

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

- D. The open forum is a limited public forum; all matters discussed in the open forum shall relate to the affairs of the City. No person shall be permitted to speak regarding items on the current or advance agendas, pending hearing items, or initiatives or referenda in a pending election. Individuals speaking during the open forum shall address their comments to the Council President and shall not use profanity, engage in obscene speech, or make personal comment or verbal insults about any individual.
- E. To encourage wider participation in open forum and a broad array of public comment and varied points of view, no person shall be permitted to speak at open forum more often than once per month. However, there is no limit on the number of items on which a member of the public may testify, such as legislative items, special consideration items, hearing items, and other items before the City Council and 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

- A. 5.4.1 The City Council shall take public testimony on all matters included on its legislative agenda, with those exceptions stated in Rule 5.4(B). Public testimony shall be limited to the final Council action. Public testimony shall be limited to three (3) minutes per speaker, unless, at his or her discretion, the Chair determines that, because of the number of speakers signed up to testify, less time will need to be allocated per speaker in order to accommodate all of the speakers. The Chair may allow additional time if the speaker is asked to respond to questions from the Council.
- B. No public testimony shall be taken on consent agenda items, amendments to legislative agenda items, or procedural, parliamentary, or administrative matters of the Council.
- C. For legislative or hearing items that may affect an identifiable individual, association, or group, the following procedure may be implemented:
 1. Following an assessment by the Chair of factors such as complexity of the issue(s), the apparent number of people indicating a desire to testify, representation by designated spokespersons, etc., the Chair shall, in the absence of objection by the majority of the Council present, impose the following procedural time limitations for taking public testimony regarding legislative matters:
 - a. There shall be up to fifteen (15) minutes for staff, board, or commission presentation of background information, if any.
 - b. The designated representative of the proponents of the issue shall speak first and may include within his or her presentation the testimony of expert witnesses, visual displays, and any other reasonable methods of presenting the case. Up to thirty (30) minutes shall be granted for the proponent's presentation. If there be more than one designated representative, they shall allocate the 30 minutes between or among themselves.

- c. Three minutes shall be granted for any other person not associated with the designated representative who wishes to speak on behalf of the proponent's position.
 - d. The designated representative, if any, of the opponents of the issue shall speak following the presentation of the testimony of expert witnesses, visual displays, and any other reasonable methods of presenting the case. The designated representative(s) of the opponents shall have the same time allotted as provided for the proponents.
 - e. Three minutes shall be granted for any other person not associated with the designated representative who wishes to speak on behalf of the opponents' position.
 - f. Up to ten minutes of rebuttal time shall be granted to the designated representative for each side, the proponents speaking first, the opponents speaking second.
- 2. In the event the party or parties representing one side of an issue has a designated representative and the other side does not, the Chair shall publicly ask the unrepresented side if they wish to designate one or more persons to utilize the time allotted for the designated representative. If no such designation is made, each person wishing to speak on behalf of the unrepresented side shall be granted three minutes to present his/her position, and no additional compensating time shall be allowed due to the fact that the side has no designated representative.
 - 3. In the event there appears to be more than two groups wishing to advocate their distinct positions on a specific issue, the Chair may grant the same procedural and time allowances to each group or groups, as stated previously.
- D. The time taken for staff or Council member questions and responses thereto shall be in addition to the time allotted for any individual or designated representative's testimony.

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, JULY 16, 2018

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 MIKE FAGAN

COUNCIL MEMBER CANDACE MUMM

COUNCIL MEMBER KATE BURKE

COUNCIL MEMBER LORI KINNEAR

COUNCIL MEMBER KAREN STRATTON

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 Human Resources at 509.625.6383, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or msteinolfson@spokanecity.org. Persons who are deaf or hard of hearing may contact Human Resources 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. Increase Value Blanket with Hitachi Zosen (Norcross, GA) for purchase of feeder and grate parts for the Waste to Energy Plant—increase of \$180,000 for a total of \$700,315.
David Paine | Approve | OPR 2016-0816
RFB 4292-16 |
| 2. Consultant Agreement with DCI Engineers (Spokane, WA) for real estate right-of-way acquisition and relocation services—not to exceed \$250,000. (Various Neighborhoods.)
Dave Steele | Approve | OPR 2018-0422
RFP 4436-18 |
| 3. Joint City/County Grant Award, CFDA 16.738, from Department of Justice—\$78,921.15 (City) and \$64,571.85 (County) for a total award of \$143,493.
Jennifer Isaacson | Approve &
Authorize
Agreement | OPR 2018-0423 |
| 4. Contract Renewals for Washington State legislative lobbying services with: | Approve
All | |
| a. Luke Esser (Bellevue, WA)—not to exceed \$60,000. | | OPR 2016-0743 |
| b. Nick Federici (Tacoma, WA)—not to exceed \$60,000. | | OPR 2016-1040 |

Council Member Mumm

- | | | |
|--|-----------------------------------|------------------------------|
| 5. Authorization to increase the administrative reserve on the Contract with Clearwater Construction Management, for I-03 Control Facility (TJ Meenach CSO—increase of \$260,000 (plus tax) for a total administrative reserve of \$1,059,483.10.
Kyle Twohig | Approve | PRO 2017-0013
ENG 2013214 |
| 6. Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2018, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | Approve &
Authorize
Payment | CPR 2018-0002 |
| 7. City Council Meeting Minutes: _____, 2018. | Approve
All | CPR 2018-0013 |

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

(Includes Announcements of Boards and Commissions Vacancies)

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.E).

LEGISLATIVE AGENDA

SPECIAL BUDGET ORDINANCES

(Require Five Affirmative, Recorded Roll Call Votes)

Ordinances amending Ordinance No. C35565 passed by the City Council December 11, 2017, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2018, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2018, and providing it shall take effect immediately upon passage, and declaring an emergency and appropriating funds in:

ORD C35643

General Fund

FROM: Unappropriated Reserves, \$2,500,000,

TO: Revenue Stabilization, \$2,500,000.

(This action increases the amount held in the General Fund's revenue stabilization budget toward full funding.)

Council Member Mumm

ORD C35644

Street Fund

FROM: Other Misc. Revenue, \$100,000 and

Unappropriated Reserves, \$125,000,

TO: Repair and Maintenance Supplies, \$225,000.

(This action allows for budgeting for the upgrading of Street Lights.)

Gary Kaesmeyer

ORD C35645 Park and Recreation Fund
FROM: Special Events—Reserve for Total Cost Compensation, \$21,102,
TO: Special Events—Marketing Assistant, \$21,102.

(This action allows for creation of an additional Marketing Assistant position [from 0 to 1].)

Jonathan Moog

NO EMERGENCY ORDINANCES

RESOLUTIONS

(Require Four Affirmative, Recorded Roll Call Votes)

RES 2018-0061 Amending the Comprehensive Plan Amendment Annual Work Program
RES 2018-0021 to add a proposed amendment to the proposed arterial street projects
map contained in the transportation chapter of the Comprehensive Plan.
Council Member Kinnear

RES 2018-0062 Declaring Western Systems & Fabrication a sole source provider and
OPR 2018-0424 authorizing the purchase of new equipment and replacement parts, as
well as repair services from Subsite Electronics over a five-year period
without public bidding—\$117,450.25.
Raylene Gannett

RES 2018-0063 Approving a development agreement between the City and Flamingo
Links, LLC relating to development of land adjacent to State Highway 2
and east of Hayford Rd.
Council Member Stuckart

NO FINAL READING ORDINANCES

NO FIRST READING ORDINANCES

NO SPECIAL CONSIDERATIONS

NO HEARINGS

Motion to Approve Advance Agenda for July 16, 2018
(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.E).

ADJOURNMENT

The July 16, 2018, Regular Legislative Session of the City Council is adjourned to July 23, 2018.

NOTES

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

07/16/2018

<u>Date Rec'd</u>	6/27/2018
<u>Clerk's File #</u>	OPR 2016-0816
<u>Renews #</u>	
<u>Cross Ref #</u>	
<u>Project #</u>	
<u>Bid #</u>	RFB #4292-16
<u>Requisition #</u>	VB-300791-000

<u>Submitting Dept</u>	SOLID WASTE DISPOSAL
<u>Contact Name/Phone</u>	DAVID PAINE 625-6878
<u>Contact E-Mail</u>	DPAINE@SPOKANECITY.ORG
<u>Agenda Item Type</u>	Purchase w/o Contract
<u>Agenda Item Name</u>	4490-AMENDMENT WITH COST FOR HITACHI ZOSEN VALUE BLANKET

Agenda Wording

Increase in dollar amount to value blanket for purchase of feeder and grate parts at the WTE from Hitachi Zosen. Valid Nov. 1, 2016 to Oct. 31, 2018 for a total of \$520,315.40. An additional \$180,000.00 is requested for a new total of \$700,315.00.

Summary (Background)

Hitachi Zosen has supplied grate and carriage parts to the WTE since awarded the value blanket from RFB #4292-16 in 2016. During the spring outage of 2018, many of the grate carriages, which convey solid waste through the furnace, were found to be at the end of their life and are no longer repairable. These grate carriages will need to be replaced during the next outage in October of 2018. If these failing grate carriages are not replaced, it will likely result in a forced outage.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? YES	
Expense	\$ \$180,000.00	# 4490-44100-37148-53210-34002
Select	\$	#
Select	\$	#
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	CONKLIN, CHUCK	<u>Study Session</u>	UE 7/9/18
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	
<u>Finance</u>	ALBIN-MOORE, ANGELA	<u>Distribution List</u>	
<u>Legal</u>	ODLE, MARI	mdorgan@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	jsalstrom@spokanecity.org	
<u>Additional Approvals</u>		tprince@spokanecity.org	
<u>Purchasing</u>	PRINCE, THEA	rrinderle@spokanecity.org	

Briefing Paper

Urban Experience

Division & Department:	Public Works Division; Solid Waste Disposal
Subject:	Amendment to Value Blanket for Purchase of Feeder and Grate Parts for the Waste to Energy Facility with Hitachi Zosen.
Date:	July 9, 2018
Contact (email & phone):	David Paine, dpaine@spokanecity.org , 625-6878
City Council Sponsor:	
Executive Sponsor:	
Committee(s) Impacted:	Urban Experience/ Public Infrastructure, Environment and Sustainability Committee
Type of Agenda item:	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget , Comp Plan, Policy, Charter, Strategic Plan)	
Strategic Initiative:	Sustainable Resources – Reliable operations supports good customer service; Innovative infrastructure – Sustaining our core principals
Deadline:	
Outcome: (deliverables, delivery duties, milestones to meet)	Council approval of additional funding to the Hitachi Zosen Value Blanket in order to prevent an unscheduled outage due to a grate carriage failure.
Background/History: In September of 2016 Hitachi Zosen was the low cost bidder to RFB #4292-16 and was awarded a value blanket for Feeder and Grate parts for the WTE. The Value Blanket was to go from November 1, 2016 to October 31, 2018 for a total cost of \$520,315.40. During the May 2018 outage, it was identified that many of the grate carriages are at the end of their life and can no longer be repaired with reinforcing welds. These grates convey all of the solid waste burned, through the furnace. These unforeseen replacements will require an additional amount of \$180,000.00 to be added to the value blanket in order to get all of the failing grates replaced during the outage in October of 2018. These parts will need to be put on order in the very near future in order to be available at the fall outage as well so swift approval is needed.	
Executive Summary: <ul style="list-style-type: none"> Increase in funds of \$180,000.00 to the value blanket with Hitachi Zosen for feeder and grate parts at the WTE. Original value blanket from Nov. 1, 2016 thru Oct. 31, 2018 for \$520,315.40. Multiple unforeseen grate carriages at the end of their life were identified in the spring outage that will need replaced. Parts will need ordered in the near future in order to arrive in time to be replaced in the fall outage. Not approving this increase to the value blanket could result in an unscheduled outage at the WTE. 	
Budget Impact: Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A Annual/Reoccurring expenditure? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impact: Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	

Requires change in current operations/policy?

☐

Yes

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No

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N/A

Specify changes required:

Known challenges/barriers:

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

07/16/2018

<u>Date Rec'd</u>	6/29/2018
<u>Clerk's File #</u>	OPR 2018-0422
<u>Renews #</u>	

Submitting Dept	ASSET MANAGEMENT	Cross Ref #	
Contact Name/Phone	DAVE STEELE 625-6064	Project #	RFP 4436-18
Contact E-Mail	DSTEELE@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	MASTER
Agenda Item Name	5900 CONSUNTANT AGREEMENT - DCI ENGINEERS		

Agenda Wording

Consultant Agreement with DCI Engineers, Spokane, WA for RealEstate Right-of-Way Acquisition and Relocation On-Call Services for an amount not to exceed \$250,000.00. (Various Neighborhood Councils)

Summary (Background)

The Consultant Agreement for Real Estate Right-of-Way Acquisition and Relocation On-Call Services is for a term of three years with an option for tow additional one year periods if funds are available. Fnding for these contracts is directly tied to current projects and will be assigned on a project by project basis as individual task assignmens. These projects are scoped and funded to include the cost of Right-of-Way Acquisition and Relocation On-Call Services.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	

Expense	\$ 250,000.00	# VARIOUS
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Select	\$	#
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Select	\$	#
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Select	\$	#
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Approvals	Council Notifications
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<u>Dept Head</u>	LUKAS, ED	<u>Study Session</u>	
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<u>Division Director</u>	STOPHER, SALLY	<u>Other</u>	Finance 5/15/18
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<u>Finance</u>	HUGHES, MICHELLE	Distribution List
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<u>Legal</u>	DALTON, PAT	dstele@spokanecity.org
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<u>For the Mayor</u>	SANDERS, THERESA	publicworksaccounting@spokanecity.org
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Additional Approvals	htrautman@spokanecity.org
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<u>Purchasing</u>	cwahl@spokanecity.org
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	mdoval@spokanecity.org
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Briefing Paper

Council Study Session

Division & Department:	Finance & Administration, Asset Management
Subject:	Non-Federal Funded Right of Way Acquisition Services
Date:	5/15/18
Author (email & phone):	Dave Steele, 625-6064
City Council Sponsor:	TBD
Executive Sponsor:	Tim Dunivant
Committee(s) Impacted:	NA
Type of Agenda item:	XXX Consent Discussion Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	6 Year Capital Program
Strategic Initiative:	Innovative Infrastructure
Deadline:	ASAP
Outcome: (deliverables, delivery duties, milestones to meet)	New Contract for non-federal funded right of way acquisition services.
<u>Background/History:</u> <p>The City of Spokane often has need of Right of Way acquisition and or relocation services. Typically, these services are needed on a project by project basis and are related to locally funded projects such as street safety projects, street capacity improvement projects, upcoming stormwater projects, etc.</p> <p>Funding for these contracts is directly tied to current projects and will be assigned on a project by project basis as individual task assignments. These projects are scoped and funded to include the cost of ROW acquisition and relocation services as needed. These projects are typically time sensitive and require consultants that are certified by WSDOT to complete this type of work. The completion of these contracts will allow the City to continue to move forward with a series of projects and meet required bidding and construction deadlines over the next 3-5 years. This contract with DCI Engineers provides these services for the next 3 years (plus 2 one year extensions) with a total not to exceed contract amount of \$250,000 over the term of the contract.</p>	
<u>Executive Summary:</u> <p>Contract for right of way acquisition services on projects that are locally funded, but still have to meet WSDOT rules for property acquisition.</p>	
<u>Budget Impact:</u> <p>Approved in current year budget? XX Yes No</p> <p>Annual/Reoccurring expenditure? XX Yes No</p> <p>If new, specify funding source:</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<u>Operations Impact:</u> <p>Consistent with current operations/policy? XX Yes No</p> <p>Requires change in current operations/policy? Yes XX No</p> <p>Specify changes required:</p> <p>Known challenges/barriers:</p>	



City of Spokane

CONSULTANT AGREEMENT

**Title: RIGHT OF WAY ACQUISITION AND
RELOCATION SERVICES**

This Consultant Agreement is made and entered into by and between the **CITY OF SPOKANE** as ("City"), a Washington municipal corporation, and **D'AMATO, CONVERSANO, INC.**, a Washington corporation dba **DCI ENGINEERS**, whose address is 702 West 2nd Avenue, Spokane, Washington, 99201 as ("Consultant"), individually hereafter referenced as a "party", and together as the "parties".

*WHEREAS, the purpose of this Agreement is to provide **NON-FEDERAL RIGHT OF WAY ACQUISITION SERVICES** to the City; and*

WHEREAS, the Consultant was selected through a Request for Proposal No 4436-18.

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

1. TERM OF AGREEMENT.

The term of this Agreement begins on March 28, 2018, and ends on March 27, 2021, unless amended by written agreement or terminated earlier under the provisions. The contract may be renewed for two (2) additional one-year contract periods, subject to mutual agreement.

