

**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, MARCH 27, 2017

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. Purchase OEM recommended parts from Dresser Rand Co. (Seattle, WA) necessary for the 7-year turbine overhaul for the Waste to Energy Facility—\$550,000 plus a 10% reserve of \$55,000 for a total of \$605,000 (excl. taxes).
David Paine | Approve | OPR 2017-0208 |
| 2. Contract with Simplex Grinnell, (Spokane Valley, WA) for as needed inspections, repairs and installations of Fire Suppression Systems and Hydrants at the Waste to Energy Facility from May 1, 2017 through April 30, 2018—\$46,034.45.
David Paine | Approve | OPR 2017-0209
RFB 4310-17 |
| 3. Contract with Helfrich Brothers Boiler Works, Inc., (Lawrence, MA) for scheduled and unscheduled outages and related services for the Waste to Energy Facility from April 1, 2017 through March 31, 2018—\$600,000 plus a 10% administrative reserve of \$60,000 for a total of \$660,000 (excl. taxes).
David Paine | Approve | OPR 2017-0210
RFB 4309-17 |

- | | | |
|--|-----------------------------------|------------------------------|
| 4. Low bid of (to be determined at bid opening to be held on March 20, 2017) (City, State) for Division Street Gateway - 3rd Avenue to Spokane Falls Boulevard—\$_____. An administrative reserve of \$_____, which is 10% of the contract price will be set aside.
Dan Buller | Approve | PRO 2017-0012
ENG 2014149 |
| 5. Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2017, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | Approve &
Authorize
Payment | CPR 2017-0002 |
| 6. City Council Meeting Minutes: _____, 2017. | Approve
All | CPR 2017-0013 |

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

NO SPECIAL BUDGET ORDINANCES

NO EMERGENCY ORDINANCES

RESOLUTIONS & FINAL READING ORDINANCES

(Require Four Affirmative, Recorded Roll Call Votes)

- | | |
|---------------|---|
| RES 2017-0019 | Joint Resolution stating the City Council's and Park Board's support for the continued integrated planning and work to utilize Parks and other City properties to meet a range of mutually identified strategic goals and objectives.
Gavin Cooley |
| RES 2017-0020 | Approving the appointment of Gary Kaesemeyer as the Director of the Street Department for the City of Spokane.
Chris Cavanaugh |
| ORD C35485 | Relating to human rights protections; repealing chapters 1.06, 1.08, 10.08E, and 10.18; sections 3.10.040, 3.10.050, and 3.10.060; enacting a new Title 18; and amending sections 1.05.210, 4.10.040 and 4.10.050 of the Spokane Municipal Code. Council Member Stratton |

FIRST READING ORDINANCES

(No Public Testimony Will Be Taken)

- ORD C35471 Relating to the process for amending the unified development code; amending section 17G.025.010 of the Spokane Municipal Code. (Deferred from March 6, 2017, Agenda)
Council President Stuckart
- ORD C35486 Relating to the asset forfeiture policy of the City of Spokane; enacting a new chapter 8.19 of the Spokane Municipal Code.
Council Member Beggs
- ORD C35487 Relating to the creation of four new departments within the Innovation and Technology Services Division; amending SMC section 3.01A.340 & adopting new sections 3.01A.341, 3.01A.342, and 3.01A.344 to chapter 3.01A of the Spokane Municipal Code.
Michael Sloon

FURTHER ACTION DEFERRED

SPECIAL CONSIDERATION

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

RECOMMENDATION

- S1. Letter which outlines the City Council's goals and objectives for the upcoming collective bargaining negotiations with the Police Guild. Approval OPR 2017-0211
Council Member Kinnear

NO HEARINGS

Motion to Approve Advance Agenda for March 27, 2017
(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 March 27, 2017, Regular Legislative Session of the City Council is adjourned to April 10, 2017.

Note: The regularly scheduled City Council meeting for Tuesday, April 3, 2017, has been canceled. (There is no meeting on Monday, April 4, 2017.)

NOTES



Agenda Sheet for City Council Meeting of:
03/27/2017

Date Rec'd	3/15/2017
Clerk's File #	OPR 2017-0208
Renews #	
Cross Ref #	RES 2015-0017
Project #	
Bid #	
Requisition #	RE 18454

Submitting Dept	SOLID WASTE DISPOSAL
Contact Name/Phone	DAVID PAINE 625-6878
Contact E-Mail	DPAINE@SPOKANECITY.ORG
Agenda Item Type	Purchase w/o Contract
Agenda Item Name	4490 AUTHORIZATION TO PURCHASE OEM PARTS FOR TURBINE OVERHAUL

Agenda Wording

Authorization to purchase OEM recommended parts necessary for the 7-year turbine overhaul for the waste to energy facility from Dresser Rand Company. Cost for parts is \$550,000 plus a 10% reserve for a total of \$605,000.00 excluding taxes.

Summary (Background)

Dresser Rand Company is the original manufacturer of the condensing steam turbine generator for the WTE, and as such possesses the design, fabrication and manufacturing information required to supply OEM parts. The parts being purchased are the minimum historically required for a turbine overhaul. On February 23, 2015, Council approved Resolution #2015-0017 declaring Dresser Rand Company sole source for the turbine.

Fiscal Impact		Budget Account	
Expense	\$ 605,000.00	#	4490-44100-94000-56401
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	CHILDS, BRANDON	Study Session	PWC 3/13/17
Division Director	SIMMONS, SCOTT M.	Other	
Finance	CLINE, ANGELA	Distribution List	
Legal	DALTON, PAT	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	jsalstrom@spokanecity.org	
Additional Approvals		tprince@spokanecity.org	
Purchasing	PRINCE, THEA		



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

The Condensing Steam Turbine Generator uses the steam produced by the WTE to generate electricity, which is used to power the facility, with the remaining being sold to Avista Utilities. The revenue from the sale of electricity offsets the cost of operations of the WTE. To keep the turbine in good operating condition, it is necessary that it be overhauled periodically. Maintaining the WTE in good operating condition will maximize the ability to produce electricity, and reduce the potential for unplanned generator outages. This will help to maintain the revenues used to offset the costs of operations.

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
March 13, 2017

Subject

Authorization to purchase OEM recommended parts necessary for the 7-year turbine overhaul for the waste to energy facility from Dresser Rand Company per Sole Source Resolution #2015-0017. The WTEF is requesting approval to procure parts for \$550,000 plus a 10% contingency reserve for total of \$605,000.00 excluding taxes.

Background

The Condensing Steam Turbine Generator uses the steam produced by the WTE to generate electricity, which is used to power the facility, with the remaining being sold to Avista Utilities. The revenue from the sale of electricity offsets the cost of operations of the WTE. To keep the turbine in good operating condition, it is necessary that it be overhauled periodically.

Dresser Rand Company is the original manufacturer and as such possesses the design, fabrication and manufacturing information required to supply OEM parts. The parts being purchased are the minimum historically required during this type of maintenance.

Impact

Maintaining the WTE in good operating condition will maximize the ability to produce electricity, and reduce the potential for unplanned generator outages. This will help to maintain the revenues used to offset the costs of operations.

Action

Recommend approval.

Funding

Funding for the turbine overhaul is included in the 2017 repair and maintenance budget for the waste to energy facility.



Agenda Sheet for City Council Meeting of:
03/27/2017

Date Rec'd	3/15/2017
Clerk's File #	OPR 2017-0209
Renews #	
Cross Ref #	
Project #	
Bid #	RFB# 4310-17
Requisition #	CR17859

Submitting Dept	SOLID WASTE DISPOSAL
Contact Name/Phone	DAVID PAINE 625-6878
Contact E-Mail	DPAINE@SPOKANECITY.ORG
Agenda Item Type	Contract Item
Agenda Item Name	4490 CONTRACT FOR REPAIR SERVICES FOR FIRE SUPPRESSION SYSTEMS AT WTE

Agenda Wording

Contract with Simplex Grinnell, Spokane Valley, for as needed inspections and repairs, and installations of Fire Suppression Systems and Hydrants at the WTE. May 1, 2017, through April 30, 2018. For a cost of \$46,034.45.

Summary (Background)

Inspections and repairs of Fire Suppression Systems and Hydrants Services were solicited in Request For Bids #4310-17. Sealed bids were opened on February 6, 2017. Simplex Grinnell was the only respondent, and were determined to be a qualified bidder. Properly maintained fire suppression systems are required for safe operations of the WTE. This is a 1-year contract with extensions for 4 additional 1-year periods at the discretion of the City and subject to mutual agreement.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Expense	\$ 46,034.45	#	4490-44100-37148-54803
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	CONKLIN, CHUCK	<u>Study Session</u>	PWC 2/27/17
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	WHALEY, HUNT	ttauscher@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	jsalstrom@spokanecity.org	
<u>Additional Approvals</u>		tprince@spokanecity.org	
<u>Purchasing</u>	PRINCE, THEA	kkeck@spokanecity.org	



City of Spokane
**Preventative Maintenance
AGREEMENT**

This Agreement is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **Simplex Grinnell**, whose address is 10010 East Knox Avenue, Spokane Valley, Washington 99206 as ("Contractor").

WHEREAS, the purpose of this Agreement is to provide preventative maintenance for the equipment/building located at Waste to Energy Facility; and

WHEREAS, the Contractor was selected through an RFB issued by the City dated January 24, 2017 bid #4310-17.

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

1. TERM OF AGREEMENT.

The term of this Agreement begins on May 1, 2017, and ends on April 30, 2018, 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 four (4) additional one-year contract periods with the total contract period not to exceed five (5) years.

2. TIME OF BEGINNING AND COMPLETION.

The Contractor shall begin the work outlined in the "Scope of Work" ("Work") on the beginning date, above. 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 Contractor is responsible, but may be extended by the City, in writing, for the City's convenience or conditions beyond the Contractor's control.

3. SCOPE OF WORK.

The Contractor's General Scope of Work for this Agreement is described in Exhibit A, which is attached to and made a part of this Agreement. In the event of a conflict or discrepancy in the Agreement documents, this City Agreement controls.

The Contractor shall provide the following Work for the City:

Inspections and Repair Services as needed to the Fire Suppression Systems and Hydrants including installs for the Waste to Energy Facility (WTEF).

The Work is subject to City review and approval. The Contractor 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 Contractor's progress.

4. COMPENSATION / PAYMENT.

Total compensation for Contractor's services under this Agreement shall be a maximum amount not to exceed **FORTY SIX THOUSAND THIRTY FOUR AND 45/100 DOLLARS (\$46,034.45)**, unless modified by a written amendment to this Agreement. This is the maximum amount to be paid under this Agreement for the work described in Section 3 above, and shall not be exceeded without the prior written authorization of the City in the form of an executed amendment to this Agreement.

The Company shall submit its applications for payment to Waste to Energy Facility, Administration Office, 2900 South Geiger Boulevard., Spokane, Washington 99224. **Payment will be made via direct deposit/ACH** within thirty (30) days after receipt of the Company's application except as provided by state law. If the City objects to all or any portion of the invoice, it shall notify the Company and reserves the right to only pay that portion of the invoice not in dispute. In that event, the parties shall immediately make every effort to settle the disputed amount.

5. TAXES, FEES AND LICENSES.

- A. Contractor shall pay and maintain in current status, all necessary licenses, fees, assessments, permit charges, etc. necessary to conduct the work included under this Agreement. It is the Contractor'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. The cost of any permits, licenses, fees, etc. arising as a result of the projects included in this Agreement shall be included in the project budgets.

6. PREVENTATIVE MAINTENANCE.

The following Preventative Maintenance requirements apply to the Work under this Agreement:

- A. The Contractor shall pay state prevailing wages. The Contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages," certified by the industrial statistician of the Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by a Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the pre-filed statement or statements of intent to pay prevailing wages on file with the City. At the end of the work, the Contractor and subcontractors must submit an "Affidavit of Wages Paid," certified by the industrial statistician.
- B. **STATEMENT OF INTENT TO PAY PREVAILING WAGES TO BE POSTED.** For contracts in excess of \$10,000, the Contractor and each subcontractor required to pay the prevailing rate of wages shall post in a location readily visible at the job site: (1) a copy of a "Statement of Intent to Pay Prevailing Wages" approved by the industrial statistician of the Washington State Department of Labor and Industries (L & I); and (2) the address and telephone number of the industrial statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.
- C. A payment/performance bond is NOT required.
- D. Statutory retainage is NOT required.

7. CITY OF SPOKANE BUSINESS LICENSE.

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

8. SOCIAL EQUITY REQUIREMENTS / NON-DISCRIMINATION.

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor agrees to comply with, and to require that all subcontractors comply with, federal, state and local nondiscrimination laws, including but not limited to: the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the American's With Disabilities Act, to the extent those laws are applicable.

9. INDEMNIFICATION.

The Contractor agrees to defend, indemnify and hold the City harmless from any and all claims, demands, losses and liabilities to or by third parties arising from, resulting from or connected with Work performed or to be performed under this Agreement by Contractor, its agents or employees to the fullest extent permitted by law. Contractor's duty to indemnify the City shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees. Contractor's duty to indemnify the City for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) Contractor or agents or employees, shall apply only to the extent of negligence of the Contractor or its agents or employees. Contractor's duty to defend, indemnify and hold the City harmless shall include, as to all claims, demands, losses and liability to which it applies, the City's personnel related costs, reasonable attorneys' fees, court costs and all other claim related expenses. The Contractor specifically assumes potential liability for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification and defense, the Contractor specifically waives any immunity under the state industrial insurance law, or Title 51 RCW. The Contractor 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.

Contractor's indemnification shall specifically include all claims for loss or liability because of wrongful payment under Uniform Commercial Code, Section 9-318, or other statutory or contractual liens or rights of third parties, including taxes, accrued or accruing as a result of this Agreement or work performed or materials furnished directly or indirectly because of this Agreement.

10. INSURANCE.

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

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

B. **General Liability Insurance** on an occurrence basis, with a combined single limit of not less than \$1,500,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Contractor's services to be provided under this Agreement;

- i. Acceptable **supplementary Umbrella insurance** coverage combined with Company's General Liability insurance policy must be a minimum of \$1,500,000, in order to meet the insurance coverage limits required in this Agreement; and

C. **Automobile Liability Insurance** with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles; and

D. **Property Insurance** if materials and supplies are furnished by the Contractor. The amount of the insurance coverage shall be the value of the materials and supplies of the completed value of improvement. Hazard or XCU (explosion, collapse, underground) insurance should be provided if any hazard exists.

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

11. FEES FOR WASHINGTON'S LABOR & INDUSTRY (L&I) FILINGS. (Section 6 above).

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

12. SUBCONTRACTOR RESPONSIBILITY.

The Contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses an electrical contractor license, if required by chapter 19.28 RCW, or an elevator contractor license, if required by chapter 70.87 RCW.

13. INDEPENDENT CONTRACTOR.

The Contractor is an independent Contractor. This Agreement does not intend the Contractor to act as a City employee. The City has neither direct nor immediate control over the Contractor nor the right to control the manner or means by which the Contractor works. Neither the Contractor nor any Contractor employee shall be an employee of the City. This Agreement prohibits the Contractor to act as an agent or legal representative of the City. The Contractor 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 Contractor shall pay all income and other taxes as due.

14. ASSIGNMENT AND SUBCONTRACTING.

The Contractor 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 Contractor shall incorporate by reference this Agreement, except as otherwise provided. The Contractor shall ensure that all subcontractors comply with the obligations and requirements of the subcontract. The City's consent to any assignment or subcontract does not release the Contractor from liability or any obligation within this Agreement, whether before or after City consent, assignment or subcontract.

15. TERMINATION.

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

16. STANDARD OF PERFORMANCE.

The standard of performance applicable to Contractor's services will be the degree of skill and diligence normally employed by professional contractors in the region performing the same or similar Contracting services at the time the work under this Agreement are performed.

17. ANTI KICK-BACK.

No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in the Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Agreement.

18. CONSTRUAL.

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

19. CONTRACTOR'S ACKNOWLEDGEMENT AND WARRANTY.

The Contractor acknowledges that it has visited the site of the work, has examined it, and is qualified to perform the work required by this Agreement.

The Contractor guarantees and warranties all work, labor and materials under this Agreement for two (2) years following final acceptance. If any unsatisfactory condition or defect develops within that time, the Contractor will immediately place the work in a condition satisfactory to the City and repair all damage caused by the condition or defect. The Contractor will repair or restore to the City's satisfaction, in accordance with the contract documents and at its expense, all property damaged by his performance under this Agreement. This warranty is in addition to any manufacturers' or other warranty in the Agreement documents.

20. MISCELLANEOUS PROVISIONS.

- A. **Amendments/Modifications:** The City may modify this Agreement and order changes in the work whenever necessary or advisable. The Contractor will accept modifications when ordered in writing by the City, and the Agreement time and compensation will be adjusted accordingly.
- B. The Contractor, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers.
- C. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in a court of competent jurisdiction, located in Spokane County, Washington.
- D. **Captions:** The titles of sections or subsections are for convenience only and do not define or limit the contents.
- E. **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.
- F. **Waiver:** No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term of condition. Neither the acceptance by the City of any

performance by the Contractor after the time the same shall have become due nor payment to the Contractor 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.

- G. **Entire Agreement:** This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Contractor. If conflict occurs between Agreement documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Agreement to afford the City the maximum benefits.
- H. **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.
- I. Under Washington State Law (reference RCW Chapter 42.56, the *Public Records Act* [PRA]) all materials received or created by the City of Spokane are **public records** and are available to the public for viewing via the City Clerk's Records (online) or a valid Public Records Request (PRR).

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.

CONTRACTOR

By _____
Signature Date

Type or Print Name

Title

Contractor's UBI #

CITY OF SPOKANE

By _____
Signature Date

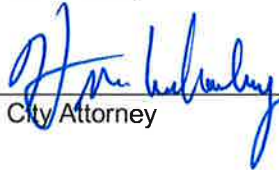
Type or Print Name

Title

Attest:

City Clerk

Approved as to form:



Assistant City Attorney

Attachments that are part of this Agreement:

Exhibit A – Contractor's General Scope of Work

U2017-119

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
February 27, 2017

Subject

Contract with Simplex Grinnell, Spokane Valley, for Fire Suppression Systems and Hydrants as needed repairs and installations at the WTE. May 1, 2017, through April 30, 2018. For a cost of \$46,034.45.

Background

Fire Suppression Systems and Hydrants Services were solicited in Request For Bids #4310-17. Sealed bids were opened on February 6, 2017. Simplex Grinnell was the only respondent, and were determined to be a qualified bidder.

This is a 1-year contract with extensions for 4 additional 1-year periods at the discretion of the City and subject to mutual agreement.

Impact

Properly maintained fire suppression systems and hydrants are required for safe operations of the WTE.

Action

Recommend approval of this contract.

Funding

Funding for this contract is contained in the 2017 WTE budget.



Agenda Sheet for City Council Meeting of:
03/27/2017

Date Rec'd	3/15/2017
Clerk's File #	OPR 2017-0210
Renews #	

Submitting Dept	SOLID WASTE DISPOSAL	Cross Ref #	
Contact Name/Phone	DAVID PAINE 625-6878	Project #	
Contact E-Mail	DPAINE@SPOKANECITY.ORG	Bid #	RFB#4309-17
Agenda Item Type	Contract Item	Requisition #	CR 17898
Agenda Item Name	4490 CONTRACT FOR BOILERMAKER SERVICES FOR THE WTE		

Agenda Wording

Contract with Helfrich Brothers Boiler Works, Inc., Lawrence, MA, for scheduled and unscheduled outages and related services for the WTE. April 1, 2017 through March 31, 2018. \$600,000.00, plus a 10% administrative reserve of \$60,000, excluding taxes

Summary (Background)

On February 22, 2017, responses to Request for Bid #4309-17 were received. Three companies responded. All 3 companies were determined to be responsible bidders. Helfrich Brothers Boiler Works, Inc., was the lowest cost bidder. Helfrich Brothers Boiler Works, Inc., of Lawrence, MA CH Murphy, Inc., of Portland, OR
PSF Industries, Inc., of Seattle, WA This contract will
allow for the needed maintenance of the WTE to be completed in a timely and cost effective manner.

Fiscal Impact		Budget Account	
Expense	\$ 660,000.00	#	4490-44100-37148-54201
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	CHILDS, BRANDON	Study Session	PWC 3/13/17
Division Director	SIMMONS, SCOTT M.	Other	
Finance	CLINE, ANGELA	Distribution List	
Legal	DALTON, PAT	ttauscher@spokanecity.org	
For the Mayor	SANDERS, THERESA	jsalstrom@spokanecity.org	
Additional Approvals		tprince@spokanecity.org	
Purchasing	PRINCE, THEA	mdoval@spokanecity.org	



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

The contract is for an initial one (1) year term, with an option of one (1) additional two-year renewal, for a total contract period of three (3) years. This is a time and materials contract with all labor being subject to WA State Prevailing Wage regulations

Fiscal Impact

Select \$

Select \$

Budget Account

#

#

Distribution List

BRIEFING PAPER
Public Works Committee
Solid Waste Disposal
March 13, 2017

Subject

Contract with Helfrich Brothers Boiler Works, Inc., Lawrence, MA, for scheduled and unscheduled outages and related boilermaker services for the WTE. April 1, 2017 through March 31, 2018. \$600,000.00, plus a 10% administrative reserve of \$60,000.00 for a total cost of \$660,000.00 excluding taxes.

