

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!**
- 6. No person shall be permitted to speak at open forum more often than once per month.**

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.
- 2.2.6 In an effort to encourage wider participation in open forum so that the Council can hear a wide array of citizen comment, no person shall be permitted to speak at open forum more often than once per month. However, this limitation has no effect on the public comment rules concerning items on the Council's current 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, as specified in Rules 5.3 and 5.4.

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, including but not limited to demonstrations, banners, applause, profanity, vulgar language, or personal insults 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, OCTOBER 17, 2016

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 BREEAN BEGGS

COUNCIL MEMBER LORI KINNEAR

COUNCIL MEMBER KAREN STRATTON

COUNCIL MEMBER MIKE FAGAN

COUNCIL MEMBER CANDACE MUMM

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. Third Extension to Master Contract with Structured Communications Systems, Inc. for the purchase of hardware and software associated with the City's current Storage-Area-Network from November 1, 2016 through October 31, 2017—\$500,000. This will also include Veritas/Symantec hardware & software.
Michael Sloon | Approve | OPR 2012-0938 |
| 2. Increase estimated expenditure, to purchase, PC, Laptop and Mobile Data Hardware Equipment from Dell Marketing L.P. for WTE purchases and additional equipment from January 1, 2016 through December 31, 2016—increase of \$300,000. Total Contract Amount: \$821,760.
Michael Sloon | Approve | OPR 2016-0005 |
| 3. Purchases of: | Approve
All | |
| a. technology equipment from CDWG Government (Vernon Hills, IL) from January 1, 2017 through December 21, 2017—\$100,000 (plus tax & shipping).
Michael Sloon | | OPR 2016-0791 |

b. various Software Products from Washington State Department of Enterprise Services, (Olympia, WA) from January 1, 2017 through December 21, 2017—\$159,700 (plus tax & shipping). OPR 2016-0792

c. Cisco hardware and software from Cerium Networks, Inc. (Spokane, WA) utilizing WA State Contract# 01114/AR233 from January 1, 2017 through December 21, 2017—\$350,000 (plus tax & shipping). OPR 2016-0793

Michael Sloon

4. Contract with AssetWorks (Wayne, PA) for annual support and upgrades of Fleet Services M-5 Equipment System Software from October 1, 2016 through September 30, 2017—\$80,519.36. Approve OPR 2016-0794

Michael Sloon

5. Contracts to provide bacteriological and chemical analysis of groundwater and drinking water for Solid Waste Disposal, Water and Wastewater Depts. for a 3-year period from October 1, 2016 through September 30, 2019 with: Approve All

a. Anatek Labs, Inc. (Spokane, WA) (Deferred from October 10, 2016, Agenda) OPR 2016-0784
BID 4259-16

b. Edge Analytical (Burlington WA) OPR 2016-0795
BID 4259-16

Estimated Annual Cost for both companies: \$62,100.

Total Estimated Contract Amount: \$186,400.

Doug Greenlund

6. Memorandum of Understanding with Washington State University regarding monitoring and maintenance of the University District Gateway Bridge. Approve OPR 2016-0796

Katherine Miller

7. Multi-Family Housing Property Tax Exemption Agreement with Cowles Real Estate Company for one multi-family building with 32 units located at 926 West Sprague Avenue. (Riverside Neighborhood) Approve OPR 2016-0797

Ali Brast

8. Extension of Agreements with the Downtown Spokane Development Association dba Downtown Spokane Partnership for the Downtown Parking and Business Area from January 1, 2017 through December 31, 2021 for: Approve

a. administration and operations. (Relates to ORD C35444) OPR 2011-0801

Council President Stuckart

- b. security and maintenance services—\$100,000 per year. (Relates to ORD C35444)

OPR 2011-0802

Council President Stuckart

- | | | | |
|------------------------|--|------------------------------------|--|
| 9. | Contract with Walker-Halme, Joint Venture (Spokane, WA) for construction of the CSO Basin 24 Control Facility, to be delivered via GC/CM alternative delivery—estimated construction \$19,000,000 of which Walker-Halme, Joint Venture will receive a 3.09% markup on the final negotiated amount. | Approve | PRO 2016-0035
RFFP 4290-16
ENG 2010087 |
| Kyle Twohig | | | |
| 10. | Contract Addendum with Bernardo Wills (Spokane, WA) for additional work and compensation in conjunction with the Wall Street Surface Improvements project—\$7,230. Total Contract Amount: \$50,105. | Approve | OPR 2015-1134
ENG 2015177 |
| Dan Buller | | | |
| 11. | Administrative Reserve increase the on the contract with Red Diamond Construction, Inc., for Wellesley Roundabout - Relocation of Utilities—increase of \$5,924.26 for a total administrative reserve of \$60,001.64 or 11.1% of the contract price. (Hillyard Neighborhood) | Approve | PRO 2016-0016
ENG 2015167 |
| Ken Brown | | | |
| 12. | Contract Amendment with American Traffic Solutions (Tempe, AZ) to return Extension #1 to the original agreement's status under which ATS bore full responsibility of the costs associated with running the Photo Red program—estimated increase: 2016: \$23,400; following years (2017-2018): \$96,000 per year. | Approve | OPR 2008-0120 |
| Justin Lundgren | | | |
| 13. | Report of the Mayor of pending: | Approve &
Authorize
Payments | |
| | a. Claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2016, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | | CPR 2016-0002 |
| | b. Payroll claims of previously approved obligations through _____, 2016: \$_____. | | CPR 2016-0003 |
| 14. | City Council Meeting Minutes: _____, 2016. | Approve
All | CPR 2016-0013 |

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

ADMINISTRATIVE 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.

Note: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

LEGISLATIVE AGENDA

EMERGENCY BUDGET ORDINANCES

(Require Five Affirmative, Recorded Roll Call Votes)

Ordinance C35442 amending Ordinance No. C35322 passed by the City Council November 23, 2015, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2016, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2016, and providing it shall take effect immediately upon passage, and declaring an emergency and appropriating funds in:

General Fund

FROM: Intergovernmental Law Enforcement, \$35,235;

TO: Various Accounts, same amount.

[This action creates an additional Sergeant position (from 37 to 38 positions).]

Justin Lundgren

EMERGENCY ORDINANCES

(Require Five Affirmative, Recorded Roll Call Votes)

ORD C35443

Of the City of Spokane, Washington, providing for the issuance and sale of Unlimited Tax General Obligation refunding bonds, 2016, of the city in the principal amount of not to exceed \$30,000,000, for the purpose of refunding certain outstanding bonds of the city; providing for the redemption of the outstanding bonds to be refunded; providing for the annual levy of taxes to pay the principal of and interest on the bonds; authorizing preliminary and final official statements; authorizing an escrow agreement; and delegating authority to the designated representative to determine the manner of sale and terms of the bonds under the conditions set forth herein, and declaring an emergency.

Gavin Cooley

NO RESOLUTIONS

FINAL READING ORDINANCES

(Require Four Affirmative, Recorded Roll Call Votes)

ORD C35440

Amending Ordinance No. C31011 entitled an ordinance vacating portions of Myrtle Street, Front Avenue and Riverside Avenue, and providing for an effective date, and amending Section 3 thereof.

Eldon Brown

- ORD C35441 Amending Ordinance No. C34070 that vacated the Alley between 2nd Avenue and 3rd Avenue from Adams Street to Jefferson Street.
Eldon Brown

FIRST READING ORDINANCES

(No Public Testimony Will Be Taken)

- ORD C35444 Relating to the downtown Parking and Business Improvement Area; amending sections 04.31.030 and 04.31.080 of the Spokane Municipal Code. (Relates to OPR 2011-0801 & OPR 2011-0802)
Council President Stuckart

FURTHER ACTION DEFERRED

NO SPECIAL CONSIDERATIONS

NO HEARINGS

Motion to Approve Advance Agenda for October 17, 2016
(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.

Note: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

ADJOURNMENT

The October 17, 2016, Regular Legislative Session of the City Council is adjourned to October 24, 2016.

NOTES



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/4/2016
Clerk's File #	OPR 2012-0938
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	VB MASTER

Submitting Dept	INNOVATION & TECHNOLOGY SERVICES
Contact Name/Phone	MICHAEL SLOON 625-6468
Contact E-Mail	MSLOON@SPOKANECITY.ORG
Agenda Item Type	Purchase w/o Contract
Agenda Item Name	5300- STRUCTURED

Agenda Wording

3rd of 3, 1 -year extensions to Master Contract OPR2012-0938 with Structured Communications Systems, Inc. for the purchase of hardware and software associated with the City's current Storage-Area-Network (SAN). This will also include Veritas/Symantec

Summary (Background)

Purchase of this hardware and software is to meet the growth requirements of the City's Storage-Area-Network (SAN); because of the growth of the City enterprise applications (both in size and number) capacity of the SAN will require increased capacity and software update. We will need to update/add additional Veritas data backup technology solutions to free up 30TB of storage in the SAN and enable our ability to store and manage our backups with "cloud storage" providers.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 500,000	#	Various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SLOON, MICHAEL	<u>Study Session</u>	Finance 10/3/16
<u>Division Director</u>	FINCH, ERIC	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	Accounting - kkeck@spokanecity.org	
<u>For the Mayor</u>	CODDINGTON, BRIAN	Contract Accounting - jsalstrom@spokanecity.org	
<u>Additional Approvals</u>		Legal - hwhaley@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	Purchasing - cwahl@spokanecity.org	
		IT - itadmin@spokancity.org	
		Taxes & Licenses	

BRIEFING PAPER
City of Spokane
Information Technology
October 3, 2016

Subject

Third of three one-year extensions to Master Contract OPR2012-0938 with Structured Communications Systems, Inc. for the purchase of hardware and software associated with the City's current Storage-Area-Network (SAN). This will also include Veritas/Symantec hardware & software November 1, 2016 through October 31, 2017 for a maximum of \$500,000.00

Background

Purchase of this hardware and software is to meet the growth requirements of the City's Storage-Area-Network (SAN); because of the growth of the City enterprise applications (both in size and number) capacity of the SAN will require increased capacity and software update. We will need to update/add additional Veritas data backup technology solutions to free up 30TB of storage in the SAN and enable our ability to store and manage our backups with "cloud storage" providers.

2016 - \$200,000.00

Impact

The hardware and software upgrades are needed in order to accommodate the data storage demands of the applications and systems used throughout the City. Without additional storage and improved hardware performance, the services supported by the applications will be adversely impacted.

Action

City ITSD recommends approval

Funding

Various Accounts



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/4/2016
Clerk's File #	OPR 2016-0005
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	VB MASTER

Submitting Dept	INNOVATION & TECHNOLOGY SERVICES
Contact Name/Phone	MICHAEL SLOON 625-6468
Contact E-Mail	MSLOON@SPOKANECITY.ORG
Agenda Item Type	Purchase w/o Contract
Agenda Item Name	5300 - DELL VB INCREASED EXPENDITURE

Agenda Wording

Approval to increase estimated expenditure, to purchase, PC, Laptop and Mobile Data Hardware Equipment from Dell Marketing L.P. Increase limit by \$300,000 for WTE purchases and additional equipment. January 1, 2016 -December 31, 2016

Summary (Background)

Dell Marketing L.P. currently provides the City of Spokane with PC, Laptop, and Mobile Data Hardware for purchase for various City Departments. The purpose of the new equipment is for efficiencies, improved service, high speed connectivity, future capacity, and aligns with The City's standard for PC, Laptop and Mobile Data equipment and deployment. The City of Spokane ITSD Department has utilized WA State Contract #05815-003/MNWN-108 for its selection of Dell Marketing L.P.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 300,000 plus tax & shipping	#	Various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SLOON, MICHAEL	<u>Study Session</u>	Finance 10/3/16
<u>Division Director</u>	FINCH, ERIC	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	Accounting - kkeck@spokanecity.org	
<u>For the Mayor</u>	CODDINGTON, BRIAN	Contract Accounting - jsalstrom@spokanecity.org	
<u>Additional Approvals</u>		Legal - hwhaley@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	Purchasing - cwahl@spokanecity.org	
		IT - itadmin@spokancity.org	
		Taxes & Licenses	

BRIEFING PAPER
City of Spokane
Information Technology
October 3, 2016

Subject

Approval to increase estimated expenditure, to purchase, PC, Laptop and Mobile Data Hardware Equipment from Dell Marketing L.P. (Dell Financial Services, L.L.C) Austin, TX. Increase limit by \$300,000 for WTE purchases and additional equipment through the end of the year January 1, 2016 through December 31, 2016 for a maximum of \$821,760.00

Background

Dell Marketing L.P. currently provides the City of Spokane with PC, Laptop, and Mobile Data Hardware for purchase for various City Departments. The purpose of the new equipment is for efficiencies, improved service, high speed connectivity, future capacity, and aligns with The City's standard for PC, Laptop and Mobile Data equipment and deployment. The City of Spokane ITSD Department has utilized WA State Contract #05815-003/MNWNC-108 for its selection of Dell Marketing L.P.

2016 - \$200,000.00

Impact

Without this approval to purchase, the ITSD Department would be required to bring any purchase over The City Purchase Limit (\$48,700) to City Council for Approval.

Action

City ITSD recommends approval

Funding

Various Accounts



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/4/2016
Clerk's File #	OPR 2016-0791
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	VB MASTER

Submitting Dept	INNOVATION & TECHNOLOGY SERVICES
Contact Name/Phone	MICHAEL SLOON 625-6468
Contact E-Mail	MSLOON@SPOKANECITY.ORG
Agenda Item Type	Purchase w/o Contract
Agenda Item Name	5300- CDWG GOVERNMENT VB

Agenda Wording

Approval to purchase technology equipment from CDWG Government (Vernon Hills, IL). Without this approval to purchase, the ITSD Department would be required to bring any purchase over The City Purchase Limit (\$48,700) to City Council for Approval.

Summary (Background)

CDWG Government currently provides the City with hardware for purchase for various departments. The City of Spokane ITSD Department has utilized the King County Directors' Association (KCDA) Agreement #AEPA 014-E for its selection of CDW Government.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 100,000 plus Tax & Shipping	#	Various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SLOON, MICHAEL	<u>Study Session</u>	Finance 10/3/16
<u>Division Director</u>	FINCH, ERIC	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	Accounting - kkeck@spokanecity.org	
<u>For the Mayor</u>	CODDINGTON, BRIAN	Contract Accounting - jsalstrom@spokanecity.org	
<u>Additional Approvals</u>		Legal - hwhaley@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	Purchasing - cwahl@spokanecity.org	
		IT - itadmin@spokancity.org	
		Taxes & Licenses	

BRIEFING PAPER
City of Spokane
Information Technology
October 3, 2016

Subject

Approval to purchase technology equipment from CDWG Government (Vernon Hills, IL).
January 1, 2017 through December 31, 2017 for \$100,000 plus tax and shipping.

Background

CDWG Government currently provides the City with hardware for purchase for various departments. The City of Spokane IT Department has utilized the King County Directors' Association (KCDA) Agreement #AEPA 014-E for its selection of CDW Government.

2016 - \$100,000

Impact

Without this approval to purchase, the ITSD Department would be required to bring any purchase over The City Purchase Limit (\$48,700) to City Council for Approval for each piece of equipment purchased.

Action

City ITSD Staff recommends approval

Funding

Various Accounts



Agenda Sheet for City Council Meeting of: 10/17/2016

Date Rec'd	10/4/2016
Clerk's File #	OPR 2016-0792
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	VB MASTER

Submitting Dept	INNOVATION & TECHNOLOGY SERVICES
Contact Name/Phone	MICHAEL SLOON 625-6468
Contact E-Mail	MSLOON@SPOKANECITY.ORG
Agenda Item Type	Purchase w/o Contract
Agenda Item Name	5300- WA ST DES SOFTWARE

Agenda Wording

Approval to purchase from Washington State Department of Enterprise Services, (Olympia, WA) for various Software Products. January 1,2017 - December 31, 2017

Summary (Background)

Washington State DES currently provides the City of Spokane with Microsoft (T11-MST-579), Autodesk (T98-TSD-309) and Adobe (T11-COR-521) Software Products which includes Maintenance and Support Subscription/Upgrades for purchase for various City Departments. Washington State DES has already negotiated and established contracts that include pricing advantages for other government agencies to utilize. The City of Spokane ITSD Department utilizes this opportunity whenever possible.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 159,700 Plus Tax & Shipping	#	Various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SLOON, MICHAEL	<u>Study Session</u>	Finance 10/3/16
<u>Division Director</u>	FINCH, ERIC	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	Accounting - kkeck@spokanecity.org	
<u>For the Mayor</u>	CODDINGTON, BRIAN	Contract Accounting - jsalstrom@spokanecity.org	
<u>Additional Approvals</u>		Legal - hwhaley@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	Purchasing - cwahl@spokanecity.org	
		IT - itadmin@spokancity.org	
		Taxes & Licenses	

BRIEFING PAPER
City of Spokane
Information Technology
October 3, 2016

Subject

Approval to purchase from Washington State Department of Enterprise Services, (Olympia, WA) for various Software Products.

January 1, 2017 through December 31, 2017 for \$159,700 plus tax and shipping.

Background

Washington State DES currently provides the City of Spokane with Microsoft (T11-MST-579), Autodesk (T98-TSD-309) and Adobe (T11-COR-521) Software Products which includes Maintenance and Support Subscription/Upgrades for purchase for various City Departments. Washington State DES has already negotiated and established contracts that include pricing advantages for other government agencies to utilize. The City of Spokane ITSD Department utilizes this opportunity whenever possible.

2016 - \$159,700

Impact

Without this yearly approval to purchase, the ITSD Department would be required to bring any purchase over the City Purchase Limit (\$48,700) to City Council for Approval for each piece of software purchased.

Action

City ITSD Staff recommends approval

Funding

Various Accounts



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/4/2016
Clerk's File #	OPR 2016-0793
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	VB MASTER

Submitting Dept	INNOVATION & TECHNOLOGY SERVICES
Contact Name/Phone	MICHAEL SLOON 625-6468
Contact E-Mail	MSLOON@SPOKANECITY.ORG
Agenda Item Type	Purchase w/o Contract
Agenda Item Name	5300 - CERIUM NETWORKS VB

Agenda Wording

Approval to purchase Cisco hardware and software from Cerium Networks, Inc. (Spokane, WA) for the City of Spokane utilizing WA State Contract# 01114/AR233 (In effect through May 31,2019) January 1,2017 - December 31, 2017

Summary (Background)

Cerium currently provides network equipment that is compatible with our voice and data application requirements, and security for all City departments. The purpose has been set up to improve efficiencies, service, connectivity and future capacity. This aligns with the City's standards.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 350,000 plus tax & shipping	#	Various
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SLOON, MICHAEL	<u>Study Session</u>	Finance 10/3/16
<u>Division Director</u>	FINCH, ERIC	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	Accounting - kkeck@spokanecity.org	
<u>For the Mayor</u>	CODDINGTON, BRIAN	Contract Accounting - jsalstrom@spokanecity.org	
<u>Additional Approvals</u>		Legal - hwhaley@spokanecity.org	
<u>Purchasing</u>	WAHL, CONNIE	Purchasing - cwahl@spokanecity.org	
		IT - itadmin@spokancity.org	
		Taxes & Licenses	

BRIEFING PAPER
City of Spokane
Information Technology
October 3, 2016

Subject

Approval to purchase Cisco hardware and software from Cerium Networks, Inc. (Spokane, WA) for the City of Spokane utilizing WA State Contract# 01114/AR233 (In effect through May 31,2019) January 1, 2017 through December 31, 2017 for \$350,000 plus tax and shipping.

Background

Cerium currently provides network equipment that is compatible with our voice and data application requirements, and security for all City departments. The purpose has been set up to improve efficiencies, service, connectivity and future capacity. This aligns with the City's standards.

2016 - \$350,000

Impact

Without this yearly approval to purchase, the ITSD Department would be required to bring any purchase over the City Purchase Limit (\$48,700) to City Council for Approval for each piece of equipment purchased.

Action

City ITSD Staff recommends approval

Funding

Various Accounts



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/4/2016
Clerk's File #	OPR 2016-0794
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	CR17281

Submitting Dept	INNOVATION & TECHNOLOGY SERVICES
Contact Name/Phone	MICHAEL SLOON 625-6468
Contact E-Mail	MSLOON@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	5300 - ASSETWORKS - CONTRACT RENEWAL

Agenda Wording

Contract with AssetWorks for annual support and upgrades of Fleet Services (M-5) Equipment System Software. Contract term: October 1, 2016 - September 30, 2017.

Summary (Background)

The City of Spokane has been using AssetWorks since 1993 for the M-5 equipment management system. The M-5 equipment system software has been continually enhanced based on the City's enterprise needs and requirements. This M-5 equipment system software provides Fleet Services with corrections for any defect in the software, unlimited telephone/e-mail support, report writing and all updates and enhancements as they become available.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 80,519.36 including tax	#	5300-73300-18850-54820
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SLOON, MICHAEL	<u>Study Session</u>	Finance 10/3/16
<u>Division Director</u>	FINCH, ERIC	<u>Other</u>	
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	Accounting - kkeck@spokanecity.org	
<u>For the Mayor</u>	CODDINGTON, BRIAN	Contract Accounting - jsalstrom@spokanecity.org	
<u>Additional Approvals</u>		Legal - hwhaley@spokanecity.org	
<u>Purchasing</u>		Purchasing - cwahl@spokanecity.org	
		IT - itadmin@spokancity.org	
		Taxes & Licenses	
		Kimberly Hamiter - kimberly.hamiter@assetworks.com	

BRIEFING PAPER
City of Spokane
Information Technology
October 3, 2016

Subject

Contract with AssetWorks for annual support and upgrades of Fleet Services (M-5) Equipment System Software.

October 1, 2016 through September 30, 2017 for \$80,519.36

Background

The City of Spokane has been using AssetWorks since 1993 for the M-5 equipment management system. The M-5 equipment system software has been continually enhanced based on the City's enterprise needs and requirements. This M-5 equipment system software provides Fleet Services with corrections for any defect in the software, unlimited telephone/e-mail support, report writing and all updates and enhancements as they become available.

2016- \$86,984.38 including tax

Impact

Without this yearly maintenance contract, the Fleet Services (M-5) Equipment System Software used by The City of Spokane would not be supported by the vendor and the City would not be able to benefit from the future enhancements and upgrades.

Action

City ITSD recommends approval

Funding

5300-73300-18850-54820 Software Maintenance

City Clerk's No. _____



City of Spokane

**CONTRACT EXTENSION
WITH COST**

Title: **Annual Support and Upgrades for Fleet
Services Equipment System Software**

This Contract Extension including additional compensation is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **AssetWorks**, whose address is 998 Old Eagle School Road, Suite 1215, Wayne, Pennsylvania 19087 as ("**Consultant**").

*WHEREAS, the parties entered into a Contract wherein the **Consultant** agreed to provide for the City Annual Software Maintenance and Support for FleetFocus M5, Crystal Reports, FuelFocus, includes product updates and enhancements, unlimited email and telephone support for 12 months; and*

WHEREAS, additional time is required, and thus the Contract time for performance needs to be formally extended by this written document.

-- NOW, THEREFORE, in consideration of these terms, the parties mutually agree as follows:

1. CONTRACT DOCUMENTS.

The Contract, dated August 25, 2010 and September 27, 2010, any previous amendments, addendums and / or extensions / renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. EFFECTIVE DATE.

This Contract Extension shall become effective on October 1, 2016.

3. EXTENSION.

The contract documents are hereby extended and shall run through September 30, 2017.

4. COMPENSATION.

The City shall pay an additional amount not to exceed **EIGHTY THOUSAND FIVE HUNDRED NINETEEN AND 36/100 DOLLARS (\$80,519.36)** for everything furnished and done under this Contract Extension.

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 Contract Extension by having legally-binding representatives affix their signatures below.

CONSULTANT

By _____
Signature Date

Type or Print Name

Title

Attest:

City Clerk

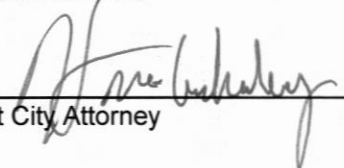
CITY OF SPOKANE

By _____
Signature Date

Type or Print Name

Title

Approved as to form:



Assistant City Attorney

Attachments that are part of this Contract Extension:

Consultant's Annual Maintenance Renewal No. #8366 M5FL MNT16_REV1

16-2085b



Agenda Sheet for City Council Meeting of:
10/10/2016

Date Rec'd	9/21/2016
Clerk's File #	OPR 2016-0784
Renews #	

Submitting Dept	PUBLIC WORKS	Cross Ref #	
Contact Name/Phone	DOUG (509) 625-6533	Project #	
Contact E-Mail	DGREENLUND@SPOKANECITY.ORG	Bid #	4259-16
Agenda Item Type	Contract Item	Requisition #	
Agenda Item Name	4360 ANATEK LABS INC. TO PROVIDE UTILITIES WATER TESTS		

Agenda Wording

Contract with Anatek Labs, Inc. (Spokane, WA) to provide bacteriological and chemical analysis of groundwater and drinking water for Solid Waste Disposal, Water and Wastewater Depts. for a(3)year period. \$186,400 estimated expenditure. Est. \$62,100/y

Summary (Background)

On July18, 2016, the City received 3 responses to Request for Proposals #4259-16 for water analysis. In concurrence with the established evaluation process, Public Works recommends award of this optional use contract to Anatek Labs, Inc. In addition to the initial three year term, this contract allows for two one year extensions when mutually agreed. Expense \$ 29,040 - SSLF Closed Cell #4490-45600-53748-54201-99999 Expense \$ 1,500 - WTE Storm water Sampling #4490-44100-37148-54201-99999

Fiscal Impact		Budget Account	
Expense	\$ 45,200 - Water	#	4100-42460-34141-54201
Expense	\$ 52,500 -Wastewater	#	4320-43260-35148-54950
Expense	\$ 27,918 - NSLF Closed Cell	#	4490-44850-53748-54201-99999
Expense	\$ 30,228 - NSLF Active Cell	#	4490-44800-53748-54201-99999
Approvals		Council Notifications	
Dept Head	SIMMONS, SCOTT M.	Study Session	
Division Director	SIMMONS, SCOTT M.	Other	Pub. Works Com.
Finance	KECK, KATHLEEN	Distribution List	
Legal	WHALEY, HUNT	aklein@spokanecity.org	
For the Mayor	WHITNEY, TYLER	dkegley@spokanecity.org	
Additional Approvals		cconklin@spokanecity.org	
Purchasing	PRINCE, THEA	colsen@spokanecity.org	
		dgreenlund@spokanecity.org	
		kathy@anateklabs.com	
		cwahl@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

Fiscal Impact

Select **\$**

Select **\$**

Budget Account

#

#

Distribution List

mcannon@spokanecity.org



City of Spokane

CONSULTANT AGREEMENT

Title: Chemical and/or Bacteriological Analysis of Water Samples

This Agreement is made and entered into by and between the City of Spokane ("City"), a Washington municipal corporation, and **Anatek Labs, Inc.**, 504 East Sprague Avenue, Suite D, Spokane, Washington 99202, ("Consultant"). Sometimes hereafter individually referenced as a "party", and together as the "parties".

Recitals:

WHEREAS, the purpose of this Agreement is to provide analytical services for chemical and bacteriological analysis of water samples for various City departments in accordance with the City's Request for Proposal; and

WHEREAS, this Consultant was selected from a Request For Proposal (RFP # 4259-16) issued by the City dated June 25, 2016, seeking qualified Laboratories to conduct laboratory analysis of water samples for the City of Spokane; and

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:

1. TERM OF AGREEMENT.

The term of this Agreement begin October 1, 2016, and ends on September 30, 2019, unless amended by written agreement or terminated earlier under the provisions. Contract renewals or extensions shall be initiated at the discretion of the City and subject to mutual agreement. The contract may be extended for two (2) additional one-year contract periods with the total contract period not to exceed five (5) years.

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.

Total compensation under this Agreement shall be a maximum amount not to exceed **ONE HUNDRED EIGHTY SIX THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$186,400.00)** for the three (3) years, in accord with Consultant's RFP #4259-16 dated June 24, 2016 submitted to the City, unless modified by a written amendment to this Agreement.