2. TIME OF BEGINNING AND COMPLETION.

The Consultant shall begin the Work as described in Exhibit A 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 Consultant is responsible, but may be extended by the City, in writing, for the City's convenience or conditions beyond the Consultant's control.

3. SCOPE OF WORK.

The general scope of work for this Agreement is described in Exhibit A ("Work"), which is attached to and made a part of this Agreement. In the event of a discrepancy between the Scope of Work attached as Exhibit A and this Consultant Agreement, the Consultant Agreement controls.

The Work is subject to City review and approval. The Consultant shall confer with the City periodically, and prepare and present information and materials (e.g. detailed outline of completed Work) requested by the City to determine the adequacy of the Work or Consultant's progress.

4. PAYMENT.

Total compensation for Consultant's services under this Agreement shall not exceed **TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00)**, unless modified by a written amendment to this Agreement.

5. COMPENSATION/PAYMENT.

The Company shall submit its applications for payment to City of Spokane, Asset Management Department, 808 West Spokane Falls Blvd., Spokane, WA 99201. **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.

6. REIMBURSABLES

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

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

- I. **Miscellaneous Travel** (e.g. parking, rental car gas, taxi, shuttle, toll fees, ferry fees, etc.): Miscellaneous travel expenses will be reimbursed at the actual cost incurred. Receipts are required for each expense of \$10.00 or more.
- J. **Miscellaneous other business expenses** (e.g. printing, photo development, binding): Other miscellaneous business expenses will be reimbursed at the actual cost incurred and may not include a mark up. Receipts are required for all miscellaneous expenses that are billed.

Subconsultant: Subconsultant expenses will be reimbursed at the actual cost incurred and may include a four percent (4%) markup. Copies of all Subconsultant invoices that are rebilled to the City are required

7. TAXES, FEES AND LICENSES.

- A. Consultant 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 Consultant's sole responsibility to monitor and determine changes or the enactment of any subsequent requirements for said fees, assessments, or changes and to immediately comply.
- B. Where required by state statute, ordinance or regulation, Consultant shall pay and maintain in current status all taxes necessary for performance. Consultant shall not charge the City for federal excise taxes. The City will furnish Consultant an exemption certificate where appropriate.
- C. The Director of Finance and Administrative Services may withhold payment pending satisfactory resolution of unpaid taxes and fees due the City.
- D. 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.

8. CITY OF SPOKANE BUSINESS LICENSE.

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

9. ADDRESSES FOR NOTICES AND DELIVERABLE MATERIALS.

Deliver all official notices under this Agreement to:

If to the City:	If to the Consultant:
Asset Management Department City of Spokane 2nd Floor – City Hall 808 West Spokane Falls Boulevard Spokane, Washington 99201	DCI ENGINEERS 702 West 2nd Avenue Spokane, WA 99201

10. SOCIAL EQUITY REQUIREMENTS.

- A. 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. Consultant agrees to comply

with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Consultant. Consultant shall seek inclusion of woman and minority business for subcontracting. A woman or minority business is one that self-identifies to be at least 51% owned by a woman and/or minority. Such firms do not have to be certified by the State of Washington.

11. INDEMNIFICATION.

The Consultant shall defend, indemnify, and hold the City and its officers and employees harmless from all claims, demands, or suits at law or equity asserted by third parties for bodily injury (including death) and/or property damage which arise from the Consultant's negligence or willful misconduct under this Agreement, including attorneys' fees and litigation costs; provided that nothing herein shall require a Consultant to defend and indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the negligence of the City, its agents, officers, and employees. If a claim or suit is caused by or results from the concurrent negligence of the Consultant's agents or employees and the City, its agents, officers and employees, this indemnity and defense provision shall be valid and enforceable to the extent of the negligence of the Consultant, its agents or employees. The Consultant specifically assumes liability and agrees to defend, indemnify, and hold the City harmless for actions brought by the Consultant's own employees against the City and, solely for the purpose of this indemnification and not for the benefit of any other parties, including Consultant's employees, the Consultant specifically waives any immunity under the Washington State industrial insurance law, or Title 51 RCW. The Consultant recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. The indemnity and agreement to defend and hold the City harmless provided for in this section shall survive any termination or expiration of this agreement.

12. INSURANCE.

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

During the period of the Agreement, the Consultant shall maintain in force at its own expense, each insurance noted below with companies or through sources approved by the State Insurance Commissioner pursuant to RCW Title 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 \$1,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the City, its officers and employees are additional insureds but only with respect to the Consultant's services to be provided under this Agreement; and

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

D. Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Agreement. The coverage must remain in effect for at least two (2) years after the Agreement is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the Consultant shall furnish acceptable Certificates Of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" on Consultant's General Liability and Automobile Liability policies only, and include applicable policy endorsements, the sixty (60) day cancellation clause, and the deduction or retention level. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

13. DEBARMENT AND SUSPENSION.

The Consultant has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

14. AUDIT.

Upon request, the Consultant shall permit the City and any other governmental agency ("Agency") involved in the funding of the Work to inspect and audit all pertinent books and records. This includes work of the Consultant, any subconsultant, or any other person or entity that performed connected or related Work. Such books and records shall be made available upon reasonable notice of a request by the City, including up to three (3) years after final payment or release of withheld amounts. Such inspection and audit shall occur in Spokane County, Washington, or other reasonable locations mutually agreed to by the parties. The Consultant shall permit the City to copy such books and records at its own expense. The Consultant shall ensure that inspection, audit and copying rights of the City is a condition of any subcontract, agreement or other arrangement under which any other persons or entity may perform Work under this Agreement.

15. INDEPENDENT CONSULTANT.

- A. The Consultant is an independent Consultant. This Agreement does not intend the Consultant to act as a City employee. The City has neither direct nor immediate control over the Consultant nor the right to control the manner or means by which the Consultant works. Neither the Consultant nor any Consultant employee shall be an employee of the City. This Agreement prohibits the Consultant to act as an agent or legal representative of the City. The Consultant is not granted express or implied rights or authority to assume or create any obligation or responsibility for or in the name of the City, or to bind the City. The City is not liable for or obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay social security or other tax that may arise from employment. The Consultant shall pay all income and other taxes as due. The Consultant may perform work for other parties; the City is not the exclusive user of the services that the Consultant provides.
- B. If the City needs the Consultant to Work on City premises and/or with City equipment, the City may provide the necessary premises and equipment. Such premises and equipment are exclusively for the Work and not to be used for any other purpose.
- C. If the Consultant works on the City premises using City equipment, the Consultant remains an independent Consultant and not a City employee. The Consultant will notify the City Project Manager if s/he or any other Workers are within ninety (90) days of a consecutive 36-month placement on City property. If the City determines using City premises or equipment is unnecessary to complete the Work, the Consultant will be required to work from its own office space or in the field. The City may negotiate a reduction in Consultant fees or charge a rental fee based on the actual costs to the City, for City premises or equipment.

16. KEY PERSONS.

The Consultant shall not transfer or reassign any individual designated in this Agreement as essential to the Work, nor shall those key persons, or employees of Consultant identified as to be involved in the Project Work be replaced, removed or withdrawn from the Work without the express written consent of the City, which shall not be unreasonably withheld. If any such individual leaves the Consultant's employment, the Consultant shall present to the City one or more individuals with greater or equal qualifications as a replacement, subject to the City's approval, which shall not be unreasonably withheld. The City's approval does not release the Consultant from its obligations under this Agreement.

17. ASSIGNMENT AND SUBCONTRACTING.

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

18. CITY ETHICS CODE.

- A. Consultant shall promptly notify the City in writing of any person expected to be a Consultant Worker (including any Consultant employee, subconsultant, principal, or owner) and was a former City officer or employee within the past twelve (12) months.
- B. Consultant shall ensure compliance with the City Ethics Code by any Consultant Worker when the Work or matter related to the Work is performed by a Consultant Worker who has been a City officer or employee within the past two (2) years.
- C. Consultant shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer or official that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Consultant. Promotional items worth less than \$25 may be distributed by the Consultant to a City employee if the Consultant uses the items as routine and standard promotional materials. Any violation of this provision may cause termination of this Agreement. Nothing in this Agreement prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

19. NO CONFLICT OF INTEREST.

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

20. ERRORS AND OMISSIONS, CORRECTIONS.

Consultant is responsible for professional quality, technical accuracy, and the coordination of all services furnished by or on the behalf of the Consultant under this Agreement in the delivery of a final work product. The standard of care applicable to Consultant's services will be the degree of skill and diligence normally employed by professional engineers or Consultants performing the same or similar services at the time said services are performed. Consultant, without additional compensation, shall correct or revise errors or mistakes in designs, drawings, specifications,

and/or other consultant services immediately upon notification by the City. The obligation provided for in this Section regarding acts or omissions resulting from this Agreement survives Agreement termination or expiration.

21. INTELLECTUAL PROPERTY RIGHTS.

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

22. CONFIDENTIALITY.

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

If the City receives a public records request for records involving Consultant or Consultant's work product, City will release the records unless City determines that there are obvious exemptions or redactions (which City will make prior to release of the records) or that there are apparent exemptions or redactions that Consultant could assert. In the latter case, Consultant will be notified of the request and pending release of records and Consultant will be given ten days to obtain a Court order preventing the City from releasing the requested records. If no Court order is procured by Consultant, the City will release the requested records.

23. DISPUTES.

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

24. TERMINATION.

- A. For Cause: The City or Consultant may terminate the Agreement if the other party is in material breach of this Agreement, and such breach has not been corrected to the other party's reasonable satisfaction in a timely manner. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- B. For Reasons Beyond Control of Parties: Either party may terminate this Agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as, but not limited to, an act of nature, war or warlike operation, civil commotion, riot, labor dispute including strike, walkout or lockout, except labor disputes involving the Consultant's own employees, sabotage, or superior governmental regulation or control. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than thirty (30) business days prior to the effective date of termination.
- C. For City's Convenience: The City may terminate this Agreement without cause and including the City's convenience, upon written notice to the Consultant. Notice of termination under this Section shall be given by the party terminating this Agreement to the other, not fewer than ninety (90) business days prior to the effective date of termination.
- D. Actions upon Termination: if termination occurs not the fault of the Consultant, the Consultant shall be paid for the services properly performed prior to the actual termination date, with any reimbursable expenses then due, but such compensation shall not exceed the maximum compensation to be paid under the Agreement. The Consultant agrees this payment shall fully and adequately compensate the Consultant and all subconsultants for all profits, costs, expenses, losses, liabilities, damages, taxes and charges of any kind (whether foreseen or unforeseen) attributable to the termination of this Agreement.
- E. Upon termination, the Consultant shall provide the City with the most current writings and other products the Consultant has produced to termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided however, that the City shall indemnify and hold the Consultant harmless from any claims, losses, or damages to the extent caused by modifications made by the City to the Consultant's work product.

25. EXPANSION FOR NEW WORK.

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

26. MISCELLANEOUS PROVISIONS.

- A. Amendments: No modification of this Agreement shall be effective unless in writing and signed by an authorized representative of each of the parties hereto.
- B. Binding Agreement: This Agreement shall not be binding until signed by both parties. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
- C. The Consultant, at no expense to the City, shall comply with all laws of the United States and Washington, the Charter and ordinances of the City of Spokane; and rules, regulations, orders and directives of their administrative agencies and officers. Without limiting the generality of this paragraph, the Consultant shall comply with the requirements of this Section.
- D. This Agreement shall be construed and interpreted under the laws of Washington. The venue of any action brought shall be in the Superior Court of Spokane County.
- E. Remedies Cumulative: Rights under this Agreement are cumulative and nonexclusive of any other remedy of law or in equity.
- F. Captions: The titles of sections or subsections are for convenience only and do not define or limit the contents.
- G. 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.
- H. Waiver: No covenant, term or condition or the breach shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by the City of any performance by the Consultant after the time the same shall have become due nor payment to the Consultant for any portion of the Work shall constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.
- I. Additional Provisions: This Agreement may be modified by additional terms and conditions ("Special Conditions") which shall be attached to this Agreement as Exhibit D. The parties agree that the Special Conditions shall supplement the terms and conditions of the Agreement, and in the event of ambiguity or conflict with the terms and conditions of the Agreement, these Special Conditions shall govern.
- J. Entire Agreement: This document along with any exhibits and all attachments, and subsequently issued addenda, comprises the entire agreement between the City and the Consultant. If conflict occurs between contract documents and applicable laws, codes,

ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the City the maximum benefits.

- K. Negotiated Agreement: The parties acknowledge this is a negotiated agreement, that they have had this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship.
- L. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.

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

DCI ENGINEERS

CITY OF SPOKANE

By _____
Signature Date

By _____
Signature Date

Type or Print Name

Type or Print Name

Title

Title

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Attachments: Exhibit A – General Scope of Work
Exhibit B – Debarment Certificate

18-048

ATTACHMENT B

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
 - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.
2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

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

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

<hr/> Name of Subrecipient / Contractor / Consultant (Type or Print)	<hr/> Program Title (Type or Print)
<hr/> Name of Certifying Official (Type or Print)	<hr/> Signature
<hr/> Title of Certifying Official (Type or Print)	<hr/> Date (Type or Print)

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

5/15/2018

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

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

PRODUCER Commercial Lines - (206) 731-1200 USI Insurance Services National, Inc. - CA Lic#: 0D08408 999 Third Avenue, Suite 4100 Seattle, WA 98104	CONTACT NAME: Brenda Schornak PHONE (A/C, No, Ext): 360-787-9832 E-MAIL ADDRESS: brenda.schornak@usi.com FAX (A/C, No): 610-537-2350																					
INSURED D'Amato Conversano, Inc. dba DCI Engineers 818 Stewart Street, Suite 1000 Seattle, WA 98101	<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A:</td><td>Hanover Insurance Company</td><td>22292</td></tr><tr><td>INSURER B:</td><td>Lexington Insurance Company</td><td>19437</td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Hanover Insurance Company	22292	INSURER B:	Lexington Insurance Company	19437	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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COVERAGES**CERTIFICATE NUMBER:** 13020337**REVISION NUMBER:** See below

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	X	ZD2-A986295-01 - States: AK, CA, CO, OR, TX, WA ZH2-D318103-00 - State: MT	07/18/2017	07/18/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED <input type="checkbox"/> NON-OWNED <input type="checkbox"/> AUTOS ONLY	X	AH2 D289750 01	07/18/2017	07/18/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$		UH2-A986296-01	07/18/2017	07/18/2018	EACH OCCURRENCE \$ 8,000,000 AGGREGATE \$ 8,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N <input type="checkbox"/> N / A	WZ2-A986294-01 - States: CA, CO, MT, OR, TX, WA WM2-A989344-01 - AK	07/18/2017 07/18/2017	07/18/2018 07/18/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability		35713733	11/30/2017	11/30/2018	\$5,000,000 Each Claim/\$6,000,000 Aggregate

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

Certificate holder is included as Additional Insured as it relates to General Liability, as required by written contract, in accordance with the terms and conditions of the policy.

CERTIFICATE HOLDER

City of Spokane
808 W. Spokane Falls Blvd.
Spokane, WA 99201

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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

07/16/2018

<u>Date Rec'd</u>	7/2/2018
<u>Clerk's File #</u>	OPR 2018-0423
<u>Renews #</u>	
<u>Cross Ref #</u>	OPR 2017-0624
<u>Project #</u>	
<u>Bid #</u>	
<u>Requisition #</u>	

Submitting Dept	POLICE	Cross Ref #	OPR 2017-0624
Contact Name/Phone	JENNIFER 625-4056	Project #	
Contact E-Mail	JISAACSON@SPOKANEPOLICE.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	
Agenda Item Name	0680-2017 JAG AWARD GRANT ACCEPTANCE		

Agenda Wording

Requesting approval of Department of Justice (DOJ) federal grant award, CFDA 16.738 in the amount of \$143,493 for the term of 10/1/2016 through 9/30/2020. Award is joint with Spokane County: City - \$78,921.15 and County - \$64,571.85.

Summary (Background)

On June 26, 2018-the City of Spokane Police Department was awarded \$143,493 for the application through the federal Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The City would like to accept the award of \$143,493 to fund a 3D scanner for mapping crime scenes. The County would be utilizing the funds for furthering prosecution and court programs and equipment through both the Persecutor's office and Spokane County Sheriff's Office.