Background

On February 22, 2017, responses to Request for Bid #4309-17 were received. Three companies responded. All 3 companies were determined to be responsible bidders. Helfrich Brothers Boiler Works, Inc., was the lowest cost bidder.

Helfrich Brothers Boiler Works, Inc., of Lawrence, MA
CH Murphy, Inc., of Portland, OR
PSF Industries, Inc., of Seattle, WA

The contract is for an initial one (1) year term, with an option of one (1) additional two-year renewal, for a total contract period of three (3) years. This is a time and materials contract with all labor being subject to WA State Prevailing Wage regulations.

Impact

This contract will allow for the needed maintenance of the WTE to be completed in a timely and cost effective manner.

Action

Recommend approval.

Funding

Funding is included in the 2017 operations and maintenance budget for the WTE.



City of Spokane

CONTRACT

Title: **BOILERMAKER SERVICES FOR
WASTE TO ENERGY FACILITY (WTE)**

THIS CONTRACT is between the **CITY OF SPOKANE**, a Washington State municipal corporation, as ("City"), and **HELFRICH BROTHERS BOILER WORKS, INC.**, whose address is 39 Merrimack Street, Lawrence, Massachusetts 01843, as ("Contractor"). Individually hereafter referenced as a "party", and together as the "parties".

The parties agree as follows:

1. **PERFORMANCE**. The Contractor will do all work, furnish all labor, materials, tools, construction equipment, transportation, supplies, supervision, organization and other items of work and costs necessary for the proper execution and completion of the work described in the specifications entitled **BOILERMAKER SERVICES FOR SCHEDULED OUTAGES AND EMERGENCY OUTAGES AT THE WASTE TO ENERGY (WTE) FACILITY FOR THE CITY OF SPOKANE SOLID WASTE DISPOSAL DEPARTMENT**.
2. **CONTRACT DOCUMENTS**. The contract documents are this Contract, the City's Request for Bids (RFB # 4309-17), entitled boilermaker services for scheduled outages and unscheduled outages at the Waste To Energy (WTE) Facility for the City of Spokane Solid Waste Disposal Department, the Contractor's completed bid proposal form, contract provisions, contract plans, standard specifications, standard plans, addenda, various certifications and affidavits, supplemental agreements, change orders, and subsurface boring logs (if any). Federal and state requirements and the terms of this Contract, respectively, supersede other inconsistent provisions. These contract documents are on file in the Waste to Energy Facility, 2900 South Geiger Boulevard, Spokane, and are incorporated into this Contract by reference, as if they were set forth at length.
3. **TIME OF PERFORMANCE**. The time of performance of the Contract shall be in accordance with the contract documents.
4. **LIQUIDATED DAMAGES**. Liquidated damages shall be in accordance with the contract documents. Liquidated damages shall apply up to the point of the City's completion and acceptance of a satisfactory hydrostatic test on the WTE boiler units.

5. TERMINATION. This Contract may be terminated in accordance with the contract documents.

6. COMPENSATION. The City shall pay a maximum of **SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$600,000.00)**, plus a ten percent (10%) Administrative Reserve unless modified by a written amendment to this Contract.

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

8. PAYMENT. The Contractor will send its applications for payment to the Waste To Energy Facility, 2900 South Geiger Boulevard, Spokane, Washington 99224. Payment will be made within thirty (30) days after receipt of the Contractor's application except as provided in RCW 39.76. Five percent (5%) of the Contract price may be retained by the City, in accord with RCW 60.28 for a minimum of forty five (45) days after final acceptance, as a trust fund for the protection and payment of: the claims of any person arising under the Contract; and the State with respect to taxes imposed pursuant to Titles 50, 51 and 82 RCW which may be due from the Contractor.

Additional work or time will be billed at the rates quoted in Helfrich Brothers Boiler Works, Inc.'s Bid response to the City's Boilermaker Services - Request for Bids (RFB #4309-17).

9. INDEMNIFICATION.

- A. The Contractor is an independent contractor and not the agent or employee of the City. No liability shall attach to the City for entering into this Contract or because of any act or omission of the Contractor except as expressly provided.
- B. The Contractor agrees to defend, indemnify and hold the City and Engineers harmless from any and all claims, demands, losses and liabilities to or by third parties arising from, resulting from or connected with services performed or to be performed under this Contract by the Contractor, its agents or employees to the fullest extent permitted by law. The Contractor's duty to indemnify the City and Engineers shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees. The Contractor's duty to indemnify the City and Engineers for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) the City or its agents or employees, and (b) the Contractor or its agents or employees, shall apply only to the extent of negligence of the Contractor or its agents or employees. Contractor's duty to defend, indemnify and hold the City and Engineers harmless shall include, as to all claims, demands, losses and liability to which it applies, the City's personnel-related costs, reasonable attorneys' fees, court costs and all other claim-related expenses.

C. **The Contractor waives immunity under Title 51 RCW to the extent necessary to protect the City's interests under this indemnification. This provision has been specifically negotiated.**

10. BONDS. The Contractor may not commence work until it obtains all insurance, permits and bonds required by the contract documents and applicable law. This includes the execution of a performance bond and a payment bond on the forms attached, each equal to one hundred percent (100%) of the contract price, and written by a corporate surety company licensed to do business in Washington State.

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

12. CONTRACTOR'S WARRANTY. The Contractor's warranty for all work, labor and materials shall be in accordance with the contract documents.

13. WAGES. The Contractor and all subcontractors will submit a "Statement of Intent to Pay Prevailing Wages" certified by the industrial statistician of the Department of Labor and Industries, prior to any payments. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Contractor's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by the Contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the "Statement(s) of Intent to Pay Prevailing Wages" on file with the City. Prior to the payment of funds held under RCW 60.28, the Contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

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

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

16. SUBCONTRACTOR RESPONSIBILITY. The Contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that

hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses an electrical contractor license, if required by chapter 19.28 RCW, or an elevator contractor license, if required by chapter 70.87 RCW. The responsibility criteria are listed in the request for bids document.

17. NONDISCRIMINATION. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Contractor.

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

19. ANTI-KICKBACK. No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the Contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Contract.

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

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

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

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

24. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first

having obtained a valid annual business registration. The Contractor shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Contractor does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

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

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: _____

HELFRICH BROTHERS BOILER
WORKS, INC.

By: _____

Title: _____

Email Address, if available: _____

Attachments that are a part of this Contract:

Payment Bond

Performance Bond

City's Request for Bids (RFB # 4309-17), entitled Boilermaker Services for Scheduled and Emergency Outages at the Waste To Energy (WTE) Facility for the City of Spokane Solid Waste Disposal Department

PAYMENT BOND

We, **HELFRICH BROTHERS BOILER WORKS, INC.**, as principal, and _____, as surety, are held and firmly bound to the City of Spokane, Washington, in the sum of SIX HUNDRED THOUSAND AND 00/100 DOLLARS (\$600,000.00), plus a ten percent (10%) administrative reserve, for the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a Contract with the City of Spokane, Washington, to do all work and furnish all materials for the BOILERMAKER SERVICES FOR SCHEDULED OUTAGES AND EMERGENCY OUTAGES AT THE WASTE TO ENERGY (WTE) FACILITY FOR THE CITY OF SPOKANE SOLID WASTE DISPOSAL DEPARTMENT project defined in the City's Request for Bids (RFB # 4309-17). If the principal shall:

- A. pay all laborers, mechanics, subcontractors, material suppliers and all person(s) who shall supply such person or subcontractors;
- B. pay all taxes and contributions, increases and penalties as authorized by law including payment of all taxes incurred on the Contract under title 50 and 51 Revised Code of Washington (RCW) and all taxes imposed on the principal under Title 82 RCW; and
- C. comply with all applicable federal, state and local laws and regulations;

then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The surety hereby waives notice of and consents to any contract alteration or extension of time made by the City. Any judgment obtained against the City, which relates to or is covered by the contract or this bond, shall be conclusive against the principal and the surety, as to the amount of damages, and their liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on _____.

HELFRICH BROTHERS BOILER
WORKS, INC., AS PRINCIPAL,

By: _____
Title: _____

A valid POWER OF ATTORNEY
for the surety's agent must
accompany this bond.

AS SURETY

By: _____
Its Attorney in Fact

STATE OF WASHINGTON)
) .ss
County of _____)

I certify that I know or have satisfactory evidence that _____
 _____ signed this document; on oath
 stated that he/she was authorized to sign the document and acknowledged it as the agent
 or representative of the named surety company which is authorized to do business in the
 State of Washington, for the uses and purposes mentioned in this document.

DATED on _____.

Signature of Notary

My appointment expires _____

Approved as to form:

Assistant City Attorney

PERFORMANCE BOND

We, **HELFRICH BROTHERS BOILER WORKS, INC.**, as principal, and _____, as surety, are held and firmly bound to the City of Spokane, Washington, in the sum of SIX HUNDRED THOUSAND AND 00/100 DOLLARS (\$600,000.00), plus a ten percent (10%) administrative reserve, for the payment of which, we bind ourselves and our legal representatives and successors, jointly and severally by this document.

The principal has entered into a Contract with the City of Spokane, Washington, to do all work and furnish all materials for the BOILERMAKER SERVICES FOR SCHEDULED OUTAGES AND EMERGENCY OUTAGES AT THE WASTE TO ENERGY (WTE) FACILITY FOR THE CITY OF SPOKANE SOLID WASTE DISPOSAL DEPARTMENT project defined in the City's Request for Bids (RFB # 4309-17). If the principal shall:

- A. promptly and faithfully perform the contract, and any contractual guaranty and indemnify and hold harmless the City from all loss, damage or claim which may result from any act or omission of the principal, its agents, employees, or subcontractors; and
- B. comply with all applicable federal, state and local laws and regulations;

then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The surety hereby waives notice of and consents to any contract alteration or extension of time made by the City. Any judgment obtained against the City, which relates to or is covered by the contract or this bond, shall be conclusive against the principal and the surety, not only as to the amount of damages, but also as to their liability, if reasonable notice of the suit has been given.

SIGNED AND SEALED on _____

HELFRICH BROTHERS BOILER
WORKS, INC., AS PRINCIPAL,

By: _____

Title: _____

_____,
AS SURETY

A valid POWER OF ATTORNEY
for the surety's agent must
accompany this bond.

By: _____
Its Attorney in Fact

STATE OF WASHINGTON)
)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that _____
 _____ signed this document; on oath
 stated that he/she was authorized to sign the document and acknowledged it as the agent
 or representative of the named surety company which is authorized to do business in the
 State of Washington, for the uses and purposes mentioned in this document.

DATED on _____.

Signature of Notary

My appointment expires _____

Approved as to form:

Assistant City Attorney

12	HELFRICH 2017 BID	PSF 2017 BID	CH Murphy 2017 BID
Bid Comparison			
Mobilization	\$9,000.00	\$11,593.00	\$17,158.00
Demobilization	\$9,000.00	\$7,955.00	\$17,158.00
Per shift Price			
Tools & Equipment	\$1,175.00	\$9,053.00	\$5,315.83
Average Labor per 12 hr shift	\$7,760.00	\$16,618.00	\$35,530.00
Down or standby shift cost	\$1,120.00	\$2,713.00	\$2,500.00
Emergency work (2 Welders per 12hr shift)	\$3,258.00	\$5,178.00	\$3,800.00
Travel expense	\$3,600.00	\$0.00	\$0.00
Cost of a typical 12 shift outage			
Mob/Demob	\$18,000.00	\$19,548.00	\$34,316.00
Tools & Equipment	\$14,100.00	\$108,636.00	\$5,315.83
Average Labor per 12 hr shift	\$93,120.00	\$199,416.00	\$426,360.00
Down or standby shift cost	\$13,440.00	\$32,556.00	\$30,000.00
Emergency work (2 Welders per 12hr shift)	\$39,096.00	\$62,136.00	\$45,600.00
Travel expense	\$3,600.00	\$0.00	\$0.00
Subtotal	\$181,356.00	\$422,292.00	\$541,591.83
Sales Tax	\$15,777.97	\$36,739.40	\$47,118.49
12 Shifts, 2 Boiler Outage	\$197,133.97	\$459,031.40	\$588,710.32

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

03/27/2017

Date Rec'd

3/15/2017

Clerk's File #

PRO 2017-0012

Renews #**Submitting Dept**

ENGINEERING SERVICES

Contact Name/Phone

DAN BULLER 625-6391

Contact E-Mail

DBULLER@SPOKANECITY.ORG

Agenda Item Type

Contract Item

Agenda Item Name

0370 - LOW BID AWARD - TO BE DETERMINED AT BID OPENING MARCH 20,

Agenda Wording

Low bid of (to be determined at bid opening to be held on March 20, 2017 (City, State) for Division Street Gateway - 3rd Avenue to Spokane Falls Boulevard \$_____. An administrative reserve of \$_____, which is 10% of the contract price will be set aside. (Riverside and East Central Neighborhoods).

Summary (Background)

All information will be provided prior to the March 20, 2017 meeting. On March 20, 2017 bids were opened for the above project. The Engineers Estimate for this project is \$3,443,463.20. The low bid was from (to be determined at bid opening) in the amount of \$_____, which is \$_____ or ___% over/under the Engineer's Estimate; other bids were received as follows:

Fiscal Impact

Expense \$ \$3,443,463.20

Select \$

Select \$

Select \$

Budget Account

3200-95093-95300-56501-99999

#

#

#

Approvals**Dept Head**

TWOHIG, KYLE

Division Director

SIMMONS, SCOTT M.

Finance**Legal**

DALTON, PAT

For the Mayor

SANDERS, THERESA

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

PW 3/13/17

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Additional Approvals**Purchasing**

BRIEFING PAPER
Public Works Committee
Engineering Services
March 13, 2016

Subject:

Division Gateway – 3rd Avenue to Spokane Falls Boulevard (2014149)

Background:

The proposed project is a safety and economic development project on Division Street. More specifically, the project will install curb extensions (bumpouts) at various intersections, curb ramps, pedestrian lighting, trees and other landscaping, make lane revisions and replace various stormwater components. Also included in the project are curb ramp replacements on Browne Street which are funded separately by WSDOT. (See 1st attached exhibit)

WSDOT is planning a grind and overlay on Division Street following completion of this project. Because of the duration of this project and the likelihood that it will not finish until October, WSDOT has agreed to postpone its project until 2018.

Public Impact:

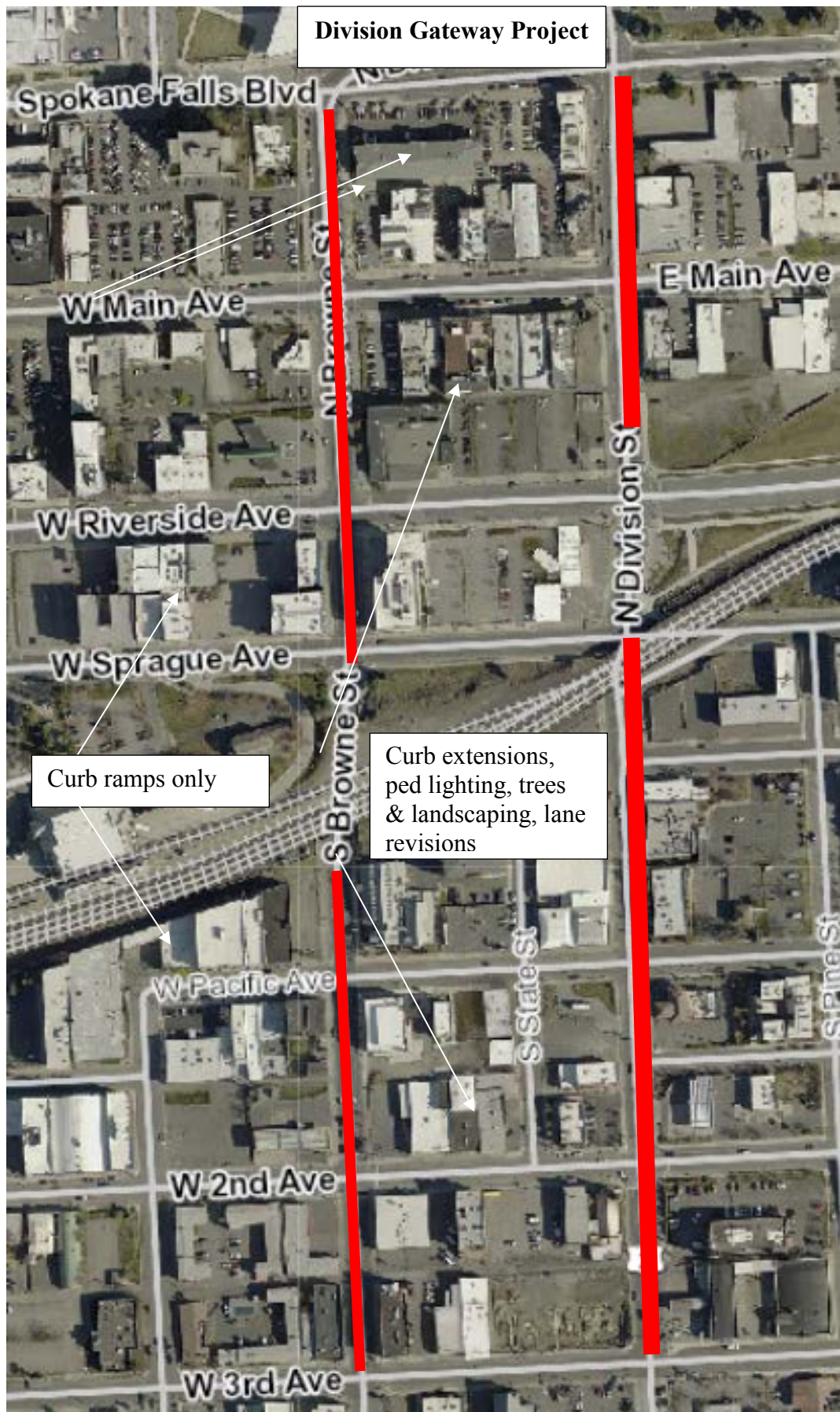
Division Street will remain open with lane restrictions during construction. Construction will largely be confined to the outer lanes and will be constructed one side/one phase at a time. (See 2nd attached exhibit) Utility work requiring excavation across Division Street will be done at night closing all but one lane.

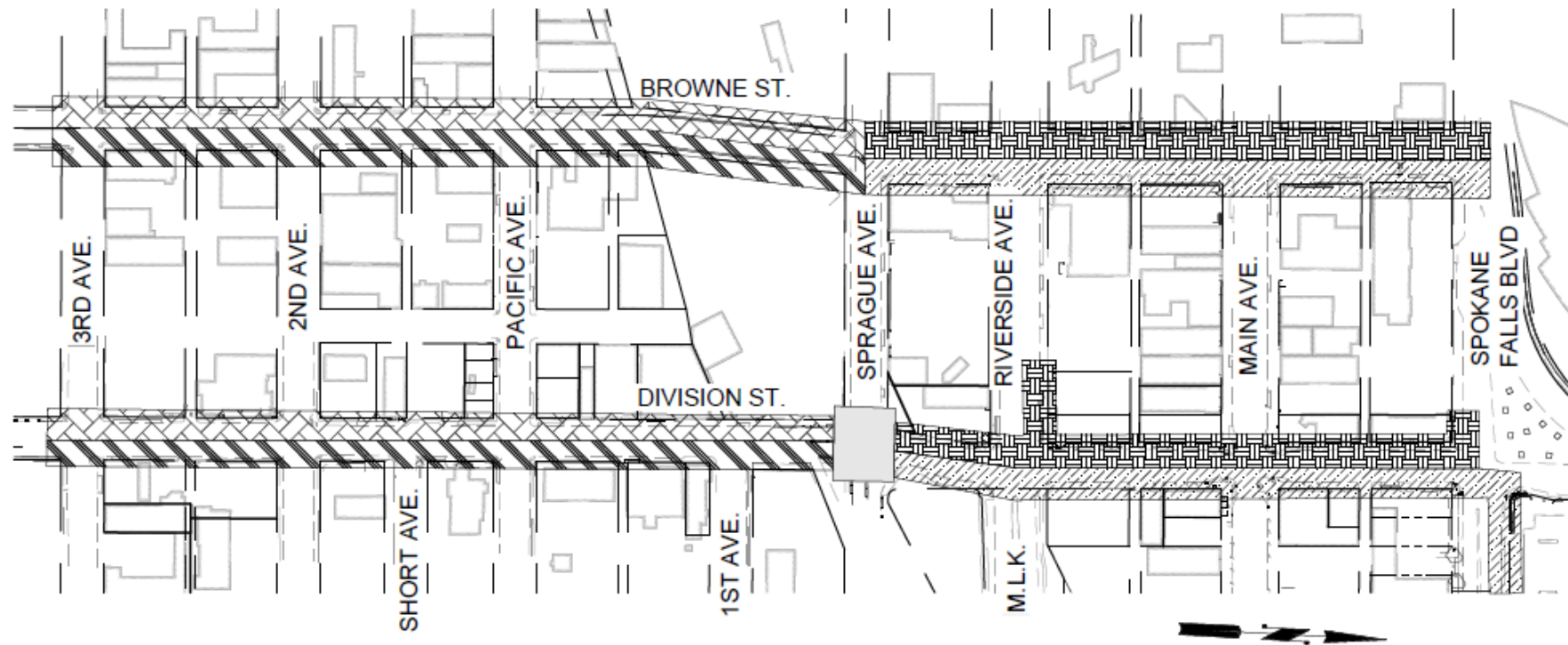
Action:

This background information is provided for council consideration. The engineer's estimate for the project is approx. \$3.5M. This project is currently on ad with bids due March 20, 2017. We plan to put this project on council advanced agenda shortly thereafter.