5. GUARANTEED PAY TO SMALL SUBCONSULTANTS.

Consultant of any tier shall pay their Subconsultants no less than 30 days after receipt of payment from the City, as partial payment for work invoiced to-date. The Consultant may withhold only the portion of amounts due for work in dispute. The Consultant shall ensure the Subconsultant has sufficient support for proper invoice preparation and submittal.

6. REIMBURSABLES

The reimbursables under this Agreement are to be included, and considered part of the maximum amount not to exceed (above), and require the Consultant's submittal of appropriate documentation and actual itemized receipts, the following limitations apply.

- 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 General Services Administration (GSA) 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 for 2016 is 54 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 markup. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual labor cost incurred and may include a four percent (4.00%) markup. This mark-up is not applicable to reimbursable expenses. Copies of all Subconsultant invoices that are rebilled to the City are required.

7. PAYMENT PROCEDURES.

The Consultant may submit invoices either by mail or electronically 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>SOLID WASTE DISPOSAL Administrative Office 2900 South Geiger Boulevard Spokane WA 99204 Or Email: ttauscher@spokanecity.org</p> <p>CITY OF SPOKANE Accounting – Water 808 West Spokane Falls Boulevard Spokane, WA 99201 Or Email: brickard@spokanecity.org and wateraccounting@spokanecity.org</p> <p>Riverside Park Water Reclamation Facility Laboratory Administrative Office 4401 North Aubrey L. White Parkway Spokane, WA 99205</p>
Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):
<ul style="list-style-type: none">• Invoice Date and Invoice Number• CITY OF SPOKANE• Department Contract No. OPR # _____• Contract Title: Chemical and/or Bacteriological Analysis of Water Samples• Period covered by the invoice• Project task # and title• Employee's name and classification• Employee's all-inclusive hourly rate and # of hours worked• Total labor costs per task• Itemization of direct, non-salary costs (per task, if so allocated)• The following Sub-Consultant payment information will be provided (attach Sub-Consultant invoices as backup):<ul style="list-style-type: none">○ Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).○ Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).• Cumulative costs per task and for the total project

8. TAXES, FEES AND LICENSES.

- A. Consultant shall pay and maintain in current status, all necessary licenses, fees, assessments, 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:
Doug Greenlund, Environmental Programs City Hall 808 West Spokane Falls Boulevard Spokane WA 99201	Firm Contact: Firm Name: Anatek Labs, Inc. Firm Address: 504 E. Sprague Avenue, Ste D Spokane, Washington 99202

10. SOCIAL EQUITY REQUIREMENTS.

- A. Consultant shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Consultant shall affirmatively try to ensure applicants are employed, and employees are treated during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identify, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap. Such efforts include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training. The Consultant agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Consultant.
- B. Consultant shall seek inclusion of woman and minority business for subcontracting whenever feasible. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

11. INDEMNIFICATION.

The Consultant shall indemnify and hold the City and their officers and employees harmless from all claims, demands, or suits at law or equity, including but not limited to reasonable attorney's fees and litigation costs asserted by third parties for bodily injury (including death) and/or property damage to the extent arising from the Consultant's negligence or willful misconduct under this Agreement; provided that nothing herein shall require a Consultant to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the conduct of the City, 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 City, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the City of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the Consultant, its agents or employees. The Consultant specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The Consultant recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

The City shall indemnify and hold the Consultant and their officers and employees harmless from all claims, demands, or suits at law or equity, including but not limited to reasonable attorney's fees and litigation costs asserted by third parties for bodily injury (including death) and/or property damage to the extent arising from the

City's negligence or willful misconduct under this Agreement; provided that nothing herein shall require a City to indemnify the Consultant against and hold harmless the Consultant from claims, demands or suits based solely upon the conduct of the Consultant, 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 City's agents or employees and (b) the Consultant, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the Consultant of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the City, its agents or employees. The City specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The City 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 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 (*RFP #4259-16*). 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.

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 the State of Washington.

The policies shall be issued by reputable companies that meet with a rating of at least A- or better by A.M. Best. 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 thirty (30) 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 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 subcontractant, 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 who begins work on this Project, 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 shall perform their duty to the standard of care normally practiced by professionals in similar location at a similar time. 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 ten (10) business days.
- 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 or Consultant may terminate this Agreement without cause and including for convenience, upon written notice to the other party.
- 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. EXPANSION FOR NEW WORK.

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

27. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- D. The Consultant, at no expense to the City, shall comply with all applicable 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 or 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 Kathleen A. Sattler 9-27-16
Signature Date

Kathleen A. Sattler
Type or Print Name

Lab Manager
Title

Attest:

City Clerk

CITY OF SPOKANE

By _____
Signature Date

Type or Print Name

Title

Approved as to form:

[Signature]
Assistant City Attorney

Attachments: Exhibit A – Consultant's Scope of Work per Response to City's RFP #4259-16

16-2081a

OPR 2016-0784

NOTE: "Attachment: Exhibit A" referenced on page 10 can be viewed in the City Clerk's office.



Agenda Sheet for City Council Meeting of: 10/17/2016

Date Rec'd	9/26/2016
Clerk's File #	OPR 2016-0795
Renews #	
Cross Ref #	
Project #	
Bid #	4259-16
Requisition #	CR17283

Submitting Dept	PUBLIC WORKS
Contact Name/Phone	DOUG GREENLUND (509) 625-6533
Contact E-Mail	DGREENLUND@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	4360 EDGE ANALYTICAL TO PROVIDE UTILITIES WATER TESTS

Agenda Wording

Contract with Edge Analytical (Burlington WA) to provide bacteriological and chemical analysis of groundwater and drinking water for Solid Waste Disposal, Water and Wastewater Depts. for a (3) year period. \$186,400 estimated expenditure. Est. \$62,100

Summary (Background)

On July 18, 2016 the City received 3 response to Request for Proposals #4259-16 for water analysis. In concurrence with the established evaluation process, Public works recommends award of this optional use contract to Edge Analytical. In addition to the initial three year term, this contract allows for two one year extensions when mutually agreed. Expense \$29,040 - SSLF Closed Cell #4490-45600-53748-54201-99999
Expense \$ 1,500 - WTE Storm water sampling #4490-44100-37148-54201-99999

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 45,200 - Water	#	4100-42460-34141-54201
Expense	\$ 52,500 - Wastewater	#	4320-43260-35148-54950
Expense	\$ 27,918 - NSLF Closed Cell	#	4490-44850-53748-54201-99999
Expense	\$ 30,228 - NSLF Active Cell	#	4490-44800-53748-54201-99999
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SIMMONS, SCOTT M.	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	Pub. Works 9/12/2016
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	aklein@spokanecity.org	
<u>For the Mayor</u>	CODDINGTON, BRIAN	dkegley@spokanecity.org	
<u>Additional Approvals</u>		cconklin@spokanecity.org	
<u>Purchasing</u>	PRINCE, THEA	colsen@spokanecity.org	
		dgreenlund@spokanecity.org	
		cwahl@spokanecity.org	
		bmiller@edgeanalytical.com	



City of Spokane

CONSULTANT AGREEMENT

Title: **Chemical and/or Bacteriological Analysis of Water Samples**

This Agreement is made and entered into by and between the City of Spokane ("City"), a Washington municipal corporation, and **Edge Analytical, Inc.**, 1620 South Walnut Street, Burlington, Washington 98233, ("Consultant"). Sometimes hereafter individually referenced as a "party", and together as the "parties".

Recitals:

WHEREAS, the purpose of this Agreement is to provide analytical services for chemical and bacteriological analysis of water samples for various City departments in accordance with the City's Request for Proposal; and

WHEREAS, this Consultant was selected from a Request For Proposal (RFP # 4259-16) issued by the City dated June 25, 2016, seeking qualified Laboratories to conduct laboratory analysis of water samples for the City of Spokane; and

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance of the Scope of Work contained herein, the City and Consultant mutually agree as follows:

1. TERM OF AGREEMENT.

The term of this Agreement begin October 1, 2016, and ends on September 30, 2019, unless amended by written agreement or terminated earlier under the provisions. Contract renewals or extensions shall be initiated at the discretion of the City and subject to mutual agreement. The contract may be extended for two (2) additional one-year contract periods with the total contract period not to exceed five (5) years.

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.

Total compensation under this Agreement shall be a maximum amount not to exceed **ONE HUNDRED EIGHTY SIX THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$186,400.00)** for the three (3) years, in accord with Consultant's RFP #4259-16 dated June 24, 2016 submitted to the City, unless modified by a written amendment to this Agreement.

5. GUARANTEED PAY TO SMALL SUBCONSULTANTS.

Consultant of any tier shall pay their Subconsultants no less than 30 days after receipt of payment from the City, as partial payment for work invoiced to-date. The Consultant may withhold only the portion of amounts due for work in dispute. The Consultant shall ensure the Subconsultant has sufficient support for proper invoice preparation and submittal.

6. REIMBURSABLES

The reimbursables under this Agreement are to be included, and considered part of the maximum amount not to exceed (above), and require the Consultant's submittal of appropriate documentation and actual itemized receipts, the following limitations apply.

- 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 General Services Administration (GSA) Index for the city in which the work is performed (*the current maximum allowed reimbursement amount can be provided upon request*). Receipts detailing each day / night lodging are required. The City will not reimburse for ancillary expenses charged to the room (e.g. movies, laundry, mini bar, refreshment center, fitness center, sundry items, etc.)
- G. **Vehicle mileage:** Vehicle mileage will be reimbursed at the Federal Internal Revenue Service Standard Business Mileage Rate in effect at the time the mileage expense is incurred (currently that rate for 2016 is 54 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 markup. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual labor cost incurred and may include a four percent (4.00%) markup. This mark-up is not applicable to reimbursable expenses. Copies of all Subconsultant invoices that are rebilled to the City are required.

7. PAYMENT PROCEDURES.

The Consultant may submit invoices either by mail or electronically 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>SOLID WASTE DISPOSAL Administrative Office 2900 South Geiger Boulevard Spokane WA 99204 Or Email: ttauscher@spokanecity.org</p> <p>CITY OF SPOKANE Accounting – Water 808 West Spokane Falls Boulevard Spokane, WA 99201 Or Email: brickard@spokanecity.org and wateraccounting@spokanecity.org</p> <p>Riverside Park Water Reclamation Facility Laboratory Administrative Office 4401 North Aubrey L. White Parkway Spokane, WA 99205</p>
Invoices under this Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):
<ul style="list-style-type: none">• Invoice Date and Invoice Number• CITY OF SPOKANE• Department Contract No. OPR # _____• Contract Title: Chemical and/or Bacteriological Analysis of Water Samples• Period covered by the invoice• Project task # and title• Employee's name and classification• Employee's all-inclusive hourly rate and # of hours worked• Total labor costs per task• Itemization of direct, non-salary costs (per task, if so allocated)• The following Sub-Consultant payment information will be provided (attach Sub-Consultant invoices as backup):<ul style="list-style-type: none">○ Amount Paid to all Sub-Consultants for the invoice period (list separate totals for each Sub-Consultant).○ Cumulative To-Date amount paid to all Sub-Consultants (list separate totals for each Sub-Consultant).• Cumulative costs per task and for the total project

8. TAXES, FEES AND LICENSES.

- A. Consultant shall pay and maintain in current status, all necessary licenses, fees, assessments, 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:
Doug Greenlund, Environmental Programs City Hall 808 West Spokane Falls Boulevard Spokane WA 99201	Firm Contact: Firm Name: Edge Analytical, Inc. Firm Address: 1620 South Walnut Street Burlington, Washington 98233

10. SOCIAL EQUITY REQUIREMENTS.

- A. Consultant shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Consultant shall affirmatively try to ensure applicants are employed, and employees are treated during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identify, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap. Such efforts include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training. The Consultant agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Consultant.
- B. Consultant shall seek inclusion of woman and minority business for subcontracting whenever feasible. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

11. INDEMNIFICATION.

The Consultant shall indemnify and hold the City and their officers and employees harmless from all claims, demands, or suits at law or equity, including but not limited to reasonable attorney's fees and litigation costs asserted by third parties for bodily injury (including death) and/or property damage to the extent arising from the Consultant's negligence or willful misconduct under this Agreement; provided that nothing herein shall require a Consultant to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the conduct of the City, 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 City, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the City of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the Consultant, its agents or employees. The Consultant specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The Consultant recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnification provided for in this section shall survive any termination or expiration of this Agreement.

The City shall indemnify and hold the Consultant and their officers and employees harmless from all claims, demands, or suits at law or equity, including but not limited to reasonable attorney's fees and litigation costs asserted by third parties for bodily injury (including death) and/or property damage to the extent arising from the

City's negligence or willful misconduct under this Agreement; provided that nothing herein shall require a City to indemnify the Consultant against and hold harmless the Consultant from claims, demands or suits based solely upon the conduct of the Consultant, 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 City's agents or employees and (b) the Consultant, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the Consultant of defending such claims and suits, etc.; shall be valid and enforceable only to the extent of the negligence of the City, its agents or employees. The City specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The City 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 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 (*RFP #4259-16*). 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.

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 the State of Washington.

The policies shall be issued by reputable companies that meet with a rating of at least A- or better by A.M. Best. 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 thirty (30) 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 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 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 who begins work on this Project, 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 shall perform their duty to the standard of care normally practiced by professionals in similar location at a similar time. 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 ten (10) business days.
- 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 or Consultant may terminate this Agreement without cause and including for convenience, upon written notice to the other party.
- 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. EXPANSION FOR NEW WORK.

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

27. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. Americans with Disabilities Act (ADA): Specific attention by the designer is required in association with the Americans with Disabilities Act (ADA) 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611, its requirements, regulations, standards and guidelines, which were updated in 2010 and are effective and mandatory for all State and local government facilities and places of public accommodation for construction projects including alteration of existing facilities, as of March 15, 2012. The City advises that the requirements for accessibility under the ADA, may contain provisions that differ substantively from accessibility provisions in applicable State and City codes, and if the provisions of the ADA impose a greater or equal protection for the rights of individuals with disabilities or individuals associated with them than the adopted local codes, the ADA prevail unless approval for an exception is obtained by a formal documented process. Where local codes provide exceptions from accessibility requirements that differ from the ADA Standards; such exceptions may not be permitted for publicly owned facilities subject to Title II requirements unless the same exception exists in the Title II regulations. It is the responsibility of the designer to determine the code provisions.
- D. The Consultant, at no expense to the City, shall comply with all applicable 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 or 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

9/28/16
Date

Lawrence J Henderson
Type or Print Name

Director of Laboratory/Vice President
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 – Consultant's Scope of Work per Response to City's RFP #4259-16

16-2082a

OPR 2016-0795

NOTE: "Attachment: Exhibit A" referenced on page 10 can be viewed in the City Clerk's office.



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/3/2016
Clerk's File #	OPR 2016-0796
Renews #	

Submitting Dept	INTEGRATED CAPITAL	Cross Ref #	
Contact Name/Phone	KATHERINE 625-6338	Project #	
Contact E-Mail	KEMILLER@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	
Agenda Item Name	4250 - MOU WITH WSU		

Agenda Wording

Memorandum of Understanding(MOU) between the City of Spokane and Washington State University regarding monitoring and maintenance of the University District Gateway Bridge.

Summary (Background)

The University Gateway Bridge was developed under a Type, Size and Location (TS&L) Study in 2012. During that study, maintenance was identified as a needed element for the day-to-day operation of the Bridge. WSU was directly involved during the TS&L Study and at that time agreed to be the responsible entity to provide basic maintenance, including but not limited to trash removal and tagging removal as well as snow removal. WSU was also directly involved with the design of the Bridge project

Fiscal Impact		Budget Account	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	MILLER, KATHERINE E	Study Session	
Division Director	SIMMONS, SCOTT M.	Other	Public Works 9/26/16
Finance	KECK, KATHLEEN	Distribution List	
Legal	WHALEY, HUNT	Engineering Admin	
For the Mayor	CODDINGTON, BRIAN	kemiller@spokanecity.org	
Additional Approvals		smsimmons@spokanecity.org	
Purchasing		kkeck@spokanecity.org	
		mdavis@spokanecity.org	
		mhughes@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

so they could have input on elements such as lighting and general layout.

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

BRIEFING PAPER
Public Works Committee
Integrated Capital Management
September 26, 2016

Subject:

MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF SPOKANE AND WASHINGTON STATE UNIVERSITY REGARDING MONITORING AND MAINTENANCE OF THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE

Background:

The University Gateway Bridge was developed under a Type, Size and Location (TS&L) Study in 2012. During that study, maintenance was identified as a needed element for the day-to-day operation of the Bridge. WSU was directly involved during the TS&L Study and at that time agreed to be the responsible entity to provide basic maintenance, including but not limited to trash removal and tagging removal as well as snow removal. WSU was also directly involved with the design of the Bridge project so they could have input on elements such as lighting and general layout.

The City of Spokane will be the responsible entity for the super structure of the bridge, i.e. the cables, structural elements and overall bridge inspection responsibilities. Both parties of this MOU have reached verbal approval of the document. The agreement will go into effect once the City deems the bridge project to be Physically Complete. The agreement will terminate in 5 years after which time the agreement will be open for renegotiation.

With the recent Council approvals of the BNSF agreements, the Construction agreement and overhead rights agreement, this MOU is one of the last two remaining agreements that are needed to be in place to allow the project to proceed to bid. Bid is currently on schedule for mid-November.

Impact:

The MOU lays out the areas of maintenance responsibility between the City and WSU. The City will provide WSU agreed upon equipment and deicer material to perform the maintenance work they are being asked to perform.

Action:

Recommend approval of the MOU between the City of Spokane and WSU

Funding:

Project funds will construct the bridge and provide initial equipment, ongoing material costs for deicer will be provide by Street Department funds.

MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE
CITY OF SPOKANE AND WASHINGTON STATE UNIVERSITY REGARDING,
MONITORING, AND MAINTENANCE OF THE UNIVERSITY DISTRICT (U-DISTRICT)
GATEWAY BRIDGE

THIS AGREEMENT is between the CITY OF SPOKANE as ("CITY"), and WASHINGTON STATE UNIVERSITY as ("WSU"). Hereafter referred to individually as "Party" and together referenced as the "Parties".

WHEREAS, CITY OF SPOKANE has contracted with WSU to maintain and monitor the U-District Bridge; and

WHEREAS, CITY will purchase and provide all maintenance & monitoring equipment as outlined in this MOU.

WHEREAS, WSU agrees to provide the ongoing labor resources necessary for the continued monitoring and maintenance of the U-District Bridge as outlined in this MOU and for the duration of the term of this Contract.

The parties agree as follows:

1. **THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE PROTOCOLS.**

CITY shall determine the color coding scheme for THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE Project and any future additions to the Project. THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE Project will be located entirely or partially within the CITY of Spokane right-of-way. WSU will be given a reasonable opportunity to review and comment.

CITY shall determine assignments for the UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE Project systems and any future additions to the Project located entirely or partially within the CITY of Spokane right-of-way. WSU will be given a reasonable opportunity to review and comment.

2. **CONTRACT TERM.** The Agreement shall begin when the project has been designated as Physically Complete by the City. Notification will be provided to WSU when the Physically Complete determination has been made. The agreement shall be terminated and renegotiated five years after the date of the Physically Complete determination, unless terminated earlier.

3. **THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE
INSTALLATION, OPERATION, AND MAINTENANCE.**

CITY will design and construct THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE at its sole cost. In doing so, CITY reserves the right to remove and/or relocate all components that conflict with the operation of existing, or the installation and operation of future CITY of Spokane THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE. If components in conflict are located on WSU property, the CITY agrees to remedy the condition to the satisfaction of WSU.

WSU shall be responsible for certain maintenance and operational duties for THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE, as set forth in this MOU. The CITY agrees to review future improvements to THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE with WSU in advance of implementing. WSU reserves the right to renegotiate this MOU if it determines the future improvements will cause significant material changes to its maintenance and operations duties under this MOU.

WSU shall notify CITY seventy two (72) hours prior to making any significant material changes to the intended use or function of any and all existing and future improvements to the UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE.

RESPONSIBILITIES OF THE PARTIES

4. **EXTENT OF WSU MAINTENANCE** (day to day operations). The extent of WSU maintenance will be from the North landing to the South Landing, including all landscaping, lighting and surface improvements installed by the UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE Project as indicated in the project construction documents. The CITY will submit to WSU all warranty data associated with the bridge project. Any issues observed by WSU during the warranty period will be communicated to the CITY in a timely fashion. The CITY will be responsible for managing all warranty related issues with the associated responsible party.

5. **WSU and CITY MAINTENANCE RESPONSIBILITIES.** WSU's responsibility includes sweeping, trash removal (if receptacles are planned in the design), snow removal, irrigation devices, landscape plantings and replacement of lamps (except bridge center pier and cable lighting/illumination). WSU will also be responsible only for superficial graffiti repairs to the extent the repairs do not require significant mechanical

or structural resurfacing of the damaged surface in which case the CITY shall be responsible. The following table identifies the basic responsibilities of each party:

CITY Maint. Responsibilities	WSU Maint. Responsibilities
Bridge Structural maintenance & repair	Landscape - north side and south side landing footprint
Bridge Inspection (structural)	Irrigation
Pavement Maintenance & repair	Pedestrian Lighting
Hardscape Maintenance & repair	Billings (Water and Pedestrian lighting)
Major repairs of Artwork	Snow removal
Bridge Conduit on-bridge(CITY usage only)	Sweeping
Signage (CITY standard signage only)	General graffiti
Storm system flushing and vac cleaning – approx. once annual or more frequently if required.	Security camera(s)
	Signage (WSU campus related)
	Bridge Deck Cleaning
	Security Patrols (consistent w/#9)

6. **EQUIPMENT TO MAINTAIN THE BRIDGE.** THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE Project will provide the initial equipment required to safely maintain and operate the UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE. The equipment shall be in new condition. The equipment will consist of a KUBOTA RTV-X 900WL-H 4x4 DIESEL UTILITY VEHICLE and are itemized as described in the Attachments to this MOU entitled: WSU RTV –X900 05-10-16, WSU Spokane RFV CAB 05-10-16, WSU Spokane RTV BLADE 05-10-16, and WSU SNOWEX SPREADER 05-11-16. The CITY will turn over the aforementioned equipment to WSU after the project has been deemed “Physically Complete” by the City.

7. **ADDITIONAL STOCK/MATERIALS.** The CITY will ensure that THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE Project will provide a minimum of two (2) extra lamps and ballasts of each lighting fixture type, as well as, one (1) extra irrigation head of each type. Extra stock will be turned over to WSU at the time it becomes obligated to do the maintenance.

8. **LIGHTING FIXTURES.** The lighting fixtures located on the bridge shall be no more than ten (10) foot in height to allow for safe maintenance of the equipment.

9. **SECURITY/SAFETY MEASURES.** WSU will extend its campus safety and security services to include THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE. The University District Pedestrian/Bicycle Bridge Project will include the installation of two (2) security cameras,(one located near the center of the Bridge and

one located at the north landing) and all associated infrastructure per WSU Standard Specifications.

10. **ARTWORK.** The University District Pedestrian/Bicycle Bridge Project may include artwork at both the north and south landings. The City will be responsible for the selection and installation of the Artwork. WSU will only be responsible for repair of any superficial graffiti damage to the artwork.

11. **BASIC MAINTENANCE OF STORM WATER/SNOW REMOVAL.** WSU will be allowed to wash the bridge deck into the bridge storm water collection system. The CITY will utilize their equipment for ongoing residue and debris removal from the bridge storm water collection system. THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE will accommodate up to fourteen (14) foot wide clear dimension for light duty truck loads for maintenance or operations equipment purposes including the ability to withstand pressure/load forces associated with motorized snow removal equipment. At the request of WSU, the CITY will provide magnesium chloride for snow/ice removal purposes on the bridge and ramps.. The UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE Project will include the installation of chains or similar pedestrian barriers with signage to direct pedestrian traffic to the ramps during inclement weather conditions. Snowmelt systems on the landing stairs are optional in lieu of pedestrian barriers, signs and chains.

12. **PAVEMENT/HARDSCAPE MAINTENANCE.** The CITY will be responsible for the maintenance of all hardscape and pavements associated with THE UNIVERSITY DISTRICT (U-DISTRICT) GATEWAY BRIDGE. This shall include but is not limited to: structural repairs, sealing and coating as necessary. WSU will be responsible for normal cleaning, sweeping and snow removal.

13. **ASSIGNMENT.** This MOU shall be binding upon the Parties their successors and assigns. Neither party may assign, in whole or in part, its interest in this MOU without the advanced approval of the other Party.

14. **INDEMNIFICATION.**

WSU and City shall each be responsible for their own acts and/or omissions and those of their officers, employees, and agents in the performance of this MOU. Neither Party shall be responsible for the acts and omissions of those entities or individuals not a Party to this Agreement.

WSU shall indemnify and hold harmless CITY from all loss, damage, liability, or expense resulting from any actual or alleged loss of or damage to any property, solely caused by or solely resulting from any act or omission of WSU in WSU's obligations in

this MOU. This agreement to indemnify and hold harmless shall be triggered upon the assertion of any such claim against CITY.

CITY shall indemnify and hold harmless WSU from all loss, damage, liability, or expense resulting from any actual or alleged loss of or damage to any property, solely caused by or solely resulting from any act or omission of CITY in CITY's obligations in this MOU. This agreement to indemnify and hold harmless shall be triggered upon the assertion of any such claim against WSU.

CITY and WSU understand that they will be bound by the comparative fault laws of the State of Washington. Each Party shall indemnify and hold harmless the other Party to this MOU according to the terms stated herein, and in the event that both Parties are determined to be negligent, any damages allowed must be levied in proportion to the percentage of negligence attributable to each Party.

The Parties agree that these indemnification obligations shall apply to claims made by their employees or their subcontractors against the other Party.

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

16. **OWNERSHIP AND USE OF RECORDS AND DOCUMENTS**. Original documents, drawings, designs, reports, or any other records developed or created under this Agreement shall belong to and become the property of the CITY. All records submitted by the CITY to WSU shall be safeguarded by WSU. WSU shall make such data, documents and files available to the CITY upon the CITY's request. If the CITY's use of WSU's records or data is not related to this project, it shall be without liability or legal exposure to WSU.

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

18. **INDEPENDENT CONTRACTOR**. The Parties to this MOU are independent contractors. This MOU does not create a partnership or joint venture between the Parties and neither Party is liable for the debts or obligations of the other Party. The employees or agents of each Party engaged in the performance of this MOU will continue to be employees or agents of that Party and will not be considered for any purpose to be employees or agents of the other Party.

19. **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 MOU 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. WSU and CITY agree 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 WSU or CITY.

20. **MISCELLANEOUS PROVISIONS.**

A. **NON-WAIVER:** No waiver by any Party of any of the terms of this MOU shall be construed as a waiver of the same or other rights of that Party in the future.

B. **ENTIRE AGREEMENT:** This MOU contains terms and conditions agreed upon by the Parties. The Parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this MOU. No changes or additions to this MOU shall be valid or binding upon the Parties unless the change or addition is in writing, executed by authorized representatives of the Parties.

C. **HEADINGS:** The section headings appearing in this MOU have been inserted solely for the purpose of convenience and ready reference.

D. **COUNTERPARTS:** This MOU may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but the counterparts shall together constitute but one and the same.

E. **DISPUTES.** The Parties agree to use reasonable and good faith efforts to resolve any disputes under this MOU through informal means. In the unlikely event that formal action must be taken, each Party shall bear its own costs and attorney fees. This MOU shall be governed by and construed in accordance with the laws of the State of Washington. Any litigation to enforce this MOU or any of its provisions shall be brought in the Superior Court for Spokane County, Washington.

F. **SEVERABILITY.** If any provision of this MOU or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this MOU which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this MOU, and to this end the provisions of this MOU are declared to be severable.