<u>Fiscal Impact</u>	Grant related? YES	<u>Budget Account</u>
	Public Works? NO	

Revenue	\$ 143,493	# 1620-91750-21250-33116
Expense	\$ 78,921	# 1620-91750-94000-56401
Expense	\$ 64,572	# 1620-91750-21250-54201
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	KING, KEVIN	<u>Study Session</u>	8/21/2017
<u>Division Director</u>	LUNDGREN, JUSTIN	<u>Other</u>	
<u>Finance</u>	SCHMITT, KEVIN	<u>Distribution List</u>	
<u>Legal</u>	DALTON, PAT		
<u>For the Mayor</u>	SANDERS, THERESA		

Additional Approvals

<u>Purchasing</u>		
<u>GRANTS &</u>	STOPHER, SALLY	

 U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance		Grant		PAGE 1 OF 21																
1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Spokane 808 West Spokane Falls Boulevard City Hall Fifth Floor Spokane, WA 99201-3303		4. AWARD NUMBER: 2017-DJ-BX-0336																		
		5. PROJECT PERIOD: FROM 10/01/2016 TO 09/30/2020 BUDGET PERIOD: FROM 10/01/2016 TO 09/30/2020																		
		6. AWARD DATE 06/26/2018	7. ACTION Initial																	
2a. GRANTEE IRS/VENDOR NO. 916001302	8. SUPPLEMENT NUMBER 00																			
2b. GRANTEE DUNS NO. 938132271		9. PREVIOUS AWARD AMOUNT \$ 0																		
3. PROJECT TITLE Enhancement and Expansion of Law Enforcement and Prosecution Programs		10. AMOUNT OF THIS AWARD \$ 143,493																		
		11. TOTAL AWARD \$ 143,493																		
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).																				
13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY17(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 42 U.S.C. 3711 - 3797ff-5), including subpart 1 of part E (codified at 42 U.S.C. 3750 - 3758); see also 28 U.S.C. 530C(a).																				
14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number) 16.738 - Edward Byrne Memorial Justice Assistance Grant Program																				
15. METHOD OF PAYMENT GPRS																				
AGENCY APPROVAL		GRANTEE ACCEPTANCE																		
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Alan R. Hanson Principal Deputy Assistant Attorney General		18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL David A. Condon Mayor																		
17. SIGNATURE OF APPROVING OFFICIAL 		19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL		19A. DATE																
AGENCY USE ONLY																				
20. ACCOUNTING CLASSIFICATION CODES <table border="1"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>OFC.</th> <th>DIV. REG.</th> <th>SUB.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>B</td> <td>DJ</td> <td>80</td> <td>00</td> <td>00</td> <td></td> <td>143493</td> </tr> </tbody> </table>		FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT	X	B	DJ	80	00	00		143493	21. SDJUGT1090		
FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT													
X	B	DJ	80	00	00		143493													

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)



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SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 42 U.S.C. 3795a), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2017 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2017 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2017 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

The recipient agrees to comply with the DOJ Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance.



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4. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after-- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

5. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

6. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.



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7. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

8. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

9. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$150,000)), and are incorporated by reference here.



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10. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

11. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").

12. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

13. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/ojptrainingguidingprinciples.htm>.

14. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

15. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.



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SPECIAL CONDITIONS

16. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

17. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

18. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R., a DOJ regulation, was amended effective May 4, 2016.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

19. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.



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20. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2017)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2017, are set out at <https://ojp.gov/funding/Explore/FY17AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

21. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: oig.hotline@usdoj.gov; and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://www.usdoj.gov/oig>.



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SPECIAL CONDITIONS

22. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



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23. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

24. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

25. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

26. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).



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27. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

28. Justice Information Sharing

In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, the recipient (and any subrecipient at any tier) must comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular award. The recipient shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/gsp_grantcondition. The recipient shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

29. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

30. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). The recipient may not satisfy such a fine with federal funds.

31. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

32. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 42 U.S.C. 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.



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33. Verification and updating of recipient contact information

The recipient must verify its Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

34. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

35. Required attendance at BJA-sponsored events

The recipient (and its subrecipients at any tier) must participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.

36. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.



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37. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

a. New construction;

b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;

c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;

d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

38. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.



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39. Prohibition on use of award funds for match under BVP program

JAG funds may be used to purchase vests for an agency, but they may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

40. Certification of body armor "mandatory wear" policies

The recipient agrees to submit a signed certification that all law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

41. Body armor - compliance with NIJ standards

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/>). In addition, ballistic-resistant and stab-resistant body armor purchased must be American-made. The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

42. Required monitoring of subawards

The recipient must monitor subawards under this JAG award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

43. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

44. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.



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45. Prohibited Expenditures List

Award funds may not be used for items that are listed on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time. The Prohibited Expenditure List may be accessed here: <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

46. Controlled expenditures - prior written approval required

Award funds may not be used for items that are listed on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, without explicit written prior approval from BJA. The Controlled Expenditure List, and instructions on how to request approval for purchase or acquisitions are set out at <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

47. Controlled expenditures - incident reporting

If an agency uses award funds to purchase or acquire any item on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, the agency must collect and retain (for at least 3 years) certain information about the use of-- (1) any federally-acquired Controlled Equipment in the agency's inventory, and (2) any other controlled equipment in the same category as the federally-acquired controlled equipment in the agency's inventory, regardless of source; and the agency must make that information available to BJA upon request. Details about what information must be collected and retained are set out at <https://ojp.gov/docs/LE-Equipment-WG-Final-Report.pdf>.

48. Sale of items on Controlled Expenditure List

Notwithstanding the provision of the Part 200 Uniform Requirements set out at 2 C.F.R. 200.313, no equipment listed on the Controlled Expenditure List that is purchased with award funds may be transferred or sold to a third party, except as described below:

a. Agencies may transfer or sell any controlled equipment, except riot helmets and riot shields, to a Law Enforcement Agency (LEA) after obtaining prior written approval from BJA. As a condition of that approval, the acquiring LEA will be required to submit information and certifications to BJA as if it were requesting approval to use award funds for the initial purchase of items on the Controlled Expenditure List.

b. Agencies may not transfer or sell any riot helmets or riot shields purchased under this award.

c. Agencies may not transfer or sell any Controlled Equipment purchased under this award to non-LEAs, with the exception of fixed wing aircraft, rotary wing aircraft, and command and control vehicles. Before any such transfer or sale is finalized, the agency must obtain prior written approval from BJA. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings must be removed prior to transfer or sale.

The recipient must notify BJA prior to the disposal of any items on the Controlled Expenditure List purchased with award funds, and must abide by any applicable laws (including regulations) in such disposal.

49. Prohibited or controlled expenditures - Effect of failure to comply

Failure to comply with an award condition related to prohibited or controlled expenditures may result in denial of any further approvals of controlled expenditures under this or other federal awards.



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50. Controlled expenditures - Standards

Consistent with recommendation 2.1 of Executive Order 13688, a law enforcement agency that acquires controlled equipment with award funds must adopt robust and specific written policies and protocols governing General Policing Standards and Specific Controlled Equipment Standards. General Policing Standards includes policies on (a) Community Policing; (b) Constitutional Policing; and (c) Community Input and Impact Considerations. Specific Controlled Equipment Standards includes policies specifically related to (a) Appropriate Use of Controlled Equipment; (b) Supervision of Use; (c) Effectiveness Evaluation; (d) Auditing and Accountability; and (e) Transparency and Notice Considerations. Upon OJP's request, the recipient must provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols.

51. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2016

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2016), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

52. "Certification of Compliance with 8 U.S.C. 1373" required for valid award acceptance by a unit of local government

In order validly to accept this award, the applicant local government must submit the required "Certification of Compliance with 8 U.S.C. 1373" (executed by the chief legal officer of the local government). Unless that executed certification either-- (1) is submitted to OJP together with the fully-executed award document, or (2) is uploaded in OJP's GMS no later than the day the signed award document is submitted to OJP, any submission by a unit of local government that purports to accept the award is invalid.

If an initial award-acceptance submission by the recipient is invalid, once the unit of local government does submit the necessary certification regarding 8 U.S.C. 1373, it may submit a fully-executed award document executed by the unit of local government on or after the date of that certification.

For purposes of this condition, "local government" does not include any Indian tribes.



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53. Ongoing compliance with 8 U.S.C. 1373 is required

1. With respect to the "program or activity" funded in whole or part under this award (including any such "program or activity" of any subrecipient at any tier), throughout the period of performance for the award, no State or local government entity, -agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in 8 U.S.C. 1373(b). For purposes of this award, any prohibition (or restriction) that violates this condition is an "information-communication restriction."

2. Certifications from subrecipients. The recipient may not make a subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the subaward, using the appropriate form available at <https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm>. Similarly, the recipient must require that no subrecipient (at any tier) may make a further subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the further subaward, using the appropriate OJP form.

3. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

4. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State or local government or a "public" institution of higher education, incurs to implement this condition.

5. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.

(2) A "public" institution of higher education is one that is owned, controlled, or directly funded by a State or local government.

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means for purposes of 8 U.S.C. 1373 (Illegal Immigration Reform and Immigrant Responsibility Act of 1996); and terms that are defined in 8 U.S.C. 1101 (Immigration and Nationality Act) mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (cf. 42 U.S.C. 901(a)(2)).

(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 are to be read as references to particular components of the Department of Homeland Security (DHS).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any "public" institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.



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IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

54. Authority to obligate award funds contingent on compliance with 8 U.S.C. 1373; unallowable costs; obligation to notify

1. If the recipient is a State or local government--

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a either a State or unit of local government or a "public" institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the "program or activity" of the recipient (or of any subrecipient at any tier that is a either a State or unit of local government or a "public" institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any "information-communication restriction."

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and all subrecipients (regardless of tier) are in compliance with 8 U.S.C. 1373.

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded "program or activity" of the recipient, or of any subrecipient at any tier that is either a State or a local government or a "public" institution of higher education, may be subject to any "information-communication restriction." In addition, any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient such credible evidence regarding an "information-communication restriction."

2. Any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."

B. Both the "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.



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55. Required State-level rules or practices related to aliens; allowable costs

The following provisions apply to the recipient of this award, if the recipient is a State government, and also apply to any State-government subrecipient at any tier (whether or not the recipient is a State government).

1. Requirements

With respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award--

A. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that agents of the United States acting under color of federal law in fact are given to access any State (or State-contracted) correctional facility for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States.

B. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that, when a State (or State-contracted) correctional facility receives from DHS a formal written request authorized by the Immigration and Nationality Act that seeks advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and -- as early as practicable (see para. 4.B. of this condition) -- provide the requested notice to DHS.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs

Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) of-- (1) developing and putting into place statutes, rules, regulations, policies, and practices to satisfy this condition, and (2) permitting access as described in para. 1.A. above, and (3) honoring any request from DHS that is encompassed by para. 1.B. above.

4. Rules of construction

A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3)).

(2) the term "correctional facility" means what it means under the Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 42 U.S.C. 3791(a)(7)).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual would have been released in the absence of this condition.

Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). In the event that (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to permit the advance notice that DHS has requested, it shall not be a violation of this condition to provide only as much advance notice as practicable.



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SPECIAL CONDITIONS

NOTE: Current DHS practice is to use one form (DHS Form I-247A (3/17)) for two distinct purposes -- to request advance notice of scheduled release, and to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition imposes NO requirements as to such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.

56. Required local-government-level rules or practices related to aliens; allowable costs

The following provisions apply to the recipient of this award, if the recipient is a unit of local government, and also apply to any local-government subrecipient of this award at any tier (whether or not the recipient itself is a unit of local government).

1. Requirements

With respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award--

A. A local ordinance, -rule, -regulation, -policy, or -practice (or an applicable State statute, -rule, -regulation, -policy, or -practice) must be in place that is designed to ensure that agents of the United States acting under color of federal law in fact are given access a local-government (or local-government-contracted) correctional facility for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States.

B. A local ordinance, -rule, -regulation, -policy, or -practice (or an applicable State statute, -rule, -regulation, -policy, or -practice) must be in place that is designed to ensure that, when a local-government (or local-government-contracted) correctional facility receives from DHS a formal written request authorized by the Immigration and Nationality Act that seeks advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and -- as early as practicable (see "Rules of Construction" incorporated by para. 4.B. of this condition) -- provide the requested notice to DHS.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs

Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) of-- (1) developing and putting into place statutes, ordinances, rules, regulations, policies, and practices to satisfy this condition, (2) permitting access as described in para. 1.A. above, and (3) honoring any request from DHS that is encompassed by para. 1.B. above.

4. Rules of construction

A. The "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.

B. The "Rules of Construction" set out in the award condition entitled "Required State-level rules or practices related to aliens; allowable costs" are incorporated by reference as though set forth here in full.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 20 OF 21

PROJECT NUMBER 2017-DJ-BX-0336

AWARD DATE 06/26/2018

SPECIAL CONDITIONS

57. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

58. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at <https://www.bja.gov/Login.aspx> to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at <https://www.bja.gov/profile.aspx>. Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at <https://www.bja.gov/SuccessStoryList.aspx>.

59. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

60. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

61. Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not obligate, expend, or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET**
Grant

PAGE 21 OF 21

PROJECT NUMBER 2017-DJ-BX-0336

AWARD DATE 06/26/2018

SPECIAL CONDITIONS

62. Withholding of funds: Disclosure of pending applications

The recipient may not obligate, expend, or draw down any award funds until: (1) it has provided to the grant manager for this OJP award either an "applicant disclosure of pending applications" for federal funding or a specific affirmative statement that no such pending applications (whether direct or indirect) exist, in accordance with the detailed instructions in the program solicitation, (2) OJP has completed its review of the information provided and of any supplemental information it may request, (3) the recipient has made any adjustments to the award that OJP may require to prevent or eliminate any inappropriate duplication of funding (e.g., budget modification, project scope adjustment), (4) if appropriate adjustments to a discretionary award cannot be made, the recipient has agreed in writing to any necessary reduction of the award amount in any amount sufficient to prevent duplication (as determined by OJP), and (5) a Grant Adjustment Notice has been issued to remove this condition.

63. Withholding of funds: Memorandum of Understanding

The recipient may not obligate, expend, or draw down any award funds until OJP has reviewed and approved the Memorandum of Understanding (MOU), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Spokane

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**GRANT MANAGER'S MEMORANDUM, PT. I:
PROJECT SUMMARY**

Grant

PROJECT NUMBER

2017-DJ-BX-0336

PAGE 1 OF 1

This project is supported under FY17(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 42 U.S.C. 3711 - 3797ff-5), including subpart 1 of part E (codified at 42 U.S.C. 3750 - 3758); see also 28 U.S.C. 530C(a).

1. STAFF CONTACT (Name & telephone number)

Jeffrey S. Felten-Green
(202) 514-8874

2. PROJECT DIRECTOR (Name, address & telephone number)

Erika Wade
Accountant II
808 West Spokane Falls Boulevard
Spokane, WA 99201-3333
(509) 625-4061

3a. TITLE OF THE PROGRAM

BJA FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation

3b. POMS CODE (SEE INSTRUCTIONS
ON REVERSE)

4. TITLE OF PROJECT

Enhancement and Expansion of Law Enforcement and Prosecution Programs

5. NAME & ADDRESS OF GRANTEE

City of Spokane
808 West Spokane Falls Boulevard City Hall Fifth Floor
Spokane, WA 99201-3303

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2016 TO: 09/30/2020

8. BUDGET PERIOD

FROM: 10/01/2016 TO: 09/30/2020

9. AMOUNT OF AWARD

\$ 143,493

10. DATE OF AWARD

06/26/2018

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of criminal justice related activities based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; 7) crime victim and witness programs (other than compensation); and 8) mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.

This Local JAG award will be shared by the City and one or more jurisdictions identified as disparate within the current Fiscal Year eligibility list (www.bja.gov/Jag). JAG funding will be used to support criminal justice initiatives that fall under one or more of the allowable program areas above. Any

equipment purchases or funded initiatives such as overtime, task forces, drug programs, information sharing, etc. will be aimed at reducing crime and/or enhancing public/officer safety.

NCA/NCF



City of Spokane

Minor Contract Summary

OPR # OPR 2017-0624
Cross Ref. _____
Destruct Date 2027
Clerk's Dist. 08/04/17 SB

Incomplete submissions will be returned to the Department until all requirements are met.
(Summary to be printed on blue paper)

Department Name Spokane Police Department
Department Project # JAG 2017

New Contract ☒
CR # _____
Date: 08/29/2017

Contractor/Consultant

Name: Spokane County
Address: 1116 W. Broadway
City, State, Zip: Spokane, WA 99260

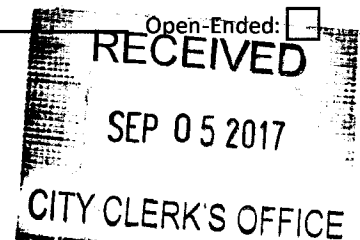
Remittance Address: _____
City, State, Zip: _____

Summary of Services

MOU with Spokane County to apply for the 2017 Edward Byrne Justice Assistance Grant, with a maximum amount of \$143,493.00.