Funding

This project is paid mostly with federal grant dollars.





PHASE 1 - SHALL BE THE FIRST ORDER OF WORK AND REACH SUBSTANTIAL COMPLETION, PRIOR TO MOVING ON TO PHASE 2 WORK. THE WORK IN THIS PHASE IS COMPRISED OF:

- EAST HALF OF DIVISION, BETWEEN 3RD AVENUE AND SPRAGUE AVENUE (EXCLUDES 3RD & SPRAGUE INTERSECTIONS).
- EAST HALF OF BROWNE, BETWEEN 3RD AVENUE AND SPRAGUE AVENUE (INCLUDES 3RD & SPRAGUE INTERSECTIONS).



PHASE 2 - SHALL BE THE SECOND ORDER OF WORK AND REACH SUBSTANTIAL COMPLETION, PRIOR TO MOVING ON TO PHASE 3 WORK. THE WORK IN THIS PHASE IS COMPRISED OF:

- WEST HALF OF DIVISION, BETWEEN 3RD AVENUE AND SPRAGUE AVENUE (EXCLUDES 3RD & SPRAGUE INTERSECTIONS).
- WEST HALF OF BROWNE, BETWEEN 3RD AVENUE AND SPRAGUE AVENUE (INCLUDES 3RD & SPRAGUE INTERSECTIONS).



PHASE 3 - SHALL BE THE THIRD OR FOURTH ORDER OF WORK AND REACH SUBSTANTIAL COMPLETION, PRIOR TO MOVING ON TO PHASE 4 WORK. THE WORK IN THIS PHASE IS COMPRISED OF:

- EAST HALF OF DIVISION, BETWEEN SPRAGUE AVENUE (EXCLUDES SPRAGUE INTERSECTION) AND SPOKANE FALLS BLVD.
- EAST HALF OF BROWNE, BETWEEN SPRAGUE AVENUE (INCLUDES SPRAGUE INTERSECTION) AND SPOKANE FALLS BLVD.



PHASE 4 - SHALL BE THE FOURTH OR FIFTH ORDER OF WORK AND REACH SUBSTANTIAL COMPLETION, PRIOR TO MOVING ON TO PHASE 5 WORK (IF APPLICABLE). THE WORK IN THIS PHASE IS COMPRISED OF:

- WEST HALF OF DIVISION, BETWEEN SPRAGUE AVENUE (EXCLUDES SPRAGUE INTERSECTION) AND SPOKANE FALLS BLVD.
- WEST HALF OF BROWNE, BETWEEN SPRAGUE AVENUE (INCLUDES SPRAGUE INTERSECTION) AND SPOKANE FALLS BLVD.



PHASE 5 - SHALL BE COMPLETED BETWEEN PHASE 2 & PHASE 3, OR AFTER PHASE 4. THE WORK IN THIS PHASE IS COMPRISED OF:

- THE SPRAGUE AVENUE & DIVISION STREET INTERSECTION

GENERAL PHASING AND SEQUENCING REQUIREMENTS

THE CONTRACTOR SHALL NOT HAVE MORE THAN ONE CORNER OF AN INTERSECTION ON BROWNE STREET UNDER CONSTRUCTION AT THE SAME TIME. THE CONTRACTOR SHALL COMPLETE THE WORK ON EACH CORNER PRIOR TO MOVING TO THE NEXT.

DIVISION ST. GATEWAY
FROM 3RD AVE. TO SPOKANE FALLS BLVD.

2017 CONSTRUCTION PHASING PLAN
CITY OF SPOKANE, WASHINGTON

TYPE: PHASING PLAN

DRAWN BY: JAB

APPROVED BY: RKP

PROJECT No. 2014149

DATE: 12/2016

City Of Spokane
Engineering Services Department
*** * * Engineer's Final Estimate * * ***

Project Number: 2014149
Project Description Division Gateway - 3rd Ave. to Spokane Falls Blvd
Funding Source Federal
Preparer Mark Melnick
Original Date 12/1/2016 2:22:31 PM
Update Date 12/1/2016 2:24:40 PM
Addendum

Project Number: 2014149

Item No	Bid Item Description	Est Quantity	Unit Price	Amount
Description		Tax Classification		
Schedule 01		Sales tax shall be included in unit prices		
101	REIMBURSEMENT FOR THIRD PARTY DAMAGE	1 EST	1.00	1.00
102	SPCC PLAN	1 LS	*****	1,500.00
103	POTHOLING	20 EA	250.00	5,000.00
104	PUBLIC LIAISON REPRESENTATIVE	1 LS	*****	12,000.00
105	REFERENCE AND REESTABLISH SURVEY MONUMENT	15 EA	800.00	12,000.00
106	CLASSIFICATION AND PROTECTION OF SURVEY MONUMENTS	1 LS	*****	3,000.00
107	TYPE B PROGRESS SCHEDULE	1 LS	*****	4,000.00
108	MOBILIZATION	1 LS	*****	284,000.00
109	PROJECT TEMPORARY TRAFFIC CONTROL	1 LS	*****	80,000.00
110	SPECIAL SIGNS	75 SF	20.00	1,500.00
111	SEQUENTIAL ARROW SIGN	30000 HR	1.50	45,000.00
112	PORTABLE CHANGEABLE MESSAGE SIGN	7500 HR	2.00	15,000.00
113	TYPE III BARRICADE	10 EA	50.00	500.00
114	PORTABLE TEMPORARY TRAFFIC CONTROL SIGNAL	1 LS	*****	200,000.00
115	CLEARING AND GRUBBING	1 LS	*****	2,000.00
116	REMOVAL OF STRUCTURE AND OBSTRUCTION	1 LS	*****	5,000.00
117	REMOVE EXISTING CURB	3972 LF	15.00	59,580.00
118	REMOVE CEMENT CONCRETE SIDEWALK AND DRIVEWAY	3712 SY	16.00	59,392.00
119	REMOVE MANHOLE, CATCH BASIN OR DRYWELL	24 EA	500.00	12,000.00
120	REMOVE CURB/GRATE INLET	2 EA	200.00	400.00
121	REMOVE EXISTING PIPE - UNDER 12 INCH DIA.	150 LF	30.00	4,500.00
122	SALVAGE GRANITE CURB	178 LF	35.00	6,230.00
123	SAWCUTTING CURB	161 EA	35.00	5,635.00
124	SAWCUTTING RIGID PAVEMENT	21643 LFI	0.90	19,478.70
125	SAWCUTTING FLEXIBLE PAVEMENT	55814 LFI	0.75	41,860.50
126	TEMPORARY RELOCATION OF EXISTING MAILBOX	1 EA	750.00	750.00
127	ROADWAY EXCAVATION INCL. HAUL - AREA CONCRETE PAVEMENT	150 CY	30.00	4,500.00
128	ROADWAY EXCAVATION INCL. HAUL - AREA BUMPOUT	930 CY	20.00	18,600.00
129	SELECT BORROW INCL. HAUL	600 CY	50.00	30,000.00

Project Number: 2014149

<i>Item No</i>	<i>Bid Item Description</i>	<i>Est Quantity</i>	<i>Unit Price</i>	<i>Amount</i>
<i>Description</i>		<i>Tax Classification</i>		
<i>Schedule 01</i>		Sales tax shall be included in unit prices		
130	REMOVE UNSUITABLE FOUNDATION MATERIAL	50 CY	25.00	1,250.00
131	REPLACE UNSUITABLE FOUNDATION MATERIAL	50 CY	65.00	3,250.00
132	COMMON BORROW INCL. HAUL	100 CY	25.00	2,500.00
133	SITE SHAPING AND GRADING	300 SY	15.00	4,500.00
134	EXTRA WORK ALLOWANCE FOR ROCK EXCAVATION - TANK	50 CY	115.00	5,750.00
135	SPECIAL / INDUSTRIAL WASTE	75 TON	300.00	22,500.00
136	HAZARDOUS MATERIAL	100 TON	250.00	25,000.00
137	DISPOSAL OF INERT FILL AND DEBRIS INCL. HAUL	100 CY	150.00	15,000.00
138	HEALTH AND SAFETY PLAN	1 LS	*****	1,500.00
139	UNDERGROUND STORAGE TANK REMOVAL	6 EA	2,000.00	12,000.00
140	UTILITY TRENCH	2750 LF	25.00	68,750.00
141	UTILITY TRENCH BACKFILL INCL. HAUL	2750 LF	30.00	82,500.00
142	VACCUM TRENCH EXCAVATION	870 LF	120.00	104,400.00
143	CONTROLLED DENSITY FILL	250 CY	100.00	25,000.00
144	CSTC FOR SIDEWALK AND DRIVEWAYS	286 CY	50.00	14,300.00
145	HMA FOR PAVEMENT REPAIR CL. 1/2IN. PG 70-28, 6 INCH. THICK	3223 SY	56.00	180,488.00
146	PAVEMENT REPAIR EXCAVATION INCL. HAUL	3223 SY	65.00	209,495.00
147	COMMERCIAL CONCRETE	10 CY	200.00	2,000.00
148	CEMENT CONCRETE CURB WALL	83 LF	50.00	4,150.00
149	LANDSCAPE CURB WALL	850 LF	60.00	51,000.00
150	MANHOLE TYPE I-48, BASIC PRICE	2 EA	2,500.00	5,000.00
151	GRATE INLET TYPE 3	14 EA	400.00	5,600.00
152	ADJUST EXISTING MANHOLE, CATCH BASIN, DRYWELL, OR INLET IN ASPHALT	9 EA	550.00	4,950.00
153	ADJUST EXISTING MANHOLE, CATCH BASIN, DRYWELL, OR INLET IN CONCRETE	2 EA	600.00	1,200.00
154	CATCH BASIN TYPE 1	21 EA	1,900.00	39,900.00
155	CATCH BASIN TYPE 3	4 EA	2,100.00	8,400.00
156	CB WSDOT TYPE 1P	1 EA	1,800.00	1,800.00
157	RETROFIT SURFACE INLET CATCH BASIN WITH FRAME & BI-DIRECTIONAL VANED GRATE	2 EA	750.00	1,500.00
158	RETROFIT GRATE INLET WITH FRAME & VANED GRATE	3 EA	700.00	2,100.00
159	RETROFIT CATCH BASIN WITH MANHOLE RISER & REDUCING SLAB	1 EA	1,700.00	1,700.00
160	VALVE BOX AND COVER	13 EA	400.00	5,200.00
161	CONNECT 8 IN. DIAM. SEWER PIPE TO EXISTING SEWER PIPE	14 EA	350.00	4,900.00
162	CONNECT 8 IN. DIAM. SEWER PIPE TO EXISTING SEWER PIPE	15 EA	500.00	7,500.00
163	CLEANING EXISTING DRAINAGE STRUCTURE	18 EA	300.00	5,400.00
164	EXTRA WORK ALLOWANCE FOR ROCK EXCAVATION - TRENCHES	50 CY	50.00	2,500.00
165	REMOVE UNSUITABLE PIPE FOUNDATION MATERIAL	25 CY	18.00	450.00

Project Number: 2014149

<i>Item No</i>	<i>Bid Item Description</i>	<i>Est Quantity</i>	<i>Unit Price</i>	<i>Amount</i>
<i>Description</i>		<i>Tax Classification</i>		
<i>Schedule 01</i>		Sales tax shall be included in unit prices		
166	REPLACE UNSUITABLE PIPE FOUNDATION MATERIAL	25 CY	25.00	625.00
167	TRENCH SAFETY SYSTEM	1 LS	*****	1,500.00
168	RECONNECT SIDE SEWER	100 LF	80.00	8,000.00
169	SIDE SEWER CLEANING AND VIDEO INSPECTION	15 EA	600.00	9,000.00
170	CATCH BASIN DUCTILE IRON SEWER PIPE 8 IN. DIAM.	1102 LF	50.00	55,100.00
171	PLUGGING EXISTING PIPE	2 EA	150.00	300.00
172	TEMPORARY ADJACENT UTILITY SUPPORT	1 LS	*****	3,000.00
173	CLEANING EXISTING SANITARY SEWER	4 EA	375.00	1,500.00
174	ESC LEAD	1 LS	*****	1,500.00
175	INLET PROTECTION	70 EA	100.00	7,000.00
176	STREET CLEANING	300 HR	150.00	45,000.00
177	TOPSOIL TYPE A, 18 INCH THICK	710 SY	30.00	21,300.00
178	PSIPE 2 INCH CALIPER DECIDUOUS TREE	22 EA	400.00	8,800.00
179	PSIPE 3 INCH CALIPER DECIDUOUS TREE	38 EA	400.00	15,200.00
180	PSIPE 1 GALLON SHRUB	746 EA	40.00	29,840.00
181	PSIPE 5 GALLON SHRUB	298 EA	40.00	11,920.00
182	PSIPE 6 INCH POTTED PLANT	1120 EA	40.00	44,800.00
183	BARK OR WOOD CHIP MULCH	10 CY	35.00	350.00
184	ROCK MULCH	250 CY	42.00	10,500.00
185	SOD INSTALLATION	215 SY	12.00	2,580.00
186	WEED SPRAYING AND CONTROL	1 LS	*****	5,000.00
187	TOPSOIL FOR BIO-FILTRATION SWALES, 12 INCH THICK INCL. SE	200 SY	15.00	3,000.00
188	CONSTRUCT BIO-INFILTRATION SWALE	200 SY	15.00	3,000.00
189	SWALE DRAIN PAD	10 EA	100.00	1,000.00
190	CURB DROP INLET	10 EA	125.00	1,250.00
191	IRRIGATION SYSTEM	1 LS	*****	175,000.00
192	4 INCH DUCTILE IRON IRRIGATION SLEEVE	120 LF	50.00	6,000.00
193	2 INCH PVC IRRIGATION SLEEVE	60 LF	20.00	1,200.00
194	REMOVE AND REPLACE EXISTING SPRINKLER HEADS AND LINES	1 LS	*****	2,000.00
195	CEMENT CONCRETE CURB	4824 LF	25.00	120,600.00
196	TREE WELL	60 EA	250.00	15,000.00
197	TREE GRATE	60 EA	1,400.00	84,000.00
198	CEMENT CONCRETE DRIVEWAY - HIGH EARLY STRENGTH	792 SY	88.00	69,696.00
199	CEMENT CONCRETE DRIVEWAY TRANSITION - HIGH EARLY STRENGTH	20 SY	88.00	1,760.00
200	CEMENT CONC, SIDEWALK	3978 SY	40.00	159,120.00
201	RAMP DETECTABLE WARNING	712 SF	22.00	15,664.00
202	CURB RAMP OVERLAY	1 LS	*****	1,200.00
203	EXTRA WORK ALLOWANCE FOR SIDEWALK CONNECTION	120 LF	90.00	10,800.00

Project Number: 2014149

<i>Item No</i>	<i>Bid Item Description</i>	<i>Est Quantity</i>	<i>Unit Price</i>	<i>Amount</i>
<i>Description</i>		<i>Tax Classification</i>		
<i>Schedule 01</i>		Sales tax shall be included in unit prices		
204	REINSTALL METER - STANDARD SIDEWALK	40 EA	100.00	4,000.00
205	TRAFFIC SIGNAL SYSTEM RETROFIT DIVISION AND 3RD	1 LS	*****	10,000.00
206	TRAFFIC SIGNAL SYSTEM RETROFIT DIVISION AND 2ND	1 LS	*****	40,000.00
207	TRAFFIC SIGNAL SYSTEM RETROFIT DIVISION AND SPRAUGE	1 LS	*****	60,000.00
208	TRAFFIC SIGNAL SYSTEM RETROFIT DIVISION AND MLK	1 LS	*****	25,000.00
209	TRAFFIC SIGNAL SYSTEM RETROFIT DIVISION AND SPOKANE FALLS BLVD	1 LS	*****	25,000.00
210	COMMUNICATION CONDUIT SYSTEM	1 LS	*****	10,000.00
211	COMMUNICATION CABLES AND INTERFACES	1 LS	*****	5,000.00
212	ILLUMINATION CONDUIT SYSTEM, DIVISION STREET	1 LS	*****	50,000.00
213	ILLUMINATION SYSTEM, DIVISION STREET	1 LS	*****	270,000.00
214	ADAPTIVE STREET LIGHTING SYSTEM	1 LS	*****	15,000.00
215	SIGNING, PERMANENT	1 LS	*****	35,000.00
216	REMOVAL OF EXISTING PAVEMENT MARKINGS	3770 SF	4.50	16,965.00
217	REMOVAL OF EXISTING WORD AND SYMBOL MARKINGS	16 EA	75.00	1,200.00
218	PAVEMENT MARKING - DURABLE HEAT APPLIED	2970 SF	10.00	29,700.00
219	PAVEMENT MARKING - DURABLE	1150 SF	7.00	8,050.00
220	PAVEMENT MARKING - PAINT	800 SF	2.00	1,600.00
221	WORD AND SYMBOL MARKINGS - DURABLE HEAT APPLIED	16 EA	200.00	3,200.00
222	TEMPORARY PAVEMENT MARKING	1 LS	*****	1,000.00
223	REINFORCED DOWELED CURB	91 LF	25.00	2,275.00
224	TRAFFIC ISLAND CONCRETE	19 SY	32.00	608.00
225	CURB KNOB	250 EA	30.00	7,500.00
226	TRASH RECEPTACLE	2 EA	1,200.00	2,400.00
<i>Schedule Totals</i>				3,443,463.20

SCHEDULE SUMMARY

	<i>Sched 1</i>	<i>Sched 2</i>	<i>Sched 3</i>	<i>Sched 4</i>	<i>Sched 5</i>	<i>Sched 6</i>	<i>Sched 7</i>	<i>Sched 8</i>	<i>Total</i>
<i>Engineer's Est</i>	3,443,463.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,443,463.20



Agenda Sheet for City Council Meeting of: 03/27/2017

Date Rec'd	3/8/2017
Clerk's File #	RES 2017-0019
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	FINANCE & ADMIN
Contact Name/Phone	GAVIN COOLEY EXT 6586
Contact E-Mail	GCOOLEY@SPOKANECITY.ORG
Agenda Item Type	Resolutions
Agenda Item Name	#0410 JOINT CITY COUNCIL / PARK BOARD SUPPORT FOR INTEGRATED PROJECTS

Agenda Wording

A joint resolution stating the City Council's and Park Board's support for the continued integrated planning and work to utilize City Parks and other City properties to meet a range of mutually identified strategic goals and objectives

Summary (Background)

Continued work between the City and Parks Department to provide integrated planning, work and potential redevelopment involving the Bosch Lot, certain City rights-of-way and other properties in and around the City's Riverfront Park

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	DUNIVANT, TIMOTHY	<u>Study Session</u>	
<u>Division Director</u>	DUNIVANT, TIMOTHY	<u>Other</u>	
<u>Finance</u>	DOVAL, MATTHEW	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT	leadie@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	gjones@spokanecity.org	
<u>Additional Approvals</u>		rromero@spokanecity.org	
<u>Purchasing</u>			

JOINT RESOLUTION NO. 2017-0019

A joint resolution stating the City Council's and Park Board's support for the continued integrated planning and work to utilize Parks and other City properties to meet a range of mutually identified strategic goals and objectives.