21. **NOTICES**: All notices or other communications given under this Agreement shall be deemed given on: (i) the day the notices or other communications are received when sent by personal delivery; or (ii) the third (3rd) day following the day on which the notices or other communications have been mailed by certified mail delivery, receipt requested and postage prepaid addressed to the other party at the address set forth below, or at another address as the parties shall from time-to-time designate by advanced notice in writing to the other party.

CITY: Department Director or designee
CITY of Spokane
901 North Nelson Street
Spokane, Washington 99202-3769

WSU: Vice Chancellor of Finance & Administration
Washington State University Health Sciences Spokane
PO Box 1495
Spokane WA, 99210-1495

** both WSU and CITY will have a role, details will be discussed further

The individuals signing this MOU affirm that they have been granted the authority to do so by their respective Party and by their signature affirm that their Party will comply with the terms and conditions of this MOU.

DATED: _____

CITY OF SPOKANE

By: _____

Title: _____

Washington State University

By: _____

Title: _____

By: _____

Title: _____



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/3/2016
Clerk's File #	OPR 2016-0797
Renews #	

Submitting Dept	DEVELOPER SERVICES CENTER	Cross Ref #	
Contact Name/Phone	ALI BRAST 625-6638	Project #	
Contact E-Mail	ABRAST@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	
Agenda Item Name	4700 – MULTI FAMILY HOUSING – 926 WEST SPRAGUE AVENUE		

Agenda Wording

Multi Family Housing Property Tax Exemption Agreement with Cowles Real Estate Company for one multi-family building with 32 units located at 926 West Sprague Avenue, Parcel Number(s) 35183.0905. (Riverside Neighborhood Council)

Summary (Background)

RCW Chapter 84.14 authorized the City to create a multiple family housing property tax exemption program and to certify qualified property owners for that property tax exemption. The City Council Enacted Ordinance No. C-32575, which provides for the property tax exemption program for multiple housing in residential targeted areas. Pursuant to Ordinance No. C-33079, the City Council expanded the residential targeted areas.

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

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	BECKER, KRIS	<u>Study Session</u>	
<u>Division Director</u>	MALLAHAN, JONATHAN	<u>Other</u>	PED 9/19/16
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	Engineering Admin	
<u>For the Mayor</u>	CODDINGTON, BRIAN	mpiccolo@spokanecity.org	
<u>Additional Approvals</u>		jmallahan@spokanecity.org	
<u>Purchasing</u>		kbecker@spokanecity.org	
		kkeck@spokanecity.org	
		abrast@spokanecity.org	
		htrautman@spokanecity.org	

BRIEFING PAPER
City of Spokane
MFTE Incentive Program / Planning and Development
September 19, 2016

Subject:

A Multi-Family Tax Exemption Conditional Contract for one multi-family building with 32 units, located at 926 W Sprague Ave

Purpose:

Chapter 84.14 RCW authorizes the City to create a multiple family housing property tax exemption program and to certify qualified property owners for that property tax exemption. The City Council enacted Ordinance No. C-32575, which provides for the property tax exemption program for multiple housing in residential targeted areas. Pursuant to Ordinance No. C-33079, the City Council expanded the residential targeted areas. The State statute and the City ordinance require the City to approve the application regarding the tax exemption and the necessary construction requirements. The City has received an application from Cowles Real Estate Company for a project of 32 multiple family housing units at 926 W Sprague. The staff has reviewed the application and determined that it meets the requirements of Chapter 8.15 SMC and qualifies for the tax exemption. This contract authorizes the appropriate city official to enter into the attached Multiple Family Housing Property Tax Exemption Agreement, which will ultimately result in the issuance of a final certificate of tax exemption to be filed with the Spokane County Assessor's Office.

Details:

Cowles Real Estate Company

MFTE target area: Downtown

Qualifying parcels: 35183.0905

Units: 32

STA Routes: Directly on Routes 20 & 21, with bus stop all around and two blocks from STA Plaza

Affordable: Market Rate

Project Area Map:



Recommendation:

Pursuant to SMC 08.15.060, the city council certifies the qualified property owner for this property tax exemption. This contract will be brought forward to City Council in the next few weeks.

For more information contact: Ali Brast, 509-625-6638, abrast@spokanecity.org
Planning & Development Services Department

MULTIPLE FAMILY HOUSING PROPERTY
TAX EXEMPTION AGREEMENT

THIS AGREEMENT is between the City of Spokane, a Washington State municipal corporation, as "City", and Cowles Real Estate Company, as "Owner" whose business address is P.O. Box 2160.

WITNESSETH:

WHEREAS, The City has, pursuant to the authority granted to it by Chapter 84.14 RCW, designated various residential targeted areas for the provision of a limited property tax exemption for new and rehabilitated multiple family residential housing; and

WHEREAS, The City has, through SMC Chapter 8.15, enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Spokane County Assessor that the Owner is eligible to receive the multiple family housing property tax exemption; and

WHEREAS, The Owner is interested in receiving the multiple family property tax exemption for new multiple family residential housing units in a residential targeted area; and

WHEREAS, The Owner has submitted to the City a complete application form for no fewer than a total of four new multiple family permanent residential housing units to be constructed on property legally described as:

RES&ADD SPOKANE FALLS L7-8 B24

Assessor's Parcel Number(s) 35183.0905, commonly known as 926 W SPRAGUE AVE.

WHEREAS, The City has determined that the improvements will, if completed as proposed, satisfy the requirements for a Final Certificate of Tax Exemption; -- NOW, THEREFORE,

The City and the Owner do mutually agree as follows:

1. The City agrees to issue the Owner a Conditional Certificate of Acceptance of Tax Exemption subsequent to the City Council's approval of this agreement.
2. The project must comply with all applicable zoning requirements, land use requirements, design review recommendations and all building, fire, and housing code requirements contained in the Spokane Municipal Code at the time a complete application for a building permit is received. However, if the proposal includes rehabilitation or demolition in preparation for new construction, the residential portion of the building shall fail to comply with one or more standards of applicable building or housing codes, and the

rehabilitation improvements shall achieve compliance with the applicable building and construction codes.

3. If the property proposed to be rehabilitated is not vacant, the Owner shall provide each existing tenant with housing of comparable size, quality and price and a reasonable opportunity to relocate.

4. The Owner intends to construct on the site, approximately 32 new multiple family residential housing units substantially as described in their application filed with and approved by the City. In no event shall such construction provide fewer than a total of four multiple family permanent residential housing units.

5. The Owner agrees to complete construction of the agreed-upon improvements within three years from the date the City issues the Conditional Certificate of Acceptance of Tax Exemption or within any extension granted by the City.

6. The Owner agrees, upon completion of the improvements and upon issuance by the City of a temporary or permanent certificate of occupancy, to file with the City's Business & Development Services Department the following:

(a) a statement of the actual development cost of each multiple family housing unit, and the total expenditures made in the rehabilitation or construction of the entire property;

(b) a description of the completed work and a statement that the rehabilitation improvements or new construction of the Owner's property qualifies the property for the exemption;

(c) a statement that the project meets the affordable housing requirements, if applicable; and

(d) a statement that the work was completed within the required three-year period or any authorized extension of the issuance of the conditional certificate of tax exemption.

7. The City agrees, conditioned on the Owner's successful completion of the improvements in accordance with the terms of this Agreement and on the Owner's filing of the materials described in Paragraph 6 above, to file a Final Certificate of Tax Exemption with the Spokane County Assessor indicating that the Owner is qualified for the limited tax exemption under Chapter 84.14 RCW.

8. The Owner agrees, within 30 days following the first anniversary of the County's filing of the Final Certificate of Tax Exemption and each year thereafter for a period of eight years, to file a declaration with the City's Business and Development Services Department, verified upon oath and indicating the following:

(a) a statement of occupancy and vacancy of the multiple family units during the previous year;

(b) a certification that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in SMC 8.15.090 since the date of the filing of the Final Certificate of Tax Exemption, and continues to be in compliance with this Agreement and the requirements of SMC Chapter 8.15; and

(c) a description of any improvements or changes to the property made after the filing of the final certificate or last declaration.

9. The parties acknowledge that the units are to be used and occupied for multifamily residential use. The parties further acknowledge that the certificate of occupancy issued by the City is for multifamily residential units. The Owner acknowledges and agrees that the units shall be used primarily for residential occupancy and any business activities shall only be incidental and ancillary to the residential occupancy.

10. If the Owner converts to another use any of the multiple family residential housing units constructed under this Agreement, or if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in SMC 8.15.090 or any other condition to exemption, the Owner shall notify the Spokane County Assessor and the City's Business and Development Services Department within 60 days of such change in use.

11. The Owner will have the right to assign its rights under this Agreement. The Owner agrees to notify the City promptly of any transfer of Owner's ownership interest in the Site or in the improvements made to the Site under this Agreement.

12. The City reserves the right to cancel the Final Certificate of Tax Exemption should the Owner, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement or of SMC Chapter 8.15.

13. No modifications of this Agreement shall be made unless mutually agreed upon by the parties in writing.

14. The Owner acknowledges its awareness of the potential tax liability involved if and when the property ceases to be eligible for the incentive provided pursuant to this agreement. Such liability may include additional real property tax, penalties and interest imposed pursuant to RCW 84.14.110. The Owner further acknowledges its awareness and understanding of the process implemented by the Spokane County Assessor's Office for the appraisal and assessment of property taxes. The Owner agrees that the City is not responsible for the property value assessment imposed by Spokane County at any time during the exemption period.

15. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement, which can be given effect without the conflicting term or clause, and to this end, the terms of this Agreement are declared to be severable.

16. Nothing in this Agreement shall permit or be interpreted to permit either party to violate any provision of Chapter 84.14 RCW or SMC Chapter 8.15.

17. This Agreement is subject to approval by the City Council.

DATED this _____ day of _____, 2016

CITY OF SPOKANE

Doug Yost for Cowles Real Estate Company

By: _____

Mayor, David A. Condon

Attest:

City Clerk

By: 

Its: Director of Real Estate for CRES
Representing Cowles Real Estate Company

Approved as to form:

Assistant City Attorney

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this _____ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared DAVID A. CONDON and TERRI L. PFISTER, to me known to be the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, 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 said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 2016.

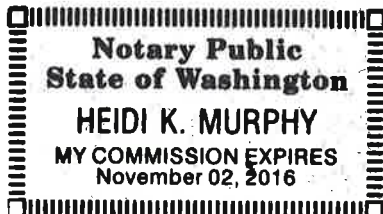
Notary Public in and for the State
of Washington, residing at Spokane

My commission expires _____

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this 2 day of August, 2016, before me, the undersigned, a Notary Public in and for the State of Washington, personally appeared Douglas C. Yost, to me known to be the person who executed the within and foregoing instrument, and acknowledged the said instrument to be his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 2 day of August, 2016.



Heidi K. Murphy

Notary Public in and for the State
of Washington, residing at Spokane

My commission expires 11-2-16



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/6/2016
Clerk's File #	OPR 2011-0801
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	BEN STUCKART 625-6269
Contact E-Mail	BSTUCKART@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0320 DOWNTOWN BID ADMINISTRATION AND OPERATIONS AGREEMENT

Agenda Wording

Renewed contract for administration and operations for downtown BID with DSP for five year term, 2017-2021.

Summary (Background)

This is the renewed contract for the operations and administration of the downtown Spokane parking and business improvement area (BID), authorized by chapter 04.31, SMC. This contract is for a five year term, beginning January 1, 2017 and ending on December 31, 2021.

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

<u>Approvals</u>	<u>Council Notifications</u>
<u>Dept Head</u>	SCOTT, ALEXANDER
<u>Division Director</u>	
<u>Finance</u>	KECK, KATHLEEN
<u>Legal</u>	ODLE, MARI
<u>For the Mayor</u>	CODDINGTON, BRIAN

<u>Study Session</u>	
<u>Other</u>	Finance Committee 10/3/16
<u>Distribution List</u>	
<u>Additional Approvals</u>	
<u>Purchasing</u>	



City of Spokane

**DOWNTOWN BUSINESS IMPROVEMENT
DISTRICT AGREEMENT**

Title: **BID Administration and Operations Agreement**

THIS AGREEMENT is effective as of the 1st day of January, 2017, by and between **THE CITY OF SPOKANE**, a municipal corporation, having its principal place of business at 808 West Spokane Falls Boulevard, Spokane, Washington, 99201, as ("City"), and **DOWNTOWN SPOKANE DEVELOPMENT ASSOCIATION**, d/b/a Downtown Spokane Partnership, as ("Corporation"), having its principal place of business at 10 North Post Street, Suite 400, Spokane, Washington, 99201. Hereafter individually a "party", and together referenced as the "parties".

WITNESSETH:

WHEREAS, as part of the City's "Fast Forward Spokane: Downtown Plan Update" (the "Downtown Plan Update"), the City desires to obtain certain enhanced municipal services which will ensure the continued vitality of the downtown area, and, pursuant to the authority granted under Chapter 35.87A RCW, has established the Downtown Spokane Parking and Business Improvement Area (the "BID"), as described in chapter 04.31, SMC (the "Ordinance"), to provide funding for such enhanced municipal services; and

WHEREAS, section 04.31.090 of the Spokane Municipal Code allows the City to enter into a contract regarding the administration and operation of BID programs, and the Corporation is willing and able to provide such services to the City, as herein described on the terms and conditions set forth below.

-- **NOW, THEREFORE**, the parties agree as follows:

ARTICLE ONE
SCOPE OF SERVICES

1.1 **Purpose.** The Corporation is hereby retained pursuant to SMC 04.31.090 and RCW 35.87A.110 to administer the BID on the City's behalf.

1.2 **Compliance with Laws.** The Corporation shall comply with all applicable laws, ordinances, and codes of the United States, the State of Washington, and the City of Spokane, including chapter 04.31 SMC. The Corporation will not discriminate against any worker, employee, or applicant, or member of the public, because of race, creed, color, religion, sex, or national origin, nor otherwise commit an unfair

employment practice. The Corporation further agrees that a similar clause will be incorporated in all contracts entered into with suppliers and subcontractors, and all labor organization furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this Agreement. During the term of the Agreement, the Corporation shall make a good faith effort to utilize minority business enterprises and women-owned business enterprises.

1.3 Work Program. The Corporation shall, during the term of this Agreement, perform the general services described in Article Two hereof, as the services may be further defined, limited, or expanded in the applicable work program and budget as described in Exhibit "A" and this Agreement. The attached Exhibit "A" describes the Corporation's Work Program for the twelve (12) months' activities in calendar year 2017. The Corporation shall submit to the City Council a proposed work program and operating budget for each subsequent calendar year by no later than November 25 of the prior year and the City Council shall take action and approve a work program and budget by no later than December 15 of the prior year.

1.4 Special Assessments. The Corporation shall provide to the City, on an annual basis, a computer database of business and property ownership information for the purposes of billing and collecting special assessments. The City's Chief Financial Officer will take assessment base information and apply rates to generate an annual bill due on December 20 of each year. Payments will become delinquent thirty (30) days thereafter and will be subject to collection policies established and enforced by the City. The City's Chief Financial Officer will collect and deposit all BID assessment income in the BID Fund created by SMC 04.31.060. The City shall provide to the Corporation monthly financial reports on money received in and disbursements from the BID Fund no later than the fifteenth day of each month.

1.5 Progress Reports and Audits. The Corporation shall provide quarterly progress reports to the City no later than thirty (30) days following the end of each quarter: March 31, June 30, September 30, and December 31 of each year covered by this Agreement. In addition, the Corporation shall provide to the City an independent audit report of expenditures within one hundred eighty (180) days after the end of each fiscal year of the Corporation and within one hundred eighty (180) days after the termination of this Agreement. In carrying out its work programs under this Agreement, and developing plans as described in Article Two, the Corporation shall coordinate and consult with staff from the appropriate City Departments

1.6 Service Levels within District. The City shall continue to provide within the BID the same level of municipal services as were provided within the BID boundaries as of January, 2012, and not otherwise funded with parking and business improvement area assessments. It is the City's intention not to use or rely on any services provided to the BID as the result of the creation of the BID, this Agreement, or any subsequent agreement to relieve or lessen the obligation of the City to provide such existing municipal services within the BID, except as may be otherwise agreed by the parties. The parties recognize that the general level of municipal services provided throughout the City, including the BID, is subject to the annual budget and appropriation processes of the City. The parties also recognize that the City, in its exercise of responsible management, may find it necessary on occasion to make reallocations or shifts of personnel, materials, or other resources, to preserve the health, welfare, and safety of its citizens.

ARTICLE TWO

CORPORATION DUTIES

2.1 Professional Management and Planning. The Corporation will administer and operate the BID programs and services listed in SMC § 04.31.030(A). The Corporation will provide staff assistance to the Ratepayer Advisory Board created by SMC § 04.31.080. The Corporation will coordinate with the Ratepayer Advisory Board in developing recommendations regarding the BID budget, expenditures, and programs, but nothing contained herein shall be construed as requiring the Corporation to agree at all times with the Board's recommendations. The Corporation shall convene and administer an annual meeting of all ratepayers on or before February 28 of each year. The Corporation will notify all ratepayers of the annual meeting and all Ratepayer Advisory Board meetings through a newsletter or some other written communication.

2.2 Financial Reporting Requirements. All costs incurred or paid by the Corporation pursuant to this Agreement shall be supported by properly executed payrolls, time records, invoices, vouchers, or other documentation, as evidence of the nature and propriety of the charges. All accounting documents pertaining in whole or in part of this Agreement shall be clearly identified and readily accessible to the City, and the City shall have the right to audit the records of the Corporation, as they relate to work performed under this Agreement, upon reasonable notice. The Corporation shall also maintain financial records in accordance with Washington State Records Retention Law (chapter 40.14 RCW) for a period of three (3) years after receipt of final payment under this Agreement.

2.3 Marketing. In the furtherance of SMC § 04.31.030(A)(2), the Corporation shall develop and implement an integrated, comprehensive marketing plan for the BID. The Corporation's marketing plan shall attempt to create a unique identity for the BID, improve the public image of the downtown area and address the specific needs of potential users of downtown services. Marketing services performed, supported, and/or coordinated by the Corporation may include, but are not limited to, brochures, special events and festivals, advertising, arts and cultural activities, and the promotion of the retail and hospitality industry within the BID. The Corporation's work program also may include training, educational, and market research activities.

2.4 Maintenance Planning. In the furtherance of SMC § 04.31.030(A)(4), the Corporation may evaluate the current level of maintenance services provided by the City within the BID, project increased maintenance services that may be desirable to implement the "Downtown Plan Update," and estimate the costs for providing such increased maintenance services. The Corporation may investigate and evaluate the extent to which it can coordinate, support, and/or supplement private maintenance services currently handled by property owners within the BID.

2.5 Security. In the furtherance of SMC § 4.31.030(A)(1), the Corporation shall hire, supervise, and manage security "ambassadors" for the BID, provided, however, that the Corporation may subcontract some or all of these duties so long as the Corporation retains the right to terminate such subcontractor in its discretion upon no more than sixty (60) days' prior notice. The Corporation or its subcontractors shall use its best efforts to cause the ambassadors to receive appropriate education and training in security, medical emergencies, available facilities within the BID boundaries, and the importance of establishing and maintaining goodwill with users of the BID. The Corporation may adopt special uniforms for such ambassadors identifiable to the BID and may establish a system of coordination with the City Police Department and private security entities.

2.6 Transportation and Parking. In the furtherance of SMC § 4.31.030(A)(3), the Corporation shall provide advice and input to the City regarding transportation issues affecting the BID, including, but not limited to, parking meter rate/time structure and enforcement, techniques to enhance pedestrian and traffic flow and safety, and mass transportation. In addition, the Corporation shall, in cooperation with City representatives, develop an effective parking management program which may include, but not be limited to: (i) coordination of on-street parking; (ii) parking validation; and (iii) signage to identify parking facilities and to direct users of the BID to key activity centers.

2.7 Urban Design and Planning. In the furtherance of SMC § 4.31.030(A)(2) and (3), the Corporation shall contract with independent consultants as needed to provide design assistance for selected urban design and planning issues. These issues may include, but not be limited to: (i) the establishment of a positive unifying theme for the BID; (ii) the design and use of aesthetically pleasing screening devices around parking and vacant lots; (iii) street level storefront facades in selected areas; (iv) landscaping to provide a pleasant pedestrian environment; and (v) infrastructure and access planning. All design plans shall be reviewed by and coordinated with relevant City departments (as designated by the Office) and shall be consistent with all applicable plans and ordinances adopted by the City Council.

2.8 Economic Development. In the furtherance of SMC § 4.31.030(A)(2) and (6), the Corporation may establish “councils” for the purpose of planning and focusing on strategic initiatives and professional development, which initiatives may include, but not be limited to, retail management concepts and marketing strategies, business retention and recruitment, development of downtown housing and creation of neighborhood services that support downtown living.

ARTICLE THREE **COMPENSATION**

3.1 Annual Fee. For each calendar year during the term of this Agreement, as compensation for the services provided hereunder, the City shall pay to the Corporation an **amount equal to the budget approved by the City Council for the agreed-upon work program applicable to each such year**, as adopted pursuant to Section 1.3 above. The budgeted amount will represent the annual assessment due from business and property owners within the BID, as authorized by RCW 35.87A and the Ordinance, as well as approved City funding contributions. The annual services fee shall be paid to the Corporation in equal quarterly installments no later than the dates as follows: January 15, April 15, July 15, and October 15. In no event will the City pay the Corporation more money than is received from the levy of special assessments in the BID.

3.2 Invoices. The Corporation shall send an invoice to the City reflecting amounts to be paid to the Corporation hereunder not less than fourteen (14) days prior to the date each quarterly installment payment is due. In the event the due date of any quarterly installment falls on a weekend or a City holiday, the installment shall be due on the next business day of the City.

3.3 Payment. The City reserves the right to withhold payments hereunder pending timely delivery of services, program reports, or documents as are required under this Agreement; provided, no such payment will be withheld unless the Office has provided the Corporation, no less than ten (10) business days before the due date of the payment, written notice of the City’s intent to withhold the payment. In the event that the City determines in good faith that any BID assessment funds were expended by the Corporation for unauthorized or ineligible purposes, or constitute disallowed costs, the Office may

demand repayment of the funds in writing. Upon receiving a written demand, the Corporation will have thirty (30) days to repay the funds or to present the Office with a written report showing that the challenged expenditures were proper. If the Office and the Corporation cannot agree on the propriety of the challenged expenditure, the parties will submit the dispute to an arbitration panel comprised of the Chair and the Vice Chair of the Ratepayer Advisory Board and one representative from the Washington State Auditor's Office. The arbitration panel must render a decision regarding the challenged expenditure, which decision shall be binding on the parties, within thirty (30) days after the panel is convened. In the event the Corporation shall do so within thirty (30) days after written notice of such determination is delivered to the Corporation.

ARTICLE FOUR **TERM AND TERMINATION**

4.1 Term. The term of the Agreement shall begin on January 1, 2017 and shall end on December 31, 2021. This Agreement may be continued for an additional five (5) year period upon written agreement of the parties.

4.2 Automatic Termination. This Agreement shall terminate automatically (i) at the end of any calendar year in which the City Council fails to approve a work program, assessment roll and budget for the succeeding calendar year as provided in Section 1.3 above, (ii) at the end of any calendar year in which the BID terminates or (iii) if the Corporation ceases to exist. In any such event, the Corporation will be paid compensation for services satisfactorily performed to the termination date.

4.3 Permissive Termination. This Agreement may be terminated by the Corporation upon thirty (30) days' written notice in the event the Corporation is unable to provide the full service required under this Agreement. The Corporation shall repay to the City any funds in the possession of the Corporation at the time of the termination of this Agreement that may be due to the City.

4.4 Termination for Cause. Either party may terminate this Agreement for cause upon giving the other party thirty (30) days' written notice of termination. As used herein, "cause" shall mean (i) the breach of any material term or condition of the Agreement, (ii) an unlawful act or unlawful failure to act relating to the subject matter of the Agreement, or (iii) the use of funds in any material amount for a purpose not authorized in the applicable work program and budget. The termination of this Agreement shall only become effective if the breaching party fails to cure the breach within the thirty (30) day period after notice has been given hereunder.

ARTICLE FIVE **QUALITY OF PERFORMANCE**

5.1 Performance. The City shall judge in good faith the adequacy and efficacy of work performed, the sufficiency of records and the services delivered. If, during the course of this Agreement, the services rendered do not meet the desired results of the City, the Corporation shall correct, modify, and/or properly perform the services to the satisfaction of the City.

5.2 Indemnity/Hold Harmless. The City shall hold harmless, indemnify, and defend the Corporation from all claims, damages, and expenses directly arising out of or resulting from any willful or negligent act or omission of the City or any of its agents, officers, or employees under this Agreement.

The Corporation shall hold harmless, indemnify, and defend the City from all claims, damages, and expenses directly arising out of or resulting from any willful or negligent act or omission of the Corporation or any of its agents, officers, or employees under this Agreement.

5.3 Insurance. During the term of this Agreement, the Corporation shall maintain in force, at its own expense, the following types and amounts of insurance:

A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide worker's compensation coverage of all their subject workers;

B. General Liability Insurance on an occurrence basis, with a combined single limit, of not less than \$1,500,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Agreement. It shall provide that the City, its agents, officers, and employees are Additional Insureds but only with respect to the Corporation's services to be provided under this Agreement.

C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for Bodily Injury and Property Damage, including coverage owned, hired, or non-owned vehicles.

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

ARTICLE SIX **MISCELLANEOUS**

6.1 Parties-in-Interest and Assignment. This Agreement is binding upon and is for the benefit of the parties hereto and the respective successors and assigns, and no third person who is not a party hereto shall have any rights under this Agreement, either as a third party beneficiary or otherwise. Neither party may assign this Agreement without the prior written consent of the other party.

6.2 Notices. Any notice, document, report, or other communication required or permitted hereunder shall be in writing and shall be delivered personally or by regular U.S. mail, postage prepaid, addressed as follows:

If to City:	Mayor's Office City of Spokane Seventh Floor – City Hall 808 W. Spokane Falls Blvd. Spokane, WA 99201-3303 Attention: Mayor
If to Corporation:	Downtown Spokane Development Association dba Downtown Spokane Partnership 211 North Wall Street, Suite 300 Spokane, WA 99201 Attention: Mark Richard

or to such other person or address as any such party may designate by written notice as provided in this Section 6.2. Any notice or other document or report hereunder shall be deemed delivered or given as of the date received, if delivered in person, or as of the date sent if mailed.

6.3 Entire Agreement. This Agreement supersedes any and all prior oral or written agreements and understandings relating to the subject matter hereof and contains the entire agreement of the parties relating to the subject matter hereof. All exhibits, addenda, schedules, and appendices hereto, nor or hereafter created, are incorporated into this Agreement by reference and made a part hereof. The terms "hereof," "herein," and like words shall refer to this Agreement in its entirety and shall include such exhibits, addenda, schedules, and appendices. This Agreement cannot be amended or modified, except by a written agreement executed by the parties hereto or their respective successors or assigns.

6.4 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the state of Washington, and handled by a court of competent jurisdiction in the County of Spokane. A finding that any term or provision of this Agreement is invalid or unenforceable shall not affect the validity or enforceability of the remainder of this Agreement.

6.5 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

ATTEST:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

Downtown Spokane Development Association

By: _____

Title: _____



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/4/2016
Clerk's File #	OPR 2011-0802
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	BEN STUCKART 6258
Contact E-Mail	BSTUCKART@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	0320 - DOWNTOWN BID SECURITY AND MAINTENANCE AGREEMENT

Agenda Wording

Agreement with Downtown Spokane Partnership for security and maintenance services in the downtown BID.

Summary (Background)

This agreement extends for an additional 5-year period the security and maintenance services agreement with the Downtown Spokane Partnership for services within the downtown Parking and Business Improvement Area (PBIA) for a term beginning January 1, 2017 and ending December 31, 2021.