Amount: _____ Budget Code: _____
Maximum Amount: _____
Beginning Date: 09/01/2017 Expiration Date: 09/30/2019

- ☐ Quotes (per Purchasing Policy to be kept on file in Dept.)
☐ Insurance Certificate (attach to the contract)
☐ City Business Registration (attach verification that a current business license number exists)
☐ If Public Works Contract, Contractor has been notified of State Law requirements.
☒ Grant Related (if the contract is grant related, the Grants Management Department must sign below)
☐ Vendor is already set up for ACH payments or the *Accounts Payable Vendor ACH Enrollment Form* has been submitted to Accounting. Do not attach ACH form to the contract documents.



Department Verification Statement: My signature below verifies that all documentation has been completed.

Requestor/Verifier/Contact: Erika Wade
Funds are available in the appropriate budget account

Accountant [Signature]
Signature

Department Head [Signature]
Signature

Other [Signature]
Signature

Grants Mgt. (if applicable) [Signature]
Signature

8/29/17
Date
8/29/17
Date

Date

Date

Distribution List

Contractor E-mail: _____

Dept. Contact E-mail: spdfinance@spokanecity.org, rwaters

Contract Accounting

Taxes and Licenses

Sally Stopher sstopher@spokanecity.org

MEMORANDUM OF UNDERSTANDING BETWEEN
SPOKANE COUNTY AND THE CITY OF SPOKANE

2017 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is between SPOKANE COUNTY ("COUNTY") a political subdivision of the State of Washington having offices for the transaction of business at 1116 West Broadway Avenue, Spokane, Washington 99260 and the CITY OF SPOKANE ("CITY") a municipal corporation of the State of Washington, having offices for the transaction of business at 808 West Spokane Falls Boulevard, Spokane, Washington 99201, jointly referred to as the PARTIES.

WITNESSETH:

WHEREAS, the PARTIES are making a joint application for the 2017 Edward Byrne Memorial Justice Grant (JAG) Program hereinafter referred to as the "Grant"; and

WHEREAS, the PARTIES are required in conjunction with the grant application process to sign a Memorandum of Understanding indicating who will serve as the applicant/fiscal agent for the grant as well as to allocate among themselves the grant funds and identify the purposes for which the funds will be used; and

WHEREAS, pursuant to the requirements of the Grant, the PARTIES are desirous of reducing to writing their understanding as to who will serve as the applicant/fiscal agent for the Grant as well as the distribution to each of the PARTIES and the purposes for which the funds will be used; and

WHEREAS, each of the PARTIES finds that the performance of this MEMORANDUM OF UNDERSTANDING is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this MOU.

NOW THEREFORE, the PARTIES agree as follows:

SECTION NO. 1: DESIGNATION OF APPLICANT/FISCAL AGENT

The PARTIES hereby agree that the COUNTY shall be the designated applicant/fiscal agent in conjunction with the Grant.

SECTION NO. 2: ALLOCATION OF GRANT MONIES

The PARTIES agree that the Grant amount of ONE HUNDRED FORTY-THREE THOUSAND FOUR HUNDRED AND NINETY-THREE DOLLARS (\$143,493) shall be split among the PARTIES as follows and in accordance with COUNTY Resolution No. 2011-0572:

City of Spokane	\$78,921 (including 10% administrative costs)
Spokane County	\$64,572

SECTION NO. 3: USE OF GRANT FUNDS BY THE PARTIES

The CITY agrees to use the \$78,921 for Joint Law Enforcement prosecution in the purchase of a 3D Scanner for mapping crime scenes digitally for prosecution and potentially exceeding best practices in court presentations.

The COUNTY agrees to use \$32,286. of the grant funding for the prosecution and court programs purpose areas of the grant. Funding will be used to fill a support staff position in the prosecution of property and drug crimes for an approximate 9 month time frame during the award period. The Spokane County Sheriff's Office will use \$32,286 of the grant funding for the law enforcement purpose area of the grant. The purchase of equipment will be used to ensure the safety of the Spokane Community.

SECTION NO. 4: LIABILITY FOR CLAIMS

Each PARTY to this MOU shall be responsible for its own actions in providing services under this MOU and shall not be liable for any civil liability that may arise from the furnishing of the services by any other party.

SECTION NO. 5: THIRD PARTY RIGHTS

The PARTIES to this MOU do not intend for any third party to obtain a right by virtue of this MOU. This Memorandum shall not create any rights in any PARTY not a signatory hereto.

SECTION NO. 6: ENTIRE UNDERSTANDING

This MOU contains the entire understanding of the PARTIES. No representations, promises, or agreements not expressed herein have been made to induce any party to sign this MOU.

SECTION NO. 7: AGREEMENT

Upon award of the Grant, the PARTIES shall enter into an Agreement setting forth the final terms and conditions of the Grant allocation and management.

Dated: 8/29/17

CITY OF SPOKANE

By: Cy K Meid Craig Meid
Title: Chief of Police

Attest:

City Clerk

Approved as to form:

Pat Dalton
Assistant City Attorney

ADOPTED by the Board of County Commissioners of Spokane County, Washington this
22nd day of August, 2017.



BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

Al French
Al French, Chair

ATTEST:

Josh Kerns
Josh Kerns, Vice-Chair

Ginna Vasquez
Ginna Vasquez
Clerk of the Board

17-0727

Dated: 8/23/17

VACANT

Vacant, Commissioner

SPOKANE COUNTY SHERIFF

By: Spokane Sheriff
Spokane County Sheriff

Dated: 8/23/17

SPOKANE COUNTY PROSECUTOR

By: L-H Haskell
Spokane County Prosecutor



Attest:

Spokane City Clerk
Spokane City Clerk

**Briefing Paper
City of Spokane
Spokane Police Department
Justice Assistance Grant (JAG) Program FY2017
Public Safety – August 21, 2017**

Subject

JAG 2017-MOU with County to apply for funding.

Background

The Spokane Police Department in collaboration with the Spokane County Sheriff's Office wishes to submit a request for funding for a joint proposal under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. An award will be requested for \$143,493.00 which will be split as follows: City - \$78,921.15 and County - \$64,571.85.

The CITY would like to use the \$78,921.15 for Joint Law Enforcement prosecution in the purchase of a 3D Scanner for mapping crime scenes digitally for prosecution and potentially exceeding best practices in court presentations.

The COUNTY will use \$32,286 of the grant funding for the prosecution and court programs purpose areas of the grant. Funding will be used to fill a support staff position in the prosecution of property and drug crimes for an approximate 9 month time frame during the award period. The Spokane County Sheriff's Office will use \$32,286 of the grant funding for the law enforcement purpose area of the grant. The purchase of equipment will be used to ensure the safety of the Spokane community.

Impact

The purchases will help with prosecution collaboration and law enforcement enhancement.

Action

Authorization to apply for JAG FY 2017 Funds

Funding

Department of Justice grant funds.

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

07/16/2018

<u>Date Rec'd</u>	7/2/2018
<u>Clerk's File #</u>	OPR 2016-0743
<u>Renews #</u>	

Submitting Dept	CITY COUNCIL	Cross Ref #	
Contact Name/Phone	CANDACE 6269	Project #	
Contact E-Mail	AMCDANIEL@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR19485,
Agenda Item Name	0320 RENEWAL CONTRACTS FOR WASHINGTON STATE LEGISLATIVE LOBBYING		

Agenda Wording

Renewal contracts for Washington State Legislative Lobbying Services with Luke Esser and Nick Federici

Summary (Background)

Renewal contracts for Washington State Legislative Lobbying Services with Luke Esser and Nick Federici. The total value of both contract renewals is no more than \$120,000 over two years.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	

Expense	\$ 120,000	# 0320-36100-11600-54101-99999
Select	\$	#
Select	\$	#
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MCCLATCHEY, BRIAN	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	DOVAL, MATTHEW	Distribution List	
<u>Legal</u>	PICCOLO, MIKE	drobole@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA		

Additional Approvals

<u>Purchasing</u>		



City of Spokane

CONTRACT AMENDMENT / RENEWAL

Title: LUKE ESSER, LOBBYIST, FOR LEGISLATION AND
LOBBYING SERVICES WITH THE STATE OF
WASHINGTON FOR THE CITY OF SPOKANE

This Contract Amendment / Renewal is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and **Luke E. Esser**, Lobbyist, whose address is 404 158th Place, S.E., Bellevue, Washington, 98008, as ("Lobbyist").

WHEREAS, the parties entered into a Contract (OPR 2016-0743) wherein the "Lobbyist" agreed to provide the City of Spokane with legislative and lobbying services with the State of Washington on behalf of the City of Spokane; and,

WHEREAS, that agreement provided for a two year renewal option; and,

WHEREAS, the Spokane City Council now desires to extend the time to receive this lobbyist's work under that renewal option;

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

1. CONTRACT DOCUMENTS.

The Contract, dated November 18, 2016, and amended December 6, 2016, and May 8, 2017, thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. EFFECTIVE DATES.

This Contract Amendment / Extension shall become effective on July 1, 2018 and end on June 30, 2020.

3. ADDITIONAL WORK.

The Scope of Work in the original Contract is expanded to include the following additional Work:

Lobbying services for the City of Spokane to the State of Washington from July 1, 2018 to June 30, 2020.

4. COMPENSATION.

The City shall pay an additional amount not to exceed **SIXTY THOUSAND DOLLARS (\$60,000), (payable at the amount of \$2,500 per month as invoiced)**, for everything furnished and done under this Contract Amendment / Extension. This is the maximum amount to be paid under this Amendment / Extension, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality

as the original Contract and this document. Invoices from the Lobbyist must be submitted by the tenth (10th) day of each month following performance of work for that period.

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

LUKE ESSER

By _____
Signature Date

Luke Esser
Type or Print Name

Title

601-906-253 W/City of Spokane Endorsement

Attest:

City Clerk

CITY OF SPOKANE

By _____
Signature Date

Ben Strickart
Type or Print Name

Council President
Title

Approved as to form:

[Signature]
Assistant City Attorney

Attachments that are part of this Agreement:
OPR 2016-0743

2018-1100-211

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

07/16/2018

<u>Date Rec'd</u>	7/2/2018
<u>Clerk's File #</u>	OPR 2016-1040
<u>Renews #</u>	

Submitting Dept	CITY COUNCIL	Cross Ref #	
Contact Name/Phone	CANDACE 6269	Project #	
Contact E-Mail	AMCDANIEL@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR19485,
Agenda Item Name	0320 RENEWAL CONTRACTS FOR WASHINGTON STATE LEGISLATIVE LOBBYING		

Agenda Wording

Renewal contract for Washington State Legislative Lobbying Services with Luke Esser and Nick Federici

Summary (Background)

Renewal contracts for Washington State Legislative Lobbying Services with Luke Esser and Nick Federici. The total value of both contract renewals is no more than \$120,000 over two years.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	

Expense	\$ 120,000	# 0320-36100-11600-54101-99999
Select	\$	#
Select	\$	#
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MCCLATCHEY, BRIAN	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	DOVAL, MATTHEW	Distribution List	
<u>Legal</u>	PICCOLO, MIKE	drobole@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA		

Additional Approvals

<u>Purchasing</u>		



City of Spokane

CONTRACT AMENDMENT / RENEWAL

Title: NICK FEDERICI, LOBBYIST, FOR LEGISLATION &
LOBBYING SERVICES WITH THE STATE OF
WASHINGTON FOR THE CITY OF SPOKANE

This Contract Amendment / Renewal is made and entered into by and between the **City of Spokane** as ("City"), a Washington municipal corporation, and Nick Federici, Lobbyist, whose address is 2714 North Alder Street, Tacoma, Washington, 98407, as ("Lobbyist").

WHEREAS, the parties entered into a Contract (OPR 2016-1040) wherein the "Lobbyist" agreed to provide the City of Spokane with legislative and lobbying services with the State of Washington on behalf of the City of Spokane; and,

WHEREAS, that agreement provided for a two year renewal option; and,

WHEREAS, the Spokane City Council now desires to extend the time to receive this lobbyist's work under that renewal option;

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

1. CONTRACT DOCUMENTS.

The Contract, dated December 29, 2016 and any amendments or renewals thereto, are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.

2. EFFECTIVE DATES.

This Contract Renewal shall become effective on July 1, 2018 and end on June 30, 2020.

3. ADDITIONAL WORK.

The Scope of Work in the original Contract is expanded to include the following additional Work:

Lobbying services for the City of Spokane to the State of Washington from July 1, 2018 to June 30, 2020.

4. COMPENSATION.

The City shall pay an additional amount not to exceed **SIXTY THOUSAND DOLLARS (\$60,000), (payable at the amount of \$2,500 per month as invoiced)**, for everything furnished and done under this Contract Amendment / Extension. This is the maximum amount to be paid under this Amendment / Extension, and shall not be exceeded without the prior written authorization of the City, memorialized with the same formality

as the original Contract and this document. Invoices from the Lobbyist must be submitted by the tenth (10th) day of each month following performance of work for that period.

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

NICK FEDERICI

By _____
Signature Date

Nick Fedrici
Type or Print Name

Title

604-173-692 With a City of Spokane
WA, UBI No. Business License

Attest:

City Clerk

CITY OF SPOKANE

By Ben Stuckant 6/29/18
Signature Date

Ben Stuckant
Type or Print Name

Council President
Title

Approved as to form:

[Signature]
Assistant City Attorney

Attachments that are part of this Agreement:
OPR 2016-1040

2018-1100-212

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

07/16/2018

<u>Date Rec'd</u>	7/3/2018
<u>Clerk's File #</u>	PRO 2017-0013
<u>Renews #</u>	

Submitting Dept	ENGINEERING SERVICES	Cross Ref #	
Contact Name/Phone	KYLE TWOHIG 625-6152	Project #	2013214
Contact E-Mail	KTWOHIG@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	CR 19480
Agenda Item Name	0370 ADMIN RESERVE INCREASE - CLEARWATER CONSTRUCTION		

Agenda Wording

Authorization to increase the administrative reserve on the contract with Clearwater Construction Management, for I-03 Control Facility (TJ Meenach CSO) - for an increase of \$260,000.00 plus tax for a total administrative reserve of \$1,059,483.10

Summary (Background)

Engineering Project #2013214 I-03 Control Facility, in an ongoing CSO tank project in the Emerson/Garfield neighborhood. During excavation of the tank, an old dump site was found. This material extended up to 16 feet below the tank foundation and was unsuitable to support the weight of the tank. The removal and replacement of this material led to cost overruns for extra excavation, borrow, removal and replacement of unsuitable material, shoring, temporary concrete barriers, asphalt,

<u>Fiscal Impact</u>	Grant related? YES	<u>Budget Account</u>
	Public Works? YES	

Expense	\$ 282,880.00	# 4250 98817 94000 56501 09148
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Select	\$	#
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Select	\$	#
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Select	\$	#
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Approvals	Council Notifications
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<u>Dept Head</u>	TWOHIG, KYLE	<u>Study Session</u>	
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<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	UE - 7-2-18
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<u>Finance</u>	HUGHES, MICHELLE	Distribution List
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<u>Legal</u>	ODLE, MARI	eraea@spokanecity.org
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<u>For the Mayor</u>	SANDERS, THERESA	publicworksaccounting@spokanecity.org
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Additional Approvals	mdoval@spokanecity.org
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<u>Purchasing</u>	htrautman@spokanecity.org
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<u>GRANTS &</u>	STOPHER, SALLY	kgoodman@spokanecity.org
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Briefing Paper

Urban Experience Committee

Division & Department:	Engineering Services
Subject:	I-03 Control Facility Administrative Reserve Increase
Date:	7/2/18
Contact (email & phone):	Joel Graff, jgraff@spokanecity.org, x7757
City Council Sponsor:	CM Beggs
Executive Sponsor:	Scott Simmons
Committee(s) Impacted:	Urban Experience
Type of Agenda item:	<input type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	This project is in the 6 year sewer plan
Strategic Initiative:	Innovative Infrastructure
Deadline:	
Outcome: (deliverables, delivery duties, milestones to meet)	For council consideration. Request will be forwarded to the council agenda for approval.
<p><u>Background/History:</u> <i>Engineering Project #2013214 – I-03 Control Facility</i>, in an ongoing CSO tank project in the Emerson/Garfield neighborhood. During excavation of the tank, an old dump site was found. This material extended up to 16 feet below the tank foundation and was unsuitable to support the weight of the tank. The removal and replacement of this material led to cost overruns for extra excavation, borrow, removal and replacement of unsuitable material, shoring, temporary concrete barriers, asphalt, and curb totaling approximately \$405,000.00.</p> <p>This extra work affected the critical path of the tank construction and pushed much of that work into the winter months which required the use of ground thaw units and cold weather protection to cure the concrete which the contractor could not have anticipated. The cost of this addition work is approximately \$150,000.00.</p> <p>These issues have used a large portion of the Administrative Reserve. Engineering Services is requesting an additional \$260,000 to complete the project.</p>	
<p><u>Executive Summary:</u></p> <ul style="list-style-type: none"> • <i>Removal and Replacement of unsuitable foundation material will result in an estimated cost of \$405,000.</i> • <i>Ground thaw units and cold weather protection will result in an estimated cost of \$150,000.</i> • <i>Payments have been issued to date for 7,928,696.72. The authorized budget with administrative reserve is \$8,794,314.14</i> • <i>An additional \$260,000 is being requested to complete the project.</i> 	
<p><u>Budget Impact:</u></p> <p>Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>If new, specify funding source:</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<u>Operations Impact:</u>	

Consistent with current operations/policy?