WHEREAS, the 100-acre Riverfront Park situated along the Spokane River, is the City's central downtown feature and, together with the central city Spokane River Falls, is the community's ascendant public and cultural asset; and

WHEREAS, City of Spokane Parks acquired a lot northwest and non-contiguous to central Riverfront Park, commonly identified as the "Bosch Lot", on July 3, 1975; and

WHEREAS, Bosch Lot was acquired with funds from the Department of Housing and Urban Development and the Washington State Recreation and Conservation Office (RCO) with the intent of its development for recreational purposes; and

WHEREAS, after acquisition of the Bosch Lot, the voters in 1987 amended the Spokane City Charter, Section 48, to provide that that no existing park may be sold or exchanged without the prior approval of the city electorate; and

WHEREAS, since its acquisition Bosch Lot has not been landscaped, constructed or otherwise developed as a recreational area or park, but has instead operated as a parking lot with significant portions devoted to parking City vehicles; and

WHEREAS, the City and Parks are exploring a transaction that may include selling, leasing and/or surplusing the Bosch Lot or portions thereof as part of a continuing integrated strategy for accomplishing the objectives identified herein; and

WHEREAS, with RCO approval, the City and Parks previously reached agreement for placement of a CSO tank on Bosch Lot which tank is now nearing completion; and

WHEREAS, in keeping with the primary goal and vision of the Integrated Clean Water Plan to achieve multiple public benefits on CSO sites; and

WHEREAS, in further keeping also with the Park Board's desire to fulfill the recreational goals that prompted the acquisition of the Bosch Lot by providing for more useful recreational parcels within the urban core and near Riverfront Park; and

WHEREAS, The Riverfront Park Master Plan 2014, at Section 8.2, specifically identifies "Public-Private Development Opportunities" for Park-owned property as "Climbing Gym" on the north bank of Riverfront Park near Bosch Lot; and

WHEREAS, the City and Parks have worked closely to identify key community benefits and strategic outcomes which can be accomplished through a broadly integrated plan

for repurposing the Bosch Lot in conjunction with planning and redevelopment of other City properties, including the following:

1. A public trail-head for the Downtown Centennial Trail and Gorge Loop Trail; and
2. An enhanced and contiguously designed scenic overlook for the Falls through Veteran's Park; and
3. Design and redevelopment of City properties to seamlessly integrate Riverfront Park with the City's central falls and river gorge environments, including new northwest and southwest public gateways and central falls overlooks into Riverfront Park and which will simultaneously serve to complete the approximate 3 ½ mile Gorge Loop Trail thereby fulfilling key elements of the City's Gorge Park, the longstanding and central recommendation of the 1913 Olmsted Brothers Report to City Parks; and
4. A privately operated recreation facility (e.g. climbing gym/facility) as supported by the Riverfront Master Plan' and
5. Collaborative consideration and development of other cultural amenities in the surrounding areas that build on the environmental active-engagement and stewardship themes of Expo 74 together with fulfilling the long standing vision to commemorate the depth of our region's connection with the Spokane Tribe of Indians - past, present and future - through creation of a sweeping three-part art installation incorporating the newly established North and South Riverfront Park Gateways geographically across the Spokane River Gorge; and
6. Additional public and private parking to support items 1-5; and

WHEREAS, a local design consultant has previously worked with Spokane Parks to perform site and other planning on the Bosch Lot and surrounding areas during the design of the CSO tank to maximize future uses; and

WHEREAS, the City and Parks have commissioned a local design consultant to collaboratively develop an initial site plan and pre-design study to identify creative ways to achieve these six objectives while promoting an overall scope and design that will at once inspire, energize and promote a diversity of broader community benefits in the forms of recreational, cultural, economic development and other activities in the surrounding areas; and

WHEREAS, the City and Parks have been working with a private developer and operator, who has independently partnered with key members of Spokane's renowned climbing community and who has expressed a willingness to finance key elements of the Downtown Centennial Trail and Gorge Loop trailheads and contiguous scenic falls overlook; and

WHEREAS, the local design consultant is working with the private developer and operator to envision and propose a plan for how all these elements could be blended to spur an integrated public-private project; and

WHEREAS, to facilitate and promote expeditiously meeting the foregoing goals and objectives, the City of Spokane anticipates the need to address a variety of key issues, including, but not limited to:

- A. The closure of Bridge Street between Post and Monroe to allow for natural and seamless integration with the Centennial Trail, Veterans Park, and Spokane River environment; and
- B. The exchange of the approximate 20,000 square foot Bridge Street right-of-way between Public Works and Parks, effectively providing Parks the 20,000 square feet where Bridge currently sits and providing Public Works the 20,000 square feet directly to the south of Bridge. This new 20,000 square foot Parks property will then be adjacent to Veteran's Park and will effectively create a seamless overlook to the falls and to provide a Northwest gateway to Riverfront Park, the Centennial Trail and Gorge Loop trailheads; and
- C. Lifting of existing RCO restrictions on the Bosch Lot in exchange for the development of the trailheads and related parking, expansion of Riverfront Park through Northwest and Southwest gateways and numerous other public outdoor recreational activities; and
- D. The exchange of the remainder of Bosch Lot between Parks and the City to provide the necessary contiguous property for development of a privately-operated recreation facility, parking requirements and derivative financial resources needed for the enhanced gateways, trails and other improvements to Riverfront Park; and
- E. The sale or lease of the Bosch Lot for the construction of a privately operated recreation facility (e.g. climbing gym/facility) and structured parking over and adjoining the newly constructed CSO tank. This additional parking is a critical element of this integrated project and will need to be developed as part of the total plan; and
- F. Developing a financial plan to apply the sale proceeds from the Bosch Lot for a privately-operated recreation facility and adjacent parking, to be used to build out the public park enhancements identified herein; and
- G. Developing detailed plans between the City and Parks to assure that current and future-year Parks budgets will not be adversely affected by the integrated plans envisioned herein (including replacement of parking revenues previously earned by Parks from operation of the Bosch Lot and a provision that the current and continuing costs of meeting the foregoing goals and

objectives, excluding maintenance costs of the Northwest trailhead adjoining the current Bosch Lot, will not be passed onto Parks);
and

WHEREAS, the Spokane City Council and Spokane Parks Board are committed, in these and other public improvement and economic development actions related to the Bosch Lot, to a transparent public process allowing for public comment and discussion.

NOW, THEREFORE, BE IT JOINTLY RESOLVED that the Spokane City Council and City Park Board states their strong support for the development of a proposal for the redevelopment of the former Bosch Lot and surrounding public properties to meet the foregoing public goals and objectives.

Passed by the City Council this 13th day of March, 2017 and Parks Board on the 9th day of March, 2017

City Clerk

City Council President

Park Board President

Approved as to form:

Assistant City Attorney



Agenda Sheet for City Council Meeting of:
03/27/2017

Date Rec'd	3/15/2017
Clerk's File #	RES 2017-0020
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	
Submitting Dept	HUMAN RESOURCES
Contact Name/Phone	CHRIS CAVANAUGH 625-6383
Contact E-Mail	CCAVANAUGH@SPOKANECITY.ORG
Agenda Item Type	Resolutions
Agenda Item Name	0620 RESOLUTION APPOINTING GARY KAESEMAYER DIRECTOR OF STREETS

Agenda Wording

Resolution Appointing Gary Kaesemeyer Director of Streets

Summary (Background)

Resolution Appointing Gary Kaesemeyer Director of Streets

Fiscal Impact

Select \$

Select \$

Select \$

Select \$

Budget Account

#

#

#

#

Approvals

Dept Head

CAVANAUGH, CHRISTINE

Division Director

CAVANAUGH, CHRISTINE

Finance

DOVAL, MATTHEW

Legal

DALTON, PAT

For the Mayor

SANDERS, THERESA

Additional Approvals

Purchasing

Council Notifications

Study Session

Other

Distribution List

RESOLUTION 2017-0020

A Resolution approving the appointment of Gary Kaesemeyer as the Director of the Street Department for the City of Spokane.

WHEREAS, Section 24 of the City Charter provides that the Mayor shall have the power to appoint department heads, subject to the approval of the City Council; and

WHEREAS, Section 5.2.6 of the City Council Rules of Procedure states that approval of the appointment of department heads shall be by Resolution; and

WHEREAS, after full consideration, Mayor David Condon has appointed Mr. Kaesemeyer as the Director of the Street Department for the City of Spokane –

NOW, THEREFORE,

BE IT RESOLVED by the City Council for the City of Spokane that it hereby approves the appointment of Gary Kaesemeyer as the Director of the Street Department for the City of Spokane.

ADOPTED BY THE CITY COUNCIL on _____, 2017

City Clerk

Approved as to form:

Assistant City Attorney

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

03/20/2017

Date Rec'd

3/8/2017

Clerk's File #

ORD C35485

Renews #**Submitting Dept**

CITY COUNCIL

Cross Ref #**Contact Name/Phone**

KAREN STRATTON 625-6291

Project #**Contact E-Mail**

KSTRATTON@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0320 - AN ORDINANCE RELATING TO HUMAN RIGHTS PROTECTIONS

Agenda Wording

An ordinance relating to human rights protections; repealing chapters 01.06, 01.08, 10.08E, and 10.18; sections 03.10.040, 03.10.050, and 03.10.060; enacting a new Title 18; and amending SMC 01.05.210, 04.10.040 and 04.10.050.

Summary (Background)

This proposed ordinance consolidates various sections and chapters of the existing SMC into a new Title 18: Human Rights. It also updates various human rights and fundamental rights protections provided by the Spokane municipal code and clarifies the Human Rights Commission's process for receiving complaints.

Fiscal Impact

Neutral \$

Budget Account

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Dept Head**

MCCLATCHEY, BRIAN

Council Notifications**Study Session****Division Director****Other**

CHE Committee, 3-6-2017

Finance

DOVAL, MATTHEW

Distribution List**Legal**

PICCOLO, MIKE

gochoa@spokanecity.org

For the Mayor

SANDERS, THERESA

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Additional Approvals

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Purchasing

ORDINANCE NO. C35485

An ordinance relating to human rights protections; repealing chapters 01.06, 01.08, 10.08E, and 10.18; sections 03.10.040, 03.10.050, and 03.10.060; enacting a new Title 18; and amending sections 01.05.210, 04.10.040 and 04.10.050 of the Spokane Municipal Code.

WHEREAS, human rights provisions are scattered throughout the Spokane Municipal Code; and

WHEREAS, protections for human rights are fundamental to the welfare of all people in Spokane; and

WHEREAS, the City Council recognizes the utility of grouping all provisions which contain and describe the human rights protections of the Spokane Municipal Code in the same title; and

WHEREAS, the City of Spokane reaffirms its commitment to the protection of the human rights of all those living in Spokane.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That chapters 01.06, 01.08, 10.08E, and 10.18, and sections 03.10.040, 03.10.050, and 03.10.060 of the Spokane Municipal Code are hereby repealed.

Section 2. That there is enacted a new Title 18 of the Spokane Municipal Code to read as follows:

Title 18 Human Rights

Chapter 18.01 Law Against Discrimination

Section 18.01.010 Findings

The City of Spokane finds that discrimination based on race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, the presence of any sensory, mental or physical disability as defined by the American with Disability Act and/or the Washington State Law Against Disability, Chapter 49.60 RCW, or the receipt of, or eligibility for the receipt of, funds from any housing choice or other subsidy program or alternative source of income poses a substantial threat to the health, safety and general welfare of the citizens of Spokane. The City deems it necessary and proper to enact a local ordinance to address these issues.

Section 18.01.020 Purpose and Intent

- A. The City values the dignity and worth of all human beings and is committed to promoting justice, equity and an inclusive environment for all by respecting cultural and individual diversity and fostering mutual understanding among all people regardless of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, the presence of any sensory, mental or physical disability as defined by the American with Disability Act and/or the Washington State Law Against Disability, Chapter 49.60 RCW, or the receipt of, or eligibility for the receipt of, funds from any housing choice or other subsidy program or alternative source of income.
- B. It is the intent of the City that all people have an equal opportunity to participate fully in the life of the City and that discriminatory barriers to equal participation in employment, housing and public accommodations be removed. The City has a compelling interest in eradicating and preventing such discrimination and in ensuring equal opportunity in employment, housing and public accommodations. Sections 18.01.010 through 18.01.090, SMC, represent the least restrictive means of achieving the City's objectives.
- C. The provisions of this Title 18 are to be broadly and liberally construed to effectuate the remedial purpose and legislative intent of this Title 18.
- D. These sections are not intended to establish or require affirmative action or quotas of any kind, or to infringe upon the authority vested in the civil service commission and City departments pursuant to the City Charter.
- E. By enacting this title, the City expresses its intent to ensure that the City of Spokane is a workplace free from bias or discrimination on the basis of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, the presence of any sensory, mental or physical disability as defined by the American with Disability Act and/or the Washington State Law Against Disability, as well as a workplace which is free from sexual harassment.
- F. Nothing in this chapter shall constitute a cause of action under state law or form a basis for relief in the state courts. It is the intent of this chapter that all causes of action for violations of the chapter shall lie with the City of Spokane's Hearing Examiner, Municipal Court, or Superior Court, as specified in this Title 18.
- G. Nothing in this chapter shall be deemed to deny any person the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights.

Section 18.01.030 Definitions

- A. "Commission" means the Spokane Human Rights Commission.
- B. "Data management protocols" means the procedures governing how data collected by surveillance equipment will be retained, stored, indexed and accessed. Information comprising data management protocols includes, at a minimum, the information required in SMC 18.04.020.

- C. "Disability" means the presence of a sensory, mental, or physical impairment that, whether temporary or permanent, common or uncommon, mitigated or unmitigated, a limitation or not on the ability to work generally or work at a particular job, or a limitation or not on the ability to engage in any other activity within the scope of this Title 18:
1. is medically cognizable or diagnosable; or
 2. exists as a record or history; or
 3. is perceived to exist whether or not it exists in fact.
 4. For the purposes of reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:
 - a. The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or
 - b. The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.
 5. For purposes of this definition, a limitation is not substantial if it has only a trivial effect.
 6. For purposes of housing, a "reasonable accommodation" is an adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, where there is an identifiable relationship or nexus between the requested accommodation and the person's disability.
- D. "Discrimination" means different or unequal treatment because of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, disability, the use of a guide dog or service animal, or the use or eligibility for the use of housing choice or other subsidy program or alternative source of income. "Discriminate" means to treat differently or unequally because of race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, the presence of any sensory, mental or physical disability as defined by the American with Disability Act and/or the Washington State Law Against Disability, Chapter 49.60 RCW, or the use or eligibility for the use of housing choice or other subsidy program or alternative source of income. For purposes of this definition, it is discriminatory to fail to offer reasonable accommodation in housing or employment to an otherwise qualified applicant or employee with a disability, absent a showing that the accommodation would impose an undue hardship.

- E. "Dog guide" means a dog that is trained for the purpose of guiding persons who are blind or a dog trained for the purpose of assisting persons with hearing impairment.
- F. "Domestic Violence Victim Status" means a family or household member, as defined in RCW 10.99.020 (3), who has been subjected to domestic violence as defined in RCW 10.99.020 (5) or who is a victim of sexual assault as defined in RCW 70.125.030.
- G. "Employee" means an individual who works for wages, salary or commission, or a combination thereof, in the service of an employer, but does not include a person employed by a parent, grandparent, brother, sister, spouse or child. The term includes an individual who is seeking or applying for employment.
- H. "Employer" means any person acting in the interest of an employer, directly or indirectly, who employs employees within the City, or who solicits individuals within the City to apply for employment within the City, including the City of Spokane and all its boards, commissions and authorities.
- I. "Entities under common ownership" means two or more legal entities, such as corporations, limited liability companies, partnerships, and the like which are: owned by the same person(s); in which the same person(s) serve as officers and/or directors; or the majority of one of which is owned by one or more of the others. For example, if a single person owns controlling interests in several limited liability companies, all of those limited liability companies are entities under common ownership.
- J. "Family with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.
- K. "Federally-recognized tribe" means an entity listed on the Department of the Interior's list under the Federally Recognized Indian Tribe List Act of 1994, which the Secretary currently acknowledges as an Indian tribe and with which the United States maintains a government-to-government relationship.
- L. "Gender Identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.
- M. "Housing choice or other subsidy program or alternative source of income" means, without limitation: (i) any short or long term federal, state or local government, private nonprofit, or other assistance program in which a tenant's rent is paid either partially by the program (through a direct arrangement between the program and the owner or lessor of the real property), and partially by the tenant or completely by the program; (ii) HUD-Veteran Affairs Supportive Housing (VASH) vouchers, Housing and Essential Needs (HEN) funds, and short-term rental assistance provided by Rapid Rehousing subsidies; and (iii) lawful, verifiable income derived from sources other than wages, salaries, or

other compensation for employment, including, without limitation, funds received from Social Security benefits, supplemental security income, unemployment benefits, other retirement programs, child support, the Aged, Blind or Disabled Cash Assistance Program, Refugee Cash Assistance, and any federal, state, local government, private, or nonprofit-administered benefit program, financial aid for college students, and per capita payments or distributions received from a federally-recognized tribe.

- N. "Impairment" includes, without limitation, any:
1. physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin and endocrine; or
 2. mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- O. "Labor organization" means an organization which is constituted for the purpose, in whole or in part, of collective bargaining or for dealing with an employer concerning grievances, terms or conditions of employment, or for other mutual aid or protection in connection with an employer.
- P. "Marital status" means the status of being married, single, separated, divorced or widowed.
- Q. "National origin" includes ancestry.
- R. "Operational protocols" means the procedures governing how and when surveillance equipment may be used and by whom and includes, at a minimum, the information required in SMC 18.04.010.
- S. "Person" includes:
1. A natural individual, partnership, association, organization, corporation, cooperative, legal representative, trustee and receiver, and any group of persons acting in concert;
 2. an owner, lessee, proprietor, manager, agent or employee, of a person, whether consisting of one or more natural persons;
 3. entities under common ownership; and
 4. any political or civil subdivisions of the City and any agency or instrumentality of the City or of any political or civil subdivision thereof.
- T. "Place of public resort, accommodation, assemblage or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment,

sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps, provided that nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this section; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.

- U. "Profiling" means actions of the Spokane Police Department, its members, or officers commissioned by the Spokane Police Department to rely on actual or perceived race, religion, national origin, color, creed, age, citizenship status, immigration status, refugee status, gender, sexual orientation, gender identity, disability, socio-economic status, housing status, or membership in any protected class under federal, state or local law as the determinative factor in initiating law enforcement action against an individual, rather than an individual's behavior or other information or circumstances that links a person or persons to suspected unlawful activity.
- V. "Refugee status" means the status of a person who, under the provisions of 8 USC 1101(a)(42), is outside a country of that person's nationality or, in the case of a person having no nationality, is outside any country in which that person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.
- W. "Service animal" means an animal that is trained for the purposes of assisting or accommodating a person with a disability.
- X. "Sex" means gender.
- Y. "Sexual orientation" means heterosexuality, homosexuality, bisexuality and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.
- Z. "Surveillance equipment" means equipment capable of capturing or recording data, including images, videos, photographs or audio operated by or at the direction of a City department that may deliberately or inadvertently capture activities of individuals on public or private property, regardless of whether "masking" or other technology might be used to obscure or prevent the equipment from capturing certain views. "Surveillance equipment" includes

drones or unmanned aircraft and any attached equipment used to collect data. "Surveillance equipment" does not include the following equipment which are in use by the City of Spokane as of March 1, 2017:

1. handheld or body-worn devices (e.g., "bodycams") used by law enforcement;
2. cameras installed in or on a police vehicle (e.g., "dashcams");
3. cameras installed in or on any City-owned vehicle, including without limitation fire trucks, emergency vehicles, utility vehicles and street maintenance vehicles, which are intended to ensure the safe operation of the vehicle;
4. cameras installed along a public right-of-way to record traffic patterns and/or traffic violations;
5. cameras intended to record activity inside or at the entrances to City buildings for security purposes; or
6. cameras installed to monitor and protect the physical integrity of City infrastructure, including without limitation fire stations and utility service facilities.

Section 18.01.040 Reprisal or Retaliation

It is a violation of this chapter for any person to engage in discrimination as defined in this Title 18, engage in a reprisal or retaliation against an individual because that individual has in good faith opposed the use of a practice forbidden by this Title 18, or has filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under this Title 18 or has attempted to do so.

Section 18.01.050 Enforcement

A. Initiation.

An individual claiming to be aggrieved by a practice prohibited by SMC 18.01.040, chapter 18.02 SMC, or chapter 18.03, SMC may, within the time limit of SMC 18.01.070, file a complaint on forms available from the staff of the commission signed under oath or affirmation by the charging party. Commission staff shall cause to be served or mailed by certified mail, return receipt requested, a copy of the charge on the respondent within twenty days after the filing of the charge.

B. Mediation.

Mediation may be requested by either party within thirty days after the filing of the charge or notification of the charge. If the other party consents to mediation within ten days of notification of the mediation request, staff will refer the complaint for mediation to a Washington State Dispute Resolution Center established under chapter 7.75, RCW, or by a mediator agreed upon by all parties. Mediation sessions are not open to the public. If the complaint is resolved, the mediator will notify the City of the resolution and the complaint file

will be closed. If the complaint is not resolved, it is processed pursuant to subsection (C) of this section.

C. Complaint.

A complaint filed by a person claiming to be aggrieved by a practice prohibited by SMC 18.01.040, chapter 18.02 SMC, or chapter 18.03 SMC, is evaluated by the City to determine if reasonable cause exists to believe a violation of this chapter has occurred. If so, the complaint shall be referred to the City prosecuting attorney for investigation of the factual basis for the complaint and possible prosecution as a civil infraction pursuant to chapter 1.05 SMC.

D. Administrative appeal.

Any person who has filed a complaint under this section may appeal the dismissal of the complaint to the city hearing examiner, who shall review the complaint and the decision to dismiss the complaint for legal factual sufficiency under an abuse of discretion standard of review. The hearing examiner may affirm the dismissal, reverse the dismissal, or remand to the investigating or evaluating authority rendering the decision for further evaluation.

E. Judicial review.

Any person who is aggrieved by the decision of the hearing examiner on administrative appeal under this section may institute an action for judicial review in the Superior Court pursuant to RCW 49.60.330.

F. At any stage of a complaint, the commission may refer complainants to other government or non-profit agencies for the investigation, mediation or conciliation, or enforcement the complaint, as appropriate. The commission and its staff shall prioritize its resources to focus on resolving complaints which are not within the jurisdiction of government agency(ies) other than the commission.

Section 18.01.060 Penalty for Violation

The commission of an act of discrimination as defined in this Title 18 is punishable as a Class 1 civil infraction pursuant to chapter 01.05, SMC.

Section 18.01.070 Period of Limitation

No complaint shall be accepted nor action taken unless the complaint is filed within one year from the date of the occurrence of the alleged unlawful practice. When the alleged unlawful practice is of a continuing nature, the limitation period will not commence to run until the unlawful practice has ceased or when the aggrieved party discovered the practice, whichever is later.

Section 18.01.080 Criminality

Nothing in this chapter shall be construed to protect criminal conduct.

Chapter 18.02 Nondiscrimination in Employment Practices

Section 18.02.010 Employment

- A. No person shall discriminate by refusing to hire, employ or promote, by barring or discharging from employment, in compensation or terms, conditions or privileges of employment, unless discrimination results from a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business.
- B. No person shall discriminate by printing or circulating, or by causing to be printed or circulated, any statement, advertisement or publication, or by using any employment application form, or by making an inquiry in connection with prospective employment which expresses, directly or indirectly, any discriminatory limitation or specification, unless such limitation or specification is based upon a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business, or unless otherwise provided by state or federal law.
- C. No person shall discriminate by classifying or referring for employment, or by failing or refusing to refer for employment, or otherwise, unless such classification or referral results from a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business, or where such classification or referral is allowed under state or federal law;

Section 18.02.020 Labor Organizations

No person shall discriminate by excluding or expelling individuals from membership in a labor organization or otherwise to attempt to influence members of the organization from exercising or preserving their rights under this chapter.