<u>Fiscal Impact</u>	<u>Budget Account</u>
Expense \$ 100,000.00	# 0020-88300-19990-54101
Select \$	#
Select \$	#
Select \$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SCOTT, ALEXANDER	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	Finance Committee, 10/3/16
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	ODLE, MARI	mrichard@downtownspokane.net	
<u>For the Mayor</u>	CODDINGTON, BRIAN	rrobertson@spokanecity.org	

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



City of Spokane
**DOWNTOWN BUSINESS IMPROVEMENT
DISTRICT AGREEMENT**

Title: **Security and Maintenance Agreement**

THIS AGREEMENT is effective as of the 1st day of January, 2017, by and between **THE CITY OF SPOKANE**, a Washington first-class charter city located at 808 West Spokane Falls Boulevard, Spokane, Washington, 99201, as ("City"), and the **DOWNTOWN SPOKANE DEVELOPMENT ASSOCIATION**, d/b/a Downtown Spokane Partnership, as ("Corporation"), having its principal place of business at 10 North Post Street, Suite 400, Spokane, Washington, 99201. Hereafter individually a "party", and together referenced as the "parties".

WITNESSETH:

WHEREAS, the City desires to obtain certain supplemental security and maintenance services to provide for a cleaner, safer, and more attractive downtown area; and, pursuant to the authority granted under Chapter 35.87A RCW, has established the Downtown Spokane Parking and Business Improvement Area (the "BID"), as described in chapter 04.31, SMC (the "Ordinance"); and

WHEREAS, the Corporation is willing and able to provide such supplemental security and maintenance services to the City, as herein described and on the terms and conditions set forth below.

-- **NOW, THEREFORE**, in consideration of the premises and mutual obligations of the parties contained herein, the parties covenant and agree as follows:

ARTICLE ONE
SCOPE OF SERVICES

1.1 **Purpose.** The purpose of this Agreement is to provide security and maintenance services within the BID boundaries to supplement the security and maintenance programs funded with BID assessment income and the general municipal services delivered by the City.

1.2 **Compliance with Laws.** The Corporation shall comply with all applicable laws, ordinances, and codes of the United States, the State of Washington, and the City of Spokane, including chapter 04.31 SMC at all times during the term of this Agreement. The Corporation will not discriminate against any worker, employee, or applicant, or member of the public, because of race, creed, color, religion, sex, or national origin, nor otherwise commit an unfair employment practice. The Corporation further agrees that a similar clause will be incorporated in all contracts entered into with suppliers and subcontractors, and all labor organization furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this Agreement. The City encourages the Corporation to participate,

and encourage participation in all of its contracts, by firms certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE).

The Corporation further agrees that similar clauses to the same effect shall be incorporated in all contracts entered into with suppliers and subcontractors, and all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this Agreement. The City will provide the Corporation with copies of all such policies and ordinances.

1.3 Work Programs. The Corporation shall, during the term of this Agreement, perform the security and maintenance services described in Article Two, as the services may be further defined, limited, or expanded in the applicable scope of work and budget set forth in Exhibit "A" which is made a part of this Agreement by reference.

1.4 Progress Reports and Audits. The Corporation shall provide quarterly progress reports to the City no later than thirty (30) days following the end of each quarter: March 31, June 30, September 30, and December 31 of each year covered by this Agreement. In carrying out its work programs under this Agreement and developing plans as described in Article Two, the Corporation shall coordinate and consult with staff from the appropriate City Departments, as designated by the Mayor's Office (the "Office"). The Corporation shall observe and comply with any applicable City approval and permit processes in carrying out its work programs.

1.5 Service Levels within BID. The City shall continue to provide within the BID the same level of security and maintenance services as were provided within the BID boundaries as of January 1, 2017 and not otherwise funded with Parking and Business Improvement Area assessments. It is the City's intention not to use or rely on any services provided as the result of the creation of the BID, this Agreement, or any subsequent agreement, to relieve or lessen the obligation of the City to provide such existing services within the BID, except as may be otherwise agreed by the parties. The parties recognize that the general level of municipal services provided throughout the City, including the BID, is subject to the annual budget and appropriation processes of the City. The parties also recognize that the City, in its exercise of responsible management, may find it necessary on occasion to make reallocations or shifts of personnel, materials, or other resources, to preserve the health, welfare, and safety of its citizens.

ARTICLE TWO

CORPORATION DUTIES

2.1 Professional Management. The Corporation will administer the supplemental security and maintenance work programs which are the subject of this Agreement. The provision and administration of these services will not be construed or understood to relieve or lessen the obligation of private property owners to maintain their property and comply with all applicable laws and regulations.

2.2 Financial Reporting Requirements. All costs incurred or paid by the Corporation pursuant to this Agreement shall be supported by properly executed payrolls, time records, invoices, vouchers, or other documentation, as evidence of the nature and propriety of the charges. All accounting documents pertaining in whole or in part of this Agreement shall be clearly identified and readily accessible to the City, and the City shall have the right to audit the records of the Corporation, as they relate to work performed under this Agreement, upon reasonable notice. The Corporation shall also maintain financial records in accordance with state law concerning the preservation of public records (chapter 40.14 RCW) for a period of six (6) years after receipt of final payment under this Agreement.

2.3 Maintenance. The Corporation shall hire, supervise, and manage a work crew that will be responsible for removing graffiti, sweeping and shoveling sidewalks and crosswalks, cleaning tree wells, cleaning trash containers, cleaning alleys, cleaning windows, and any other general cleanup work, with a goal of promoting a superior level of cleanliness within the BID. The Corporation may subcontract some or all of these duties so long as the Corporation retains the right to terminate the subcontractor in its discretion upon no more than sixty (60) days' prior notice.

2.4 Security. The Corporation shall hire, supervise, and manage security "ambassadors" within the BID boundaries; provided, however, that the Corporation may subcontract some or all of these duties so long as the Corporation retains the right to terminate such subcontractor in its discretion upon no more than sixty (60) days' prior notice. The Corporation or its subcontractors shall use its best efforts to cause the ambassadors to receive appropriate education and training in security, medical emergencies, available facilities within the BID boundaries, and the importance of establishing and maintaining goodwill with users of the BID. The Corporation may adopt special uniforms for such ambassadors identifiable to the BID and may establish a system of coordination with the City Police Department and private security entities.

ARTICLE THREE **COMPENSATION**

3.1 Services Fee. The City shall pay to the Corporation **one hundred thousand and 00/100 dollars (\$100,000.00)** per annum for all services performed under this Agreement. This amount will represent the budget approved by the City Council for the agreed-upon duties set forth in Article Two and Exhibit A. The services fee shall be paid to the Corporation in equal quarterly installments.

3.2 Invoices. The Corporation shall send an invoice to the City reflecting amounts to be paid to the Corporation hereunder not less than fourteen (14) days prior to the date each quarterly installment payment is due (except for the initial quarterly installment, for which no quarterly notice is necessary). In the event the due date of any quarterly installment falls on a weekend or a City holiday, the installment shall be due on the next business day of the City.

3.3 Payment. The City reserves the right to withhold payments hereunder pending timely delivery of services, program reports, or documents as are required under this Agreement; provided, no such payment will be withheld unless the Office has provided the Corporation, no less than ten (10) business days before the due date of the payment, written notice of the City's intent to withhold the payment. In the event that the City determines in good faith that any funds provided hereunder were expended by the Corporation for unauthorized or ineligible purposes, or constitute disallowed costs, the Office may demand repayment of the funds in writing. Upon receiving a written demand, the Corporation will have thirty (30) days to repay the funds or to present the Office with a written report showing that the challenged expenditures were proper. If the Office and the Corporation cannot agree on the propriety of the challenged expenditure, the parties will submit the dispute to an arbitration panel comprised of the Chair and the Vice Chair of the Ratepayer Advisory Board created by SMC § 04.31.080 and one (1) representative from the Washington State Auditor's Office. The arbitration panel must render a decision regarding the challenged expenditure, which decision shall be binding on the parties, within thirty (30) days after the panel is convened. In the event the arbitration panel determines the Corporation must remit funds to the City, the Corporation shall do so within thirty (30) days after written notice of such determination is delivered to the Corporation.

ARTICLE FOUR

TERM AND TERMINATION

4.1 Term. The term of the Agreement shall begin on January 1, 2017 and shall end on December 31, 2021. This Agreement may be continued for an additional five (5) year period upon written agreement of the parties.

4.2 Automatic Termination. This Agreement shall terminate automatically if the Corporation ceases to exist (whereupon, the Corporation shall be paid compensation for services satisfactorily performed to the termination date) or if the City, by legislative action of the City Council, repeals the legislative authorization for the creation of the BID.

4.3 Permissive Termination. This Agreement may be terminated by the Corporation upon thirty (30) days' written notice in the event the Corporation is unable to provide the full service required under this Agreement. The Corporation shall repay to the City any funds in the possession of the Corporation at the time of the termination of this Agreement that may be due to the City.

4.4 Termination for Cause. Either party may terminate this Agreement for cause upon giving the other party thirty (30) days' written notice of termination. As used herein, "cause" shall mean (i) the breach of any material term or condition of the Agreement, (ii) an unlawful act or unlawful failure to act relating to the subject matter of the Agreement, or (iii) the use of funds in any material amount for a purpose not authorized in the applicable work program and budget. Notwithstanding the foregoing, a party may terminate this Agreement for a breach of a material term or condition only if the breach remains uncured for a period of thirty (30) days after written notice thereof by such party.

ARTICLE FIVE

QUALITY OF PERFORMANCE

5.1 Performance. The City shall judge in good faith the adequacy and efficacy of work performed, the sufficiency of records and the services delivered. If, during the course of this Agreement, the services rendered do not meet the desired results of the City, the Corporation shall correct, modify, and/or properly perform the services to the satisfaction of the City.

5.2 Indemnity/Hold Harmless. The City shall hold harmless, indemnify, and defend the Corporation from all claims, damages, and expenses directly arising out of or resulting from any willful or negligent act or omission of the City or any of its agents, officers, or employees under this Agreement.

The Corporation shall hold harmless, indemnify, and defend the City from all claims, damages, and expenses directly arising out of or resulting from any willful or negligent act or omission of the Corporation or any of its agents, officers, or employees under this Agreement.

5.3 Insurance. The Corporation shall maintain in force at all times, at its own expense, a public liability insurance policy, naming the City as an additional insured, protecting and holding the City harmless from all claims, damages, and expenses arising out of or resulting from any negligent act or omissions of the Corporation or any of its agents, officers, or employees performing work under this Agreement. The policy shall provide General Liability insurance coverage primary to any insurance maintained by the City, in at least the principal amount of \$1,500,000.00 combined single limit occurrence. The Corporation shall provide a certificate of insurance (COI) or duplicate of the policy,

naming the City of Spokane as “Additional Insured”, as evidence of the insurance protection afforded under this Agreement at the time it returns the executed Agreement.

ARTICLE SIX **MISCELLANEOUS**

6.1 Parties-in-Interest and Assignment. This Agreement is binding upon and is for the benefit of the parties hereto and the respective successors and assigns, and no third person who is not a party hereto shall have any rights under this Agreement, either as a third party beneficiary or otherwise. Neither party may assign this Agreement without the prior written consent of the other party.

6.2 Notices. Any notice, document, report, or other communication required or permitted hereunder shall be in writing and shall be delivered personally or by regular U.S. mail, postage prepaid, addressed as follows:

If to City: Mayor’s Office
City of Spokane
Seventh Floor – City Hall
808 W. Spokane Falls Blvd.
Spokane, WA 99201-3303
Attention: Mayor

If to Corporation: Downtown Spokane Development Association
d/b/a Downtown Spokane Partnership
211 North Wall Street, Suite 300
Spokane, WA 99201
Attention: Mark Richard

or to such other person or address as any such party may designate by written notice as provided in this Section 6.2. Any notice or other document or report hereunder shall be deemed delivered or given as of the date received, if delivered in person, or as of the date sent if mailed.

6.3 Entire Agreement. This Agreement supersedes any and all prior oral or written agreements and understandings relating to the subject matter hereof and contains the entire agreement of the parties relating to the subject matter hereof. All exhibits, addenda, schedules, and appendices hereto, nor or hereafter created, are incorporated into this Agreement by reference and made a part hereof. The terms “hereof,” “herein,” and like words shall refer to this Agreement in its entirety and shall include such exhibits, addenda, schedules, and appendices. This Agreement cannot be amended or modified, except by a written agreement executed by the parties hereto or their respective successors or assigns.

6.4 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the state of Washington, and handled by a court of competent jurisdiction in the County of Spokane. A finding that any term or provision of this Agreement is invalid or unenforceable shall not affect the validity or enforceability of the remainder of this Agreement.

6.5 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Dated: _____

CITY OF SPOKANE
A first-class charter city

By: _____

Title: _____

ATTEST:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

Downtown Spokane Development Association
A Washington Nonprofit Corporation

By: _____

Title: _____

Attachments that are a part of this Agreement:

Exhibit "A" – Corporation's Scope of Services for Security Ambassadors

EXHIBIT "A"

Scope of Services

Security Ambassadors

Duties, Purpose and Responsibilities

The Security Ambassadors will serve as a uniformed street presence in the Downtown area. The Ambassadors will patrol all areas of the BID on foot or on bicycle during a day and/or early evening shift, including scheduled late evening deployment. The Ambassadors will provide information and assistance to citizens, visitors, and the Police Department. Their function is not crime control or law enforcement. The Ambassadors are to observe and report on disorder problems. The Ambassadors will use their best efforts to maintain radio contact with each other and police dispatch.

The Corporation will provide a supervisor and three (3) Ambassadors to patrol a specific area based on need, special events, foot traffic, or other factors. The number of Ambassadors in service may be reduced during the winter months and increased again to full strength when tourism and activity dictates greater need for their street-level service.

All Ambassadors must be licensed security personnel with training in medical emergencies and handling of hostile or uncivil individuals. In addition, the Ambassadors are expected to receive special customer service training and orientation to Downtown building and tourist sites. Weekly briefings will be scheduled to keep the Ambassadors current on Downtown activities. Routine deployment will be five (5) days per week from 11:30 am to 7:30 pm.

Each of the Security Ambassadors is expected to walk an average of fifteen (15) to twenty (20) miles a day as they circulate on downtown streets. Their constant presence and routine appearances throughout downtown is intended to reinforce and ensure an atmosphere of public safety for both employees and visitors. As a result of addressing incidents of disorderly conduct, it is expected that the Security Ambassadors will reduce the public misperception that downtown is unsafe.

In addition, Security Ambassadors routinely have addressed different types of disorderly conduct which, while not directly dangerous, can be perceived as intimidating to employees and visitors downtown. Each month, the Ambassadors have averaged one thousand (1,000) business, employee, or customer contacts, four hundred (400) individuals assisted or transferred, and thirty (30) police or fire department assists or suspicious activity reports. Intervention at the time of the incident has provided opportunities to immediately inform citizens of relevant laws, built relationships with street populations to further delivery of relevant services, discouraged future disorderly behavior, and provided a unique communication link to those groups of people involved in such activities.

Security Ambassadors are expected to be familiar with staff at social service agencies providing specialized care and treatment services to local populations at risk. By developing rapport and trust over time with individuals, it is anticipated that the Ambassadors can, via radio if necessary, immediately

refer them to appropriate care providers such as detox units or identify other provider for future support.

Clean Team

The primary role of the Clean Team will be the daily removal of litter and trash from sidewalks, sweeping and/or shoveling of sidewalks and crosswalks, cleaning of tree wells and planter boxes, emptying of trash containers, removal of litter in the first ten (10) to fifteen (15) feet of alley ways, removal and/or painting over of graffiti, and any other general cleanup work.

Budget Summary

Security Ambassador Program	\$ 65,000
-----------------------------	-----------

Clean Team Program	<u>\$ 35,000</u>
--------------------	------------------

Total Subcontractor Costs:	\$100,000
----------------------------	-----------

Funds from this Agreement will be used for costs associated with salaries and benefits for the Ambassadors and the Clean Team Officer. BID Assessment income paid to the Corporation will fund all staff, equipment, supplies and operations center costs. The Corporation's Security Director will oversee the activities of both the Clean Team and Security Ambassadors, and provide guidance in deploying resources and maintaining goodwill within the BID.



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/3/2016
Clerk's File #	PRO 2016-0035
Renews #	

Submitting Dept	ENGINEERING SERVICES	Cross Ref #	
Contact Name/Phone	KYLE TWOHIG 625-6152	Project #	2010087
Contact E-Mail	KTWOHIG@SPOKANECITY.ORG	Bid #	RFFP 4290-16
Agenda Item Type	Contract Item	Requisition #	W9
Agenda Item Name	0370 - CONTRACT AWARD - WALKER-HALME, JOINT VENTURE		

Agenda Wording

Proposed contract with Walker-Halme, Joint Venture (Spokane, WA) for construction of the CSO Basin 24 Control Facility, to be delivered via GC/CM alternative delivery. The construction estimate is \$19,000,000.00 of which Walker-Halme, Joint Venture

Summary (Background)

The proposed contract with Walker-Halme, Joint Venture is the result of RFFP 4290-16 wherein Engineering Services solicited General Contractor/Construction Management (GC/CM) services for the CSO Basin 24 Control Facility. Two firms submitted proposals for review including Garco Construction. Inc. Walker-Halme, Joint Venture was selected from the final responses as the highest scoring firm in all three phases of the selection process outlined in RFFP 4290-16.

Fiscal Impact		Budget Account	
Expense	\$ 24,000.000.00	#	4340 43416 94000 56501 10025
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	TWOHIG, KYLE	Study Session	
Division Director	SIMMONS, SCOTT M.	Other	Public Works 10/10/16
Finance	KECK, KATHLEEN	Distribution List	
Legal	DALTON, PAT	Engineering Admin	
For the Mayor	CODDINGTON, BRIAN	kkeck@spokanecity.org	
Additional Approvals		mhughes@spokanecity.org	
Purchasing	WAHL, CONNIE	ktwohig@spokanecity.org	
		gbrown@oacsvcs.com	
		cwahl@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

will receive a 3.09% markup on the final negotiated amount.

Summary (Background)

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

BRIEFING PAPER
Public Works Committee
Engineering Services
October 10, 2016

Subject:

1st and Adams CSO 24 Control Facility General Contractor/Construction Management (GC/CM) Contractor Selection

Background:

The City's Combined Sewer Overflow Control Plan calls for a 2 million gallon tank to manage flows from what's known as Basin 24. This basin includes much of the downtown and its considerable hard space, and it requires building a tank in an already very-developed area in our urban core at the intersection of 1st Avenue and Adams Street. Due to the complexity of the project, substantial amount of coordination, impact to downtown, and potential risk for the project associated deep excavation, Engineering Services requested the use of GC/CM alternative delivery from the state Project Review Committee which was approved in July of 2016.

Impact:

With the help of OAC Services, a local firm specializing in alternative delivery, Engineering Services solicited qualifications for GC/CM contractors for the project through a three part RFQ process to select the General Contractor for this project. Two firms submitted proposals for review by the selection team (inc. one joint venture): Garco and Walker/Halme. These were the two highest scoring firms on the solicitation for CSO 26 on Spokane Falls Blvd. After review of the statements of qualifications, the selection committee short-listed both firms for interviews which occurred on September 14. Both short-listed firms were then asked to submit a Fee Proposal establishing their fixed fee and markup for the project construction. The contractor selected was the highest scoring firm from all three phases of the selection process (criteria outlined in original RFQ). After opening the pricing proposals on September 26th, the Walker/Halme joint venture was the highest scoring firm.

Action:

This information is submitted for council consideration. The contract will be forwarded for council approval on October 17th, 2016.

Funding:

This is a \$25 million tank project that will be paid for with Water-Wastewater capital funds, including the Green Bonds the City sold in 2014.

**RFFP 4290-16
ATTACHMENT NO. 1 - FEE PROPOSAL FORM**

TO:

**City of Spokane – Purchasing
4TH Floor, City Hall
808 W. Spokane Falls Blvd
Spokane WA 99201-3316**

PROPOSAL

Pursuant to and in compliance with the Request for Fee Proposals, the undersigned certifies, having carefully examined the Contract Documents and conditions affecting the Work, and being familiar with the site; proposes to furnish all labor, materials, equipment and services necessary to complete the Work, as follows:

Description of Proposal Item:	Percentage	Total Estimated GC/CM Contract Sum	Proposal Amount
GCCM Percent Fee (<i>Percentage x Total Estimated GC/CM Contract</i>)	<u> 3.09 </u> %	\$ 19,000,000	\$ 587,100.00
Bond (Included in Fee Percent Above)		\$ 144,504.00	-
Insurance (Included in Fee Percent Above)		\$ 215,270.00	-
Specified General Conditions			-
Project Manager	22 months	\$ <u>12,000</u> /month	\$ 264,000.00
Project Superintendent	22 months	\$ <u>11,587</u> /month	\$ 254,921.00
Project Engineer (Part Time)	22 months	\$ <u>6,786</u> /month	\$ 149,292.00
All Other Specified General Conditions Costs		Lump Sum	\$ 261,546.00
		Total Proposal:	\$ 1,516,859.00

***Specified General Conditions shall include costs as defined in the GC Cost Responsibility Matrix and A-133 Contract through Project completion and closeout.**

SALES TAX

The sums stated in the foregoing do not include Washington State Sales Tax.

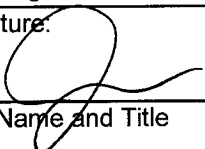
CONTRACT AND BOND

For the purposes of calculating the costs of bonds and insurance, the Proposal shall assume a Maximum Allowable Construction Cost (MACC or Contract Sum) as referenced in the Request for Fee Proposals.

If a GMP Amendment is agreed to between Owner and the GC/CM, a MACC will be established that consists of the Subcontracts, Negotiated Self Performed work, the Percent Fee from this Proposal, the Contractor's Contingency, the fixed dollar amount from this Proposal for Specified General Conditions, and the Negotiated Support Services. The undersigned agrees to execute a contract for the above work for the GMP on GC/CM Contract form, and to furnish bonds and evidence of insurance as required by the Contract.

Proposer's Business Name: Walker Halme Joint Venture			
Type of Business: Sole Proprietorship Partnership Corporation (State of Incorporation: <u> </u>) Other Joint Venture			
Business Address: PO Box 3901	City: Spokane	State: WA	Zip Code: 99220
Business Telephone Number: 509.535.3354	Business Fax Number: 509.534.1440	Business E-mail Address: jasonh@halmeconstruction.com	
State of Washington numbers for the following:			
Contractor Registration No.: WALKECI150DM HALMECI061R7	UBI No.: 603 590 248	Employment Security Dept. No.: 524361-00-0 806 553 217	
Receipt is hereby acknowledged of Addenda No(s): <u> 0 </u>			

REPRESENTATIVE AUTHORIZED TO SIGN FOR PROPOSER

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct":	
Signature: 	Date: 9.26.16
Print Name and Title Jason Halme, Manager	Location or Place Executed: (City, State) Spokane, WA

MEMORANDUM

Date: September 27, 2016

To: Jason Halme, Principal, Walker-Halme, Joint Venture

From: Rusty Pritchard, CCM, Senior Project Manager

Subject: 1st & Adams CSO #24 Control Facility GC/CM Heavy Civil Project

References: Contract Document Information and Insurance Requirements

1. The purpose of this memorandum is to coordinate and provide contract administrative information for inclusion in the draft Contract Documents A133-2009 and A201-2007 prior to presentation to the City Council.
2. The enclosure represents a preliminary list of requested information and responsibility to provide that information.
3. In consultation with the City, its Risk Management Department and Legal Counsel on or about 9/23/2016, the following document and insurance policy change to the RFQ 4275-16, page 21, paragraph 13.7.2.D. is made as follows:

Contractors Pollution Liability: A policy with required limits of a \$5,000,000 ~~10,000,000~~ per claim, providing coverage for claims involving remediation, disposal, or other handling of pollutants arising out of Contractor's operations for others; Contractor's site (owned); arising from the transportation of hazardous materials; or involving remediation, abatement, repair, maintenance or other work with lead-based paint or materials containing asbestos.
4. As part of negotiations and prior to contract execution, request documentation and substantiation of a revised quote and any change in Fee % and Fee amount based upon the estimated total cost of construction of \$19,000,000 per the RFQ and RFFP.
5. Per the RFQ, Article 11.0 the GC/CM must provide a proposal guarantee of at least 5% of the total final pricing proposal (Sum of the GC/CM fee and Lump-sum amount for Specified and General Conditions) and all required bonds and insurances prior to contract execution.



6. Requested responses can be email to me at rpritchard@oacsvcs.com no later than September 30, 2016. Feel free to contact me at (509)216-2032 if you have questions or to arrange a meeting to discuss.

Enclosure

Cc:

Kyle Twohig, City of Spokane
Hunt Whaley, City of Spokane
Graehm Wallace, Perkins-Coie
Project File



Enclosure

Apparent low, responsive, responsible bid information submitted by Walker-Halme, JV

Fee Percentage	3.09%
Fee total based upon \$19,000,000	\$587,100.00
Specified General Conditions	\$929,579.00
Preconstruction Services amount	\$80,000 plus Washington State Sales Tax

Information needed on A201-2007 General Conditions of the Contract for Construction

1. Date of authenticity by Perkins-Coie on the last page (71) of the document.

Information needed on A133-2009 Agreement

1. Page 1; Name, legal status and address of the Construction Manager **(WH JV to provide)**
2. Page 1, Name, address and other information of the Construction Manager's Designated Representative. **(WH JV to provide).**
3. Page 23, Article 5.1.1, second line, Percent Fee = 3.09%
4. Page 24, Article 5.1.6, first line, Specified General Conditions are in the fixed amount of Nine hundred twenty nine thousand, five hundred seventy nine dollars (\$929,579 dollars).
5. Page 40, Confirm the following 'other documents' listed

Exhibit #	Description	Responsibility to provide
1	Preconstruction Work Plans, Rates and Schedule	WH JV
2	Cost Responsibility Matrix	OAC – COS (in RFFP 4290-16)
3	Insurance requirements	OAC – COS (in RFQ 4275-16)
4	Public Work Apprenticeship Requirement	COS – OAC
5	Construction Manger's Supervisory and Administrative Personnel	WH JV
6	City of Spokane RFQ #4275-16	OAC – COS
7	City of Spokane RFFP #4290-16	OAC – COS
8	Construction Manager's Bid Form	COS – OAC (Purchasing)

6. Page 40 Signatures
Construction Manager (Printed Name and Title) **WH JV to Provide.**



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	9/29/2016
Clerk's File #	OPR 2015-1134
Renews #	

Submitting Dept	INTEGRATED CAPITAL	Cross Ref #	
Contact Name/Phone	DAN BULLER 625-6391	Project #	2015177
Contact E-Mail	DBULLER@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR 16665
Agenda Item Name	4250 - BERNARDO WILLS CONTRACT ADDENDUM		

Agenda Wording

Contract Addendum with Bernardo Wills for additional work and compensation to the contract dated December 23, 2015 in conjunction with the Wall Street Surface Improvements project.

Summary (Background)

The original contract in the amount of \$12,505.00 has been increased through amendment several times. This amendment puts the contract above the minor contract cost limits and therefore requires council approval.

Fiscal Impact		Budget Account	
Expense	\$ 7,230.00	#	4340 43416 94000 56501 10026
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
<u>Dept Head</u>	MILLER, KATHERINE E	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	Public Works 10/10/16
<u>Finance</u>	KECK, KATHLEEN	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	Engineering Admin	
<u>For the Mayor</u>	CODDINGTON, BRIAN	kkeck@spokanecity.org	
<u>Additional Approvals</u>		mhughes@spokanecity.org	
<u>Purchasing</u>		mdavis@spokanecity.org	
		jahensley@spokanecity.org	
		jlargent@spokanecity.org	

CONTRACT ADDENDUM

THIS CONTRACT ADDENDUM is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and BERNARDO WILLS, whose address is 153 South Jefferson, Spokane, Washington 99201, as "Consultant".

