, P.E.
Principal Engineer – Planning and Development



Right of Way Description:
An Un-Named 60ft by 447.9ft strip of right of way approximately 650ft North of 8018 W Sunset Hwy

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.



COSGIS
City of Spokane GIS



AREA

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

08/17/2015

Date Rec'd

7/21/2015

Clerk's File #

ORD C35294

Renews #**Submitting Dept**

DEVELOPMENT SERVICES CENTER

Contact Name/Phone

ELDON BROWN 625-6305

Contact E-Mail

EBROWN@SPOKANECITY.ORG

Agenda Item Type

Final Reading Ordinance

Agenda Item Name

0650 - ORDINANCE AMENDING ORD C32780

Cross Ref #

ORD C32780

Project #**Bid #****Requisition #****Agenda Wording**

An ordinance amending C-32780 vacating the south 60 feet of Syndicate Boulevard from the west line of vacated Ferrall Street to the west line of Sycamore Street, and from the east line of Sycamore Street to five feet south of the south line of

Summary (Background)

City Council passed the Vacation Ordinance on June 25, 2001. At that time an easement was retained for utilities across the entire vacated area. EVCO would like to build a new commercial warehouse that would impede a portion of this easement area. It has been determined that this easement is no longer needed for the entire full-width of the vacation area. This amendment reduces a portion of the easement by 20 feet to accommodate the building.

Fiscal Impact

Neutral \$

Select \$

Select \$

Select \$

Budget Account

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Approvals**Dept Head**

KRIS BECKER

Division Director

SCOTT SIMMONS

Finance

SALSTROM, JOHN

Legal

RICHTMAN, JAMES

For the Mayor

SANDERS, THERESA

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

PCED 6/29/15

Distribution List

lhattenburg@spokanecity.org

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sbishop@spokanecity.org

Additional Approvals**Purchasing**



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Mission Avenue. (Chief Gary Park Neighborhood)

Summary (Background)

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

City of Spokane
Department of Engineering Services
808 West Spokane Falls Blvd.
Spokane, WA 99201-3343
(509) 625-6700

ORDINANCE NO. C35294

An ordinance amending C-32780 vacating the south 60 feet of Syndicate Boulevard from the west line of vacated Ferrall Street to the west line of Sycamore Street, and from the east line of Sycamore Street to five feet south of the south line of Mission Avenue.

WHEREAS, a petition for the vacation of the south 60 feet of Syndicate Boulevard from the west line of vacated Ferrall Street to the west line of Sycamore Street, and from the east line of Sycamore Street to five feet south of the south line of Mission Avenue has been held on this petition before the City Council as provided by RCW 35.79 and

WHEREAS, the City Council has found that the public use, benefit and welfare will best be served by the vacation of said public way; - NOW, THEREFORE,

The City of Spokane does ordain:

Section 1. That the south 60 feet of Syndicate Boulevard from the west line of vacated Ferrall Street to the west line of Sycamore Street, and from the east line of Sycamore Street to five feet south of the south line of Mission Avenue is hereby vacated. Legal R43 T25 S15 NW 1/4. Parcel number not assigned.

Section 2. An easement is reserved and retained over and through the entire vacated area, **except for the south 20 feet of vacated Syndicate Boulevard from the east line vacated Freya Street to the west line of Lot 5 Block 180 of Syndicate Addition**, for the utility services of Avista Utilities and Comcast Broadband to protect existing and future utilities, and no structure or other obstructions shall be erected or placed with the easement area without the prior written approval of the Engineering Operations Manager.