Section 18.02.030 Assisting in Discrimination

No person shall, with the knowledge or assent of an employer, to assist, induce, compel or coerce the doing of any acts of discrimination, or to attempt to do so.

Section 18.02.040 Vocational, Professional, or Trade Schools

No person shall discriminate in admission of or instruction to any otherwise qualified person in the operation of any vocational, professional, or trade school located within the City and licensed to operate in Washington.

Section 18.02.050 Apprenticeship and Occupational Training Programs

No person shall discriminate by denying or withholding the right to be admitted to or participate in a guidance program, apprentice training program, on-the-job training program or other occupational training or re-training program in the terms, conditions or privileges of such programs; by printing or circulating, or causing to be printed or circulated, any statement, advertisement or publication, or by using any application

form, or by making an inquiry in connection with such programs which expresses, directly or indirectly, any limitation or specification, or intent to make such limitation or specification or discrimination, unless based upon a bona fide occupational qualification. For purposes of this subsection (G), receipt or alleged receipt of treatment for a mental disorder is not evidence of a person's inability to perform the duties of a particular job or position.

Section 18.02.060 Employment of Blind and Hearing-Impaired People in Public Service

To accomplish the policy goals stated in SMC 18.06.010, otherwise qualified persons who are blind, have a visual handicap, or have a hearing impairment or other disability shall be employed by the City of Spokane on the same terms and conditions as persons without disabilities, unless it is shown that the particular disability prevents the performance of the work involved.

Section 18.02.070 Exemptions from Employment Discrimination

A. It is not a violation of this chapter for a church, synagogue, mosque, temple or other religious institution, including but not limited to, a school, hospital or church camp, to prefer an employee or applicant for employment of one religious sect or persuasion over another person when:

1. the religious sect or persuasion to which the employee or applicant belongs is the same as that of such church, synagogue, mosque, temple or other religious institution;
2. in the opinion of the church, synagogue, mosque, temple or other religious institution such preference will best serve the purposes of the church or other religious institution; and
3. the employment involved is closely connected with or related to the primary purposes of the church, synagogue, mosque, temple or other religious institution but is not connected with a commercial or business activity which has no necessary relationship to the church, synagogue, mosque, temple or other religious institution or to its primary purposes.

B. It is not a violation of this chapter for an employer, labor organization or local joint committee controlling apprentice training programs to select an apprentice on the basis of the ability to complete the required apprenticeship training before attaining the age of seventy years;

C. It is not a violation of this chapter for an employer or labor organization to provide or make financial provisions for child-care services of a custodial or other nature to its employees or members who are responsible for a minor child, meaning

having custody or legal guardianship of a minor child or acting in loco parentis to the child.

- D. The compulsory retirement of an employee at any age is not a violation of this chapter if lawful under state or federal law.
- E. It is not a violation of this chapter to act to accomplish the purposes and goals of an affirmative action plan of the employer, employment agency or labor organization.
- F. Discrimination on the basis of age shall not be applicable with respect to individuals who are under forty years of age.

Chapter 18.03 Nondiscrimination in Housing Practices

Section 18.03.010 Prohibited Practices

- A. It is a violation of this chapter for any person to discriminate by:
 - 1. refusing to sell, lease, rent or otherwise make available any offered real property;
 - 2. expelling a purchaser, lessee or renter from any real property;
 - 3. altering the price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property, or in the furnishing of any facilities or services in connection with real property;
 - 4. attempting to discourage the sale, rental or lease of any real property to a purchaser, lessee or renter;
 - 5. publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or lease of real property which indicates any preference, limitation or specification with respect thereto;
 - 6. assisting, inducing, compelling or coercing another person to commit an act or engage in a practice that violates this subsection;
 - 7. coercing, intimidating, threatening or interfering with any person in the exercise or enjoyment of, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected by this subsection.
- B. No person whose business includes engaging in residential real estate related transactions may discriminate in making available or in the terms and conditions of such a transaction. "Residential real estate related transaction" means the making or purchasing of loans or providing other financial assistance for purchasing, construction, improving, repairing or maintaining a dwelling or securing residential real estate, or the selling, brokering or appraising of residential real property.
- C. No real estate licensee may accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease.
- D. No person may for profit induce or attempt to induce any other person to sell or rent any dwelling by representations regarding entry or prospective entry into the

neighborhood of a person or person of a particular race, religion, creed, color, sex, national origin, marital status, familial status, domestic violence victim status, age, sexual orientation, gender identity, honorably discharged veteran or military status, refugee status, or the presence of any sensory, mental or physical disability as defined by the American with Disability Act and/or the Washington State Law Against Disability, Chapter 49.60 RCW.

Section 18.03.020 Exemptions from Housing Discrimination

The provisions of this chapter do not apply to the owner of a single-family house rented or leased by the owner if: (i) the owner does not own or have an interest in the proceeds of the rental or lease of more than one single-family house at one time; and (ii) the owner also occupies the single-family house rented or leased.

Chapter 18.04 Safeguards on the Use of Surveillance Equipment

Section 18.04.010 City Council Approval for Acquisition and Use of Surveillance Equipment; Operational and Data Management Protocols

- A. No City department or agency shall acquire surveillance equipment without the City Council first adopting a resolution approving the proposed acquisition.
- B. No surveillance equipment may be deployed or installed without the City Council first adopting a resolution approving the operational protocols for such surveillance equipment. The proposed operational protocols shall contain, at a minimum, the following information, as well as any other information specifically requested by the City Council:
 - 1. A clear statement of the purpose and use of the proposed surveillance equipment;
 - 2. A simple and non-technical description of the type of surveillance equipment proposed to be acquired and used;
 - 3. The intended specific location(s) of the proposed surveillance equipment if it is to be affixed to a building or other structure;
 - 4. A narrative description of how and when the proposing department would use the surveillance equipment, such as whether the surveillance equipment will be operated continuously or used only under specific circumstances, and whether the surveillance equipment will be installed permanently or temporarily;
 - 5. A clear description of the actual or potential privacy and anonymity rights affected (if any) and a plan to minimize and mitigate the risk that the use of the surveillance equipment will infringe on personal privacy and anonymity, and to limit the risk of potential abuse;
 - 6. A clear description of how and when data will be collected and retained and who will have access to any data captured by the surveillance equipment;
 - 7. A clear description of the extent to which activity will be monitored in real time as data is being captured and the extent to which monitoring of historically recorded information will occur;

8. A public outreach plan for each community in which the department intends to use the surveillance equipment that includes opportunity for public meetings, a public comment period, and written agency response to these comments;
 9. If a department is requesting to acquire or use drones or other unmanned aircraft, a description of the specific circumstances under which they may be deployed, along with clearly articulated authorization protocols;
 10. If more than one department will have access to the surveillance equipment or the data captured by it, one department shall be named the lead department and shall have the responsibility for maintaining the equipment and ensuring compliance with all related protocols. If the lead department intends to delegate any related responsibilities to another department, these responsibilities and associated departments and personnel shall be clearly identified;
 11. A description of whether and how any City department intends to share access to the surveillance equipment or the collected data with any other government entity; and
 12. A description of the training to be provided to operators or users of the surveillance equipment.
- C. Upon review of the information required under this section, and any other information deemed relevant by the City Council, the City Council may, by resolution, (1) approve the acquisition and operation of surveillance equipment, (2) approve the acquisition of surveillance equipment and require future city council approval for operations, (3) deny the acquisition or use of surveillance equipment for the purpose(s) proposed, or (4) take any other actions it deems necessary or proper under the circumstances, including imposing additional restrictions or conditions on the acquisition or use of surveillance equipment.

Section 18.04.020 Data Management Protocols for Surveillance Equipment

- A. Prior to operating surveillance equipment acquired after October 4, 2013, City departments shall submit written protocols for managing data collected by surveillance equipment to the City Council for approval by resolution. Data management protocols shall address, at a minimum, the following:
1. The retention period for which any data collected by surveillance equipment;
 2. The methods for storing recorded information, including how the data is to be labeled or indexed, so as to allow department personnel to readily search and locate specific data that is collected and determine with certainty that data was properly deleted, consistent with applicable law;
 3. How the data may be accessed, including who will be responsible for authorizing access, who will be allowed to request access, and acceptable reasons for requesting access;
 4. A viewer's log or other comparable method to track viewings of any data captured or collected by the surveillance equipment, including the date, time, the individuals involved, and the reason(s) for viewing the records;

5. A description of the individuals who have authority to obtain copies of the records and how the existence and location of copies will be tracked;
6. A general description of the system that will be used to store the data; and
7. A description of the unit or individuals responsible for ensuring compliance with SMC 18.04.020 and when and how compliance audits will be conducted.

Section 18.04.030 Acquisition and Use of Surveillance Equipment Related to Law Enforcement Investigations

Notwithstanding the provisions of this chapter, City departments may acquire or use surveillance equipment, excluding drones, for use on a temporary basis for criminal investigative purposes or pursuant to a lawfully issued search warrant, or under exigent circumstances as defined in controlling case law.

Section 18.04.040 Exemptions

This chapter does not apply to surveillance equipment installed on park property under the jurisdiction of the Park Board and library property under the jurisdiction of the Library Board; provided, that these exemptions do not apply to surveillance cameras mounted on drones or other unmanned aircraft.

Section 18.04.050 Prior Use of Surveillance Equipment

- A. Unless the City Council has previously approved operational protocols by resolution, each City department which operated surveillance equipment prior to October 4, 2013 shall propose written operational protocols consistent with SMC 18.04.010 no later than March 1, 2017 for City Council review and consideration for approval by resolution.
- B. Each department which operated surveillance equipment prior to October 4, 2013 shall adopt written data management protocols consistent with SMC 18.04.020 no later than March 1, 2017 and submit these protocols to the City council for review and consideration for approval by resolution.

Section 18.04.060 Application to City Contractors and Agents

This chapter applies to any contractors or agents of any City department retained, in full or in part, for the purpose of utilizing surveillance equipment. The City department responsible for the retention of the contractor or agent shall be responsible for ensuring that the requirements of this chapter have been met.

Chapter 18.05 Protections for Homeless People

Section 18.05.010 Legislative Findings and Purposes

- A. Centers for the protection of homeless individuals and families during inclement weather is vital, whether due to extreme cold, extreme heat, poor air quality conditions, severe storms, or other types of civil emergencies.
- B. The City Council has, from time to time in the past, passed resolutions stating the guidelines and triggering conditions for the activation of emergency warming centers in the City of Spokane, noting that extreme weather conditions can create an extreme danger for homeless people in Spokane and puts a great strain on service providers.
- C. This chapter is intended to codify and supersede those prior resolutions, including, most recently, Resolution No. 2014-0018 (Feb. 24, 2014).

Section 18.05.020 Activation Criteria

- A. The activation criteria for inclement weather centers in the City of Spokane as follows:
 - 1. Warming centers will be activated on each day during which the temperature is predicted by the National Weather Service to be 32 degrees Fahrenheit or lower and designated shelter space was at ninety percent (90%) capacity or greater during the previous night. The City may, by contract with its center provider, raise the activation temperature for warming centers, but in no event will the activation temperature be higher than thirty-two (32) degrees Fahrenheit.
 - 2. Cooling centers will be activated when the temperature is predicted by the National Weather Service to be 100 (one hundred) degrees Fahrenheit or higher for three (3) consecutive days or more.
 - 3. Safe air centers will be activated for any day on which the Spokane Regional Clean Air Agency forecasts the current air quality index to reach 250 or higher.
 - 4. Emergency centers may also be activated by the Mayor or the Mayor's designee on any day in which a civil emergency or extreme storm or weather condition exists or is predicted to occur and which, in the determination of the Mayor or the Mayor's designee, poses a severe threat to the health or safety of homeless individuals and families in the City of Spokane.
- B. The Community Health and Human Services ("CHHS") Department shall implement the appropriate policies and procedures, including without limitation making funding requests; recommendations regarding center providers; the designation of specific locations to be used as warming, cooling, and safe air centers; and the arrangement of other appropriate measures to the City Council in order to carry out the specific provisions and intent of this section.

Chapter 18.06 Protections for Persons with Disabilities

Section 18.06.010 Declaration of Policy

- A. It is the policy of the City of Spokane to encourage and enable people with disabilities to participate fully in the social and economic life of the City, and to

engage in remunerative employment.

- B. As citizens, people with disabilities have the same rights as persons without disabilities to purchase any service, commodity or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin or with any sensory, mental or physical disability, or the use of a trained dog guide or service animal by a person with a disability, to be treated as not welcome, accepted, desired or solicited.
- C. People with disabilities are entitled to full and equal accommodations, advantages, facilities and privileges on common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats and all other public conveyances, as well as in hotels, lodging places, places of public resort, accommodation, assemblage or amusement, and all other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

Section 18.06.020 Protections for Persons Using a White Cane, a Dog Guide or a Service Animal

- A. The driver of a vehicle approaching a pedestrian who: (i) is totally or partially blind and who is carrying a cane predominantly white in color (with or without a red tip); (ii) is totally or partially blind or who has a hearing impairment and is using a dog guide; or (iii) has another physical disability and is using a service animal shall take all necessary precautions to avoid injury to such pedestrian.
- B. Any driver who fails to take the necessary precautions shall be liable in damages for any injury caused such pedestrian.
- C. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk, a person described in subsection A of this section who is crossing or attempting to cross the roadway, if such person is using a white cane, a dog guide, or a service animal.
- D. The failure of any person described in subsection A to signal shall not deprive him of the right-of-way accorded by other laws.

Section 18.06.030 Protections for Persons With a Disability Not Carrying a White Cane, Using a Dog Guide, or a Service Animal

A pedestrian who is totally or partially blind and who is not carrying a white cane or a pedestrian who is totally or partially blind or has a hearing impairment but is not using a dog guide in any of the places, accommodations or conveyances listed in SMC 18.06.020, shall have all of the rights and privileges conferred by law on other persons.

Section 18.06.040 Misrepresentation in the Use of White Cane, Dog Guide or Service Animal

It shall be unlawful for any pedestrian who is not totally or partially blind to use a white cane or any pedestrian who is not totally or partially blind or does not have a hearing impairment to use a dog guide or any person who does not have a disability as defined in this chapter to use a service animal in any of the places, accommodations or conveyances listed in SMC 18.01.030(Q), for the purpose of securing the rights and privileges accorded by this chapter to persons with total or partial blindness, hearing impairment or who have other disabilities.

Section 18.06.050 Penalty

Any person who denies or interferes with admittance to or enjoyment of the public facilities enumerated in SMC 18.01.030(Q), or otherwise interferes with the rights of a person with total or partial blindness, hearing impairment or other disability as set forth in SMC 18.01.030(C), shall be guilty of a misdemeanor.

Chapter 18.07 Police Practices

Section 18.07.010 Bias-Free Policing

- A. The City of Spokane is committed to providing services and enforcing laws in a professional, nondiscriminatory, fair and equitable manner.
- B. The Spokane Police Department, its officers, employees, and all officers commissioned under the Spokane Police Department are prohibited from engaging in profiling as the term is defined in this SMC 18.01.030(T).
- C. The Spokane Police Department shall maintain policies consistent with this section.

Section 18.07.020 Immigration Status Information

- A. Unless required by law or court order, no officer, agent, or employee of the City of Spokane shall inquire into the immigration or citizenship status of any person, or engage in activities designed to ascertain the immigration status of any person.
- B. Spokane Police officers may not inquire into the immigration or citizenship status of an individual unless they have reasonable suspicion to believe a person: (i) has been previously deported from the United States, (ii) is again present in the United States, and (iii) is committing or has committed a felony criminal law violation.
- C. The Spokane Police Department shall not investigate, arrest, or detain an individual based solely on immigration or citizenship status.
- D. The Spokane Police Department shall maintain policies consistent with this section.

Section 18.07.030 City Religious Registries Prohibited

- A. Neither the city, nor any of its employees, departments, or officials may create a registry, database, or any other type of list or compilation, or implement a program that requires, or has the effect or requiring, people to register on the basis of religious affiliation or conduct; nor shall any City employee, department, or official conduct any study or analysis related to the collection of such information, or related to the establishment or utilization of any such registry, database, list, or compilation.
- B. Nothing in this section shall be construed to prohibit the collection of information voluntarily provided by individuals, such as voluntary ethnicity, gender, race, or national origin information, such as on applications for City employment or appointment to a board or commission, or any other voluntary information gathering activities which are specifically required or allowed under state or federal law.

Section 3. That section 01.05.210 of the Spokane Municipal Code is amended to read as follows:

Section 01.05.210 Penalty Schedule - Personal Conduct

- A. For each subsequent violation by a person the classification of infraction advances by one class.
- B. Infraction/Violation Class.

SMC 1.05.210		
Penalty Schedule - Personal Conduct		
Infraction	Violation Class	
IFC 307.1	Open Burning	1
((SMC 1.06.040	Act of Discrimination	4))
SMC 10.03.100	Offenses Relating to Safety and Sanitation	4
SMC 10.03.110	Allow Animal in Riverfront Park or Special Permitted Event Area when Banned	3
SMC 10.08.010	Deposit of Tobacco Product Capable of Being Lit	\$500
SMC 10.08.010	Littering, Unlawful Disposal of Rubbish	1
SMC 10.08D.080		
SMC 10.08D.090(C)		
SMC 10.08D.120 – First violation within a one year period	Noise Control	2
SMC 10.08.055	Purchase, Possession of Tobacco by Minor	3
SMC 10.08.100		
SMC 10.08.120	Homeless Encampment	1
SMC 10.08.140(B-D)		
SMC 10.08.246	Liquor Purchase by Apparently Intoxicated Person	\$500

SMC 10.08A.040(D)	Failure to Respond – Chronic Nuisance	1
SMC 10.10.040		
SMC 12.06.050 –	Offending Peace and Order in Public Park	1
SMC 12.06.080		
SMC 10.11.042	Not Having or Displaying Concealed Pistol License	1
SMC 10.15.115	Selling or Giving Drug Paraphernalia	1
SMC 10.15.220	Open Possession/Consumption of Marijuana, Usable Marijuana or Marijuana-Infused Products	3
SMC 10.17.030	Helmet Safety – Failure to Wear Approved Helmet	4
SMC 10.17.040	Helmet Safety – Failure to Require Wearing of Approved Helmets at Special Events	4
SMC 10.17.050	Helmet Safety – Failure to Rent, Lease, or Loan Approved Helmet	4
SMC 10.17.060	Helmet Safety – Failure to Sell or Offer to Sell Approved Helmet	4
SMC 10.24.060	Property Damage by Animal	3
SMC 10.24A140	Animal Safety – Animal Left in Vehicle or Enclosed Space	2
SMC 10.33A.055	Sell, Use, Discharge Fireworks	1
SMC 12.02.910	No Tree Permit; Destroy, Injure Street Tree, or Other	1
SMC 12.02.914	Violations	
SMC 17F.100.050	Disposal of Liquid Waste in Unapproved Place or Manner	1
SMC 17G.050.050	Ex Parte Contact with Adjudicative Officer	2
SMC 18.01.040	Reprisal or Retaliation	1
Ch. 18.02	Nondiscrimination in Employment Practices	1
Ch. 18.03	Nondiscrimination in Housing Practices	1

Section 4. That section 04.10.040 of the Spokane Municipal Code is amended to read as follows:

Section 04.10.040 Duties and Functions

The commission has the power and duty to:

- A. adopt rules;
- B. hold regular public meetings and keep a written record of its proceedings which is a public record;
- C. serve as a complaint channel to which human rights grievances of all types can be reported;

- D. maintain statistical data on incidents of human rights violations and make appropriate recommendations for correction;
- E. conduct public hearings to receive citizen concerns about issues relating to human rights;
- F. conduct and arrange for surveys, studies, and polls to factually determine problem areas and perceptions;
- G. provide conflict management and dispute resolution services such as conciliation and mediation;
- H. provide and arrange for victim assistance and support groups;
- I. convene and develop work groups such as sub-committees, ad hoc committees, task forces, and coalitions consisting of concerned organizations, agencies, and individuals to achieve coordinated focus on priority problem areas;
- J. provide and develop community education projects such as conferences, forums, and workshops in collaboration and co-sponsorship with organizations and other agencies;
- K. conduct diversity training programs for public and private employers, citizen groups and agencies;
- L. create a speaker's bureau to address cultural diversity issues;
- M. publish a periodic newsletter on current events and special reports on studies and related findings and recommendations;
- N. develop a mass media program consisting of the appropriate use of press releases, press conferences, public service announcements, and production;
- O. make recommendations for public policy relating to human rights;
- P. issue quarterly reports to the City Council concerning the number of complaints received in the previous quarter, the number of complaints evaluated, the number of complaints referred (and the destination agency(ies)), clearance rates of complaints, enforcement actions undertaken, and any other associated reporting requested; and
- Q. issue an annual report to the mayor and city council on the health of human rights along with achievements for the past year and goals for the coming year.