WHEREAS, the parties entered into a Contract wherein the Consultant agreed to develop surface treatment concepts of the plaza and streetscapes on Wall Street between Main Avenue and Riverside Avenue in conjunction with the Wall Street Surface Improvements Project No. 2015177; and

WHEREAS, additional work has been requested; -- Now, Therefore,

The parties agree as follows:

1. DOCUMENTS. The Contract dated December 23, 2015, any previous addendums/amendments and/or extensions/renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.
2. EFFECTIVE DATE. This Contract Addendum shall become effective upon execution by all parties.
3. ADDITIONAL WORK. The scope of work of the original contract is expanded to include the following:
 - a. Prepare two concepts for intersection treatment at both Spokane Falls Boulevard and Wall Street, and Main Avenue and Wall Street.
 - b. Prepare concept aerial sketch
 - c. Meet with City and Parks staff for project coordination.
 - d. Present to Spokane Design Review Board
4. COMPENSATION. The City shall pay the Consultant an amount not to exceed SEVEN THOUSAND TWO HUNDRED AND NO/100 DOLLARS, (\$7,200.00) as full compensation for the services provided for under this Addendum. This is the maximum amount to be paid under this Addendum, and shall not be exceeded without the prior written authorization of the City in the form of an executed addendum/amendment to this Agreement.

BERNARDO WILLS

CITY OF SPOKANE

By: _____
(Signature)

By: _____
(Signature)

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

E-Mail address: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Date: _____

Attachments that are part of this Contract Amendment:

Scope of Work dated February 22, 2016

15-247



February 22, 2016

Ms. Marcia Davis, P.E.
Department of Integrated Capital Management
City of Spokane
808 Spokane Falls Blvd.
Spokane, WA 99201

Re: Requested Additional Services: Wall Street Surface Treatment and Streetscape Design

Dear Ms. Davis:

Bernardo/Wills Architects is pleased to submit this fee proposal for requested additional services to the "Site Planning for Wall Street Plaza – Surface Treatment Concepts" contract dated December 2, 2015. This proposal responds to the recommendations by the City of Spokane Design Review Board (DRB) developed during the February 10, 2015 Collaborative Workshop that include; "Work with the Riverfront Park design team to see what elements can be incorporated to blend Riverfront Park's new aesthetics towards the STA Plaza. The DRB encourages the Wall Street design team to look at the entire area between Spokane Falls Blvd. and Riverside, including street intersections."

Additional Scope of Work

Our proposed Scope of Work will consist of preparing a concept that extends the current preferred alternative design of surfacing materials, scoring pattern, color recommendations, and streetscape character along Wall St. from Main Avenue southward to Riverside Avenue. We will also prepare concept designs for the surface treatment of intersections of Spokane Falls Blvd. & Wall St., and Main Avenue and Wall St. Working with representatives from Spokane City Parks Dept. and the Berger Design team, special attention will be made to the integration of design and detailing at the intersection of Spokane Falls Blvd. & Wall St. and Riverfront Park's urban edge. We will work with City Staff to ensure traffic flows and traffic calming, and required vehicle movements are adequate in the proposed design. This proposal includes the development of a character concept sketch from an aerial vantage point to better illustrate the surface and streetscape character. We will also attend and present the modified plans to the DRB during their March 23, 2015 meeting; addressing all comments and recommendations from previous review meetings.

Professional Fees

The professional fee proposed to perform the scope of work noted above will be a lump sum fee of \$7,200. This fee includes our anticipated expenses for materials and printing costs. Specific task costs are listed below.

Task	Professional Fee
1. Prepare two (2) concepts for intersection treatment at both Spokane Falls Blvd. & Wall Street, and Main Avenue & Wall Street. Apply surface treatment and streetscape character from Main Avenue to Riverside Avenue along Wall Street.	\$5,200
2. Prepare concept aerial sketch of Wall Street surface and streetscape character between Spokane Falls Blvd. & Main Avenue.	\$1,000
3. Meet as necessary with City Staff and Parks Department for project coordination.	\$400
4. Meet and present to Spokane Design Review Board March 23, 2016.	\$400
5. Anticipated materials and printing expenses for Public Meetings.	\$200

153 South Jefferson Street
Spokane, WA 99201
509 838.4511 | fax 509 838.4605
www.bernardowills.com

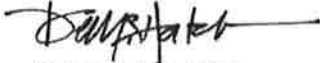
B W A

BERNARDO WILLS

ARCHITECTS PC

We appreciate the opportunity to continue to assist the City of Spokane and your department on this project. If this proposal meets with your expectations, we will anticipate an addenda to our existing contract. With your verbal authorization, we will proceed with the work described in order to meet submittal deadlines for the Design Review Board.

Sincerely,



Dell R. Hatch, ASLA
Licensed Landscape Architect



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/3/2016
Clerk's File #	PRO 2016-0016
Renews #	

Submitting Dept	ENGINEERING SERVICES	Cross Ref #	
Contact Name/Phone	KEN BROWN 625-7727	Project #	2015167
Contact E-Mail	KBROWN@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR 17278
Agenda Item Name	0370 - ADMIN RESERVE INCREASE - RED DIAMOND CONSTRUCTION, INC.		

Agenda Wording

Authorization to increase the administrative reserve on the contract with Red Diamond Construction, Inc., for Wellesley Roundabout - Relocation of Utilities - for an increase of \$5,924.26 for a total administrative reserve of \$60,001.64 or 11.1%

Summary (Background)

The City of Spokane Wastewater Department has requested additional work to this contract. The additional work was to extend the existing sewer main to the north in Freya Street due to a failing sewer main on North Ferrall Street discovered during routine cleaning and inspection. The work was added to this project to avoid cutting into the new pavement once this project was complete. Therefore, it will be necessary to increase the administrative reserve an additional \$5,924.26 or 1.1%.

Fiscal Impact		Budget Account	
Expense	\$ 5,924.26	#	4250 42300 94000 56501 04100
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	TWOHIG, KYLE	Study Session	
Division Director	SIMMONS, SCOTT M.	Other	Public Works 10/10/16
Finance	KECK, KATHLEEN	Distribution List	
Legal	DALTON, PAT	Engineering Admin	
For the Mayor	CODDINGTON, BRIAN	kkeck@spokanecity.org	
Additional Approvals		mhughes@spokanecity.org	
Purchasing		htrautman@spokanecity.org	
		kgoodman@spokanecity.org	
		kbrown@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

of the contract price. (Hillyard Neighborhood Council)

Summary (Background)

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

BRIEFING PAPER
Public Works Committee
Engineering Services
October 10, 2016

Subject:

Wellesley Roundabout – Relocation of Utilities – Project #2015167. This is a request for the City Council approval for additional funds that are needed to final this project.

Background:

The City of Spokane Wastewater Department has requested additional work to this contract. The additional work was to extend the existing sewer main to the north in Freya Street due to a failing sewer main on North Ferrall Street discovered during routine cleaning and inspection. The work was added to this project to avoid cutting into the new pavement once this project was complete. This change order for \$30,650.00 used over half of the administrative reserve, not allowing for normal cost over runs.

An increase of \$5,924.26 to the administrative reserve is needed to make this final payment for this project.

Original Contract Amount:	\$540,773.80
Original Administrative Reserve:	\$54,077.38 (10%)
Additional Administrative Reserve:	\$5924.26 (1.1%)
 Total Budget Needed to Final:	 \$600,775.44

Impact:

Wastewater Department Capital Fund – 100%

Action:

Approve additional administrative reserve which will allow final payment for this project.

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

10/17/2016

Date Rec'd

10/5/2016

Clerk's File #

OPR 2008-0120

Renews #**Cross Ref #****Submitting Dept**

POLICE

Contact Name/Phone

JUSTIN LUNDGREN 835-4115

Project #**Contact E-Mail**

JCLUNDGREN@SPOKANEPOLICE.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #**Agenda Item Name**

0680 - AMERICAN TRAFFIC SOLUTIONS AMENDMENT

Agenda Wording

Contract amendment with AMERICAN TRAFFIC SOLUTIONS (ATS), of Tempe, AZ to return the extension #1 (2013-2018) to the original agreement's status under which ATS bore full responsibility of the costs associated with running the Photo Red program.

Summary (Background)

ATS extension # 1 included a few modifications from the original contract. In the extension # 1, AST agreed to lower pricing of cameras by 13 % to offset costs of additional Police and Municipal Court responsibilities that included signing and mailing infractions (SPD), and stamping, scanning and uploading infractions (Muni Court). The contract amendment memorializes the City and AST's intentions to return the work and 13% compensation to AST.

Fiscal Impact**Budget Account**

Expense \$ 23,400.00 2016

1380-21700-21100-54201

Expense \$ 96,000.00 2017

1380-21700-21100-54201

Expense \$ 96,000.00 2018

1380-21700-21100-54201

Select \$

#

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

LYNDS, SARAH

Study Session

Finance 10/03/2016

Division Director

LYNDS, SARAH

Other**Finance**

KECK, KATHLEEN

Distribution List**Legal**

ODLE, MARI

achirowamangu

For the Mayor

CODDINGTON, BRIAN

ewade

Additional Approvals

slynds

Purchasing

kclaar

mmartinez

AGREEMENT AMENDMENT

THIS AGREEMENT AMENDMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City", and AMERICAN TRAFFIC SOLUTIONS, INC., whose address is 1150 N. Alma School Rd. Mesa, AZ 85201, hereinafter referred to as "ATS"; and jointly referred to as the "Parties".

WHEREAS, the Parties entered into an original contract, City of Spokane City Clerk's number - OPR 2008-0120 ("Original Agreement"), wherein ATS agreed to implement and operate a turnkey Axis™ traffic safety camera system ("Photo-enforcement") pursuant to section 46.63.170 of the Revised Code of Washington (RCW);

WHEREAS, as indicated in Amendment No. 1 entered into by the Parties on or about July 21, 2015, the City has since purchased additional Axis™ traffic safety camera systems, namely the FS-300 fixed speed safety camera system for use in school speed zones, and needs to change all references in the original contract from exclusively red light cameras to more broadly refer to all traffic safety camera systems as "Axis™ ATS Camera Systems";

WHEREAS, additionally sometime after implementation of the Axis™ Photo-enforcement system, complications arose as to the Photo-enforcement systems electronic signature process;

WHEREAS, in response to these aforementioned complications, the Parties then entered into Extension No. 1 (signed October 14, 2013) to provide for the City's Police Department (SPD) to mail out the infractions and the City's Municipal Court to file, stamp, scan and upload each Photo-enforcement infraction, consequently ATS would decrease their compensation from their Agreement with the City, by the amount of the City's costs associated with these additional responsibilities;

WHEREAS, those cost burdens placed on the City were determined to be approximately thirteen percent (13%) of the original Agreement amount in Extension No. 1 to the Agreement;

WHEREAS, the necessity of this amended arrangement, as specified in Extension No. 1, has concluded and the Parties desire to further amend the Original Agreement to reflect the return to the Original Agreement's status, wherein ATS bears full responsibility for the costs associated with these additional responsibilities for the Spokane Municipal Court as more fully defined in the Court's separate ATS Contract Amendment; and

WHEREAS, this Amendment is to formally memorialize the Parties intentions to return the work and thirteen percent (13%) compensation to ATS to perform these additional Spokane Municipal Court responsibilities involved with handling these Photo-enforcement infractions.

-- Now, Therefore,

The Parties agree as follows:

1. DOCUMENTS. The original Agreement dated March 10, 2008, any previous or subse-

quent amendments and/or extensions/renewals thereto are incorporated by reference into this document as though written in full, and shall remain in full force and effect except as provided herein.

2. EFFECTIVE DATE. This Agreement Amendment shall become effective upon signature by the Parties.

3. AMENDMENT. The definition of "Camera System" from the original contract is amended to include the Axis™ FS-300 fixed speed safety camera system for use in school speed zones and read as follows:

"Camera System" means a photo-traffic monitoring device consisting of camera(s) (both the Axis RLC-300 and the Axis Live Video system (if required) and a traffic monitoring device capable of accurately detecting a traffic infraction on up to four (4) lanes at one (1) approach and which records such data on an image of such vehicle. "Camera System" shall also include the Axis™ FS-300 fixed speed safety camera system for use in school speed zones. "Camera System" shall, where the sense requires, also include any enclosure or cabinet in which the Axis™ System is stationed. ~~As used below, the term "Red Light Stationary Camera System" is used interchangeably with the Camera System term defined here.~~

4. AMENDMENT. Section 3 "Scope of Work", "CAMERA SYSTEM" subsection A in the original contract is amended to read as follows:

A. ATS agrees to provide the City with Axis™ ATS Camera Systems RLC-300 ~~(or better) Red Stationary Camera systems.~~

5. AMENDMENT. Section 3 "Scope of Work", "CAMERA SYSTEM" subsection B in the original contract is amended to read as follows:

B. Red Stationary Camera System: The system must utilize a high-resolution digital camera (or cameras). The system shall provide at least ten (10) seconds of full-motion video imaging of each violation as well as at least two (2) still images of the violation event: the first image shall clearly show the scene, including the red signal and a clear view of the vehicle with its front tires in front of the stop bar, prior to committing a violation; and the second image shall clearly show the scene, including the red signal and a clear view of the vehicle inside the intersection while the traffic signal is still red. The license plate number and details must be clearly visible in either one (1) of the two (2) images."

5. AMENDMENT. Section 3 "Scope of Work", "CAMERA SYSTEM" a new subsection C is amended to add the definition necessary for the speed zone camera system to read as follows:

C. Fixed Speed Safety Camera System. "The system must utilize a high-resolution digital camera (or cameras). The system shall provide at least ten (10) seconds of full-motion video imaging of each violation as well as at least one (1) still image of the violation event in the school zone. The speed limit and the speed of the vehicle must be noted in the data bar of the image(s) and the license plate number and details must be clearly visible in (1) of the still mages."

6. AMENDMENT. Section 3 "Scope of Work", subsection 4. "ATS IMPLEMENTATION RESPONSIBILITIES" is amended to reflect camera enforcement in school speed zones to read as follows:

4. ATS agrees to provide a turnkey solution for ~~Red-light Stationary~~ Camera Systems to the City of Spokane . . .

7. AMENDMENT. Section 7 "Scope of Work", subsection 7. "ATS INFRACTION PROCESSING" is amended to reflect camera enforcement in school speed zones to read as follows:

J. ATS shall provide a website and help line to help the City resolve any problems encountered regarding its ~~Red-Light Camera Systems~~ and/or citation processing . . .

8. AMENDMENT. Section 8.B. (Insurance) of the original Agreement is amended to increase the required General Liability Insurance coverage limits under the Agreement from \$1,000,000 to \$1,500,000.

9. AMENDMENT. Section 6 of the Agreement Amendment No. 1 documents is amended to read as follows:

B. Police Department:

5) The Police Department through its officers shall electronically sign the Notices of Infractions.

10. AMENDMENT. Exhibit B Section 2 of the Agreement, as amended by Extension No. 1, shall only be amended to change the fee per camera per month to the following:

Red Light Camera System	
Flat Monthly Fee for Each Red Light Camera – up to 4 lanes	\$4,600
Flat Monthly Fee for Each Red Light Camera – 5 lanes (2 systems)	\$4,750
Fixed School Zone Speed System	
Fixed Site Speed Camera for School Zone Enforcement Fee includes a 4-lane site and up to 400 issued citations per month per camera per direction (payable each month through the calendar year, including summer break months)	\$4,750
Supplemental Fee for each citation issued over 400 citations per camera, per month (fee per citation issued)	\$5.00

Dated: _____

CITY OF SPOKANE

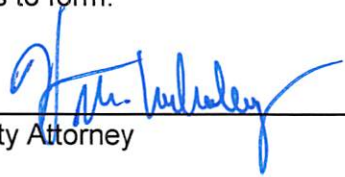
By: _____

Title: _____

Attest:

City Clerk

Approved as to form:



Assistant City Attorney

Dated: _____

9.12.16

AMERICAN TRAFFIC SOLUTIONS, INC.

E-Mail address, if available:
liz.caracciolo@atsol.com

By: _____


Elizabeth Caracciolo

Title: Senior Vice President/
General Manager, Government Solutions

16-477p6NEWclean

**Briefing Paper
City of Spokane
SPD – Finance Committee
October 3, 2016**

Subject

Amending extension # 1 contract with American Traffic Solutions, INC (ATS) - OPR 2008-0120 for Traffic Safety Camera System; effective upon signing. The amendment will return the extension #1 to the original agreement's status under which ATS bore full responsibility of the costs associated with running the Photo Red program.

Background

In June 2013, SPD executed the first 5-year contract extension with AST for OPR 2008-0120. Extension # 1 included a few modifications from the original contract. The Police Department became the signatory on issued infractions and violations. The department also became responsible for mailing the first issued infractions and notices of violations and the subsequent infractions/violations. Municipal Court's job was to file, stamp, scan, and upload each infraction. The thirteen percent decrease was to offset these additional responsibilities.

The amendment will lead to a thirteen percent increase in the ATS contract. Estimated increase is around \$96,000.00 per year.

Action

Approve ATS contract amendment

Funding

Funding for the amendment of contract with American Traffic Solutions, INC will come from the Traffic Calming Fund.

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

10/17/2016

Date Rec'd

10/5/2016

Clerk's File #

ORD C35442

Renews #**Cross Ref #****Project #****Bid #****Requisition #****Submitting Dept**

POLICE

Contact Name/Phone

JUSTIN LUNDGREN 835-4115

Contact E-Mail

JLUNDGREN@SPOKANEPOLICE.ORG

Agenda Item Type

Emergency Budget Ordinance

Agenda Item Name

0680-POLICE-EBO FOR ADDITIONAL SERGEANT

Agenda Wording

Amending Ordinance No. C-35322 and appropriating funds in the Police Department, FROM: revenue from a contract with Washington State Criminal Justice Training Center (WSCJTC) to fund a Sergeant for training.

Summary (Background)

The Spokane Police Department is requesting to add a Sergeant position to the budget in 2016 and 2017, due to some staffing changes at the WSCJTC. The City of Spokane will be entering into three different contracts with the State of Washington in order to supplement training needs for the City and State. The WSCJTC will be contracting with SPD for a Sergeant position, and thereby leaving a vacancy needing to be backfilled.

Fiscal Impact

Revenue \$ 35,235

Expense \$ 35,235

Select \$

Select \$

Budget Account

0680-117110-21400-33821

0680-11710-21400-Various

#

#

Approvals**Dept Head**

LYNDS, SARAH

Division Director

LYNDS, SARAH

Finance

KECK, KATHLEEN

Legal

ODLE, MARI

For the Mayor

CODDINGTON, BRIAN

Council Notifications**Study Session**

9/19/2016

Other**Distribution List**

slynds

ewade

achirowamangu

Additional Approvals**Purchasing**

JLundgren

Mfitzgerald

ORDINANCE NO C35442

An ordinance amending Ordinance No. C-35322, passed the City Council November 23, 2015, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2016, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2016, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2016 budget Ordinance No. C-35322, as above entitled, and which passed the City Council November 23, 2015, it is necessary to make changes in the appropriations of the General Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

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

FROM:	0680-11710	General Fund	
	21400-33821	Intergovernmental Law Enforcement	<u>\$ 35,235</u>
TO:	0680-11710	General Fund	
	21400-09150	Sergeant	27,200
		(from 37 to 38 positions)	
	21400-52110	Social Security	400
	21400-52230	Pension Leoff II	1,500
	21400-52310	Medical Insurance	4,000
	21400-52330	Life Insurance	10
	21400-52320	Dental Insurance	375
	21400-52320	Long Term Disability	100
	21400-51295	Education	550
	21400-51640	Deferred Comp	1100
			<u>\$ 35,235</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 create an additional Sergeant position, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage..

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date



Agenda Sheet for City Council Meeting of:
10/17/2016

Date Rec'd	10/5/2016
Clerk's File #	ORD C35443
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	
Submitting Dept	FINANCE & ADMIN
Contact Name/Phone	GAVIN COOLEY 625-6586
Contact E-Mail	GCOOLEY@SPOKANECITY.ORG
Agenda Item Type	Emergency Ordinance
Agenda Item Name	0410 UTGO REFUNDING BONDS TO REFINANCE 2008 PARKS BONDS

Agenda Wording

An ordinance authorizing the issuance and sale of Unlimited Tax General Obligation (UTGO) bonds in an amount not to exceed \$30,000,000 to 'advance' refund 2008 Parks UTGO Bonds

Summary (Background)

Current near-historic low interest rates provide the opportunity to refinance existing Parks indebtedness (2008 voted bond issuance for pools and other Parks purposes). The refinance will be accomplished through an 'advance' refunding of the existing 2008 bonds on the earliest callable date of June 1, 2018. Estimated present value savings from this refinance are approximately \$3 million and will result in commensurately lower City property tax assessments over the life of the newly issued bonds

Fiscal Impact

Neutral \$

Neutral \$

Select \$

Select \$

Budget Account

#

#

#

#

Approvals

Dept Head

BUSTOS, KIM

Division Director

DUNIVANT, TIMOTHY

Council Notifications

Study Session

Other

10/3/2016 Finance Committee

Finance

KECK, KATHLEEN

Legal

DALTON, PAT

For the Mayor

CODDINGTON, BRIAN

Distribution List

tdunivant@spokanecity.org

kbustos@spokanecity.org

bramharter@spokanecity.org

Additional Approvals

Purchasing

lwilliams@spokanecity.org

gcooley@spokanecity.org

CITY OF SPOKANE, WASHINGTON

UNLIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2016

ORDINANCE NO. C35443

AN ORDINANCE OF THE CITY OF SPOKANE, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF UNLIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2016, OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$30,000,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING BONDS OF THE CITY; PROVIDING FOR THE REDEMPTION OF THE OUTSTANDING BONDS TO BE REFUNDED; PROVIDING FOR THE ANNUAL LEVY OF TAXES TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; AUTHORIZING PRELIMINARY AND FINAL OFFICIAL STATEMENTS; AUTHORIZING AN ESCROW AGREEMENT; AND DELEGATING AUTHORITY TO THE DESIGNATED REPRESENTATIVE TO DETERMINE THE MANNER OF SALE AND TERMS OF THE BONDS UNDER THE CONDITIONS SET FORTH HEREIN, AND DECLARING AN EMERGENCY.

Passed: October 17, 2016

Prepared by:

WORKLAND & WITHERSPOON, PLLC
Spokane, Washington

CITY OF SPOKANE, WASHINGTON
ORDINANCE NO. C35443
TABLE OF CONTENTS*

	Page
Section 1. Definitions.....	2
Section 2. Emergency	8
Section 3. Authorization of Bonds and Bond Details	8
Section 4. Registration, Exchange and Payments.....	9
Section 5. Redemption Prior to Maturity and Purchase of Bonds	13
Section 6. Form of Bonds	17
Section 7. Execution of Bonds.....	19
Section 8. Designation of Refunded Bonds; Refunding Plan	20
Section 9. Call For Redemption of Refunded Bonds and Escrow Agreement	22
Section 10. Tax Covenants	24
Section 11. Bond Fund and Provision for Tax Levy Payments.....	26
Section 12. Defeasance	28
Section 13. Delegation of Authority; Sale of Bonds.....	28
Section 14. Undertaking to Provide Ongoing Disclosure.....	31
Section 15. Lost, Stolen or Destroyed Bonds	32
Section 16. Severability	32
Section 17. Effective Date	32
Exhibit A: Form of Escrow Deposit Agreement	
Exhibit B: Form of Cost of Issuance Agreement	

* This table of contents and the cover page are for convenience of reference and are not intended to be a part of this ordinance.

ORDINANCE NO. C35443

AN ORDINANCE OF THE CITY OF SPOKANE, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF UNLIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2016, OF THE CITY IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$30,000,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING BONDS OF THE CITY; PROVIDING FOR THE REDEMPTION OF THE OUTSTANDING BONDS TO BE REFUNDED; PROVIDING FOR THE ANNUAL LEVY OF TAXES TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; AUTHORIZING PRELIMINARY AND FINAL OFFICIAL STATEMENTS; AUTHORIZING AN ESCROW AGREEMENT; AND DELEGATING AUTHORITY TO THE DESIGNATED REPRESENTATIVE TO DETERMINE THE MANNER OF SALE AND TERMS OF THE BONDS UNDER THE CONDITIONS SET FORTH HEREIN, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Spokane, Washington (the “City”) now has outstanding its Unlimited Tax General Obligation Bonds, Series 2008, issued on June 18, 2008, pursuant to Ordinance No. C34244, passed by the Council on June 2, 2008 (the “2008 Bond Ordinance”), in the aggregate principal amount of \$42,900,000 (the “2008 Bonds”), which remain outstanding as follows:

<u>Years (December 1)</u>	<u>Amounts</u>	<u>Interest Rates</u>	<u>CUSIP Nos.</u>
2016	\$2,040,000	4.00%	849067N58
2017	2,120,000	4.00	849067N66
2018	2,205,000	4.00	849067N74
2019	2,295,000	4.00	849067N82
2020	2,385,000	5.00	849067N90
2021	2,505,000	5.00	849067P23
2022	2,630,000	5.00	849067P31
2023	2,760,000	5.00	849067P49
2024	2,900,000	4.25	849067P56
2025	3,025,000	4.25	849067P64
2026	3,150,000	4.25	849067P72
2027	3,285,000	4.25	849067P80

; and

WHEREAS, the 2008 Bonds maturing on and after December 1, 2018 are callable for redemption at any time on or after June 1, 2018, at a price of par plus accrued interest to the date of redemption; and

WHEREAS, it is deemed necessary and in the best interest of the City to modify its debt service and other terms of the Refunded Bonds to achieve cost savings by refunding the 2008 Bonds through the issuance of Unlimited Tax General Obligation Refunding Bonds, 2016 (the “Bonds”); and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SPOKANE, WASHINGTON as follows:

Section 1. Definitions. As used in this ordinance, the following words shall have the following meanings:

Acquired Obligations means the Government Obligations acquired by the City under the terms of this ordinance and the Escrow Agreement to effect the defeasance and refunding of the Refunded Bonds.

Approved Bid means the winning bid submitted for the Bonds if the Bonds are sold by Competitive Sale.

Beneficial Owner means any person that has or shares the power, directly or indirectly to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

Bond Fund means the City of Spokane General Obligation Debt Service Fund maintained pursuant to Section 11 of this ordinance.

Bond Purchase Contract means, if the Bonds shall be sold by Negotiated Sale, the purchase contract relating to the Bonds between the City and the Underwriter providing for the

purchase of the Bonds by the Underwriter and setting forth certain terms approved by the Designated Representative as provided in Section 13 of this ordinance.

Bond Register means the books or records maintained by the Registrar containing the name and mailing address of the owner of each Bond or nominee of such owner and the principal amount and number of Bonds of a series held by each owner or nominee.

Bonds means the City of Spokane, Washington, Unlimited Tax General Obligation Refunding Bonds, 2016, issued pursuant to this ordinance. The Bonds may be issued in one or more series.

Bond Year means each one-year period that ends on the date selected by the City. The first and last Bond Years may be short periods. If no day is selected by the City before the earlier of the final maturity date of the Bonds or the date that is five years after the date of issuance of the Bonds, Bond Years end on each anniversary of the date of issue and on the final maturity date of the Bonds.

Call Date means the date on which bonds will be prepaid, as selected by the City, which date will be no earlier than 30 days after closing of the Bonds.

Chief Financial Officer means the duly qualified, appointed and acting Chief Financial Officer of the City or any other officer who succeeds to the duties now delegated to that office.

City means the City of Spokane, a municipal corporation and first class charter city duly organized and existing under the laws of the State of Washington and the Charter of the City.

Code means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

Commission means the United States Securities and Exchange Commission.

Competitive Sale means the process by which the Bonds (or a portion of them) are sold through the public solicitation of bids from underwriting firms.

Continuing Disclosure Agreement means an agreement entered into by the Chief Financial Officer pursuant to Section 14 of this ordinance in order to permit the purchaser of the Bonds of a series to comply with the Rule.

Cost of Issuance Agreement means the agreement of that name, to be entered into by the City and the Escrow Agent, providing for the payment of certain costs of issuance with respect to the issuance of the Bonds, substantially in the form attached hereto as Exhibit B.

Council means the City Council as the general legislative authority of the City, as the same shall be duly and regularly constituted from time to time.

Designated Representative means the Chief Financial Officer or the Director of Management and Budget.

Director of Management and Budget means the duly qualified, appointed and acting Director of Management and Budget of the City or any other officer who succeeds to the duties now delegated to that office.