☐

Yes

☐

No

☐

N/A

Requires change in current operations/policy?

☐

Yes

☐

No

☐

N/A

Specify changes required:

Known challenges/barriers:

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

07/16/2018

Date Rec'd

6/27/2018

Clerk's File #

ORD C35643

Renews #Submitting Dept

CITY COUNCIL

Cross Ref #Contact Name/Phone

CANDACE MUMM 625-6256

Project #Contact E-Mail

CMUMM@SPOKANECITY.ORG

Bid #Agenda Item Type

Special Budget Ordinance

Requisition #Agenda Item Name

0320 - MAKING THE 2018 TRANSFER TO THE REVENUE STABILIZATION ACCOUNT

Agenda Wording

An ordinance amending the 2018 annual budget to accomplish the transfer of unappropriated reserves into the revenue stabilization account.

Summary (Background)

This SBO transfers \$2.5 million from unappropriated reserves into the revenue stabilization account. Future transfers in 2019 and 2020 are expected to increase the revenue stabilization account balance to just over \$25 million, as required by SMC 07.08.010(F)(1).

Fiscal Impact

Grant related? NO

Budget Account

Public Works? NO

Expense \$ 2,500,000

0100-99999-99999-28860-99999

Revenue \$ 2,500,000

0100-99999-99999-28660-20103

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

MCCLATCHEY, BRIAN

Study Session

PIES Committee, 5/21/18

Division DirectorOtherFinance

HUGHES, MICHELLE

Distribution ListLegal

PICCOLO, MIKE

For the Mayor

SANDERS, THERESA

Additional ApprovalsPurchasingCITY COUNCIL

MCCLATCHEY, BRIAN

ORDINANCE NO C35643

An ordinance amending Ordinance No. C-35565, passed by the City Council December 11, 2017, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2018, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2018, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2018 budget Ordinance No. C-35565, as above entitled, and which passed the City Council December 11, 2017, it is necessary to make changes in the appropriations of the General Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

NOW, THEREFORE, the City of Spokane does ordain:

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

FROM:	0100-99999-99999	General Fund	
	28860-99999	Unappropriated Reserves	<u>\$ 2,500,000</u>
TO:	0100-99999-99999	General Fund	
	28660-20103	Revenue Stabilization	<u>\$ 2,500,000</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the **need to increase the amount held in the General Fund's revenue stabilization budget toward full funding**; and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage..

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date

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

07/16/2018

<u>Date Rec'd</u>	6/27/2018
<u>Clerk's File #</u>	ORD C35644
<u>Renews #</u>	

<u>Submitting Dept</u>	STREETS	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	GARY X8810	<u>Project #</u>	
<u>Contact E-Mail</u>	GKAESEMEYER@SPOKANECITY.ORG	<u>Bid #</u>	
<u>Agenda Item Type</u>	Special Budget Ordinance	<u>Requisition #</u>	BT
<u>Agenda Item Name</u>	1100 - SBO FOR STREET LIGHTING UPGRADE		

Agenda Wording

Amending Ordinance No. C-35565 and appropriating funds in the Street Fund, From Unappropriated Reserves, \$225,000; TO: Repair/Maintenance Supplies, same amount. Amendment also includes anticipated revenue of \$100,000 from Avista Rebates.

Summary (Background)

This ordinance is for the purchase of 857 light emitting diode (LED) fixtures. These fixtures will replace existing high pressure sodium (HPS) cobra heads on City owned lighting. LED fixtures typically represent a 25% or greater energy savings. Most City-owned HPS cobra heads can be found at signalized intersections and on bridges. The anticipated energy savings will recover the cost for these fixtures in approximately four years. An Avista rebate is anticipated to further reduce costs.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	

Revenue	\$ 125,000	# 1100-99999-99999-Unappropriated reserves
Revenue	\$ 100,000	# 1100-21500-99999-36999-99999
Expense	\$ 225,000	# 1100-21500-42630-53210-99999
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	KAESEMEYER, GARY	<u>Study Session</u>	PIES 6/25/18
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	
<u>Finance</u>	HUGHES, MICHELLE	<u>Distribution List</u>	
<u>Legal</u>	SCHOEDEL, ELIZABETH	gkaesemeyer	
<u>For the Mayor</u>	SANDERS, THERESA	vmelvin	
<u>Additional Approvals</u>		nzollinger	
<u>Purchasing</u>			
<u>CITY COUNCIL</u>	MCCLATCHEY, BRIAN		

ORDINANCE NO C35644

An ordinance amending Ordinance No. C-35565, passed by the City Council December 11, 2017, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2018, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2018, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2018 budget Ordinance No. C-35565, as above entitled, and which passed the City Council December 11, 2017, it is necessary to make changes in the appropriations of the Street Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

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

FROM:	1100-21500	Street Fund	
	99999-36999	Other Misc Revenue	\$ 100,000
	99999-	Unappropriated Reserves	\$ 125,000
TO:	1100-21500	Street Fund	
	42630-53210	Repair and Maintenance Supplies	<u>\$225,000</u>

Section 2. It is, therefore, by the City Council declared that an urgency exists for making the changes set forth herein, such urgency from the need to budget for the upgrading of Street Lights and the subsequent savings that will be immediately appreciated because of such need, an urgency for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage..

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date

Briefing Paper

Public Infrastructure, Environment and Sustainability Committee

Division & Department:	Public Works / Street Department
Subject:	Street Lighting Upgrade
Date:	June 25 th , 2018
Author (email & phone):	Gary Kaesemeyer (gkaesemeyer@spokanecity.org 232-8810)
City Council Sponsor:	Breean Beggs
Executive Sponsor:	Scott Simmons
Committee(s) Impacted:	PIES
Type of Agenda item:	<input type="checkbox"/> Consent <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Strategic Plan
Strategic Initiative:	Innovative Infrastructure and Sustainability
Deadline:	
Outcome: (deliverables, delivery duties, milestones to meet)	This project will require a Special Budget Ordinance in the amount of \$225,000.00 from Street Department Reserves
Background/History: This project will use new technology to improve the performance of City owned street luminaires. We will upgrade 857 HPS Cobra Head luminaires to LED Luminaires. This will result in significant power savings and also deliver a brighter white light for our roadways and bridges.	
Executive Summary: <ul style="list-style-type: none"> Estimated cost per fixture \$240.84 Total cost \$224,563 (incl. tax) Cost recovered in 3.75 years based on a 2% inflation rate Typical 10 year warranty Incentives not quantifiable at this time, but should be in the range of \$100,000.00 Avista rebate for Design Light Consortium QPL product Average Annual Savings is \$57K which equates to about a 25% annual reduction in power use 	
Budget Impact: Approved in current year budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impact: Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Specify changes required: use budget from Street Department reserves Known challenges/barriers:	

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

07/16/2018

<u>Date Rec'd</u>	6/5/2018
<u>Clerk's File #</u>	ORD C35645
<u>Renews #</u>	

Submitting Dept	PARKS & RECREATION	Cross Ref #	
Contact Name/Phone	JONATHAN 625-6243	Project #	
Contact E-Mail	JMOOG@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Special Budget Ordinance	Requisition #	
Agenda Item Name	1400 SBO - SPECIAL EVENTS MARKETING ASSISTANT		

Agenda Wording

This budget ordinance requests appropriations be made to the Parks and Recreation Fund. This position was budgeted but not allocated to fund an FTE while Civil Service determined the appropriate classification.

Summary (Background)

Riverfront Park has a need for a Marketing Assistant position to perform the work necessary to promote, advertise, and communicate events, attractions and sponsorship recognition. Civil Service recently classified these to duties to be consistent with the Marketing Assistant classification. Funding for this position was adopted by the Park Board and City Council in the 2018 Parks and Recreation 2018 Budget. This SBO provides the FTE position with the proper Civil Service classification.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	

Expense	\$ 21,102.00	# 1400-54300-73900-59954-99999
Revenue	\$ 21,102.00	# 1400-54300-73900-00080-99999
Select	\$	#
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	PILGRIM, NATHAN	<u>Study Session</u>	
<u>Division Director</u>	EADIE, LEROY	<u>Other</u>	Council Finance - 06-18-
<u>Finance</u>	BUENING, MARK	Distribution List	
<u>Legal</u>	DALTON, PAT	parksaccounting@pokaneccity.org	
<u>For the Mayor</u>	SANDERS, THERESA	pclarke@spokanecity.org	

Additional Approvals

<u>Purchasing</u>		
<u>CITY COUNCIL</u>	MCCLATCHEY, BRIAN	

ORDINANCE NO C35645

An ordinance amending Ordinance No. C-35565, passed the City Council December 11, 2017, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2018, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2018, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2018 budget Ordinance No. C-35565, as above entitled, and which passed the City Council December 11, 2017, it is necessary to make changes in the appropriations of the Park and Recreation Fund which changes could not have been anticipated or known at the time of making such budget ordinance; and

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

The City of Spokane does ordain:

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

FROM:	1400-54300	Park and Recreation Fund	
	73900-59954	Special Events – Reserve for	
		Total Cost Compensation	<u>\$21,102</u>
TO:	1400-54300	Park and Recreation Fund	
	73900-00080	Special Events – Marketing	
		Assistant	<u>\$21,102</u>
		(from 0 to 1 position)	

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

Passed the City Council _____

Council President

Attest: _____
City Clerk

Approved as to form: _____
Assistant City Attorney

Mayor

Date

Effective Date

Briefing Paper

Finance & Administration Committee

Division & Department:	Parks and Recreation Division\Riverfront Park Department
Subject:	SBO - Special Events Marketing Assistant
Date:	Monday, June 18, 2018
Author (email & phone):	Jonathan Moog; jmoog@spokanecity.org ; 625-6243
City Council Sponsor:	
Executive Sponsor:	
Committee(s) Impacted:	Finance and Administration
Type of Agenda item:	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
Strategic Initiative:	
Deadline:	
Outcome: (deliverables, delivery duties, milestones to meet)	
Background/History: Riverfront Park has a need for a Marketing Assistant position to perform the work necessary to promote, advertise, and communicate events, attractions and sponsorship recognition. Civil Service recently classified these to duties to be consistent with the Marketing Assistant classification. Funding for this position was adopted by the Park Board and City Council in the 2018 Parks and Recreation 2018 Budget. This SBO provides the FTE position with the proper Civil Service classification.	
Executive Summary: 	
Budget Impact: Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Annual/Reoccurring expenditure? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If new, specify funding source: Other budget impacts: (revenue generating, match requirements, etc.)	
Operations Impact: Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Specify changes required: Known challenges/barriers:	

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

07/16/2018

Date Rec'd

6/27/2018

Clerk's File #

RES 2018-0061

Renews #Cross Ref #Submitting Dept

CITY COUNCIL

Contact Name/Phone

LORI KINNEAR 625-6261

Project #Contact E-Mail

LKINNEAR@SPOKANECITY.ORG

Bid #Agenda Item Type

Resolutions

Requisition #Agenda Item Name0320 - RESOLUTION AMENDING THE COMPREHENSIVE PLAN AMENDMENT
DOCKETAgenda Wording

A Resolution amending the Comprehensive Plan Amendment Annual Work Program to add a proposed amendment to the proposed arterial street projects map contained in the transportation chapter of the Comprehensive Plan.

Summary (Background)

This resolution proposes to amend the comprehensive plan by amending the arterial streets project map (TR 12) to remove a proposed collector arterial extending from Crestline Street to Southeast Boulevard.

Fiscal Impact

Grant related? NO

Budget Account

Public Works? NO

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

ApprovalsCouncil NotificationsDept Head

MCCLATCHEY, BRIAN

Study Session

PIES Comm, 6/25/18

Division DirectorOtherFinance

HUGHES, MICHELLE

Distribution ListLegal

PICCOLO, MIKE

For the Mayor

SANDERS, THERESA

Additional ApprovalsPurchasingCITY COUNCIL

MCCLATCHEY, BRIAN

RESOLUTION NO. 2018-0061

A Resolution amending the Comprehensive Plan Amendment Annual Work Program to add a proposed amendment to the proposed arterial street projects map contained in the transportation chapter of the Comprehensive Plan.

WHEREAS, the City Council adopted Resolution No. 2018-0021 (March 26, 2018), which set the docket for comprehensive plan amendments during the 2017-2018 amendment cycle; and

WHEREAS, section 17G.020.025(B)(1)(a) of the Spokane Municipal Code provides that “[p]roposals to amend the Comprehensive Plan may be made by the City Council at any time. An affirmative vote of not less than a majority of the total members of the City Council is required to initiate consideration of an amendment.”; and

WHEREAS, in the 2017 update of the City’s Comprehensive Plan, Map TR 12 was amended to reflect a proposed Crestline minor collector arterial connection between 37th Avenue and Southeast Boulevard at 31st Avenue; and

WHEREAS, the City Council wishes to amend the Comprehensive Plan Amendment Annual Work Program for 2018 to include a proposed amendment that, if approved, would remove the proposed Crestline minor arterial connection from Map TR 12.

NOW, THEREFORE, BE IT RESOLVED that the Comprehensive Plan Amendment Annual Work Program, as set forth in Resolution No. 2018-0021, is hereby amended to add the following proposed comprehensive plan amendment:

Amendment of the Proposed Arterial Network Map (Map TR 12) in chapter 4 of the Comprehensive Plan (Transportation) to remove the proposed new urban major collector arterial on Crestline Street between 37th Avenue and Southeast Boulevard at 31st Avenue.

BE IT ALSO RESOLVED That the City Council has determined that this situation necessitates an emergency comprehensive plan amendment due to a community need to ensure adequate, appropriate, and available public facilities.

BE IT FURTHER RESOLVED that the Council requests that planning staff process this proposal as an emergency proposed amendment under SMC 17F.020.040(F) and prepare the amendment for City Council consideration on a faster timeline than the other items currently on the amendment docket.

Passed by the City Council this ____ day of _____, 2018.

City Clerk

Approved as to form:

Assistant City Attorney

From: Carol Tomsic [mailto:carol_tomsic@yahoo.com]

Sent: Thursday, July 05, 2018 6:49 PM

To: Beggs, Breean; Kinnear, Lori

Cc: Stuckart, Ben; Burke, Kate M.; Fagan, Mike; Mumm, Candace; Stratton, Karen; Pfister, Terri

Subject: Re: July 9 City Council Meeting

REF: amendment to the City Comprehensive Plan to reverse the Crestline designation as an arterial through Southeast Blvd.

I would like the City Council to add the amendment that reverses the 2017 Comprehensive Plan change that designated Crestline as an arterial to Southeast Blvd to the docket with the other requested amendments.

The proposed Garden District PUD does not extend Crestline to Southeast Blvd.

The Garden District PUD is focused on providing open space and a safe pedestrian and bicycle connectivity as a priority over traffic.

The existing homes on Crestline have an already established connectivity to the Lincoln Heights business district.

The Lincoln Heights Neighborhood District Plan supports a pedestrian friendly and walkable, economically vibrant neighborhood. An arterial through our business district will divide the district center and is contrary to the District Plan and the Garden District PUD.

I live, work and walk in the neighborhood. I want it to be a safe, walkable neighborhood with open space.