Section 5. That section 04.10.050 of the Spokane Municipal Code is amended to read as follows:

Section 04.10.050 (~~(Investigations)~~)Complaint evaluation process

~~((A complainant filing a complaint involving a named individual or entity resulting from a specific incident who desires an investigation for))~~Complaints of alleged human rights violations received by the commission shall be ~~((directed to the Washington State human rights commissioner or other appropriate agencies))~~evaluated according to the process set forth in SMC 18.01.050.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

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

02/06/2017

Date Rec'd

1/25/2017

Clerk's File #

ORD C35471

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

CITY COUNCIL

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 STREAMLINING THE DEVELOPMENT CODE AMENDMENT PROCESS

Agenda Wording

An ordinance relating to the process for amending the unified development code; amending section 17G.025.010 of the Spokane Municipal Code.

Summary (Background)

This ordinance would streamline the process for amending the unified development code by allowing changes to the international building codes (such as the international plumbing, electrical, and fire codes, for example) to be made under the normal ordinance amendment process, rather than the more detailed and lengthy process required by the Growth Management Act.

Fiscal Impact**Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

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

MCCLATCHEY, BRIAN

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

PED Comm. 1-23-2017

Finance

DOVAL, MATTHEW

Distribution List**Legal**

RICHMAN, JAMES

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

ORDINANCE NO. C35471

An ordinance relating to the process for amending the unified development code; amending section 17G.025.010 of the Spokane Municipal Code.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That section 17G.025.010 of the Spokane Municipal Code is amended to read as follows:

Section 17G.025.010 Text Amendments to the Unified Development Code

A. Initiation.

Text amendments to this code may be initiated by any of the following:

- A. Property owner(s) or their representatives;
- B. Any citizen, agency, neighborhood council, or other party; or
- C. A City department, the plan commission, or the city council.

B. Applications. Applications shall be made on forms provided by the City.

C. Application Submittal.

- A. After submittal of an applicant-initiated application, the application shall be subject to a pre-application conference, counter-complete determination, and fully complete determination pursuant to chapter 17G.060 SMC.
- B. After submittal, the application shall be placed on the next available plan commission agenda.

D. Notice of Public Hearing.

Amendments to this code require a public hearing before the plan commission.

A. Contents of Notice.

A notice of public hearing shall include the following:

- A. The citation, if any, of the provision that would be changed by the proposal along with a brief description of that provision;
- B. A statement of how the proposal would change the affected provision;
- C. The date, time, and place of the public hearing;
- D. A statement of the availability of the official file; and
- E. A statement of the right of any person to submit written comments to the planning commission and to appear at the public hearing of the planning commission to give oral comments on the proposal.

B. Distribution of Notice.

The department shall distribute the notice to the applicant, newspaper, City Hall and the main branch of the library. The applicant is then

responsible for following the public notice requirements outlined in SMC 17G.060.120, Public Notice – Types of Notice.

E. Plan Commission Recommendation – Procedure.

Following the public hearing, the plan commission shall consider the proposal and shall prepare and forward a recommendation to the city council. The plan commission shall take one of the following actions:

- A. If the plan commission determines that the proposal should be adopted, it may, by a majority vote, recommend that the city council adopt the proposal. The plan commission may make modifications to any proposal prior to recommending the proposal to city council for adoption;
- B. If the plan commission determines that the proposal should not be adopted, it may, by a majority vote, recommend that the city council not adopt the proposal; or
- C. If the plan commission is unable to take either of the actions specified in subsection (E)(1) or (2) of this section, the proposal will be sent to city council with the notation that the plan commission makes no recommendation.

F. Approval Criteria.

The City may approve amendments to this code if it finds that:

- A. The proposed amendment is consistent with the applicable provisions of the comprehensive plan; and
- B. The proposed amendment bears a substantial relation to public health, safety, welfare, and protection of the environment.

G. City Council Action.

Within sixty days of receipt of the plan commission's findings and recommendations, the city council shall consider the findings and recommendations of the commission concerning the application and shall hold a public hearing pursuant to council rules. Notice of city council hearings must be published in the *Official Gazette*. The applicant shall also publish a legal notice in the newspaper at least two weeks prior to the hearing by the city council. By a majority vote, the city council shall:

- A. Approve the application;
- B. Disapprove the application;
- C. Modify the application. If modification is substantial, the council must either conduct a public hearing on the modified proposal; or
- D. Refer the proposal back to the plan commission for further consideration.

H. Transmittal to the State of Washington.

At least sixty days prior to final action being taken by the city council, the Washington ((State)) department of ((community, trade and economic

development (~~CTED~~))commerce (“commerce”) shall be provided with a copy of the amendments in order to initiate the sixty-day comment period. No later than ten days after adoption of the proposal, a copy of the final decision shall be forwarded to ((~~CTED~~))commerce.

I. Inapplicability to certain chapters.

This section does not apply to the following chapters of the Spokane Municipal Code: 17F.030 (Boiler and Pressure Vessel Code), 17F.040 (Building Code), 17F.050 (Electrical Code), 17F.060 (Elevator Code), 17F.080 (Fire Code), 17F.090 (Mechanical Code), and 17F.100 (Plumbing Code) (collectively referred to as the “building codes”). The building codes specified in this subsection may be amended in same manner as are all other non-development regulation ordinances pursuant to this code, the City Charter, and the City Council Rules of Procedure.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date



Agenda Sheet for City Council Meeting of:
03/27/2017

Date Rec'd	3/10/2017
Clerk's File #	ORD C35486
Renews #	

Submitting Dept	CITY COUNCIL	Cross Ref #	
Contact Name/Phone	BREEAN BEGGS 509-625-6714	Project #	
Contact E-Mail	HALLERS@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	0320 ASSET FORFEITURE ORDINANCE		

Agenda Wording

An ordinance relating to the asset forfeiture policy of the City of Spokane; enacting a new Chapter 08.19 of the Spokane Municipal Code.

Summary (Background)

This ordinance would create a new Chapter 08.19 of the Spokane Municipal Code relating to the process for using funds received via asset forfeiture by the Spokane Police Department and ensuring such expenditures are approved under City budgetary processes.

Fiscal Impact		Budget Account	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	MCDANIEL, ADAM	Study Session	
Division Director		Other	Finance Committee on
Finance	DOVAL, MATTHEW	Distribution List	
Legal	DALTON, PAT		
For the Mayor	SANDERS, THERESA		
Additional Approvals			
Purchasing			

ORDINANCE NO. C35486

An ordinance relating to the asset forfeiture policy of the City of Spokane; enacting a new chapter 08.19 of the Spokane Municipal Code.

WHEREAS, the long and well-established laws of the State of Washington provide for law enforcement agencies to seize and subsequently, through legal process, cause the forfeiture of assets used in, or gained from, illegal activity to be disposed of; and

WHEREAS, in 2014, the Spokane Police Department implemented comprehensive policies and ethical standards in regards to seizing property; and

WHEREAS, the Spokane Police Department undergoes annual audits by the Washington State Auditor's Office regarding the receipt and use of proceeds of those seizures; and

WHEREAS, despite the fact that section 12 of the Spokane City Charter provides that "[a]ll legislation and appropriations of money shall be by ordinance," under current practice, expenditures of forfeiture funds in Spokane are not appropriated by ordinance; and

WHEREAS, Washington law provides for the process of seizure, forfeiture, and distribution of assets for the purpose of the "expansion and improvement" of law enforcement activity and may not supplant pre-existing funding sources; and

WHEREAS, the Washington State Auditor's Office has confirmed that the Legislature has not provided a definition beyond the plain meaning of "law enforcement activity"; and

WHEREAS, the Washington State Legislature, in enacting seizure and forfeiture laws, recognized that "state and local governmental agencies incur immense expenses in the investigation, prosecution, adjudication, incarceration," resulting from criminal conduct that are not adequately resourced by existing funding sources; and

WHEREAS, police youth programs are proven methods of expanding and improving law enforcement activity to reduce the crimes targeted by the above forfeiture statutes, particularly youth drug diversion, prevention, and mitigation strategies; and

WHEREAS, police participation in community court programs is also a proven method of expanding and improving law enforcement activity to reduce the crimes targeted by the above forfeiture statutes, recidivism and overall criminal justice expenditures; and

WHEREAS, police participation in units devoted to monitoring and engaging with persons with a history of chronic property offenses is also a proven method of expanding and improving law enforcement activity to reduce the crimes targeted by the above forfeiture statutes, recidivism and overall criminal justice expenditures; and

WHEREAS, the Spokane City Council intends to ensure that the proceeds legally obtained by the Police Department are used for the “expansion and improvement” of law enforcement within the City of Spokane that is proven to reduce crime and recidivism as well to establish specific requirements and accountability relating to seizure and forfeiture cases.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That there is enacted a new chapter 08.19 of the Spokane Municipal Code as follows:

Chapter 08.19 Asset Forfeiture Program

Section 08.19.010 Purpose and Intent

- A. The City Council recognizes that asset forfeitures can be a useful law enforcement tool by removing the financial incentive for various criminal enterprises.
- B. Coupling the proceeds of asset forfeitures with programs to expand and improve law enforcement activities which help reduce criminal activity and recidivism accomplishes the intent of Washington State Law to assist the criminal justice system in protecting the community.

Section 08.19.020 Process

- A. No later than 180 days after the latest to occur of (1) the closure of a case; (2) the expiration of the final opportunity for appeal; or (3) the date an asset is no longer required as evidence in an active case, the police department shall dispose of forfeited property, by auction or other commercially-reasonable method, such as by sealed bids, except as provided for in sections G. and H.
- B. No less than 10 days prior to an auction or solicitation of bids pursuant to SMC 08.19.020(A), the police department shall place a public notice in the City Gazette and in a newspaper of general circulation notifying the public of the date and time of the auction or solicitation of bids.
- C. The Police Department shall ensure that its forfeiture policies and procedures in order to be consistent with and implement the terms of this chapter and with

applicable state and federal law. And no expenditures of funds arising from forfeiture that violate state or federal law will be approved by City Council.

- D. The Police Department shall not utilize seizure and forfeiture laws as an aspect of case development criterion.
- E. The Police Department shall document in each and every case involving a seizure and forfeiture the legal basis for the seizure and forfeiture including the specific Washington state or federal law under which the asset/s were seized, forfeited or obtained.
- F. The Police Department shall establish a procedure for a yearly audit by a qualified financial professional outside of the Police Department of all seizures, forfeitures, proceeds distributions and expenditures, the results of which shall be provided to the Mayor and City Council. This annual requirement is satisfied by an audit of the forfeiture funds by the Office of the Washington State Auditor.
- G. The Police Department shall forward any controlled substances seized and forfeited to the federal Drug Enforcement Administration ("DEA") pursuant to the terms of RCW 69.50.505(7)(d).
- H. The Police Department shall destroy all firearms and any other types of forfeited property that would be harmful to the public and which are no longer needed for evidence; provided, that antique firearms and firearms recognized as curios, relics, and firearms of particular historical significance by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") shall be disposed of by auction or trade to a licensed dealer.
- I. The Police Department may choose to use forfeited property indefinitely prior to auctioning off the item, if there is a demonstrated law enforcement purpose for the item and the use of the property would allow the Police Department to avoid the need to purchase additional equipment.

Section 08.19.030 Permitted Use of Funds

- A. No asset forfeiture funds may be expended beyond the purposes allowed under applicable state and federal law and may not supplant existing funding.
- B. Asset forfeiture funds under the control of the Police Department may only be spent by appropriation and approval of the Spokane City Council under its applicable policies for approving budgets and expenditures.
- C. The City Council will not approve spending of any asset forfeiture funds absent a request by the Chief of Police. The Chief of Police may request expenditure of asset forfeiture funds as part of the preparation and submission of the annual

budget to City Council or by requesting approval of an emergency budget ordinance.

Section 08.19.040 Reporting on Use of Funds

The Police Department shall provide to the Spokane City Council Public Safety Committee quarterly and yearly reporting of the receipt of proceeds from all civil forfeiture funds, the specific source of all forfeiture funds and all expenditures of forfeiture funds including the amount paid from the proceeds to the Washington State Treasurer. The reports shall also provide information related to and certification that all seized funds were spent consistent with any limitations imposed by federal or state law.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

City of Spokane
City Council

TO: Council Member Breean Beggs

FROM: Brian McClatchey, Policy Advisor

DATE: March 7, 2017

RE: Analysis of possible conflicts between proposed asset forfeiture ordinance and state law on asset forfeitures.

Issues:

1. Does a proposed ordinance, which creates a new chapter 08.19 to the Spokane Municipal Code, creating regulations on the use of funds forfeited to, and seized by, the Spokane Police Department, conflict with state law concerning the permissible use(s) of such funds?
2. Does legislation creating regulations for the use of funds seized by the Spokane Police Department conflict with Spokane City Charter section 22?

Short answers:

1. The proposed ordinance does not likely conflict with state law concerning the permissible use of forfeiture funds or the procedures contained in state law concerning forfeited property.
2. The proposed ordinance does not appear to conflict with City Charter section 22.

Detailed scope:

Specifically, this memorandum examines the following issues:

1. Under state law, do law enforcement agencies have the authority to determine how to spend the proceeds of seized and forfeited property?
2. Can the City Council pass legislation creating regulations, guidelines, or prohibitions on the use of funds derived from seized and forfeited property sold by the Police Department without running afoul of the prohibition on “directing” City employees who report to the Mayor?
3. Are there any procedural differences or conflicts between the proposed ordinance and state law?

Analysis:

1. Different sources of funds drive different permissible uses of proceeds from forfeited property.

Several provisions of state law govern the use of funds derived from the sale of property seized and forfeited due to its connection with various types of criminal activity:

Prostitution crimes

State law allows police departments three options when it comes to disposal of items of property seized in connection with crimes related to prostitution: they may “[r]etain it for official use . . . ; sell that which is not required to be destroyed . . . or [r]equest the appropriate sheriff or director of public safety to take custody of the property . . .”¹ If the property is sold, net proceeds (after payment of various expenses) “shall be retained by the seizing law enforcement agency for the exclusive use of enforcing the provisions of this chapter [prohibitions on prostitution] or chapter 9.68A RCW [relating to sexual exploitation of children].”²

Commission of a felony

Similarly, with respect to the disposition of property seized by a police department and forfeited in connection with the commission of a felony, police departments have two options: they may “[r]etain if for official use . . . [or they may] [s]ell that which is not required to be destroyed by law and which is not harmful to the public.”³ If the property is sold, the net proceeds (again, after payment of relevant expenses), “shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity.”⁴ Also, funds derived from the sale of property seized under this section “may not be used to supplant preexisting funding sources.”⁵

Controlled substances laws

And with respect to property seized in connection with enforcement controlled substances laws, the police department has four options: it may “[r]etain it for official use . . . [s]ell that which is not required to be destroyed by law and which is not harmful to the public; [r]equest the appropriate sheriff or director of public safety to take custody of the property . . . ; or [f]orward it to the drug enforcement administration for disposition.”⁶ If sold, the proceeds “shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity.”⁷ And as with prostitution-related seizures, net proceeds of the

¹ RCW 9A.88.150(7).

² RCW 9A.88.150(10).

³ RCW 10.105.010(6).

⁴ RCW 10.105.010(7)(c).

⁵ *Id.*

⁶ RCW 69.50.505(7).

sale of drug crime-related property “may not be used to supplant existing funding sources.”⁸

Procedure

In any case, regardless of the source of the property seized and regardless of the crime committed, there are three stages, each with their own procedural safeguards: seizure, forfeiture, and disposition.

Seizure

Generally property which is connected with the commission of a crime may not be seized without process issued by superior court.⁹ There are, however, exceptions to that rule. First, property may be seized without process if “incident to an arrest or a search under a search warrant,”¹⁰ if the property “has been the subject of a prior judgment,”¹¹ or if the police officer “has probable cause to believe that the property was used or is intended to be used” in the commission of a crime,¹² or “the officer has probable cause to believe that the property is directly dangerous to health or safety”¹³ or “indirectly dangerous to health or safety.”¹⁴

Forfeiture

Upon seizure, the seizing law enforcement agency must give notice to the property owner prior to a determination of forfeiture.¹⁵ Notice must be given within 15 days of the seizure, and the owner has 45 days to contest the proposed forfeiture in writing.¹⁶ Failure of the owner to do so means that the property is deemed forfeited.¹⁷ The proposed ordinance set a maximum time of 180 days after the latest to occur of: (1) the closure of a case, (2) the last date to appeal a conviction, or (3) the date the property is no longer needed as evidence, as the time in which the property must be disposed of.¹⁸

⁷ RCW 69.50.505(10).

⁸ Id.

⁹ See RCW 9A.88.150(2) (“property subject to forfeiture . . . may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property.”)

¹⁰ RCW 9A.88.150(2)(a) (concerning sexual exploitation of children, indecent exposure, and prostitution crimes).

¹¹ RCW 9A.88.150(2)(b).

¹² RCW 9A.88.150(2)(c); RCW 69.50.505(2)(c) (violation of controlled substances laws).

¹³ RCW 10.105.010(2)(c) (commission of a felony); RCW 69.50.505.

¹⁴ RCW 69.50.505(2)(c).

¹⁵ See RCW 9A.88.150(3)-(4); RCW 10.105.010(3)-(4); RCW 69.50.505(3)-(4).

¹⁶ See RCW 9A.88.150(3)-(4); RCW 10.105.010(3)-(4); RCW 69.50.505(3)-(4).

¹⁷ See RCW 9A.88.150(4); RCW 10.105.010(4); RCW 69.50.505(4).

In essence, the proposed ordinance allows the Police Department six months to determine the best way to dispose of forfeited property among the legally permissible alternatives (i.e., sale, transfer, use, etc.).

If the owner does timely contest the proposed forfeiture, there is to be a hearing before the chief law enforcement officer of the seizing agency (in our case, Police Chief Meidl) or his or her designee,¹⁹ and judicial review of that decision.

Once forfeited, property can be sold or disposed of by law enforcement agencies. Proceeds (net of expenses and taxes) from the sale of forfeited property may only be used for specific statutory purposes, depending on the crime from which the funds were derived. For example, funds derived from forfeiture of property used in sexual exploitation of children, indecent exposure, or prostitution may only be used “for the exclusive use of enforcing” those laws.²⁰ Funds derived from the sale of property used in the commission of a felony may only be used “exclusively for the expansion and improvement of law enforcement activity.”²¹ Funds from the sale of property used in the violation of controlled substances laws may only be used “exclusively for the expansion and improvement of controlled substances related law enforcement activity.”²²

The proposed ordinance does not mandate that forfeiture funds be used for any particular purposes; instead, it requires that funds are to be appropriated by the Council in its normal budget process and that no funds are to be expended in a way that violates state or federal law.²³ In fact, “no expenditures of funds arising from forfeiture that violate state or federal law will be approved by [the] City Council.”²⁴

One change that was recently made to the proposed ordinance is the requirement that forfeited controlled substances are to be forwarded to the DEA²⁵ as state law requires, rather than, as the previously proposed ordinance would have it, destroyed.²⁶

Preemption

¹⁸ [Proposed] SMC 08.19.020(A).

¹⁹ See RCW 9A.88.150(5); RCW 10.105.010(5); RCW 69.50.505(5).

²⁰ RCW 9A.88.150(10).

²¹ RCW 10.105.010(7)(c).

²² RCW 69.50.505(10).

²³ [Proposed] SMC 08.19.020(C).

²⁴ Id.

²⁵ See RCW 69.50.505(7)(d).

²⁶ [Proposed] SMC 08.19.020(G).

Is the proposed ordinance preempted by state law by placing procedural requirements on the use of funds derived from the sale of forfeited property? In determining whether a city ordinance is preempted by Washington state law, the key question is whether the local ordinance “permits what state law forbids or forbids what state law permits.”²⁷ Notably, the inquiry focuses on the substantive content of the two laws, and “[a] conflict arises when the two provisions are contradictory and cannot coexist.”²⁸

The Supreme Court in *Arnold v. City of Seattle* reviewed a city ordinance which provided that employees may be represented at civil service hearings at their own expense. This was in contrast with state law, which required the employer to pay the employee’s attorneys’ fees in any action in which the employee recovers wages. That city ordinance prohibited that which state law permitted, and so was preempted.

Kirwin concerned a local ordinance which made littering an offense from which a fine and jail time could result, while the state law merely provided that littering is a class 3 civil infraction, the maximum penalty for which was a \$50 fine. Reasoning that it is the conduct proscribed by the two laws, and not the punishment for violation of the laws, which is important for conflict analysis, the Supreme Court held that “[t]he two laws coexist because, although the degree of punishment differs, their substance is nearly identical and therefore no irreconcilable conflict arises.”²⁹

In a case involving a constitutional challenge to a city ordinance proscribing disorderly conduct on a bus,³⁰ the Supreme Court held that an ordinance which prohibits “unreasonably disturb[ing] others” on a bus did not conflict with a state statute which prohibited “intentionally disturb[ing] others by engaging in loud or unruly behavior.”³¹ The court reasoned that the ordinance does not prohibit what the statute permits; “nor does it forbid what the legislature has expressly licensed, authorized, or required. . . . Unless legislative provisions are contradictory in the sense that they cannot coexist, they are not to be deemed inconsistent because of mere lack of uniformity in detail.”³²

At least two Attorney General Opinions appear to lead to the conclusion that a city ordinance of the kind contemplated here can in fact coexist with the relevant state statutes. In 1995, Attorney General Gregoire opined that proceeds from the sale of assets forfeited due to their connection with controlled substances laws may be used for other purposes “that relate to” the enforcement of controlled substances laws.³³

²⁷ *Arnold v. City of Seattle*, 185 Wash.2d 510, 528 (2016) (quoting *State v. Kirwin*, 165 Wash.2d 818, 825 (2009) (citing *Parkland Light & Water Co. v. Tacoma-Pierce County Bd. of Health*, 151 Wash.2d 428, 433 (2004))).