DTC means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, as depository for the Bonds pursuant to Section 4 hereof, or any successor depository.

Escrow Agreement means the Escrow Deposit Agreement to be dated as of the date of closing and delivery of the Bonds substantially in the form attached hereto as Exhibit A.

Escrow Agent means the financial institution selected by the Treasurer pursuant to Section 8 of this ordinance, also known as ***Refunding Trustee***.

Government Obligations means those obligations now or hereafter defined as such in chapter 39.53 RCW.

Issue Date means, with respect to the Bonds, the date of initial issuance and delivery of the Bonds to the Underwriter in exchange for the purchase price of the Bonds.

Letter of Representations means the blanket issuer letter of representations from the City to DTC.

MSRB means the Municipal Securities Rulemaking Board or any successor to its functions.

Negotiated Sale means the process by which the Bonds (or a portion of them) are sold by negotiation to one or more underwriting firms selected by the Designated Representative.

Net Proceeds, when used with reference with the Bonds, means the principal amount of the Bonds, plus accrued interest and original issue premium, if any, and less original issue discount, if any.

Notice of Sale means, if the Bonds shall be sold by Competitive Sale, the notice of bond sale authorized to be given in Section 13 of this ordinance.

Private Person means any natural person engaged in a trade or business or any trust, estate, partnership, association, company or corporation.

Private Person Use means the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes

attendance by the Private Person at municipal meetings or business rental of property to the Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such use by all such community groups on an equal basis and such community groups are charged only a *de minimis* fee to cover custodial expenses.

Refunded Bonds means the 2008 Bonds maturing on and after December 1, 2018.

Registered Owner means the person named as the registered owner of a Bond in the Bond Register. For so long as the Bonds are held in book-entry only form, DTC shall be deemed to be the sole Registered Owner.

Registrar means the fiscal agency of the State of Washington or such other registrar as may be designated in a certificate by the Designated Representative for the purposes of registering and authenticating the Bonds of a series, maintaining the Bond Register, effecting transfer of ownership of such Bonds, and paying the principal of, premium, if any, and interest on such Bonds.

Rule means the Commission's Rule 15c2-12 under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Treasurer means the Treasurer of the City or the person succeeding to the functions currently performed by the Treasurer.

2008 Bond Ordinance means Ordinance No. C34244, passed by the Council on June 2, 2008.

2008 Bonds means the Unlimited Tax General Obligation Bonds, Series 2008, of the City issued June 18, 2008, and authorized by the 2008 Bond Ordinance.

Underwriter means, the underwriter(s) of the Bonds of a series if such Bonds are sold by Negotiated Sale or the successful bidder(s) submitting the Approved Bid if the Bonds of a series are sold by Competitive Sale.

UTGO 2016 Debt Service Account means the account of that name previously created by the City and maintained pursuant to Section 11 of this ordinance.

Rules of Interpretation. In this ordinance, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this ordinance;

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect; and

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. Emergency. The Council declares that an emergency exists in order that there be no delay in issuing the Bonds, ensuring the favorable marketing of the Bonds for the benefit of the City. Therefore, this ordinance shall be in full force and effect immediately upon its passage by the Council.

Section 3. Authorization of Bonds and Bond Details. For purposes of refunding the 2008 Bonds that are callable and paying the costs of issuance of the Bonds, thereby effecting a restructuring of the debt service and terms of the 2008 Bonds in the best interests of the City and its taxpayers, the City shall issue its Unlimited Tax General Obligation Refunding Bonds, 2016 in one or more series in the aggregate principal amount of not to exceed \$30,000,000 (the “Bonds”).

The Bonds shall be general obligations of the City, shall be designated “City of Spokane, Washington, Unlimited Tax General Obligation Refunding Bonds, 2016,” shall be fully registered as to both principal and interest, shall be issued in the aggregate principal amount set forth in the Bond Purchase Contract or the Notice of Sale and the Approved Bid for such Bonds, shall be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification, shall be dated their date of delivery, and shall be in the denomination of \$5,000 each or any integral multiple of \$5,000 within a maturity. The Bonds shall bear interest from their dated date or from their most recent interest payment date to which interest has been paid or duly provided for, whichever is later, at the rates payable, commencing no later than one year following the Issue Date, and semiannually thereafter on each December 1 and June 1, to the maturity or earlier redemption of the Bonds,

and shall mature on the dates and in the principal amounts set forth in the Bond Purchase Contract or the Notice of Sale and the Approved Bid for such Bonds, all as approved by the Designated Representative.

Section 4. Registration, Exchange and Payments.

(a) *Registrar/Bond Register.* The City hereby specifies and adopts the system of registration approved by the Washington State Finance Committee from time to time through the appointment of state fiscal agencies. The City shall cause a bond register to be maintained by the Registrar. So long as any Bonds of a series remain outstanding, the Registrar shall make all necessary provisions to permit the exchange or registration or transfer of such Bonds at its principal corporate trust office. The Registrar may be removed at any time at the option of the Designated Representative upon prior notice to the Registrar and a successor Registrar appointed by the Designated Representative. No resignation or removal of the Registrar shall be effective until a successor shall have been appointed and until the successor Registrar shall have accepted the duties of the Registrar hereunder. The Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of such Bonds and this ordinance and to carry out all of the Registrar's powers and duties under this ordinance. The Registrar shall be responsible for its representations contained in the Certificate of Authentication of such Bonds.

(b) *Registered Ownership.* The City and the Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes (except as provided in Section 14 of this ordinance), and neither the City nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 4(h) hereof, but such Bond may be transferred as herein provided. All such

payments made as described in Section 4(h) shall be valid and shall satisfy and discharge the liability of the City upon such Bond to the extent of the amount or amounts so paid.

(c) *DTC Acceptance/Letters of Representations.* The Bonds initially shall be held in fully-immobilized form by DTC acting as depository. To induce DTC to accept the Bonds as eligible for deposit at DTC, the City has executed and delivered to DTC a Blanket Issuer Letter of Representations. Neither the City nor the Registrar will have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds in respect of the accuracy of any records maintained by DTC or any DTC participant, the payment by DTC or any DTC participant of any amount in respect of the principal of or interest on the Bonds, any notice which is permitted or required to be given to Registered Owners under this ordinance (except such notices as shall be required to be given by the City to the Registrar or to DTC), or any consent given or other action taken by DTC as the Registered Owner. For so long as any Bonds are held in fully-immobilized form hereunder, DTC or its successor depository shall be deemed to be the Registered Owner for all purposes hereunder, and all references herein to the Registered Owners shall mean DTC or its nominee and shall not mean the owners of any beneficial interest in such Bonds.

(d) *Use of Depository.*

(1) The Bonds shall be registered initially in the name of “Cede & Co.,” as nominee of DTC, with one Bond maturing on each of the maturity dates for the Bonds in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such immobilized Bonds, or any portions thereof, may not thereafter be transferred except (A) to any successor of DTC or its nominee, provided that any such successor shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(B) to any substitute depository appointed by the Designated Representative pursuant to subsection (2) below or such substitute depository's successor; or (C) to any person as provided in subsection (4) below.

(2) Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository or a determination by the Designated Representative to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the Designated Representative may hereafter appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

(3) In the case of any transfer pursuant to clause (A) or (B) of subsection (1) above, the Registrar shall, upon receipt of all outstanding Bonds, together with a written request of the Designated Representative, issue a single new Bond for each maturity then outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the Designated Representative.

(4) In the event that (A) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (B) the Designated Representative determines that it is in the best interest of the Beneficial Owners of the Bonds of a series that such owners be able to obtain such bonds in the form of Bond certificates, the ownership of such Bonds may then be transferred to any person or entity as herein provided, and shall no longer be held in fully-immobilized form. The Designated Representative shall deliver a written request to the Registrar, together with a supply of definitive Bonds, to issue Bonds as herein provided in any authorized denomination. Upon

receipt by the Registrar of all then outstanding Bonds of a series together with a written request of the Designated Representative to the Registrar, new Bonds shall be issued in the appropriate denominations and registered in the names of such persons as are requested in such written request.

(e) *Registration of Transfer of Ownership or Exchange; Change in Denominations.*

The transfer of any Bond may be registered and Bonds may be exchanged, but no transfer of any such Bond shall be valid unless it is surrendered to the Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Registrar. Upon such surrender, the Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond (or Bonds at the option of the new Registered Owner) of the same date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and cancelled Bond. Any Bond may be surrendered to the Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same date, maturity and interest rate, in any authorized denomination. The Registrar shall not be obligated to register the transfer or to exchange any Bond during the 15 days preceding any interest payment or principal payment date any such Bond is to be redeemed.

(f) *Registrar's Ownership of Bonds.* The Registrar may become the Registered Owner of any Bond with the same rights it would have if it were not the Registrar, and to the extent permitted by law, may act as depository for and permit any of its officers or directors to

act as member of, or in any other capacity with respect to, any committee formed to protect the right of the Registered Owners of Bonds.

(g) *Registration Covenant.* The City covenants that, until all Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code.

(h) *Place and Medium of Payment.* Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be calculated on the basis of a year of 360 days and twelve 30-day months. For so long as all Bonds are in fully-immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of DTC referred to in the Letter of Representations. In the event that the Bonds of a series are no longer in fully-immobilized form, interest on such Bonds shall be paid by check or draft mailed to the Registered Owners at the addresses for such Registered Owners appearing on the Bond Register on the fifteenth day of the month preceding the interest payment date, or upon the written request of a Registered Owner of more than \$1,000,000 of Bonds (received by the Registrar at least 15 days prior to the applicable payment date), such payment shall be made by the Registrar by wire transfer to the account within the continental United States designated by the Registered Owner. Principal of the Bonds shall be payable upon presentation and surrender of such Bonds by the Registered Owners at the principal office of the Registrar.

Section 5. Redemption Prior to Maturity and Purchase of Bonds.

(a) *Optional or Extraordinary Redemption.* The Bonds of a series shall be subject to optional and/or extraordinary redemption on the dates, at the prices and under the terms set forth

in the Bond Purchase Contract or the Notice of Sale and the Approved Bid as approved by the Designated Representative pursuant to Section 13 of this ordinance.

(b) *Mandatory Redemption.* The Bonds of a series shall be subject to mandatory redemption to the extent, if any, set forth in the Bond Purchase Contract or the Approved Bid and as approved by the Designated Representative pursuant to Section 13 of this ordinance.

(c) *Effect of Purchase.* To the extent that the City shall have purchased any term bonds since the last scheduled mandatory redemption of such term bonds, the City may reduce the principal amount of the term bonds to be redeemed in like principal amount. Such reduction may be applied in the year specified by the Designated Representative.

(d) *Selection of Bonds for Redemption.* If Bonds of a series are called for optional redemption, the maturities of Bonds to be redeemed shall be selected by the Designated Representative. If any Bonds to be redeemed (optional or mandatory) then are held in book-entry-only form, the selection of Bonds to be redeemed within a maturity shall be made in accordance with the operational arrangements then in effect at DTC. If the Bonds to be redeemed are no longer held in book-entry-only form, the selection of such Bonds to be redeemed shall be made in the following manner. If the City redeems at any one time fewer than all of the Bonds having the same maturity date, the particular Bonds or portions of Bonds and maturity to be redeemed shall be selected by lot utilizing a random selection process (reasonably determined by the Registrar) in increments of \$5,000. In the case of a Bond of maturity in a denomination greater than \$5,000, the City and Registrar shall treat each Bond of that maturity as representing such number of separate Bonds each of the denomination of \$5,000 as is obtained by dividing the actual principal amount of such Bond of that maturity by \$5,000. In the event that only a portion of the principal sum of a Bond is redeemed, upon surrender of such Bond at

the principal office of the Registrar there shall be issued to the Registered Owner, without charge therefor, for the then-unredeemed balance of the principal sum thereof a Bond or, at the option of the Registered Owner, Bonds of like maturity and interest rate in any of the denominations herein authorized.

(e) *Purchase of Bonds.* The City also reserves the right to purchase any of the Bonds offered to the City at any time at a price deemed reasonable by the City.

(f) *Notice of Redemption.* Written notice of any redemption of Bonds prior to maturity, which notice may be conditional, shall be given by the Registrar on behalf of the City by first class mail, postage prepaid, not less than 20 days nor more than 60 days before the date fixed for redemption to the Registered Owners of Bonds that are to be redeemed at their last addresses shown on the Bond Register. This requirement shall be deemed complied with when notice is mailed to the Registered Owners at their last addresses shown on the Bond Register, whether or not such notice is actually received by the Registered Owners.

So long as the Bonds are in book-entry only form, notice of redemption shall be given to Beneficial Owners of Bonds to be redeemed in accordance with the operational arrangements then in effect at DTC, and neither the City nor the Registrar shall be obligated or responsible to confirm that any notice of redemption is, in fact, provided to Beneficial Owners.

Each notice of redemption prepared and given by the Registrar to Registered Owners of Bonds shall contain the following information: (1) the proposed redemption date, (2) the redemption price, (3) if fewer than all outstanding Bonds of a series are to be redeemed, the identification by maturity (and, in the case of partial redemption, the principal amounts) of the Bonds to be redeemed, (4) that on the date fixed for redemption the redemption price will become due and payable upon each Bond or portion called for redemption, and that interest shall

cease to accrue from the date fixed for redemption (unless the notice of redemption is a conditional notice, in which case the notice shall state that interest shall cease to accrue from the date fixed for redemption if and to the extent that funds have been provided to the Registrar for the redemption of Bonds), (5) that the Bonds are to be surrendered for payment at the principal office of the Registrar, (6) the CUSIP numbers of all Bonds being redeemed, (7) the dated date of the Bonds being redeemed, (8) the rate of interest for each Bond being redeemed, (9) the date of the notice, and (10) any other information deemed necessary by the Registrar to identify the Bonds being redeemed.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(g) *Effect of Redemption.* Unless the City has revoked a notice of redemption (or unless the City provided a conditional notice and the conditions for redemption set forth therein are not satisfied), the City shall transfer to the Registrar amounts that, in addition to other money, if any, held by the Registrar for such purpose, will be sufficient to redeem, on the date fixed for redemption, all the Bonds to be redeemed. If, and to the extent that, funds have been provided to the Registrar for the redemption of Bonds then such Bonds shall become due and payable on the date fixed for redemption and interest on such Bond shall cease to accrue from and after such date.

(h) *Use of CUSIP Numbers.* Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(i) *Amendment of Notice Provisions.* The foregoing notice provisions of this section, including but not limited to the information to be included in redemption notices and the persons designated to receive notices, may be amended by additions, deletions and changes to maintain compliance with duly promulgated regulations and recommendations regarding notices of redemption of municipal securities.

Section 6. Form of Bonds. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. _____ \$ _____

STATE OF WASHINGTON

CITY OF SPOKANE

UNLIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2016

INTEREST RATE: % MATURITY DATE: CUSIP NO.:

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

THE CITY OF SPOKANE, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (the “City”), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above, the Principal Amount indicated above and to pay interest thereon from _____, 20__, or the most recent date to which interest has been paid or duly provided for until payment of this bond at the Interest Rate set forth above, payable on _____ 1, 20__, and semiannually thereafter on the first days of each succeeding December and June. Both principal of and interest on this bond are payable in lawful money of the United States of America. Interest shall be paid as provided in the Blanket Issuer Letter of Representations (the “Letter of Representations”) from the City to The Depository Trust Company (“DTC”). Initially, the City has specified and adopted the registration system for the bonds of this issue specified by the State Finance Committee, and the fiscal agency of the State will act as registrar, paying agent and authenticating agent (the “Bond Registrar”).

The bonds of this issue are issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington, the City Charter, and Ordinance No. C35443 duly passed by the City Council on October 17, 2016 (the “Bond Ordinance”). Capitalized terms used in this bond have the meanings given such terms in the Bond Ordinance.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Bond Registrar or its duly designated agent.

This bond is one of an authorized issue of bonds of like date, tenor, rate of interest and date of maturity, except as to number and amount in the aggregate principal amount of \$_____ and is issued pursuant to the Bond Ordinance for the purposes of refunding its Unlimited Tax General Obligation Bonds, Series 2008 and paying costs of issuance.

The bonds of this issue are subject to redemption as stated in the [Bond Purchase [Contract] [Notice of Sale for such Bonds] [Approved Bid].

For so long as the bonds of this issue are outstanding, the City hereby irrevocably pledges to levy taxes annually, without limitation as to rate or amount, on all of the taxable property within the City in an amount sufficient, together with other money legally available and to be used therefor, to pay, when due, the principal of and interest on the bonds of this issue. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

The bonds are not “private activity bonds” as such term is defined in the Internal Revenue Code of 1986, as amended (the “Code”). The bonds of this issue have not been designated by the City as “qualified tax-exempt obligations” under Section 265(b) of the Code for banks, thrift institutions and other financial institutions. The interest on the bonds of this issue is excludable from federal income taxation.

The pledge of tax levies for payment of principal of and interest on the bonds may be discharged prior to maturity of the bonds by making provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond and the bonds of this issue does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Spokane, Washington, has caused this bond to be signed with the facsimile or manual signature of the Mayor, to be attested by the facsimile or manual signature of the City Clerk, and the corporate seal of the City to be reproduced hereon, all as of this ____ day of _____ 2016.

CITY OF SPOKANE, WASHINGTON

By _____
Mayor

ATTEST:

City Clerk

[SEAL]

The Bond Registrar's Certificate of Authentication on the Bonds shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Bond Ordinance and is one of the Unlimited Tax General Obligation Refunding Bonds, 2016, of the City of Spokane, Washington, dated _____, 2016.

WASHINGTON STATE FISCAL
AGENCY, Registrar

By _____
Authorized Signer

Section 7. Execution of Bonds. The Bonds shall be executed on behalf of the City with the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk, and the seal of the City shall be impressed or a facsimile thereof imprinted or otherwise reproduced on the Bonds.

Only such Bonds as shall bear thereon a Certificate of Authentication in the form hereinbefore recited, manually executed by the Registrar, shall be valid or obligatory for any

purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

In case either of the officers who shall have executed the Bonds shall cease to be an officer or officers of the City before the Bonds so signed shall have been authenticated or delivered by the Registrar, or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. Any Bond may also be signed and attested on behalf of the City by such persons who are at the actual date of delivery of such Bond the proper officers of the City although at the original date of such Bond any such person shall not have been such officer of the City.

Section 8. Designation of Refunded Bonds; Refunding Plan.

(a) *Designation of Refunded Bonds.* The following maturities of the 2008 Bonds are designated as the Refunded Bonds:

<u>Years (December 1)</u>	<u>Amounts</u>	<u>Interest Rates</u>	<u>CUSIP Nos.</u>
2018	\$2,205,000	4.00%	849067N74
2019	2,295,000	4.00	849067N82
2020	2,385,000	5.00	849067N90
2021	2,505,000	5.00	849067P23
2022	2,630,000	5.00	849067P31
2023	2,760,000	5.00	849067P49
2024	2,900,000	4.25	849067P56
2025	3,025,000	4.25	849067P64
2026	3,150,000	4.25	849067P72
2027	3,285,000	4.25	849067P80

(b) *Application of Bond Proceeds.* The net proceeds of the Bonds (exclusive of any amounts that may be designated by the Designated Representative in a closing certificate to be allocated to pay costs of issuance), together with other available funds of the City in the amount

(if any) specified by the Designated Representative, shall be held by the City and used at the direction of the Designated Representative to pay the costs of or reimbursing the City for the costs of redeeming the Refunded Bonds or may be placed into the escrow account pursuant to the terms of the Escrow Agreement to effect a defeasance of the Refunded Bonds.

(c) *Defeasance of Refunded Bonds.* In order to effect the defeasance of the Refunded Bonds, the net proceeds of the Bonds shall be deposited with an Escrow Agent and shall be utilized to purchase the Acquired Obligations and to maintain such necessary beginning cash balance to defease the Refunded Bonds and to discharge the other obligations of the City relating thereto under the 2008 Bond Ordinance authorizing their issuance, by providing for the payment of the interest on the Refunded Bonds to the date fixed for redemption and the redemption price (the principal amount) on the date fixed for redemption of the Refunded Bonds. When the final transfer has been made for the payment of such redemption price and interest on the Refunded Bonds, any balance then remaining with the Escrow Agent shall be transferred to the account designated by the City and used for the purposes specified by the Designated Representative.

(d) *Acquired Obligations.* The Acquired Obligations, if any, shall be payable in such amounts and at such times that, together with any necessary beginning cash balance, will be sufficient to provide for the payment of:

(1) the interest on the Refunded Bonds as such becomes due on and before the date fixed for redemption or maturity of the Refunded Bonds; and

(2) the price of redemption of the Refunded Bonds on the date fixed for redemption of the Refunded Bonds or the maturity value of the Refunded Bonds that are defeased to maturity.

(e) *Appointment of Escrow Agent.* The City hereby authorizes the Treasurer to select a financial institution to act as the Escrow Agent for the Refunded Bonds (the “Escrow Agent”). The Bond proceeds designated in the foregoing subsection together with any cash contribution from the City shall be transferred to the Escrow Agent in order to implement the refunding plan. A beginning cash balance, if any, and Acquired Obligations shall be deposited irrevocably with the Escrow Agent in an amount sufficient to defease the Refunded Bonds. The proceeds of the Bonds remaining after acquisition of the Acquired Obligations and provision for the necessary beginning cash balance shall be utilized to pay expenses of the acquisition and safekeeping of the Acquired Obligations and expenses of the issuance of the Bonds and/or returned to the City for the payment of such expenses. The Treasurer is hereby further authorized to select a verification agent who will confirm the accuracy of certain financial information regarding the funds to be deposited with the Refunding Trustee and the implementation of the refunding plan.

Section 9. Call For Redemption of Refunded Bonds and Escrow Agreement.

(a) *Call For Redemption of the Refunded Bonds.* The City hereby irrevocably sets aside sufficient funds out of the purchase of Acquired Obligations from proceeds of the Bonds to make the payments described in Section 8 of this ordinance.

The City hereby irrevocably calls the Refunded Bonds for redemption on the Call Date in accordance with terms of the 2008 Bond Ordinance authorizing the redemption and retirement of the Refunded Bonds prior to their fixed maturities.

Said defeasance and call for redemption of the Refunded Bonds shall be effective and irrevocable after the final establishment of the escrow account and delivery of the Acquired Obligations to the Escrow Agent.

The Escrow Agent is hereby authorized and directed to provide for the giving of notice of the redemption of the Refunded Bonds in accordance with the applicable provisions of the 2008 Bond Ordinance. The Designated Representative of the City is authorized and requested to provide whatever assistance is necessary to accomplish such redemption and the giving of notice therefor.

The Escrow Agent is hereby authorized and directed to pay to the fiscal agency or agencies of the State of Washington, sums sufficient to pay, when due, the payments specified in Section 8 of this ordinance. All such sums shall be paid from the moneys and Acquired Obligations deposited with said Escrow Agent pursuant to the previous section of this ordinance, and the income therefrom and proceeds thereof. All moneys and Acquired Obligations deposited with said Escrow Agent and any income therefrom shall be credited to a refunding account and held, invested (but only at the direction of the Designated Representative) and applied in accordance with the provisions of this ordinance and with the laws of the State of Washington for the benefit of the City and owners of the Refunded Bonds.

The City will take such actions as are found necessary to see that all necessary and proper fees, compensation and expenses of the Escrow Agent for the Refunded Bonds shall be paid when due.

(b) *Escrow Agreement/Cost of Issuance Agreement.* The Designated Representative is authorized and directed to execute and deliver to the Escrow Agent an Escrow Deposit Agreement substantially in the form attached to this ordinance as Exhibit A (the “Escrow Agreement”) and a Cost of Issuance Agreement substantially in the form attached to this ordinance as Exhibit B (the “Cost of Issuance Agreement”), with such changes or modifications

as the Designated Representative, with the advice of bond counsel to the City, consider necessary or advisable.

The City hereby irrevocably sets aside for and pledges to the payment of the Refunded Bonds the moneys and obligations to be deposited with the Escrow Agent pursuant to the Escrow Agreement to accomplish the plan of refunding and defeasance of the Refunded Bonds set forth herein and in the Escrow Agreement. When all of the Refunded Bonds shall have been redeemed and retired, the City may cause any remaining money to be transferred to the UTGO 2016 Debt Service Account for the purposes set forth above.

Section 10. Tax Covenants. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exemption from federal income taxation of the interest on the Bonds and will take or require to be taken such acts as may reasonably be within its ability and as may from time to time be required under applicable law to continue the exemption from federal income taxation of the interest on the Bonds.

(a) *Arbitrage Covenant.* Without limiting the generality of the foregoing, the City covenants that it will not take any action or fail to take any action with respect to the proceeds of sale of the Bonds or any other funds of the City which may be deemed to be proceeds of the Bonds pursuant to Section 148 of the Code and the regulations promulgated thereunder which, if such use had been reasonably expected on the dates of delivery of the Bonds to the initial purchasers thereof, would have caused the Bonds to be treated as “arbitrage bonds” within the meaning of such term as used in Section 148 of the Code.

The City represents that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is an issuer whose arbitrage certifications may not

be relied upon. The City will comply with the requirements of Section 148 of the Code and the applicable regulations thereunder throughout the term of the Bonds.

(b) *Private Person Use Limitation for Bonds.* The City covenants that for as long as the Bonds issued as governmental bonds or tax advantaged bonds are outstanding, it will not permit:

(1) More than 10% of the Net Proceeds of the Bonds to be allocated to any Private Person Use; and

(2) More than 10% of the principal or interest payments on the Bonds in a Bond Year to be directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City further covenants that, if:

(3) More than 5% of the Net Proceeds of the Bonds are allocable to any Private Person Use; and

(4) More than 5% of the principal or interest payments on the Bonds in a Bond Year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly:

(A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or

(B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use, then,

(i) any Private Person Use of the project described in subsection (3) hereof or Private Person Use payments described in subsection (4) hereof that is in excess of the five percent limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local governmental use of the projects financed or refinanced with the proceeds of the Bonds (including the Refunded Bonds), and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Bonds allocable to the state or local governmental use portion of the project(s) to which the Private Person Use of such portion of the projects financed or refinanced with the proceeds of the Bonds (including the Refunded Bonds) relate. The City further covenants that it will comply with any limitations on the use of the projects financed or refinanced with the proceeds of the Bonds by other than state and local governmental users that are necessary, in the opinion of its bond counsel, to preserve the tax exemption of the interest on the Bonds. The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bonds.

(c) *Modification of Tax Covenants.* The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bonds. To that end, the provisions of this section may be modified or eliminated without any requirement for formal amendment thereof upon receipt of an opinion of the City's bond counsel that such modification or elimination will not adversely affect the tax exemption of interest on any Bonds.

(d) *No Designation under Section 265(b) of the Code.* The Bonds are not "qualified tax-exempt obligations" under Section 265(b)(3) of the Code for banks, thrift institutions and other financial institutions.

Section 11. Bond Fund and Provision for Tax Levy Payments. The Treasurer currently maintains a fund to be used for the payment of debt service on all general obligation

bonds, designated as the “General Obligation Debt Service Fund” (the “Bond Fund”). Within the Bond Fund, the City currently maintains a subsidiary account designated as the “UTGO 2016 Debt Service Account,” which shall continue to be maintained by the office of the Treasurer. The UTGO 2016 Debt Service Account shall be used solely for the purpose of paying the principal of, premium, if any, and interest, when due, on the Bonds and any other unlimited tax general obligation bonds of the City authorized for Parks purposes. The taxes hereafter levied for the purpose of paying principal of and interest on the Bonds and other funds to be used to pay the Bonds shall be deposited in the UTGO 2016 Debt Service Account no later than the date such funds are required for the payment of principal of and interest on the Bonds. Money in the UTGO 2016 Debt Service Account not needed to pay the interest or principal next coming due may temporarily be deposited in such institutions or invested in such obligations as may be lawful for the investment of City funds.