Thank you

Carol Tomsic
resident

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

07/16/2018

<u>Date Rec'd</u>	6/29/2018
<u>Clerk's File #</u>	RES 2018-0062
<u>Renews #</u>	

<u>Submitting Dept</u>	WASTEWATER MANAGEMENT	<u>Cross Ref #</u>	
<u>Contact Name/Phone</u>	RAYLENE 625-7909	<u>Project #</u>	
<u>Contact E-Mail</u>	RGENNETT@SPOKANECITY.ORG	<u>Bid #</u>	SOLE SOURCE
<u>Agenda Item Type</u>	Resolutions	<u>Requisition #</u>	RE18993/CR19478
<u>Agenda Item Name</u>	4310 - SOLE SOURCE RESOLUTION FOR SUBSITE VIDEO PIPELINE INSPECTION		

Agenda Wording

A resolution declaring Western Systems & Fabrication (Spokane Valley, WA) the sole source for Subsite Electronics Video Pipeline Inspection Systems and authorization for immediate purchase of replacement equipment valued at \$42,450.25 as well as

Summary (Background)

The Wastewater Maintenance department has been using this equipment (previously from RS Technical) for roughly 30 years. Purchases and repair services have historically been handled by departmental sole source, but rising costs have pushed the annual spend over Council threshold. Wastewater Maintenance is seeking approval to purchase known replacements and to establish a five (5) year sole source resolution for as-needed purchases of new equipment and parts, along with repair services.

<u>Fiscal Impact</u>	Grant related? NO	<u>Budget Account</u>
	Public Works? NO	

Expense	\$ 42,450.25	# 4310-43115-94000-56401-99999
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Expense	\$ 75,000.00	# 4310-43115-35148-54803-99999
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Select	\$	#
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Select	\$	#
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<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	KEGLEY, DANIEL	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	UEC 7/9/2018
<u>Finance</u>	ALBIN-MOORE, ANGELA	<u>Distribution List</u>	
<u>Legal</u>	ODLE, MARI	mhughes@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	Tax & Licenses	
<u>Additional Approvals</u>		sjohnson@spokanecity.org	
<u>Purchasing</u>	PRINCE, THEA	rgennett@spokanecity.org	
<u>CITY COUNCIL</u>	MCCLATCHEY, BRIAN	mlund@spokanecity.org	

Briefing Paper

Urban Experience Committee

Division & Department:	Public Works, 4310 – Wastewater Maintenance
Subject:	Subsite Video Pipeline Inspection Systems
Date:	9 July 2018
Author (email & phone):	Raylene Gennett, rgennett@spokanecity.org x7909
City Council Sponsor:	---
Executive Sponsor:	---
Committee(s) Impacted:	---
Type of Agenda item:	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	Funding for this purchase has been budgeted in Wastewater Maintenance department funds.
Strategic Initiative:	Innovative Infrastructure
Deadline:	The purchase of replacement equipment is needed to support efficient service of the City of Spokane Wastewater Maintenance system.
Outcome: (deliverables, delivery duties, milestones to meet)	This action supports procurement of known product replacement for 2018 and establishes an efficient method of future procurement by establishing a five (5) year sole source for this vital equipment.
Background/History: The Wastewater Maintenance department has been using this equipment (previously from RS Technical) for roughly 30 years. The purchase of minor replacement parts and payment for necessary repair services has historically been handled by departmental sole source, but the rising cost of replacement equipment has pushed the annual spend over Council threshold. At this time, Wastewater Maintenance is seeking approval to purchase equipment for known 2018 replacements and approval to establish a five (5) year sole source resolution for purchases of new equipment and parts, along with repair services.	
Executive Summary: <ul style="list-style-type: none"> • Award Recommended to Western Systems & Fabrication (Spokane Valley, WA) for: <ul style="list-style-type: none"> ○ \$42,450.25 (including tax) for 2018 Replacement Equipment ○ \$45,000.00 (including tax) Annually for As-Needed Replacement Parts on Value Blanket Order ○ \$30,000.00 (including tax) Annually for Contracted Equipment Repair • Five (5) Year Sole Source Resolution to support future orders of equipment, parts, and repair services 	
Budget Impact: Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Annual/Reoccurring expenditure? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If new, specify funding source: --- Other budget impacts: N/A	
Operations Impact: Consistent with current operations/policy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Requires change in current operations/policy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Specify changes required: N/A Known challenges/barriers: N/A	

RESOLUTION 2018-0062

A SOLE SOURCE RESOLUTION declaring Western Systems & Fabrication a sole source provider and authorizing the purchase of new equipment and replacement parts, as well as repair services from Subsite Electronics over a five (5) year period without public bidding.

WHEREAS, the City of Spokane's Wastewater Maintenance Department is in need of video pipeline inspection systems and has used this equipment for 30 years to inspect pipe conditions; this sole source supports the purchase of proprietary equipment and replacement parts, along with the maintenance and repair; and

WHEREAS, Subsite Electronics has provided a June 3, 2018 letter delineating the only authorized supplier and service provider of Subsite Electronics products and parts in the State of Washington as Western Systems & Fabrication, which is located at 911 Thierman Road, Spokane Valley, WA 99212; and

WHEREAS, Western Systems & Fabrication is therefore the only source for service and replacement Subsite Electronics video pipeline inspection systems; and

WHEREAS, failure to approve future purchases would drastically reduce the efficiency of maintenance/replacement efforts, which would influence the department's ability to execute their duties in service to the public; and

WHEREAS, if this sole source resolution is not approved and existing equipment cannot be repaired the cost to the City to procure new equipment would be unduly burdensome; and

WHEREAS, the anticipated cost of equipment, replacement parts, and repair services exceeds the 2018 public bid limit of \$50,000 for the purchase of goods and services;

-- Now, Therefore,

BE IT RESOLVED by the City Council for the City of Spokane that it hereby declares Subsite Electronics for the Wastewater Maintenance Department a sole source purchase; and

BE IT FURTHER RESOLVED that the City Council authorizes the purchase of Subsite Electronics from Western Systems & Fabrication over a five (5) year period without public bidding.

ADOPTED BY THE CITY COUNCIL ON _____

City Clerk

Approved as to form:

Assistant City Attorney

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

07/16/2018

Date Rec'd	6/27/2018
Clerk's File #	RES 2018-0063
Renews #	

Submitting Dept	PUBLIC WORKS	Cross Ref #	
Contact Name/Phone	BEN 625-6584	Project #	
Contact E-Mail	SMSIMMONS@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Resolutions	Requisition #	SBO
Agenda Item Name	5200 - RESOLUTION APPROVING DEVELOPER AGREEMENT HWY 2 AND DEER		

Agenda Wording

Resolution approving Developer Agreement relating to development of land adjacent to State Hwy 2 and East of Hayford Road and dedication of public right-of-way and public improvements.

Summary (Background)

This agreement will reimburse for a portion of public right-of-way improvements on HWY 2, between Deer Heights Rd and Flint Rd. The developer has made an application to the City to develop the property for commercial purposes. The issuance of a Conditional Use Permit by the City and a Traffic Impact Analysis (File No. Z17-257CUP3) to permit commercial development, the Developer has agreed to dedicate land for public right-of-way and construct public improvements in conjunction with the project.

<u>Fiscal Impact</u>	Grant related?	NO	<u>Budget Account</u>
	Public Works?	YES	

Expense	\$ 1,500,000	# 3200-49854-95300-56501
Select	\$	#
Select	\$	#
Select	\$	#

<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	SIMMONS, SCOTT M.	<u>Study Session</u>	
<u>Division Director</u>	SIMMONS, SCOTT M.	<u>Other</u>	Urban Exp. 7/9/18
<u>Finance</u>	ALBIN-MOORE, ANGELA	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE	jrichman@spokanecity.org	
<u>For the Mayor</u>	SANDERS, THERESA	smsimmons@spokanecity.org	
<u>Additional Approvals</u>		sms@witherspoonkelley.com	
<u>Purchasing</u>		dkuney@maxkuney.com	
<u>CITY COUNCIL</u>	MCCLATCHEY, BRIAN	kbecker@spokanecity.org	
		ebrown@spokanecity.org	
		korlob@spokanecity.org	

RESOLUTION NO. 2018-0063

A RESOLUTION APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND FLAMINGO LINKS, LLC RELATING TO DEVELOPMENT OF LAND ADJACENT TO STATE HIGHWAY 2 AND EAST OF HAYFORD ROAD.

WHEREAS, Flamingo Links, LLC, a Washington limited liability company ("Owner") owns that certain real property described in the development agreement attached hereto as **Exhibit A** (the "Development Agreement"), which property is located in the City of Spokane, Washington (hereafter the "Property");

WHEREAS, Owner represents that it is vested with ownership or control over the Property;

WHEREAS, Owner has made application to the City to develop the Property for commercial purposes beginning with an agricultural and outdoor retailer known as "North 40" who will occupy an approximately 80,000 square foot store with adjacent parking (the "Project" or "Development");

WHEREAS, Pursuant to issuance of a Conditional Use Permit by the City of Spokane and a Traffic Impact Analysis (File No. Z17-257CUP3) to permit commercial development on the Property, Developer has agreed to dedicate land for public right-of-way and to construct certain public improvements (the "**Improvements**") in conjunction with the Project, which Improvements will be located between Deer Heights Road and Flint Road on Highway 2 in and around the Property. The Improvements generally include a roundabout (or traffic circle), sidewalks, storm drainage systems, street lighting, and other public improvements at the intersection of Deer Heights Road and Highway 2, further defined in Exhibit B. Developer will dedicate right-of-way for the future construction of W 12th Avenue, and right-of-way necessary to construct the roundabout;

WHEREAS, Developer and the City acknowledge construction of Improvements will: (i) support the development of the Property, (ii) promote economic development as contemplated by RCW 35.21.703, (iii) encourage further private development to include increasing the fair market value of real property within the area, and (iv) is consistent with and carries out the purposes of RCW 36.70B.170. The City has further determined that the Improvements are compatible and consistent with the countywide planning policy adopted by the City under RCW 36.70A.210 and the City comprehensive plan and development regulations adopted under chapter 36.70A RCW and Title 17 of the Spokane Municipal Code;

WHEREAS, Through Spokane Municipal Code Chapter 4.25 and City of Spokane Ordinance No. C-3522, the West Plains/Airport Area Public Development Authority was established for purposes consistent with RCW 35.21.730 through .757 to facilitate the acquisition, construction, development and operation of public benefit

projects and improve economic conditions in and around the City and County of Spokane.

WHEREAS, Development Agreements are specifically authorized by RCW 36.70B.170 through .210 and Chapter 17A.060 SMC as a proper exercise of the City's police power;

WHEREAS, the Development is consistent with the requirements of the City's Comprehensive Plan, the City's zoning regulations, and other applicable development regulations;

WHEREAS, on May 3, 2018, the City issued a Determination of Nonsignificance "DNS" relating to the Project since enforcement of the City zoning regulations will mitigate any impacts of the Project;

WHEREAS, pursuant to RCW 36.70B.200, the City held a public hearing with respect to consideration and approval of this Development Agreement;

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

1. The foregoing recitals and the contents of the attached Development Agreement are hereby adopted as the Council's findings in support of this Resolution.
2. The Development Agreement is hereby approved and the Mayor is hereby authorized to execute it on behalf of the City.

ADOPTED by the Spokane City Council this _____ day of _____, 20____.

City Clerk

Approved as to form:

Assistant City Attorney

Exhibit A

Development Agreement

Recorded at the Request of
and after Recording Return to:

DEVELOPMENT AGREEMENT

Grantor	City of Spokane, a municipal corporation
Grantee (1)/Developer:	Flamingo Links, LLC, a Washington Limited Liability Company
Grantee (2)/Developer:	Flint 2 Properties, LLC, a Washington Limited Liability Company
Grantee (3)/Developer:	Big Sky Spokane, LLC, a Washington Limited Liability Company

Legal Description
(abbreviated):

Assessor's Tax Parcel ID#: 25194-0965, 25194-9064, 25194-9042, and 25194-9043

THIS DEVELOPMENT AGREEMENT (“**Agreement**”) is entered into by and among City of Spokane, a municipal corporation of the State of Washington (the “**City**”), Flamingo Links, LLC, a Washington limited liability company, Flint 2 Properties, LLC, a Washington limited liability company, Big Sky Spokane, LLC, a Washington limited liability company (the “**Developer**”), collectively referred to hereinafter as the “**Parties**.”

RECITALS

A. Developer owns property located adjacent to State Highway 2 and east of Hayford Road, in Spokane, Washington (the “**Property**”). A legal description of the Property is set forth in Exhibit A.

B. Developer has made application to the City to develop the Property for commercial purposes beginning with an agricultural and outdoor retailer known as "North 40" who will occupy an approximate 80,000 square foot store with adjacent parking (the “**Project**”).

C. Developer agrees to construct the Project according to the Applicable Rules (defined herein) to include providing public benefit in accordance with this Agreement.

D. Pursuant to issuance of a Conditional Use Permit by the City of Spokane and a Traffic Impact Analysis (File No. Z17-257CUP3) to permit commercial development on the Property, Developer has agreed to dedicate land for public right-of-way and to construct certain public improvements (the “**Improvements**”) in conjunction with the Project, which Improvements will be located between Deer Heights Road and Flint Road on Highway 2 in and around the Property. The Improvements generally include a roundabout (or traffic circle), sidewalks, storm drainage systems, street lighting, and other public improvements at the intersection of Deer Heights Road and Highway 2, further defined in Exhibit B. Developer will dedicate right-of-way for the future construction of W 12th Avenue, and right-of-way necessary to construct the roundabout, as described in Exhibit A-1 (the “**Right-of-Way Dedications**”).

E. Developer and the City acknowledge construction of Improvements and Right-of-Way Dedications will: (i) support the development of the Property, (ii) promote economic development as contemplated by RCW 35.21.703, (iii) encourage further private development to include increasing the fair market value of real property within the area, and (iv) is consistent with and carries out the purposes of RCW 36.70B.170. The City has further determined that the Improvements and Right-of-Way Dedications are compatible and consistent with the countywide planning policy adopted by the City under RCW 36.70A.210 and the City comprehensive plan and development regulations adopted under chapter 36.70A RCW and Title 17 of the Spokane Municipal Code.

F. Through Spokane Municipal Code Chapter 4.25 and City of Spokane Ordinance No. C-3522, the West Plains/Airport Area Public Development Authority was established for purposes consistent with RCW 35.21.730 through .757 to facilitate the acquisition, construction, development and operation of public benefit projects and improve economic conditions in and around the City and County of Spokane.

G. Development Agreements are specifically authorized by RCW 36.70B.170-.210 as a proper exercise of the City’s police power.

H. Pursuant to RCW 36.70B.200, the City held a public hearing with respect to consideration and approval of this Development Agreement.

NOW THEREFORE, in consideration of the above recitals which are adopted herein by reference, and in consideration of the mutual promises set forth here, the City and the Developer enter into this Agreement.

A G R E E M E N T

I. Definitions.

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise required:

(a) **“Applicable Rules”** means those provisions set forth in the City of Spokane Comprehensive Plan and Title 17 of the Spokane Municipal Code. Applicable Rules shall not include any requirements set forth in any of the following: the Americans With Disabilities Act, Chapter 19.27 RCW – the State Building Code, and building, fire, plumbing or electrical codes explicitly adopted by the City, and fees (to include utility connection fees) associated with the development of land.

(b) **“Subsequent Project Approvals”** means all Project approvals required by law or City policy after approval of this Agreement to construct the Project including, but not limited to, clearing and grading permits, preliminary and final subdivision approval, binding site plan approval, building permits and occupancy permits (as applicable), as defined by state law and local ordinance.

II. Development of the Property.

(a) Approval of the Project. The City of Spokane Hearing Examiner, through findings, conclusions and decision set forth in Hearing Examiner File No. Z17-257CUP3, approved the Project. The City Council acknowledges that the Project, as approved by the Hearing Examiner, is consistent with the City of Spokane Comprehensive Plan and includes appropriate public benefits to the City and the surrounding properties.

(i) Right to Develop. During the Term and subject to the terms and conditions of this Agreement, including the reservations of authority set out in Section II(d) herein below, Developer shall have a vested right to develop, construct and repair the Project in accordance with, and to the extent of the Applicable Rules and this Agreement; provided all such development, construction and repair shall be subject to Subsequent Project Approvals. The Project shall remain subject to all Subsequent Project Approvals required to complete the Project. Subsequent Project Approvals shall be made pursuant to the Applicable Rules and this Agreement. Except as expressly set forth herein, this Agreement shall not be construed as a waiver of any of the conditions of development or use of the Property, nor shall this Agreement relieve Developer from Developer’s obligations to comply with rules and regulations applicable to the Property and Developer’s development of the same, and to secure such authorizations and permits as may be imposed as a condition of any work being performed on the Property.

Provided, further, the parties agree, as provided for in RCW 36.70B.170(4), that the City reserves the authority, regardless of the definition of Applicable Rules in this Agreement, to impose new or different regulations during the term of this Agreement to the extent required by a serious threat to the public health and safety.

(b) Developer Covenants and Agreements. Developer hereby covenants and agrees to the following:

(i) Development Approval. Developer shall obtain all required permits prior to commencing construction of the Project.