²⁸ *Kirwin*, 165 Wash.2d at 826 (citing *Parkland*, 151 Wash.2d at 433).

²⁹ *Id.* at 827.

³⁰ *City of Seattle v. Eze*, 111 Wash.2d 22 (1988).

³¹ *C.f.*, SMC 12A.12.040(F), with RCW 9.91.025(1)(f).

³² *Eze*, 111 Wash.2d at 33 (quoting *Bellingham v. Schampera*, 57 Wash.2d 106, 111 (1960)).

Specifically, “RCW 69.50.505(i) does not restrict the use of drug forfeiture proceeds to law enforcement activities that are closely related to controlled substances.”³⁴

The 1995 Attorney General Opinion concerned whether certain uses of proceeds from the sale of forfeited property were precluded by the statutory requirement that funds be used “exclusively for the expansion and improvement of controlled substances related law enforcement activity”³⁵ notwithstanding that these other activities “also further other law enforcement purposes.”³⁶ “Related” means “having a connection.” The opinion further explains that this means that the activity must have a “significant relationship” or “a close and demonstrable relationship” between the law enforcement activity funded and the enforcement of controlled substances laws.

In 2010, Attorney General McKenna opined that law enforcement agencies can use the proceeds of property seized and forfeited due to a connection with the commission of a felony under chapter 10.105, RCW, for accreditation and re-accreditation, and associated training activities.³⁷ That opinion focused on the use of the words “expansion and improvement” of law enforcement agency activities. In that context, accreditation, reaccreditation, and training are connected to “increasing the extent, size, number, volume, or scope” of law enforcement activity, and are certainly connected to the “enhancement or augmentation of value or quality” of law enforcement activities.

Although these opinions referred to specific property forfeiture laws, the language they both analyzed was the “exclusive use” concept which is before us now.³⁸ For that reason, AGO 1995 No. 11 and AGO 2010 No. 1 should be considered highly persuasive commentary on the question at issue here.

However, the different statutory language used with respect to the proceeds of property seized due to its involvement in prostitution³⁹ likely would compel a different result and a different, narrower, allowable use of the funds.⁴⁰ In any event, the Police Department

³³ AGO 1995 No. 11 (Aug. 30, 1995).

³⁴ Id. (emphasis added).

³⁵ RCW 69.50.505(i).

³⁶ AGO 1995 No. 11.

³⁷ AGO 2010 No. 1 (Jan. 6, 2010).

³⁸ C.f., RCW 10.105.010(7)(c) (“exclusive use for the improvement and enhancement of law enforcement related activity.”); RCW 69.50.505(10) (“exclusively for the expansion and improvement of controlled substances related law enforcement activity”).

³⁹ RCW 9A.88.150(10) (“exclusive use of enforcing the provisions of this chapter [prohibitions on prostitution] or chapter 9.68A RCW [relating to sexual exploitation of children]”).

⁴⁰ See, e.g., AGO 2010 No. 1 at *3 (“Although your inquiry does not specify the nature of the criminal activity that

would be presenting its proposed use of these funds in its annual budget, to be approved by the City Council, the approval of which, by the plain terms of the SMC, may not conflict with state law. There seems little, if any, reason to think there is a conflict between the proposed ordinance and state law.

- (1) Such ordinances do not likely create a conflict with section 22 of the City Charter, because the appropriation of all city money is to be done by ordinance.

Section 22 of the City Charter provides, in relevant part:

Except as otherwise provided by this Charter, neither the council president, the city council, nor any member thereof shall give orders to any subordinate of the City under the jurisdiction of the mayor, either publicly or privately. However, the city council and the council president are not precluded from requesting information from city staff. The council president or any council member shall not attempt to coerce or influence a city employee regarding any contract or the purchase of any supplies.⁴¹

This section's plain language shows that it does not prohibit the City Council from making policy determinations concerning the use of City funds. Section 22 makes direct reference to other provisions of the Charter ("Except as otherwise provided by this Charter . . ."), such as the budget and appropriations process. The City Council's fiscal authority is "otherwise provided by this Charter" and clearly stated in section 12: "All legislation and appropriations of money shall be by ordinance . . ."⁴²

Section 22 does not prohibit the Council from giving City departments policy direction, but rather prohibits the Council members from trying to supervise or manage individuals within the administration (i.e., "any subordinate of the City under the jurisdiction of the mayor"), to clearly delineate that the policy-making function of the Council does not include the day-to-day management of City employees (other than Council staff).

Conclusions:

- City ordinances providing for the use of funds derived from the sale of property forfeited under state law may not conflict with state law, depending upon the source of the funds or provenance of the forfeited property.

The contemplated use of funds derived from the sale of forfeited property will determine whether there is an irreconcilable conflict between the ordinance and state law.

gives rise to the forfeited property, the legislature has put more specific constraints on certain kinds of state asset forfeiture funds.")

⁴¹ City Charter, section 22 (emphasis added).

⁴² City Charter, section 12 (emphasis added).

Property seized due to its involvement in the commission of a felony may be used for any purpose having a close connection or a significant and demonstrable relationship with the improvement or enhancement of law enforcement activity. So, using funds derived from property seized due to the commission of a felony to improve community engagement with at-risk youth, improving community relationships with law enforcement, and reducing criminal activity⁴³ can have a close or a demonstrable connection with the improvement and enhancement of law enforcement activity.

As well, funds derived from the sale of property seized due to its involvement in the commission of violations of controlled substances laws may be used for any purpose having a close connection or a significant and demonstrable relationship with the improvement or enhancement of the enforcement of controlled substances laws. In that connection, the use of these funds for programs designed to reduce drug use and abuse among at-risk youth⁴⁴ can be shown to have a close connection or a significant demonstrable connection with the improvement and enhancement of controlled substances law enforcement activity.

Property seized due to its involvement in the violation of criminal prohibitions on prostitution may be used for the enforcement of prostitution laws.⁴⁵

- The proposed ordinance does not likely create a conflict with section 22 of the City Charter, because the appropriation of all city money is to be done by ordinance.

By referring to other provisions of the Charter, section 22 expressly allows the City Council to make fiscal and appropriations decisions for the City as a whole through the express grant of authority to do so provided in section 12 of the Charter.

Section 22's prohibition is focused on preventing the Council Members from acting as day-to-day managers of the City and plainly does not preclude the City Council from setting fiscal policy by directing the use of otherwise unencumbered funds received by the Police Department.

- Timelines do not present procedural issues, because the time frame in which the Police Department is to dispose of forfeiture property only begins to run after all legal avenues have been exhausted, and the ordinance does not speak to the process for forfeiture itself.

⁴³ See, e.g., proposed SMC 08.19.030(C).

⁴⁴ See, e.g., proposed SMC 08.19.030(A).

⁴⁵ C.f., proposed SMC 08.19.030(B) (use of those funds determined by state law).



Agenda Sheet for City Council Meeting of:
03/27/2017

Date Rec'd	3/15/2017
Clerk's File #	ORD C35487
Renews #	

Submitting Dept	INNOVATION & TECHNOLOGY	Cross Ref #	
Contact Name/Phone	MICHAEL 625-6468	Project #	
Contact E-Mail	MSLOON@SPOKANECITY.ORG	Bid #	
Agenda Item Type	First Reading Ordinance	Requisition #	
Agenda Item Name	5300 - ORDINANCE		

Agenda Wording

An ordinance relating to the creation of 4 new departments within the Innovation and Technology Services Division; amending SMC section 3.01A.340 & adopting new sections 3.01A.341, 3.01A.342, & 3.01A.344 to chapter 3.01A of the Spokane Municipal Code

Summary (Background)

The ITSD is responsible for strategic & operational information technology system support, to include electronic mail, telephone system, network infrastructure, enterprise server & Cloud services, desktop support, Geographic Information Systems, datacenter operations, & security & monitoring systems. Central management of technology innovation & strategic planning, information security, administration, technology contracts & procurement, & mail center functions are maintained @ division level.

Fiscal Impact		Budget Account	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
Dept Head	SLOON, MICHAEL	Study Session	Fin & Tech Meeting
Division Director	FINCH, ERIC	Other	
Finance	DOVAL, MATTHEW	Distribution List	
Legal	PICCOLO, MIKE	Accounting - kkeck@spokanecity.org	
For the Mayor	SANDERS, THERESA	Contract Accounting - jsalstrom@spokanecity.org	
Additional Approvals		Legal - hwhaley@spokanecity.org	
Purchasing		Purchasing - cwahl@spokanecity.org	
		IT - itadmin@spokancity.org	
		Taxes & Licenses	

ORDINANCE NO. C35487

An ordinance relating to the creation of four new departments within the Innovation and Technology Services Division; amending SMC section 3.01A.340 and adopting new sections 3.01A.341, 3.01A.342, 3.01A.343 and 3.01A.344 to chapter 3.01A of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That SMC section 3.01A.340 is amended to as follows:

3.01A.340 Innovation and Technology Services Division (ITSD)

~~((A. The innovation and technology services department is responsible for information technology application and system support, to include electronic mail, telephone system, network infrastructure, city web site, help desk, GIS, datacenter operations, and security and monitoring systems.~~

~~B. The mail room services section collects and distributes interoffice mail and posts outgoing City mail including utility billing invoices.~~

~~C. The reprographic services section provides full digital imaging and printing services for the City.))~~

The innovation and technology services division is responsible for strategic and operational information technology system support, to include electronic mail, telephone system, network infrastructure, enterprise server and Cloud services, desktop support, Geographic Information Systems, datacenter operations, and security and monitoring systems. Central management of technology innovation and strategic planning, information security, administration, technology contract/procurement management, and mail center functions are maintained at the division level.

Section 2. That there is adopted a new section 3.01A.342 to chapter 3.01A of the Spokane Municipal Code to read as follows:

3.01A.341 ITSD – Public Works Technology Department

The innovation and technology services – public works technology department provides dedicated and integrated technology roles for systems and related process needs that can match or exceed the other parts of the City ITSD budget.

Section 3. That there is adopted a new section 3.01A.342 to chapter 3.01A of the Spokane Municipal Code to read as follows:

3.01A.342 ITSD – Program Management Department

The innovation and technology services – program management department provides strategic partnerships, innovation support, project management, continuous improvement, resiliency and business continuity planning, and open government/open data services.

Section 4. That there is adopted a new section 3.01A.343 to chapter 3.01A of the Spokane Municipal Code to read as follows:

3.01A.343 ITSD – Information Delivery Services Department

The innovation and technology services – information delivery services department provides application, GIS, database and records management support that focus on delivering digital solutions and information directly to both internal and external users.

Section 5. That there is adopted a new section 3.01A.344 to chapter 3.01A of the Spokane Municipal Code to read as follows:

3.01A.344 ITSD – Technology Operations Department

The innovation and technology services – technology operations department provides critical back-office functions including desktop support, physical and wireless communications infrastructure, enterprise services, and data center services.

PASSED BY THE CITY COUNCIL ON _____, 2017.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date



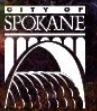
Council Update

City of Spokane – March 2017

Agenda:

- Strategic technology alignment
- Evolving the IT organization
- Open Government and Open Data update
- 2017-2018 projects for initial visibility



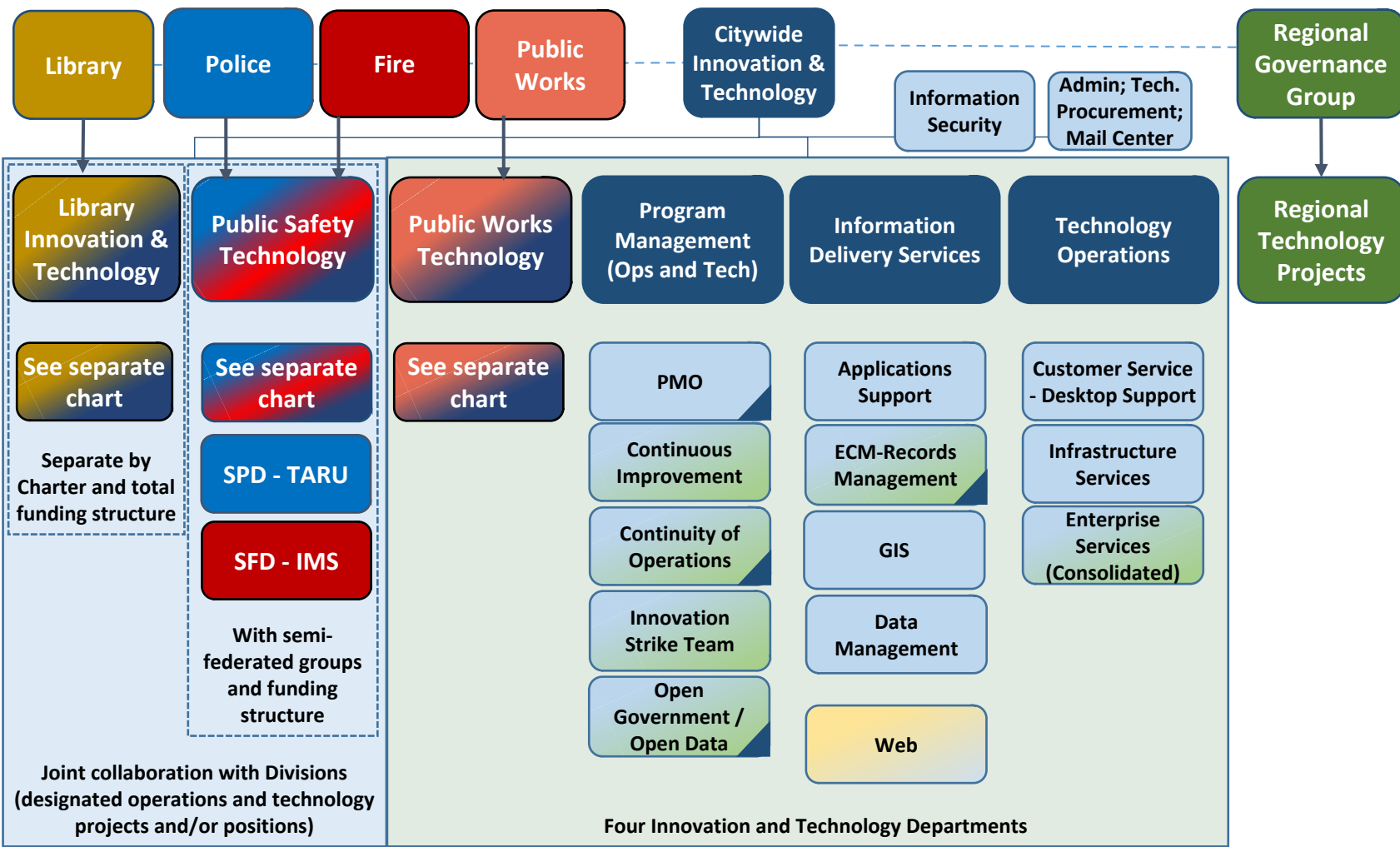




2017 ITS Organization Structure

DRAFT
v4

Innovation and Technology Services Division





Innovation and Technology Division

Personnel and Leadership Trends

Trends seen that continue to evolve the technology workforce:

- **Need more Planners and Problem Solvers** – ITSD has a great support relationship with majority of departments, and has been staffed as a more reactive rather than proactive/planning entity.
- **More out with customers versus at a desk** – Following the overall trend of all City staff to be more outward facing, the technology support model is evolving in the same way.
- **Democratization of technology and data** – Innovation is happening lower in the organization with departmental staff. Technology needs to do the above two (problem solvers out with departments) to facilitate innovation. We need to be partners with departments.
- **Mobile and IoT** – The significant increase and trend for mobile devices, smart technologies, technologies embedded in department services and equipment, and the need to help manage and secure that information is critical to better resource in the future.





2017-2018 Open Government/Open Data

- Charter and goal setting discussions
- Align operational and efficiency goals
- Partnerships with Library and State
- Resource alignment
 - Reclass of senior data position completed last week
- Priorities
 - Charter and goal setting (in progress)
 - Prioritize frequent PRR and other needs for operational benefit
 - Formalize in 2018 budget (2Q2017)
 - Develop data review process (confidentiality review)
 - Deliver initial data source goals on current portal (3Q2017)
 - Implement the open data website/portal (2018)

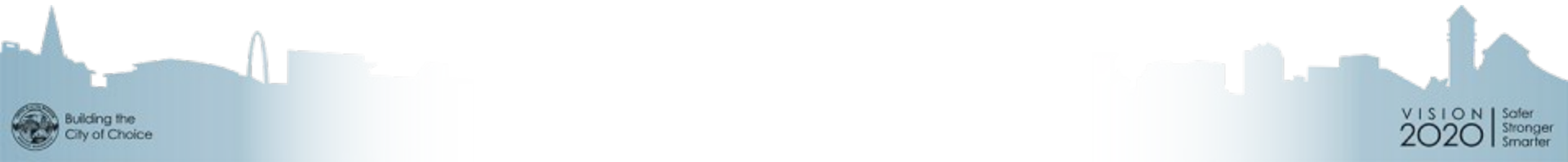




Open Government and Public Records Summit, September 26-27 2016

This is the list of major take-aways recorded during the session:

- **No personal devices or “BYOD” for government work activities**
- Understanding/shaping public record (PR) policy & procedures is complex
 - Ongoing cyclical engagement in the jurisdiction is important across disciplines
- **Centralized PR management (not necessarily action) is preferred**
 - Standard formats, processes, tracking, responses, information flow and mitigates risk
- Cultural change a key component that requires leadership and mandates
 - Active steps to overcome digital hoarding
- **Education and training component needs to be formalized**
- Make a real connection with your legislature representatives
- Privacy - Joint nature of open data, public data, and private data
- Analysis/identification of “grey area” of PR in technology and business processes
- **Need to take enterprise content management (ECM) seriously**
- Technology is a key leverage partner for solutions





2017-2018 Other Major Initiatives

- Financial Management Systems
- Network and Information Security Updates
 - Mostly Capital with some new investment
 - CCB as a primary data center
 - Build infrastructure for business continuity needs
- Enterprise Content Management (ECM)
 - Records Management and Retention process/systems
 - Public Records Request improvements
 - Linkage to Open Government/Open Data
- Utility Billing and Management Systems review
 - Current system 20 years old
 - Abandoned by vendor 10+ years ago; inherited by City
 - Multi-year review to start this year





Slides from February Finance and Technology Council Brief





Innovation and Technology Division

Four planned departments

To help better organize staff and leadership to meet City priorities and strategic initiatives

- **Public Works Technology** – Dedicated and integrated technology roles for systems and related process needs that can match or exceed the other parts of the City IT budget
- **Program Management** – Strategic partnerships, innovation support, project management, continuous improvement, resiliency, and open government
- **Information Delivery Services** – Applications, GIS, Database and records support areas that focus on delivering digital solutions and information directly to a user (internal or external)
- **Technology Operations** – Critical back-office functions including Desktop support, infrastructure, enterprise services, data center
- Information security, administration and contract/procurement management, and mail center functions are centrally managed



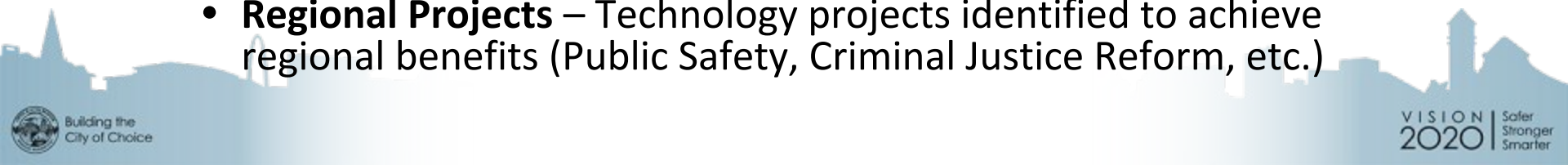


Innovation and Technology Division

Formalize six cross-functional teams

To focus priority of effort and better connect resources based on Vision 2020 priorities and strategic initiatives

- **Public Safety & Criminal Justice Technology** – Dedicated technology roles to better connect Police and Fire to project management, continuous improvement, information system integration, back office operations, and open government/open data projects
- **Resiliency** – Specific 2017 focus on Continuity of Operations planning and execution and plan/implementation of secondary site
- **Open Government / Open Data** – Focus on transparency, performance management, public records innovation, and City-wide information sharing. City Clerk's Office, Library, legal, and Performance groups are integrated into this effort
- **Continuous improvement** – A focus on work process in support of City-wide efforts led by HR
- **Innovation and Small Projects** – Strike Team for short term, high payoff innovation
- **Regional Projects** – Technology projects identified to achieve regional benefits (Public Safety, Criminal Justice Reform, etc.)



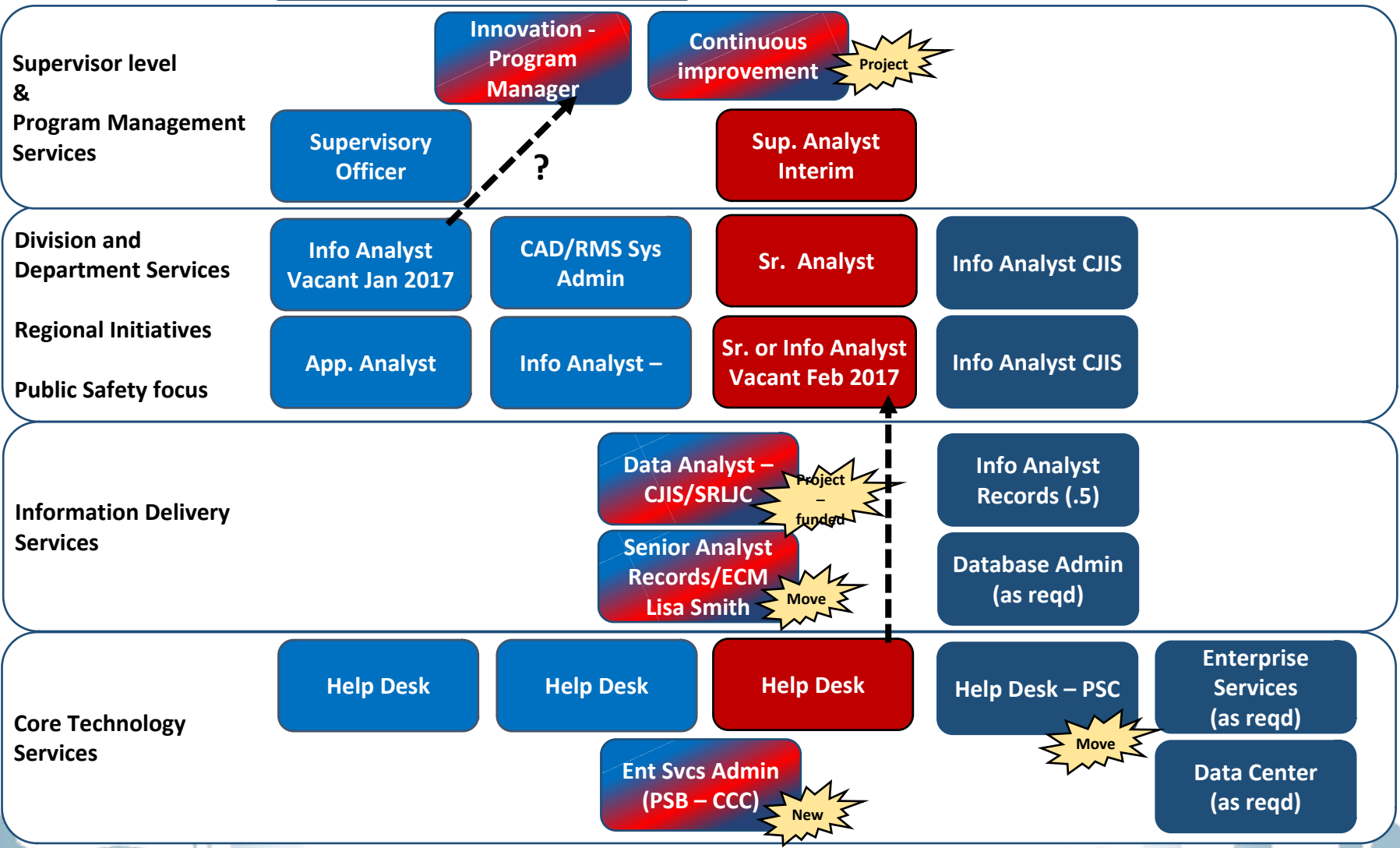


Public Safety Ops & Tech Team 2017

(as of DEC 2016)

DRAFT
v4

Police **Fire** **Technology**



FTE **Project**

Contract **Sep. Division** **Intern**



Utility Ops & Tech Team 2017

(as of DEC 2016)

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Public Works
Technology

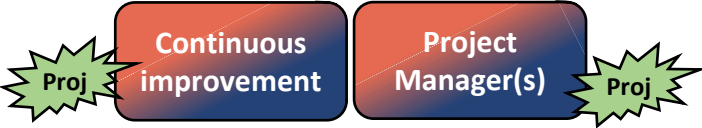
New

Operations &
Technology
Program Mgr

Utilities / PW

Technology

Program Management
Services (City-wide)

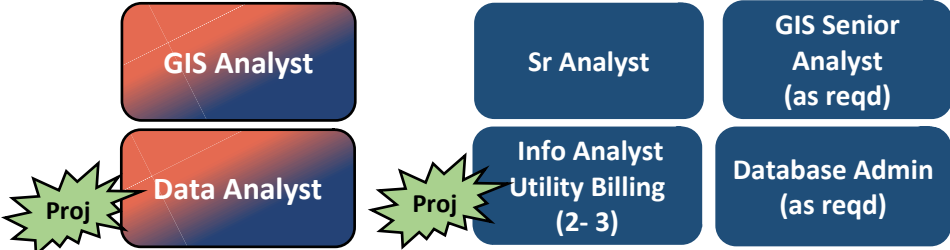


Division and
Department Services

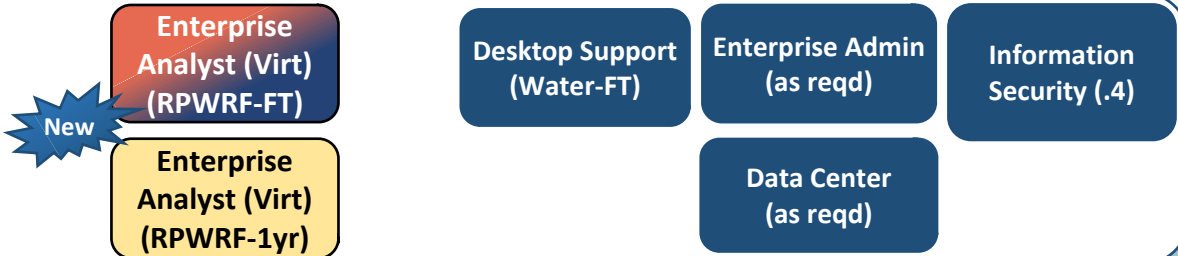


Public Works focus

Information Delivery
Services



Core Technology
Services



Technology

Project

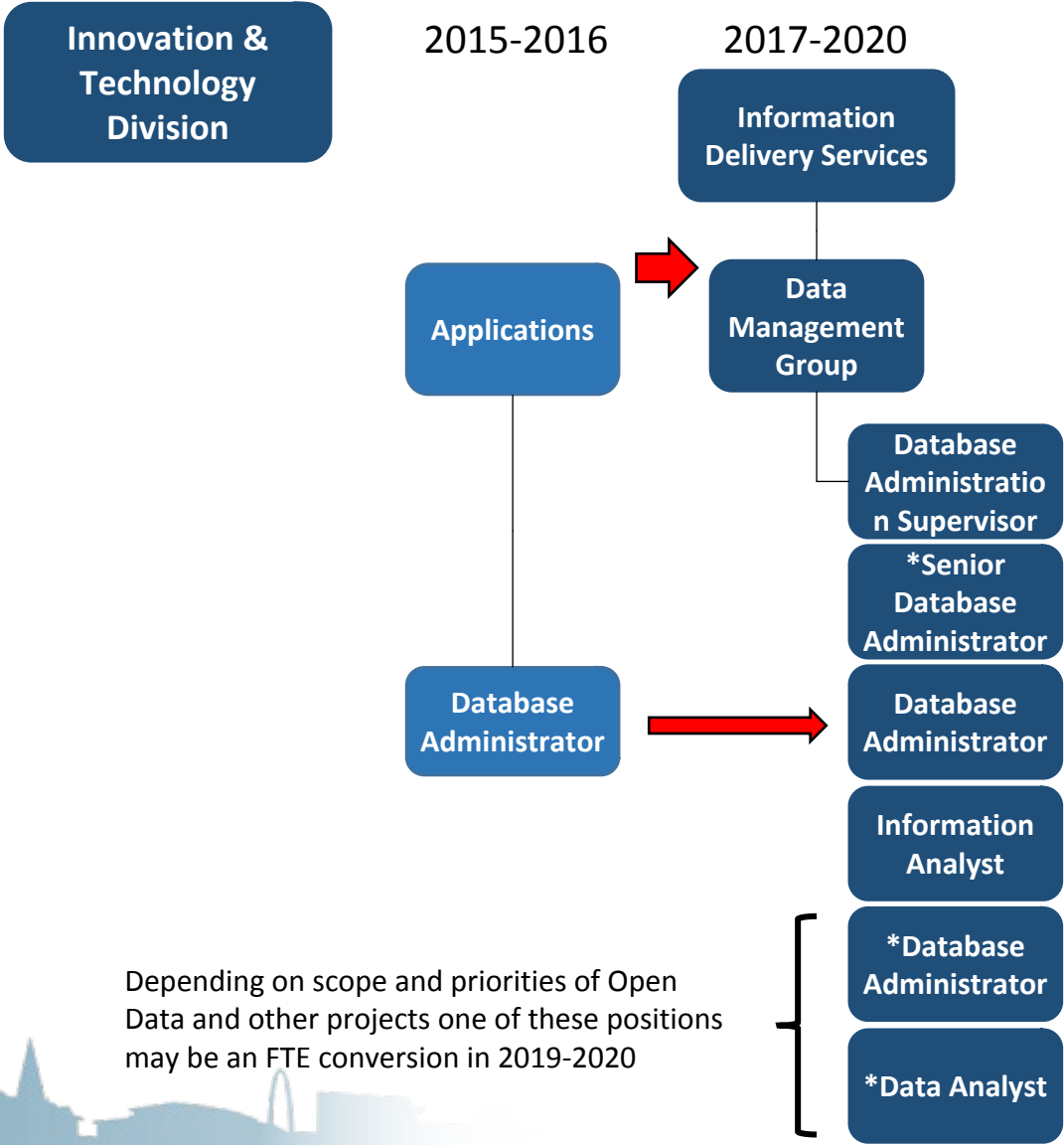
Contract

Utilities / PW

Shared PW/IT



Data Management - Open Data



- 2 positions starting 1Q2017, growing to 5-6 by end of 2018 (pending priority and additional Grant funding)
- Link Enterprise Content Management, Public Records Request improvement projects
- Incorporates increased internal data consumption needs

FTE conversion Dec 2016 (Vacant Mail Courier position); In Civil Service process as of Jan 2017

*Project employee initially 1-2 years, FTE conversion in 2018-2019

Current FTE – (Support business and applications)

Current FTE – (Support business and applications)

1-2 year Project Employee
Projected 3-4Q 2017
(Pending Grant funding)

1-2 year Project Employee
Projected 2-3Q 2018
(Pending Grant funding)

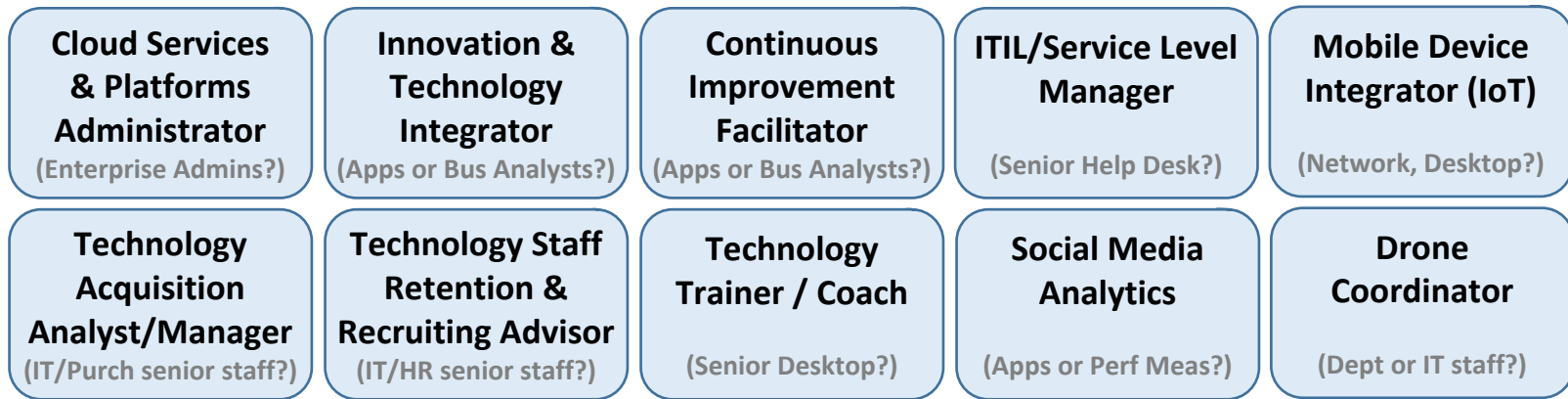
Depending on scope and priorities of Open Data and other projects one of these positions may be an FTE conversion in 2019-2020

* = Denotes Project Employee at start



Planning the 2026 Technology Organization

- What roles do we need over the next 10 years?



- City staff **more “out than in” their work areas** in performing work duties
- City is more wireless and mobile than wired and in static work locations
- City **connected mobile devices will 10x+ outnumber City staff** (IoT, IoE)
- IT must coordinate discovery and validate solutions and platforms
- IT **must train, consult, and partner** more than control
- Need to map out how to get from current state to this future IT/HR state

BRIEFING PAPER
City of Spokane
Information Technology
March 20, 2017

Subject

An ordinance relating to the creation of four new departments within the Innovation and Technology Services Division; amending SMC section 3.01A.340 and adopting new sections 3.01A.341, 3.01A.342, 3.01A.343 and 3.01A.344 to chapter 3.01A of the Spokane Municipal Code.

Background

The innovation and technology services division is responsible for strategic and operational information technology system support, to include electronic mail, telephone system, network infrastructure, enterprise server and Cloud services, desktop support, Geographic Information Systems, datacenter operations, and security and monitoring systems. Central management of technology innovation and strategic planning, information security, administration, technology contract/procurement management, and mail center functions are maintained at the division level.

Impact

The creation of these four new departments will allow us to better organize staff and leadership to meet City priorities and strategic initiatives

Action

City ITSD Staff recommends approval

Funding

N/A



Agenda Sheet for City Council Meeting of:
03/27/2017

Date Rec'd	3/16/2017
Clerk's File #	OPR 2017-0211
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	CITY COUNCIL
Contact Name/Phone	LORI KINNEAR 625-6261
Contact E-Mail	LKINNEAR@SPOKANECITY.ORG
Agenda Item Type	Special Considerations
Agenda Item Name	0320 - LETTER OUTLINING GOALS FOR POLICE GUILD NEGOTIATIONS

Agenda Wording

This item is a proposed letter which outlines the City Council's goals and objectives for the upcoming collective bargaining negotiations with the Police Guild.

Summary (Background)

The City Council wishes to state its desires and goals for the next version of the Police Guild collective bargaining agreement, including fiscal and operational matters and significant improvements to the civilian oversight function provided by the Office of the Police Ombudsman.

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

<u>Approvals</u>	<u>Council Notifications</u>
<u>Dept Head</u>	MCCLATCHEY, BRIAN
<u>Division Director</u>	
<u>Finance</u>	DOVAL, MATTHEW
<u>Legal</u>	DALTON, PAT
<u>For the Mayor</u>	SANDERS, THERESA
<u>Additional Approvals</u>	
<u>Purchasing</u>	

Mayor David A. Condon
City of Spokane, City Hall
808 W. Spokane Falls Blvd.
Spokane, WA 99201

March 16, 2017

Mayor Condon:

We are writing to share the City Council's goals for the next round of negotiations with the Spokane Police Guild. We ask your negotiations with the Guild seek the improvements to the City's contract outlined in this letter.

While this letter briefly describes improvements the Council seeks in the next Guild agreement, we would be happy to meet with you individually in person to provide more thorough specifics of these proposals.

General provisions

We have specific suggestions and concerns which we have shared with you over the past several months, and we request that you negotiate for the following improvements to the agreement with the Guild. They are listed here in no order of priority or importance:

- Cap overtime at 20 hours per week, per officer for SPD regular duty. In the case of "special duty" for private entities, institute a cap on the total of overtime hours or total work hours (i.e., regular time plus overtime and off-duty/special duty work hours) so that officers may not work more than 18 consecutive hours per day or 64 hours per week. We also believe that there should be an annual cap on overtime hours for each officer but will leave it to the administration to determine that number. We share the concerns raised in section 1040.3(d) of SPD Police Policy regarding potential performance and employee efficiency impacts to our officers. Off-duty police work can affect overtime use if officers take leave to work off-duty, as other officers must back fill for the employee on leave. Additionally, officers who work both overtime and off-duty may be at risk of fatigue and increased use of sick leave.
- Reform SPD's policy of assigning overtime based solely on seniority in favor of a more equitable approach, such as a rolling seniority roster similar to the approach used by the Fire Department.
- Allow SPD to employ non-commissioned property crimes technicians for routine administrative work surrounding property crimes (i.e., processing evidence, engaging with the public at their residences following a burglary, etc). Doing so would leave commissioned officers free to engage in patrol and investigation duties. These property crime technician job positions shall not

supplant existing or future commissioned officer positions. This efficiency measure has been discussed by Council members for some months now.

- Increase the number of commissioned officers in each year of the agreement in alignment with per capita goals to maintain a stated level of service. The public and officers themselves continually tell us that our Police Department is understaffed. Increasing staff will also reduce the amount of overtime our officers must endure.
- As you know, this Guild negotiation will proceed along with the beginning of the 2018 budget cycle. In that connection, we urge you to fully fund the Office of Police Ombudsman (“OPO”) to keep the current staffing: the OPO, the OPO’s administrative analyst, and the OPOC coordinator. The City simply cannot discharge its Charter-mandated civilian oversight function without sufficient budgetary support.

OPO ordinance changes:

We also strongly believe the City’s OPO ordinance, which should be consistent with the next collective bargaining agreement with the Police Guild, can be dramatically improved in the following ways to deliver on the will of the voters who, in 2013, modified sections 129 and 130 of the City Charter (“Prop. 1”). To do this, we want to see the existing OPO provisions of the Guild agreement remain in place, with the following changes, in no particular order of priority or importance, which we believe are management prerogatives:

- **Types of Incidents Involved**

Add Administrative Review Panels of critical incidents, use of force and deadly incidents, vehicle pursuits, and vehicle collisions to the list of situations which the OPO can monitor.

- **Independent Investigations**

The OPO must be able to initiate investigations into particular incidents if IA chooses not to investigate. The scope of OPO independent investigations is to be determined solely by the OPO, provided that the investigation does not interfere with an IA investigation.

- **Closing Reports or Letters**

It is crucial that IA is required to prepare closing reports at the conclusion of its investigations. The OPO also should have the discretion to independently determine whether to write closing reports on incidents the OPO deems to be of public importance. If the OPO makes formal recommendations to the Police Department, the Police Department should be required to respond.

- **Umbrella of Police Ombudsman**

The definition of “OPO” must include both the Police Ombudsman himself, but also the employees, agents, and student interns within the office, so that the OPO can efficiently conduct document review and discharge other administrative duties of the OPO. In that connection, all OPO office employees, staff, interns, agents, and the like would also be subject to background checks and confidentiality agreements.

- Selection of the OPO

The fifth member of the OPO selection committee should be a member of the OPOC. SMC 04.32.060(l) should be amended to allow the OPO to be a resident of Spokane County.

- OPO Qualifications

Applicants for the position of OPO should have 5 years of legal or investigative experience in criminal procedure, police practices, or civil rights, as well as at least 5 years’ experience with the law of criminal procedure, civil rights, and police practices, as well as knowledge of national models of civilian police oversight at the time of application.

- Statements Concerning Inability to Use OPO Investigation or IA Investigation Documents in discipline of an Officer

We need to clarify that both the City and SPD are precluded from using OPO investigation documents obtained outside and after the IA process in a manner that disciplines an officer.

- “OPO-Involved Investigation” definition

We should amend the definition of “OPO-Involved Investigation” to conform with current OPO practice.

- Monthly and Annual Council Reporting

We should require monthly reports to the Council’s Public Safety Committee by the Commission chair, OPO, and IA, as well as annual reports from both the OPO and the Commission to the City Council concerning the prior years’ activities and the coming year’s work plan.

There are many issues subject to mandatory bargaining that we believe should be included in the next contract in order to strengthen the management prerogatives of civilian oversight. The Guild largely approved them in the last contract and we urge that the administration secure them in the next contract.

For example, although the OPO can currently determine whether to certify whether an investigation was timely, thorough, and objective, the OPO’s certification authority should be expanded to include certification of the accuracy and completeness, on a more probable than not basis, of any key factual findings published by IA.

The OPO should have the ability to offer mediation services to the community through a third-party, and the Police Chief should have the discretion to defer an IA investigation and/or disciplinary to allow time for the good faith participation by Guild members in mediation services.

Although the OPO can currently conclude that further investigation is needed on issues deemed material to the outcome of an IA complaint and suggest that IA conduct further specific investigation as a condition for certifying it, this authority should be extended to include recommendations concerning specific factual findings.

And we agree that the OPO should have the authority to either complete (or seek a third party to complete) an IA investigation of a Guild member upon the authorization of the OPOC if the Police Department is not willing to complete the investigative activities recommended by the OPO to the OPO's satisfaction.

The definition of "OPO-Involved investigation" should be broadened to include any allegation of police employee misconduct brought by a community member.

We would be happy to speak with you in person at your convenience to describe in detail these requests.

As we see it, the City has the opportunity within this window of bargaining to fully implement Prop. 1, while at the same time supporting our dedicated police officers. As you enter this, the last Guild negotiation of your tenure, we hope to partner with you to obtain these much needed changes which will restore public trust, improve officer working conditions, and improve public safety for our citizenry.

Sincerely yours,

Council President Ben Stuckart

Council Member Lori Kinnear

Council Member Amber Waldref

Council Member Candace Mumm

Council Member Karen Stratton

DRAFT