Passed the City Council _____

Council President

Attest: _____
City Clerk

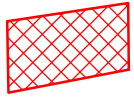
Approved as to Form:

Assistant City Attorney

Mayor

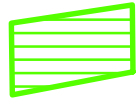
Date: _____

Effective Date: _____



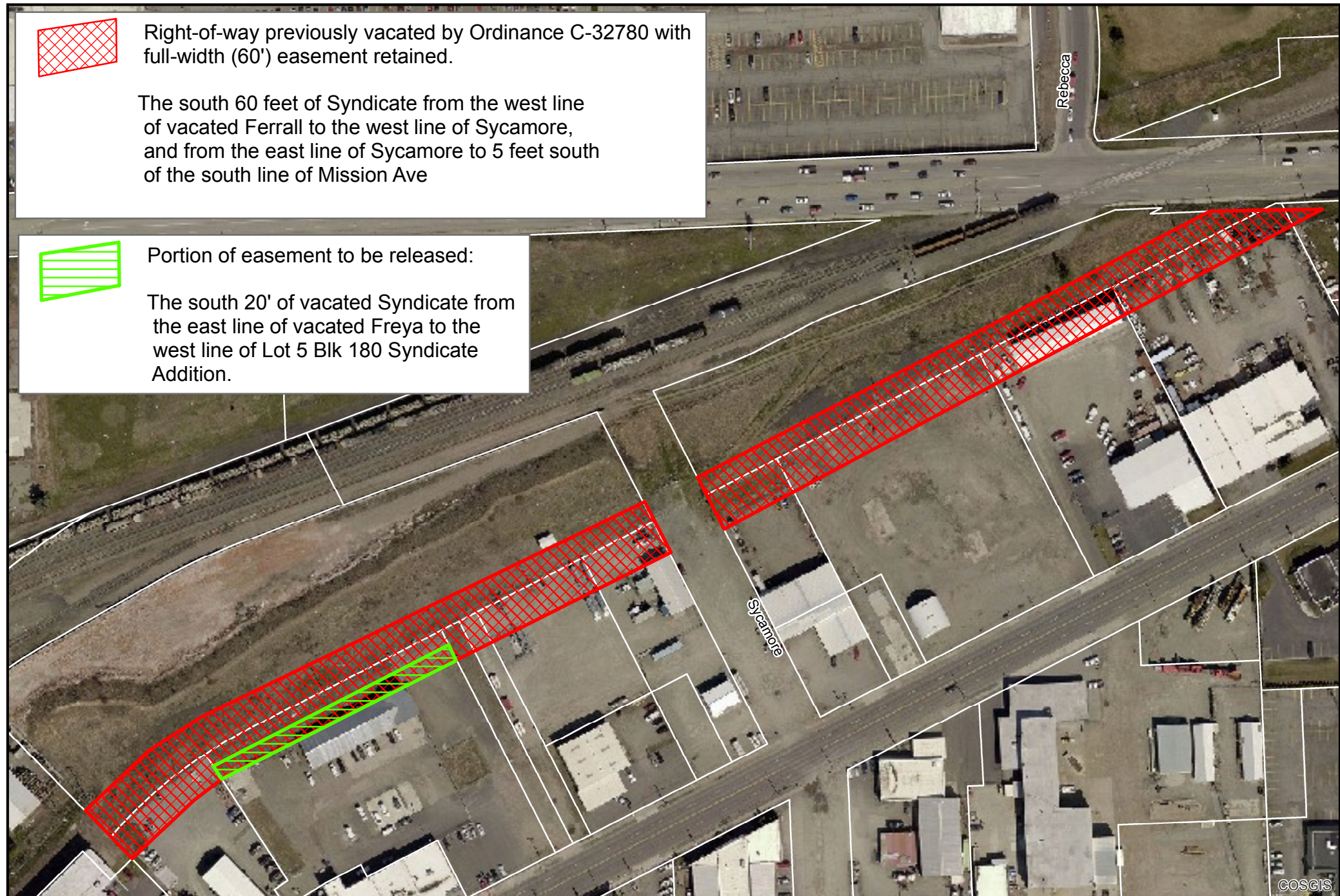
Right-of-way previously vacated by Ordinance C-32780 with full-width (60') easement retained.

The south 60 feet of Syndicate from the west line of vacated Ferrall to the west line of Sycamore, and from the east line of Sycamore to 5 feet south of the south line of Mission Ave

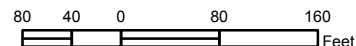


Portion of easement to be released:

The south 20' of vacated Syndicate from the east line of vacated Freya to the west line of Lot 5 Blk 180 Syndicate Addition.



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.



 **COSGIS**
City of Spokane GIS