(ii) Public Benefits. As part of the Project, Developer will make significant public dedications (including without limitation the Right-of-Way Dedications) and investment in roads and public infrastructure to include utilities and other improvements, all of which will provide a public benefit to residents and visitors.

(iii) Acknowledgement. Developer voluntarily enters into this Agreement.

(c) Changes to Project and Amendments. Any Subsequent Project Approval involving a change or amendment of the Project that does not create new environmental impacts not evaluated in the DNS, all as set forth in Chapter 197-11 WAC, shall not require an amendment to this Agreement and shall be subject to the Applicable Rules. Any Subsequent Project Approval involving a change or amendment of the Project that may have a probable significant adverse environmental impact not evaluated in the DNS and not covered by the range of alternatives and impacts analyzed in the DNS, shall be subject to further environmental review.

(d) Reservations of Authority. Notwithstanding any other provision of this Agreement, the following shall apply to the Development of the Property, provided however, that nothing in this Agreement shall diminish Developer's rights for vesting by submission of a complete building permit application pursuant to RCW 19.27.095.

(i) Procedural regulations which are not substantive relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

(ii) Regulations governing construction standards and specifications as follows: the Washington State Building Code, Uniform Plumbing Code, National Electrical Code, and International Fire Code as may be amended except as they relate to standards modified by the City in the Approval.

(iii) Taxes, fees or assessments (including mitigations fees) which apply uniformly throughout the City or within a defined area of benefit which includes the Property.

(e) Transportation Impact Fees. Pursuant to the April 5, 2018 letter from the City Planning and Development Department (attached as Exhibit B) the Developer will be entitled to a credit against future impact fees for right-of-way dedicated to the City of Spokane as identified in the City Comprehensive Plan or other programs, policies and standards of the City. The manner and method of providing credit for the City Transportation Impact Fee shall be as set forth in Spokane Municipal Code Chapter 17D.075 and RCW Chapter 82.02.

III. Term.

This Agreement shall commence on the Commencement Date and shall be deemed terminated and of no further effect upon the occurrence of (i) mutual agreement of the parties, or (ii) ten (10) years from the date of execution of this Agreement by all the parties hereto, or (iii) upon the nonoccurrence of any of the matters set forth in Section VII(i) herein below, in which case the City shall have no financial responsibility or liability under this Agreement whatsoever.

IV. Financing of the Improvements.

The Improvements will be financed, in part, through payment by the City, in an amount not to exceed \$1,500,000.00 ("**NTE Amount**"), unless mutually adjusted by the Parties on the Commencement Date per section VII(i) of this agreement, with the actual payment amount based upon the costs shown in Developer's invoices submitted to the City, subject to the NTE Amount. In no case shall the NTE Amount exceed \$1,500,000.00 unless mutually agreed to in writing by the Parties.

V. Design and Construction of Improvements.

(a) To facilitate the Project, Developer shall dedicate the public Right-of-Way described in Exhibit A-1 and cause the Improvements set forth in Exhibit B-1 to be constructed, subject to the provisions of this section II. The description of the Improvements and Right-of-Way will be adjusted and agreed to by the Parties on or prior to the Commencement Date (defined in Section VII(i)), and Exhibits A-1 and B-1 may be replaced at that time.

(b) Developer shall cause the Improvements to be completed, in their entirety. The costs of the Improvements include but are not limited to costs of design, construction, permitting (which includes inspection and review fees from the City and WSDOT), insurance, bonds, professional fees (including attorney fees) and other reasonable costs incurred in the performance of this Agreement. Developer shall dedicate the Right-of-Way and complete construction of the Improvements no later than _____, or such other date agreed to by the Parties on or before the Commencement Date. The City shall not be responsible for design, construction, permitting and any other costs with respect to the Improvements in excess of the NTE Amount determined by the Parties and inserted in Exhibit B-1 on or before the Commencement Date.

(c) Developer shall engage engineers or other professionals to design the Improvements in a manner consistent with the procedures and requirements set forth in Chapter 39.80 RCW. See Exhibit C. With respect to the Improvements to be transferred to the City upon their completion and acceptance, Developer shall provide an opportunity for the City to review and comment on those proposed designs prior to formal submission for administrative approval. With respect to Improvements to be transferred to the Washington State Department of Transportation (“**WSDOT**”), upon their completion and acceptance, City shall provide an opportunity for WSDOT to review and comment on the relevant proposed designs prior to formal submission to each of those entities for administrative approval. Developer shall submit proposed designs to the City for administrative review and approval by officials designated by the City, and to WSDOT officials designated by each of those entities.

The administrative review shall be for the purpose of determining if the designs meet or exceed applicable City and WSDOT design standards; provided, however, that City and WSDOT administrative approval of designs shall not be construed to subject the City and WSDOT to any liability to the Developer or any third party for defects in design. The City shall issue administrative decisions approving, denying or requesting modification of the proposed designs within twenty-one (21) calendar days after submission or those designs shall be conclusively deemed approved. In the event of administrative denial or request for modification, the City shall specify the basis for the decision and the Parties shall timely, diligently, and in good faith, attempt to resolve the matter expeditiously. Developer shall develop a process and timeline for the review of designs by WSDOT. The City shall assist Developer in working out the review processes and timelines for the City and WSDOT.

(d) Developer shall use its reasonable business judgment, as it deems appropriate, in bidding, awarding and performing the work associated with the Improvements. All subcontractors (or a general contractor in lieu of multiple subcontractors) awarded a contract for work performed on the Improvements shall be selected by Developer or by a project manager on Developer’s behalf, through a competitive bidding process with all qualified bids considered, which process shall be substantially similar to that used by the City for public works bidding, consistent with chapter 39.04 RCW. See Exhibit C. As a condition of the City’s liability for or payment of any costs associated with the Improvements pursuant to this Agreement, payment for all labor in connection with the Improvements shall be on the basis of the State Prevailing Wage for each appropriate job classification. Developer shall pay or cause to be paid to all workers, laborers and mechanics employed to perform the construction of the Improvements not less than the prevailing rates of wages, as may then be determined by the Washington State Department of Labor and Industries for the particular craft in the particular geographic area. All payments for labor will be based on approved Affidavit of Wages Paid. Developer and any of its contractors/subcontractors involved in constructing the Improvements shall, as a condition of the City’s payment for any costs associated with the Improvements, comply with the following: Developer and all contractors and 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 and each voucher claim submitted by a contractor or subcontractor 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. Upon completion of the Improvements, the contractor and subcontractors must submit an "Affidavit of Wages Paid" certified by the industrial statistician.

In all contracts for the Improvements, Developer shall require contractors, or the general contractor and its subcontractors, to maintain all project information, records, and documents for a period of not less than six years from the date of Developer's final acceptance of the work, and the City shall have a right to direct audit of such information, records, and documents.

(e) Developer shall obtain payment and performance bonds to, respectively, guarantee payment of laborers, suppliers, materialmen, taxes and penalties and performance of the Improvements as generally set forth in RCW Chapter 39.08 (the "**Bonds**"). The Bonds shall be issued in an amount equal to the agreed amount to be paid for the Improvements and list as obligees both the City of Spokane and North 40, a _____ ("**Obligees**"). In the event of a default (defined herein) by the Developer (including its contractor retained to construct the Improvements), Obligees may execute on the Bonds for the purpose of paying amounts due pursuant to RCW 39.08.010 and causing the Improvements to be completed using the bond proceeds and any other funds available to the City pursuant to this Agreement.

(f) Subject to the terms and conditions of this Agreement, Developer may invoice the City for progress payments representing the costs of design and construction of the Improvements on a monthly basis. Invoices shall be sent to the City address indicated in Section VI, below, or at such other address that the City specifies. Each application for a progress payment shall (i) describe the work performed, (ii) certify that the work has been performed consistent with the applicable required specifications of the public entity that ultimately will accept ownership of the Improvements, and (iii) certify that prevailing wages have been paid and demonstrate compliance with the paragraph (d) above. Each progress payment shall be made only upon the City Chief Executive Officer's approval, which shall be made within thirty (30) days of receiving an invoice from the Developer. The construction of the Improvements in public rights of way on public property or within easements granted to governmental entities is subject to the provisions of chapter 60.28 RCW. The City shall treat those retained amounts as a trust fund for the protection and payment of claims and taxes as set forth in RCW 60.28.011. The amounts so retained by the City shall be later released to Developer consistent with RCW 60.28.011.

(g) Upon acceptance by the City, and payment to Developer of the actual costs associated with the Improvements, Developer shall deliver or cause to be delivered to the City and WSDOT, two complete sets of "as-built" drawings with respect to the Improvements to be transferred. Developer shall also provide such bills of sale or other documents as are appropriate to ensure the transfer to the City and WSDOT, of the Improvements constructed by Developer. Upon acceptance by each governmental entity, the Developer shall dedicate or convey to the City and to WSDOT (i) applicable rights of way on property owned by the Developer for streets or sidewalks, and (ii) easements for all utility and other Improvements that are transferred to the respective governmental entity but which have been constructed on or across property owned by the Developer. The Parties shall agree upon the form and content of the documents to convey the necessary real property rights. Thereafter, the Improvements shall be available

for use by the Developer, and any tenant, purchaser, occupant, assignee or transferee of the Property, without payment or reimbursement of any Improvement costs.

(h) Upon completion of the Improvements, Developer shall provide the City an accounting of the actual costs associated with the Improvements in a form determined by Developer consistent with its cost accounting practices and approved by the City as compatible with the requirements of the Washington State Auditor for audit purposes. The City shall within thirty (30) calendar days after receipt of the cost accounting, notify Developer in writing whether the City accepts, denies or requests modification of the accounting; providing, however, that in the event Developer does not receive a timely written response from the City within such time, then the actual costs associated with the Improvements shall be conclusively deemed accepted and approved. In the event the City refuses to accept any portion of the Improvements or denies or requests modification to the accounting, the City shall specify the basis for the decision and the City and Developer shall timely, diligently, and in good faith, attempt to resolve the matter expeditiously. In the event that on the date designated for payment and reimbursement there is not resolved and if within ninety (90) calendar days of City receipt of notification there remain unresolved any issues relating to actual costs, then the City shall pay to Developer the actual costs requested by Developer for the Improvements less the amounts unresolved, which shall be placed in an interest bearing escrow set aside account designated by Developer. The amount in dispute shall then be submitted to binding arbitration, using the services and subject to the rules of the Judicial Arbitration and Mediation Service. If an arbitrator determines that Developer prevails in the accounting dispute, Developer shall be entitled to immediate disbursement of the escrow set aside and interest accrued therein, in the amount determined by the arbitrator.

(i) Indemnification. Developer shall indemnify, defend, and hold the City, its officers, agents, and employees harmless from all loss and liability for any claim by any person, or for any injury or property damage resulting from, or by reason of, this Agreement and/or the development and construction of the Improvements, unless caused directly or indirectly by the City's negligence or intentional misconduct.

To the extent necessary to enforce Developer's indemnification obligations hereunder, Developer hereby agrees to waive immunity under Title 51 RCW. This provision has been specifically negotiated.

Developer's Initials

City's Initials

(j) Insurance Requirements. Developer shall procure and maintain the insurance described in the subsections below from the commencement of Developer's construction of the Improvements through the final completion and acceptance date of the Improvements by the City and WSDOT:

(i) Builders All Risk Comprehensive Coverage. Developer shall purchase and maintain Builders Risk insurance covering interests of the City, WSDOT and the Developer in the Improvements. Builders Risk insurance shall be on an “all-risk” policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief and collapse. The Builders Risk insurance shall include coverage for temporary buildings; debris removal; damage to materials in transit or stored offsite; mechanical or electrical breakdown/failure; loss of occupancy or business interruption costs; and, damage to electrical apparatus from electrical currents. Such insurance shall cover “soft costs” including but not limited to design costs, licensing fees, and architect’s and engineer’s fees. Builders Risk insurance shall be written in the amount of the completed value of the Improvement. The Builders Risk insurance shall be maintained until final acceptance of the Improvements. Developer and the City waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance applicable to the Improvement. The policies shall provide such waivers by endorsement or otherwise.

(ii) Commercial General Liability. Developer shall carry Commercial General Liability insurance which shall be written on coverage forms at least as broad as ISO occurrence form CG 00 01, including but not limited to liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an equivalent endorsement. Developer shall maintain Commercial General Liability insurance regarding the Improvements and their operations for at least three years following Substantial Completion of the Improvements. Such policy must provide the following minimum limits:

- \$5,000,000 Each Occurrence
- \$5,000,000 General Aggregate
- \$5,000,000 Products & Completed Operations Aggregate
- \$1,000,000 Personal & Advertising Injury each offense
- \$1,000,000 Stop Gap/ Employers' Liability each accident

(iii) Automobile Liability. Developer shall carry Commercial Automobile Liability insurance that provides coverage for owned, non-owned, hired, and leased vehicles; and shall be written on a coverage form at least as broad as ISO form CA 00 01. If the Improvement involves the transport of pollutants, the automobile liability policy shall include MCS 90 and CA 99 48 endorsements. Such policy must provide the following minimum limit:

- \$1,000,000 Combined single limit each accident

(iv) Workers' Compensation. Developer shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

(v) Insurance Policies. Insurance policies required herein:

(aa) Qualifications. Shall be issued by companies authorized to do business in the State of Washington with the following qualifications:

- The insurance companies providing the required coverage must be rated no less than "A-:VII" with the latest edition of A. M. Best's Key Rating Guide.
- All insurance policies, with the exception of Workers' Compensation and of Builder's Risk shall name the following listed entities as additional insured(s) using the forms or endorsements required herein:
 - The City, its officers, elected officials, employees, agents, and volunteers; and
 - The Developer, its officers, agents and employees.
- The policies shall be issued as primary and non-contributory policies; provided, however, that the City, the Developer, Developer, and general contractor(s) and subcontractors, may be insured under one (1) or more blanket insurance policies, which shall be permitted and acceptable. Any insurance, self-insurance or self-insured risk pool coverage maintained by the City shall be in excess of Developer's insurance and shall not be contributory.
- Developer shall cause each subcontractor of every tier to provide insurance coverage that complies with all applicable requirements of Developer-provided insurance as set forth herein, except Developer shall have sole responsibility for determining the limits of coverage required to be obtained by subcontractors.

(bb) Attachments. To the extent reasonably available from insurers, each such policy or certificate of insurance mentioned and required in this Section shall have attached thereto:

- An endorsement to the effect that the insurance, as to anyone insured, shall not be invalidated by any act or neglect of any other additional insured.

- An endorsement pursuant to which the insurance carrier waives all rights of subrogation against the Parties.
- An endorsement pursuant to which such insurance is primary and noncontributory for those obligations imposed in this Agreement.

(cc) Verification of Coverage. Developer shall deliver to the City a Certificate(s) of Insurance and endorsements for each policy of insurance meeting the requirements set forth herein prior to the commencement of the construction of any Improvements. Failure of the City to demand such verification of coverage with such insurance requirements or failure to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of Developer's obligation to maintain such insurance. The Certificate(s) of Insurance shall clearly indicate the insurance and the type, amount, and classification required.

(dd) Cancellation. Cancellation of any insurance or nonpayment by Developer of any premium for any insurance policies required by this Agreement shall constitute an event of default under the terms of this Agreement.

(ee) Adjustments. The types of policies, risks insured, coverage amounts, deductibles and endorsements may be adjusted from time to time as the City and Developer may mutually determine in writing.

VI. Notices.

All notices under this Agreement shall be in writing and shall be effective when personally delivered, 48 hours after deposit in the United States mail first-class, as registered or certified mail, postage prepaid, return receipt requested, or by electronic communication with proof of delivery to the following representatives of the Parties at the addresses indicated below:

To Developer:

Flamingo Links, LLC
Attn: Daniel Kuney
120 North Ralph Street
Spokane, WA 99202
Email: DKuney@maxkuney.com

To City:

City of Spokane
Attn: Gavin Cooley
808 W Spokane Falls Blvd
Spokane, WA 99201

Copy to: City Attorney's Office
808 W Spokane Falls Blvd
Spokane, WA 99201

To WSDOT:

Any of the Parties may change its address by giving notice in writing to the other Parties.

VII. Additional Provisions.

(a) Entire Agreement. This Agreement is complete and sets forth and contains the entire understanding and agreement of the Parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

(b) Amendments. The provisions of this Development Agreement contained in this Agreement may only be amended in writing signed by the City, Developer, and the Developer.

(c) Dispute Resolution. In the event of a dispute among any of the Parties regarding matters under this Agreement, each Party shall give written notice of its concern(s) to the other Party. The Parties shall timely, diligently, and in good faith, attempt to resolve the matter expeditiously. In the event that the relevant concerns are not resolved within thirty (30) calendar days from the original written notification (or such other time period agreed to by the Parties), the dispute may then be resolved through litigation in a court of competent jurisdiction.