The City hereby irrevocably covenants and agrees for as long as any of the Bonds are outstanding and unpaid that each year it will include in its budget and levy an *ad valorem* tax upon all the property within the City subject to taxation in an amount that will be sufficient, together with all other revenues and money of the City legally available for such purposes, to pay the principal of and interest on the Bonds as the same shall become due. All of such taxes so collected and any other money to be used for such purposes shall be paid into the UTGO 2016 Debt Service Account.

For so long as the Bonds are outstanding, the City hereby irrevocably pledges to levy taxes annually, without limitation as to rate or amount, on all of the taxable property within the City in an amount sufficient, together with other money legally available and to be used therefor, to pay, when due, the principal of and interest on the Bonds. The full faith, credit and resources

of the City are hereby irrevocably pledged for the annual levy and collection of said taxes and for the prompt payment of the principal of and interest on the Bonds as the same shall become due.

Section 12. Defeasance. In the event that the City, in order to effect the payment, retirement or redemption of any Bond, sets aside in the Bond Fund or in another special account, cash or noncallable Government Obligations, or any combination of cash and/or noncallable Government Obligations, in amounts and maturities which, together with the known earned income therefrom, are sufficient to redeem or pay and retire such Bond in accordance with its terms and to pay when due the interest and redemption premium, if any, thereon, and such cash and/or noncallable Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on such Bond. The owner of a Bond so provided for shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive payment of principal, premium, if any, and interest from such special account, and such Bond shall be deemed to be not outstanding under this ordinance.

The City shall give written notice of defeasance to the owners of all Bonds so provided and to each party entitled to receive notice in accordance with Section 14 of this ordinance.

Section 13. Delegation of Authority; Sale of Bonds.

(a) *Delegation of Authority.* The City has determined that it would be in the best interest of the City to delegate to the Designated Representative the authority to approve the manner of sale, the final principal amounts and prices of each maturity of the Bonds, date of the Bonds, interest rates, payment dates, redemption provisions, maturity dates of such Bonds, and other terms and conditions of the Bonds in the manner provided hereafter so long as:

(1) the aggregate principal amount of the Bonds does not exceed \$30,000,000;
and

(2) the true interest cost of the Bonds does not exceed 5%.

In determining the manner of sale, the final principal amounts of the Bonds and prices of each maturity, date of the Bonds, interest rates, payment dates, redemption provisions, and maturity dates of such Bonds, the Designated Representative, in consultation with City staff and the City's financial advisor, shall take into account those factors that, in the Designated Representative's judgment, will result in the lowest true interest cost on the Bonds to their maturity, including, but not limited to current financial market conditions and current interest rates for obligations comparable in tenor and quality to the Bonds.

(b) *Bond Sale.* The Designated Representative is hereby authorized to determine whether the Bonds shall be sold by Negotiated Sale or by a Competitive Sale. If the Bonds are sold by negotiated sale, the Designated Representative shall negotiate the terms of sale for the Bonds, including the terms described in this section, in a contract of sale (a "Bond Purchase Contract") with one or more underwriters.

If the Bonds are sold by Competitive Sale, the Designated Representative or his designee shall: (a) establish the date of the public sale; (b) establish the criteria by which the successful bidder will be determined; (c) request a good faith deposit from the Successful Bidder; (d) cause notice of the public sale to be given (the "Notice of Sale"); and (e) provide for such other matters pertaining to the public sale as he deems necessary or desirable. The Designated Representative shall cause notice of the public sale to be given and provide for such other matters pertaining to the public sale as she deems necessary or desirable.

Upon the date and time established for the receipt of bids for the Bonds, the Designated Representative or his designee shall open the bids and shall cause the bids to be mathematically verified. The Designated Representative will approve the bid offering to purchase the Bonds at the lowest true interest cost to the City at such price as shall be determined at the time of sale by the Designated Representative, plus accrued interest to the date of delivery, on all the terms and conditions set out in the applicable Notice of Sale.

All bids submitted for the purchase the Bonds shall be as set forth in the applicable Notice of Sale or otherwise as established by the Designated Representative which will be furnished upon request made to the Designated Representative. Such successful bidder shall, within three hours of the award of the Bonds, make a good faith deposit by federal wire or by a cashier's or certified check, made payable to the order of the City in an amount determined by the Designated Representative. The good faith deposit of the successful bidder shall be security for the performance of its bid and shall be held as liquidated damages in case the successful bidder fails to take up and pay for the Bonds within 45 days if tendered for delivery. The City reserves the right to reject any and all bids and to waive any irregularity or informality in any bid.

Subject to the terms and conditions set forth in this section, the Designated Representative is hereby authorized to accept an Approved Bid in a Competitive Sale and/or execute the final form of a Bond Purchase Contract in a Negotiated Sale, upon his approval of the final principal amounts of the Bonds (within the parameters established in this section), date of the Bonds, interest rates, payment dates, redemption provisions, and maturity dates of such bonds set forth therein. Following the sale of the Bonds of a series, the Designated

Representative shall provide a report to the Council, describing the final terms of such Bonds approved pursuant to the authority delegated in this section.

(b) *Delivery of Bonds; Documentation.* Upon the passage and approval of this ordinance, the proper officials of the City including the Designated Representative, are authorized and directed to undertake all action necessary for the prompt execution and delivery of the Bonds to the successful bidder thereof and further to execute all closing certificates and documents required to effect the closing and delivery of the Bonds. In furtherance of the foregoing, the Designated Representative is authorized to approve and enter into agreements for the payment of costs of issuance, including underwriter's discount, the fees and expenses specified in the Bond Purchase Contract or Notice of Sale, including fees and expenses of underwriter and other retained services, including Bond Counsel, financial advisor, rating agencies, fiscal agency, Escrow Agent, and other expenses customarily incurred in connection with issuance and sale of bonds.

(c) *Preliminary and Final Official Statements.* The Designated Representative is hereby authorized to deem final the preliminary Official Statement relating to the Bonds for the purposes of the Rule. The Designated Representative is further authorized to ratify and to approve for purposes of the Rule, on behalf of the City, the Official Statement relating to the issuance and sale of the Bonds and the distribution of the Official Statement pursuant thereto with such changes, if any, as may be deemed appropriate.

Section 14. Undertaking to Provide Ongoing Disclosure. The Designated Representative is hereby authorized to enter into a written undertaking for the benefit of the owners of the Bonds as required by Section (b)(5) of the Rule (the "Continuing Disclosure Agreement"). The Continuing Disclosure Agreement constitutes the City's written undertaking

for the benefit of the owners (including Beneficial Owners) of the Bonds as required by Section (b)(5) of the Rule.

Section 15. Lost, Stolen or Destroyed Bonds. In case any Bond or Bonds shall be lost, stolen or destroyed, the Registrar may execute and deliver a new Bond or Bonds of like date, number and tenor to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the City and the Registrar in connection therewith and upon his/her filing with the Designated Representative and the Registrar evidence satisfactory to the Designated Representative and the Registrar, respectively, that such Bond was actually lost, stolen or destroyed and of his/her ownership thereof, and upon furnishing the City and the Registrar with indemnity satisfactory to the Designated Representative and the Registrar, respectively.

Section 16. Severability. If any provision in this ordinance is declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provision of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds.

Section 17. Effective Date. This ordinance shall become effective immediately upon its passage, pursuant to the declaration of emergency in Section 2 hereof.

PASSED by the City Council of the City of Spokane, Washington, at a regular meeting thereof, held on October 17, 2016.

CITY OF SPOKANE
Spokane County, Washington

Ben Stuckart, Council President

ATTEST:

Terri L. Pfister, Clerk

Mayor

(SEAL)

APPROVED AS TO FORM:

Assistant City Attorney

Laura D. McAloon, Bond Counsel

CERTIFICATE

I DO HEREBY CERTIFY that I am the duly chosen, qualified and acting Clerk of the City of Spokane, Washington (the “City”), and keeper of the records of the City Council (the “Council”); and

I HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. C35443 of the City (the “Ordinance”), as finally passed at a regular meeting of the Council held on the 17th day of October, 2016, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of October, 2016.

City Clerk

EXHIBIT A

ESCROW DEPOSIT AGREEMENT

CITY OF SPOKANE, WASHINGTON

UNLIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2016

THIS ESCROW AGREEMENT, dated as of November __, 2016 (herein, together with any amendments or supplements hereto, called the “Agreement”) is entered into by and between the City of Spokane, Washington (herein called the “City”) and U.S. Bank National Association, Seattle, Washington as Escrow Agent (herein, together with any successor in such capacity, called the “Escrow Agent”). The notice addresses of the City and the Escrow Agent are shown on Exhibit A attached hereto and made a part hereof.

WITNESSETH:

WHEREAS, the City heretofore has issued and there presently remain outstanding the obligations described in Exhibit B attached hereto (the “Refunded Bonds”); and

WHEREAS, pursuant to Ordinance No. C35443, adopted on [October 17], 2016 (the “Bond Ordinance”), the City has determined to issue its Unlimited Tax General Obligation Refunding Bonds, 2016 (the “Bonds”); and

WHEREAS, the proceeds of the Bonds are being used for the purpose of providing funds to pay the costs of refunding the Refunded Bonds and certain costs of issuance; and

WHEREAS, pursuant to the Bond Ordinance, the Refunded Bonds have been designated for redemption prior to their scheduled maturity dates and, after provision is made for such redemption, the Refunded Bonds will come due in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in Exhibit C attached hereto and made a part hereof, and certain Refunded Bonds have been designated for defeasance and shall be paid on their scheduled maturity dates, and will come due in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in Exhibit C; and

WHEREAS, _____, _____, _____, has prepared a verification report which is dated November __, 2016, (the “Verification Report”) relating to the source and use of funds available to accomplish the refunding of the Refunded Bonds, the investment of such funds and the adequacy of such funds and investments to provide for the payment of the debt service due on the Refunded Bonds; and

WHEREAS, when Escrowed Securities have been deposited with the Escrow Agent for the payment of all principal and interest of the Refunded Bonds when due, then the Refunded Bonds shall no longer be regarded as outstanding except for the purpose of receiving payment from the funds provided for such purpose; and

WHEREAS, the Bonds have been duly authorized to be issued, sold, and delivered for the purpose of obtaining the funds required to provide for the payment of the principal of, interest on and redemption premium (if any) on the Refunded Bonds when due as shown on Exhibit C attached hereto; and

WHEREAS, the City desires that, concurrently with the delivery of the Bonds to the purchasers, the proceeds of the Bonds, together with certain other available funds of the City (if needed), shall be applied to purchase certain direct obligations of the United States of America hereinafter defined as (the “Escrowed Securities”) for deposit to the credit of the Refunding Account and to establish a beginning cash balance (if needed) in the Refunding Account; and

WHEREAS, simultaneously herewith, the City is entering into a Cost of Issuance Agreement with the Escrow Agent to provide for the payment of costs of issuance relating to the Bonds;

NOW, THEREFORE, in consideration of the mutual undertakings, promises and agreements herein contained, the sufficiency of which hereby are acknowledged, and to secure the full and timely payment of principal of and the interest on the Refunded Bonds, the City and the Escrow Agent mutually undertake, promise and agree for themselves and their respective representatives and successors, as follows:

Article Definitions

Section Definitions.

Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them below when they are used in this Agreement:

Escrow Account Deposits mean the cash deposits from proceeds of the Bonds and contributions from the City (if needed) in the amount and all as described in Exhibit D.

Escrowed Securities means the noncallable Government Obligations described in Exhibit D attached to this Agreement, or cash or other noncallable obligations substituted therefor pursuant to Section 4.2 of this Agreement.

Government Obligations means direct, noncallable (a) United States Treasury Obligations, (b) United States Treasury Obligations - State and Local Government Series, (c) non-prepayable obligations which are unconditionally guaranteed as to full and timely payment of principal and interest by the United States of America or (d) REFCORP debt obligations unconditionally guaranteed by the United States.

Paying Agent means the fiscal agency of the State of Washington, as the paying agent for the Refunded Bonds.

Refunded Bonds means the City’s Unlimited Tax General Obligation Bonds, Series 2008 maturing on and after December 1, 2018.

Refunding Account means the tax-exempt escrow account of that name established pursuant to this Agreement for the purpose of defeasing and refunding the Refunded Bonds.

Section Other Definitions.

The terms “Agreement,” “City,” “Escrow Agent,” “Bond Ordinance,” “Refunded Bonds,” and “Bonds” when they are used in this Agreement, shall have the meanings assigned to them in the preamble to this Agreement.

Section Interpretations.

The titles and headings of the articles and sections of this Agreement have been inserted for convenience and reference only and are not to be considered a part hereof and shall not in any way modify or restrict the terms hereof. This Agreement and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to achieve the intended purpose of providing for the refunding of the Refunded Bonds in accordance with applicable law.

Article Deposit of Funds and Escrowed Securities

Section Deposits in the Escrow Fund.

Concurrently with the sale and delivery of the Bonds the City shall deposit, or cause to be deposited, with the Escrow Agent, for deposit in the Escrow Fund, the funds (from the proceeds of the Bonds and a cash contribution by the City) sufficient to purchase the Escrowed Securities described in Exhibit D attached hereto, and the Escrow Agent shall, upon the receipt thereof, acknowledge such receipt to the City in writing.

Article Creation and Operation of Refunding Account

Section Refunding Account

The Escrow Agent has created on its books a special trust account and irrevocable escrow to be known as the Refunding Account (the “Refunding Account”). The Refunding Account shall be established for the purpose of refunding the Refunded Bonds. The Escrow Agent hereby agrees that upon receipt thereof it will deposit to the credit of the Refunding Account certain amounts described in Exhibit D. Such deposits, all proceeds therefrom, and all cash balances from time to time on deposit therein (a) shall be the property of the Refunding Account, (b) shall be applied only in strict conformity with the terms and conditions of this Agreement, and (c) are hereby irrevocably pledged to the payment of the principal of and interest on the Refunded Bonds, which payment shall be made by timely transfers of such amounts at such times as are provided for in Section 3.2 hereof. When the final transfers have been made for the payment of such principal of and interest on the Refunded Bonds, any balance then remaining in the Refunding Account shall be transferred to the City, and the Escrow Agent shall thereupon be discharged from any further duties hereunder.

Section Payment of Principal and Interest.

The Escrow Agent is hereby irrevocably instructed to transfer to the Paying Agent from the cash balances from time to time on deposit in the Escrow Fund, the amounts required to pay the principal of the Refunded Bonds at their respective redemption dates and interest thereon to such redemption dates in the amounts and at the times shown in Exhibit C.

Section Sufficiency of Escrow Fund.

The City represents that, based upon the information provided in the Verification Report, the successive receipts of the principal of and interest on the Escrowed Securities will assure that the cash balance on deposit from time to time in the Escrow Fund will be at all times sufficient to provide moneys for transfer to the Paying Agent at the times and in the amounts required to pay the interest on the Refunded Bonds as such interest comes due and the principal of the Refunded Bonds as the Refunded Bonds are paid on an optional redemption date prior to maturity, all as more fully set forth in Exhibit E attached hereto. If, for any reason, at any time, the cash balances on deposit or scheduled to be on deposit in the Escrow Fund shall be insufficient to transfer the amounts required by the Paying Agent to make the payments set forth in Section 3.2. hereof, the City shall timely deposit in the Refunding Account, from any funds that are lawfully available therefor, additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be given promptly as hereinafter provided, but the Escrow Agent shall not in any manner be responsible for any insufficiency of funds in the Refunding Account or the City's failure to make additional deposits thereto.

Section Trust Fund.

The Escrow Agent or its affiliate, shall hold at all times the Refunding Account, the Escrowed Securities and all other assets of the Escrow Fund, wholly segregated from all other funds and securities on deposit with the Escrow Agent; it shall never allow the Escrowed Securities or any other assets of the Refunding Account to be commingled with any other funds or securities of the Escrow Agent; and it shall hold and dispose of the assets of the Refunding Account only as set forth herein. The Escrowed Securities and other assets of the Refunding Account shall always be maintained by the Escrow Agent as trust funds for the benefit of the owners of the Refunded Bonds; and a special account thereof shall at all times be maintained on the books of the Escrow Agent. The owners of the Refunded Bonds shall be entitled to the same preferred claim and first lien upon the Escrowed Securities, the proceeds thereof, and all other assets of the Refunding Account to which they are entitled as owners of the Refunded Bonds. The amounts received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the City, and the Escrow Agent shall have no right to title with respect thereto except as a trustee and Escrow Agent under the terms of this Agreement. The amounts received by the Escrow Agent under this Agreement shall not be subject to warrants, drafts or checks drawn by the City or, except to the extent expressly herein provided, by the Paying Agent.

Article Limitation on Investments

Section Investments.

Except for the initial investment in the Escrowed Securities, and except as provided in Section 4.2 hereof, the Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder, or to make substitutions of the Escrowed Securities, or to sell, transfer, or otherwise dispose of the Escrowed Securities.

Section Substitution of Securities.

At the written request of the City, and upon compliance with the conditions hereinafter stated, the Escrow Agent shall utilize cash balances in the Refunding Account, or sell, transfer, otherwise dispose of or request the redemption of the Escrowed Securities and apply the proceeds therefrom to purchase Refunded Bonds or Government Obligations which do not permit the redemption thereof at the option of the obligor. Any such transaction may be effected by the Escrow Agent only if (a) the Escrow Agent shall have received a written opinion from a firm of certified public accountants that such transaction will not cause the amount of money and securities in the Refunding Account to be reduced below an amount sufficient to provide for the full and timely payment of principal of and interest on all of the remaining Refunded Bonds as they become due, taking into account any optional redemption thereof exercised by the City in connection with such transaction; and (b) the Escrow Agent shall have received the unqualified written legal opinion of its bond counsel or tax counsel to the effect that such transaction will not cause any of the Bonds or Refunded Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

Article Application of Cash Balances

Section In General.

Except as provided in Section 2.1, 3.2 and 4.2 hereof, no withdrawals, transfers or reinvestment shall be made of cash balances in the Refunding Account. Cash balances shall be held by the Escrow Agent in United States currency as cash balances as shown on the books and records of the Escrow Agent and, except as provided herein, shall not be reinvested by the Escrow Agent; provided, however, a conversion to currency shall not be required (i) for so long as the Escrow Agent's internal rate of return does not exceed 20%, or (ii) if the Escrow Agent's internal rate of return exceeds 20%, the Escrow Agent receives a letter of instructions, accompanied by the opinion of nationally recognized bond counsel, approving the assumed reinvestment of such proceeds at such higher yield.

Article Redemption of Refunded Bonds

Section Call for Redemption.

The City hereby irrevocably calls the Refunded Bonds for redemption on their earliest redemption dates, as shown on Appendix A attached hereto.

Section Notice of Redemption/Notice of Defeasance.

The Escrow Agent agrees to give a notice of defeasance and a notice of the redemption of the Refunded Bonds pursuant to the terms of the Refunded Bonds and in substantially the forms attached hereto as Appendices A and B attached hereto and as described on said Appendices A and B to the Paying Agent for distribution as described therein. The notice of defeasance shall be given immediately following the execution of this Agreement, and the notice of redemption shall be given in accordance with the ordinance authorizing the Refunded Bonds. The Escrow Agent hereby certifies that provision satisfactory and acceptable to the Escrow Agent has been made for the giving of notice of redemption of the Refunded Bonds.

Article Records and Reports

Section Records.

The Escrow Agent will keep books of record and account in which complete and accurate entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Escrowed Securities deposited to the Refunding Account and all proceeds thereof, and such books shall be available for inspection during business hours and after reasonable notice.

Section Reports.

While this Agreement remains in effect, the Escrow Agent quarterly shall prepare and send to the City a written report summarizing all transactions relating to the Refunding Account during the preceding financial quarter, including, without limitation, credits to the Refunding Account as a result of interest payments on or maturities of the Escrowed Securities and transfers from the Refunding Account for payments on the Refunded Bonds or otherwise, together with a detailed statement of all Escrowed Securities and the cash balance on deposit in the Refunding Account as of the end of such period.

Article Concerning the Paying Agent and Escrow Agent

Section Representations.

The Escrow Agent hereby represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it herein, and that it will carry out all of its obligations hereunder.

Section Limitation on Liability.

The liability of the Escrow Agent to transfer funds for the payment of the principal of and interest on the Refunded Bonds shall be limited to the proceeds of the Escrowed Securities and the cash balances from time to time on deposit in the Refunding Account. Notwithstanding any provision contained herein to the contrary, the Escrow Agent shall have no liability whatsoever for the insufficiency of funds from time to time in the Refunding Account or any failure of the

obligors of the Escrowed Securities to make timely payment thereon, except for the obligation to notify the City promptly of any such occurrence.

The recitals herein and in the proceedings authorizing the Bonds shall be taken as the statements of the City and shall not be considered as made by, or imposing any obligation or liability upon, the Escrow Agent.

The Escrow Agent is not a party to the proceedings authorizing the Bonds or the Refunded Bonds and is not responsible for nor bound by any of the provisions thereof (except to the extent that the Escrow Agent may be a place of payment and paying agent and/or a paying agent/registrar therefor). In its capacity as Escrow Agent, it is agreed that the Escrow Agent need look only to the terms and provisions of this Agreement.

The Escrow Agent makes no representations as to the value, conditions or sufficiency of the Refunding Account, or any part thereof, or as to the title of the City thereto, or as to the security afforded thereby or hereby, and the Escrow Agent shall not incur any liability or responsibility in respect to any of such matters.

It is the intention of the parties hereto that the Escrow Agent shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

The Escrow Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Escrow Agent be responsible for the consequences of any error of judgment; and the Escrow Agent shall not be answerable except for its own neglect or willful misconduct, nor for any loss unless the same shall have been through its negligence or bad faith.

Unless it is specifically otherwise provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the City with respect to arrangements or contracts with others, with the Escrow Agent's sole duty hereunder being to safeguard the Refunding Account, to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent shall be liable only for its own willful misconduct or its negligence. In determining the occurrence of any such event or contingency the Escrow Agent may request from the City or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may make inquiries of, and consult with, among others, the City at any time.

Section Successor Escrow Agents.

Any corporation, association or other entity into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or otherwise

transfer all or substantially all of its corporate trust assets and business or any corporation, association or other entity resulting from any such conversion, sale, merger, consolidation or other transfer to which it is a party, *ipso facto*, shall be and become successor Escrow Agent hereunder, vested with all other matters as was its predecessor, without the execution or filing of any instrument or any further act on the part of the parties hereto, notwithstanding anything herein to the contrary.

If at any time the Escrow Agent or its legal successor or successors should become unable, through operation or law or otherwise, to act as Escrow Agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in the office of Escrow Agent hereunder. In such event the City, by appropriate action, promptly shall appoint an Escrow Agent to fill such vacancy. If no successor Escrow Agent shall have been appointed by the City within 60 days, a successor may be appointed by the owners of a majority in principal amount of the Refunded Bonds then outstanding by an instrument or instruments in writing filed with the City, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this section within three months after a vacancy shall have occurred, the owner of any Refunded Bond may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Escrow Agent.

Any successor Escrow Agent shall be a corporation organized and doing business under the laws of the United States or the State of Washington, authorized under such laws to exercise corporate trust powers, having its principal office and place of business in the State of Washington, having a combined capital and surplus of at least \$100,000,000 and subject to the supervision or examination by federal or state authority.

Any successor Escrow Agent shall execute, acknowledge and deliver to the City and the Escrow Agent an instrument accepting such appointment hereunder, and the Escrow Agent shall execute and deliver an instrument transferring to such successor Escrow Agent, subject to the terms of this Agreement, all the rights, powers and trusts of the Escrow Agent hereunder. Upon the request of any such successor Escrow Agent, the City shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Escrow Agent all such rights, powers and duties.

The obligations assumed by the Escrow Agent pursuant to this Agreement may be transferred by the Escrow Agent to a successor Escrow Agent if (a) the requirements of this Section 8.3 are satisfied; (b) the successor Escrow Agent has assumed all the obligations of the Escrow Agent under this Agreement; and (c) all of the Escrowed Securities and money held by the Escrow Agent pursuant to this Agreement have been duly transferred to such successor Escrow Agent.

Article Miscellaneous

Section Notice.

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the City or the Escrow Agent at the address shown on Exhibit A attached hereto. The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery. Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten days prior notice thereof.

Section Termination of Responsibilities.

Upon the taking of all the actions as described herein by the Escrow Agent, the Escrow Agent shall have no further obligations or responsibilities hereunder to the City, the owners of the Refunded Bonds or to any other person or persons in connection with this Agreement.

Section Binding Agreement.

This Agreement shall be binding upon the City and the Escrow Agent and their respective successors and legal representatives, and shall inure solely to the benefit of the owners of the Refunded Bonds, the City, the Escrow Agent and their respective successors and legal representatives.

Section Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section Washington Law Governs.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Washington.

Section Time of the Essence.

Time shall be of the essence in the performance of obligations from time to time imposed upon the Escrow Agent by this Agreement.

Section Notice to Moody's and Standard & Poor's.

In the event that this Agreement or any provision thereof is severed, amended or revoked, the City shall provide written notice of such severance, amendment or revocation to Moody's

Investors Service at 7 World Trade Center at 250 Greenwich Street, New York, New York, 10007, Attention: Public Finance Rating Desk/Refunded Bonds and Standard & Poor's Ratings Services, 55 Water Street, New York, New York 10041, Attention: Refunded Bonds Municipal Bond Department.

Section 9.8. Amendments.

This Agreement shall not be amended except to cure any ambiguity or formal defect or omission in this Agreement. No amendment shall be effective unless the same shall be in writing and signed by the parties thereto. No such amendment shall adversely affect the rights of the holders of the Refunded Bonds. No such amendment shall be made without first receiving written confirmation from the rating agencies (if any) which have rated the Refunded Bonds that such administrative changes will not result in a withdrawal or reduction of its rating then assigned to the Refunded Bonds. If this Agreement is amended, prior written notice and copies of the proposed changes shall be given to the rating agencies which have rated the Refunded Bonds.

EXECUTED as of the date first written above.

CITY OF SPOKANE, WASHINGTON

Designated Representative

U.S. BANK NATIONAL ASSOCIATION

Authorized Signatory

Exhibit A: Addresses of the City and the Escrow Agent
Exhibit B: Description of the Refunded Bonds
Exhibit C: Schedule of Debt Service on Refunded Bonds
Exhibit D: Description of Beginning Cash Deposit (if any) and Escrowed Securities
Exhibit E: Refunding Account Cash Flow
Appendix A: Notice of Redemption
Appendix B: Notice of Defeasance

EXHIBIT A
Addresses of the City and Escrow Agent

City: City of Spokane
808 W. Spokane Falls Boulevard
Spokane, WA 99201-3342
Attention: _____

Escrow Agent: U.S. Bank National Association
Global Corporate Trust Services/PD-WA-T7CT
1420 Fifth Avenue, 7th Floor
Seattle, WA 98101
Attention: _____

EXHIBIT B

Description of the Refunded Bonds (the “Refunded Bonds”)

City of Spokane, Washington
Unlimited Tax General Obligation Bonds, Series 2008
(the “Refunded Bonds”)

Years (December 1)	Amounts	Interest Rates	CUSIP Nos.
2018	\$2,205,000	4.00%	849067N74
2019	2,295,000	4.00	849067N82
2020	2,385,000	5.00	849067N90
2021	2,505,000	5.00	849067P23
2022	2,630,000	5.00	849067P31
2023	2,760,000	5.00	849067P49
2024	2,900,000	4.25	849067P56
2025	3,025,000	4.25	849067P64
2026	3,150,000	4.25	849067P72
2027	3,285,000	4.25	849067P80

EXHIBIT C
Schedule of Debt Service on the Refunded Bonds

I. Schedule of Debt Service on Refunded Bonds

<u>Year</u>	<u>Principal/ Redemption Price</u>	<u>Interest</u>	<u>Total</u>
2018	\$2,205,000		
2019	2,295,000		
2020	2,385,000		
2021	2,505,000		
2022	2,630,000		
2023	2,760,000		
2024	2,900,000		
2025	3,025,000		
2026	3,150,000		
2027	3,285,000		

EXHIBIT D
Escrow Deposit

I. Cash \$ _____

II. Other Obligations

<u>Description</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Total Cost</u>
		\$	%	\$

EXHIBIT E
Refunding Account Cash Flow

<u>Date</u>	<u>Escrow Requirement</u>	<u>Net Escrow Receipts</u>	<u>Excess Receipts</u>	<u>Cash Balance</u>
	\$	\$	\$	\$

APPENDIX A

NOTICE OF REDEMPTION*

City of Spokane, Washington Unlimited Tax General Obligation Bonds, Series 2008

NOTICE IS HEREBY GIVEN that the City of Spokane, Washington has called for redemption on _____, 2016, \$_____ of its outstanding Unlimited Tax General Obligation Bonds, Series 2008 (the "Bonds").

The Bonds will be redeemed at a price of one hundred percent (100%) of their principal amount, plus interest accrued to _____, 2016. The redemption price of the Bonds is payable on presentation and surrender of the Bonds at the office of:

U.S. Bank National Association
Global Corporate Trust Services
111 Fillmore Ave E
St. Paul, MN 55107

Interest on all Bonds or portions thereof which are redeemed shall cease to accrue on _____, 2016.

The following Bonds are being redeemed:

Years (December 1)	Amounts	Interest Rates	CUSIP Nos.
2018	\$2,205,000	4.00%	849067N74
2019	2,295,000	4.00	849067N82
2020	2,385,000	5.00	849067N90
2021	2,505,000	5.00	849067P23
2022	2,630,000	5.00	849067P31
2023	2,760,000	5.00	849067P49
2024	2,900,000	4.25	849067P56
2025	3,025,000	4.25	849067P64
2026	3,150,000	4.25	849067P72
2027	3,285,000	4.25	849067P80

By Order of the City of Spokane, Washington

U.S. Bank National Association, as Paying Agent

Dated: _____.

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act") unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your Bonds.

* This notice shall be given not more than 60 nor less than 30 days prior to June 1, 2018 by certified or registered mail, postage prepaid, to each registered owner of the Refunded Bonds. In addition notice shall be posted online at www.emma.msrb.org and mailed by first class mail, postage prepaid to The Depository Trust Company of New York, New York, Standard & Poor's Ratings Service and Moody's Investors Service.

APPENDIX B

NOTICE OF DEFEASANCE*

City of Spokane, Washington Unlimited Tax General Obligation Bonds, Series 2008

NOTICE IS HEREBY GIVEN to the owners of that portion of the above-captioned bonds with respect to which, pursuant to an Escrow Agreement dated November ___, 2016, by and between City of Spokane, Washington (the “City”) and U.S. Bank National Association, Seattle, Washington (the “Escrow Agent”), the City has deposited into an escrow account, held by the Escrow Agent, cash and non-callable direct obligations of the United States of America, the principal of and interest on which, when due, will provide money sufficient to pay each year, to and including the or redemption date of such bonds so provided for, the principal thereof and interest thereon (the “Defeased Bonds”). Such Defeased Bonds are therefore deemed to be no longer outstanding pursuant to the provisions of Ordinance No. C34244 of the City, authorizing the issuance of the Defeased Bonds, but will be paid by application of the assets of such escrow account.

The Defeased Bonds are described as follows:

Unlimited Tax General Obligation Bonds, Series 2008 (Dated June 18, 2008)

<u>Years (December 1)</u>	<u>Amounts</u>	<u>Interest Rates</u>	<u>CUSIP Nos.</u>
2018	\$2,205,000	4.00%	849067N74
2019	2,295,000	4.00	849067N82
2020	2,385,000	5.00	849067N90
2021	2,505,000	5.00	849067P23
2022	2,630,000	5.00	849067P31
2023	2,760,000	5.00	849067P49
2024	2,900,000	4.25	849067P56
2025	3,025,000	4.25	849067P64
2026	3,150,000	4.25	849067P72
2027	3,285,000	4.25	849067P80

Information for Individual Registered Owner

The addressee of this notice is the registered owner of Bond Certificate No. _____ of the Defeased Bonds described above, which certificate is in the principal amount of \$ _____. All of which has been defeased as described above.

* This notice shall be given immediately by first-class mail to each registered owner of the Defeased Bonds. In addition notice shall be posted online at www.emma.msrb.org and mailed by first class mail, postage prepaid to The Depository Trust Company of New York, New York, Standard & Poor's Ratings Service and Moody's Investors Service and FSA.

EXHIBIT B

COSTS OF ISSUANCE AGREEMENT

**CITY OF SPOKANE, WASHINGTON
UNLIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2016**

THIS COSTS OF ISSUANCE AGREEMENT, dated as of November ___, 2016 (herein, together with any amendments or supplements hereto, called the "Agreement"), is entered into by and between the CITY OF SPOKANE, WASHINGTON, (herein called the "City") and U.S. Bank National Association, Seattle, Washington, as Escrow Agent (herein, together with any successor in such capacity, called the "Escrow Agent" or "Refunding Trustee").

WITNESSETH:

WHEREAS, pursuant to Ordinance No. C35443 of the City, adopted on October 17, 2016 (the "Ordinance"), the City has determined to issue its Unlimited Tax General Obligation Refunding Bonds, 2016 (the "Bonds") for the purpose of providing funds to pay the costs of refunding certain outstanding bonds of the City; and

WHEREAS, simultaneously herewith, the City is entering into an Escrow Deposit Agreement, dated November ___, 2016 under which the Escrow Agent will hold invested proceeds of the Bonds in order to pay and redeem the refunded bonds under the terms set forth therein; and

WHEREAS, certain proceeds of the Bonds will be delivered to the Escrow Agent on the date of issuance of the Bonds that are required to be disbursed to pay costs of issuance of the Bonds; and

WHEREAS, the Escrow Agent has agreed, without additional compensation to disburse the Bond proceeds received to pay costs of issuance under the terms of this Agreement;

Section 1. Deposit in the Costs of Issuance Fund.

The Escrow Agent has created on its books a special trust fund and escrow fund to be known as the Costs of Issuance Fund. The Escrow Agent agrees that upon receipt it will deposit to the credit of the Costs of Issuance Fund Account the sum of \$_____ to pay those costs of issuance set forth on Exhibit A. Such deposit, all proceeds therefrom, and all cash balances on deposit therein shall be the property of the Costs of Issuance Fund to pay those costs of issuance set forth on Exhibit A upon receipt of invoices. If any of the \$_____ deposit allocated for costs of issuance for the Bonds remains unspent on _____, 20__, the Escrow Agent shall transfer such unspent amount to the City, and this Agreement shall be deemed fully performed and terminated.

Section 2. Investments.

The Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder.

Section 3. Limitation on Liability.

The liability of the Escrow Agent to transfer funds for the payment of the costs of issuance identified herein shall be limited to the proceeds of the Bonds delivered to the Escrow Agent.

Section 4. Compensation.

The City shall pay to the Escrow Agent fees for performing the services hereunder and under the Escrow Agreement for the expenses incurred or to be incurred by the Escrow Agent in the administration of this Agreement and the Escrow Agreement pursuant to the terms of the Fee Schedule attached as Exhibit B. The Escrow Agent hereby agrees that in no event shall it ever assert any claim or lien against funds held under the Escrow Agreement for any fees for its services, whether regular or extraordinary, as Escrow Agent, or in any other capacity, or for reimbursement for any of its expenses as Escrow Agent or in any other capacity.

Section 5. Notice.

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the City or the Escrow Agent at the address shown on Exhibit A to the Escrow Agreement.

Section 6. Washington Law Governs.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the state of Washington.

EXECUTED as of the date first written above.

CITY OF SPOKANE, WASHINGTON

Treasurer

U.S. BANK NATIONAL ASSOCIATION

Authorized Signatory

Exhibit A - Costs of Issuance Schedule
Exhibit B - Fee Schedule

EXHIBIT A

Costs of Issuance

Bond Counsel Fee (Workland & Witherspoon, PLLC)	\$
Escrow Agent Fee (US Bank National Association)	
Rating Agency Fee (Moody's)	
Rating Agency Fee (Standard & Poor's)	
Verification Agent Fee (Causey Demgen & Moore Inc.)	
Financial Advisor (Northwest Municipal Advisors)	
Total:	\$

EXHIBIT B

FEE SCHEDULE

See Attached



Agenda Sheet for City Council Meeting of:
10/10/2016

Date Rec'd	9/26/2016
Clerk's File #	ORD C35440
Renews #	
Cross Ref #	C31011
Project #	
Bid #	
Requisition #	

Submitting Dept	DEVELOPER SERVICES CENTER
Contact Name/Phone	ELDON BROWN 625-6305
Contact E-Mail	EBROWN@SPOKANECITY.ORG
Agenda Item Type	First Reading Ordinance
Agenda Item Name	4700 - ORDINANCE AMENDING C31011

Agenda Wording

An ordinance amending C31011 vacating portions of Myrtle Street, Front Avenue and Riverside Avenue. (East Central Neighborhood Council)

Summary (Background)

City Council passed the vacation ordinance on September 25, 1978. At that time easements were retained for utilities across the entire vacated area. On March 30, 1994 portions of these easements were lifted by Ordinance C31011. Since that time it has been determined that another portion of these easements are no longer needed.

Fiscal Impact		Budget Account	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	BECKER, KRIS	Study Session	
Division Director	MALLAHAN, JONATHAN	Other	PCED 9/19/16
Finance	KECK, KATHLEEN	Distribution List	
Legal	RICHMAN, JAMES	Engineering Admin	
For the Mayor	WHITNEY, TYLER	ebrown@spokanecity.org	
Additional Approvals		edjohnson@spokanecity.org	
Purchasing		sbishop@spokanecity.org	
		htrautman@spokanecity.org	

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

ORDINANCE NO. C35440

An ordinance amending Ordinance No. C-31011 entitled an ordinance vacating portions of Myrtle Street, Front Avenue and Riverside Avenue, and providing for an effective date, and amending Section 3 thereof.

WHEREAS, petitions for the vacation of portions of Myrtle Street, Front Avenue and Riverside Avenue have been filed with the City Clerk by the owners of the property abutting these public ways, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

WHEREAS, the City Council of the City of Spokane has found that the public use, benefit and welfare will best be served by the vacation of these public ways; - Now, Therefore,

The City of Spokane does ordain:

Section 1. The following public ways are vacated upon completion of the conditions set out in Section 2 of this ordinance:

- (1) Myrtle Street from the south line of Alki Avenue to the north line of the Union Pacific Railroad right of way EXCEPT Main Avenue, Ferry Avenue and Olive Avenue.
- (2) Front Avenue from the east line of Julia Street to the west line of vacated Cuba Street EXCEPT Myrtle Street and a 150' diameter cul-de-sac immediately west of vacated Cuba Street, described in Appendix "A".
- (3) Riverside Avenue from the east line of Julia Street to the west line of Havana Street Except Myrtle Street.

Section 2. The petitioners, or any of them, shall perform the following conditions:

- (1) They shall deliver a deed for a 150' diameter cul-de-sac lying immediately west of vacated Cuba Street.

- (2) They shall execute and deliver a bond, signed by a corporate surety, in the amount of Twenty-Five Thousand Dollars (\$25,000) to guarantee the costs of future railroad realignment at Julia Street between Olive Avenue and Aldi Avenue and City charges in connection with this vacation EXCEPT those in subsection (3) and (5) below.

The bond shall be effective for five years and shall be renewed for an additional five years unless realignment is completed before the expiration of the five years and all costs paid. The bond shall be on a form prepared by the Corporation Counsel and shall be approved as required by the City Charter.

- (3) They shall prepare and present for acceptance a proposed agreement between themselves and the City of Spokane for the protection, maintenance, operation, relay, construction, reconstruction and repair of all existing utilities in these public ways. The agreement shall provide for all necessary and proper access to these utilities; it shall provide that no structure may be built over existing utilities and that existing structures will be removed, or, in the alternative, the City will be held harmless for any damage caused to any structure over or adjoining the utilities which results from work on the utilities; and it shall require that they purchase the existing water main in Riverside Avenue at the present fair market value, install a vault and meter at Julia and Riverside at their expense, pay for removal or purchase two existing fire hydrants in the area to be vacated, and pay for the cutting and plugging of the main at Florida and Riverside.
- (4) They shall deliver a deed for the easterly 37 ½ feet of vacated Julia Street between Alki and Olive Avenues together with the westerly 37 ½ feet of Lots 6 and 7, Block 93, East Side Syndicate Addition to the City of Spokane, County of Spokane, State of Washington.
- (5) They shall provide for the proper closure of the intersection of Riverside and Havana Streets by the installing of straight curbing across Riverside Avenue or curb drops, and providing for proper drainage. They shall provide for the closure of the intersection of Front Avenue and Julia Street in the normal manner by removing the radius curbs in Front Avenue, installing straight curbs across Front Avenue, removing and replacing all necessary paving in the intersection and installing any necessary drainage.

Section 3. That Section 3 of Ordinance No. C-31011 be amended as follows:

The City reserves an Easement over the full width of the area vacated, except the north 30 feet of Riverside Avenue from Cuba Street to Havana Street, **and except for Myrtle Street from the north line of Main Avenue to the south line of vacated Front Avenue,** for the construction, repair and maintenance of all existing and future public and private utilities and railroad tracks and appurtenances, for itself and its franchisees, successors and assigns. No building or structure which affects or hinders the construction, repair and maintenance of an existing and future utility may be erected on the area to be vacated without the written permission of the City Engineer or the Easement holder.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its passage or thirty (30) days after completion of all the conditions set out in Section 2, whichever is later.

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to Form:

Assistant City Attorney

Mayor



Date: _____

Effective Date: _____

Easement Amendment



Amending Ordinance C-31011 to release the utility easements across Myrtle Street between the south line of vacated Front Ave and the north line of Main Avenue

-  Easement Area
-  Vacation Area

THIS IS NOT A LEGAL DOCUMENT.
The information shown on this map is compiled from various sources and is subject to constant revision. Information shown on this map should not be used to determine the location of facilities in relationship to property lines, section lines, streets, etc.





Agenda Sheet for City Council Meeting of:
10/10/2016

Date Rec'd	9/26/2016
Clerk's File #	ORD C35441
Renews #	

Submitting Dept	DEVELOPER SERVICES CENTER	Cross Ref #	C34070
Contact Name/Phone	ELDON BROWN 625-6305	Project #	
Contact E-Mail	EBROWN@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	4700 - AMENDING C34070 - VACATING ADAMS ST. TO JEFFERSON ST.		

Agenda Wording

An ordinance amending C34070 vacating the alley between 2nd Avenue and 3rd Avenue from Adams Street to Jefferson Street. (Riverside Neighborhood Council)

Summary (Background)

City Council passed the vacation ordinance on December 1, 2008. At that time easements were retained for utilities across the entire vacated area. Since that time it has been determined that these easements are no longer needed.

Fiscal Impact		Budget Account	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	BECKER, KRIS	Study Session	
Division Director	MALLAHAN, JONATHAN	Other	PCED 9/19/16
Finance	KECK, KATHLEEN	Distribution List	
Legal	RICHMAN, JAMES	Engineering Admin	
For the Mayor	WHITNEY, TYLER	ebrown@spokanecity.org	
Additional Approvals		edjohnson@spokanecity.org	
Purchasing		sbishop@spokanecity.org	
		htrautman@spokanecity.org	

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

ORDINANCE NO. C35441

Amending ordinance number C34070 that vacated the Alley between 2nd Avenue and 3rd Avenue from Adams Street to Jefferson Street

WHEREAS, a petition for the vacation of the Alley between 2nd Avenue and 3rd Avenue from Adams Street to Jefferson Street 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 Alley between 2nd Avenue and 3rd Avenue from Adams Street to Jefferson Street is hereby vacated. Parcel number not assigned. NW ¼ S19,T25N, R43E, W.M.

~~((Section 2.— An easement is reserved and retained over and through the entire vacated area for the utility services of (Avista Utilities, Qwest, and Comcast) to protect existing and future utilities.))~~

~~((Section 3.— Adequate emergency vehicle access shall be maintained to existing and future buildings.))~~

~~((Section 4.— That this ordinance shall not become effective until the owners of property abutting upon the area to be vacated shall have compensated the City of Spokane in an amount equal to (one-half or full) the assessed value of the area herein vacated.))~~

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to Form:

Assistant City Attorney

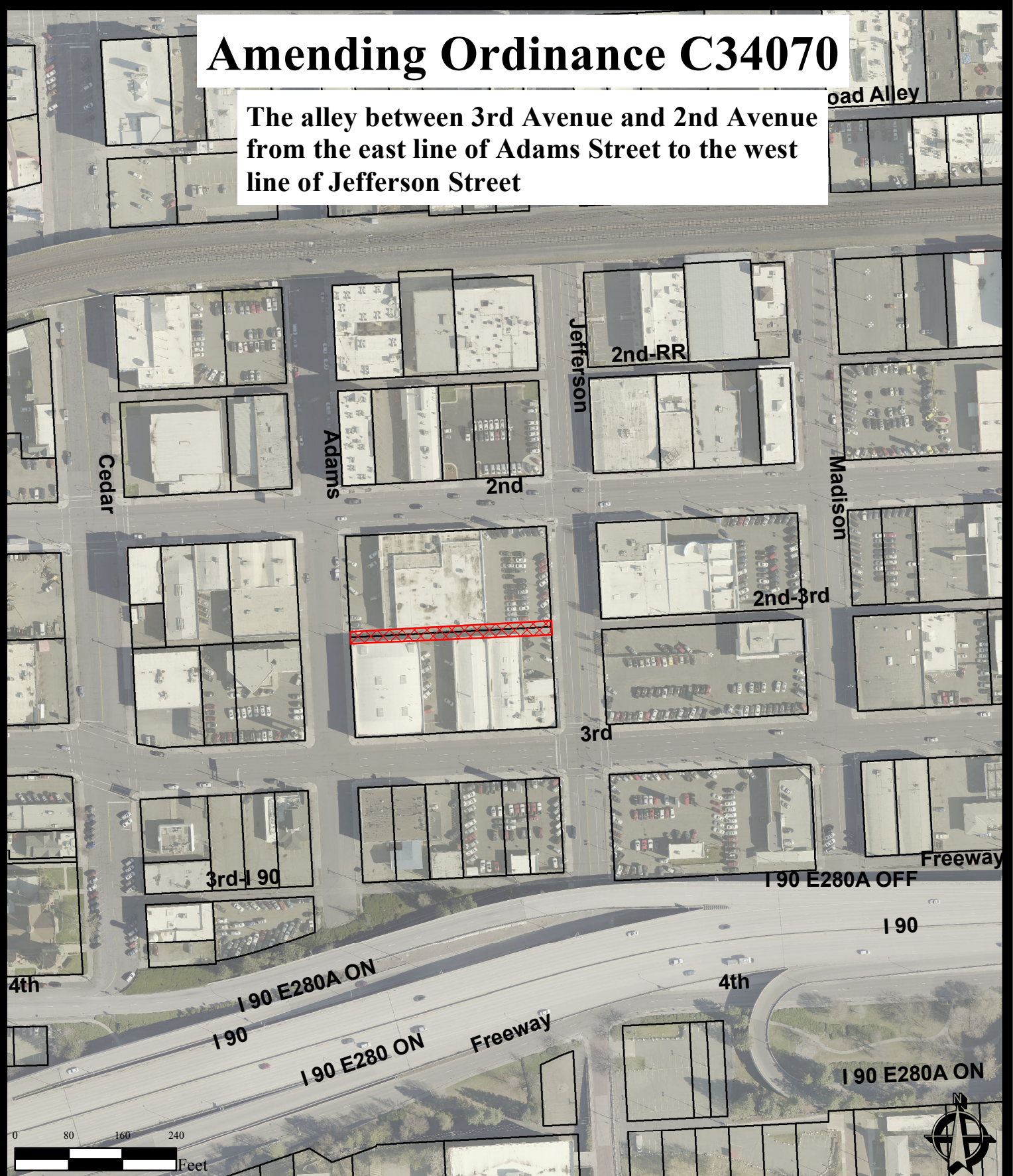
Mayor

Date: _____

Effective Date: _____

Amending Ordinance C34070

The alley between 3rd Avenue and 2nd Avenue
from the east line of Adams Street to the west
line of Jefferson Street



Amending Ordinance C-34070 to release the
easements that were reserved for Avista,
Comcast, and CenturyLink

Legend



Vacation/Easement Area

THIS IS NOT A LEGAL DOCUMENT.
The information shown on this map is compiled
from various sources and is subject to constant
revision. Information shown on this map should
not be used to determine the location of facilities
in relationship to property lines, section lines,
streets, etc.



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

10/17/2016

Date Rec'd

10/4/2016

Clerk's File #

ORD C35444

Renews #**Submitting Dept**

CITY COUNCIL

Cross Ref #**Contact Name/Phone**

BEN STUCKART 6258

Project #**Contact E-Mail**

BSTUCKART@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0320 - AN ORDINANCE RELATING TO THE DOWNTOWN BID

Agenda Wording

This ordinance amends and updates the authorizing ordinance for the downtown Parking and Business Improvement Area (PBIA, or BID).

Summary (Background)

This ordinance would amend the authorizing ordinance for the downtown BID to correct the number of zones with representation in the ratepayer advisory board. That change necessitated an increase in the number of ratepayer advisory board seats to 19. The statutory duties of the security ambassadors were also amended to include assisting individuals in locating services downtown.

Fiscal Impact**Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

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

SCOTT, ALEXANDER

Study Session**Division Director****Other**Finance Committee,
10/4//2016**Finance**

KECK, KATHLEEN

Distribution List**Legal**

ODLE, MARI

mrichard@downtownspokane.net

For the Mayor

CODDINGTON, BRIAN

Additional Approvals**Purchasing**

ORDINANCE NO. C35444

An ordinance relating to the downtown Parking and Business Improvement Area; amending sections 04.31.030 and 04.31.080 of the Spokane Municipal Code.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That section 04.31.030 of the Spokane Municipal Code is amended to read as follows:

Section 04.31.030 BID Programs

A. The revenues from the special assessments authorized by RCW 35.87A.010 and levied under SMC 4.31.040 shall be used for the following purposes:

1. Security Ambassador Program.
The City shall use, or cause to be used, BID assessment revenues to fund a uniformed security patrol (the "security ambassadors") in the BID for the purpose of assisting and providing information to citizens, local employees, visitors and the City police department. BID assessment revenues shall be used to provide the security ambassadors with customer service training designed to help local community members and visitors ~~((access))~~locate social services, ~~((and—locate))~~ businesses, attractions, and governmental services and to support individuals in ~~((accessing))~~locating appropriate social services.
2. Marketing and Promotional Programs.
The City shall use, or cause to be used, BID assessment revenues to fund marketing and promotional programs that:
 - a. seek to improve the overall image of the City's downtown business district;
 - b. recruit new businesses;
 - c. retain presently established businesses;
 - d. promote the BID as a place to visit, shop and enjoy goods, services and activities; and/or
 - e. support safe, convenient and efficient use of public transportation in the BID, including but not limited to support of commuter trip reduction programs and programs designed to improve air quality.

Such marketing and promotional programs may include collaborative promotional strategies, market research and media contact.

3. Parking and Transportation Programs.
The City shall use, or cause to be used, BID assessment revenues to fund parking and transportation programs that:
 - a. promote retail trade;

- b. provide or encourage a parking validation program (including free or discounted parking);
- c. provide or encourage maintenance, development and construction of parking facilities that support business and multifamily residential projects within the BID;
- d. provide or encourage parking alternatives that facilitate retail activities (such as a free or reduced-price ride program); and/or
- e. advocate the interests of BID businesses and multifamily residential projects for regional transportation solutions; and/or
- f. reduce the negative impacts of poverty, homelessness and mental health issues within the BID.

4. Maintenance Services.

The City shall use, or cause to be used, BID assessment revenues to fund maintenance services, including but not limited to sidewalk cleaning and sweeping, trash and debris removal from the sidewalk and trash receptacles, and removal of graffiti from public places and private improvements open to the public. Any maintenance program so implemented shall have the goal of maintaining the appearance of the common areas within the BID as clean and inviting places to visit and conduct business.

5. Special Events.

The City shall use, or cause to be used, BID assessment revenues to fund the sponsorship and promotion of special events within the BID that attract residents and visitors to BID.

6. Economic Development Support.

The BID may use or make available information derived from its assessment records to support efforts to attract jobs and investment in the BID as follows:

- a. Statistical, aggregated information that does not identify any ratepayer; and
- b. Any other business or property information only with the permission of the ratepayer(s) to whom it pertains.

- B. The security ambassador program and common area maintenance services described above shall be supplemental to existing street maintenance, refuse and police services, and are not intended to displace any services regularly provided by the City. Special assessment revenues may also be used for additional purposes consistent with RCW 35.87A.010 as determined by the city council.

Section 2. That section 04.31.080 of the Spokane Municipal Code is amended to read as follows:

Section 04.31.080 Ratepayer Advisory Board

- A. Pursuant to RCW 35.87A.110, there is hereby created a ((~~seventeen-member~~))nineteen-member BID advisory board, to be known as the “Ratepayer Advisory Board.” The ratepayer advisory board shall not exceed a membership of

~~((seventeen))~~nineteen persons, who, if they are ratepayers, are in good standing either residing within the BID, owning property, or operating a “business” or “multifamily residential or mixed-use” projects in the BID. “Persons in good standing” are those ratepayers who are not more than sixty days delinquent on any BID assessment unless the ratepayer has appealed the BID assessment and is in the appeal process, in which case the ratepayer retains his or her “in good standing” status through completion of the appeal process.

- B. Board positions are designated by geography, business, and property type to ensure that the BID’s interests are well represented and served. To the extent individuals are willing to serve, Ratepayer Advisory Board positions consist of:
1. one individual each from zones one through ~~((five))~~six, respectively ~~((five))~~six positions);
 2. one individual from a retail business within the BID occupying more than twenty thousand square feet;
 3. one individual from a retail business located within the BID occupying less than twenty thousand square feet;
 4. the Superintendent of School District 81 or his/her designee;
 5. ~~((three))~~four individuals representing professional service businesses located within the BID, including ~~((one))~~such as ~~((attorney, one accountant, and one architect))~~legal services, accounting, and architecture;
 6. one individual from a non-profit organization which is either located within, or provides services inside, the BID;
 7. one individual from a small business located within the BID with up to twenty-five employees;
 8. one individual from a business located within the BID with more than twenty-five employees;
 9. two individuals who reside within the BID area; and
 10. one appointee from the City Council.

The program manager shall provide administrative staff to the ratepayer advisory board.

- C. Each member of the ratepayer advisory board will be elected by businesses and property owners within the BID for a term of two years from the date of election (unless such member is appointed by the ratepayer advisory board to fulfill the remaining unexpired term of a prior member).
1. A subcommittee of ratepayer advisory board members will receive nomination applications and will select a slate of candidates for open ratepayer advisory board positions to be presented at the annual meeting.
 2. New ratepayer advisory board members will be elected by a majority vote of ratepayers in good standing who attend the annual meeting.
 3. The initial ratepayer advisory board shall consist of the ratepayer advisory board for the City’s previous PBIA that was created pursuant to Ordinance C32438. All subsequent Board elections shall be pursuant to the ratepayer advisory board’s bylaws.

4. The city council hereby approves through the adoption of this chapter the revised "Bylaws of the Downtown Spokane Business Improvement District" which are attached to the ordinance codified in this section (ORD C32923 and Recodification Ordinance C33995) as Appendix C. Subsequent proposed amendments shall be brought before City Council for approval on or before November 25th of each year in which the amendments are proposed.

D. The ratepayer advisory board shall:

1. establish and maintain a database which includes a list and classification of all ratepayers;
2. represent the interests of ratepayers by developing projects, programs, and budgets; proposing assessments; monitoring service delivery; and planning for the future of the BID; and
3. make determinations regarding ratepayer disputes as provided in SMC 04.31.120, including, as appropriate, the adjustment of assessment rates, methods, classification, special benefits, and all matters reasonably related thereto. For the purpose of considering ratepayer disputes, the ratepayer advisory board may act through a committee comprised of ratepayer advisory board members.
4. make recommendations to the program manager on matters relating to the BID budget, expenditures, and programs for the purpose of monitoring the contract to administer the BID.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date