(d) Recordation of Agreement. This Agreement and any amendment or termination to it shall be recorded with the Spokane City Auditor.

(e) No Third Party Beneficiary. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

(f) Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and shall constitute one and the same instrument.

(g) Non-Enforcement not Waiver. Failure by any one of the Parties to enforce this Agreement or any provision of it with regard to any provision contained herein shall not be construed as a waiver by that party of any right to do so. All remedies afforded in this

Agreement or at law, except as provided herein to the contrary, shall be taken and construed as cumulative that is, in addition to every other remedy provided herein or by law.

(h) Authority. The undersigned covenant and represent that they are fully authorized to enter into and to execute this Agreement.

(i) Commencement Date. The Commencement Date is the date, not later than October 1, 2018, or such other date agreed to by the Parties in writing, on which: (i) the Parties confirm in writing the final description of the Improvements, which is anticipated to be when the design/engineering documents are thirty percent (30%) complete; (ii) the Parties agree to a specific amount of total costs to be borne by the City, which in no case shall exceed the NTE Amount unless the Parties mutually agree in writing to increase the NTE Amount by up to twenty-five percent (25%) after a mutual determination by the Parties that the construction of the Improvements cannot be reasonably completed within the NTE Amount; (iii) Developer confirms in writing to the City and WSDOT that it has acquired all necessary right-of-way and received all permits material to its ability to commence construction of the Improvements; and (iv) the Parties agree to a completion date. Within ten (10) days of the Commencement Date, the Parties shall modify Exhibit B to conform with the matters set forth in this Section IV(i). The modification shall be signed by the City's Chief Executive Officer and the Developer's authorized representative.

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

(k) Relationship of Parties. It is understood and agreed by the parties hereto that the contractual relationship created between the parties hereunder is that Developer is an independent contractor and not an agent of City. Nothing contained herein or in any document executed in connection herewith shall be construed as making City and Developer joint venturers or partners.

(l) Covenants Run With the Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law. Each covenant to do or refrain from doing some act on the Property hereunder, (a) is for the benefit of such properties and is a burden upon the Property, (b) runs with the Property, and (c) is binding upon each successive owner during its ownership of Property or any portion thereof, and each person having any interest therein

derived in any manner through any owner of the property or any portion thereof, and shall benefit such party and the Property hereunder, and each other person succeeding to an interest in such Property.

(m) 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 agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.

(n) Anti-Kickback. No officer or employee of the Parties, having the power or duty to perform an official act or action related to this agreement, shall have or acquire any interest in this 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.

(o) Events of Default; Remedies.

(i) Events of Default. Upon the occurrence of any one or more of the following events which shall continue and not be cured in accordance with the notice and opportunity to cure provisions set forth in this Section, the non-defaulting Party may, at its option, declare an "Event of Default" under this Agreement:

(aa) A Party fails to comply with any term or fails to perform any of its obligations under this Agreement and such failure has a material adverse effect on completion of the Improvements or creates a material risk of injury to person or damage to property;

(bb) A Party fails to comply with any term or fails to perform any of its obligations under this Agreement, where such failure is not within the terms of Section 8.1(a) above, and continues for a period of ten (10) days after written notice from the non-defaulting Party;

(cc) if any representation or warranty made by a Party in this Agreement shall have been false or misleading as of the day it was made, provided that if such untrue representation or warranty is susceptible of being cured, the Party shall have the right to cure such representation or warranty within ten (10) days of receipt of notice from the non-defaulting Party;

(dd) any governmental approvals (including the appropriation of funds) or permits required to perform the Improvements expire or otherwise are not in full force and effect.

(ii) Events of Default. If a Party fails to comply with any term or fails to perform any of its obligations under this Agreement for a period of ten (10) days after written notice from the non-defaulting Party, an Event of Default may be declared under this Agreement.

(iii) Cure. If a default subject to a cure period hereunder is not reasonably susceptible of cure within the applicable cure period provided above, but the defaulting Party commences to cure such default within the applicable cure period and thereafter diligently prosecutes the cure to completion and completes such cure within fifteen (15) days of commencing the cure, such default shall not become an Event of Default.

(iv) Remedies. Upon the occurrence of any Event of Default, the non-defaulting Party shall, in addition to other rights as shall be granted under any other provision of this Agreement, but without waiving such other rights, (a) perform any and all work necessary to complete, secure and/or protect the Improvements, (b) bond or discharge any lien upon such property not bonded or discharged by the defaulting Party as required hereunder, (c) specifically enforce the defaulting Party's unperformed obligations through a court with competent jurisdiction, and (d) exercise all rights and remedies available at law or in equity through a court with personal and subject matter jurisdiction.

(p) Attorney Fees. In any action, except for mediation, brought under this Agreement, the prevailing party shall be entitled to recover in addition to any other amounts awarded, its reasonable attorney fees and costs of action as determined by a court with jurisdiction over the subject matter of the dispute.

(q) Forced Delay. Performance by either Party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to: war, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of terror, unforeseeable delays not caused by a party, general governmental restrictions, regulations, orders or priority, unusually severe weather, breach of this Agreement by the other Party, or acts or failures of a governmental authority to act after diligent best efforts to cause the governmental authority to act. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within fifteen (15) days of the commencement of the cause. In the event the time for performance of a Party's obligation is extended under this section, the Parties shall reasonably and in good faith cooperate to minimize the duration of the extension.

AGREED by the Parties to this Agreement on the dates indicated below:

CITY OF SPOKANE

David A. Condon, Mayor

ATTEST:

Terri Pfister, City Clerk

(S E A L)

Approved as to form:

Assistant City Attorney

DEVELOPER FLAMINGO LINKS, LLC

By: _____

Its: _____

Date: _____

FLINT 2 PROPERTIES, LLC

By: _____

Its: _____

Date: _____

EXHIBIT A

The Property and Project

EXHIBIT A-1

Descriptions of Right-of-Way Dedications

The northern 65 feet of 19-25-42: S1/2 OF SE1/4 EXC S825FT THEREOF; ALSO EXC W65FT THEREOF; ALSO EXC E30FT FOR FLINT RD, situated in City and County of Spokane, State of Washington, Tax Parcel 25194.9065

EXHIBIT B

April 5, 2018

Dwight Hume
Land Use Solutions and
Entitlement 9101 N Mt.
View Lane
Spokane, WA 992178



Dear Dwight:

The following comments were submitted on your revised application materials for the Ag/Retail Building at Hwy 2 and Deer Heights Rd, (Z17-257CUP3). No additional corrections are required to proceed with the application process; these comments will become recommended conditions of approval of the Conditional Use Permit.

City of Spokane Planning – Ali Brast

1. A boundary line adjustment will be required prior to the submittal of any building permit applications.

City of Spokane Traffic – Inga Note:

1. The developer has agreed to a voluntary mitigation project at US 2/Deer Heights. A two-lane roundabout will be constructed at the intersection and the City of Spokane has agreed to reimburse the developer for a portion of the roundabout cost. The details of this arrangement will be provided in a separate development agreement.
2. West Plains Impact Fees are anticipated to be adopted in early summer 2018. Any building permits submitted after adoption will be subject to these fees.
3. The traffic study shows that the intersection of US 2/Flint Road and US 2/Hayford Road will fall below acceptable levels of service in the future. The long term plan for maintaining acceptable level-of-service on US 2 requires construction of alternative routes paralleling the highway. The 12th Avenue route is in place between Hayford Road and Deer Heights Road, but the remaining segment will be needed between Deer Heights and Flint Road. Once complete, this connection will draw some of the local traffic away from US 2 and allow the intersection level-of-service to stay within an acceptable range. The traffic study assumes that 12th Avenue has been constructed with later phases of the development and that traffic from project site will use it.

Map TR 12 in the City's Comprehensive Plan identifies 12th Avenue between Deer Heights and Flint Road as an Urban Major Collector. The developer shall dedicate 65' of right-of-way along the northern boundary of parcel 25194.9065 for the future 12th Avenue extension. The entire right-of-way must be within the Spokane city limits. The roadway is anticipated to carry two travel lanes, a center turn lane and two bike lanes. Depending on the number and location of access points the design may allow for periodic left turn pockets rather than a continuous center turn lane. Additional width for drainage facilities and sidewalk may be needed on the south side, but can be placed in an easement. The developer will be eligible for a credit against future transportation impact fees for the right-Development Agreement
{S1678078; 7 }

of-way dedication.

4. The proposed roundabout calls for two entry lanes, one exit lane and one future westbound right bypass lane for the north leg of Deer Heights Road. Map TR 5 of the City's Comprehensive Plan shows that Deer Heights Road will have bike lanes. From US 2 to the south access drive, the curb-to-curb width needs to accommodate two bike lanes, two southbound lanes and two northbound lanes. Additional width may be needed for the splitter island approaching the roundabout and will be determined during the design phase.
5. On Deer Heights Road from the south access drive to 12th Avenue, the curb-to-curb width needs to accommodate two bike lanes, one southbound lane, one northbound lane and a center turn lane. The entire roadway right-of-way must be within the Spokane city limits.
6. Additional dedication of right-of-way for the roundabout may be needed from parcel 25194.9064, just outside of the CUP boundary, for street, turn lane and pedestrian connectivity. The amount of needed ROW will be determined through the roundabout design process.
7. Construct a 12' shared-use path along the north side of US 2 along the project frontage. This pathway is included in the City's Comprehensive Plan on Map TR 5 and page 4-67. For this phase of the development the pathway should start at the Lucas Drive access point and continue through the intersection of Deer Heights.
8. All access on site for driveways and travel lanes must be included in the CUP boundary to be completed as part of this development. An agreement will be required for all shared uses between parcels.
9. STA has discussed moving one of their routes to Deer Heights Road once the roundabout is completed. The applicant shall coordinate with STA during the site design process to determine if a bus stop pad should be incorporated into the Deer Heights frontage improvements.

WSDOT – Greg Figg:

1. The developer has agreed to a voluntary mitigation project at US 2/Deer Heights. A two-lane roundabout will be designed and constructed by the applicant at the US 2 and Deer Heights Intersection in conformance with the traffic study. The proposed roundabout calls for two entry lanes, one exit lane and one future westbound right bypass lane for the north leg of Deer Heights Road. Right of way dedications may be needed from the property owner for the construction of the roundabout.
2. WSDOT concurs with the City of Spokane's comment #7.
3. WSDOT approves the placement of one private access point on US 2 to be located directly across from Lucas Drive. This access point will allow right-in, right-out, left in but left out movements will be prohibited (additional turning movement restrictions may be imposed at this driveway in the future if needed to maintain the operations of safety of US 2). The developer shall propose channelization on US 2 as part of the design to prevent the left-out movement.
4. WSDOT concurs with the City of Spokane's comment #9.
5. An informational community meeting shall be held prior to the construction of the roundabout to inform the public of the final design, construction timeline, and lane restrictions.

EXHIBIT B-1

IMPROVEMENTS

See attached letter dated April 5, 2018 from the City of Spokane Planning & Development Department.

The following is a general identification of the US-2 Improvements

- **Roadway**
 - Multi-lane roundabout, as shown on the attached Exhibit B-1 at the intersection of Deer Heights Road and Highway 2, built to Washington State Department of Transportation standards. The new roadway will consist of new asphalt pavement and asphalt overlay.
 - Concrete truck apron around the central island and concrete curbing on the roadway.
 - The central island will be landscaped with drought-tolerant plants unless the City requests more expensive landscaping.
 - Given that the project is at the City limits, the City may direct Developer to install “Welcome to Spokane” or other signage as part of the Improvements, with the City providing design and specifications.
 - The approach legs will include splitter islands. Within the splitter islands, the area nearest the roundabout will be hardscaped where the remaining areas will be landscaped with drought-tolerant plants.
 - All landscaped areas with the central and splitter islands are to include temporary irrigation system for plant establishment.
 - Multi-Use sidewalk for pedestrian and bicyclist use.
 - All curb ramps will be ADA compliant.
 - Bicycle facilities to include a bicycle lane in some locations, and the multi-use sidewalk in some locations.
 - Channelization and signage for the proposed roundabout.
 - Illumination, as needed for the proposed roundabout.
- **Stormwater**
 - Conveyance systems consisting of catch basins (both Type 1 and 2).
 - Flow Control and water quality facilities will include an infiltration pond and bio-infiltration ponds.
 - Bio-infiltration swales as well as tiered bio-infiltration swales along both sides of the roadway within the landscape strip.
 - Tiered bio-infiltration swales to include check dams spaced every 50-feet.
 - Curb Inlet Type 1 to divert road runoff into the bio-infiltration swales.
 - Drywell Type B will be placed at all swale low spots.
 - Additional conveyance to include catch basin Type 1 as necessary.
- **Utilities**
 - Relocation as required.

Deer Heights Road - necessary modifications to accommodate the roundabout and its turn lanes / south of the southern-most driveway; work required on Deer Heights north of the turn lanes / south of the southern-most driveway is not considered part of the Improvements.

NTE Amount: _____.

Completion Date: _____.

EXHIBIT C

PROCUREMENT PROCESS SUMMARY

1. **Selection of Engineering Team.**

(a) Developer shall obtain engineering services from persons and firms through a written request that describes the general scope and nature of the Improvement. The request shall seek Statement of Qualifications/Proposals ("**Proposals**") for the engineering services. The Developer shall evaluate the Proposals submitted by firms, conduct discussions with one or more firms regarding the required services, and select the most highly qualified firm.

(b) Developer shall retain the selected firm to prepare design documents for the Improvements.

2. **Construction Services.**

(a) The Developer shall interview general contractors with experience in constructing the Improvements. The Developer based upon the interview and other relevant considerations shall retain a general contractor to perform the requested work.

(b) Following completion of the design documents, the general contractor shall solicit bids from subcontractors to construct the Improvements. Subcontractors who submit the lowest responsible bids, based upon the reasonable discretion of the contractor, shall be selected for the work. The general contractor may self-perform work provided the general contractor provides the work at costs equal to or below amounts received from subcontractors.

3. **Prevailing Wages and Retainage.**

Prevailing wages shall be paid laborers and a 5% retainage shall be withheld from the NTE Amount according to state law.

Briefing Paper

Urban Experience Committee

Division & Department:	Public Works
Subject:	Resolution approving Development Agreement with Flamingo Links, LLC relating to development of land adjacent to State Hwy 2 and East of Hayford Road
Date:	July 9, 2018
Author (email & phone):	Scott Simmons (smsimmons@spokanecity.org 625-6584)
City Council Sponsor:	Council President Ben Stuckart
Executive Sponsor:	Scott Simmons, Director of Public Works
Committee(s) Impacted:	Urban Experience
Type of Agenda item:	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	City of Spokane Comprehensive Plan
Strategic Initiative:	
Deadline:	
Outcome: (deliverables, delivery duties, milestones to meet)	City Council Advanced Agenda July 9, City Council Legislative Agenda July 16.
Background/History: Resolution approving Developer Agreement with Flamingo Links, LLC for reimbursement for a portion of public right-of-way improvements on Highway 2, between Deer Heights Road and Flint Road. The developer has made an application to the City to develop the property for commercial purposes beginning with agricultural and outdoor retailer – North 40. The issuance of a Conditional Use Permit by the City and a Traffic Impact Analysis (File No. Z17-257CUP3) to permit commercial development, the Developer has agreed to dedicate land for public right-of-way and construct public improvements in conjunction with the project.	
Executive Summary: <ul style="list-style-type: none"> • <i>The property is being developed for commercial purposes the agreement dedicates land for public right-of-way and to construct public improvements between Deer Heights Road and Flint Road on Highway 2.</i> • <i>The improvements will include a roundabout (or traffic circle), sidewalks, storm drainage systems, street lighting, and other public improvements at the intersection.</i> • <i>In addition, the Developer will dedicate right-of-way for the future construction of 12th Avenue and area to construct the roundabout.</i> • <i>The City agrees to reimburse the Developer for a portion of the public improvements not to exceed \$1,500,000.</i> • <i>The improvements have been determined to be compatible and consistent with countywide plan and development regulations and the Spokane Municipal Code.</i> • <i>The West Plains/Airport Area Public Development Authority has invested to facilitate this public benefit project and improve the economic conditions in the area. The development and improvements will support other development, promote economic development, and increase real property values within the area.</i> 	
Budget Impact: Approved in current year budget? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Annual/Reoccurring expenditure? ☐ Yes ☒ No

If new, specify funding source:

Other budget impacts: (revenue generating, match requirements, etc.)

Operations Impact:

Consistent with current operations/policy?



Yes



No

Requires change in current operations/policy?



Yes



No

Specify changes required:

Known challenges/barriers: